

EDB 008

A SEDGWICK PUBLICATION

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Sedgwick is proud to provide the eighth issue of the ***edge***, our publication dedicated to shining a light on our industry's leading-edge topics that shape our collective future.

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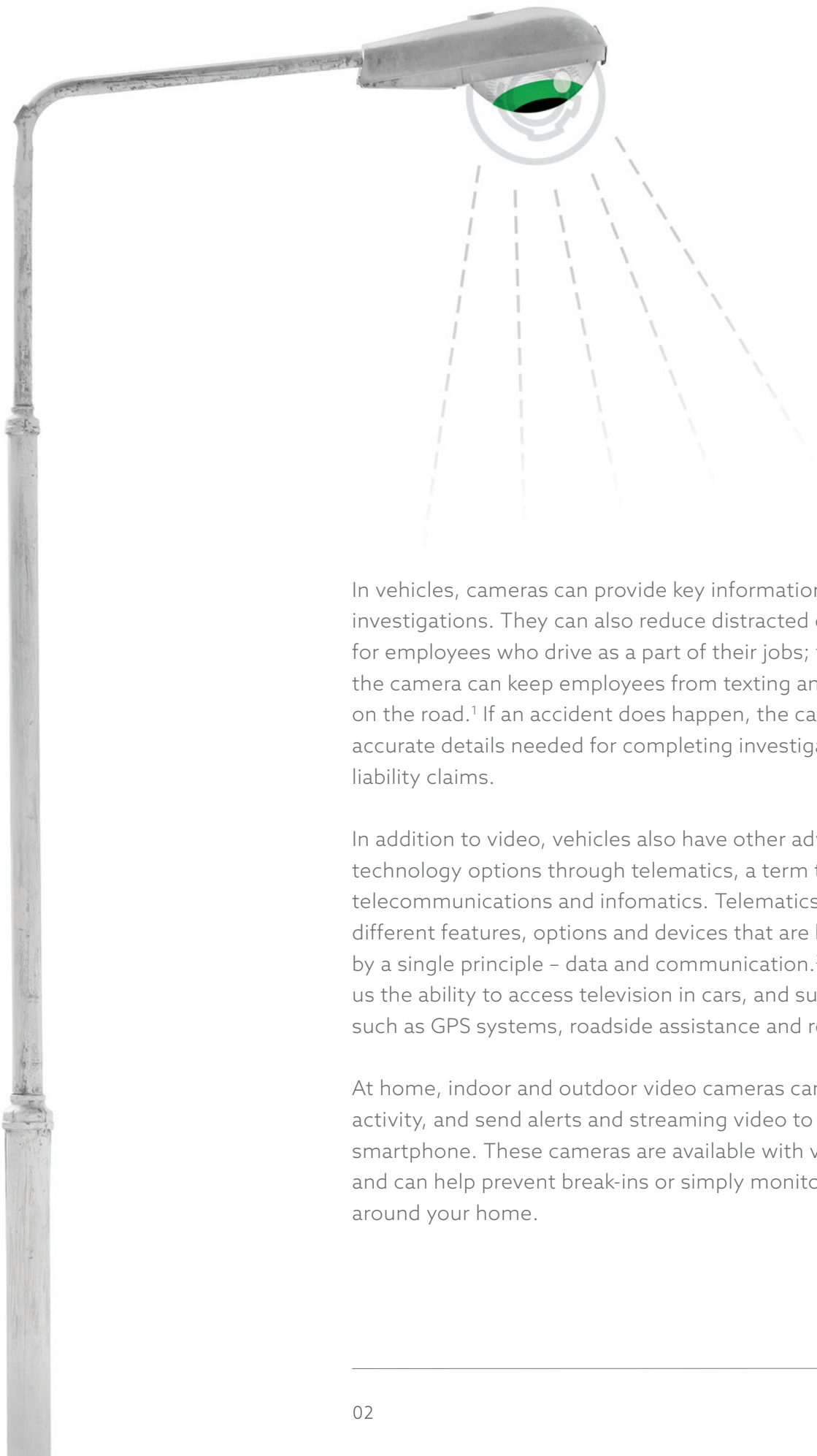


Growth of video technology puts helpful “eyes” everywhere

BY **JIM RYAN**

EVP, Casualty Operations, Sedgwick

In the recent past, say ten years ago, we didn't have cameras on our phones to quickly take pictures and videos to share with friends...and the world. Now, with cameras in cars and various places in the community, there are “eyes” almost everywhere – and some of the most beneficial are those designed for safety and crime prevention.



In vehicles, cameras can provide key information for accident investigations. They can also reduce distracted driving accidents for employees who drive as a part of their jobs; the presence of the camera can keep employees from texting and improve safety on the road.¹ If an accident does happen, the cameras can provide accurate details needed for completing investigations and settling liability claims.

In addition to video, vehicles also have other advanced technology options through telematics, a term that merges telecommunications and infomatics. Telematics offers a range of different features, options and devices that are brought together by a single principle – data and communication.² Telematics gives us the ability to access television in cars, and supports features such as GPS systems, roadside assistance and remote unlocking.

At home, indoor and outdoor video cameras can record activity, and send alerts and streaming video to an app on your smartphone. These cameras are available with various features and can help prevent break-ins or simply monitor the activities around your home.

In the community, growing numbers of video cameras are being added in many areas to help law enforcement prevent and solve street crime. This builds upon the capabilities that some businesses already have with cameras in parking lots and other locations. Cities like [Fremont, California](#) are installing video surveillance cameras to help prevent crime and capture images of suspects, and their vehicles and license plates.

In the claims industry, unmanned video surveillance can help identify questionable workers' compensation claims. This type of surveillance combines cutting-edge technology with a discreet platform that reduces the chances of detection and improves documentation capabilities. Depending on the environment, video cameras can be placed in empty parked vehicles, traffic cones, utility boxes or other inconspicuous objects, and record continuously for up to seven days. Cameras can be controlled and monitored remotely, enabling the operator to see and document the claimant's activities. This technique can also be used to monitor traffic patterns around the clock in locations such as medical clinics, recreational facilities or other business locations, and to document activities around an individual's residence that might otherwise go unnoticed.

Video technology and capabilities continue to expand, offering advantages for claims professionals, law enforcement teams and consumers. This growing area provides key benefits for the workers' compensation and liability claims industries by giving risk managers and claims examiners a powerful, cost-effective tool to help resolve claims.

REFERENCES

¹ Huff, A. The next generation of driver training, Part 1: caught on camera. Commercial Carrier Journal Fleet Management Magazine. October 29, 2013.

