

# Regulation-less nation

*New issues and ongoing legislative changes are creating uncharted territory to navigate*

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Workers' compensation is a highly regulated environment, but claims administrators and risk managers have recently been faced with new challenges – and some do not have clear-cut rules. Ongoing legislative changes surrounding the use of medical marijuana, same-sex marriage and public health issues such as Ebola and the recent measles outbreak, to name just a few, have raised questions for employers. Some of these topics may not seem to have an extensive impact on the workers' compensation system, but when they arise, examiners must incorporate best practices, make judgment calls and consult with legal counsel to ensure each claim is handled properly.

For example, the evolving state laws related to medical marijuana could increase the possibility of injured employees adding it to their treatment and then attempting to include it in the workers' compensation benefits paid by their employer. Only three states, Colorado, Maine and New Mexico, currently have licensed proprietors that legally dispense medical marijuana to patients; and no physician in the United States can prescribe it without violating federal law.



In 2014, the New Mexico Court of Appeals upheld a workers' compensation judge's order requiring an employer to reimburse an injured employee for medical marijuana even though doing so would go against federal law (*Vialpando v. Ben's Automotive Services*). Due to the variables and conflicting regulations in this area, these types of claims must be addressed on a case-by-case basis and require legal assistance.

Relative to same-sex marriage, the debate has been going on for many years. Court and state

actions have resulted in same-sex marriage being legal in close to 40 states. The U.S. Supreme Court will hear oral arguments in late April and is expected to resolve the issue. However, while it is being worked out in the courts and the debate rages on, the claims industry has to decide without regulations in most cases what death benefits may be due if a claimant was involved in a same-sex marriage.

When unregulated issues outside of workers' compensation impact claims, or when differences exist between state and federal laws, it causes challenges for employers. How will your organization navigate the ongoing changes? With uncertain terrain ahead, employ-

ers and their risk managers will need to establish policies to address these issues, and continue to stay up-to-date on new laws that may factor into work-related injury and illness claims. Sedgwick has dedicated national experts for workers' compensation, managed care and other areas who have jurisdictional knowledge and keep track of legislative changes, and ensure compliance with legal and regulatory requirements. They also keep our clients and colleagues connected to emerging trends and changes in the industry. Having thought leaders involved who understand the issues is the key to ensuring the best possible outcomes going forward.

