



Workers' Compensation

What to Expect in 2023

Workers' Compensation Center of Excellence
November 2022

A business of Marsh McLennan



Moderator



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State of workers' compensation



Workers' compensation market update



Trends and emerging issues

Agenda

Today's panelists



Dan Aronson

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Director of WC Claims
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State of workers' compensation

The "Ongoing" Perfect Storm for Casualty Buyers Issues Driving the Market

*Increasing Medical Costs
#1 WC Cost Driver*

*Federal and State
legislative changes*

*Historical Unprofitability of
Workers Compensation*

*Carried loss reserves
/ Tail risk volatility*

*Changes to Experience
Modification Factor
calculation*

*Ever Expanding Tort
Judgments*

*Sluggish Macro-
Economic Conditions*

*Low Interest Rate
Environment*

Market availability

*Claims
Administration
Evaluation*

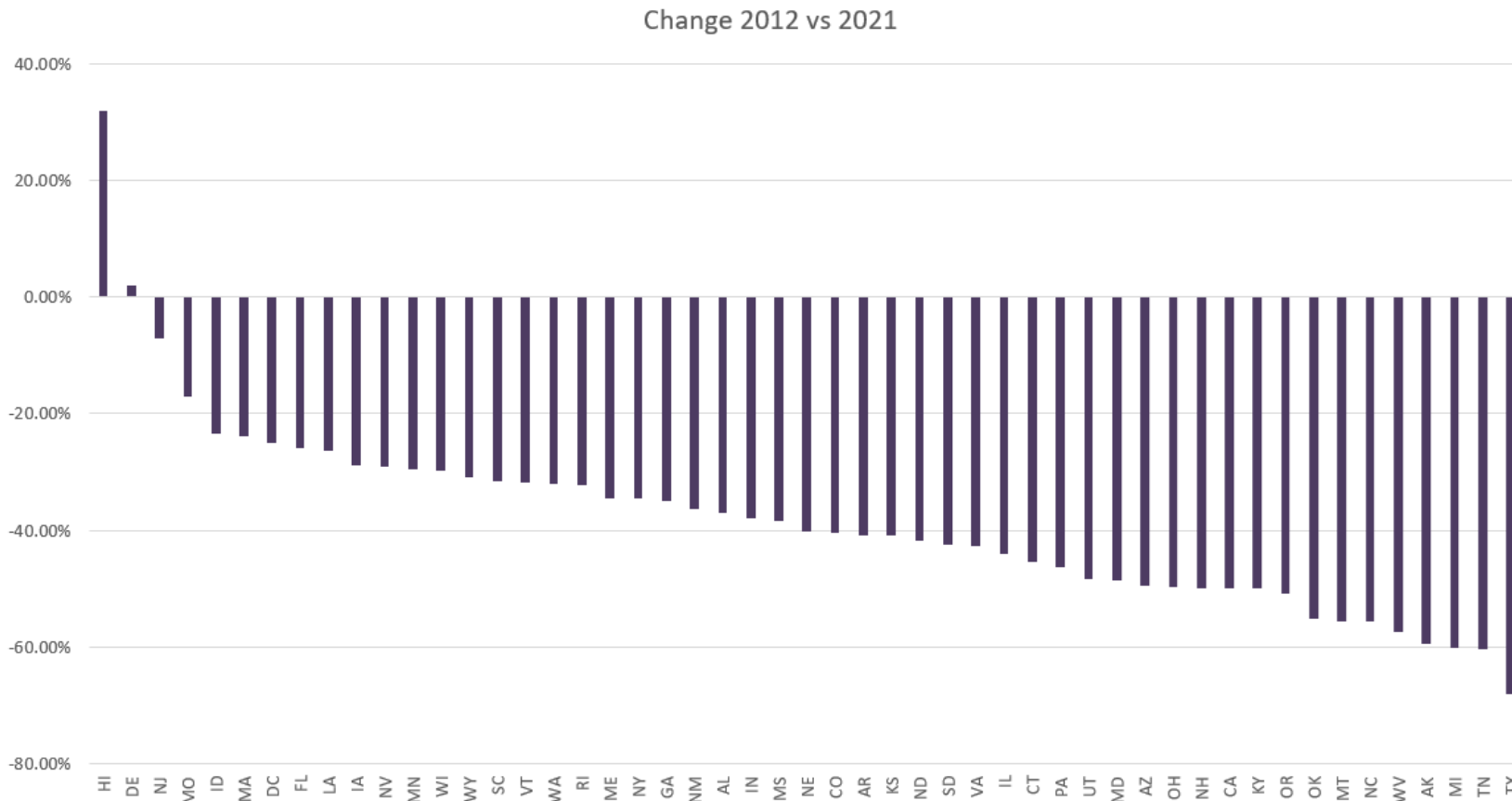
*Structure optimization / market
positioning*

*Co-morbidity factors: obesity, diabetes, aging
workforce, hypertension, driving treatment costs higher*



WC loss rates (Losses per \$100 of payroll)

Overall trends in loss rates (Average YE 2012 vs YE 2021)