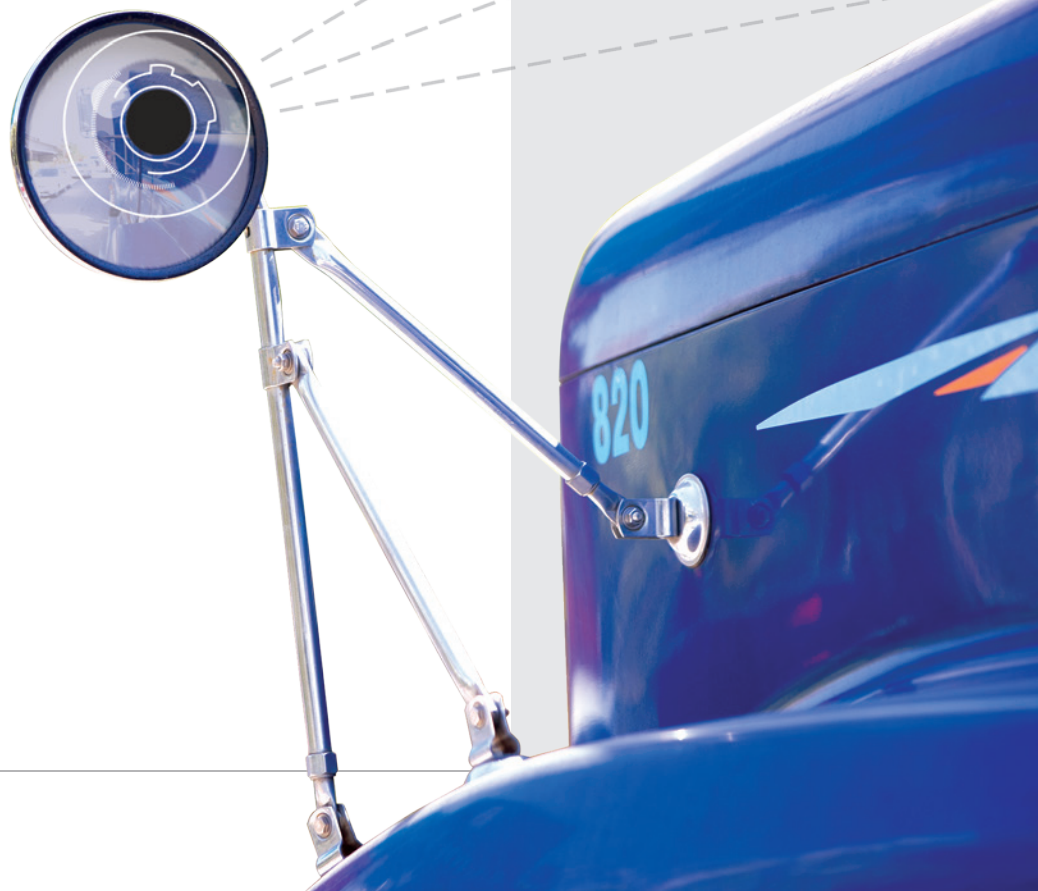
<http://www.ccjdigital.com/the-next-generation-of-driver-training-part-1-caught-on-camera/>

² www.telematics.com

RESOURCE

The IoT and forensic vehicle investigations. Sedgwick Connection blog. Michael Hoffman, MSFS, IAAI-CFI, District Manager, Unified Investigations & Sciences, Inc. August 2017.

<http://blog.sedgwick.com/2017/08/11/iot-forensic-vehicle-investigations/>





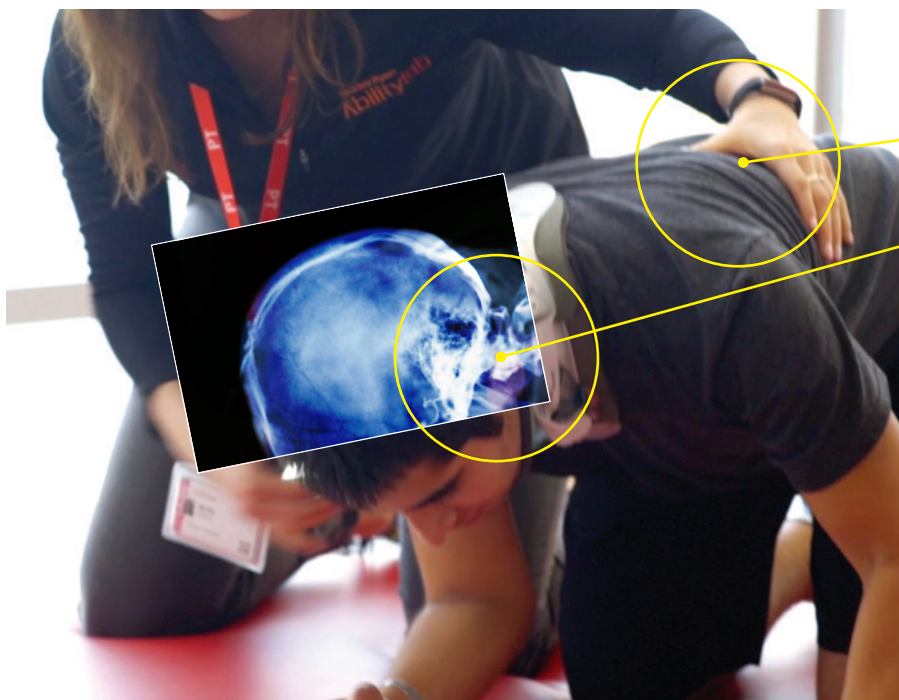
The leadership team at the Shirley Ryan AbilityLab developed a new patient care model.

Driving better outcomes by closely tying patient needs to research

BY **KIMBERLY GEORGE**

Sr. Healthcare Advisor, Sedgwick

Advances in technology continue to enhance our lives in countless ways, including our ability to recover from life-changing injuries. Centers of excellence like the Shirley Ryan AbilityLab are perfect examples of the impact technology can have on our health.



*"We had this engine of **clinical care**...and we had this engine of **research**; it became apparent that the hypothesis was – if we put these together and actually embedded the science with the clinical care, could we figure out solutions to patients' problems better and faster?"*

Earlier this year, the Rehab Institute of Chicago was transformed into the Shirley Ryan AbilityLab. In addition to moving to a new, larger facility, the leadership team developed a new patient care model. The Sedgwick team works with centers of excellence like the AbilityLab to bring state of the art solutions to our customers. In May, we had the opportunity to hear more about the new patient care model during an Out Front Ideas panel discussion at the AbilityLab.

