



# Health Insurance & Benefits Planning

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## **CYNTHIA MARCOTTE STAMER**

**LOCKE PURNELL RAIN HARRELL  
(A PROFESSIONAL CORPORATION)**

### **SHAREHOLDER**

**Employee Benefits/Health Care/Human Resources/Labor and Employment**

#### *Practice Areas*

Ms. Stamer is nationally and internationally recognized for her expertise in employee benefit and employment matters. As a primary focus of her practice, Ms. Stamer helps clients design, administer and defend cost-effective employee benefit, employment, safety and worker's compensation and other programs, policies and procedures to meet their budgetary and other business objectives. Ms. Stamer regularly helps employers and others to design, implement, administer and defend cost-effective, legally compliant self-insured and insured health benefit plans, policies and procedures to achieve the client's business objectives and to manage legal exposures.

She is a widely published and highly sought after author of numerous publications on health care, employment, employee benefit and other human resources matters, as well as a wide range of other related topics. She recently authored chapters on Worker's Compensation, Employee Benefits, and The Texas Payday Act for a book entitled "Texas Employment Law." She currently is drafting a portfolio on Utilization Review for the BNA Health Law Portfolio Series and a portfolio on Employee Benefit Plans of Closely Held Employers for the BNA Tax Management Portfolio Series. She also is the author of numerous other publications and regularly serves as an adjunct faculty member of several college, university, and seminar faculties.

#### *Education*

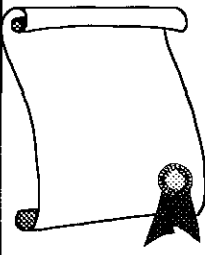
B.A., Arizona State University, 1984

J.D., Loyola Law School, 1987

#### *Civic, Professional and Business*

- American Bar Association: Health Care, Tax, Labor and Employment, Tort and Insurance Practice, and Real Property and Probate Sections, Employer-Employee Relations Committee, Labor Standards Legislation Committee
- American Association of Hospital Attorneys
- American Society of Law, Medicine and Ethics
- Editorial Advisory Board and Author for The Bureau of National Affairs and Health Care Portfolio Series, The Health Care Competency and Credentialing Report and other selected publications

- Corporate Benefits Society
- Dallas Bar Association: Sections on Employee Benefits and Executive Compensation, Labor, and Health Law
- Dallas Benefits Society: Past Co-Moderator and Past Board Member
- Dallas Human Resource Association
- Dallas Health Industry Council, Communications Committee
- DFW Business Group on Health
- International Foundation of Employee Benefit Plans
- International Pension and Employee Benefits Lawyers Association
- Managed Healthcare Association of DFW
- National Health Lawyers Association
- Self Insurance Institute of America
- Society for Human Resource Management
- SouthWest Benefits Association: Past-Board of Directors
- Southwest Insurance Association
- State Bar of Arizona
- State Bars of Texas: Sections on Health Law, Labor and Employment Law, Insurance Law, and Tax
- Texas Association of Business and Chambers of Commerce, Chair, Employment Relations and BAC PAC Committees
- Women's Network of Legal Professionals
- Working in Employee Benefits: Board of Directors



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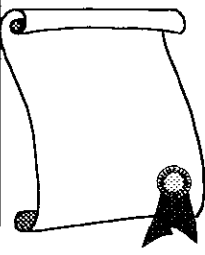
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### THE BIG PICTURE

- Preexisting Condition Rules
- Certifications of Creditable Coverage
- Special Enrollment Period Mandates When Lose Health Coverage or Have a New Dependent
- COBRA Amendments
- Disability Discrimination
- Medical Information Privacy
- Health Care Fraud
- Maternity & Mental Health Benefits Mandates

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## HIPAA PROHIBITED DISCRIMINATION

Cannot Vary Eligibility or Premiums Based on:

- Health Status
- Physical or Mental Medical Conditions
- Claims Experience
- Receipt of Health Care
- Medical History
- Genetic Information
- Evidence of Insurability or Disability

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## HIPAA AMENDMENTS TO COBRA REGULATIONS

- Disability extension rules clarified
- Potential COBRA liability following an acquisition under the buyer's group health plan

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## TEMPORARY 125 PLAN REGULATIONS

- Employers may permit change in 125 plan elections for HIPAA special enrollment events
- "Change in Status" vs. "Change in Family Status"
- New Regulations For FMLA/Military Leave/COBRA
- More To Come