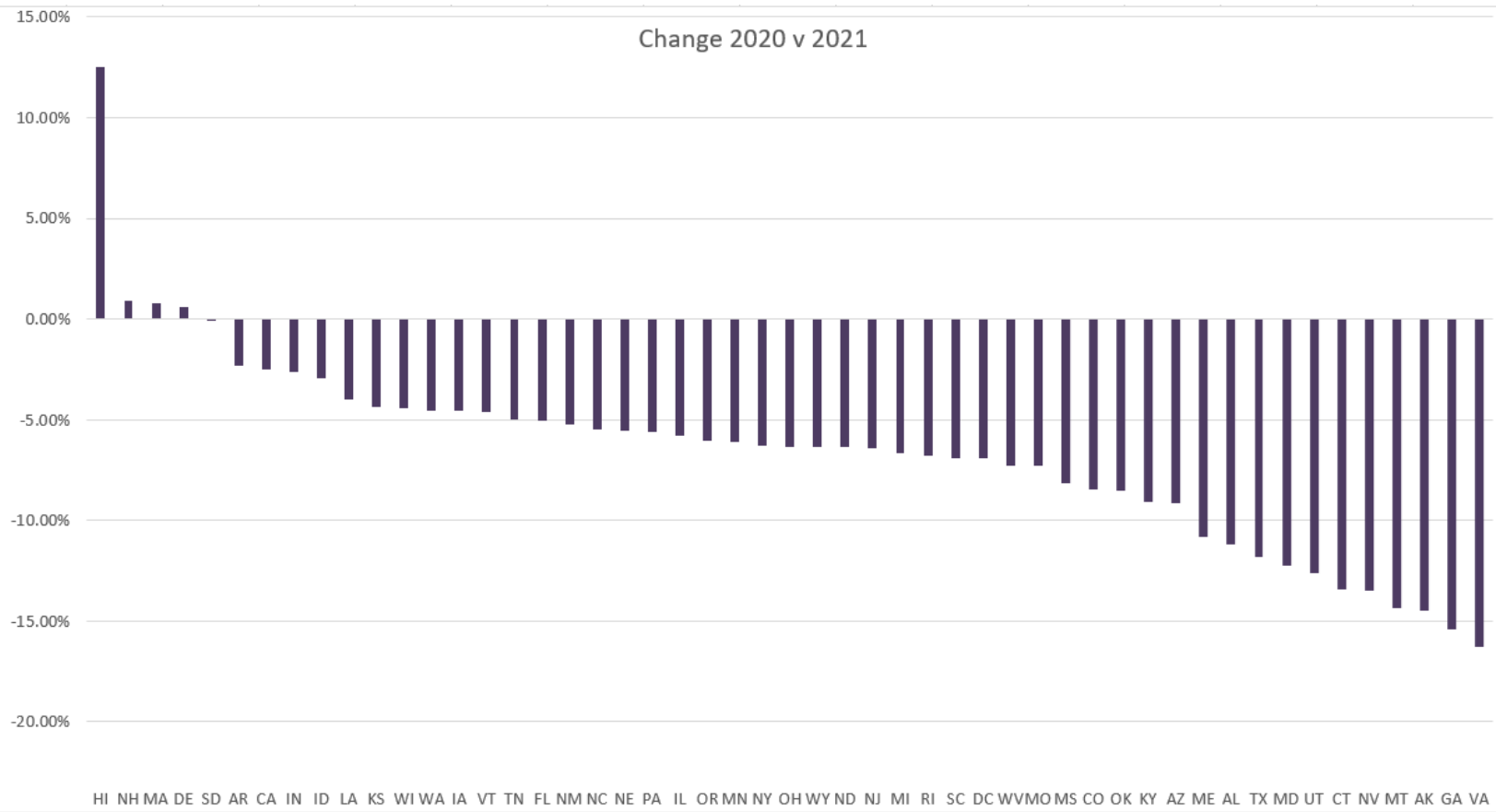


Since we started tracking this data in 2012:

- average loss rates for the vast majority of states (**48 and Wash DC**) have decreased
- **47** have decreased **20% or more**

WC loss rates – Overall trends

Losses per \$100 of payroll 2021 vs 2020



Only Hawaii has a notable increase (12.49%) with NH, MA and DE increasing less than 1%

The breakdown of the remaining states:

- 11 decreased less than 5%
- 24 and Wash DC decreased between 5% and 10%
- 11 decreased over 10%

Workers' comp average loss rates - Top 10 (highest) states

CA and NJ continue to have some of the highest loss rates in the country, but between 2012 and 2021 overall loss rates have gone down over 49% in CA, and almost 35% in NY.

Original 2012	2020	2021
CA 2.79	NJ 1.84	NJ 1.72
NY 2.48	NY 1.73	NY 1.62
NJ 1.85	CA 1.43	CA 1.40
OK 1.85	WA 1.27	HI 1.31
MT 1.84	DE 1.21	DE 1.21
AK 1.80	HI 1.16	WA 1.21
CT 1.80	CT 1.14	WI 1.02
WA 1.78	GA 1.09	LA 1.00
IL 1.74	WI 1.07	CT 0.98
NH 1.68	LA 1.04	VT 0.98

Green text indicates state dropped out of the Top 10 at the next listing while red indicates it is newly added to the Top 10.



Average of Top 10 in 2012 – 1.96

Average of Top 10 in 2021 – 1.25

36.2% decrease for the average of the Top 10 highest states

AM Best

Workers' Compensation Market Segment Report

Positive Trends

- 8 consecutive years of u/w profitability
- Frequency continues to decrease
- Large reserve redundancy

Watch for

- Long COVID
- Medical inflation

“U.S. Workers’ Compensation Insurance Line Generates Solid Profits but Future Remains Uncertain”

National Council on Compensation Insurance

Positive Trends

- 8 consecutive years of u/w profitability
2021 calendar year combined ratio of 87
- 2021 average frequency of indemnity and medical lost-time claims unchanged from 2020
- Lost time claim frequency continues long term decline despite overall rise in frequency in 2021
- Reserves \$16 billion redundant as of year end 2021

Watch for

- Long COVID
- Medical inflation
- Potential economic downturn

“The U.S. workers’ compensation system is strong, resilient and healthy, and it’s currently the best-performing line of property-casualty insurance.”

- Bill Donnell – NCCI President and CEO

California trends

WCIRB 2022 State of the System

- Frequency declines for many years – why?
 - Shift to a service based economy
 - Increased mechanization
 - Improved workplace safety
- Before the pandemic, **indemnity** frequency was flat
 - Rate of decline was offset by an increase in cumulative trauma claims
- Projected combined ratios have been increasing since 2016
 - Lower premium levels driven by lower rates
 - Higher expense ratios

Projected Combined Ratios			
Year	Overall	Year	Private Insurer
2016	79	2016	91
2017	82	2017	87
2018	86	2018	74
2019	96	2019	81
2020	105	2020	81
2021	112	2021	91

Long COVID

NCCI (multistate) analysis – October 2022



24% of COVID WC claims were long COVID.



20% of nonhospitalized and **47%** of hospitalized COVID WC patients developed long COVID.



Most common symptoms in long COVID were pulmonary or cardiovascular.



Average temporary disability indemnity benefits duration for long COVID patients was about **160 days** for hospitalized patients and **95 days** for nonhospitalized patients.

