COMP CARE: Claims pros seek to tap tech but keep personal touch - PAGE 6

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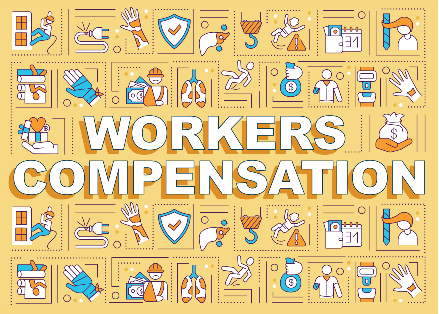

SPECIAL REPORT: CYBER RISK & PROFESSIONAL LIABILITY

Communicating cyber risks to company boards is becoming more urgent. Meanwhile, large projects pose coverage challenges for architects and engineers. **PAGE 22**

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As the comp sector continues to grapple with how best to manage the pain of injured workers without prescribing opioids, several alternatives have emerged. **PAGE 29**

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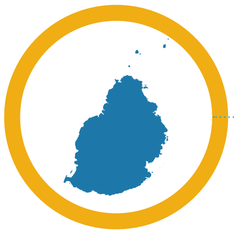

INTERNATIONAL

Mauritius has a mature nonlife market, with high insurance penetration relative to some other African markets. **PAGE 14**

PERSPECTIVES

There's an opportunity to better address workplace violence events in workers comp policies, writes Debbie Goldstine of Lockton Cos. LLC. **PAGE 32**

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No, that wasn't Tom Hanks you saw hawking dental insurance on social media. **PAGE 42**

VIEW FROM THE TOP

SRI SRIDHARAN

Sri Sridharan, who was named CEO of MedRisk LLC in September, joined the managed care organization as chief client officer in 2022 and was appointed president earlier this year. Prior to MedRisk, he spent several years at Marsh LLC and Gallagher Bassett Services Inc. in claims management and analytics. Mr. Sridharan discusses new strategies to help injured workers recover and other workers compensation trends to watch. **PAGE 16**

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Cats, finance costs hit builders risk market

BY CLAIRE WILKINSON
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Owners and contractors are finding it increasingly difficult to secure adequate catastrophe coverage and limits for construction projects, as insurers continue to increase rates and pull back capacity.

Mounting losses from a widening range of catastrophes since Hurricane Ian — including floods in the Northeast, severe convective storms east of the Midwest's Tornado Alley and wildfires in Hawaii — are exacerbating tough conditions in the builders risk market, experts say.

Meanwhile, escalating project financing costs driven by high interest rates, along with inflation, have led to significant project delays, prompting owners to rethink how they finance risk (see related story).

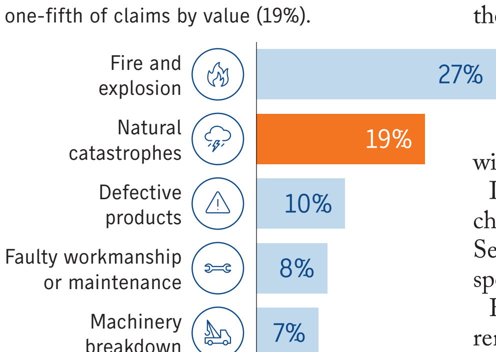
It's a supply and demand problem, said Kirk Chamberlain, Chicago-based executive vice president and national construction practice leader at Hub International Ltd.

Projects are getting bigger and more costly, and as cat losses have increased and interest rates have risen, insurers have become more risk averse and pulled back capacity, he said.

"We're rapidly approaching a point at which there may be certain types of projects in certain geographies, let's say Florida or Gulf Coast Texas, if the job gets big enough, if you're talking a $100 million or $150 million frame job, you may not be able to find the capacity for that," Mr. Chamberlain said.

TOP 5 CAUSES OF CLAIMS BY VALUE IN CONSTRUCTION AND ENGINEERING INSURANCE

Natural catastrophes account for almost one-fifth of claims by value (19%).



Source: Allianz SE

The cost of risk has increased dramatically. It's almost to a point where some projects are "uninsurable," said Kristen Hoskinson, Atlanta-based master builders risk national practice leader at Axa XL, a unit of Axa SA.

In areas like Guam and outlier islands there's a severe capacity shortage, and even on the mainland U.S. insurers, are intently focused on managing accumulations and aggregations in the era of big data, she said.

In some cases, construction companies have decided not to move forward with projects, partly due to rising insurance costs, said Peter Fallon, national property practice leader at brokerage Risk Strategies Co. Inc. in Boston.

"We have seen some cases where deals have not gone through, mainly on the habitational side, because the costs have become too great relative to what they needed for the project to make sense from an economic standpoint," Mr. Fallon said.

Zach Wright, Jacksonville, Florida-based risk manager at Haskell Co. Inc., a design-build construction company, said premium increases have been 15% at the low-end up to 50% and higher for less coverage.

"We're having to go back to our owner contracts and have discussions with owners" about the coverage they need and the impact on project costs and schedules, he said.

On a recent project, the premium for just the natural catastrophe coverage would have been about 1% of the project value, Mr. Wright said. Most of Haskell's projects are valued in excess of $50 million. The owners decided to take the risk and go with a lower-priced policy, he said.

Insurers are controlling coverage and changing terms, conditions and limits, said Sean Pender, New York-based construction specialty practice leader at CAC Specialty.

He said a quote for coverage on a delayed renovation project in Hawaii had expired when the Maui wildfires occurred in early August, giving the insurer the opportunity to revise it in the wake of the fires.

While pricing remained unchanged, the insurer decided to carve out the wildfire coverage, sublimit it and add a percentage deductible rather than apply a regular all-other-perils deductible, Mr. Pender said.

"Sublimiting wildfire is not a new thing, but it's new to Hawaii because when was the last time anybody heard of a fire that was not related to a volcanic eruption or lava flow?" he said.

> "We have seen some cases where deals have not gone through … because the costs have become too great relative to what they needed for the project to make sense from an economic standpoint."
>
> Peter Fallon, Risk Strategies

Limits are under pressure not only for traditional catastrophes like windstorm and earthquake but for severe convective storm, hail and wildfire exposures, said Adrian Pellen, Chicago-based co-leader of NFP Corp.'s North American construction and infrastructure group.

A primary insurer restricted convective storm coverage on a mixed-use development project in Indiana that NFP recently brokered, Mr. Pellen said. Additional capacity was available via facultative reinsurance or by layering placements in the wholesale market, but "the economics just didn't check out," he said.

Patrick McBride, Dallas-based head of construction property for Zurich North America, said natural catastrophe-exposed projects are seeing large increases in cat loadings and that will likely continue. Capacity will become more restricted and limited on a project-by-project basis, he said.

The frequency of severe convective storms, including straight-line winds, tornadoes and hail events, is becoming more challenging from an insurance perspective, he said.

"We're at the beginning stage of understanding and acknowledging that deductibles, limits and in some cases pricing considerations need to be made in order to share more in that risk and exposure for certain types of projects in certain geographies," Mr. McBride said.

POLICYHOLDERS OPT TO SHARE MORE RISK

Owners and contractors are being more strategic in assessing what limits and deductibles they need to buy and what they can afford to self-insure as construction costs escalate.

Affordability remains a key concern in the construction business, particularly around private and commercial development, said Rob McDonough, New York-based U.S. construction practice leader at Marsh LLC.

"Contractors by nature strategically bet on themselves in order to complete and execute a project within a budget, so we are increasingly talking to our clients about making better risk decisions," Mr. McDonough said.

Greater collaboration is happening among the various stakeholders in construction projects to manage risk allocation, he said.

More policyholders are looking to alternative risk transfer such as captives and other vehicles, said Darren Tasker, Toronto-based head of energy and construction North America at Allianz Commercial, a unit of Allianz SE.

"But it depends on what position the client is in financially and whether they have the wherewithal to take on more risk or to find alternative solutions," Mr. Tasker said.

Every situation is different, but if lenders are involved they tend to insist on traditional coverage to back the risk and capital they have landed, he said.

In the conventional energy sector, owners have large self-insured retentions and continue to take more risk on the balance sheet, said Adrian Pellen, Chicago-based co-leader of NFP Corp.'s North American construction and infrastructure group.

In the renewable energy sector, where projects are typically financed, lenders have stringent protocols on limits for natural catastrophes and there's more risk-sharing contractually among various stakeholders, he said.

Claire Wilkinson

Technology aids workers comp claims advocacy

BY LOUISE ESOLA
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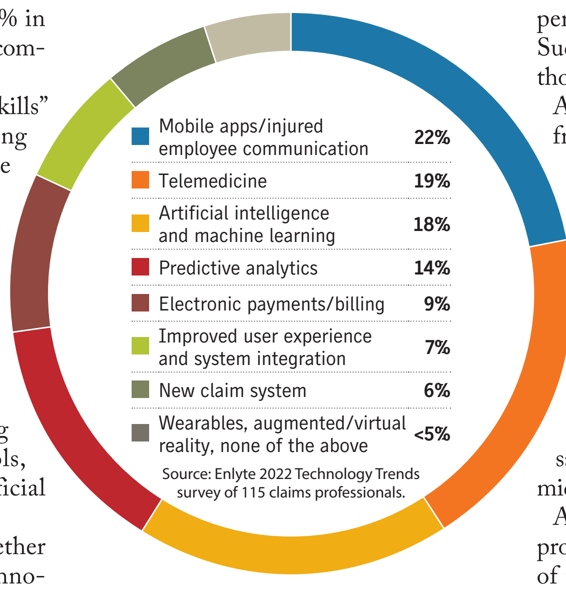
TECHNOLOGY TRENDS

Mobile apps and other injured employee communication technologies are expected to have the biggest effect on the workers comp industry in the next five to 10 years.



Implementing advanced technology and frontline patient advocacy are neck and neck among the fastest-growing trends in workers compensation claims management, but the best results for patients often come from balancing the two, experts say.

Improved access to data and more efficient communication should not be allowed to sterilize the claims management process, they say.

By combining technology and a personal touch, claims managers can improve care and reduce the number of litigated claims.

According to Chicago-based Rising Medical Solutions Inc.'s 10th annual benchmarking survey of claims executives, 78% of high-performing claims management organizations used one or more technology-based strategies to help injured workers in 2022, compared with 42% in 2019. The medical cost containment company surveyed 388 claims executives.

Rising's survey also pegged "soft skills" such as empathy and listening among the top trends for organizations (see related story).

Technology is being incorporated throughout the workers comp claims process, said Rich Ives, Hartford, Connecticut-based vice president, workers compensation claims, at Travelers Cos. Inc.

"You've got technology now that's coming along, whether you're talking about digital apps, self-service tools, analytics, predictive modeling, artificial intelligence — you name it," he said.

Some experts have questioned whether the widespread introduction of technological tools is at odds with the emphasis on a more personal approach to claims management.

"We would say, absolutely not," Mr. Ives said. "We call that the difference between art and science; science being more on the technology side and art being on the application of personal skills to both engage with the injured employee and to take that personalized level of care and approach. Success lies in the ideal blend of both of those things."

Automation in workers comp has helped free up claims professionals, who were previously saddled with mundane tasks, said Jeff Gurtcheff, Lawrenceville, Georgia-based vice president, enterprise comp services, at CorVel Corp.

"Artificial intelligence is about returning time back to the claims professional so they can do those things that need the time to collaborate, communicate, show empathy, show compassion and be strategic," he said. "We want to keep the human in the middle of this process."

Alex Sun, CEO of Enlyte LLC, which provides workers comp services, said one of the main goals in workers comp is to shorten recovery time and speed return to work.

"That's exactly what AI is built to do — save time and provide decision support," he said.

Technology-based tools such as predictive modeling allow claims organizations to compare claim outcomes based on similar data points, such as age, comorbidities and other risk factors, that could impede recovery. From there, claims managers can better help injured workers who meet a certain profile and better engage with them, experts said.

Both trends help "produce a better outcome and solve challenges that we've not yet been able to solve," Mr. Ives said.

Mr. Sun said technology helps organizations prioritize resources. "The more we can expedite claims processing, the more we can get information where people need it. Empowered claims professionals (can) provide personal support where it's needed most," he said.

Mistakes are made when "people think the technology is an end instead of a means," said Jason Beans, CEO of Rising.

Technology "initiates a personal conversation. … The caring and the empathy that comes from a human conversation should continue, person-to-person, when that automated step initiates a response," he said.

Mr. Ives said technology helps align resources that are going to be most valuable within the claims process. "It's right time, right claim, right resource," he said.

Technology's ability to provide on-demand claim information and improve everyday communication also reduces the likelihood of litigation in claims, experts said.

Mr. Gurtcheff said cases often end up in litigation "because the communication process breaks down … because somebody feels that they can't keep up or manage the desk effectively."

EMPATHY ESSENTIAL AS ORGANIZATIONS BOOST SKILLS TO MANAGE COMP CLAIMS

The use of "soft skills" such as empathy and active listening is fast becoming vital for companies that want to successfully manage workers compensation claims, according to a recent survey of claims organizations with higher-than-average claims closure rates.

"It's a change of culture and kind of a change of paradigm," said Paige McCraney, vice president of care management and a nurse practitioner at Rising Medical Solutions Inc., which conducted the survey.

Sixty percent of high-performing claims organizations have implemented the so-called "advocacy model," according to the survey results released in September.

"Historically (in workers comp) we're looking for fault," Ms. McCraney said. "And it's very easy to say, 'Oh, well, this person has mental health issues and that is really their fault.' or 'That's not related to the workers comp issue,' when it actually is caused by the workers comp injury and certainly impacts (the claim) and needs to be addressed."

Successful claims managers are "connecting with people in a meaningful way," said Denise Algire, Pleasanton, California-based director of health for grocery chain Albertsons Cos. Inc., who served on the advisory council for Rising's study.

"We're working with an injured worker dealing with what could be their worst day. Most people ... don't understand the system, and our system can be quite complicated," she said.

In the past, the workers comp industry avoided managing the mental side of claims out of fear insurers and employers would cross into the mental-injury space and create a "psych claim," said Dr. Marcos Iglesias, Hartford, Connecticut-based vice president and chief medical director at Travelers Cos. Inc.

But there's a difference between having a diagnosable mental health condition and having stress, depression or anxiety when dealing with a physical injury suffered at work and not being able to work as a result, he said.

"We have lumped all of mental health into one monolith, and mental health isn't a monolith. ... Mental health is really a continuum," Dr. Iglesias said. "At any one point in time, I might be excelling, thriving, or I might be in a crisis, and those are two very different ends of the continuum."

Acknowledging an injured worker's concerns, mental or otherwise, is the approach of successful claims handlers, Dr. Iglesias said.

The change is a slow process, Ms. Algire said.

"You can't just get training on empathy. It has to be the ongoing messaging," she said.

Louise Esola

NEWS ANALYSIS

Courts tackle subrogation of third-party claims

BY JON CAMPISI
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Several recent state high court rulings limiting or expanding insurers' ability to subrogate third-party claims in workers compensation have clarified some issues in what remains a nuanced area of insurance law.

Just as comp varies by jurisdiction, subrogation of third-party claims — a process that prevents double recovery for injured workers and allows comp insurers to recoup claims costs — is also state-specific.

In some states, limits exist on what costs employers and insurers can recover through subrogation, and in others the process is less restrictive, experts say.

In September, the Delaware Supreme Court reversed precedent, holding that employers and insurers can subrogate against benefits paid to an injured worker under an employer's underinsured and uninsured motorist policy.

In *Horizon Services Inc. v. Henry*, an employee injured in a vehicle accident sued for damages under the employer's uninsured motorist policy. The employer sought reimbursement for prior workers comp payments from the proceeds paid to the employee.

> "That is one of the difficulties with subrogation and making general statements. ... Cases are extremely fact-specific and very state-specific."
>
> Steve Bennett, APCIA

A lower court determined the employer was barred from subrogating, but the high court reversed, overturning the 2013 decision in *Simendinger v. National Union Fire Insurance Co.*

Experts said Delaware was unique in prohibiting employers from subrogating in cases where an employee recovered through a company's uninsured motorist policy.

In such cases, the policy acts as the third party when the at-fault motorist doesn't have enough coverage to compensate the injured worker.

"The court in Delaware came to the right conclusion," said comp defense attorney Barak Kassutto, with the Philadelphia firm Morgan, Aikens & Jackson PLLC.

Mr. Kassutto said uninsured motorist coverage is in place to ensure the responsibility of a third party, and "that's the entire foundation of subrogation."

Prior to *Horizon Services*, workers injured in auto accidents were able to recover twice in Delaware under this scenario, which comp is designed to prohibit.

"I'm not surprised that Delaware changed the way that was handled," said Dennis Tierney, Norwalk, Connecticut-based national director of workers compensation claims for Marsh LLC.

Meanwhile, courts in Ohio and Utah ruled on the types of recovery permitted through subrogation.

Physician reviews

In *Thomas v. Logue*, the Ohio Supreme Court in October held that costs borne by the Ohio Bureau of Workers' Compensation — the state's monopolistic comp insurer — stemming from a physician review of an injured worker's claim were improperly subject to subrogation because the fees were unrelated to the workers' medical treatment.

Lamar Thomas was injured in an accident and sued the at-fault motorist. He received comp benefits but later sought to expand his claim to include an aggravation of preexisting conditions.

The bureau hired a doctor to review Mr. Thomas' medical records, and the doctor determined the additional conditions were degenerative and not work-related.

The bureau through subrogation recovered from Mr. Thomas the fees paid to the doctor conducting the medical review, but on appeal the state's highest court ruled the recovery improper.

A bureau spokeswoman said the state Supreme Court has remanded the case to the Court of Claims, and the bureau is "unable to comment on pending litigation."

Mr. Thomas' attorney, David Steiger, of Karp Steiger LPA in Woodmere, Ohio, said the costs incurred to fight the claim should not have been subject to subrogation. He said subrogation to recover costs related to state-initiated physician reviews has long been a practice in Ohio.

"I've been dealing with this issue for a number of years, and it just doesn't seem right," he said of the ruling that sets a precedent for future subrogation proceedings.

The doctor retained by the bureau wasn't Mr. Thomas' treating physician but was hired to provide a medical opinion, and was not paid on behalf of the claimant, Mr. Steiger said.

Comp subrogation attorney Gary Wickert, president of Austin, Texas-based Matthiesen, Wickert & Lehrer S.C., said the Ohio ruling — which caught national attention — could create confusion.

When adjusting a comp claim, there are various associated costs that don't directly benefit the injured worker. These include case management costs, auditing fees, independent medical exam fees, functional evaluation charges, nurse case management fees and third-party vendor fees, so questions remain over which costs may be subject to subrogation in third-party recoveries, Mr. Wickert said.

Typically, costs related to medical benefits and lost wages are subject to subrogation when claimants recover through third-party litigation, but the Ohio ruling calls into question what other costs might be subrogated by a comp insurer, Mr. Wickert said.

While the *Thomas* ruling appears to set clearer standards for comp subrogation in Ohio, it is unlikely to have an effect elsewhere where insurers have attached similar fees to subrogation claims.

"That is one of the difficulties with subrogation and making general statements," said Steve Bennett, Washington-based vice president of workers compensation programs and counsel for the American Property Casualty Insurance Association. "Cases are extremely fact-specific and very state-specific."

Debt collection

A September Utah Supreme Court decision involving workers compensation subrogation raises issues about the types of third-party recovery comp insurers may be entitled to recoup.