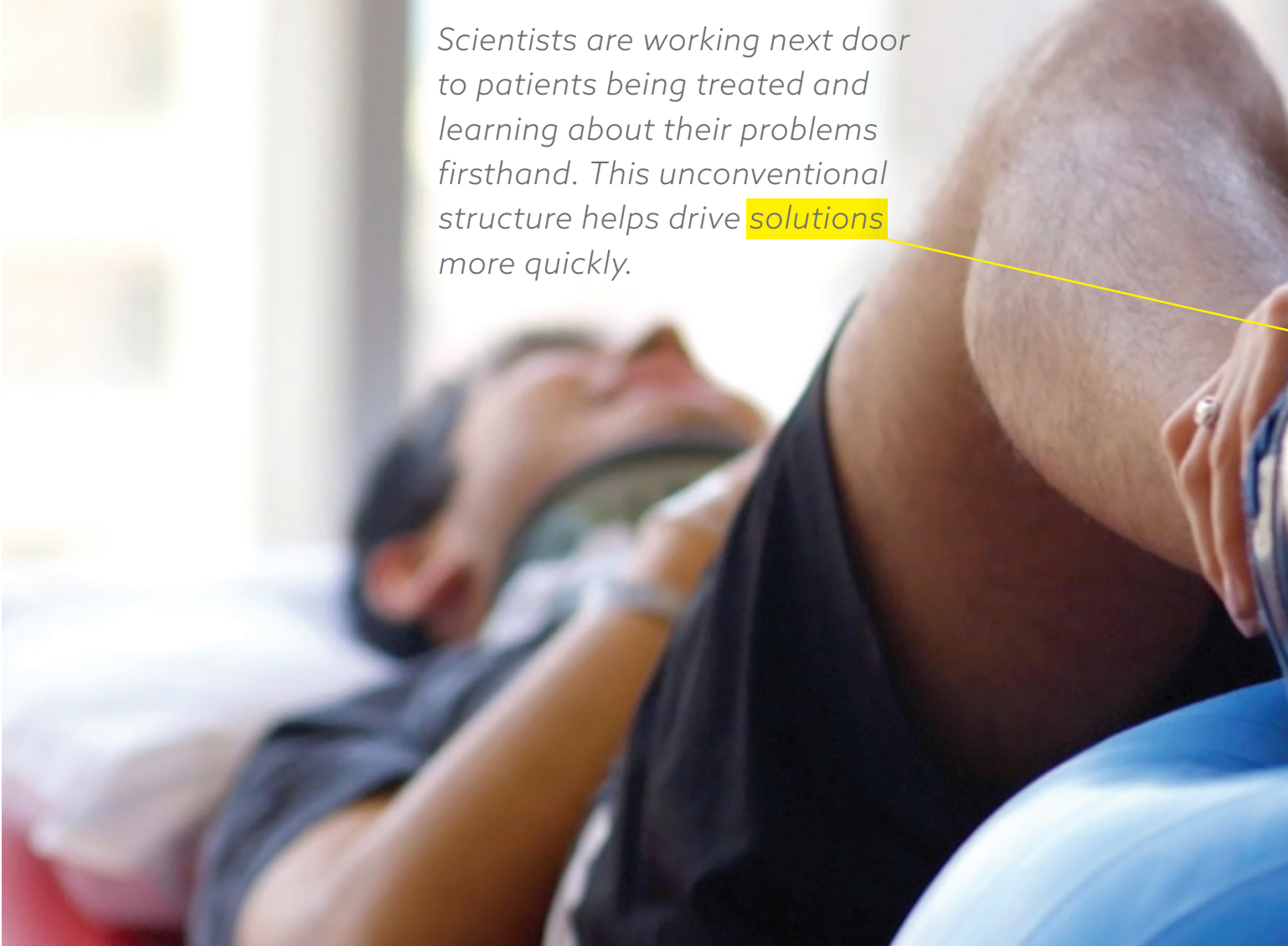
Dr. Joanne Smith, President and CEO at the AbilityLab, explained that the vision for this new version of the organization

actually came through patients. To continue to enhance the center's services, improve outcomes, and provide room to grow, the staff needed a new building and a new model of care. "We had this engine of clinical care...and we had this engine of research; it became apparent that the hypothesis was – if we put these together and actually embedded the science with the clinical care, could we figure out solutions to patients' problems better and faster?"

At the new facility, scientists are working next door to patients being treated and learning about their problems firsthand. This unconventional structure helps

drive solutions more quickly. The AbilityLab is designed around five key labs to meet the functional needs of the patients. The labs include think and speak, arms and hands, legs and walking, strength and endurance, and pediatrics.

The team at the AbilityLab has developed a data warehouse and an analysis tool to measure changes that reflect low and high levels of progress or no progress. If a patient reaches a certain level, the improvement speeds up, but there are variables that contribute to outcomes. The medical staff knows where the patient is expected to be at certain



Scientists are working next door to patients being treated and learning about their problems firsthand. This unconventional structure helps drive solutions more quickly.

points and they can predict the individual's improvement and function based on the length of the treatment. The AbilityLab has experts in many areas such as the brain, spinal cord, muscles, nerves, bones and cell biology. The team tailors the treatment and care to the individual, putting functionality at the forefront to help patients maximize their abilities.

The AbilityLab also follows patients after they leave and a key part of this is a unique pain management program focused on the whole patient. They put an interdisciplinary team around the patient including researchers, physicians, physical and occupational therapists, and clinicians to assist with pain psychology, vocational rehabilitation and biofeedback.

Some people with chronic pain have had singular interventions that have not been helpful. The AbilityLab's pain management program focuses on cognitive and behavioral treatments and early intervention. Some of their research includes functional MRIs to see what may be changing in the brain to help the patient manage their pain. The AbilityLab's medical team also



gives patients the tools to learn how to manage pain without medication or with reduced medication, and helps improve function and sleep so they can get back to their lives and get back to work.