Long COVID

WCIRB (CA) estimated prevalence and cost of long COVID



Prevalence

Over a four-month post-acute care period:

- About **11%** of workers with mild infections received medical treatments for long COVID.
- The share was higher for workers with severe (hospitalization without ICU care) - **36%** or critical (hospitalization with ICU care) **40%** infections.



Symptoms

Long COVID symptoms for WC claims ranged from respiratory issues e.g., shortness of breath and cough, to multisystem complications, which were more prevalent for patients requiring hospitalization.

Almost **40%** of hospitalized COVID-19 patients continued to receive care for pulmonary conditions and about **15%** received care for cardiac conditions over the four-month post-acute care period after hospital discharge, while about **20%** of mild patients received care for shortness of breath and about **16%** received care for pulmonary conditions.



Costs

At 4 months post-acute care, workers with severe or critical infections who were previously hospitalized and subsequently had long COVID symptoms had on average about **16%** higher claim costs than non-COVID-19 claims that involved hospitalization.

NCCI analysis of medical inflation in WC

October 2022



Moderate for the past decade. But with the recent dramatic rise in consumer prices, concerns have emerged about medical inflation rising at similar levels.



NCCI's most recent medical data show that drug costs are declining, physician costs are up slightly, and facility costs are rising in the WC system.



Two factors drive changes in medical claims costs: the price of medical services and utilization, which measures the mix and number of services provided to an injured worker.



In recent years, facility services are the dominant contributor to changes in WC medical costs across regions—most prominently in the Southeastern region.

WC Market Update

Primary casualty market trends

Q3 - 2022

Pricing →

Overall – Remained stable to competitive

Capacity →

Insurers continue seeking new business for most industry segments

Market trends

Q3 did not deviate from the first two quarters of 2022. Generally an overall competitive primary marketplace, which continues to be driven by workers' compensation. It is anticipated that insurers will continue to seek new business as they look to close out 2022 strong.

Workers' compensation

- Majority of insurers remain focused on increasing their market share
- Markets writing WC as a new line can help to offset some of the increases in the auto or GL lines with a combined offering

Auto liability

- Auto still remains the challenged line for the majority of insurers, though average rate increases have lowered into low-to-mid single digits
- Monoline placements remain extremely challenged

General liability

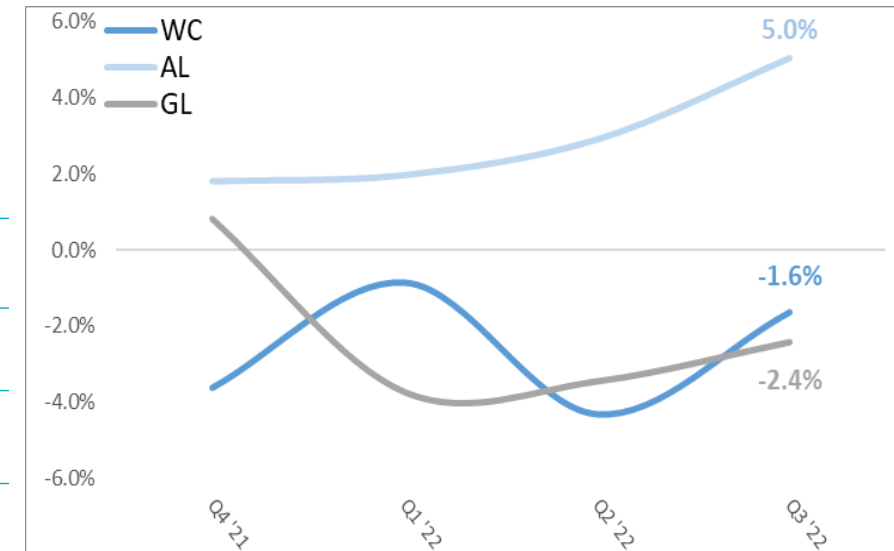
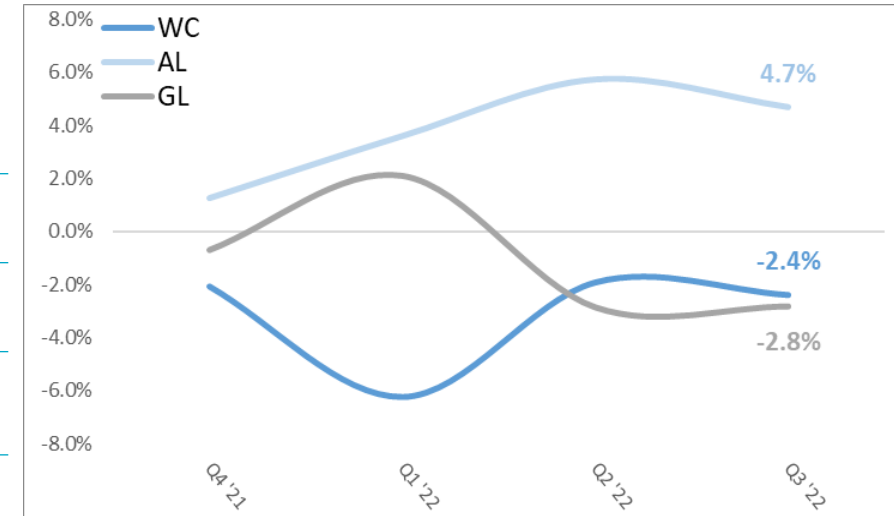
- Though GL has been challenging for the bulk of insurers, we are seeing insurers willing to price competitively for a real opportunity on the WC line
- Markets seeking to partner with clients by providing primary and umbrella/excess limits can be strategic positives

Loss sensitive rate trends

	Avg Q3 '22	Trend
Workers' Comp	-2.4%	▼
Auto Liability	+4.7%	▼
General Liability	-2.8%	=