The case, *No. 210905514*, involved a teacher injured by her students. While she received comp benefits, the employer's comp insurer later asserted a right of subrogation over a separate settlement the teacher received in a lawsuit against a debt collector.

The teacher, who was unable to pay all of her medical bills, even with workers comp, sued over the debt collector's harassment and recovered a settlement.

The comp insurer sought to subrogate to recover money paid out in comp benefits, but the teacher argued the settlement was for pain and suffering related to the debt collection practices and thus was not subject to subrogation. An administrative law judge agreed with the teacher.

The school district appealed, but an appeals board has not yet weighed in because the underlying petition for permanent disability benefits was remanded to the state's Labor Commission.

While awaiting the commission's decision, the district sued in district court claiming that it is entitled to subrogate the third-party settlement proceeds because the harms caused by the creditors were the same for which the district had paid the teacher benefits.

The district court dismissed the complaint over the subrogation and the state Supreme Court affirmed the ruling, saying the courts were not able to rule on the subrogation because the Labor Commission still must resolve the issue of injury causation.

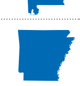
ADVANTAGE EMPLOYERS

Subrogation allows workers compensation insurers to recoup benefits paid to injured workers in third-party litigation. The practice prevents double recovery for workers, but laws governing subrogation vary by state.

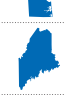
The following are considered the most favorable states for subrogation for employers and insurers because they put the fewest limits on insurers and offer the greatest ability to recover in third-party lawsuits, according to Austin, Texas, law firm Matthiesen, Wickert & Lehrer S.C.:

MOST FAVORABLE STATES

Alabama 

Arkansas 

Delaware 

Maine 

Wisconsin 

Long-term trends occupy catastrophe modelers

BY MATTHEW LERNER
mlerner@businessinsurance.com

As 2023 proves to be another active year for hurricanes and other catastrophe losses, modeling companies remain focused on long-term climate trends rather than annual variations.

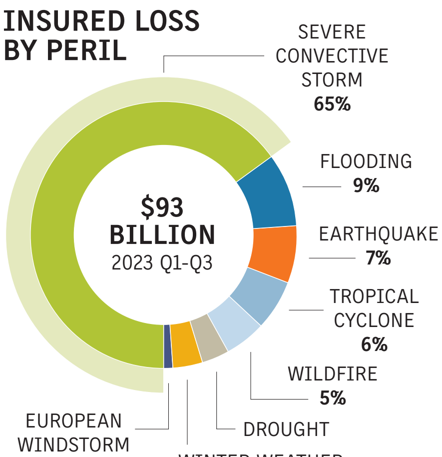
Rising air and sea temperatures are more likely to have a lasting effect and are more closely scrutinized by modelers than temporary changes in weather patterns, but modeling companies are still making some adjustments to single out the short-term phenomena, experts say.

Modelers are also scrutinizing severe convective storm risks, which caused roughly two-thirds of the $93 billion in natural catastrophe insured losses through the third quarter of this year, according to a recent report from Gallagher Re, the reinsurance brokerage business of Arthur J. Gallagher & Co.

This year displays two opposing climate characteristics: warmer sea surface temperatures, which help foster hurricane activity, and El Nino conditions (see related story).

"Sea surface temperatures in the tropical and subtropical Atlantic are at a record high this season, fueling hurricane activity," said Elisabeth Viktor, senior natural catastrophe specialist at Swiss Re Ltd. in Zurich. Meanwhile, El Nino conditions, which began in the summer and are expected to persist, inhibit the formation of hurricanes, she said.

INSURED LOSS BY PERIL



Source: Gallagher Re

The hurricane season traditionally runs from June 1 to Nov. 30. In the most recent update to its well-respected hurricane forecast, Colorado State University said in August it expects 18 named storms this year, compared with an average of 14.4 from 1991 to 2020, and nine hurricanes, compared with the 7.2 average.

Meanwhile, worldwide insured natural catastrophe losses topped $100 billion in 2021 and 2022, according to Swiss Re.

Warmer sea temperatures are a continuing phenomenon and thus are accounted for in the inputs for catastrophe models, said Karen Clark, founder and CEO of Boston-based catastrophe modeler Karen Clark & Co.

Reuters

Climate change is causing more powerful storms, such as Hurricane Idalia, which hit Florida.

"The trends are very relevant," Ms. Clark said. "The sea surface temperatures are trending, so that trend is incorporated into the model. Seasonal fluctuations are not as relevant," she said.

Catastrophe modelers look at longer-term trends, said Peter Sousounis, Boston-based senior vice president and director of climate change research for Verisk Extreme Event Solutions, a unit of Verisk Analytics Inc.

"For example, we know we have high confidence that climate change is impacting certain aspects of extreme weather more than others. We believe that climate change is intensifying storms, and when those storms are more intense, they're able to squeeze more moisture out of the atmosphere," he said.

"Sea surface temperatures going up, hurricanes becoming more intense — that is accounted for in our model, that's very important. The sea surface temperature being above or below average this particular year is not relevant to the modeling," Ms. Clark said. "You get those random things once in a while, but it doesn't necessarily mean that there are any trends or if there's anything significant about it."

A model that Verisk is developing, slated to be released in a few years, will give clients the ability "to extract those years in the model that are characterized by El Nino events," Mr. Sousounis said.

Swiss Re's North Atlantic hurricane model is adjusted to account for the current period of higher hurricane activity compared with long-term history, Ms. Viktor said.

CoreLogic Inc.'s North Atlantic hurricane model was designed to account for two different scenarios: either elevated or normal sea surface temperatures, allowing a user to calculate portfolio risk under either set of baseline assumptions, said Jonathan Schneyer, Boston-based catastrophe response director at CoreLogic.

Severe convective storms, which caused $60.45 billion of the total $93 billion of insured natural catastrophe losses so far in 2023, according to the Gallagher Re report, present a newer challenge to modelers.

Steve Bowen, Chicago-based chief science officer for Gallagher Re, said severe convective storm "poses a notable challenge for the catastrophe model vendors. Unlike hurricane and earthquake models, which have been developed and tweaked for two or three decades, other perils such as severe convective storm or wildfire would be considered in their modeling infancy by comparison."

Results from these less developed models can carry a greater degree of uncertainty, which can translate to more challenges in trying to underwrite the risk, Mr. Bowen said.

Karen Clark & Co has a severe convective storm model that generates hail and tornado footprints that insurers can use when reviewing daily claims activity. "It's not just catastrophes that we're modeling but the daily weather," Ms. Clark said.

"We believe that climate change is intensifying storms, and when those storms are more intense, they're able to squeeze more moisture out of the atmosphere."

Peter Sousounis, Verisk Extreme Event Solutions

CLIMATE EVENTS ALTER CONDITIONS

The 2023 North Atlantic hurricane season has produced some climate extremes that can potentially affect hurricane activity, according to industry sources.

"The 2023 North Atlantic hurricane season has been characterized by record-breaking sea surface temperatures in the North Atlantic, which typically enhance hurricane activity by providing more energy to tropical systems to develop and intensify; and an El Nino phase of the El Nino-Southern Oscillation in the tropical Pacific Ocean, which typically hinders hurricane activity by increasing vertical wind shear across some of the key development areas," said James Cosgrove, London-based senior modeler for Moody's RMS.

As of mid-October, the hurricane season had generated 19 storms, of which six developed into hurricanes, with three of those major hurricanes.

"This is just above the long-term average and in line with some of the expectations of the preseason forecasts," Mr. Cosgrove said.

"The 2023 Atlantic Ocean hurricane season is a battle of record warm sea surface temperatures and the effects of the El Nino Southern Oscillation shifting from La Nina to El Nino conditions," said Jonathan Schneyer, Boston-based catastrophe response director at CoreLogic.

El Nino is associated with increased vertical wind shear, a change in wind speed or direction with elevation, over the Atlantic, which hinders hurricane development, while sea surface temperatures across much of the tropical Atlantic have been much warmer than average, providing fuel for hurricanes.

"So far, the warm sea surface temperatures have dominated the influence on hurricane activity this season," Mr. Schneyer said.

Matthew Lerner

Insurers, brokers forecast more rate hikes

BY GAVIN SOUTER
gsouter@businessinsurance.com

COLORADO SPRINGS, Colorado — Many insurance buyers will likely face demands for more premium hikes at upcoming renewals with insurers pushing for rate increases in a continuing tough market for several major lines of coverage.

Property rates, which saw double-digit average increases earlier this year, are likely to rise further as little new capacity has entered the market and insurers point to sustained higher catastrophe losses, though increases likely won't match last year's hikes.

Several liability lines, which saw less pronounced increases, are also likely to experience higher rates as insurers report worsening losses, brokers and insurers say.

Only in some specialty lines — such as directors and officers liability and cyber liability, which have seen an inflow of new capacity over the past two to three years — are rates likely to fall, they said during meetings at the Insurance Leadership Forum held in Colorado Springs last month.

The conference, organized annually by the Washington-based Council of Insurance Agents & Brokers, is a key market meeting and draws top executives from insurers, brokers, reinsurers and other industry companies.

The meeting came about three weeks after the Rendez-Vous de Septembre in Monte Carlo where reinsurers indicated they will seek to impose further rate hikes on ceding insurers.

At the ILF, brokers and insurers indicated that at least some of those increased reinsurance costs would be passed on to primary insurance customers.

Property

Higher property values and higher reinsurance costs will continue to drive increased rates for property, said Sierra Signorelli, Zurich-based CEO of commercial insurance at Zurich Insurance Co. Ltd.

"But we have readjusted values pretty significantly, so I would expect it's going to be far less than it was in the last year," Ms. Signorelli said.

Property and property cat rates remain stable to hard for primary and reinsurance placements, because, unlike in previous hard markets, little new capital is entering the sector, said Steve McGill, CEO of London-based McGill and Partners Ltd.

"There's a concern that, if you're a new player coming in, the volatility is significant and you aren't going to get the returns commensurate with the level of volatility," he said.

Policyholders with minimal losses and low catastrophe exposures will likely see low- to mid-single-digit increases, said Marc Kunney, San Francisco-based president-risk management at EPIC Insurance Brokers & Consultants.

"But for everybody else — those with bad loss histories or significant cat-exposed portfolios — they will probably continue to get double-digit increases," he said.

Much of the trend of rising rates is being driven by reinsurance pricing and the restructuring of reinsurance programs where primary insurers have had to retain more risk, said Trevor Baldwin, CEO of Tampa, Florida-based BRP Group Inc.

"I think the primary guys still have another 18-plus months of rate action," Mr. Baldwin said. Rate increases over the next year will likely range from about 8% to about 17%, depending on the account, he said.

Policyholders are increasingly establishing captives and buying coverage through alternative risk transfer structures to handle property risks, said Michael Chang, New York-based head of corporate risk and broking, North America, at Willis Towers Watson PLC.

"That's the bigger box structures that allow them to take some of the risk, cede off some of the risk and balance it out over a three-year period. We've seen a lot of that happening today, particularly around real estate and hospitality," he said.

In addition, policyholders are buying parametric coverages.

"We're putting more parametric solutions to work this year by a factor of multiples compared with any year in the past," Mr. Baldwin said.

Parametrics and other alternative coverages that were previously viewed as expensive are now priced at comparative levels to traditional coverage, Mr. Kunney said.

"For our large clients, it's absolutely part of the purchasing mix. It's direct, it's facultative, it's reinsurance, it's parametric, it's ILS, it's everything," he said.

The rising prices may eventually attract more capital to the market, Mr. Chang said.

"I am hearing more people say they want to take advantage of the rates that are in property, so as more people want to take advantage and more supply becomes available, you're going to start to see some relief over time on pricing," he said.

Liability

Increases in liability rates will likely be driven by commercial auto, where losses are increasing, insurers and brokers say. According to a recent report by A.M. Best Co. Inc., commercial auto losses soared from breakeven in 2021, which was affected by less driving during the pandemic, to $3.3 billion in 2022.

The commercial auto sector is being hit hard by "social inflation," or higher court awards and settlements, said Mike Karmilowicz, New York-based president and CEO of Everest Insurance, a unit of Everest Group Ltd.

"We've been getting rate on commercial auto for eight-plus years; it's more than a rate issue, it's the overall inflation and severity and frequency," he said.

"When you look at motor, which is a leading indicator from a casualty perspective, it's very difficult, even with all the rate that's coming through on the motor portfolio," Ms. Signorelli of Zurich said.

Increased awards for auto-related injuries and deaths related to large trucking fleets are causing concerns, said Mike Rice, Denver-based CEO of CAC Specialty.

"It's forcing buyers of insurance to take much bigger self-insured retentions. They are transferring cat, but they're taking on huge amounts of potential loss and paying more money for it," he said.

Policyholders that invest in loss controls, such as improved driver training and telematics, are getting some relief from underwriters, but it remains a tough market for most auto policyholders, said Mr. Kunney of EPIC.

Commercial auto policyholders with poor loss experience will "almost certainly" see double-digit rate hikes, he said.

In tough casualty lines in general, policyholders will likely have to take higher retentions, similar to the higher retentions that have been taken on property coverage, and look to alternative risk transfer structures, said Mr. Karmilowicz of Everest.

Casualty rates are creeping up from the low- to mid-single-digit increases imposed earlier this year, as insurers see higher loss cost trends, said Mr. Baldwin of BRP.

Even though insurers benefit from higher interest rates on longer tail business, price increases will likely be in the mid- to high single digits, he said.

D&O, cyber

Policyholders are seeing rate relief in D&O and cyber and that is likely to continue, executives said.

"This is more of a story of the traditional insurance market cycle," Mr. Kunney said. Some policyholders are seeing 25% rate cuts on D&O, and rates for cyber liability insurance are also falling as capacity has increased, he said.

While D&O capacity has increased over the past couple of years, transactions — such as initial public offerings — that generate demand for coverage have decreased, said Anthony Tatulli, New York-based head of executive and professional lines for North America at Berkshire Hathaway Specialty Insurance Co.

"You have more capacity, and you don't have that IPO business going on right now, and because of that folks are chasing business and they're behaving in a way I don't think is sustainable," he said.

With securities class actions filings up sharply this year rates should begin to stabilize, Mr. Tatulli said.

Rates will likely continue to fall, but the bottom of the market may be in sight, said Mr. Rice of CAC Specialty.

"What we're hearing is flat to minus-10, so it's still a good market for buyers, but we're hearing that people are getting ready to draw a line in the sand on the D&O side," Mr. Rice said.

Inigo Ltd., which was founded with private equity backing in 2020 to write reinsurance and large commercial insurance through its Lloyd's of London syndicate, is reducing its D&O business as rates fall, said Richard Watson, CEO of the London-based company.

"Our D&O income this year will be less than last year, and next year will be less than this year. So, we are pulling that part of the book back, but we're still trying to invest in understanding the risk," he said.

The rapid decrease in D&O rates is "a bit concerning," said Ms. Signorelli. "We're looking at it account by account and trying to be very thoughtful in our approach."

Cyber rates are also falling despite increased cybersecurity incidents, executives said.

"Even though there seems to have been a heightened level of ransomware claims as of late, you're still finding new entrants and more capital coming into cyber," said Mr. Chang of WTW.

Policyholder wins COVID appeal

A California state appeals court ruled for the third time that a business is entitled to business interruption coverage in connection with the COVID-19 pandemic.

A three-judge panel of the California Court of Appeal in Los Angeles overturned a lower court and held in its ruling in *JRK Property Holdings Inc. v. Colony Insurance Co. et al.* that the Los Angeles-based real estate investment company was entitled to business interruption coverage in connection with its COVID-19-related losses from primary insurer Liberty Mutual Co. unit Ironshore Specialty Insurance Co. and several of its excess insurers.

The same court had previously ruled in policyholders' favor in *Marina Pacific Hotel and Suites LLC et al. v. Fireman's Fund Insurance Co.* and *Shusha Inc. v. Century-National Insurance Co.*, in rare policyholder victories in such cases.

The appeals court said in its ruling that the California Supreme Court has agreed to review two cases on the business interruption issue in which the policyholder prevailed at the appeals court level — *John's Grill Inc. v. The Hartford Financial Services Group Inc.* and *Shusha*.

In overturning the trial court and ruling in favor of JRK, which had $250 million in primary and excess business interruption property coverage, the appeals court said, "We agree with JRK that the complaint adequately alleges loss resulting from physical alteration of the insured property."

JRK's allegations "fall squarely within the type of allegations we found sufficient to allege coverage in *Marina Pacific* and *Shusha*," it said, noting that JRK similarly alleged that the COVID-19 virus "hangs in the air and attaches to property for extended periods of time … thus compromises the physical integrity of the structures it permeates."

The appeals court upheld the lower court's dismissal of excess insurers Berkshire Hathaway Inc. unit RSUI Indemnity Co. and Markel Group Inc. unit Evanston Insurance Co. from the litigation based on virus exclusions in their policies.

WTW files poaching suit against Alliant

Willis Towers Watson PLC sued Alliant Insurance Services Inc. last month in federal district court in Richmond, Virginia, charging that a just-retired WTW official encouraged seven of the employees whom he supervised to join him at Alliant.

The lawsuit, *Willis Towers Watson Southeast Inc. and Willis Americas Administration Inc. v. Alliant Insurance Services Inc., Douglas Pera et al.*, states that Mr. Pera, who formerly supervised the employees as corporate risk and broking leader for Willis' Southeast region in Glen Allen, Virginia, went to work for Alliant in August.

The suit says Mr. Pera encouraged the others to join him at Alliant, which they did in a "coordinated raid" on Willis' Glen Allen office and real estate practice.

The suit says the majority of the former employees are bound by "narrowly tailored restrictive covenants" that prevent them from soliciting and accepting business or providing services to WTW clients. It charges that the departed employees have solicited business from a number of WTW clients.

Charges in the lawsuit against the former employees and Alliant include tortious interference with contract, breach of contract, violation of the Defend Trade Secrets Act and breach of the duty of loyalty.

Court reinstates COVID mask case

A federal appeals court reversed a lower court and reinstated a disability discrimination lawsuit filed by an airline employee who was fired for refusing to wear a face mask.

The plaintiff, who joined United Airlines Inc. in 1992 and worked as a ramp service employee, was terminated when he refused to wear a face mask after the airline issued a mandate requiring all employees to do so in 2020, although he was willing to wear a face shield with a drape, according to court papers.

A psychiatrist provided the plaintiff with a note that excused him from working with a face mask, stating he was disabled because of traumatic distress he experienced while he was in the military.

The plaintiff sued the airline in U.S. District Court in Los Angeles for disability discrimination under California's Fair Employment and Housing Act.

The district court's ruling in the airline's favor was overturned by a three-judge appeals court panel.

A "reasonable jury could find that (the plaintiff) was able to perform the essential functions of his job without endangering the health or safety of others, if permitted to wear a face shield with a drape, instead of a face mask," the ruling said.

"To be sure" guidance promulgated by federal, state and local public health authorities required people to wear masks while traveling or working in airports, it said.

But "the Guidance uniformly provided exemptions from its mask mandates, particularly for people with disabilities," it said.

BASF must pay former worker

The Utah Court of Appeals ruled that a former BASF Corp. employee's ailments were directly caused by years of chemical exposure while working for the manufacturer of automotive finishes and other industrial products.

For nearly 30 years, Bradley West was exposed to chemicals that several doctors linked to his medical conditions, according to the ruling in *BASF Corp. v. Labor Commission*.