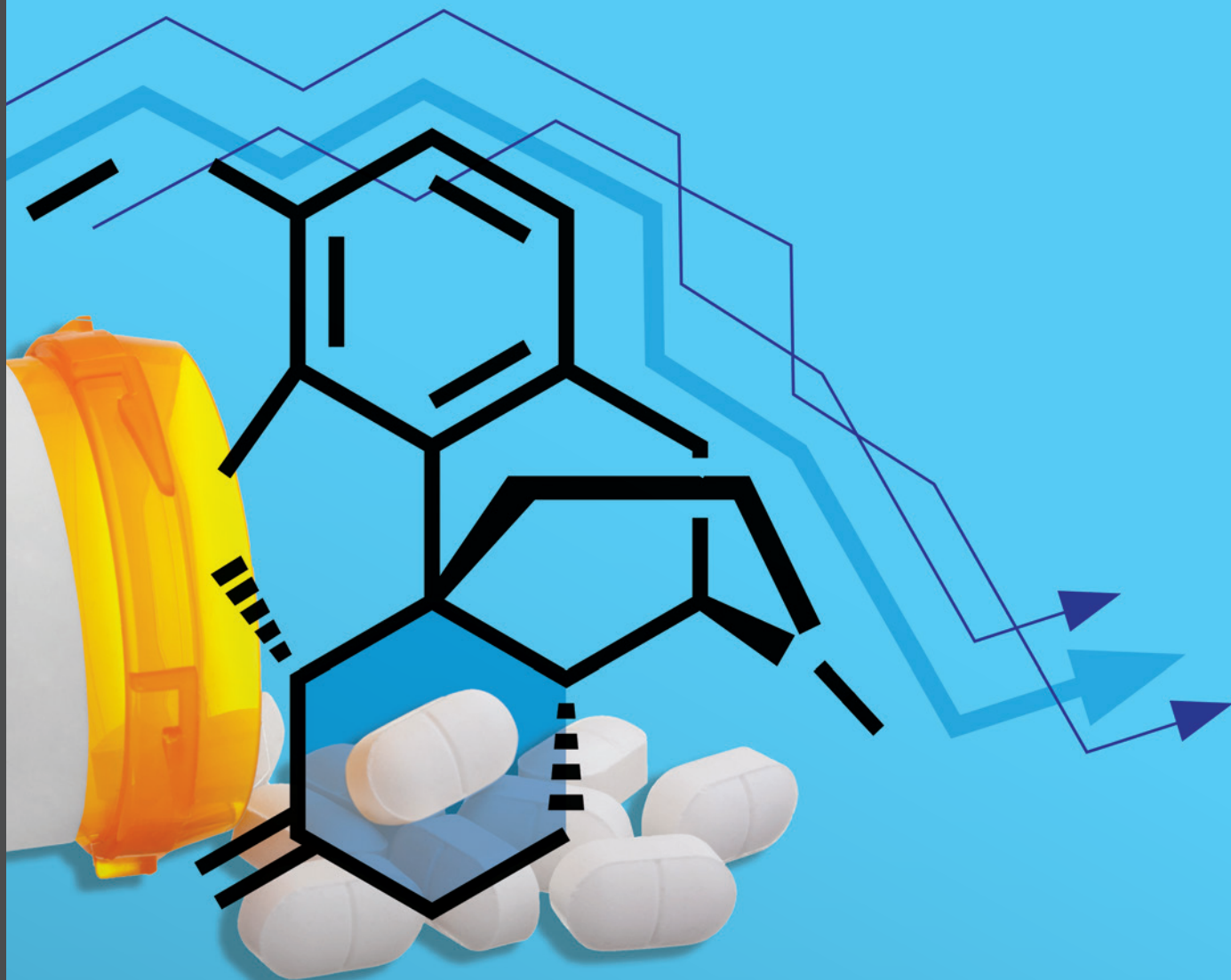
The Shirley Ryan AbilityLab was named after the wife of Pat Ryan, founder of AON.

Sedgwick is committed to providing thought leadership through articles, conferences and educational presentations like the Out Front Ideas series. The two-part articles below appeared in previous issues of Sedgwick's *edge* magazine and focus on how our clinical team works with medical centers of excellence to help injured employees get the right care so they can recover and return to work:

- Right data, right decisions, right results. Edward E. Canavan, AIC, ARM, VP, Workers' Compensation Practice and Compliance / The path to a successful recovery goes beyond treating the injury. Dana Daly, AVP, Managed Care Client Services. *edge* 7. http://edge.sedgwick.com/issue_007/right-data-right-decisions-right-results/
 - Complex claims: Mobility breakthroughs and impact on productivity. Edward E. Canavan, AIC, ARM, VP, Workers' Compensation Practice and Compliance / Mobility devices can help patients get their lives back. Andrea Buhl, MSN, RN, FNP-BC, SVP, Clinically Integrated Medical Programs. *edge* 4. http://edge.sedgwick.com/issue_004/complex-claims-mobility-breakthroughs-and-impact-on-productivity/
-
- Out Front Ideas Live from the Shirley Ryan AbilityLab.



<https://www.safetynational.com/out-front-ideas-live-from-shirley-ryan-ability-lab/>



Emerging technology – Advanced analytics put risk managers one step ahead

BY **JASON LANDRUM**

Chief Information Officer, Sedgwick

Those responsible for mitigating workers' compensation losses for employers know the difficulties of translating claims data into actionable information. With claims systems capturing so many points of data in connection with each on-the-job injury and the subsequent delivery of care, the resulting flood of information can be overwhelming.

This data challenge is why Sedgwick brought together an interdisciplinary team – including subject matter experts from our workers’ compensation practice, managed care and technology groups – to tackle this critical business challenge. The result of the collective efforts is the integration of best-in-class analytical capabilities into our proprietary viaOne® suite of injury and productivity management tools.

The new reporting dashboard provides access to intuitive functions that guide data analysis and display information at multiple levels, from summary trending to fine data elements. Advanced analytics allow our clients to harness the power of big data and easily identify and visualize program performance trends and outcomes. Our unique reporting tools are designed to help risk managers proactively align their loss control strategies with the performance of their individual programs.

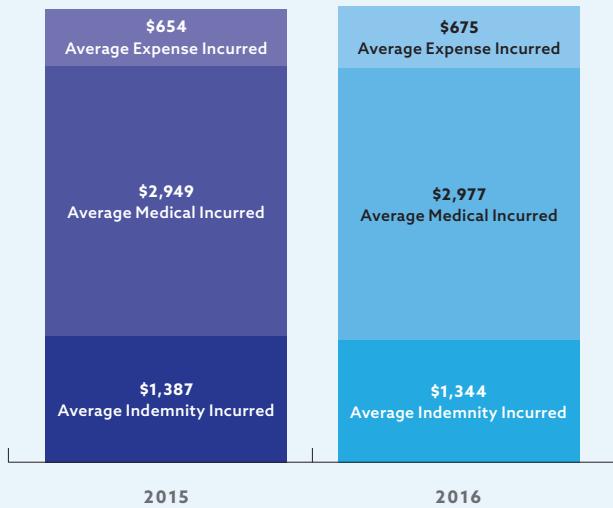
The ability to quickly and effectively identify key cost drivers fosters continual root cause analysis. A variety of key performance indicators (KPIs) isolate specific data

trends to facilitate efficient and reliable program management. Examples of KPIs include factors such as place of loss (state, business unit, location); injured worker profile (age, tenure, co-morbidities) and accident characteristics (cause, nature, body part).

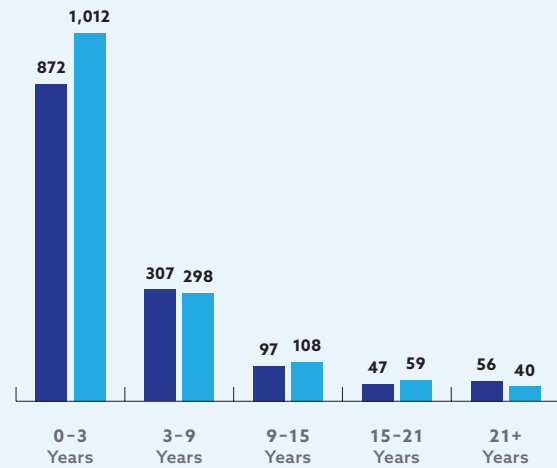
What truly sets Sedgwick’s advanced analytics solution apart is the full integration of managed care data into the claims reporting system. Even though industry professionals often talk about tactics like utilization review, complex pharmacy management and provider benchmarking as ancillary to the workers’ compensation process, they are primary drivers of cost savings for employers. Our philosophy that managed care solutions are the keys to a solid risk management strategy drove our commitment to building advanced analytics that, unlike traditional systems, have the capacity to bring all of the data elements together in one place. The ability for Sedgwick’s customers to combine their claims data with managed care metrics empowers them to be more proactive about their program decisions and puts them one step ahead of outcome trends.

