

# Newsletter for Non-Profits, September 2017



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2017

We're pleased to share the September 2017 edition of our Non-Profit Navigator. [Click here to read it \(PDF, new window\).](#)

Topics in this edition include Giving Trends, Directors and Officers Liability coverage; the Employee Retirement Income Security Act (ERISA).

If you would like to receive this newsletter by email, please contact Sarah Ruef-Lindquist at [srueflindquist@allenfg.com](mailto:srueflindquist@allenfg.com).

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## What is Directors & Officer Liability Insurance?

### What is Directors & Officer Liability Insurance?

Directors and officers liability insurance protects past, present and future directors and officers of non-profit organizations from damages resulting from alleged or actual wrongful acts they may have committed in their positions. The

policy provides protection in the event of any actual or alleged error, misstatement, omission, misleading statement, or breach of duty.

### **What does Directors and Officers liability insurance cover?**

Criminal, administrative, civil, and regulatory proceedings based on actual or alleged acts, errors, omissions, misstatements, neglect, or breach of duty committed or allegedly committed by a director or officer are covered with Directors and Officers liability insurance.

### **Why is Non-Profit Directors & Officers Liability Needed?**

1. To protect the personal assets of board and committee members
2. Maine statutory immunity does not apply to the types of claims that arise out of actions as a board or Committee member
3. The Personal Umbrella carried by a Board Member may not extend over their actions on the Board or its committees
4. The bylaws of the organization require that the entity protect and indemnify the board member in the event of a suit against them. This obligation is fulfilled by the organization carrying D&O coverage including Employment Practices Liability.
5. D&O claims are not covered by the organization's general liability policy

### **By volunteering, you're helping take care of others**

If you sit on the Board of Directors of a non-profit organization, you have gone out of your way to help others. Make sure you take care of yourself, too. Every board member should request an annual review of the organizations bylaws and directors & officers liability Insurance. This will be beneficial for current and new members and provide an opportunity to ask questions.

By [Richard Crossman, CIC, CRM](#)

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# Getting to Know More About ERISA

The Employee Retirement Income Security Act, commonly known as ERISA, was enacted in 1974 to address public concerns that funds from private pensions needed protection from mismanagement and abuse. Many employers offering employee insurance benefit plans are unaware that provisions of this Act apply to all plans, not just pensions.

What Employers are Subject to ERISA?

Most employers who are corporations, partnerships, sole proprietorships and non-profit organizations are subject to ERISA. Explicitly exempt from the rule are governmental and church plans. There is no exemption from compliance for employers based on size.

ERISA identifies the following common insurance plans as being subject to its jurisdiction:

- Medical, surgical or hospital benefits
- Sickness, accident, disability, or death benefits

Some benefits offered through payroll deduction are considered “voluntary,” and paid 100% by the employee such as supplemental life insurance, critical illness, accident or cancer benefits, are considered exempt from ERISA. However, as an employer if you have any participation in the selection of the vendor or promotion of the program, these benefits will not maintain that exemption.

What is the most common ERISA error?

Every ERISA plan must have a written plan document describing the benefits being provided. Some plans may exist without this document. If so, the plan will be out of compliance and could be

subject to violation fines and penalties.

Many employers erroneously believe that their insurance contract is the written plan document. While these contracts and certificates of coverage contain part of the information requirement of the plan document, an audit by the Department of Labor would consider this incorrect. A simple solution to this issue is to work on a form called a "Wrap SPD document." This incorporates most of the missing information, together with the insurance certificates, to meet all of the required ERISA elements for the plan document.

The broad requirements of ERISA additionally include reporting and disclosure, recordkeeping, and fiduciary requirements.

\*There are many businesses, including Allen, who can assist you with an ERISA compliance audit. Because of the recent uptick in Department of Labor audits, and the size of the penalties involved, we recommend you start working with a benefits professional as soon as possible.

BY [Sherree L. Craig, CEBS](#).

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## New Employee: Wendy Byrd

Wendy Byrd of Appleton has joined Allen Insurance and Financial as an account manager in the company's insured benefits division.



Wendy Byrd

Byrd, a graduate of Lewiston High School and the University of Maine, is certified as a benefits account manager by the

National Association of Health Insurance Underwriter (NAHU). She is based in Camden at our Chestnut Street office.

The NAHU Benefits Account Manager Certification provides account manager professionals with an understanding of the complex and critical role an account manager plays in the health and benefits arena.