In the months following an incident in 2015 in which Mr. West accidentally spilled a can of resin on himself, he began complaining of worsening symptoms that he initially thought were related to seasonal allergies. The following year he began coughing while giving a product demonstration and coughed for two hours, losing consciousness twice, according to the ruling.

A biopsy in 2016 revealed he was suffering from a condition consistent with chronic eosinophilic pneumonia, likely linked to occupational exposures, several experts concluded.

A medical panel, following the instructions of an administrative law judge, determined that Mr. West's conditions were "due to exposures at his work, specifically isocyanates … a known immunologic cause of occupational asthma," according to the ruling.

The judge ordered BASF to pay Mr. West compensation for past and future medical expenses and total disability compensation. BASF appealed, and a second medical panel concurred that Mr. West's "occupational disease is largely, if not all, attributable to industrial causes."

The Utah Court of Appeals affirmed the administrative law judge's ruling, writing that the evidence presented by two medical panels supported the conclusion that repeated exposure to industrial chemicals caused Mr. West's medical conditions.

DOCKET

BLACKBAUD SETTLES RANSOMWARE CASE

Software provider Blackbaud Inc. agreed to pay $49.5 million to 49 states and the District of Columbia to settle litigation filed in connection with a 2020 ransomware attack. California is the lone state not to participate in the settlement. In March, the Charleston, South Carolina-based company agreed to pay $3 million to settle U.S. Securities and Exchange Commission charges it made misleading disclosures about the ransomware attack, which affected more than 13,000 customers.

COURT ASKED TO RULE ON WORKER'S DEATH

The 5th U.S. Circuit Court of Appeals in New Orleans asked the Louisiana Supreme Court to weigh in as to whether, under a state law, a QBE Insurance Group Ltd. unit must indemnify policyholders in a case involving the death of an electrician in a salt mine accident in 2019. The electrician was working for Amelia, Louisiana-based MCE Electric LLC, which had a contract with Franklin, Louisiana-based Compass Minerals Louisiana Inc., according to *QBE Syndicate 1036 v. Compass Minerals Louisiana Inc.* He was killed while installing a new circuit for a fire suppression system in a Compass salt mine on Cote Blanche Island in Louisiana.

LUNCH BREAK INJURY RULED COMPENSABLE

A schoolteacher injured during his lunch break is entitled to workers compensation benefits because he was still responsible for students during that time, an Arkansas appellate court ruled. The Arkansas Court of Appeals upheld a ruling by the state Workers' Compensation Commission that Bron Bell suffered a compensable injury in 2018 when he fell while exiting the school cafeteria. His employer, the Mineral Springs-Saratoga School District, had denied the claim, contending Mr. Bell was not performing employment duties at the time of the accident.

PROFILE: MAURITIUS

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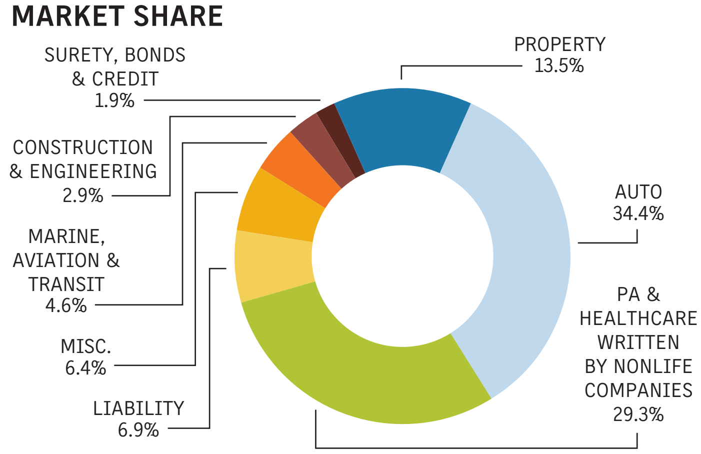
GLOBAL P/C MARKET RANKING

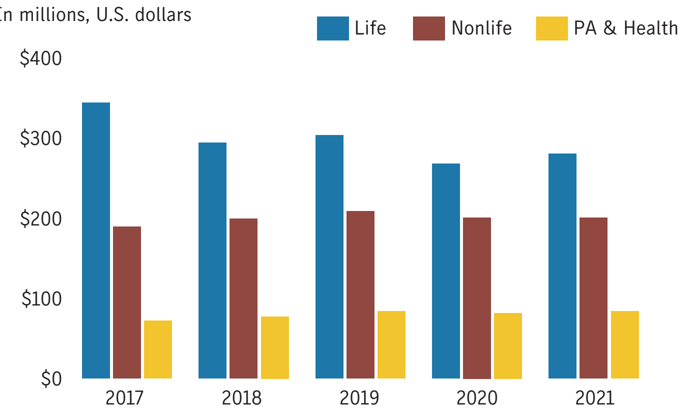
The Mauritian property/casualty market is characterized by a high level of fronting, with very little business retained locally and insurers in general more concerned with protecting their balance sheets than growing their assets. It is a mature insurance market with high penetration relative to some other African markets. The country is exposed to cyclones, although no major event has hit the island for some years. Flooding, particularly flash-flooding linked to heavy storms, has become a concern for insurers, with significant events now occurring yearly rather than every five to 10 years as in the past. With brokers controlling 57% of property/casualty premium and 15 insurers licensed to operate, competition for business is fierce. The top five insurers, nevertheless, control around 77% of the business, and many of the smaller companies focus heavily on auto business.

MARKET SHARE

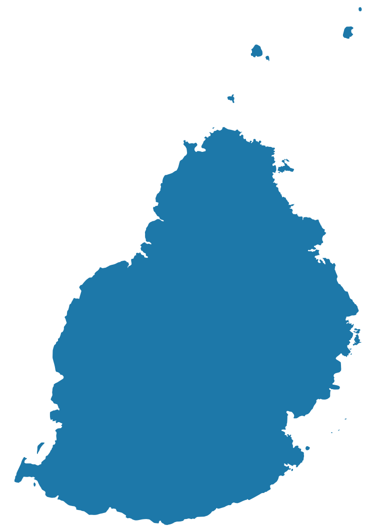


MARKET GROWTH

In millions, U.S. dollars



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



AREA

788

square miles

POPULATION

1.31

million

MARKET CONCENTRATION

76.84%

market share of top five insurers

2023 GDP CHANGE (PROJECTED)

4.6%

MARKET DEVELOPMENTS

Updated October 2023

- Rates were reported to have hardened at mid-year 2023 renewals for property risks (up 10% to 15%), health care (up as much as 30%) and auto. Rates were relatively stable for specialty lines such as cyber, directors and officers, professional liability and financial risks, after significant increases at Jan. 1 renewals.
- Auto repair costs have been rising in recent years because of increased vehicle complexity and the need to import many items. The COVID-19 pandemic worsened the situation as imports became more expensive due to the depreciation of the rupee, and delays in supply chains have increased since the war in Ukraine began.
- The European Commission announced in January 2022 that it had removed Mauritius from the EU blacklist of high-risk third countries. This reflected its recognition of the work undertaken by the Mauritius Financial Services Commission and the financial sector as a whole to combat money laundering and terrorist financing. The announcement followed a decision by the Financial Action Task Force in October 2021 to remove the country from its list of jurisdictions under increased monitoring.
- Pursuit of compensation by those impacted by the MV Wakashio oil spill continues, with a class action set to be filed before the Mauritian Supreme Court. The Japanese bulk carrier ran aground on a coral reef on July 25, 2020. It was reported in July 2022 that only 2,321 of the 5,000 claims for damages had been settled, with the total cost of compensation now estimated at around €33 million ($36 million). No local insurers are involved in the claim as it is being settled exclusively by the Japan Protection & Indemnity Club.

COMPULSORY INSURANCE

- Auto third-party liability
- Workers compensation (state scheme)
- Professional liability for insurance brokers, managers and agents
- Shipowners liability for marine oil pollution (financial guarantee or insurance)
- Liability insurance for air carriers for injury to passengers and damage to baggage or goods during international journeys
- Third-party liability insurance for operators of drones
- Clinical trials liability

NONADMITTED

Nonadmitted insurance is not permitted in Mauritius because the law provides that insurance must be purchased from locally licensed insurers, with some exceptions.

INTERMEDIARIES

Brokers and agents are required to be licensed to do insurance business in Mauritius. Local intermediaries are not permitted to place business with nonadmitted insurers, with some exceptions.

MARKET PRACTICE

Local clients and local companies respect the law. The Financial Services Commission accepts that fronting is a common occurrence in the market and insists only that it be conducted on "a sound basis."

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For free trial access to global insurance intelligence, visit axcoinfo.com.

Sri Sridharan

MEDRISK

Sri Sridharan, who was named CEO of MedRisk LLC in September, joined the managed care organization as chief client officer in 2022 and was appointed president earlier this year. Prior to MedRisk, Mr. Sridharan spent several years at Marsh LLC and Gallagher Bassett Services Inc. in claims management and analytics. *Business Insurance* Assistant Editor Louise Esola interviewed him recently on new strategies to help injured workers recover and other trends to watch. Edited excerpts follow.

Q What was your career trajectory into workers compensation?

A I did my master's in industrial engineering and part of that is looking at safety, ergonomics and biomechanics. That resulted in joining Marsh in ergonomics consulting, and when you think about ergonomics it's mostly focused on workers compensation. I grew up in India and you don't know much about workers comp if you come from a country where that does not exist. So it's pretty cool being in a role that has a broader purpose of helping people in need, helping people in pain, helping people going through a difficult phase of their life. So that was very attractive to me.

Q What do you like about what you do?

A Being part of this industry where you get a phone call, when somebody is in need of getting back to their life, getting back to the kind of work they do, and we get to help them with the recovery process. We do that every single day.

Q The industry has moved away from medicating for pain, which may have enhanced the practices at MedRisk. What are some companywide goals?

A If you think about the workers comp trends, you see there's a reduction in the use of opioids to manage pain, and there are also fewer surgeries. That accelerated during COVID because of the health care limitations we had at the time.

Physical therapy has evolved to be more effective or equally effective and a noninvasive alternative, when compared to what we used to do before.

We are even more focused on how we deliver the care that the patient needs. Each patient is unique based on where they live, the age group, that body part that is impacted; and then there are the psychosocial and behavioral, the comorbid conditions that exist.

How do we understand the unique nature of each of those to the patient? How do we make sure that they go to the right provider, who has expertise to help them? How do we make sure that we manage that episode of care from the initial evaluation to discharge so that we can engage with a provider and the adjuster at the right times? When and where do we see barriers to recovery? How do we leverage technology? How do you leverage data? That is the journey that we are going through right now.

Q Where do data and analytics fit in?

A Predominantly everything we do is driven by the data that we have. We process 6 million bills every year and we've been doing it for 27-plus years. That's a lot of data that we have in our database. Each data point is helpful in thinking about which providers are effective in treating a lower back injury for a 36-year-old who lives in Chicago, for example. We have all the data on the providers to see who's really good at delivering the best outcomes for that patient based on the patient characteristics.

We use data for scheduling the care providers and treatment. We have data on claim injury notes, where we leverage that to find that 10% to 15% of patients experience more barriers to recovery. We engage very early with those claimants and with those providers so that they can have an optimal recovery process. If you think about the entire work comp ecosystem, the physical therapy providers tend to spend the most time with the patient. That's a lot of interaction with a patient and a lot of opportunity to understand everything outside of that injury: What is going on in your life? What is going on outside of this injury in your work? What are the barriers to recovery? We leverage that opportunity to make those insights available so that we can collectively work together as a team and get patients better.

Q What are some of the challenges facing the industry as a whole?

A We have different functions across this industry. You have an adjuster, you have a scheduler, you have clinical experts. How do you make sure that everybody's aligned on our core purpose of helping that patient get better sooner? Making sure everybody's aligned, everybody's focused, is something that we are working toward every day.

Q What are some other top trends to watch?

A You have fewer claims, but the claims that happen are more severe, more complex, more expensive, and need more expertise. This is not 100 easy claims. It's going to be 20 really complex claims that need specialist expertise to help get the injured worker back to their pre-injury state. That's something that we need to always think about in terms of how we are evolving as an industry to reorient ourselves on a medical recovery process rather than just a claims process.

Q What improvements would you like to see in the comp industry?

A In this industry we have a lot of insights on the injuries, patient, providers, etc., but these are now siloed across various organizations that specialize in various solutions to help the injured employees get back to work and health. We will be significantly more effective in our objectives if we are able to work with each other on a more consistent basis. We are starting to see this more and more being shared and utilized, but we still have a lot of opportunities to continually improve our medical and cost outcomes.

It's pretty cool being in a role that has a broader purpose of helping people in need, helping people in pain, helping people going through a difficult phase of their life.

COVER STORY

Construction sector contends with legal marijuana at work

Dated drug testing policies, changing legal landscape complicate job site risks as safety concerns grow

BY JON CAMPISI
jcampisi@businessinsurance.com

Widespread legalization of marijuana has created safety concerns for employers and insurers in the construction sector, which has some of the highest rates of workplace injuries.

Employees in some safety-sensitive positions are still barred from using the drug even in states where it has been decriminalized for medical and recreational use, but for most companies in the construction sector, where finding qualified workers can be tough, the situation is complicated, experts say.

Drug testing protocols designed for an earlier era are not effective in identifying workers impaired by marijuana use, and proven alternatives are often unavailable, they say.

Medical marijuana is permitted in 38 states and recreational marijuana in 23 states — both forms are authorized in Washington D.C. — but the drug remains illegal under federal law. The conflicting legal environment has employers seeking ways to determine whether workers are under the influence of the drug in order to stave off workplace injuries and some of the costliest workers compensation claims.

It isn't easy, said Megin Gallagher, risk manager for Krusinski Construction Co. in Oak Brook, Illinois. Marijuana has been legal for recreational use in the state since 2020.

Given the conflicting state and federal laws, the contractor only tests for marijuana if it is made aware of possible worker impairment, she said. The situation becomes more complex when supervisors aren't immediately informed of job site incidents.

"These are all obviously concerns and things that we're constantly trying to figure out," Ms. Gallagher said. "It is a constant struggle."

Workers determined to be impaired by marijuana or other substances can be removed from a job site, but the employees must be replaced, which can cause work stoppage issues, she said.

"That's kind of where we're at right now," Ms. Gallagher said. "We're doing the best we can within the parameters that we're able to work with."

Legal marijuana is a growing concern for construction employers, more so than other industries, because of the safety factor, said Brian Allen, Salt Lake City-based vice president of government affairs for Mitchell Pharmacy Solutions, an Enlyte Group LLC subsidiary.

"I don't think it's any secret that heavy equipment and impairment really don't mix well," Mr. Allen said. "And having people in construction jobs up on roofs, climbing scaffolding, doing things where their motor skills may be impaired by the use of marijuana could be really very problematic."

Testing

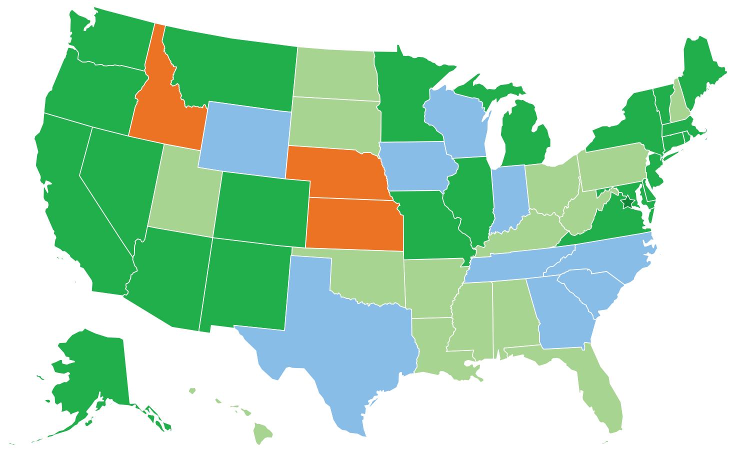
Data on workplace injury rates where marijuana impairment was a factor is lacking, partly due to inadequate testing.

"It's difficult to get the testing. It's difficult to prove that the marijuana was an actual contributing factor" in a workplace injury, said Kevin O'Sadnick, senior risk control manager with St. Louis-based Safety National Casualty Corp.

Traditional testing — through urine, blood or hair — just looks for the presence of marijuana because it has long been illegal at the federal level, so impairment was never considered, experts say.

MARIJUANA LEGALIZATION STATUS

Medical and recreational | Medical only | CBD/non-psychoactive only | Illegal all forms



Source: National Council on Compensation Insurance Inc.

"There's nothing that's reliable at this point" in terms of drug tests, said Elizabeth Yohe, a Palm Beach Gardens, Florida-based workers comp defense lawyer with Vaughan Baio & Partners.

Urine testing detects marijuana metabolites, or chemical remnants of the plant, but doesn't differentiate between psychoactive compounds that cause impairment and non-psychoactive compounds, according to Secaucus, New Jersey-based clinical laboratory Quest Diagnostics. Urine tests also don't measure impairment or time of consumption.

Blood tests are better indicators of recent use, because they measure active levels of THC — the compound that gives pot its high — in a person's system. Hair tests are more likely to measure chronic exposure.

Complicating matters, people process the drug differently and impairment can be affected by weight, use frequency,

See **CONSTRUCTION** page 20

genetic composition and digestive functions, among other things, according to Quest.

In May, Quest released findings that show the percentage of employees in the U.S. workforce testing positive for marijuana following a workplace accident increased in 2022 to its highest level in 25 years. Post-accident marijuana positivity jumped from 6.7% in 2021 to 7.3% in 2022.

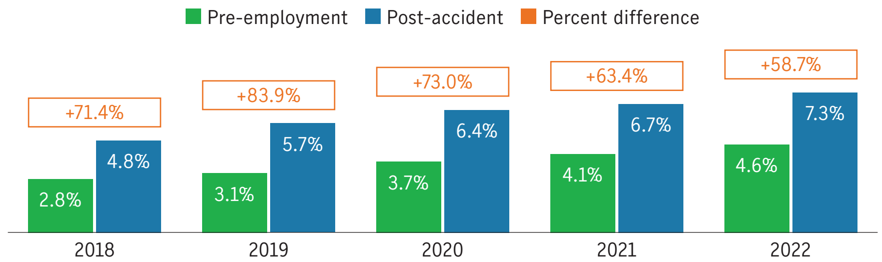
The building trades continue to implement "very stringent drug testing" as drug legalization expands, said Marianne Karg, West Lake, Ohio-based vice president of Mobile Medical Corp., which provides occupational drug testing.

"Although workplace testing is very effective at identifying the presence or absence of THC … what we never had to do in workplace testing was isolate recent use," said Nina French, president of employer and law-enforcement solutions for Hound Labs Inc., a portable technologies development company.

The Oakland, California-based company announced in September that Quest had agreed to provide lab services for the Hound Cannabis Breathalyzer, a device designed to detect and measure workplace cannabis use.

MARIJUANA POSITIVITY RATES CONTINUE TO CLIMB

Percent difference between pre-employment and post-accident positivity rates for marijuana urine drug tests for general U.S. workforce, as a percentage of all tests for marijuana.



Source: Quest Diagnostics

Hound Labs said Quest will use mass spectrometry — an analytical tool designed to measure the mass-to-charge ratio of molecules present in a sample — to confirm positive marijuana results generated by the breathalyzer.

There may be conflict between employers that want to eliminate marijuana from drug policies due to legalization and insurers that believe the move would place companies at risk, Ms. Karg said.