Guaranteed cost rate trends

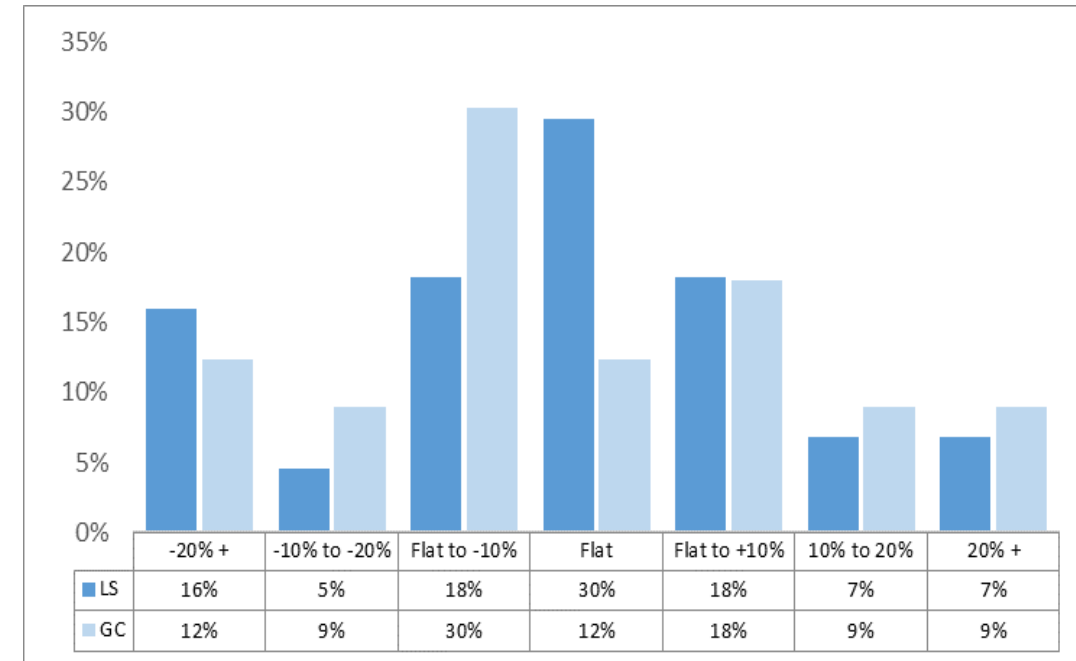
	Avg Q3 '22	Trend
Workers' Comp	-1.6%	▲
Auto Liability	+5.0%	▲
General Liability	-2.4%	▲



Workers' compensation

- Competitive rate environment continued through the 3rd quarter with the majority of loss sensitive renewals ranging between -10% to +10% rate (with the majority coming in at flat rate).
- The markets continue to target WC as the growth area for their books although for certain industries such as healthcare, COVID claims continue to develop. The long-term impact of these claims is an unknown that can be challenging for insurers in this space. Updates in presumption laws continue to be watched.
- Detailed submissions have helped to improve results e.g., estimated and historical payrolls, five to seven years of loss history, employee aggregation information and badge swipes, as well as return to office plans, etc.

Distribution of rate changes, 2022 Q3



Trends and emerging issues

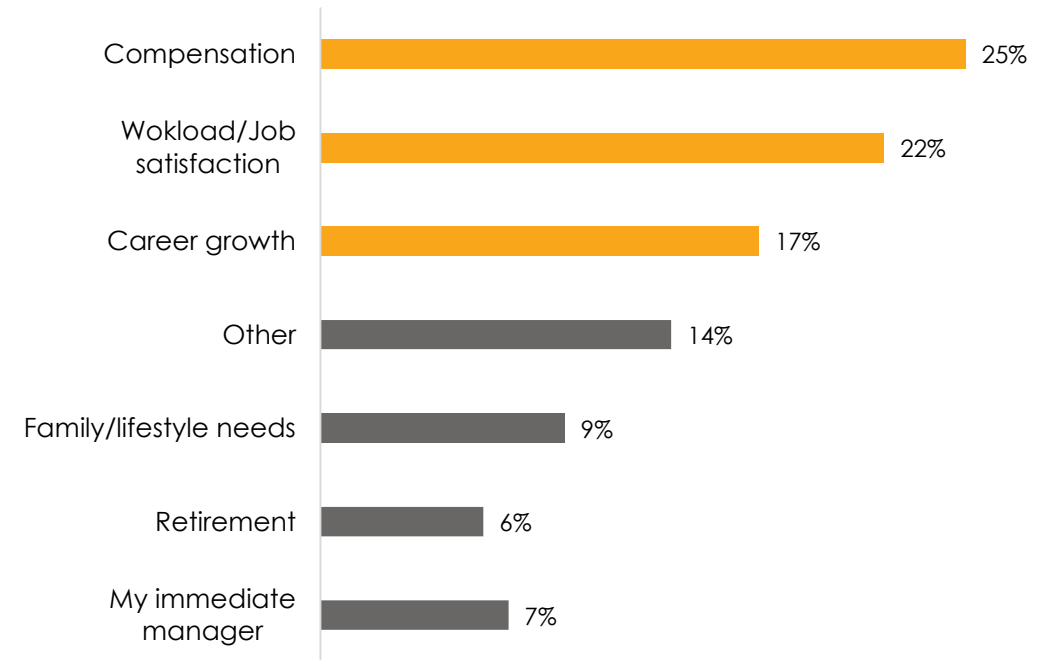
Why people are leaving the industry

Employee experience factors driving appeal for traditional and nontraditional workers, ranking

Factors	Reasons people who quit took a new traditional job ¹	Reasons nontraditionalists would return to a traditional job ²
Career development and advancement	1	7
Adequate total compensation	2	2
Meaningful work	3	3
Workplace flexibility	4	1
Reliable and supportive people at work	5	5
Support for health and well-being	6	4
Sustainable work expectations	7	9
Caring and inspiring leaders	8	10
Inclusive and welcoming community	9	8
Geographic ties and travel demands	10	11
Safe workplace environment	11	6
Resource accessibility	12	12

¹ Respondents who quit a job anytime between Apr 2021 and Apr 2022 and took a new traditional job (n = 799).
² Respondents who would consider returning to a traditional job (n = 1,963).
 Source: Subset of respondents from McKinsey's 2022 Great Attrition, Great Attraction 2.0 global survey (n = 13,382)