ADVANCED ANALYTICS REPORTING DASHBOARD - SAMPLE CHARTS

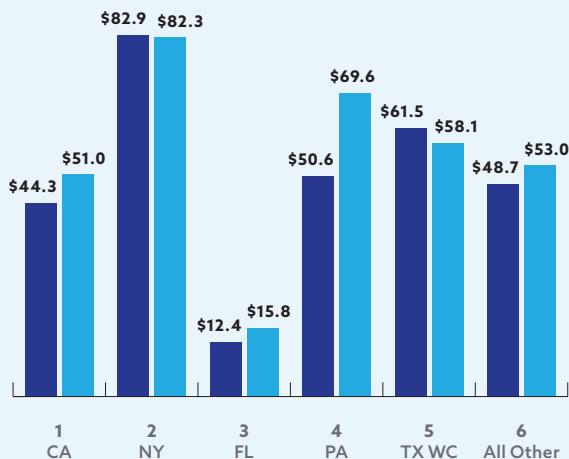
Charts include generic employer data



NEW CLAIM AVERAGE INCURRED BY BUCKET

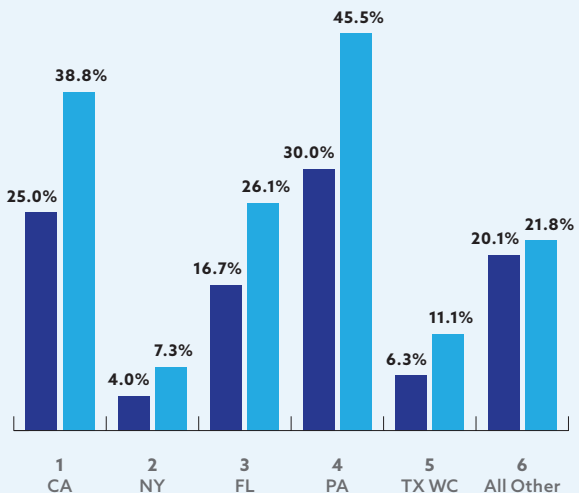


NEW CLAIM COUNT BY SERVICE YEAR



PENDING CLAIM AVERAGE INCURRED BY TOP FREQUENT STATE

Average dollars listed in \$1,000s



PENDING INDEMNITY CLAIM LITIGATION BY TOP FREQUENT STATE

2015 2016

One area in which our new reporting tools can be especially helpful is curbing injured employees' use of opioids to manage pain. The epidemic of opioid abuse has received a lot of attention in recent months and employers are struggling with the financial and human toll of increasing drug addictions following painful workplace injuries. With Sedgwick's advanced analytics solutions, our customers can view their employees' opioid use at the claim level. Trends can be evaluated in areas such as job description,

work location and prescribing provider. This kind of actionable information allows us to work hand-in-hand with employers on the interventions needed to reduce disability durations and safely get employees back to healthy and productive living.

Sedgwick's advanced analytics platform does more than a lot of number crunching; it puts the power of claims data into the hands of risk managers and other professionals uniquely positioned to have a positive impact on the lives of injured and ill employees.

The ability for Sedgwick's customers to combine their claims data with managed care metrics empowers them to be more proactive about their program decisions and puts them one step ahead of outcome trends.

RESOURCE

Opioid crisis. National Institute on Drug Abuse. June 2017.
<https://www.drugabuse.gov/drugs-abuse/opioids/opioid-crisis#one>



Leave benefits expand to adapt to an aging workforce

CONTRIBUTORS

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With baby boomers making up a growing portion of the workforce, employers are seeing an increased need to provide time off for employees to care for older family members. Leave benefits continue to expand as businesses move toward more family-friendly workplaces to help retain valuable employees and maintain job satisfaction.

The Family and Medical Leave Act (FMLA) generally includes 12 weeks of unpaid time off for eligible employees after the birth of a child, the placement of a child for adoption or foster care, and to care for a parent, child or spouse with a serious health condition or for the employee's own serious health condition. Beyond FMLA benefits, some states have expanded their family leave laws to include grandparents, aunts and uncles.

As we mentioned in our last issue of the *edge*, there are no federal mandates related to paid parental, bonding and family leave for employers. Most employers have the ability to design a program to meet the needs of their employees, while aligning with business requirements and helping them stay competitive with the benefits offered by other organizations. A growing number of laws have been added or expanded at the state and local level. For example, New Jersey, Rhode Island, California and most


recently New York (effective January 1, 2018) have passed paid family leave laws. In addition, some states and municipalities are requiring paid sick leave that provides paid time off for short durations to care for family members. There are currently 40+ states or municipalities that require employers to provide some type of paid sick leave to care for family members.

Similar to the increasing number of employers offering paid parental leave, we are seeing more states and employers offering time off for employees to care for older relatives. Washington D.C., Hawaii and Oregon laws include time off to care for grandparents. Some states also include the employee's mother-in-law, father-in-law, aunts and uncles.



SOME STATES AND EMPLOYERS NOW OFFER TIME OFF FOR EMPLOYEES TO CARE FOR THEIR GRANDPARENTS, MOTHER-IN-LAW, FATHER-IN-LAW, AUNTS AND UNCLAS.

AUNT DEBBIE, GRANDMA AND JOEY, 1970



Offering expanded leave of absence benefits for family caregivers can have a positive impact on employees' emotional and physical wellbeing.



According to Sedgwick's claims database, 64% of caregivers over 55 years old taking leave to care for a family member are female and 36% are male. It is not unexpected that more females are taking leave to care for a family member, but in the over-45 age group, there is an even greater difference in the number of male and female employees taking leave to care for a family member. For comparison, the percentage of employees who take bonding leave after the birth of child or placement of a child for adoption or foster care is more evenly split between males and females in most age groups.

Offering expanded leave of absence benefits for family caregivers can have a positive impact on employees' emotional and physical wellbeing. In addition, the flexibility it offers directly correlates with a company's financial health and productivity. We help clients care for their employees who need to take a leave of absence by assisting with the process and making it easier for everyone.



When U.S. clients need an independent adjuster, call on Vericlaim Canada

BY **MICHAEL HOLDEN**

*President, Sedgwick CMS Canada Inc. /
Vericlaim Canada*

All businesses benefit from having a claims services team that provides expertise and consistent service they can rely on. For clients with operations in Canada, having an independent adjuster (IA) who also understands the specific nuances of the Canadian insurance market is vital. The expert team at Vericlaim Canada, a Sedgwick company, provides this level of high quality service by putting customers first and by offering options to meet their needs.