"I enjoy working with clients as well as resolving unexpected issues," said Byrd.

"I enjoy the challenge of learning something new every day."

Outside of work Byrd enjoys reading, cooking and spending time with her son.

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## **Proud to be a Best Place to Work in Maine Again in 2017**

Allen Insurance and Financial was recently named as one of the 2017 Best Places to Work in Maine. This is the sixth consecutive year the company has earned this recognition. 

Companies from across the state entered the two-part process to determine the Best Places to Work in Maine. The first part consisted of evaluating each nominated company's workplace policies, practices, and demographics. This part of the process was worth approximately 25% of the total evaluation.

The second part consisted of an employee survey to measure the employee experience. This part of the process was worth approximately 75% of the total evaluation. The combined scores determined the top companies and the final rankings. Best Companies Group managed the overall registration and survey process in Maine and also analyzed the data and used their

expertise to determine the final rankings.

The 2017 Best Places to Work in Maine list is made up of 80 companies in three size categories: small (15-49 U.S. employees), medium (50-249 U.S. employees) and large (250+ U.S. employees). The ranked order lists will be released in October.

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## **Meesha Luce of Allen Insurance and Financial Earns Safeco Insurance® Award of Excellence for Superior Underwriting Skill**

✖ Meesha Luce of Allen Insurance and Financial has earned the Safeco Insurance Award of Excellence, an honor recognizing superior underwriting skill that is achieved by a select group of agents across the country who sell Safeco Insurance.

“This award is recognition of Meesha’s providing our agency’s clients with dedicated, professional service. We are proud to say she is one of Safeco’s top agent partners again in 2017,” said Michael Pierce, president of Allen Insurance and Financial. Luce has now earned the Award of Excellence for three consecutive years. The award honors outstanding agents who have developed a solid underwriting relationship with Safeco and whose agencies have qualified for the Safeco Insurance Premier Partner Award, the company’s top recognition program.

Luce, a resident of Hope, joined Allen Insurance and Financial in 2006. In 2013 she earned her Accredited Customer Service

Representative (ACSR) designation. She has been a member of the Maine Insurance Agents Association Young Agents Committee since 2013. Luce is based in the agency's Rockland office.

Allen Insurance and Financial is a multi-year President's Award and Premier Partner agency, recognition given only to the best independent insurance agencies that sell Safeco. Safeco is a Liberty Mutual Insurance company.

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# You've got a Digital Life...but What About Your Digital Afterlife?

[By Sarah Ruef-Lindquist, JD, CTFA](#)



Sarah Ruef-  
Lindquist,  
JD, CTFA

When you are no longer able to manage your own on-line accounts, or after you are gone, what do you want to happen with them? Do you want a perpetual reminder to all of your Facebook friends that it's your birthday, or a reminder of how long you have been Facebook "friends"? Do you want your account deleted? Do you want anyone to have access to your GoogleDocs, where you have written your unpublished memoir, or should it be deleted forever? How about all your photographs in Picasa? If something were to happen tomorrow to render you incapacitated – or worse –

what would happen to your virtual life, including your on-line financial accounts?

Most internet account providers, like Facebook and Google, have “terms of service” that can prevent anyone but you from ever accessing your account (without your user name and password, of course). Their terms include deleting or suspending in perpetuity any data or information there. Is this really what you want?

While not the law in Maine as of June 2017, 35 states have adopted some form of the Revised Uniform Fiduciary Access to Digital Assets law (“RUFADA”). The goal of RUFADA is to respect a user’s intent as reflected in online account options and dispositive documents like a will, trust or power of attorney. The law allows those named in these documents to manage digital assets and requires providers to honor their properly documented authority to do so.

Until the law is adopted and applies to Maine residents, it is important to carefully review each of the terms of service agreements for your digital accounts, and provide what should happen in case of your incapacity or death, and if possible, name a trusted person you want to have access to and manage your account for you. Your legal or financial advisor can help you decide who that person should be for each such account.

In the case of Google’s Gmail, you can “Add a delegate” to your account which will allow someone you appoint to manage and even send emails on your behalf. For Facebook, ‘Legacy Contact’ will allow you to choose a family member or close friend to care for your account if something happens to you. You can also give them permission to download the contents of your Facebook page.