Exit Survey - Primary Reason for Leaving



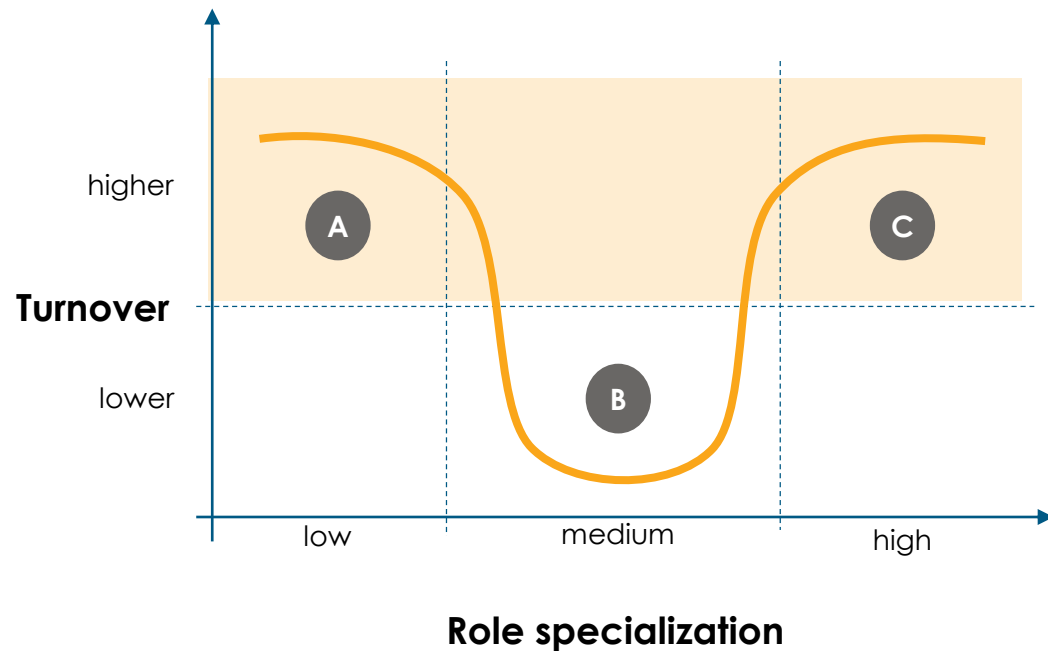
↳ GB's YTD Exit Survey Data reflect similar reasons for leaving among "traditionalists" and in similar priority

↳ However, our commitment early in the pandemic to enable flexible work arrangements has insulated us to some degree from attrition among those prioritizing family/lifestyle needs

Source: McKinsey 2022 Great Attrition 2.0 Global Survey

What are the impacts of these market forces?

Impact of specialization on turnover



Level of specialization	Description and labor market dynamics	Representative roles
low A	Roles where we compete with a broader set of competitors in the industry, including personal lines and adjacent industries, e.g. customer service, retail, medical billing, etc.	<ul style="list-style-type: none"> • Auto PD, GL Fast Track • Entry-level BI and WC
medium B	Roles where specialization is sufficient to limit competition from a broader set of industry and adjacent competitors, but where talent pool size is also sufficient	<ul style="list-style-type: none"> • GL Litigated • Transportation MCU • WC – CA, NY, FL
high C	Roles where specialization is very high and labor pool is limited; and roles where specialization is moderate but labor pool is limited/highly competitive	<ul style="list-style-type: none"> • Construction Defect, NYLL • Federal Lines • WC Resident States • WC New England

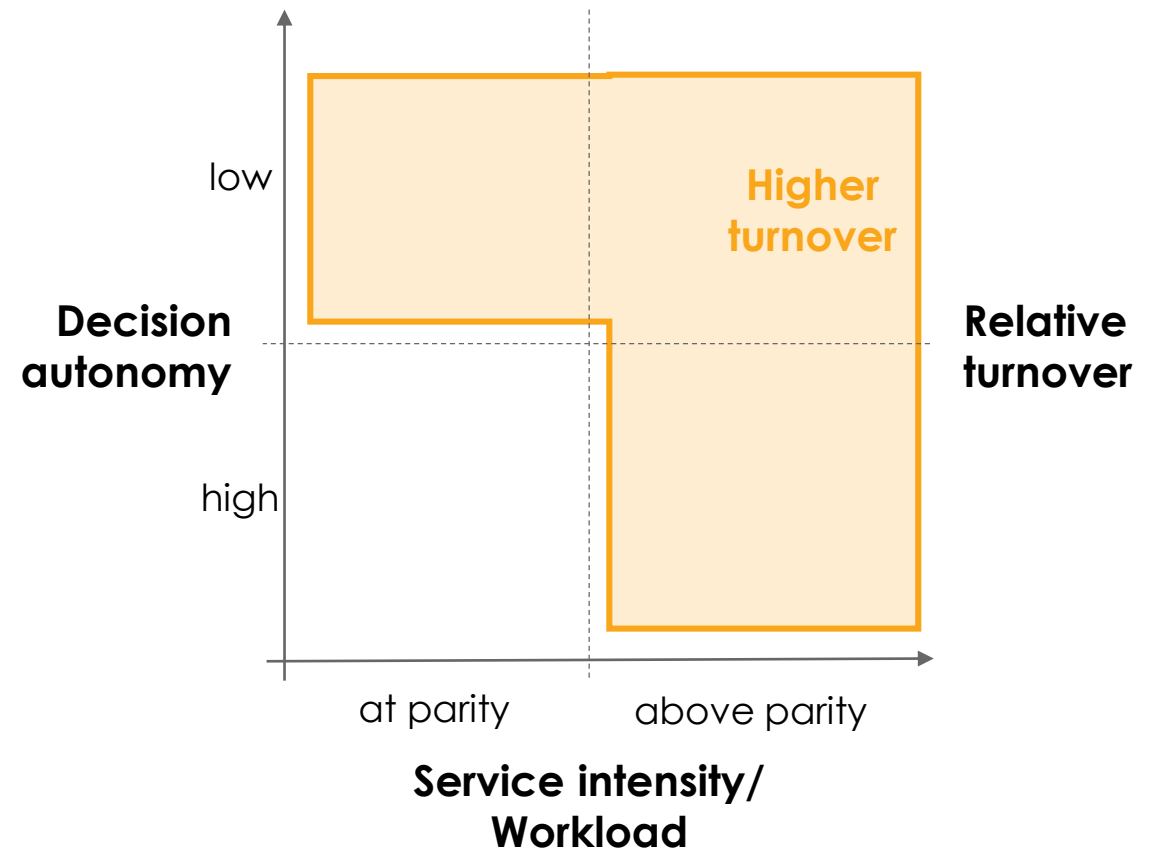
How do “desk dynamics” contribute to the challenge?