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## MENTAL HEALTH PARITY RULES

- Increased Cost Exemption - must be determined based on actual costs over a six-month period
- Employers may not automatically assume their costs will increase by at least 1%
- Notice requirement
- Must comply for at least seven months

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## Maternity Stay Requirements

- Hospitalization Deemed Medically Necessary
  - 48 Hour Stay, Vaginal Birth
  - 96 Hour Stay, C-Section
- No Incentives
- Managed Care Incentives To Providers Need Review
- Regulations Coming Soon

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## HIPAA NOTICE OF PLAN AMENDMENTS

- Notice of health plan changes due within 60 days
- Expand required content for health plan summary plan descriptions
- Modify and add certain other disclosure requirements for group health plans
- DOL Regs require SPD for both plan participants and beneficiaries

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## DON'T FORGET ABOUT ....

- ERISA
- COBRA
- ADA
- FMLA
- Medicare
- Medicaid
- Internal Revenue Code
- ADEA
- Title VII/Pregnancy Discrimination
- State Insurance and Other Laws If Insured or MEWA

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## DON'T FORGET ABOUT ...

- Written Documents
  - Plan Document
  - Summary Plan Description
- Fiduciary Responsibility/Allocation
- Trust Requirements
- Claims Administration & Appeals
- Reporting & Disclosure

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## So Now What?



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THE SAVVY PLAN SPONSOR

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Its 1998:  
Do You Know ...

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Do You Know ...

- What A Fiduciary Is?
- Who The Plan Fiduciaries Are?
- What Fiduciaries Must Do?
- About Personal Liability?
- About What They Should Do To Manage Liabilities?

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## A Savvy Plan Sponsor Knows ...

- Who The Plan Fiduciaries Are
- What Fiduciaries Must Do
- The Boundaries of Its Fiduciary Duties
- What To Do When Problems Arise

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## THE SAVVY PLAN SPONSOR'S GUIDE TO VENDOR RELATIONS

You Can't Pick Your Relatives,  
But You Can Pick Your Vendors

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© 1987 by Randy Gleaserger. E-mail: randyg@norwich.net  
www.norwich.net/~randy@norwich.net



"I don't know how I ever got along without a computer. They make it so much easier to calculate the years, months, weeks, days and seconds until my retirement!"

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DON'T FALL FOR THE SALES  
PITCH

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Take your plan  
off *your* agenda,  
and put it on *ours*

Newspaper Advertisement By  
National Investment Brokerage Firm

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DON'T FALL FOR THE SALES  
PITCH

Prudent Selection  
Prudent Oversight  
Contractual Accountability

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## VENDOR CONTRACTING:

- Fiduciary Status
- Performance Standards
- ERISA Trust & Prohibited Transaction Requirements
- Indemnification
- Errors & Omissions
- Termination
- Federal Sentencing Guidelines Safeguards 23

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## VENDOR CONTRACTING:

Expressly Agree Not To:

Use or Cause Use of a Unique Health Identifier

Obtain Individually Identifiable Health Information Relating to Individual

Disclose Individually Identifiable Health Information to Another Person



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## IF YOU CAN'T TRUST YOUR VENDORS ...

Audit  
Oversight  
Accountability

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## THE SAVVY PLAN SPONSOR'S GUIDE TO PLAN DESIGN & ADMINISTRATION

- Compliant Plan Design
- The Details In The Documents
- Fiduciary Status & Discretion
- Communication
- Uniform Administration & Enforcement
- Plan Amendment & Termination
- Claims & Appeals Process

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## THE SAVVY PLAN SPONSOR MONITORS NEW DEVELOPMENTS

- New Laws
- Litigation
- HCFA, DOL, & IRS Enforcement & Amnesty
- Business Developments
- Administrative Experience



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## THE BIGGEST BANG FOR THE \$\$\$\$

- Take Your Business Pulse Before Designing Your Benefit Programs
- Tailor Benefits To Your Company

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# THE BIGGEST BANG FOR THE \$\$\$\$

## Plan & Implement For Success

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http://www.norwich.net/~randyg/raos.html



"This project is extremely important, but it has no budget, no guidelines, no support staff and it's due tomorrow morning... At last, here's your chance to really impress everyone!"

