

Trends in Workers' Compensation

15 Nuggets in 60 Minutes

#1: Gig economy

- People are now doing whatever they want to whenever they want to.
- Will college football players be employees soon? Is scholarship enough or do they need NIL money?
- Unintended consequences happen at inopportune times.
- Is it really a rule if there are lots of exceptions (independent contractor carve-outs)?
- Misclassification by employers is biggest form of fraud.

#2: Impact of Ozempic

- Case law that weight loss is “reasonable and necessary.”
- Are GLP-1 drugs an alternative to bariatric surgery?
- Lost weight often returns after disuse.
- Healthy behavioral changes must accompany the shot.
- Price of claim could dramatically increase.

#3: Cannabis

- DOJ's recommendation to reschedule to Schedule III.
- Psilocybin and micro-dosing LSD for PTSD.
- Cannabis legalization is now bipartisan.
- More clinical studies can benefit the process.
- Self-directed treatment and dosing is “cart before the horse.”

#4: Nuclear verdicts

- Indirect impact on Texas workers' compensation.
- Subrogation.
- Retrials cause increased costs.
- Non-subscribers have had some nuclear verdicts.
- Risk managers are more apt to resolve quickly out of fear.

#5: Tribalism

- Compromise = lose (?)
- Tribe = echo chamber.
- Empathy <> tribalism.
- Tribalism <> big picture.
- Mitigate tribalism so it doesn't impact fairness.

#6: Designated doctors

- Same degree, same guidelines, different decisions.
- Neutral arbiter that creates quality report.
- Used to be less than 1,000 DDs, now it's greater than 100 MDs.
- Too much hassle, paperwork, testing, fee not adjusted for decade or more.
- Regulatory reforms in progress.

#7: Labor shortage

- Recent hires higher incidence of injuries, older generation.
- Participation rate historically low, multiple jobs, no longer looking.
- COVID ripped the band-aid off.
- Physical comorbidities, lack of training, and understaffed.
- True understanding requires reading beyond the headlines.

#8: Climate change

- Every insurance carrier recognizes climate change because of increased costs.
- Texas – hail, hurricanes, tornados, wildfires, and earthquakes.
- First responders run into harm's way caused by calamities.
- Heat strokes and heat exhaustion.
- First property, now into workers' comp, ripple effect to employees.

#9: Presumptions

- Texas kept presumption limited to first responders.
- Additional bills next session to increase conditions.
- Unfunded liability from state legislature to local governments.
- No one knows how to treat, predict cost, or calculate income benefits for cancer.
- Excess insurance prices increasing due to unknowns that extend to increased local taxes.

#10: Claim advocacy

- Embracing a mindset that you can understand the other “side.”
- Ignore social determinants of health and psycho-social issues at your own peril.
- Positive financial return on investment through understanding the whole person.
- Look up “Advancing Advocacy” on LinkedIn.

#11: Professional development

- Mindset of investment.
- What if we invest in people and they leave...What if we don't and they stay.
- Find creative ways for networking and watercooler discussions.
- “Bean counters” potentially looking short-term.
- “Pay me now or pay me later.”

#12: Recruitment

- Hope (that someone finds workers' comp by accident) is not a strategy.
- Creative recruitment...e.g. social workers as adjusters, at OIEC.
- Ensure level of education required on job descriptions is still appropriate.
- Claims adjuster serves the injured worker = soft skills.
- Beggars cannot be choosy.

#13: Artificial intelligence

- Underwriting gets the money, not necessarily on claims.
- Predictive analytics/modeling has been around for awhile.
- Reduced cost, increased efficiency emphasis on humanity is still “on the way.”
- To be a career destination, technology needs to be part of the story.
- Texas’ use of ODG Guidelines, RTW, fee guidelines are a model... and helpful datasets for tech.

#14: Black swan events

- An unexpected event that people should have seen coming with typically a negative effect.
- Baltimore bridge collapse, COVID, the “not Spanish” flu, F5 tornado in downtown Dallas, Change healthcare cyberattack, workers’ comp payer held for ransom.
- What could go wrong... intended and unintended consequences.

Future predictions

Mark

- Cost unpredictability makes everything harder.

Stuart

- Increasing focus on doing the right thing.