Impact of workload and autonomy on turnover

WC – # of jurisdictions

Authority and # of touchpoints

Workload – general



Rebuttable presumptions – COVID and beyond

Pandemic presumptions

- 2020 – 2021: 18 states established COVID-19 presumptions
 - Employee’s exposure to, or contraction of, COVID-19 is work-related and compensable.
 - Most contained expiration dates or sunset provisions tied to the end of the state of emergency or another specified date.
- California (AB 1751) extends the COVID-19 presumption to January 1, 2025.

Other presumptions

- 2020 – 2021: Tennessee and Washington established a more general “infectious disease presumption.”
- Other states have legislation pending looking to establish more general “infectious disease presumptions.” Many do not include sunset provisions or expiration dates.
- States continue to pass legislation for presumptions for “first responders” for psych related conditions and terminal type diseases.

Remote work considerations

Click on the images to access our remote work presentation and article



Industries Services Risks

home Services Workers' Compensation As remote work takes hold, employers must be ready

Webcast Replay: Working from home post COVID-19
Marsh

Working from home post COVID-19: What's normal in our new normal?

Workers' Compensation Center of Excellence

June 29, 2021

Watch on YouTube



Article

As remote work takes hold, employers must be ready



07/01/2021

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The health threat of COVID-19 is fading in the US, but the pandemic will likely drive lasting change, including in how we work. After an initial adjustment period, employers and employees are embracing remote working, and now see it as the way of the future. While that can be a net positive in many ways, it's important for employers to be ready to manage associated risks, including the prospect of compensable injuries occurring in employees' homes.

Remote Working Challenges

In March 2020, unprecedented lockdown and stay-at-home orders were enacted as the novel coronavirus rapidly spread across the US and other countries. This forced many companies to

Remote work best practices

Telework agreements

- Create a **telecommuting policy** that outlines the employer's expectations for employees who work from home.
- Establish **guidelines for a home office**, such as a designated work area, and provide training related to **workstation setup and safety measures**, including ergonomics.
- When appropriate and possible, **conduct periodic checks** of employee home offices to help identify and eliminate work area safety hazards.
- Set **fixed work hours** and **meal and rest periods** for telecommuters. Doing so can help establish whether an injury was "in the course of" employment.

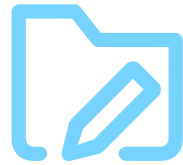


Managing telecommuting claims



Set up claim handling policies

- Establish specific protocol with claims administrator for WFH claims
- Implement an effective accident investigation processes
- Establish reporting timelines



During the claim

- Because coming and going laws don't apply, it is important to document the location and time of injury
- Channel care to effective health care providers
- Claims advocacy approach with employees
- Communication



Post-loss strategies

- Be creative in return-to-work accommodations
- Provide ergonomic support for employees returning
- Provide job description and physical demands to facilitate RTW
- Assess employees' individual needs
- Communication

The accident investigation of a remote employee does not differ from other workers' compensation claims.



Different “exposures” in a home office

Closed claim example 1

Injured worker was participating in a department “ZOOM” chat; stood up and the chair broke. As a result, the injured worker hit their shoulder against the wall and strained their neck muscle.

Closed claim example 2

Injured worker got up from her desk to answer the front door and receive a package from work, accidentally tripped over a box that was on the floor, causing her to fall backward and hit the back of her head on the ground.

Closed claim example 3

While working from home, the injured worker walked down his stairs to go to the restroom. While walking down the stairs, he missed a step, lost his balance and fell.

Determining the jurisdiction?



- Jurisdictional investigation (PWALSH)
 - Payroll state
 - Work state
 - Accident state
 - State of residency (lives)
 - Supervisor state
 - Hired state
- Claimant choice of jurisdiction often presides above all others
- Potential challenge - employee moves to a new jurisdiction and transfer of medical care to new jurisdiction

Mental health

Impact on workers' compensation claims



The majority of injured workers do not have a diagnosed psychiatric or major depressive disorder.



They may have psychosocial barriers to return to function and work. Psychosocial barriers **increase** the likelihood for delayed recovery after a work-related injury.



Psychosocial risk factor examples:

- Perceived injustice
- Fear avoidance
- Pain catastrophizing
- Recovery expectations
- Coping



Injured employees with at least one risk factor have roughly **50%** higher indemnity claim costs.

Mental health workers' compensation claims



WC for workplace-related mental injuries

- NCCI monitored 61 bills addressing this topic including more than 46 bills related to post-traumatic stress disorder.
- In 2022, CO, FL, ME, and NH enacted legislation addressing WC coverage for mental injuries.
- An additional 12 states considered legislation, so would expect this to pick up again in 2023.



