



pulse

What Happens in California Doesn't Always Stay in California

If you do business in the Golden State, it's time to dust off policies and procedures to ensure that your business is compliant.

A recent Google search of cybersecurity predictions for 2020 netted an interesting bunch of news items related to various industries including the accounts receivable management industry.

And, as most ARM professionals can probably predict, the California Consumer Privacy Act repeatedly appears as the shiny new law to watch! While the landmark data privacy legislation (known as CCPA) became law Jan. 1, 2020, ACA International has previously reported that the CCPA's implementing regulations were introduced in October and expected to be approved by California Attorney General Xavier Becerra in early 2020. Accordingly, the next few months will be a critical period for businesses to take stock of the law's effect, how the proposed regulations will implement the law, and how the CCPA might serve as precedent for new state and federal regulations.

Key requirements of the CCPA include:

- Businesses must disclose data collection and sharing practices to consumers;
- Consumers have a right to request that their data be deleted;
- Consumers have a right to opt out of the sale or sharing of their personal information; and

- Businesses are prohibited from selling personal information of consumers under the age of 16 without explicit consent.

The CCPA applies to certain for-profit businesses that fall under one or more of the following criteria:

- Annual gross revenues of more than \$25 million;
- Alone, or in combination, annually buy, receive, sell or share for commercial purposes the personal information of 50,000 or more consumers, households or devices;
- Derive 50% or more of annual revenue from selling consumers' personal information.

Businesses should expect the attorney general's regulations to be finalized and published by June 2020, June Coleman, a California-based attorney with Messer Strickler Ltd., reported to *ACA Daily* writer Katy Zillmer. In the meantime, Coleman said affected businesses should remember that while the law bars Becerra's office from taking enforcement actions until July 2020, the attorney general may later decide to prosecute



businesses that did not comply between January and July.

Any company required to follow the CCPA is advised to evaluate policies and procedures implemented before the law's effective date and to prepare for additional proposed regulations likely to be finalized in the first part of the year.

Those businesses may further wish to consider developing privacy notices for their letters, privacy policies to post on their websites, and letters to respond to requests for information and requests to delete information.

"The proposed regulations are intended to operationalize the CCPA and provide practical guidance to consumers and businesses subject to the law," according to a [news release from the attorney general's office](#). "The regulations would address some of the open issues raised by the CCPA and would be subject to enforcement by

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Health Care Issues Featured in Upcoming Episodes

National health expenditures are projected to grow by about 5.4% while out-of-pocket expenses should grow 4.7% in 2020. Learn more!

Since kicking off its ACA Cast program in 2018, ACA staff and members have recorded more than 50 informational and educational episodes covering a range of health care, financial and compliance-related topics.

A recent recording titled, “State of the ARM Industry,” features Mike Ginsberg, president and CEO of Kaulkin Ginsberg, and John Hannan, analyst with Kaulkin Ginsberg, who engage in a high-level discussion about topics and trends accounts receivable management industry professionals need to be aware of in 2020.

Here’s a brief excerpt from the podcast, available now on ACA’s podcast page accessible through the homepage at www.acainternational.org (click the ACA Cast icon):

Mike Ginsberg: John, you want to talk about health care very quickly?

John Hannan: Yes sir. So, health care as a market is also poised for continued growth in 2020. The CMS (Centers for Medicare and Medicaid Services) estimates that national health expenditures are projected to grow by about 5.4% in 2020. And driving that down even further, out of pocket expenses, which is what consumers pay themselves, not counting insurance and stuff, that’s also projected to grow at about 4.7% in 2020. And those

out-of-pocket expenses can eventually turn into bad debt. Basically, things are going to get better, as they should from a market level perspective. That said, hospitals and their collection practices, specifically data protection, have come under a lot of public scrutiny recently. So that is something to look at going forward. The market might be tempered by public scrutiny. There’s going to be a big microscope, so that’s something to look out.

Now to wrap things up, how should we feel about mergers and acquisitions in 2020, Mike?

Mike Ginsberg: Well, in one word, we should feel great about mergers and acquisitions right now. But the political uncertainty that’s going to happen as a result of the upcoming election are really kind of pushing us deal makers to try and get as many deals closed in the first half of the year to try and reduce that political uncertainty and be able to just kind of move things along in a strong economy and a strong time for closing transactions. The markets that are attracting considerable attention right now for ARM industry participants are three. Commercial, health care, and agencies that service state and local governments.



People ask about pricing. The good news, pricing for companies overall has increased. This is for established companies with some size. Let’s say the middle-sized companies on up to some of the larger ones. As long as they demonstrate sustainable top line growth and increased levels of profitability going along with that growth, these companies are not only attracting a lot of attention, they’re commanding and actually receiving very competitive pricing.

In other business: Health Care Billing

Due to popular demand, ACA’s Fall Forum & Expo session highlighting the latest information on health care billing is now available as an ACA Cast episode. Visit ACA’s website at www.acainternational.org to hear Irene Hoheusle, vice president of collections and education with Account Recovery Specialists in Wichita, Kansas, and Tim Haag, president of State Collection Service in Madison, Wisconsin, discuss this important topic.

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the Department of Justice with remedies provided under the law.”

For example, the [proposed regulations](#) include additional steps for responding to consumers’ requests to delete their data or understand how their data is being used or sold, particularly for businesses that monetize data.