Vericlam Canada specializes in automobile, property and liability claims solutions for various industries. The team's auto liability claims expertise includes all types of rental, lease, fleet, taxi and personal vehicle claims. The talented professionals who focus on property claims assist with the largest and most complex claims as well as smaller, more routine commercial and residential losses. The liability team has experience in many areas such as general, environmental, professional, products, commercial, course of construction/wrap-up, and bodily injury/property damage.

Vericlam Canada also provides specialty claims services for builder's risk, rail/marine/trucking, equine, aviation, catastrophe, cyber risk, life sciences and higher education; as well as call centre and content solutions.

The Vericlam Canada call centre offers expert intake services to ensure seamless claim reporting along with proper data capture. When someone contacts the call centre for help after experiencing a loss or an accident, a Vericlam colleague will assess their situation, and then make arrangements for an adjuster to contact them, attend the scene or coordinate emergency service assistance where necessary. Vericlam Canada's call centre colleagues understand that this can be a stressful time, and they're knowledgeable, licensed and prepared to provide sound guidance to manage the customer's needs and expectations.



The team's auto liability claims expertise includes all types of rental, lease, fleet, taxi and personal vehicle claims.



The company's adjusters work very closely with the Sedgwick team to coordinate the claims process. Key objectives of the investigative approach are to establish the merits of a case as early as possible and to identify the most reasonable, cost-effective way to manage each claim. In Canada, securing our clients' independent adjusting needs enables further consideration for TPA claims services, which is vital to a comprehensive program. The adjusters also work with insurers, brokers and risk managers to provide exceptional customer service coupled with a high degree of technical and product knowledge.

Vericlam Canada has been expanding steadily since the company was launched in July 2016. There are currently seven offices throughout the country. Locations include Calgary and Edmonton, both in Alberta; Montreal, Quebec; Mississauga, Ontario; Langley and Richmond, both in British Columbia; and Winnipeg, Manitoba.

Vericlam Canada shares Sedgwick's dedication to taking care of people. They empower front line colleagues by giving them the necessary tools to deliver the best possible service to customers. The team at Vericlam Canada attributes their success to providing superior customer service and claims resolution, having the flexibility to adapt to customers' evolving needs and offering innovative solutions to respond to complex risk management issues.

Vericlam Canada has been expanding steadily since the company was launched in July 2016. There are currently seven offices throughout the country.

RESOURCES

Vericlam Canada
<http://vericlam.ca/>

Going global. Mike Arbour, Division President, Sedgwick International and CEO, Vericlam. *edge* 5.
http://edge.sedgwick.com/issue_005/going-global/





Expert view

*Q&A with Rob Fox, CPA, Managing Director,
Forensic Accounting and Business Income Services,
Vericclaim, a Sedgwick company*

The "Expert view" column presents a wide range of topics offering valuable insights and information for customers.

edge:

Who can benefit from forensic accounting services and when is it appropriate to use these services?

Rob:

When a claim is made by a company alleging that they suffered economic losses, they would benefit from forensic accounting services. There are several types of third party claims like these, with lost profits being the most common. As a result of

something one party did or is alleged to be responsible for, another party was negatively impacted. It is common for the company asking for damages (the claimant) to submit a claim for lost revenue or lost sales, but what they are actually owed are the lost profits.

AT FIRST GLANCE



A restaurant may claim that it lost sales because a car destroyed its sign...

Here are two examples where forensic accounting services can help determine the precise amount of lost profits:

- A coffee mug manufacturer claimed that as a result of building damage, they were not able to produce 1,000 coffee mugs that sell for \$1 each and makes a claim for \$1,000. A forensic accountant would review the claim and see if they lost the sale of the 1,000 mugs. If they lost the sale, the accountant would determine the expenses that were saved by not making the sale. If it costs \$.25 in raw materials and another \$.15 in labor to make each mug, the claimant saved \$.40 for each sale lost or \$400. To determine the lost profits, the forensic accountant will subtract those expenses from the lost sales to arrive at the correct amount the manufacturer is owed, in this case \$600 (\$1,000 of lost sales less \$400 of saved expenses).
- It is also important to make sure the claimed sales were lost and not merely delayed. If sales were delayed, but made up at a later date, the claimant may not have lost any profit. If the sales were all made up, the claimant

may claim lost profit due to increased costs. In that case, we would determine if the claimant's expenses to make those sales increased compared to what the expenses would have been had the event not occurred. If we determined the claimant incurred overtime expenses and the labor expense to make those 1,000 mugs was \$.25 each rather than the normal \$.15, the claimant incurred increased operating costs of \$.10 per mug or \$100.

It is important to understand the impacted business' operations and what its current business state is when calculating lost profits. A restaurant may claim that it lost sales because a car destroyed its sign. However, an investigation may show that a competing restaurant opened up shortly after the sign was destroyed and the reduction in sales was not caused by the loss of the sign. It is also important to understand industry trends, how the time of year affects the business and other specific factors. Some of these variables are as obscure as the local weather during a period; restaurants with outdoor seating will see sales decline when it rains and increase when it is sunny.

Vericclaim's forensic accounting team also assists with third party liability claims that involve inventory evaluations, the measurement of property damages, and delay claims where the customer alleges that certain events resulted in a construction delay or defect.

To ensure the claimant receives the appropriate amount and that clients aren't overpaying, it is important to take the time to review the documentation rather than settling immediately. One of the things I encourage clients to do if they have a lost profits claim made against them is to let us talk with the claimant, explain how the calculation works and the documentation we are going to request in support of their claim. At times, this conversation alone will deter claimants from making unsubstantiated or baseless claims. Too often, the client or adjuster will immediately start negotiating with the claimant and overpay the claim.

When we get involved, the standard return on investment is ten-fold for customers. Every \$1 spent on forensic accounting can help businesses save \$10.

THE BIG PICTURE



...However, an investigation may show that a competing restaurant opened up shortly after the sign was destroyed and the reduction in sales was not caused by the loss of the sign. It is also important to understand industry trends, how the time of year affects the business and other specific factors. Some of these variables are as obscure as the local weather during a period; restaurants with outdoor seating will see sales decline when it rains and increase when it is sunny.

edge:

What are you working on right now that will have an impact on customers in the near future?

Rob:

We are working on a system for low severity, high volume claims. These include relatively simple cases that could benefit from the expertise of a forensic accountant. This new system, called business income express, allows our team to quickly evaluate the claim and calculate the loss at a cost of less than \$1,500 in fees (these files are still billed on an hourly basis so the cost may be as low as \$150 with a maximum of \$1,500). The claim is triaged when it comes in and we look at the circumstances of the loss. If we do not think we can perform an accurate calculation for less than \$1,500, we will explore alternatives with the client.

Those alternatives typically include either reducing the scope of the procedures performed or investing more than \$1,500 to measure the claim.

edge:

What else is on the horizon for forensic accounting?

Rob:

The biggest change is the potential for cyber claims and the interruptions and losses that they create. While the fundamentals of cyber claims are the same as those for claims involving lost profits, the cause is very different. It is an area that is relatively new for forensic accounting. We didn't deal with these types of claims very often five years ago and they were essentially non-existent ten years ago.

edge:

How has technology impacted the process for your team?