Some construction companies that are eliminating marijuana testing are doing so because of the perceived difficulty in attracting qualified workers, since fewer workers may pass drug tests in legal marijuana states, she said (see story page 21).

Risk mitigation

While preemployment marijuana testing is outlawed in some jurisdictions — the practice is banned in Michigan, Washington D.C. and Washington state — concern remains regarding on-the-job impairment, leading construction employers to investigate other ways to keep job sites safe, experts say.

"At this point, from everything I've seen and read, risk managers are staying in line with zero tolerance in the construction industry. There's just not a lot of room for leeway," said Ms. Yohe of Vaughan Baio.

In September, the Associated General Contractors of Minnesota announced that building contractors must rely on drug-free workplace policies pending further guidance from courts or lawmakers.

While employers attempt to mitigate marijuana-related risks, workers and labor unions are also concerned about the issue, because employees want to feel safe on the job, said Mike Schechter, general counsel and director of labor relations for the Minnesota organization.

"There's an absolute huge concern, and this isn't limited to marijuana," he said, adding that any intoxicant can affect workers' reaction time and make them less aware of their surroundings.

"Those are huge recipes for tragic consequences," Mr. Schechter said.

One strategy is to train employees in "observational testing" and encourage them to bring coworker impairment concerns to management, he said.

Addressing marijuana use in construction is also complicated by the interplay between state laws, federal laws, court rulings, individual company policies and labor unions.

Employers curbing pot use navigate bias laws

Managing or prohibiting marijuana use in the workplace is complicated by state and federal disability and privacy laws.

Employers may fear running afoul of the Americans with Disabilities Act, which states that workers may not be discriminated against because of medical conditions, said Brian Allen, Salt Lake City-based vice president of government affairs for Mitchell Pharmacy Solutions, an Enlyte Group LLC subsidiary.

Ascertaining whether construction workers have medical marijuana cards can also be difficult because of protections under the Health Insurance Portability and Accountability Act.

It remains unclear whether information can be shared because marijuana remains illegal at the federal level, so the drug's use may not be considered protected health information even in states where it is legal.

Jenifer Kaufman, an Abington, Pennsylvania-based workers compensation claimants attorney, said employers would likely defer to state medical marijuana laws and state-level HIPAA equivalent statutes.

Pennsylvania's medical marijuana law, for example, states that employees who fail drug tests cannot perform jobs where they are in control of chemicals, work at great heights or within confined spaces, or deal with high-voltage electricity, Ms. Kaufman said.

"Your (medical marijuana) card does not mean you don't have to take a drug test like everyone else," she said. "It's not a get-out-of-jail-free card."

But it can be difficult for employers in states that legalized both medical and recreational marijuana to differentiate between workers with medical cards and those who use the drug recreationally, Mr. Allen said.

Jon Campisi

While employers are concerned about workplace marijuana impairment, off-the-clock use isn't as much of a worry, Mr. Schechter said. However, current drug testing for THC can give a false sense of whether a worker is impaired because THC can remain in a person's system for weeks after use, he said.

"It causes big problems with risk managers and trying to determine what they can and can't do," said Jeff Sandy, vice president for workers compensation brokerage for Jencap Group LLC in Lee's Summit, Missouri.

In addition, companies must determine whether workers who are prescribed medical marijuana are governed by the same rules as recreational users (see related story).

"This is a real issue that you just can't take a real quick swipe at and say, 'This is what we're going to do, this is what we're not going to do,'" said Carl Heinlein, Wexford, Pennsylvania-based senior safety consultant with the American Contractors Insurance Group. "The industry is kind of peeking over the fence line looking at what everybody else is doing."

Whether companies are including, or excluding, marijuana in their drug policies can vary from job to job and state to state, Ms. Gallagher said, adding that whether jobs are unionized can add another layer of complexity, because union jobs have rules that companies cannot violate.

"We don't have a lot of leeway," she said.

Pushback

Construction employers are familiar with alcohol impairment as a workplace hazard, Mr. Allen said, but identifying marijuana intoxication can be more difficult, as the signs tend to be more subtle.

And there's pushback: A 2020 review published in the journal Substance Use & Misuse stated that evidence doesn't seem to support the position that cannabis users are at an increased risk of occupational injury.

Some states are beginning to put in place protections for workers who use recreational marijuana outside of work, further tying the hands of employers, Mr. Allen said.

California, Connecticut, Montana, New Jersey, New York and Rhode Island have enacted workplace protections limiting employers' ability to test for off-the-job marijuana use, according to the National Organization for the Reform of Marijuana Laws.

Even in states where marijuana is legal, there are some professions that ban the use of the drug, including construction jobs under federal contracts and interstate trucking positions governed by the U.S. Department of Transportation, said Jenifer Kaufman, an Abington, Pennsylvania-based workers comp attorney.

Construction jobs not regulated by the federal government are subject to state laws, internal company policies and collective bargaining agreements.

"Laws and regulations are changing very rapidly and that's going to require companies who work in those states and who operate in those states to be really up to date with the laws," said Michael Jorda, a New York-based risk control consultant with Lockton Cos. LLC.

Given the changing landscape, it's important that construction employers start addressing the marijuana issue just like they would any other workplace risk, Mr. Jorda said.

DRUG TESTING RULES MAY IMPEDE RECRUITMENT EFFORTS

Construction companies face a dilemma when it comes to testing workers for marijuana use: In a tough labor market, do they risk deterring job candidates by testing applicants, or do they eliminate tests and risk taking on workers who may come to work impaired?

"It puts employers in a very, very difficult position on the front end if they start restricting," said Mike Schechter, general counsel and director of labor relations for the Associated General Contractors of Minnesota.

Employers that attempt to clamp down through zero tolerance drug policies could encounter difficulties with recruitment, Mr. Schechter said.

"We're hearing from so many people that because of all these states now with medical and recreational (marijuana), it's hard to find workers who are going to pass" drug tests, said Marianne Karg, West Lake, Ohio-based vice president of Mobile Medical Corp., which provides occupational drug testing.

Construction companies already face challenges finding laborers, and instituting strict no-cannabis policies might put employers in a difficult spot, said Michael Jorda, a New York-based risk control consultant with Lockton Cos. LLC.

The issue varies by state, Mr. Jorda said. Some states, for example, permit random drug testing of workers while others prohibit it. And some states have passed laws banning preemployment marijuana testing.

Bill Howard, another New York-based risk control consultant with Lockton, said the pool of construction job candidates is already limited, and instituting another restraint in the form of marijuana testing in legal marijuana states could make it more difficult to find workers.

Jon Campisi

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Brian McGann, Marketing Vice President
10-17-23

SPECIAL REPORT

Effective cyber reports require less tech talk

INSIDE

BY JUDY GREENWALD

jgreenwald@businessinsurance.com

The key to communicating effectively with company boards of directors on cyber risk is to discuss issues in business terms board members can understand and avoid overly technical language, experts say.

The issue is particularly significant in light of the cybersecurity rules issued by the U.S. Securities and Exchange Commission that takes effect Dec. 18, which requires public companies to determine an incident's materiality and report it within four business days (see story page 23).

"If you don't have that united front" and a cybersecurity plan in place, "the SEC rules should be forcing the issue," said Tim Fletcher, Los Angeles-based CEO of Aon PLC's financial services group in the United States.

At this point, relatively few board directors are knowledgeable about cyber risks, although progress is being made, experts say.

Part of the challenge is that cyber is a relatively nascent industry, said Mike Lefebvre, director of cybersecurity at SEI Sphere, an Oaks, Pennsylvania-based cybersecurity and information technology company, adding the issue is only about two-and-a-half decades old.

Its complexity means cyber risk "doesn't translate well to boards" because they are looking at the issue from the "30,000-foot level," said David Anderson, New York-based vice president of cyber for Woodruff Sawyer & Co.

If you "can align your message with what they're thinking about," such as what must be disclosed to the SEC and shareholders, it will be more effective, he said.

Risk managers and chief information security officers are responsible for keeping up to speed on cybersecurity, while the role of boards is to look at the issue within a broader context, doing what they can to ensure the proper protocols are in place when a cyber incident occurs, said Tara Bodden, general counsel, head of claims, at insurtech managing general agency At-Bay Inc. in San Francisco.

Boards need to be informed that cybersecurity is "not a technical issue but a business issue," said Bhavesh Vadhani, Tysons, Virginia-based cybersecurity, technology risk and privacy practice global leader for CohnReznick LLP, an accounting, tax and advisory firm.

> "There should be some kind of a translation of CISO-speak to a language that the board can truly understand. When it comes to cyber risk, you can get really tied up in jargon."
>
> John Farley, Arthur J. Gallagher

Right off, there is a language barrier, said Wade Chmielinski, Johnston, Rhode Island-based staff vice president and group manager cyber consultants at FM Global.

It is a challenge to introduce a complicated topic in simple terms the board can understand, as the wide array of systems and defenses involved can be very complicated, said Kevin Neslage, Miami-based U.S. incident response claims counsel for Resilience Cyber Insurance Solutions LLC.

"It's really hard, sometimes, to convey technical concepts without getting too technical," Mr. Chmielinski said. Reports to the board should be "in simple, understandable terms for everyone in the room" regardless of their expertise.

"There should be some kind of a translation of CISO-speak to a language that the board can truly understand. When it comes to cyber risk, you can get really tied up in jargon," said John Farley, New York-based managing director of Arthur J. Gallagher & Co.'s cyber liability practice.

Boards do not have to know the type of chips the company uses, said Thomas O. Gorman, a partner at Dorsey & Whitney LLP in Washington. Everyone can understand the risks if they are told the company has 5 million customers, stores personal data and has a seven-year-old system, he said.

"You can't just spout off and sound like a security guy," Mr. Chmielewski said. "You have to be able to turn it into a conversation they can understand," pointing out how gaps in security can result in loss "and then quantify that."

Mr. Anderson stressed the importance of being quick, saying the board will lose interest if "you're not delivering a clear and concise message" in 15 to 20 minutes.

"Communication is fundamentally the most important element of relationships between risk managers and boards, and it's incumbent upon risk managers to keep the message tight," he said.

Mr. Chmielinski said FM Global has found that "the more seasoned the person delivering the information, the more efficient way we can deliver it," which avoids "going down rabbit holes."

"We do a lot of work to make sure we can summarize and target those areas that are most critical, that are going to have the most impact," he said.

Alexander H. Southwell, a partner with Gibson Dunn & Crutcher LLP in New York, who co-chairs the firm's privacy, cybersecurity and data innovation practice group, said there should be regular conversations with the board.

"It's hard to talk about incidents when you've never had those conversations with the board before," he said. "If there is a history and common language around cyber risk it can help make conversations go more smoothly" if an incident occurs.

Mr. Chmielinski said that on some occasions, there may be pressure from non-board company employees to "soften" the information presented, "and that becomes a challenge," he said, adding, "We think transparency is the best remedy."

The cyber expert is underrepresented overall in the boardroom today, although boards are seeking this expertise, said Pankaj Goyal, chief operating officer of Palo Alto, California-based cybersecurity company Safe Security.

"I would imagine that the majority of board members do not today have extensive experience in cybersecurity," and many of them are learning about it quickly, Mr. Farley said.

Mr. Southwell noted the SEC considered requiring that boards disclose which directors have cyber expertise. While that measure did not make it into the final rule, boards now often seek directors with this expertise, he said.

It is no different from when companies responded to the Sarbanes-Oxley Act of 2002, which required directors to have financial expertise, Mr. Lefebvre said.

"We may be on the cusp" of addressing this issue for cyber, although it is not expected to be resolved overnight, he said.

"I think we're on the right path and closer to an ideal situation than we would have been a few years back," Mr. Anderson said.

5-STEP PLAYBOOK TO SEC COMPLIANCE

Following a structured plan can help companies avoid costly penalties, legal issues and reputational damage.

1 Identify top risks specific to your business.

2 Create a materiality framework using industry-standard frameworks.

3 Quantify the materiality of the risks.

4 Ensure consistent SEC-compliant communication with the board and management.

5 Automate cyber risk management to ensure ongoing continuous security improvements.

Source: Safe Security

Companies must prepare to comply with cyber notifications

The U.S. Securities and Exchange Commission's cybersecurity rules, which take effect next month, present companies with the double challenge of determining which cyber breaches are material and reporting them within four business days.

It also requires publicly held companies to describe their processes for assessing, identifying and managing material risks from cybersecurity threats.

"The rules laid out by the SEC have really put this particular issue front and center," said John Farley, New York-based managing director of Arthur J. Gallagher & Co.'s cyber liability practice.

"A lot of people are concerned it will lead to lawsuits," said Arturo Perez-Reyes, senior vice president and cyber strategist at San Francisco-based Newfront Insurance.

"There are many companies that are not prepared to support or comply with those rules because they have not taken cybersecurity very seriously," said Bhavesh Vadhani, Tysons, Virginia-based cybersecurity, technology risk and privacy practice global leader for CohnReznick LLP, an accounting, tax and advisory firm.

They are now evaluating "what they have in place in terms of cyber disclosures and reporting programs and enhancing that," he said.

Pankaj Goyal, chief operating officer of Palo Alto, California-based Safe Security, said, "Different companies are at different points" in their cybersecurity maturity, with some, such as financial institutions, more mature.

The four-day requirement does not give companies a lot of time, Mr. Farley said. "You really need to coordinate several different stakeholders within your organization," including the risk manager, chief information security officer, general counsel, communications and investor relations.

The more specific disclosure timetable "means there is a heightened pressure to understand what happened" and determine issues of materiality as quickly as possible, said Alexander H. Southwell, a partner with Gibson Dunn & Crutcher LLP in New York. It "heightens boards' interest," he said.

"What constitutes materiality is really taking up a lot of brain space," said Britt Eilhardt, New York-based managing director, cyber, for Brown & Brown Inc. "It may look very different from one company to the next as to what constitutes materiality."

"The first point of contact is the risk manager coordinating with other practice groups to determine materiality," she said. "Companies are running materiality tabletops" similar to what they do with cyber incidents, she said.

Samantha Levine, Denver-based senior vice president, professional and cyber solutions, at CAC Specialty, an affiliate of brokerage Cobbs Allen, said the issue will be resolved through a combination of "either case law or more defining terms from the SEC as to what they are going to consider to be material."

Judy Greenwald

Design professionals see steady E&O renewals

BY MATTHEW LERNER
mlerner@businessinsurance.com

The market for architects and engineers professional liability coverage has remained largely stable in recent years as other lines have seen price hikes and capacity constraints, but some projects and structures can still be challenging to insure.

Major construction projects and condominiums can present particularly thorny challenges, experts say. The longevity of large projects deters many insurers, and the ownership structure, population densities and nonprofessional management boards of condos raise concerns.

This is reflected in lawsuits filed concerning issues at certain high-profile projects and events connected to design or engineering failures. Demands for actions such as inspections and enhanced oversight have also increased (see related story).

For most architects and engineers, capacity is available, and pricing of errors and omissions coverage is seeing only minor fluctuations.

> "In addition to technical design difficulties, many of the new supertalls are high-end residential facilities whose owners have an expectation of perfection and convenience."
>
> Rob Cunningham, Aspen Insurance

"Firms are having their needs met, owners are having their needs met from an insurance standpoint," said Doug Strong, Exton, Pennsylvania-based chief underwriting officer, design professional, for Axa XL, a unit of Axa SA.

Jeffrey Coe, Atlanta-based U.S. architect, engineer, contractor professional liability leader for Marsh, said there are about 60 insurers providing coverage for

Reuters

architects and engineers. "That's great from a capacity standpoint," he said, adding that renewals have largely ranged from flat to single-digit increases on loss-free accounts.

Typically, architectural and engineering firms buy a practice policy that covers all projects they work on over a year, he said.

For larger jobs, though, such as multiyear infrastructure projects, design firms are often required to buy a project policy with dedicated limits specific to the project. This sector of the market is "very, very challenged," Mr. Coe said.

"You're basically asking an insurance company to put a number on a project that would run sometimes as long as 10, 15, even 20 years," he said.

"Only limited markets are capable of deploying project-specific excess limits over their own primary coverage," said Ros Bayley, Addison, Texas-based technical underwriting leader for architects and engineers at Hiscox USA.

E&O coverage for condo projects also poses its own challenges, sources said.

While a commercial structure, such as a warehouse, is likely to have a single owner, a condominium may have tens or hundreds of individual owners.

In addition, while commercial structures are more likely to have a professional manager or management company, condos are often run by member-staffed boards, which may not be as qualified as a professional manager to address engineering and other issues.

Mr. Strong of Axa XL noted that condominiums have a "high density of individual living units within a structure, so any type of litigation can involve multiple plaintiffs and multiple claims," which can increase the frequency and severity of losses.

"You have a huge amount of tenants in the building," said Joey Franiak, San Diego-based broker, professional liability for Burns & Wilcox Ltd. This can lead to "class action suits from the tenants coming against the architectural firm, the engineering firm, things of that nature."

Condo maintenance also can be different than that of other commercial properties.

"Developers or commercial landlords typically have an asset manager or somebody who's in charge of developing a maintenance budget paying attention to these things," said Caley Larue, Chicago-based co-national director, real estate and hospitality practice, at Arthur J. Gallagher & Co. "Sometimes a condominium association is made up of the owners," potentially leading to a situation in which needed repairs are not made.

E&O-related lawsuits may also be driven by owners' attachment to their homes, he said.

"That emotional aspect can really drive litigation. ... People don't get as upset when something goes wrong in a warehouse as they do when it's their home."

Owners of high-end condos can have different assumptions about their properties.

"In addition to technical design difficulties, many of the new supertalls are high-end residential facilities whose owners have an expectation of perfection and convenience," said Rob Cunningham, New York-based head of U.S. professional liability for Aspen Insurance Holdings Ltd.

"The residents have the means and wherewithal to initiate claims against those involved with the construction of the building, including architects and engineers."

New York City's 432 Park Avenue, part of the city's growing "Billionaire's Row," has been plagued by myriad suits resulting from water damage, structural issues and alleged design flaws.

When lawsuits do arise, sources said "social inflation," or rising court awards and settlements, is changing the environment.

"Social inflation and the proliferation of nuclear verdicts are certainly among the two most concerning factors," Mr. Cunningham said. "One trend with nuclear verdicts is the increase in bodily injury claims and payouts, many of which are primarily concentrated in a select number of states like California, Florida, Illinois, New York and Pennsylvania."

"The market has seen an increase in frequency as well as the value of claim demands, as claimants strive to capture as much available limit as possible," Ms. Bayley said.

Mr. Franiak said cases are also taking longer to close due to backlogs in the courts, driving higher defense costs and raising overall settlements and awards.

"Everything related to the resolution process is more expensive," including defense, expert witnesses and travel, Mr. Strong said.

INDUSTRY STANDARDS IN CONSTRUCTION CATCH UP WITH MAJOR LOSSES

Major construction losses, such as the June 2021 collapse of Champlain Towers South, a 12-story beachfront condominium in Surfside, Florida, have led to changes in practices such as inspections and oversight.

"Following the Surfside condo collapse, some governmental and ownership entities required forensic evaluations of existing structures ... so we've seen an increase in requests to engage in forensic evaluations of existing structures," said Doug Strong, Exton, Pennsylvania-based chief underwriting officer, design professional, for Axa XL, a unit of Axa SA.

The deadly collapse was the catalyst for the Florida legislature's passing a law mandating statewide structural inspections for aging condominiums and cooperatives.