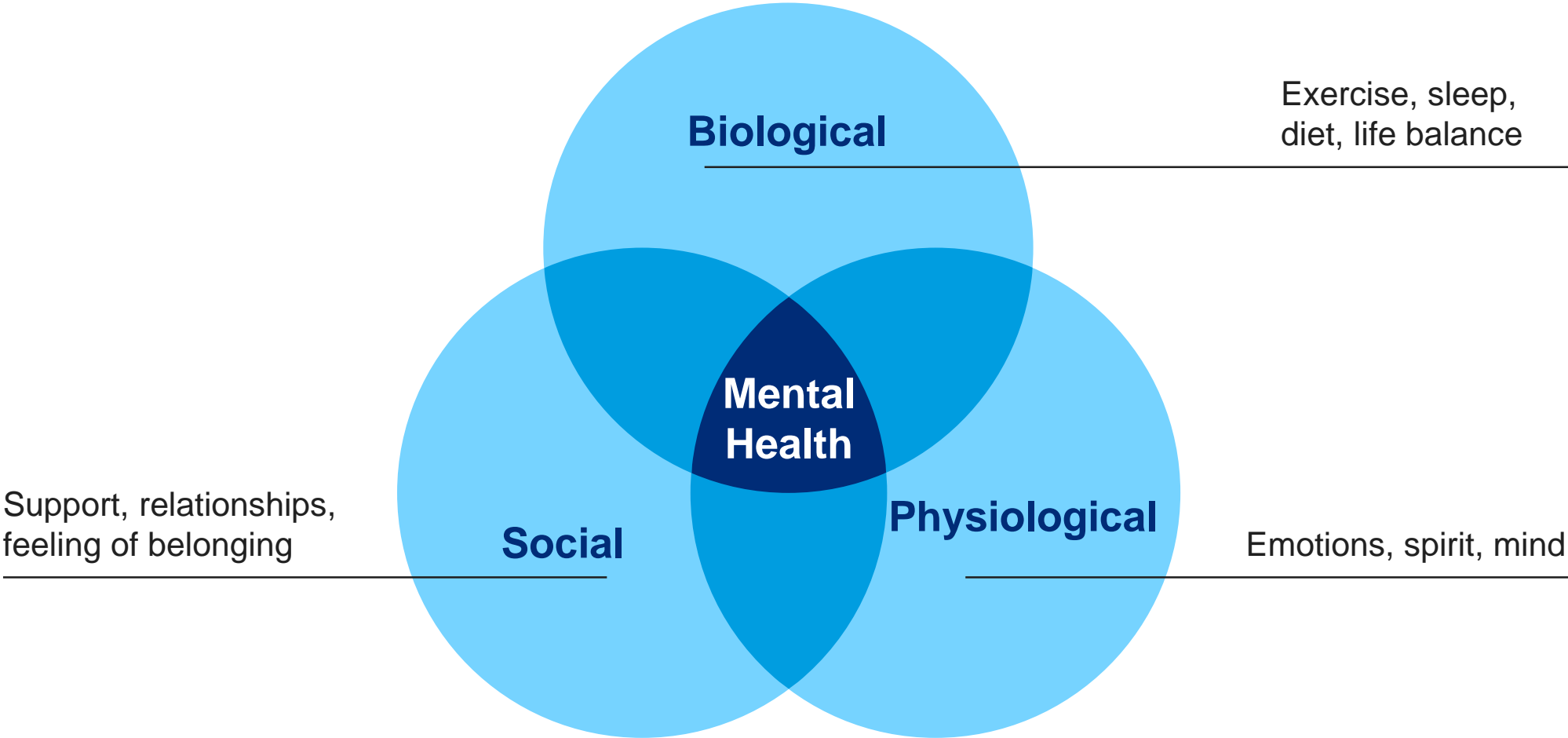
Defining “mental injury”

States have unique definitions.

- CT would have expanded workers compensation coverage for post-traumatic stress disorder to [all employees](#).
- NY has introduced a bill that addressed workers' compensation claims for mental injuries premised upon extraordinary work-related stress.
- Looking at compensability with “mental” injury allegations.

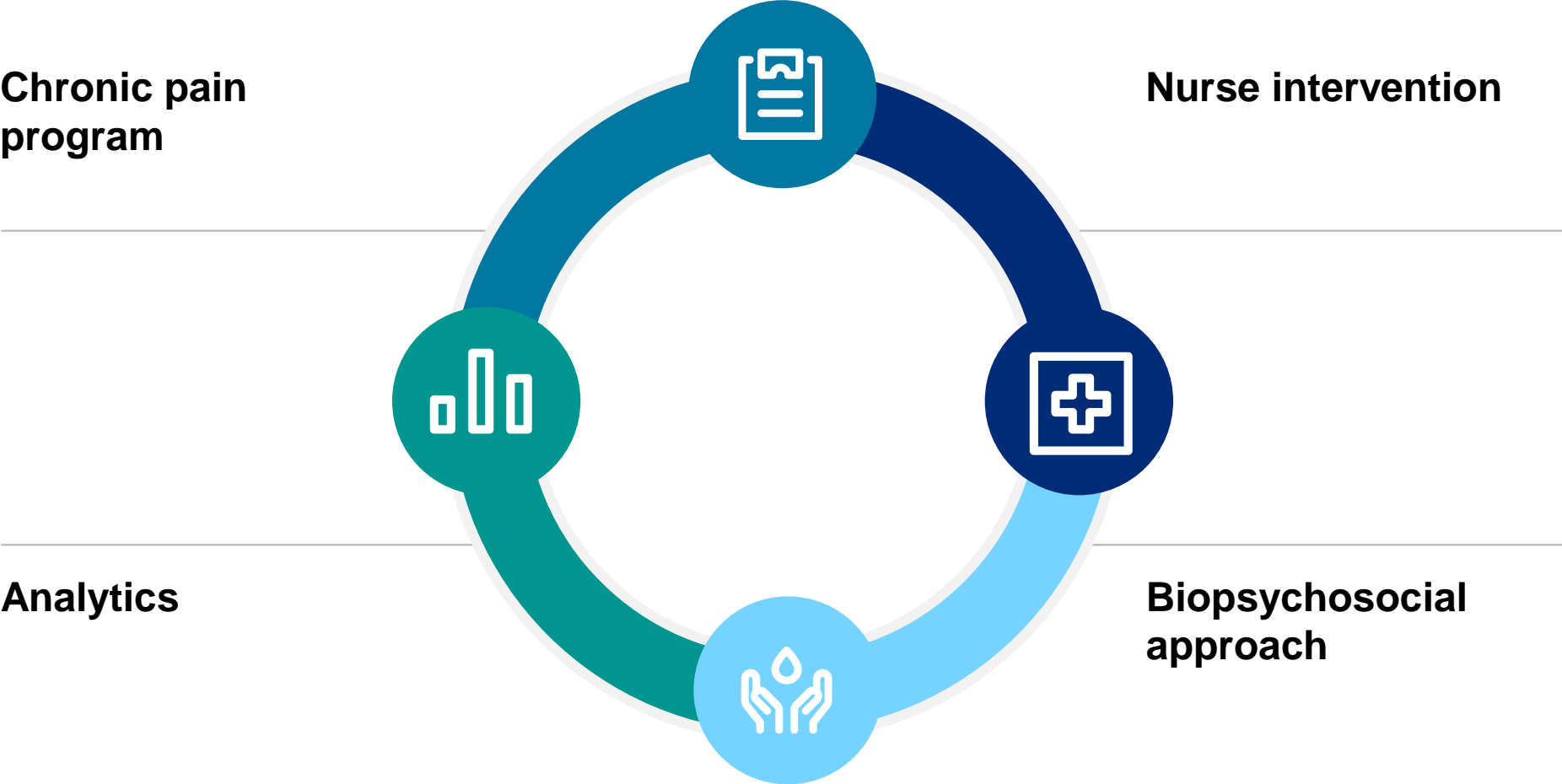
Biopsychosocial model

Impacts on individual's overall health

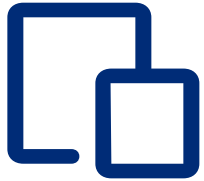


Holistic approach to recovery

Deliver a personalized care experience



What's next?