Coleman notes that the CCPA provision applying the law to any

business that “[a]lone or in combination, annually buys, receives for the business’s commercial purposes, sells, or shares for commercial purposes, alone or in combination, the personal information of 50,000 or more consumers, households, or devices” does not limit the scope of that provision to devices located in California. (Under the CCPA, “device” means “any physical object that is capable

of connecting to the internet, directly or indirectly, or to another device.”

This definition would appear to include smart phones and computers. *ACA will continue to follow this issue as it unfolds. An extended version of this article written by ACA communications staffer Katy Zillmer will appear in the April version of Collector magazine.*

HIPAA VIOLATIONS

HHS Resolves about 99% HIPAA-Related Complaints

Health plans are among the least likely entities to violate the rule.

Since the compliance date of the Privacy Rule in April 2003, the U.S. Department of Health and Human Services Office of Civil Rights (OCR) received over 225,378 Health Insurance Portability and Accountability Act (HIPAA) complaints and initiated over 993 compliance reviews. As of Dec. 31, 2019, the office resolved 99% (222,175) of cases.

More than 27,600 cases were resolved by requiring changes in privacy practices and corrective actions by, or providing technical assistance to HIPAA covered entities and their business associates. OCR settled or imposed a civil money penalty in 73 cases resulting in a total dollar amount of \$111,855,582.00.

Various types of entities have been investigated to include: national pharmacy chains, major medical centers, group health plans, hospital chains, and small provider offices.

In another 12,094 cases, OCR investigations found that a violation had not occurred.

Additionally, in 40,882 cases, OCR intervened early and provided technical assistance to HIPAA covered entities, their business associates, and individuals exercising their rights under the Privacy Rule, without the need for an investigation.

In the remainder of the cases (141,595), OCR determined that the complaint did not present an eligible case for enforcement. These include cases in which:

- OCR lacks jurisdiction under HIPAA. For example, in cases alleging a violation by an entity not covered by HIPAA;
- The complaint is untimely, or withdrawn by the filer; and
- The activity described does not violate the HIPAA Rules. For

example, in cases where the covered entity has disclosed protected health information in circumstances in which the Privacy Rule permits such a disclosure.

- From the compliance date to the present, the compliance issues most often alleged in complaints are, compiled cumulatively, in order of frequency:
- Impermissible uses and disclosures of protected health information;
- Lack of safeguards of protected health information;
- Lack of patient access to their protected health information;
- Lack of administrative safeguards of electronic protected health information; and
- Use or disclosure of more than the minimum necessary protected health information.

The most common types of covered entities that have been alleged to have committed violations are, in order of frequency:

- General Hospitals;
- Private Practices and Physicians;
- Outpatient Facilities;
- Pharmacies; and
- Health Plans (group health plans and health insurance issuers).
- Referrals

OCR refers to the Department of Justice (DOJ) for criminal investigation appropriate cases involving the knowing disclosure or obtaining of protected health information in violation of the Rules.

For additional information, click here: <https://tinyurl.com/lgzxpye>

NEWS & NOTES

Texas Makes it Easy

The Texas Medical Association (TMA) produced a seven-page summary of the surprise-billing law (Senate Bill 1264) passed by the Texas Legislature in 2019. TMA's overview explains topics such as when the law applies, and how the arbitration process works. The summary is accessible here: <https://tinyurl.com/tvyxhvy>

Payback: West Coast Doc Pays Penalties

The California Department of Managed Care (DMHC) settled a lawsuit against Dr. Nancy B. Way, "requiring her to stop illegally balance billing California enrollees," and to pay \$13,000 civil penalties. In response to the action, DMHC Director Shelley Rouillard recommends that consumers check their bills and contact their health plan if they have questions.

Additional information may be accessed here: <https://tinyurl.com/vrtl7bg>.

For more health care collections news, visit ACA's Health Care Collections page at www.acainternational.org/pulse.

datawatch



is a monthly bulletin that contains information important to health care credit and collection personnel. Readers are invited to send comments and contributions to:

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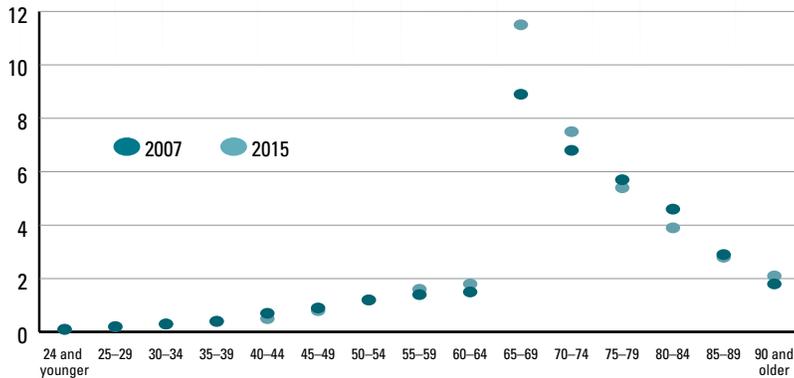
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From 2007 to 2015, the number of beneficiaries ages 65 to 69 increased more than any other age group as baby boomers joined Medicare.



Source: Laura M. Keohane, Lucas Stewart, and Melinda B. Buntin, The Slowdown in Medicare Spending Growth for Baby Boomers and Older Beneficiaries: Changes in Medicare Spending Levels and Growth by Age Group, 2007–2015 (Commonwealth Fund, Dec. 2019). <https://doi.org/10.26099/sy0d-xs78>