"The purpose of this legislation is to enforce building owners and homeowners associations to protect the structural integrity of buildings through proper maintenance and monitoring, to ensure the safety of the public," said Rob Cunningham, New York-based head of U.S. professional liability for Aspen Insurance Holdings Ltd.

Caley Larue, Chicago-based co-national director, real estate and hospitality practice, at Arthur J. Gallagher & Co., said the Surfside incident likely had an effect in Florida coastal communities from a risk management perspective.

"Are we inspecting our buildings and paying attention to the things that could have made the situation a bit less likely? Are they being looked at closer? Yes," he said.

Matthew Lerner

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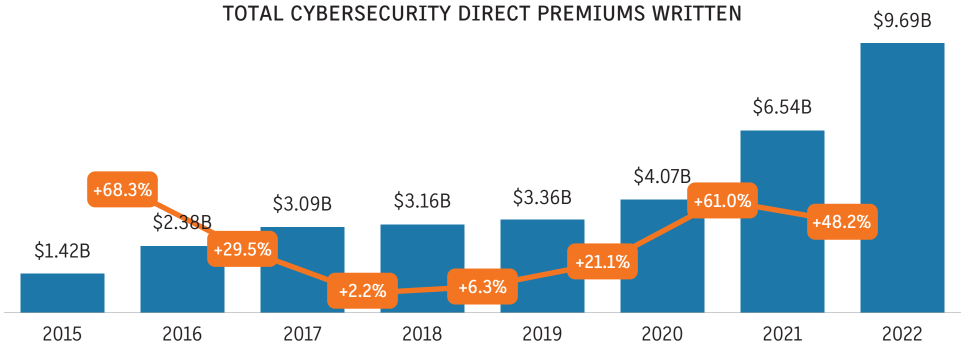
SPECIAL REPORT

CYBER INSURANCE MARKET*

The total U.S. premium for cybersecurity insurance increased 48.2% to $9.7 billion in 2022, from $6.5 billion in 2021.

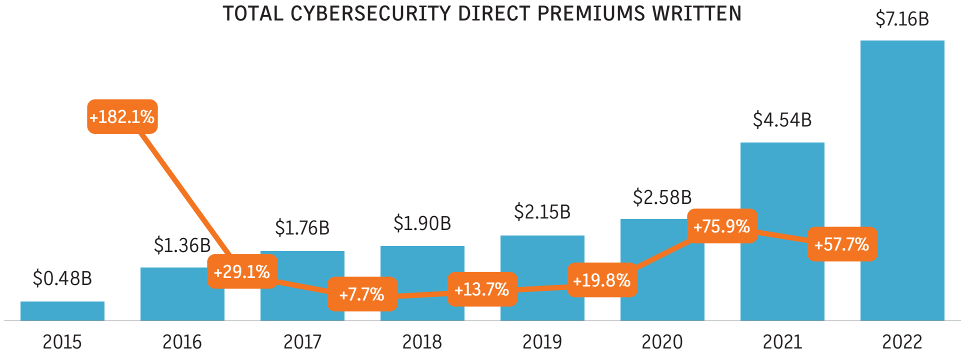
TOTAL CYBERSECURITY DIRECT PREMIUMS WRITTEN



STAND-ALONE CYBER INSURANCE MARKET*

Stand-alone cyber insurance coverage in the U.S. increased 57.7% to $7.2 billion in 2022, from $4.5 billion in 2021.

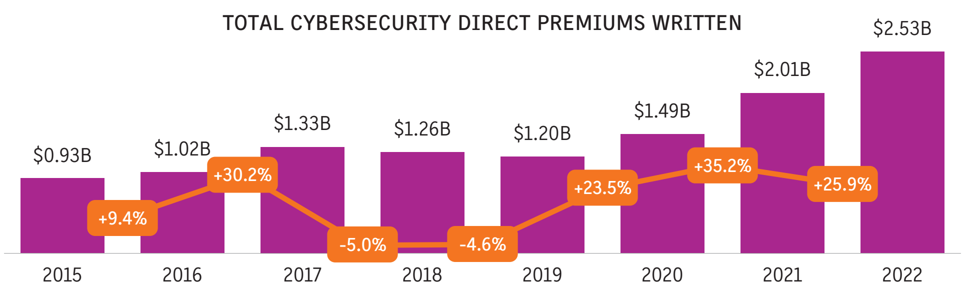
TOTAL CYBERSECURITY DIRECT PREMIUMS WRITTEN



PACKAGE CYBER INSURANCE MARKET*

Cybersecurity package premium in the U.S. increased 25.9% in 2022 to $2.5 billion, from $2.0 billion in 2021.

TOTAL CYBERSECURITY DIRECT PREMIUMS WRITTEN



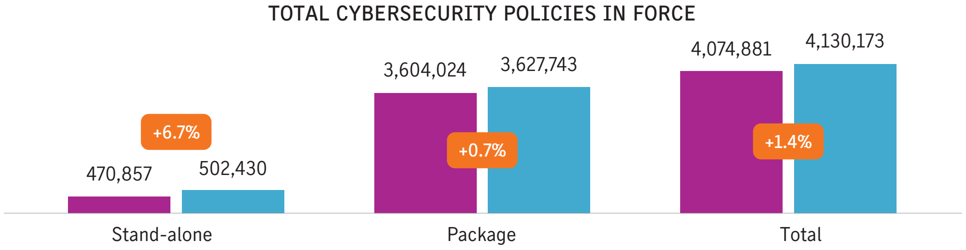
*U.S.-domiciled insurers and alien surplus lines insurers

POLICIES IN FORCE AND CLAIMS REPORTED

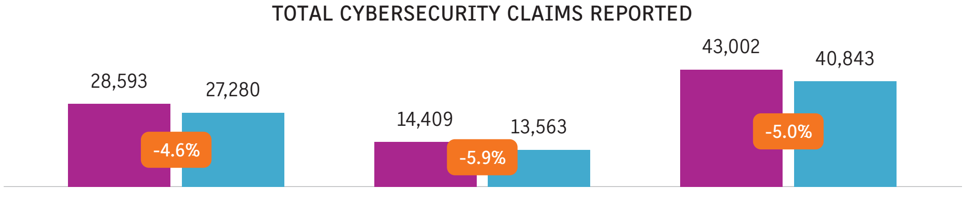
The number of cybersecurity insurance policies in force increased 1.4% in 2022 to 4.1 million, while the number of reported claims dropped 5% to 40,843, from 43,002 in 2021.

■ 2021 ■ 2022

TOTAL CYBERSECURITY POLICIES IN FORCE



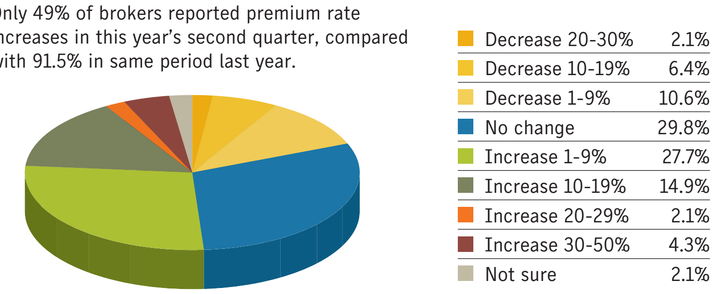
TOTAL CYBERSECURITY CLAIMS REPORTED



Source: National Association of Insurance Commissioners

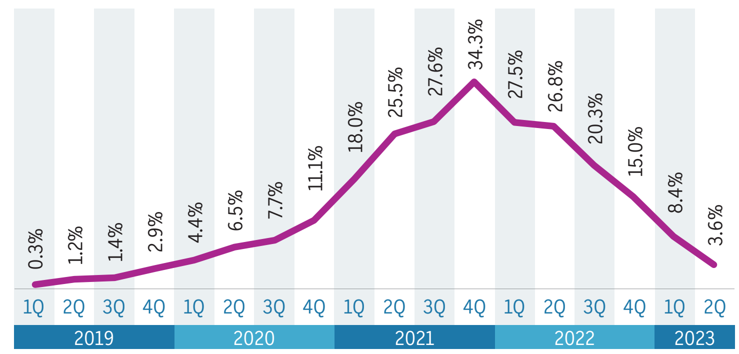
CYBER PRICING

Only 49% of brokers reported premium rate increases in this year's second quarter, compared with 91.5% in same period last year.



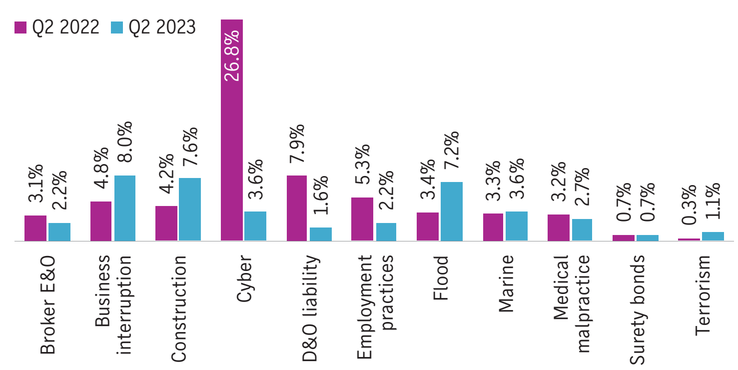
RENEWAL PRICING

The average premium pricing increase dropped to 3.6% in the second quarter, down from a high of 34.3% in the fourth quarter of 2021.



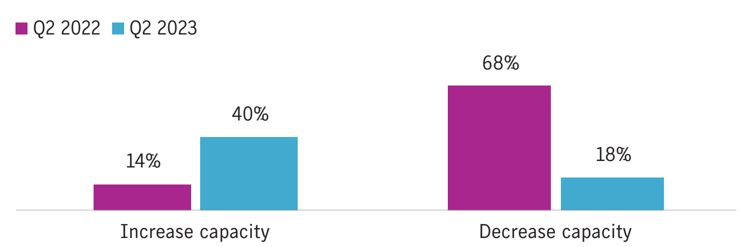
PREMIUM RATE INCREASE BY LINE OF BUSINESS

Cyber premium rate increases have slowed as insurers require policyholders to have basic cyber risk management measures and good cyber hygiene practices in place, and brokers educate their clients on cyber risk preparedness.



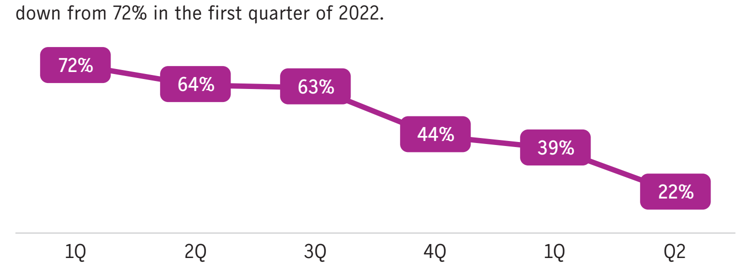
CAPACITY INCREASE

Insurers are more willing to underwrite cyber insurance, with 40% of survey respondents reporting an increase in capacity in the second quarter and only 18% reporting a decrease.



CYBER CLAIMS

Twenty-two percent of respondents reported claims increased in the second quarter, down from 72% in the first quarter of 2022.



Source: Council of Insurance Agents and Brokers

LARGEST DIRECTORS AND OFFICERS LIABILITY INSURERS

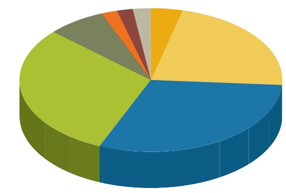
Ranked by direct premiums written in 2022, in millions of dollars

Rank	Insurer	Direct premiums written	Percent increase (decrease) vs. 2021	Direct incurred losses	Direct loss ratio	Market share
1	Axa SA	$1,841.5	(19.4%)	$1,257.3	58.6%	13.6%
2	Chubb Ltd.	$1,228.3	(9.5%)	$497.8	40.8%	9.1%
3	Berkshire Hathaway Inc.	$1,080.1	(1.9%)	$571.1	50.3%	8.0%
4	American International Group Inc.	$1,071.6	(11.3%)	$1,354.3	114.9%	7.9%
5	Tokio Marine Holdings Ltd.	$915.1	(5.7%)	$597.0	63.8%	6.8%
6	Fairfax Financial Holdings Ltd.	$787.8	(8.6%)	$357.9	41.5%	5.8%
7	W.R. Berkley Corp.	$572.7	(4.1%)	$321.8	51.8%	4.2%
8	CNA Financial Corp.	$510.5	(2.4%)	$289.5	57.6%	3.8%
9	Zurich Insurance Group Ltd.	$490.4	(6.4%)	$397.0	77.3%	3.6%
10	Travelers Cos. Inc.	$476.3	1.1%	$315.5	67.8%	3.5%
11	Sompo Holdings Ltd.	$455.6	(17.4%)	$264.7	51.5%	3.4%
12	Arch Capital Group Ltd.	$429.4	(9.7%)	$185.7	41.4%	3.2%
13	Great American Insurance Group	$293.8	(8.2%)	$70.2	22.9%	2.2%
14	Axis Capital Group Ltd.	$292.2	(19.6%)	$204.3	61.2%	2.2%
15	Nationwide Mutual Co.	$269.7	(8.4%)	$176.9	60.9%	2.0%
16	Old Republic General Insurance Group Inc.	$264.3	(21.1%)	$273.4	96.0%	2.0%
17	The Hartford Financial Services Group Inc.	$228.4	(15.3%)	$78.1	32.7%	1.7%
18	Allianz SE	$191.4	(8.6%)	$107.0	50.1%	1.4%
19	Markel Group Inc.	$190.6	(40.4%)	$258.5	114.2%	1.4%
20	Liberty Mutual Holdings Co. Inc.	$188.6	(5.5%)	$111.9	58.0%	1.4%
	Top 20 total	**$11,778.2**	**(11.0%)**	**$7,689.9**	**60.9%**	**86.9%**
	Industry total	**$13,552.0**	**(9.2%)**	**$8,465.5**	**58.5%**	**100%**

Source: S&P Global Market Intelligence based on National Association of Insurance Commissioners statutory P/C statement filings. U.S. filers only, compiled Sept. 22, 2022.

D&O PRICING

During the second quarter of 2023, more than a quarter of brokers reported premium rates decrease.

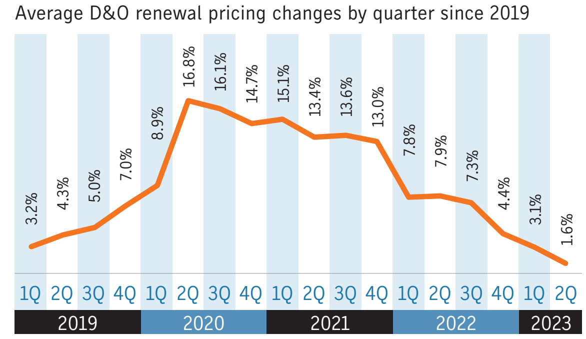


Decrease 20-30%	4%
Decrease 10-19%	0%
Decrease 1-9%	22%
No change	30%
Increase 1-9%	30%
Increase 10-19%	7%
Increase 20-29%	2%
Increase 30-50%	2%
Not sure	2%

Source: Council of Insurance Agents & Brokers

RENEWAL PRICING

Average D&O renewal pricing changes by quarter since 2019

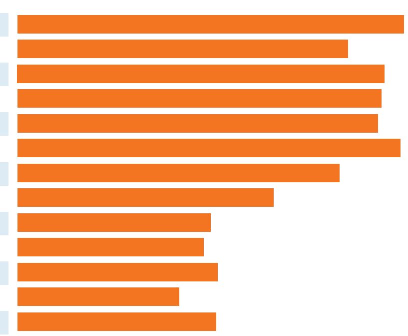


Source: Council of Insurance Agents & Brokers

CLASS ACTIONS

Total filings activity dropped 49% from a six-year high of 222 in the first half of 2017 to 114 in the first half of 2023.

Year	Filings
2017 H1	222
2017 H2	190
2018 H1	211
2018 H2	209
2019 H1	207
2019 H2	220
2020 H1	185
2020 H2	147
2021 H1	111
2021 H2	107
2022 H1	115
2022 H2	93
2023 H1	114



Source: Cornerstone Research Inc.

LARGEST MEDICAL PROFESSIONAL LIABILITY INSURERS

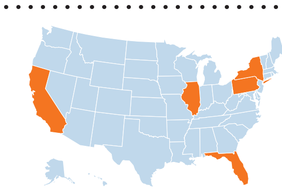
Ranked by direct premiums written in 2022, in millions of dollars

Rank	Insurer	Direct premiums written	Percent increase (decrease) vs. 2021	Direct losses incurred	Direct incurred loss ratio	Market share
1	Berkshire Hathaway Inc.	$2,135.9	1.8%	$1,039.7	49.1%	18.0%
2	The Doctors Co.	$1,127.8	5.3%	$504.2	45.6%	9.5%
3	ProAssurance Corp.	$716.8	(3.0%)	$342.2	47.7%	6.0%
4	CNA Financial Corp.	$636.4	(0.4%)	$310.0	49.6%	5.3%
5	Coverys Insurance Group	$526.5	(8.4%)	$325.0	60.3%	4.4%
6	Mag Mutual Insurance Co.	$479.8	5.1%	$312.5	67.6%	4.0%
7	MCIC Vermont Inc.	$459.9	19.4%	$335.0	72.8%	3.9%
8	Liberty Mutual Holdings Co. Inc.	$329.4	7.0%	$143.8	43.9%	2.8%
9	Chubb Ltd.	$208.9	3.7%	$194.4	96.4%	1.8%
10	W.R. Berkley Corp.	$201.9	9.2%	$150.4	76.8%	1.7%
	Top 10 total	**$6,823.2**	**2.5%**	**$3,657.4**	**54.2%**	**57.3%**
	Industry total	**$11,898.0**	**6.4%**	**$6,267.7**	**53.7%**	**100%**

Source: S&P Global Market Intelligence based on National Association of Insurance Commissioners statutory P/C statement filings. U.S. filers only, compiled Sept. 22, 2022.