Rob:

New technology allows us to receive and share information more easily. Screen share services like WebEx make it easier to explain complex calculations without being in the same room. This has significantly reduced the amount of travel necessary and we frequently handle claims all over the country without having to leave our offices. Technology has sped up the claims process as we are not waiting for documentation while it is in the mail or delaying meetings until all parties can be in the same location.

ROB FOX

Rob serves as Managing Director of Forensic Accounting and Business Income Services at Vericclaim. He has 12 years of experience in forensic accounting and his expertise includes large loss project management, complex property damage assessments, business income and extra expenses, catastrophe response services and builder's risk claims. Rob joined Vericclaim in 2015 and previously served in various leadership roles within the forensic accounting industry. He is a Certified Public Accountant and holds a bachelor's degree in business administration from Northeastern University.



Community spotlight Caring counts at 2017 RIMS conference

BY **BOB PETERSON**

Group President, Sedgwick

The **RIMS** Annual Conference and Exhibition not only affords Sedgwick the opportunity to connect with thousands of risk management professionals, but also provides an important platform for giving back to the community and empowering others to join us in demonstrating that "caring counts." At the 2017 RIMS conference, held April 23–26 in Philadelphia, Sedgwick participated in three noteworthy charitable projects.

The conference reception, hosted by the [Spencer Educational Foundation](#), served as the perfect venue for us to announce Sedgwick's \$100,000 pledge to endow a scholarship in memory of our late, beloved colleague [Steve Penman](#). The Spencer Foundation is the premier organization funding the education of tomorrow's risk management and insurance leaders through grants and scholarships. The merit-based Penman scholarship will, beginning in 2018, be awarded annually to one undergraduate college student of risk management, insurance, actuarial science or business who meets the foundation's eligibility guidelines.



Penman cared deeply about Sedgwick, our colleagues, our clients and the industry, so the establishment of an academic scholarship in his name at the Spencer Foundation is a very fitting tribute to his legacy.

As Sedgwick's President and CEO Dave North told those at the Spencer reception, Penman worked for Sedgwick from 1978 until his retirement in 2016 and played an integral role in our growth from a small workers' compensation third party administrator to a leading global provider of innovative business solutions. During his tenure, he served in a variety of leadership roles, including chief information officer, director of casualty operations, executive vice president of specialty operations and chief operating officer.

Penman cared deeply about Sedgwick, our colleagues, our clients and the industry, so the establishment of an academic scholarship in his name at the Spencer Foundation is a very fitting tribute to his legacy. There is a pressing need to attract young talent to the risk management and insurance profession, and programs like the Penman Memorial Scholarship enable the foundation to pave the way for the next generation of industry leaders.

MAIN IMAGE, OPPOSITE PAGE: Scholarship presentation, from left - **Dave North**, President and CEO, Sedgwick; **Ron Davis**, Chairman, Spencer Educational Foundation and EVP, Head of Customer Management for Zurich Commercial Insurance; **Robin Joines**, SVP, Risk Management, Sedgwick; and **Andrew Miller**, Director of Development, Spencer Educational Foundation

ABOVE: Steve Penman



Sedgwick also partnered with Spencer on the [5K FunRun](#) at RIMS by serving as the event's presenting sponsor. The FunRun launched three years ago as a wellness offering at the conference and Sedgwick has been instrumental in growing the race into a major RIMS attraction. The enthusiasm and support from the broader risk management community has been remarkable; this year's event drew nearly 250 participants and raised \$100,000 for the foundation's scholarships, internship grants and other experiential learning opportunities.

Sedgwick's charitable work with Spencer at this year's RIMS conference will have a positive impact on our industry for years to come, but we also wanted to leave a lasting mark on the local Philadelphia community. During our time in the City of Brotherly Love, we joined forces with the [Children's Literacy Initiative](#) (CLI), which provides dynamic professional development opportunities to early literacy teachers to help them cultivate children's love of reading. Sedgwick donated \$10,000 in support of the CLI's Literacy Education and Resource Network (LEARN), a free, online knowledge management system that provides early-grade educators and school district partners with training modules, lesson plans, checklists and video demonstrations. Since its inception last year, LEARN has reached more than 7,600 teachers.

Additionally, we collected donations from our colleagues and industry friends to purchase more than 100 books for classrooms in need. More about Sedgwick's partnership with the CLI is featured on [our blog](#).

As a responsible corporate citizen, Sedgwick is committed to giving back to the community. One of our philanthropic focus areas is enhancing the accessibility of quality educational opportunities. Our partnerships with Spencer and CLI at the 2017 RIMS conference provided the perfect avenues for fulfilling our responsibility to the community during a busy and exciting week in Philadelphia.



ABOVE: Jonathan Mast, *Director of Social Media, Sedgwick* (left); and Frank Grossman, *Deputy Executive Director and Chief Academic Officer, CLI*



RESOURCES

Risk and Insurance Management Society.
<http://www.rims.org/>

Spencer Educational Foundation.
<http://spencered.org/>

Sedgwick press release. Sedgwick endows Spencer Educational Foundation scholarship in memory of former COO Steve Penman. April 20, 2017.
http://www.sedgwick.com/news/Copy%20of%20press%20releases/Spencer_Sedgwick_PenmanScholarship.pdf

3rd annual Spencer 5K FunRun presented by Sedgwick. April 25, 2017.
<http://rims.sedgwick.com/5k-fun-run>

Reading = Opportunity. Sedgwick Connection blog. Jonathan Mast, Director of Social Media, Sedgwick. May 1, 2017.
<http://blog.sedgwick.com/2017/05/01/reading-opportunity/>

Edging up

Short takes on emerging industry issues – government compliance updates, state legislation and drug law changes

ERISA changes being introduced

BY **BRYON BASS**

SVP, Disability and Absence Management, Sedgwick

Several changes in the regulations governing claims and appeals under the Employee Retirement Income Security Act of 1974 (ERISA) became effective in January 2017 with the final phase effective January 2018. On December 19, 2016, the Employee Benefits Security Administration (EBSA) of the U.S. Department of Labor (DOL) published **final regulations**

governing the ERISA claims and appeals process, which required changes to ERISA plan documents, Summary Plan Descriptions (SPDs) and/or policies in two phases.

The first phase, effective for claims filed between January 18, 2017 and December 31, 2017, required a limited set of expanded disclosures to be included with adverse benefit decisions. To comply with this requirement, Sedgwick updated the notices for our clients' employees with claims to inform them of their right to receive a copy of internal guidelines, and to inform them of their right to receive an explanation of how the

underlying scientific or clinical judgment applies to their situation.

The second phase, effective for disability claims filed on or after January 1, 2018, includes areas for improvement related to the claims and appeals process. Below is a brief overview of each area.