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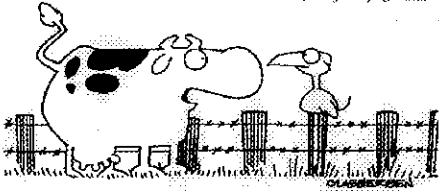
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# THE BIGGEST BANG FOR THE \$\$\$\$

## Speak, Write & Act Carefully

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E-mail: randyg@norwich.net



"It's true, I did jump over the moon. I had way too much coffee that day!"

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# THE BIGGEST BANG FOR THE \$\$\$\$

## LEARNING FROM EXPERIENCE

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"It is important to learn from your mistakes, Bob...but let's try not to learn quite so much."

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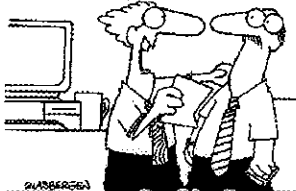
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## THE BIGGEST BANG FOR THE \$\$\$\$ Spend Resources Wisely

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E-mail: [randyg@nonwicks.net](mailto:randyg@nonwicks.net)



© GLASBERGEN  
"Why do we need to set up our own corporate intranet?  
Because we're guys--and guys love messing around  
with high-tech, electronic stuff, that's why!"  
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## HAVE A DISASTER RECOVERY PLAN

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© GLASBERGEN  
"Remember son, if at first you don't succeed,  
make it look like someone else's fault  
even ~~the~~ them."

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## THE BIGGEST BANG FOR THE \$\$\$\$

- Educate Your Employees About The Value of Their Benefits
- Require Performance & Indemnity From Your Vendors
- Stay Flexible

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## THE BIGGEST BANG FOR THE \$\$\$\$

If Your Employees Don't See The Benefit, Why Call It A Benefit Plan?

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## Zen and the Art of Employee Benefits:

7 Keys to Inner Peace



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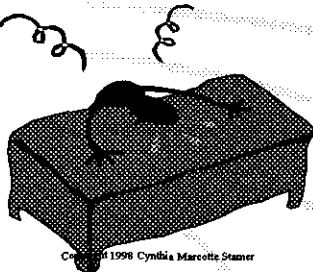
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## 1. Your Mission is Possible.

COBRA; HIPAA; 401(k)



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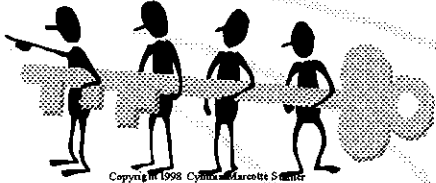
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## 2. Your Employees

- Your Plan
- Your Opportunities
- Your Liability



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## 3. You too can be sued.

**WHO IS THE FIDUCIARY?**



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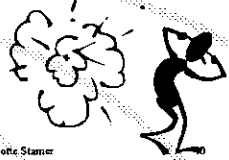
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## 4. What you write and say will be held against you.

(And, in some cases, what you do not say.)



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## 5. Guilt by Association.

- You can't choose your relatives
- BUT you CAN choose your vendors.

Let the buyer beware.

Contracting with Care

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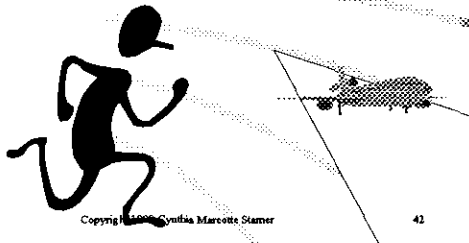
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## 6. Identify the nearest Emergency Exit

**before your benefit plan leaves the runway**



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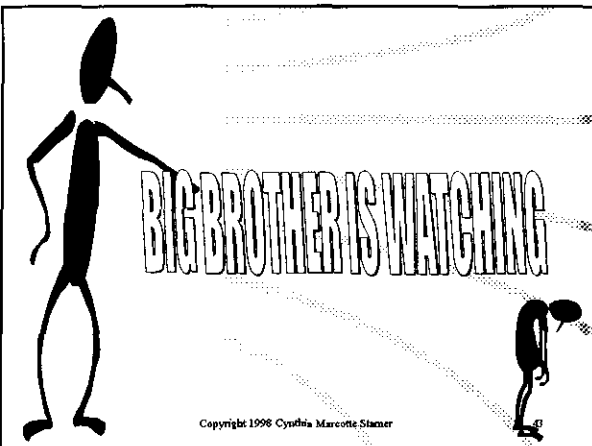
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