Apps

Apps are available to promote mindfulness and meditative practices, enabling connectivity between employer and employee that may not have been curated before.



Work flexibility and support

- Resources to help create a sense of control, empowerment, and belonging.
- Work-life balance and providing a safe and appealing work space creates a more supportive environment.
- Willingness to openly discuss and provide support for those with mental health conditions can ensure workers get the treatment they need as soon as possible.

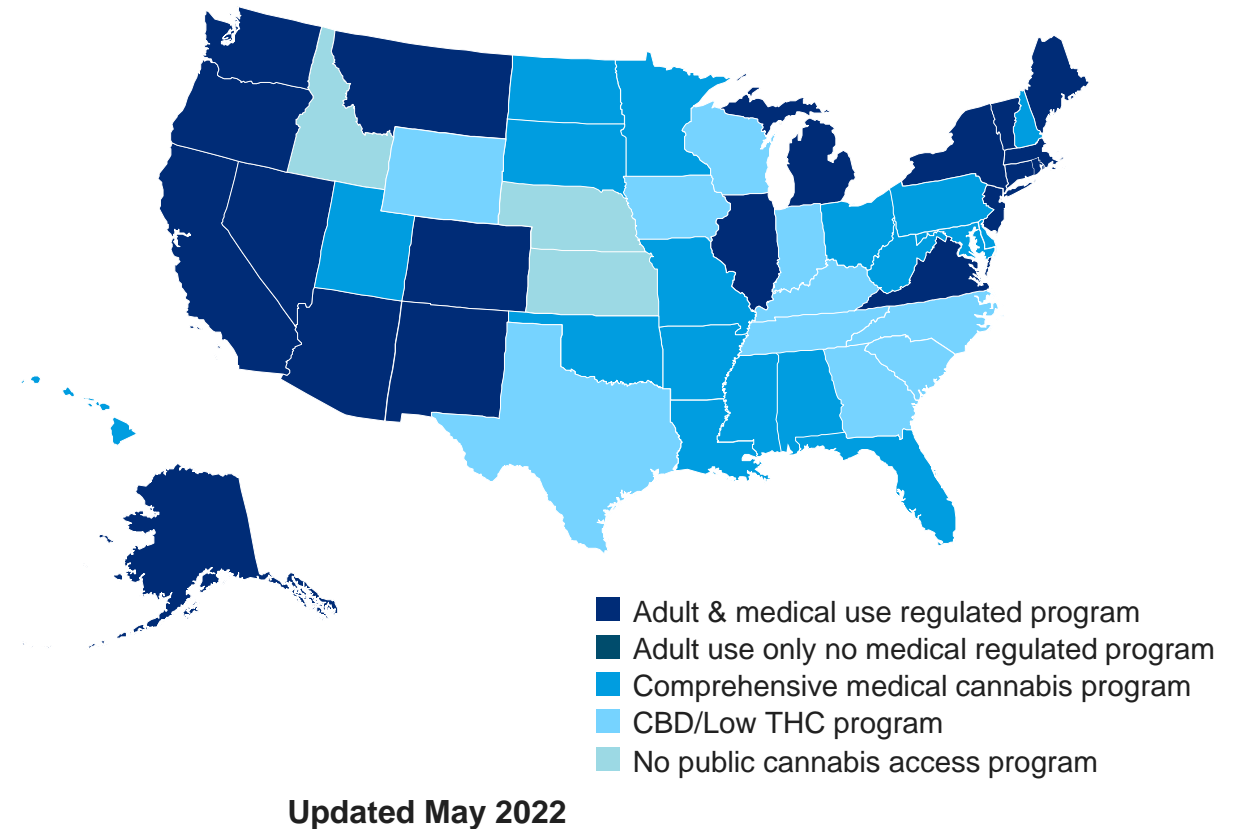


Jurisdictional changes

Medical provider networks in CA include licensed clinical social workers (rather than psychologists and psychiatrists) that provide services to injured workers around mental health.

Legalized marijuana and workers' compensation

- Marijuana remains illegal at the federal level.
- States continue to legalize marijuana through legislation and ballot measures.
 - As of February 3, 2022, 37 states, three territories and the District of Columbia allow the medical use of cannabis products for medical users.
 - As of May 27, 2022, 19 states, two territories and the District of Columbia have enacted measures to regulate cannabis for adult non medical use.



Legalized marijuana and workers' compensation



Reimbursable form of medical treatment?

Varying case law by jurisdiction

- To reimburse New Hampshire, New Jersey, New York
- Not required to reimburse Massachusetts, Arkansas, Minnesota, Mississippi, Rhode Island, South Dakota



Intoxication defense?

Most jurisdictions— employer must prove that intoxication or impairment was the **sole cause of the injury** in order to deny a workers' compensation claim.

Contributing factors —a wet floor, a falling object, or an equipment malfunction — **could invalidate an intoxication defense**, whether for marijuana, alcohol, or other drug use.

An intoxication defense may also be complicated since marijuana can stay in a person's system for months making it extremely difficult to determine whether an employee was actually impaired at the time of a workplace injury.

There are significant variations in the allowance of marijuana as a reimbursable form of medical treatment for WC as well as in the applicability of the intoxication defense as marijuana is legalized for different uses in the U.S.

Technology: driving superior outcomes through enhanced decision support



Reserves

Helps adjusters set appropriate reserves



Clinical intervention & advocacy

Identifies claims in need of nurse intervention



Litigation

Identifies and prevents claims likely to become litigated



Subrogation

Identifies WC claims w/ subrogation opportunity



Settlement potential

Helps adjusters reserve and settle BI GL claims

GB Systems, Proprietary Technology, Artificial Intelligence (AI), Machine Learning, People, Teams, Culture, and Intellectual Capital

Q&A

Audience members can submit questions for the panel by typing them into the Q&A window at the bottom of your computer screen.

If your question is not answered during today's program, someone will get back to you shortly.



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