Failure to make these elections and designations can result in deletion of accounts, and/or long waits for family and heirs to access your digital accounts and assets. Be proactive while you can, and don’t forget to ask your advisor for help.

*This article first appeared at PenBayPilot.com.*



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# Stephanie Griffin, ACSR Graduates from Midcoast Leadership Academy



Stephanie  
Griffin

Midcoast Leadership Academy and the University of Maine Hutchinson Center have announced completion of the academy's seventh program year and the July 2 graduation of 18 current and prospective community leaders. One of those graduates is [Stephanie Griffin](#), ACSR, a member of the business insurance division at Allen Insurance and Financial.

Graduates this year were Alyssa Ames, practice manager at Waldo County General Hospital; Penson Bartlett, North Region manager, Jobs for Maine Graduates; Maggi Blue, freelance artist and designer/marketer; and Megan Brackett, finance director, Town of Rockport.

Also, Kristin Collins, operations director, Island Institute; Karla Doremus-Tranfield, global director, water treatment, Gulbrandsen Technologies; Kristin Flynn, owner, Kristin Flynn Photography and Ken Gross, assistant director, Camden Public Library.

Also, Jodie M. Heal, president, CPA, MAFM, Heal Accounting Solutions, PC; Abbie Leonard, harbormaster, town of Rockport; Amy Levine, library director, Rockland Public Library; Jake Miller, VP/branch manager, First National Bank; and Denise

Pease, sales and marketing director, Quarry Hill.

Also, Wyatt Philbrook, vineyard and property manager, Cellardoor Winery; Lisa Phillips, AVP, banking center manager, Camden National Bank; Amy Smith, assistant director for academic and student services, Hutchinson Center; and Kim Wilson-Raymond, conference coordinator, Hutchinson Center.

Guest speaker at the graduation was Tom Peaco, executive director of Penobscot Bay Regional Chamber of Commerce and a graduate of MLA 6.

Modeled after successful community leadership programs held throughout the country, MLA7 was run as a partnership between the University of Maine Hutchinson Center and Midcoast Leadership Academy. Guest faculty are drawn from academia, business, government, consulting and the nonprofit sector.

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# Good News for Maine Non-Profits

By Sarah Ruef-Lindquist



Sarah Ruef-  
Lindquist,  
JD, CTFA

According to Giving USA 2017, philanthropy grew to a record \$390.05 billion in 2016 to U.S. charitable organizations, 2.7% more than 2015, another record-setting year. It may have helped that personal consumption and disposable income were up by

almost 4%, and that the S&P ended the year 9.5% higher than it began, despite a politically tumultuous year. The annual report is an ongoing collaboration of the Giving USA Foundation, the Giving Institute and the Lily Family School of Philanthropy.

Here in Maine, we don't have the 2016 data just yet, but the most recent Giving in Maine 2017 Report shows that individual giving in 2014 was over \$451 million, up about 4% from the previous year.

Many years, Maine falls into the bottom 3 or 4 states in terms of total annual charitable giving. But Mainers are generous when it comes to making gifts to charities through their estates. Maybe they can't afford to share more of their wealth while they are alive, but when they're gone, they remember their favorite community organizations as if they were a member of the family.

Looking deeper into the data over the past 7 annual reports, Mainers have giving almost \$800 million to charity through their estates or bequests, an average of \$100million per year, according to the Maine Philanthropy Center's reports. While the dollars may be fewer in comparison to many other states, the average frequency of estates making gifts to charity is often higher. Data collected by the Maine Philanthropy Center has shown that 27% of taxable estates in Maine – versus 20% nationally – make charitable gifts. That's a significant number, and speaks to the thoughtful generosity of people who care deeply about their communities, making gifts when it makes sense for them. That's good news for Maine non-profits.

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# Carolyn Mitchell Achieves ACSR Designation

[Carolyn Mitchell](#), a personal insurance account assistant based in the Camden office of Allen Insurance and Financial recently achieved the designation of Accredited Customer Service Representative in Personal Lines from the Independent Insurance Agents & Brokers of America.



Carolyn  
Mitchell

Mitchell of Camden, has been with the company for 13 years.

The ACSR designation program was developed to recognize the contribution made to each customer by the service they are provided through independent insurance agencies such as Allen Insurance and Financial.

Independent Insurance Agents & Brokers of America is the nation's oldest and largest national association of independent insurance agents & brokers with more than 300,000 members. Find them online at [independentagent.com](http://independentagent.com).