TOP STATES

States with the most direct premiums written for medical professional liability insurance in 2022

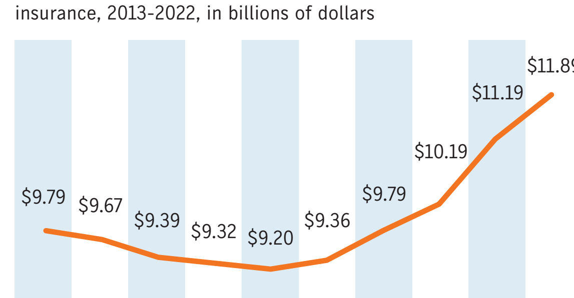


State	Direct premiums written	Number of insurers
New York	$1,764,609,337	128
California	$969,141,579	124
Florida	$915,237,163	127
Pennsylvania	$912,599,620	146
Illinois	$547,321,058	124

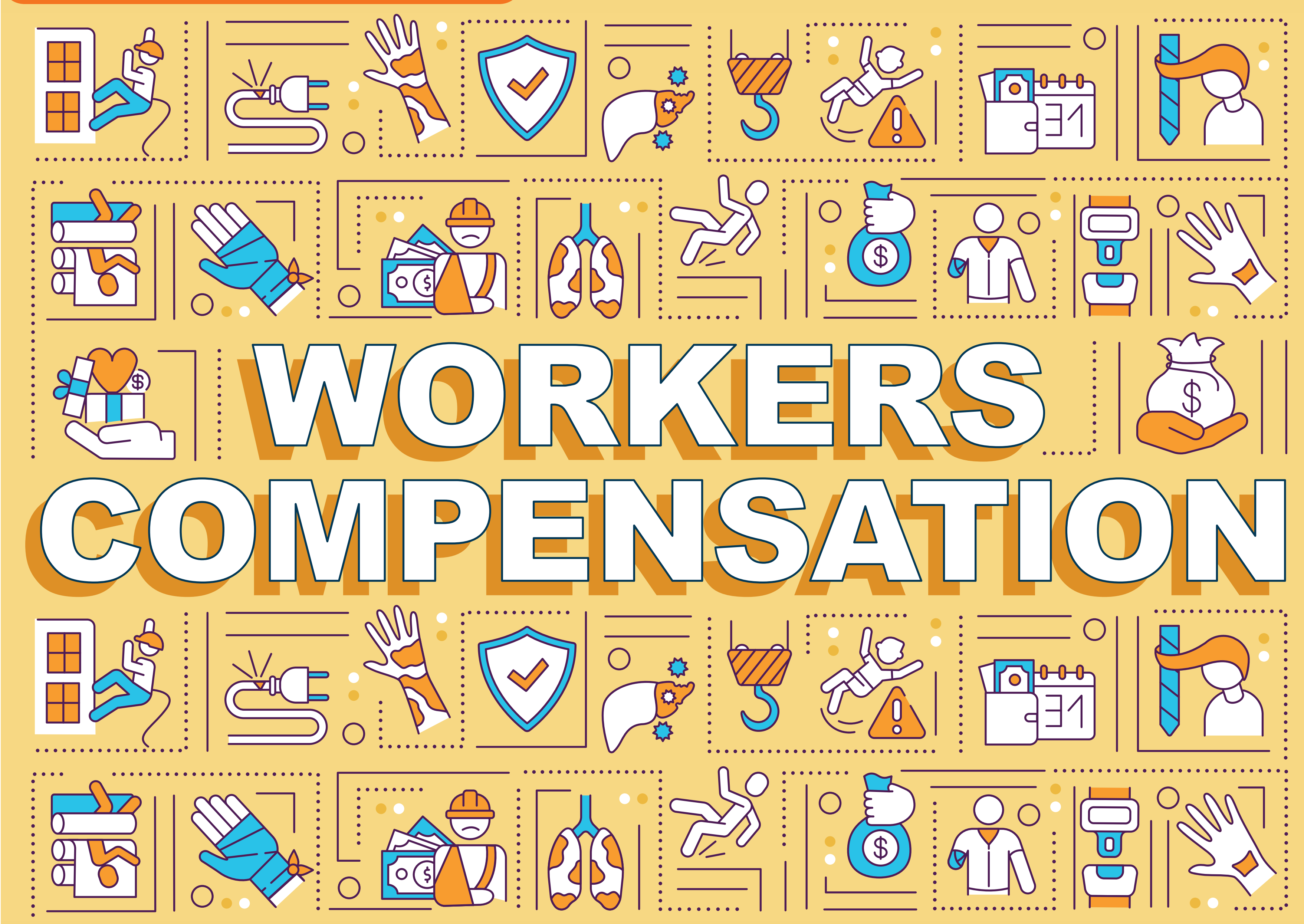
Source: National Association of Insurance Commissioners

PROFESSIONAL LIABILITY COVER

Direct premiums written for U.S. medical professional liability insurance, 2013-2022, in billions of dollars



Source: National Association of Insurance Commissioners



Pain treatment becomes safer, more complex

BY LOUISE ESOLA
lesola@businessinsurance.com

Data on workers compensation drug spending is clear: Opioid prescriptions and costs for injured workers have plummeted over the past 10 years as employers, claims managers and others aimed to greatly reduce dangerous pain medications in comp.

Opioid utilization among injured workers declined 57.5% from 2016 to 2022, according to data gathered by myMatrixx, a Jacksonville, Florida-based pharmacy benefits manager and subsidiary of Express Scripts Holding Co.

The workers compensation sector is still grappling with how best to manage the pain of injured workers without the powerful drugs, and several alternatives have emerged. Experts say some options are costlier than opioids, more experimental and come with concerns. But the industry is becoming accustomed to a multifaceted approach, and companies are working within injured workers' abilities.

"When you are addressing pain, you have to approach it with, What are the goals that we're looking for? What is our end goal? Is the end goal going back to work, or is the end goal just quality of life? When you have a clear goal in mind the path becomes a little bit easier, and you're not focusing so much on pain, you're focusing on recovery," said Reema Hammoud, Southfield, Michigan-based assistant vice president, clinical pharmacy, for Sedgwick Claims Management Services Inc.

The answer to pain management is typically "all of the above," said Joe Paduda, Skaneateles, New York-based president of comp consultant Comp-Pharma LLC. "Most patients who have some sort of chronic or post-acute pain are doing multiple things," he said.

See **PAIN MANAGEMENT** page 30

INSIDE

PAIN MANAGEMENT STRATEGIES

Pills

Various drugs are used as alternatives to opioids, including pain-relieving non-steroidal anti-inflammatory drugs, known as NSAIDs; anti-convulsant drugs that manage nerve pain, such as gabapentin; and some over-the-counter drugs such as acetaminophen and aspirin.

Yet "even within these preferred classes there are some concerns to be aware of," said Silvia Sacalis, a Tampa, Florida-based licensed pharmacist and vice president of clinical services for Healthesystems LLC.

"Even within drug classes that are broadly considered appropriate and cost-effective, there will always be nuances in the management of prescription drug therapies," Ms. Sacalis said. Costlier "designer" NSAIDs have cropped up in some states, circumventing formulary approval, she added.

Side effects are also an issue, especially for drugs not intended to be taken long term, Mr. Paduda said. Concerns include "potential internal organ damage from overuse of ibuprofen, acetaminophen," and "there were even some issues with aspirin in terms of tolerance over gastrointestinal issues that could arise," he said.

"There's been a number of concerns about those that folks who take a lot of these things can really cause other significant problems," he said.

Antidepressants in small numbers of prescriptions and medical marijuana, of which data on efficacy, use and costs is lacking, have also been presented as options for managing pain. "Research is largely unchanged" for medical marijuana, which remains a Schedule I drug under the federal government," Ms. Sacalis said.

Topical creams

Topical agents have been cited as one of the costliest, fastest-growing options for managing pain for injured workers, but experts have raised numerous concerns about these products over the years.

Nikki Wilson, Omaha, Nebraska-based senior director of clinical pharmacy services at Enlyte LLC, said topicals represent the "top spot among all therapeutic classes" of pain management, with physicians dispensing most of the agents.

"Topical analgesics do have their place in therapy to help manage pain in injured workers, but there are some important factors to consider, which include efficacy, safety and cost," Ms. Sacalis said.

"Is the product clinically effective for topical use? Are the ingredient levels considered safe by FDA standards? Is there duplication of therapy between the topical ingredient and the injured worker patient's oral therapy? Is it cost-effective, and if not, is there a cost-effective alternative?"

Workers have also been injured by using topicals, experts say.

"They're using over-the-counter ingredients (in higher doses) to manufacture these products," Ms. Hammoud said. "The issue with that is because these are not tested for safety and efficacy, and they're really high strength, there are some case reports of burns."

Talk therapy

Getting injured workers to rethink their pain and applying mental health strategies is another approach experts say is working.

"For the last decade in workers compensation we've seen a movement toward holistic injured-worker management, and across the industry there is greater understanding and awareness around the relationship between mental health and its impact on injury, as well as recovery from that injury," Ms. Sacalis said.

Ms. Wilson said, "Especially chronic or long-term pain can be very complex and often involves a psych component that can further complicate treatment and lead to less favorable outcomes if all aspects of care are not considered."

Depression, anxiety and/or sleep disturbances can lead to increased pain; therefore, mental components must be addressed, she said.

"The net is that cognitive behavioral therapy and other types of treatments dealing with biopsychosocial issues definitely can have significant results in terms of reducing levels of chronic pain and maintaining that reduction over a long period of time," Mr. Paduda said.

Access to such care remains a concern, however. Mr. Paduda, who consults for a company using virtual reality to provide cognitive behavioral therapy, said technology has emerged as a solution. Telemedicine has also risen as an approach to bridging the gap.

Physical medicine

Everything from physical therapy and chiropractic care to alternative programs, such as stretching and yoga to get the injured worker moving, are also viable methods for pain management, experts say.

"Physical modalities, such as strength training and exercise or stretching, can be used in concert with or even as an alternative to pharmaceutical treatment for optimal results," Ms. Wilson said.

"Even simple things like optimizing a patient's diet and focusing on foods that can decrease inflammation or lead to better overall metabolic health can have tremendous impacts."

Problems that have historically inhibited workers from participating in movement-based modalities for managing pain have been fear of re-injury or worse pain, experts said.

The key is to incorporate mental wellbeing, Ms. Hammoud said.

"If you have a combined approach, you have better recovery, because you're addressing every single modality, instead of just focusing on physical," she said.

"You're focusing on the psychotherapy aspect as well, and there's some really good data that supports the use of (cognitive behavioral therapy) along with physical therapy. ... It is just helping a person understand how to live a better quality of life, or a functional life, and how to manage pain, because technically there's no cure for pain."

PERSPECTIVES

Workplace violence comp policies lacking, but we can drive improvement for all

Specializing in workers compensation coverage issues, Debbie Goldstine is an executive vice president and U.S. casualty leader at Lockton Cos. LLC. She can be reached at dgoldstine@lockton.com.

Workplace violence represents a sizable and growing risk for employers and impacted employees. The numbers are staggering: Workplace violence costs employers more than $120 billion annually in claims, litigation, additional security, staffing, communications and other expenses, according to the National Institute for Occupational Safety and Health. And according to a Department of Justice study, almost 75% of victims reported some level of emotional distress following violent events, with nearly 40% experiencing moderate to severe trauma.

Today's workers compensation policies may not adequately address workplace violence events, given the restrictions set in motion by insurance policies and state laws, but there is an opportunity for our industry to drive meaningful change.

Compensability within the workers compensation system following a workplace violence incident will vary based upon the event specifics and state. For example, an on-premises assault that occurs as a result of a personal motive, such as domestic violence, may not be compensable in certain venues.

Each state's statute defines who is eligible to receive benefits when an event occurs. Many states that allow for the compensability of mental health services limit statutory benefits to employees who have suffered physical harm during the event. A physically unharmed employee, such as an employee witness to workplace violence, is sometimes not eligible for mental health benefits in workers comp.

Some businesses purchase a separate workplace violence policy to add to their crisis response toolkit. In general, these policies focus on the wellbeing of a company's employees following a violent incident in the workplace. Sublimit extensions may be available to include coverage for third-party expenses and loss of business income. These policies can also include crisis management expense coverage following an incident.

However, the availability of workplace violence coverage is not absolute. Some classes of business with a predisposition to increased workplace violence exposure may be excluded from underwriting consideration. These include law enforcement, security services and health care.

Further, standalone workplace violence policies are often written on a nonadmitted basis. As such, they are governed by state surplus line associations, which

do not always permit certain terms and conditions. For example, Excess Line Association of New York guidance outlines coverage prohibited by the state's Department of Financial Services for impacted employees under state statute: "A workplace violence/active shooter policy may include medical payments (including counseling), death benefits and/or funeral benefits for invitees, customers, and guests on the premises during a workplace violence incident. However … employees cannot be covered for these benefits under a workplace violence/active shooter policy."

Today's workers compensation policies may not adequately address workplace violence events, given the restrictions set in motion by insurance policies and state laws, but there is an opportunity for our industry to drive meaningful change.

It is important to note that many businesses operate across state lines. As such, a position restricting available coverage for policyholders headquartered in that state also translates into a limitation of available coverage for the employees of that policyholder regardless of locale.

The workers compensation policy may be the best avenue to solve for the unique needs presented in the wake of workplace violence. However, there exists opportunity to effect change and elevate the industry through individual influence campaigns at the state level.

This is already a focus in certain venues: California is one example of modeling local action through the combination of recently enacted Senate Bill 553, which provides employers with a blueprint for violence prevention, and existing statutory workers compensation benefits. With this approach, employee welfare is addressed at both pre-incident preparedness and post-incident statutory benefit levels.

While local efforts take place, our industry's voice can be amplified at a national level by respected organizations such as the National Council on Compensation Insurance and the National Institute for Occupational Safety and Health. Their sponsorship of a more robust workers compensation/workplace violence offering would align with NCCI's mission to "develop modern solutions that help support industry stakeholders and the workers' compensation system" and NIOSH's vision of "safer, healthier workers."

Assuming statutes support doing so, the design of a workplace violence offering within the workers compensation policy would unify the two products as a more comprehensive crisis response offering. An extension of coverage afforded within the workers compensation policy is further enhanced by the involvement of our industry's unsung heroes and arguably the policy's greatest value proposition: major case claim adjusters.

Due to limitations of applicable statutes, it is not uncommon for a major case unit adjuster to be forced to stop short of facilitating a comprehensive and holistic resolution for the policyholder's employees following a workplace violence event. By embedding within the workers compensation policy a workplace violence offering, the same adjuster would be empowered to more fully navigate the compensable, noncompensable, and crisis response aspects of the claim. This would facilitate the seamless delivery of compassion, empathy and direction for the employer and impacted employees.

Those who suffer direct or indirect harm due to a violent act in the workplace are worthy of our concern. It is incumbent on us as an industry to develop solutions for these stakeholders.

Perhaps efforts are already underway by industry influencers to examine opportunities to advance the statutory workers compensation product to meet this moment. If so, all of us — brokers, insurers, clients— would benefit from learning how we can add our support to accelerate this effort.

If this work has not yet begun, there is no time like the present to consider how our industry can deliver meaningful restoration in these heartbreaking situations. At its core, the property/casualty industry supports policyholders in the darkest of times. It is the single best attribute — and responsibility — of our business, and one that instills pride in our purpose.

Due to limitations of applicable statutes, it is not uncommon for a major case unit adjuster to be forced to stop short of facilitating a comprehensive and holistic resolution for the policyholder's employees following a workplace violence event.

Our collective intent is to care for and restore the lives of the employees and businesses impacted by an event. It is my hope and intention that in the future, our industry can elevate to deliver this readily to policyholders. Industrywide solutions that help clients — and more broadly, society — in a time of crisis are something we can all get behind.

CLASSIFIED

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)

IN THE MATTER OF ENGLISH & AMERICAN INSURANCE COMPANY LIMITED

AND

IN THE MATTER OF THE COMPANIES ACT 2006

NOTICE IS HEREBY GIVEN that, by an order dated 3 November 2023 made in the above matter, the High Court of Justice of England and Wales has directed that separate meetings (the "**Scheme Meetings**") be held of the Scheme Creditors (as defined in the proposed scheme of arrangement hereinafter mentioned) of the above-named company ("**EAIC**") for the purpose of considering, and if thought fit, approving (with or without modification) the scheme of arrangement pursuant to Part 26 of the Companies Act 2006 proposed to be made between EAIC and its Scheme Creditors (the "**Scheme**").

The Scheme Meetings are to be held on 19 December 2023 at the offices of Bryan Cave Leighton Paisner LLP, Governor's House, 5 Laurence Pountney Hill, London EC4R 0BR, United Kingdom as follows:

- for Scheme Creditors in respect of claims which have been agreed or determined under the scheme of arrangement implemented by the Scheme Company in 1994 ("**Existing Scheme ESLs**") at 2:00 p.m. (London time); and
- for Scheme Creditors in respect of all other Scheme Claims (as defined in the Scheme) at 2:15 p.m. (London time) or as soon as the meeting for the Scheme Creditors with Existing Scheme ESLs concludes or is adjourned.

All Scheme Creditors are requested to attend the relevant Scheme Meeting or Scheme Meetings, as applicable, either in person or by proxy. Scheme Creditors with both an Existing Scheme ESL and a Scheme Claim which does not relate to an Existing Scheme ESL are entitled to vote at both Scheme Meetings.

Scheme Creditors may vote in person at the Scheme Meetings or may appoint another person, whether a Scheme Creditor or not, as their proxy to attend and vote in their place. A form of proxy is included in the Voting Forms for use at the Scheme Meetings.

A copy of the text of the Scheme and a copy of the explanatory statement required to be provided pursuant to Part 26 of the Companies Act 2006 (the "**Explanatory Statement**") as well as examples of blank Voting Forms may be obtained from the website at www.eaic.co.uk. Further copies may also be obtained by attending at, or on written application to, PRO Insurance Solutions Limited ("**Pro**") at the address below.

Scheme Creditors are requested to send their Voting Forms to Pro either by: (a) mail to Stephanie Wilton, PRO Insurance Solutions Limited, Southgate House, Southgate Street, Gloucester, GL1 1UB, United Kingdom; or (b) email to stephanie.wilton@pro-global.com, to be received by 5:00 p.m. (London time) on 15 December 2023. An e-mailed copy of a Voting Form will only be accepted if legible. Voting forms may also be handed in at the registration desk prior to the commencement of the Scheme Meetings.

The Court has appointed Darryl Ashbourne of Interpath Advisory or failing him, Joshua Dwyer of Interpath Advisory or failing him, any other director of EAIC, to act as chairman of the Scheme Meetings and has directed the chairman to report the result of the Scheme Meetings to the Court.

If approved by the requisite majority of Scheme Creditors, the Scheme will be subject to the subsequent approval of the Court.

EAIC may, at the hearing of the application for sanction by the Court of the Scheme, consent on behalf of Scheme Creditors to any amendment to the Scheme or any terms or conditions which the Court may think fit to approve or impose.

For further information please contact Pro as follows:

Phone: +44 (0) 7795848215
Email: stephanie.wilton@pro-global.com

Dated 6 November 2023

COMMENTARY

Pot disconnect threatens safety

The growing disparity between federal and state laws regarding the legality of marijuana has reached the point where it is a serious safety issue for many employers.

It's been more than 25 years since California legalized medical marijuana, starting a trend among states that was expanded to include the broad legalization of recreational pot for about half the U.S. population. There are now 38 states that allow medical marijuana and 23 that allow recreational marijuana. Washington D.C. permits both forms of usage.

While it's been 10 years since the federal government made clear it would not seek to interfere with state marijuana laws, that does little to alleviate the problem of employers seeking to ensure they obey all the laws they operate under and respect the rights of workers.

Federal legalization of marijuana seems unlikely in the near term, although some advocates hope the Biden administration may at least reschedule the drug so that it is no longer lumped in with the likes of heroin and LSD as a Schedule 1 drug.

Gavin Souter
EDITOR

Regardless of possible future changes, the confusion inhibits a coherent approach to national drug policy. As we report on page 18, the issue is of particular concern in industries with high-risk occupations, such as the construction industry.

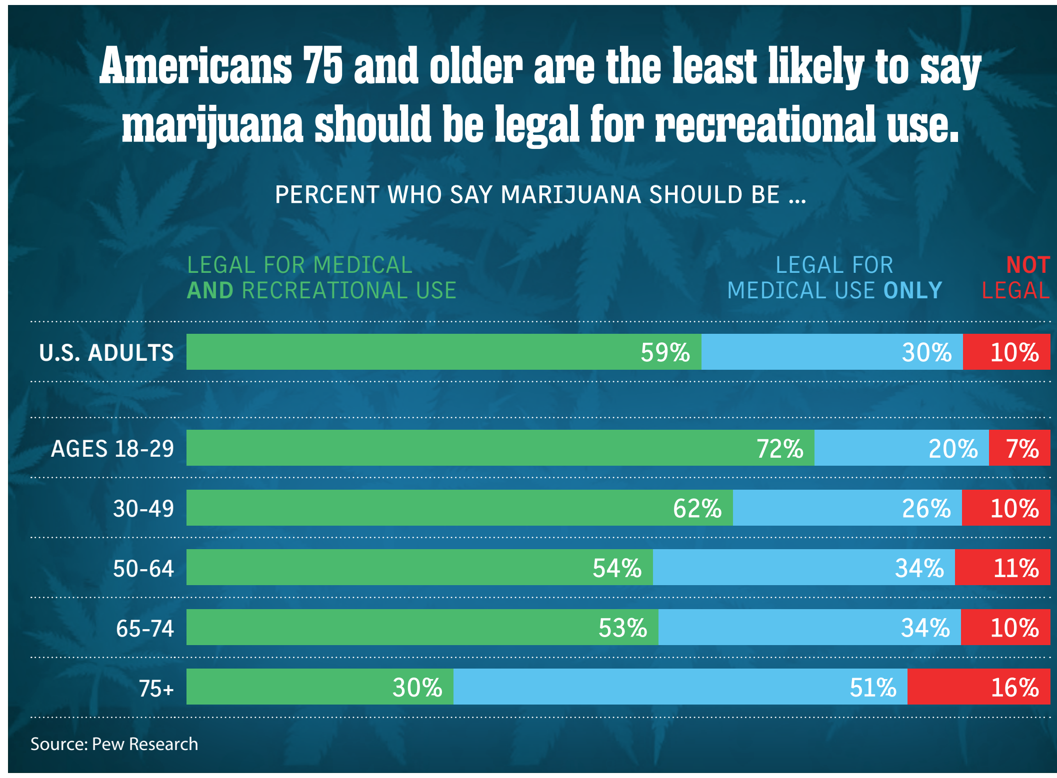
When legal pot laws were first passed, employers were often advised to treat pot in a similar way to alcohol — while drinking off the clock might be legal, workers should not be allowed to turn up to work drunk. That seems like a nice analogy, but it falls apart when it comes to determining impairment. While there are well-established testing protocols to gauge impairment by alcohol for a worker involved in a workplace accident, a worker found with marijuana traces in his or her bloodstream may have taken the drug days or even weeks before.

The dual system also confuses the issue of pre-employment drug testing. A worker might reasonably argue that a legal activity they indulge in in their own time is their own business. And given the current shortage of workers in many industries, employers might be inclined to agree.

While drug test manufacturers are developing tests that they say will test for impairment, they are not yet in widespread use, and it will likely be awhile before they are accepted.

Until then, employers will have to deal with the problem themselves. There's no panacea, but workplace safety policies that emphasize awareness of impairment and the need to report potential violations should be encouraged. In addition, employee communications should stress the importance of self-monitoring and disclosure in the interests of safety.

Maintaining a safe working environment is critical for employers, and finding a way to address marijuana impairment is an essential step toward achieving that goal.



VIEWPOINT

Digital, human touch vital

BY CLAIRE WILKINSON
cwilkinson@businessinsurance.com

We live in an increasingly digitized world where there's an app for everything and we turn to Google — or increasingly ChatGPT — for all the answers, which means we have information at our fingertips. The insurance industry has started to embrace the change, deploying artificial intelligence and machine learning technologies, data analytics, IoT, mobile and web-based apps and other tools to transform how it does business and interacts with policyholders. Such innovations are streamlining operations, automating quote and bind processes, and allowing insurers and brokers to receive and process information more efficiently.

Digital advances and data insights are also helping improve buyers' experience by connecting insurers quickly with digital-savvy customers who want an insurance transaction to mirror the ease of online shopping. In personal lines, insurers have had some success in replacing a traditionally laborious manual claims process with video and internet chat services, for example. Behavioral and data analytics enable them to further personalize certain coverages like auto and health insurance, charging premiums based on policyholders' driving or exercise habits though the quid pro quo relies on them being willing to share their data in return for an incentive from insurers.

In the commercial lines sector, too, many insurers and brokers have launched online portals and other tech tools enabling businesses and risk managers to buy coverage more efficiently and submit sometimes complex data about their portfolios in a less duplicative, error-prone and labor-intensive form. In difficult insurance markets, there's no question that these technologies can assist policyholders in better defining their exposures and differentiating their business, perhaps attracting the attention and capacity of underwriters ahead of others. But in claims, where technology is interjecting at the most delicate point in the contract between insurers and policyholders, there is more on the line.

Who hasn't had an online interaction where a customer service issue was responded to quickly but resolving the issue required multiple phone calls and lengthy delays before a helpful human could be reached? And in the health insurance industry, the use of software technology is currently the target of litigation alleging that thousands of patient claims were automatically and erroneously denied. As we report on page 6, mobile apps, telemedicine and AI are entering the workers compensation claims management process. According to a recent survey of claims executives by Rising Medical Solutions, some 78% of high-performing claims management organizations used one or more technology-based strategies in 2022, versus 42% in 2019.

Such innovative approaches are projected to become more frequently deployed with the idea that they will free up claims professionals so they can spend more time communicating directly with injured workers and providing a personalized level of care.

While data and predictive modeling in claims have an important role to play in projecting risks and better understanding outcomes, there's clearly more to a positive claims experience than simply introducing an app or self-service tool.

The Rising Medical survey also highlighted the importance of "soft skills" such as empathy and listening for claims to be managed successfully. A balance between human and digital interactions will be critical if insurers and claims professionals are to retain the trust of policyholders and injured workers going forward.

MARKET PULSE

New specialty MGA focuses on aviation

■ Castlelake LP, a Minneapolis-based alternative investment manager, and Pine Walk Capital Ltd., a managing general agent platform owned by Bermuda-based Fidelis MGU, said they have established a specialty MGA focused on the aviation sector.

Itasca MGA will underwrite, structure and manage risk associated with secured commercial aviation financing on behalf of Fidelis MGU and Itasca Re Ltd., a Bermuda-based reinsurer.

Itasca Re was launched by Castlelake earlier this year and specializes in insurance-backed financing for buyers and owners of commercial aircraft assets.

Itasca MGA will use insurance provided by Fidelis Insurance Ireland DAC, Fidelis Underwriting Ltd. and Starr Europe Insurance Ltd.

Investment firm forms comp med-legal platform

■ Aquiline Capital Partners LLC, a private investment firm based in New York and London, announced the formation of MDpanel, a platform dedicated to the delivery of medical opinions as part of the workers compensation insurance claims process.

Jason Erdel, former CEO of Aspirion, another company providing medical review services, has been named CEO of MDpanel according to a company statement.

California Medical Legal Specialists LLC, and California Medical Evaluators Holdings LLC have also joined the MDpanel platform, according to the statement.

At-Bay adds classes to professional liability cover

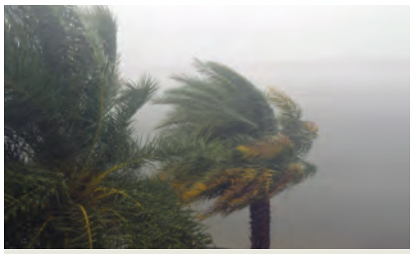
■ At-Bay Inc. announced the addition of 40 business classes to its miscellaneous professional liability coverage and an increase in the eligible revenue limit for its policyholders.

The added classes include real estate, education, consulting and financial services, media and communication, employment and staffing, and legal and security services, the San Francisco-based insurtech managing general agency said in a statement.

It said it is increasing the eligible revenue limit for its policyholders to $50 million from $25 million for new business, and to $60 million from $35 million for renewal business.

At-Bay offers up to $5 million in limits. Its policies are underwritten through United Specialty Co., a Markel Corp. subsidiary.

PRODUCTS & SERVICES



Augment Risk Services launches global parametric specialty division

■ Augment Risk Services LLC said it has launched a global parametric specialty division for index-based risk transfer.

The division will initially focus on assisting captives, insurers, reinsurers and insurance-linked securities companies to manage their global exposures to natural perils, including windstorm, earthquake and wildfire, an Augment statement said.

Kurt Cripps will lead the division. He was most recently global head of parametric at Inver Re, part of Ardonagh Group. Prior to that, he was a managing director and the global head of weather at Aon Reinsurance Solutions.

"Clients are having to manage a far greater degree of risk" due to rising reinsurance costs, higher deductibles and reduced limits, and parametric coverage provides an alternative to indemnity products, Mr. Cripps said in the statement.

Everest unveils business travel accident coverage

■ Everest Insurance, the insurance division of Everest Group Ltd., said it has launched Everest Business Travel Accident Insurance within its accident and health portfolio.

The coverage combines insurance with travel, medical and security assistance services for corporate and nonprofit employers, employees and accompanying guests during domestic and international travel. Services include pre-departure advice, prescription medication support, transportation to local medical professionals and emergency medical evacuation.

An Everest spokeswoman said limits available will vary depending on the policyholder and the structure of the coverage.

Insured travelers will also receive access to in-country support and services including travel tracking and pre-trip assessments through Everest's partnership with travel assistance provider Healix International.

Vantage offers pollution cover for contractors

■ Vantage Group Holdings Ltd. said it will offer contractors pollution liability and professional liability coverage to environmental contractors and consultants.

Vantage environmental coverages are written on a nonadmitted basis nationwide and will be available as primary or excess coverage, a company statement said.

Limits available are $15 million/$15 million per occurrence/aggregate, according to a spokesman.

Coverage is designed to respond to environmental risks that can cause financial strain and pose significant hurdles to project completion, the statement said.

Jason LaMonica, head of construction and environmental, said in the statement Michael Dannecker will lead Vantage's environmental offerings, reporting to Lawrence Lejfer, head of construction professional and environmental.

Axis, Stone Point partner to establish reinsurer

■ Axis Capital Holdings Ltd. said it has partnered with Stone Point Credit Adviser LLC to create Bermuda-based collateralized reinsurer Monarch Point Re, which will be capitalized at more than $400 million.

The equity includes a $75 million investment from a subsidiary of Axis Capital and a $75 million equity investment from Stone Point Credit, an Axis statement said. The multiyear reinsurance agreement was effective Jan. 1, 2023.

Monarch Point Re will operate in Bermuda and underwrite casualty reinsurance business retroceded by subsidiaries of Axis Capital. Subsidiaries of Axis Capital plan to retrocede approximately $400 million of reinsurance written premium for the first year of the reinsurance agreement.

Christopher Harris has been appointed CEO of Monarch Point Re. He was most recently a board member and adviser to Catalina Re and previously served as CEO and president of Montpelier Re Holdings.

DEALS & MOVES

Integris agrees to buy med pro liability insurer

Integris Group Inc. said it has agreed to acquire MedMal Direct Insurance Co. and its CorePRO Insurance LLC agency from Physicians Trust Inc.

Terms of the transaction were not disclosed.

Jacksonville, Florida-based MedMal Direct and CorePRO have a combined 35 employees, all of whom will be joining the insurer, according to an Integris spokesman.

Indian broker to be acquired by Aon

Global Insurance Brokers Pvt. Ltd. of India said it will be acquired by Aon PLC, subject to regulatory approval.

Terms of the deal were not disclosed.

Global was established in 1973 and places more than $3 billion in insurance premiums for more than 2,000 clients annually, the brokerage said.

Global said in a statement that its network of 18 offices "will augment Aon's existing capabilities in the commercial risk, health and reinsurance markets."

World Insurance buys trucking broker

World Insurance Associates LLC said it acquired the business of Oakwood Insurance Agency LLC.

Terms of the transaction were not disclosed.

Califon, New Jersey-based Oakwood Insurance Agency, whose transportation division, Insure Big Rig LLC, has been providing trucking insurance to customers since 2011, has eight employees, all of whom will join World Insurance, said a spokeswoman for the broker.

Gallagher acquires construction specialist

Arthur J. Gallagher & Co. said it has acquired The Coverage Pro LLC, based in Scottsdale, Arizona.

Terms of the transaction were not disclosed.

The Coverage Pro has about 25 employees. The broker specializes in construction.

Meanwhile, Gallagher also announced the acquisition of Clements Worldwide, a Washington-based brokerage that specializes in coverage for expatriates and international organizations.

The brokerage has offices in London, Dublin, Gibraltar and Dubai, United Arab Emirates, and about 115 staff.

PEOPLE

“Wherever a door opens in business, get to know the products and services and how these provide value to your clients. Then, focus on your clients, internal or external, and build those relationships.”

UP CLOSE

Alejandro J. Reyes

NEW JOB TITLE: Lake Mary, Florida-based director, business risk consulting, Hylant Group Inc.

PREVIOUS POSITION: Miami-based associate director, risk & analytics, Willis Towers Watson PLC.

OUTLOOK FOR THE INDUSTRY: The risk landscape and global economic growth will continue to increase in complexity. Untapped opportunities will open for strategic risk advisory solutions that are supported by analytics and product expertise. Players who understand how to identify problems and effectively build tailored solutions that add value to an organization will lead growth in consulting and help drive middle and large account strategies within risk management firms.

GOALS FOR YOUR NEW POSITION: Help our clients better understand what risk finance is and provide the tools and strategies needed to make informed decisions.

CHALLENGES FACING THE INDUSTRY: Risk consultants must leverage their access to industry knowledge and line of business services with tools that enhance the client experience as their risks become increasingly complex. Delivering services that build trust and add value is the main challenge.

FIRST EXPERIENCE: I started in insurance with Chubb, then named Ace, as a reserving actuary for property/casualty, power gen and energy lines of business.

ADVICE FOR A NEWCOMER: Wherever a door opens in business, get to know the products and services and how these provide value to your clients. Then, focus on your clients, internal or external, and build those relationships.

DREAM JOB: I love carpentry.

COLLEGE MAJOR: I graduated from the University of Puerto Rico with a degree in finance.

LOOKING FORWARD TO: I look forward to helping build a practice that provides opportunities for growth across company verticals.

FAVORITE BOOK: “Shut Up and Listen!” by Tilman Fertitta. Its title might be intense, but the book serves as a practical guide to business leadership.

HOBBIES: I like to spend most of my free time with my kids playing sports.

TV SHOW: “Big Bang Theory.”

ON A SATURDAY AFTERNOON: Spending time with my family.

SEE MORE ONLINE

Visit *www.businessinsurance.com/ComingsandGoings* for a full list of this month’s personnel moves and promotions. Check our website daily for additional postings and sign up for the weekly email. *Business Insurance* would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to *editorial@businessinsurance.com*.

ON THE MOVE

Willis Towers Watson PLC named **Karen Beldy Torborg** to drive mergers and acquisitions strategy and head up the large accounts segment for its corporate risk and broking business in North America. Previously, Ms. Torborg was global engagement partner at Marsh LLC.

Aon PLC named **Brian Wanat** head of its commercial risk solutions business for North America, succeeding Joe Peiser, who was recently named CEO of commercial risk solutions. Mr. Wanat was previously Aon’s chief broking officer for the United States.

Denver-based Pie Insurance Group named **Audra Foglietta**, formerly Chubb Ltd. executive vice president and chief financial officer of global operations and technology, as its chief financial officer. Ms. Foglietta succeeds Tom Grossi, who left the company in October.

Marsh LLC named San Francisco-based **Michael Pellegrini** head of Marsh Specialty in the U.S. and Canada, succeeding Michelle Sartain, who was appointed president of U.S. and Canada in July. Mr. Pellegrini had been North American marine, cargo and logistics practice leader.

RSC Insurance Brokerage Inc., which does business as Risk Strategies Co., named **Margaret Bussiere** commercial lines leader, New York region. She succeeds Rob Rosenzweig, who was promoted to New York regional leader earlier this year. Ms. Bussiere, based in New York, had been national fine art practice leader.

Ascot Group Ltd. named **Pat Stoik** executive vice president, head of marine, Ascot U.S. Mr. Stoik, based in New York, was most recently chief risk officer of Austin, Texas-based Overhaul Group Inc., an in-transit supply chain risk management company.

BUSINESS INSURANCE®
BEST PLACES TO WORK 2023

Best Places program lists leading insurance industry firms

Best Places to Work in Insurance is an annual feature presented by *Business Insurance* and Best Companies Group that ranks the agents, brokers, insurers and other providers with the highest levels of employee engagement and satisfaction.

The 2023 report features 100 companies of various sizes, from 25 employees to over 10,000. What these honorees have in common is a commitment to attracting, developing and retaining great talent through a combination of culture, benefits and other programs that their employees value.

Harrisburg, Pennsylvania-based Best Companies Group identifies the leading employers in the insurance industry by conducting a free two-part assessment of each company. Through an employer questionnaire on policies, practices and demographics and a confidential employee survey, Best Companies Group assembles the data points and analyzes them according to eight core focus areas:

- Leadership and planning
- Corporate culture and communications
- Role satisfaction
- Work environment
- Relationship with supervisor
- Training, development and resources
- Pay and benefits
- Overall engagement

The program divides employers into the categories of small, or those with 25-249 employees; medium, for organizations with 250-999 employees; and large, those with 1,000 or more employees. The 2023 overall winners, by employer size, are:

- **S** **Coastal Wealth**
- **M** **Captive Resources**
- **L** **Lockton Companies**

The following report highlights what makes these and other companies in the insurance industry among the best places to work.

LARGE EMPLOYER CATEGORY (1,000+ U.S. Employees)

Rank	Company	U.S. Employees
1	Lockton Companies	6,495
2	IMA Financial Group Inc.	2,071
3	Higginbotham	2,420
4	Philadelphia Insurance Companies	1,875
5	Holmes Murphy	1,060
6	West Bend Mutual Insurance Company	1,565
7	CBIZ Benefits & Insurance Services Inc.	1,610
8	NFP	4,806
9	USI Insurance Services	10,132

MEDIUM EMPLOYER CATEGORY (250-999 U.S. Employees)

Rank	Company	U.S. Employees
1	Captive Resources LLC	342
2	Houchens Insurance Group	350
3	Tokio Marine North America Services	505
4	Origami Risk	668
5	Riskonnect Inc.	507
6	Ascot Group	457
7	Brown & Riding	358
8	Safety National	700
9	Sterling Seacrest Pritchard	336
10	Coalition Inc.	515
11	Tokio Marine HCC	312
12	Allianz Trade in North America	473
13	Scott Insurance	376
14	Amerisure	761
15	Skyward Specialty Insurance Group	480
16	Society Insurance	368
17	INSURICA	698
18	Hylant	964
19	Acadia Insurance	289
20	Shepherd Insurance	476
21	SageSure Insurance Managers	578
22	Cadence Insurance	787

SMALL EMPLOYER CATEGORY (25-249 U.S. Employees)

Rank	Company	U.S. Employees
1	Coastal Wealth	25
2	Employee Benefit Services of Maryland	34
3	Stumm Insurance LLC	53
4	C3 Risk & Insurance Services	103
5	Euclid Transactional	95
6	Acrisure LLC, dba VAST	60
7	Conner Insurance	42
8	Connor & Gallagher OneSource	103
9	Fee Insurance Group	42
10	Telamon Insurance & Financial Network LLC	35
11	RBN Insurance Services	35
12	Gibson Insurance Agency Inc., dba Gibson	153
13	Questpro	31
14	Apex Benefits Group Inc.	76
15	KIG Insurance	61
16	At-Bay	203
17	American Global	126
18	The Partners Group	203
19	Transtar Insurance Brokers Inc.	66
20	McConkey Insurance & Benefits	110
21	Virtus LLC	106
22	Counterpart	32
23	Peabody Insurance Agency	31
24	Acrisure of California LLC, dba Hoffman Brown Company	52
25	Eagan Insurance Agency	92
26	The Jacobson Group	84
27	Obie	80
28	Public Entity Partners	39
29	Tokio Marine Highland	150
30	Chalmers Insurance Group	95
31	BKCW	47
32	Carisk Partners Inc.	160
33	Christensen Group Inc.	199
34	White & Associates Insurance	82
35	YouDecide Inc.	36
36	DSP Insurance Services	70
37	QEO Insurance Group	111
38	CMR Risk & Insurance Services Inc.	48
39	Synapse LLC	89
40	MGIS	63
41	Company Nurse – powered by Lintelio	67
42	SET SEG	90
43	WebCE Inc.	93
44	Plastridge Insurance	89
45	Rich and Cartmill	124
46	Wallace Welch & Willingham	138
47	Delta Dental of Kansas	113
48	Berkley North Pacific	64
49	US Assure Insurance Services of Florida Inc.	160
50	Nottingham Insurance	55
51	Business Risk Partners	50
52	American Integrity Insurance Company	247
53	Rockford Mutual Insurance Company	86
54	Key Risk Management (a Berkley Company)	155
55	Associated Insurance and Risk Managment Advisors	155
56	ReEmployAbility Inc.	74
57	Rathbone Group LLC	88
58	Carolina Casualty (a Berkley Company)	94
59	CLARA Analytics	46
60	Coterie Insurance	150
61	Berkley Select (a Berkley Company)	107
62	Falvey Insurance Group	152
63	ECBM Insurance Brokers & Consultants	94
64	SteadPoint	44
65	SullivanCurtisMonroe Insurance Services LLC	144
66	A.I.M. Mutual Insurance Companies	164
67	VBA Software	132
68	Blue Star Claims LLC	65
69	Acclamation Insurance Management Service	129

Large employer (1,000+ employees)

Lockton Companies

One of Best Places to Work in Insurance's perennial honorees, **Lockton Companies** earned the top spot among large employers in 2023. Founded more than 50 years ago, Lockton is today the world's largest privately owned, independent insurance broker and consulting company. Lockton is committed to excellent service to clients, associates and communities. Its nearly 6,500 U.S. associates highly value Lockton's entrepreneurial culture and support. Lockton strives to "make sure our people feel welcomed and valued and provide opportunities for them to grow personally and professionally."

Runner-up in the large employer category is **IMA Financial Group Inc.**, a Denver-based Integrated financial services company including a retail insurance brokerage, wholesale brokerage, program management and wealth management. IMA's more than 2,000 U.S. employees value the firm's flexibility, fun work environment and opportunity to act not only as employees but also owners.

Higginbotham, a Fort Worth, Texas-based independent insurance brokerage, placed third in the large employer category. Founded in 1948, Higginbotham today is Texas' largest broker, with more than 2,400 employees serving clients and communities across the nation. Its employees value the firm's people-first focus, employee ownership, and support for charities.

Lockton associates enjoy participating in social events throughout the year, such as celebrating the Kansas City Chiefs NFL team.

1 Lockton Companies

2 IMA Financial Group

3 Higginbotham

Medium employer (250-999 employees)

Captive Resources

Among medium size employers, **Captive Resources LLC** earned first place in Best Places to Work in Insurance for the third consecutive year. The Itasca, Illinois-based company was founded more than four decades ago and specializes in advising member-owned group captives. Captive Resources has grown to become an organization that today has more than 340 employees. The company's employees especially value its work-from-home options and flexible start times, opportunities for all to share ideas and participate in key projects, and generous medical benefits.

Runner-up in the medium size category was **Houchens Insurance Group**, a retail agency in Bowling Green, Kentucky, with 350 employees. The company was founded over a century ago as a small agency in 1921, growing to serve clients nationwide with complex property/casualty insurance and risk management services. HIG's employees especially value its 100% Employee Stock Ownership Plan, the agency's Enhanced Employee Experience program of flexible, work/life offerings, and its family-focused atmosphere.

Third place in this category was **Tokio Marine North America Services LLC**, a shared-services company that supports the insurance company subsidiaries of Tokio Marine North America, including Philadelphia Insurance Companies, First Insurance Company of Hawaii and Tokio Marine America. TMNA Services LLC was established in 2012 in Bala Cynwyd, Pennsylvania. Its more than 500 employees value the company's Coffee Pairs program to encourage team members to get to know each other, and in-person events for employees and family members.

Captive Resources employees enjoy a social outing together.

1 Captive Resources

2 Houchens Insurance Group

3 Tokio Marine North America Services

Small employer (25-249 employees)

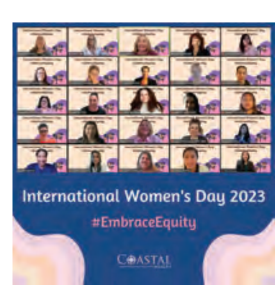
Top honors in the small-employer category of Best Places to Work in Insurance went to **Coastal Wealth** (see profile on next page).

In second place among small employers was **Employee Benefit Services of Maryland**, a Baltimore-based benefit broker with 34 employees. Placing third was **Stumm Insurance LLC**, a Rosemont, Illinois-based benefit broker with 53 employees.

1 Coastal Wealth

2 Employee Benefit Services of Maryland

3 Stumm Insurance



Women at Coastal Wealth join together to celebrate International Women's Day.

Coastal Wealth's employees in South Florida enjoy a night of bowling.

BUSINESS INSURANCE®

BEST PLACES TO WORK 2023

Insurers/Providers

Ascot Group

The top insurance company in the 2023 Best Places to Work in Insurance is Ascot Group, a global specialty insurer whose U.S. operations are based in Stamford, Connecticut. Its more than 450 U.S. employees value the way Ascot empowers, supports and includes them with recognition for contributions. A key part of the company's employee experience is "The Ascot Way," which guides "a collaborative and entrepreneurial culture steeped in excellence and integrity." Other elements of Ascot's culture that support employees include generous paid time off, unlimited sick leave and charity matching. Ascot says "our employees are our oxygen — and their diverse opinions and perspectives allow us to thrive."

Safety National employees donated more than 3,000 pounds of canned goods during a teambuilding activity constructing minigolf holes with cans.

Safety National's annual Employee Appreciation Day treated employees to events such as a St. Louis Cardinals game.

BEST PLACES TO WORK IN INSURANCE 2023: INSURERS/PROVIDERS

Rank	Company	U.S. Employees
1	Ascot Group	457
2	Safety National	700
3	Tokio Marine HCC	312
4	Philadelphia Insurance Companies	1,875
5	Allianz Trade in North America	473
6	Amerisure	761
7	SET SEG	90
8	Skyward Specialty Insurance Group	480
9	Delta Dental of Kansas	113
10	Berkley North Pacific	64
11	Society Insurance	368
12	Acadia Insurance	289
13	American Integrity Insurance Company	247
14	Rockford Mutual Insurance Company	86
15	Key Risk Management (a Berkley Company)	155
16	West Bend Mutual Insurance Company	1,565
17	Carolina Casualty (a Berkley Company)	94
18	Berkley Select (a Berkley Company)	107
19	A.I.M. Mutual Insurance Companies	164
20	VBA Software	132

Agents/Brokers

BEST PLACES TO WORK IN INSURANCE 2023: AGENTS/BROKERS

Rank	Company	U.S. Employees
1	Coastal Wealth	25
2	Employee Benefit Services of Maryland	34
3	Stumm Insurance LLC	53
4	C3 Risk & Insurance Services	103
5	Euclid Transactional	95
6	Acrisure LLC, dba VAST	60
7	Conner Insurance	42
8	Connor & Gallagher OneSource	103
9	Fee Insurance Group	42
10	Telamon Insurance & Financial Network LLC	35
11	RBN Insurance Services	35
12	Gibson Insurance Agency Inc., dba Gibson	153
13	Houchens Insurance Group	350
14	Apex Benefits Group Inc.	76
15	KIG Insurance	61
16	At-Bay	203
17	American Global	126
18	The Partners Group	203
19	Transtar Insurance Brokers Inc.	66
20	McConkey Insurance & Benefits	110
21	Lockton Companies	6,495
22	Virtus LLC	106
23	Counterpart	32
24	Brown & Riding	358
25	Peabody Insurance Agency	31
26	Acrisure of California LLC, dba Hoffman Brown Company	52
27	Eagan Insurance Agency	92
28	Obie	80
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37	White & Associates Insurance	82
38	YouDecide Inc.	36
39	DSP Insurance Services	70
40	QEO Insurance Group	111
41	CMR Risk & Insurance Services Inc.	48
42	Synapse LLC	89
43	MGIS	63
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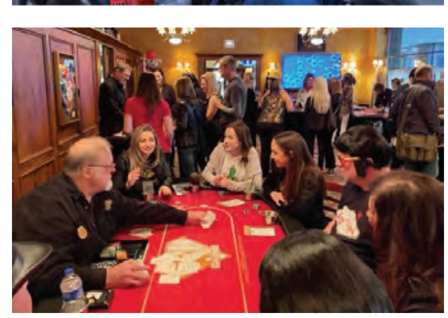
45	Plastridge Insurance	89
46	Holmes Murphy	1,060
47	Rich and Cartmill	124
48	Wallace Welch & Willingham	138
49	US Assure Insurance Services of Florida Inc.	160
50	Nottingham Insurance	55
51	INSURICA	698
52	Hylant	964
53	Business Risk Partners	50
54	Associated Insurance and Risk Managment Advisors	155
55	Shepherd Insurance	476
56	CBIZ Benefits & Insurance Services Inc.	1,610
57	NFP	4,806
58	SageSure Insurance Managers	578
59	Coterie Insurance	150
60	Falvey Insurance Group	152
61	ECBM Insurance Brokers & Consultants	94
62	SteadPoint	44
63	SullivanCurtisMonroe Insurance Services LLC	144
64	USI Insurance Services	10,132
65	Cadence Insurance	787

Coastal Wealth

Fort Lauderdale, Florida-based insurance agency Coastal Wealth is the top agent/broker in the 2023 Best Places to Work in Insurance. The agency, which provide risk management, insurance and group benefits, was founded in 2016. Coastal Wealth emphasizes a culture of collaboration, support and employee well-being. Its 25 employees especially appreciate the agency's unlimited paid time off, quarterly bonuses and Pathway to Leadership professional development program. Coastal Wealth offers mentorship programs, training sessions, tuition reimbursement and clear paths for career progression. In addition to a commitment to support its employees with work and family balance, Coastal Wealth takes pride in giving back to its community in which "we live, work and play."

Employees of Houchens Insurance Group take time out to go karting.



Having a good time together is a safe bet for Stumm Insurance employees during a busy season Casino Night party.

SPONSOREDSECTION

BUSINESS INSURANCE

BEST PLACES TO WORK 2023

How insurance firms attract talent

What does it take to join the list of the Best Places to Work in Insurance? A number of attributes set apart the companies on the 2023 list. One frequently cited quality is flexibility, which honorees increased offering during the pandemic and have kept going. While many of the Best Places to Work in Insurance have had flexible work policies for years, others have extended or made such policies permanent, recognizing the importance of remote working options for employees.

Employees appreciate perks and amenities, though a longer-lasting component of satisfaction stems from honorees' focus on cultures of employee engagement and career development.

Best Companies Group analyzes the responses to confidential employee surveys in eight core areas. These areas show significant differences between the best employers and those that did not make this year's list:

Leadership and planning. This area includes understanding of the company's strategy, confidence in leadership, adequate planning and follow-through and care about employees' well-being. For all companies on the 2023 list, the number of positive responses in this area averaged 93%, vs. 84% for companies that failed to make the list.

Corporate culture and communications. Components of this area include clear and frequent communication, trust, a spirit of cooperation, a feeling that employees are valued and a culture of diversity. Positive responses averaged 91% for companies on the list, and 82% for other companies.

Role satisfaction. This area looks at how employees like the work they do, their ability to balance work and life, and whether they feel valued and part of a team. Positive responses averaged 92% for the top employers, vs. 87% for others.

Work environment. Positive responses about physical working conditions, comfort and safety averaged 95% for the top employers and 93% for others.

Relationship with supervisor. Fairness, respect, trust and feedback are elements of this area. For the Best Places to Work, positive responses averaged 94%, vs. 91% for other employers.

Training, development and resources. Initial and ongoing training, adequate and dependable equipment, room to advance and promotions and rewards for good work are among the components of this area. Positive responses for the top employers averaged 90%, vs. 82% for others.

Pay and benefits. Fair compensation and satisfaction with benefits such as paid vacation, health care, dental and retirement plans are among the components of this area. For the Best Places to Work in Insurance, positive responses averaged 88%, and 81% for other employers.

Overall engagement. This area includes employees' overall satisfaction with the employer, a sense of pride in working there, willingness to give extra effort, willingness to recommend the employer's products or services, and recommend working there to others. Positive responses here averaged 93% for the Best Places to Work in Insurance, and 87% for employers not on the list.

Celebrating Higginbotham's 75th anniversary, employees volunteered at nine non-profits serving the Fort Worth, Texas, area.

HOW TO GET INTO BPTW

To participate in the Best Places to Work program, an organization must:

- **Be a for-profit or non-profit business**
- **Be publicly or privately held**
- **Have a facility in the United States**
- **Employ at least 25 people in the United States**
- **Be in business for at least 1 year**

Eligible insurance organizations are: retail agents/brokers, wholesale brokers/managing general agents, reinsurance intermediaries, claims services companies, benefit brokers and consultants, property/casualty insurers, group life/health insurers, and reinsurers. Non-profit insurance associations or service organizations aligned with the commercial insurance industry also are eligible.

For more information and to participate in the 2024 program, please contact Susan Stilwill at 312-636-7222 or sstilwill@BusinessInsurance.com, or visit www.BestPlacesToWorkIns.com.

Captive Resources employees make blankets for Phil's Friends, a charity that provides support and hope to those affected by cancer.

TMNA Services employees participate in the Walk to End Alzheimer's.

VIEW THIS YEAR'S FULL LISTING AT
BusinessInsurance.com/BPTW2023

BUSINESS INSURANCE

WOMEN TO WATCH

#BI_WOMENTOWATCH

2023 WOMEN TO WATCH AWARDS & CONFERENCE

EMEA | 7 November
Sheraton Grand
London Park Lane

U.S. | December 4-5
Marriott Marquis Times
Square New York

REGISTER NOW | AWARDS & LEADERSHIP CONFERENCE

The *Business Insurance* **2023 Women to Watch Awards** celebrates leading women from every facet of the commercial insurance industry. Since its start as a recognition program in 2006, it has grown into an educational program, professional development and networking conference aimed at the advancement of women in commercial insurance, risk management and related fields.

A professional development and networking conference was added to the *Business Insurance* Women to Watch recognition program in 2011 to address the advantages of achieving greater gender diversity in leadership roles. An Advisory Board of past honorees, diversity experts, and insurance industry leaders guide the development of the conference content.

WINNER RECOGNITION

- **CONGRATULATIONS TO THIS YEAR'S WINNERS!**
  Read the announcement at **BusinessInsurance.com/W2Wwinners**.
- Winners will be recognized in ceremonies at the **Women to Watch Awards & Leadership Conference** events and their profiles will be published in the **December 2023 issue** and on **BusinessInsurance.com**.

LEARN MORE ABOUT THE EMEA CONFERENCE:
BusinessInsurance.com/W2WEMEA

LEARN MORE ABOUT THE U.S. CONFERENCE:
BusinessInsurance.com/W2W

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events@businessinsurance.com

Tom Hanks selling dental insurance?

All Tom Hanks has to say about that: That's not me.

The actor went on Instagram to denounce an advertisement somewhere on social media that features an AI reproduction "deepfake" of him selling dental insurance. (Note: We have not seen the advertisement.)

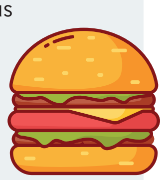
"BEWARE!!," he says. "There's a video out there promoting some dental plan with an AI version of me. I have nothing to do with it."

On a recent podcast, Mr. Hanks raised the prospect of his career continuing after his death through the use of AI. The technology could ensure he continues to appear in movies "from now until kingdom come," he told The Adam Buxton show, admitting that deepfakes pose artistic and legal challenges.

Ruling finds no beef over burger ads

A federal judge took a bite out of claims that two fast-food giants deceive hungry diners by exaggerating the size of their burgers.

Amid what is fast becoming a common trend among litigious consumers — lawsuits that pit food advertisements versus reality — McDonald's and Wendy's defeated one suit. Taco Bell and others, though, are still running the gauntlet.



A district judge in New York found "no proof that the fast-food chains delivered smaller burgers than advertised, or that the plaintiff Justin Chimienti had even seen ads for the McDonald's Big Mac and Wendy's Bourbon Bacon Cheeseburger he bought," Reuters reported.

Mr. Chimienti claimed that the ads depicted undercooked beef patties because meat shrinks 25% when cooked, even quoting a food stylist who preferred undercooked patties because fully cooked burgers looked less appetizing.

SOFA BED MISHAP UNFOLDS INTO VICTORIOUS TALE

Nationwide's on the side of a New York City cat that got smooshed under a sofa bed.

Giles the cat was named winner of the 15th annual Hambone Award, which recognizes the most unusual pet insurance claim of the year, Nationwide Mutual Insurance Co. announced.

The award aims to bring awareness to "the unique and surprising things that can happen to pets" and how pet insurance can help.

As relayed by his owners, Giles got stuck in the sofa bed when a visitor to the couple's apartment didn't realize that the cat was under it when she folded it back into a sofa, a mechanism that "bopped him in the face pretty good."

"Fortunately, it wasn't too bad. He did need some stitches … but he was the model patient," the owners said in a statement issued by the pet insurer.

Runners-up included Jax, a pug in Las Vegas who got heat stroke while cozied up in a comforter following surgery, and Sunny, a determined Labrador retriever from Anaheim, California, who shimmied his crate five feet across the room to ingest three phone charger cords.

Most job seekers not being honest

Companies out hiring may want to take this lying down.

ResumeLab, a company that provides resume advice, surveyed over 1,900 U.S.-based workers in August 2023 about the rate at which job seekers lie on their resumes, in their cover letters and during job interviews. And the news wasn't good.

Overall, 70% of workers said they have lied on their resume, with 37% of those admitting that they lie frequently. Embellishing responsibilities in general (52%), their job title (52%), the number of people they managed (45%) and the length of employment (37%) were the top lies told on resumes.

In all three parts of the job application process, those with master's or doctoral degrees reported the highest incidence of lying, followed by those without college degrees.

Diet drugs risk profits for junk food brands

What's successfully reducing the waistlines of consumers is beginning to affect the bottom lines for companies that sell and market junk food.

As reported in Bloomberg, regarding the surge in consumers using such appetite-suppressing drugs as Ozempic and Wegovy to lose weight, an "increasing number of CEOs and investors are talking about how popular weight-loss drugs might change the economy and business."

The CEO of the maker of Pop-Tarts, Pringles and Cheez-Its said the company is studying the drugs' potential impact on dietary behaviors, as is Wal-Mart, which noticed a shift in purchasing patterns among its customer base, according to the article.

"We definitely do see a slight change compared to the total population; we do see a slight pullback in overall basket," John Furner, Walmart's CEO of U.S. operations, told Bloomberg. "Just less units, slightly less calories."