- **Improvement to basic disclosure requirements** – Benefit denial notices must contain a more complete discussion of why the plan denied a claim and the standards used in making the decision. Sedgwick will update adverse benefit determination

training and ensure our disability specialists have the necessary information to assist customers and their employees. We also will include contractual obligations and the date to appeal the decision in adverse benefit determination letters. Employers should ensure their plans include contractual obligations and the timeframe to appeal decisions.

- **Right to claim file and internal protocols** – Benefit denial notices must include a statement that the employee is entitled to receive, upon request, a copy of the entire claim file and other relevant notices. Currently, this statement is only required in notices denying the benefit on appeal. Benefit denial notices also must include the internal rules, guidelines, protocols, standards or other similar criteria that were used in denying a claim, or a statement noting that none were used. Currently, benefit denial notices have

the option of including a statement that such rules and protocols were used in denying the claim. Upon request from the employee, we will provide a copy of the claim file and other relevant notices, inclusive of rules, guidelines, protocols or standards used in the decision making process. Our team also will ensure that all correspondence includes a notice to the employee that they are entitled to a copy of the claim file and outline the process for requesting it. We recommend that clients ensure their SPDs and/or policies include a statement noting that the employee is entitled to a copy of their claim file and to request it from Sedgwick.

- **Right to review and respond to new information before final decision** – This prohibits plans from denying benefits on appeal based on new or additional evidence or rationales that were not included when the benefit

was denied at the claims stage, unless the employee is given notice and a fair opportunity to respond. Sedgwick includes a new sub-process during appeal, referred to as the “comment period,” allowing the employee an opportunity to review and respond to any new information. Our best practice allows 21 days for response from the employee before we render a final decision. We recommend employers review their current plan, SPD and/or policy language regarding the appeals process and determine if the comment period should be included.

- **Avoiding conflicts of interest** – Plans must ensure that disability benefit claims and appeals are adjudicated in a manner designed to ensure the independence and impartiality of the persons involved in making the decision. Sedgwick is compliant with this requirement.

*First phase – Effective for claims filed between
January 18, 2017 and December 31, 2017*

*Second phase – Effective for claims filed on or
after **January 1, 2018***

■ **Deemed exhaustion of claims and appeal processes** – If

plans do not adhere to all claims processing rules, the employee is deemed to have exhausted the administrative remedies available under the plan, unless the violation was the result of a minor error and other specified conditions are met. The plan must treat a claim as re-filed on appeal upon the plan's receipt of a court's decision rejecting the employee's request for review. Sedgwick is revising training to outline "de minimus" errors and explain in plain language what the remedy for the error is in relation to the claim decision. We also will ensure adverse benefit determination letters include contractual obligations and the date to appeal decisions. We recommend clients ensure their plan includes contractual obligations and the timeframe to appeal decisions.

■ **Certain coverage rescissions are adverse benefit determinations subject to the claims procedure protections** – Rescissions

of coverage must be treated as adverse benefit determinations, thereby triggering the plan's appeal procedures. Non-payment of premium rescissions is not

covered by this provision. Rescissions of coverage are rarely an issue with self-insured plans. To the extent rescissions of coverage may apply in an adverse benefit determination, Sedgwick will follow the language of the plan and ensure appeal rights are explained. The Sedgwick team recommends employers ensure their plans include language regarding the right to appeal certain coverage rescissions.

■ **Notices written in a culturally and linguistically appropriate manner** –

This requirement adopts the Affordable Care Act's standard for group health benefit notices. If the employee's address is in a county where 10% or more of the population is literate only in the same non-English language, benefit denial notices must include a prominent statement in the relevant non-English language about the availability of language services. Upon request from the employee, plans are required to provide a verbal customer assistance process and written notices in the non-English language. Currently, Chinese, Navajo, Spanish and Tagalog are languages which meet this standard. There are 25

states, including Puerto Rico, that have counties where at least 10% of the population is only literate in the same non-English language. We will ensure a translation disclosure is added to all notices for the four languages required under the regulations, and utilize existing language translation vendor partners to translate verbal and written communication.

We are making the necessary changes to all notices, employee correspondence and training documentation as needed. Sedgwick's customers should contact their client services director for assistance with ERISA-related questions.

RESOURCES

Federal Register. EBSA final rule. Claims Procedure for Plans Providing Disability Benefits, December 19, 2016.
<https://www.federalregister.gov/documents/2016/12/19/2016-30070/claims-procedure-for-plans-providing-disability-benefits>

Sedgwick leave law updates.
<https://www.sedgwick.com/news/Pages/newsletters.aspx>

New California closed formulary law

BY **ROXANNE BROWN**

Director, Regulatory Compliance, Sedgwick

A new closed formulary law in California will be implemented on January 1, 2018. While the Department of Workers' Compensation posted a second 15-day comment period that ended on August 2, 2017, if passed as written, the closed formulary will impact all drugs dispensed on or after January 1, 2018 regardless of the date of injury. For injuries occurring prior to January 1, 2018, the Medical Treatment Utilization Schedule (MTUS) drug formulary should be phased in and the new regulations require the physician to provide a request for authorization to include a treatment plan setting out a safe weaning, tapering or transitioning of the worker to a drug that is listed on the MTUS, or provide supporting documentation to substantiate the necessity of the current drug regimen.

Medications and compounds impacted by the new closed formulary law include:

EXEMPT (examples – ibuprofen, diclofenac, acetaminophen)	NON-EXEMPT OR UNLISTED (examples – hydrocodone, lidocaine, Lyrica, gabapentin)	COMPOUNDS
Drug categories include, but are not limited to, anti-inflammatories and some antibiotics No prospective review or utilization review required before dispensing if in accordance with MTUS Physician-dispensed exempt drugs limited to one 7-day supply at initial visit within seven days of injury without prospective review	Drug categories include, but are not limited to, all opioids, muscle relaxants and most antidepressants Prospective review or utilization review required before being prescribed or dispensed	Prospective review or utilization review required before being dispensed

At Sedgwick, the safety of injured employees is the top priority and we have a team working to ensure that a smooth transition occurs as we educate customers, employees and prescribers about the new requirements of the regulations.

We are monitoring legislative changes related to the California closed formulary law and will continue to keep customers informed as new updates become available.

Gabapentin is now a controlled substance in Kentucky

BY **ROXANNE BROWN**

Director, Regulatory Compliance, Sedgwick

Kentucky has announced changes to all gabapentin products, making them a Schedule V controlled substance. The new schedule change became effective on July 1, 2017 and impacts prescribers and pharmacists. Only prescribers with a valid Drug Enforcement Administration (DEA) registration may issue a prescription for gabapentin. Not only are future prescriptions affected, but any current refills for gabapentin that were issued by a prescriber without a valid DEA registration will be deemed no longer valid. Prescriptions written by a practitioner with a valid DEA registration will be considered valid, but the prescription will expire after five refills or six months following the script date. All dispensed gabapentin prescriptions will be monitored and reported to the state of Kentucky's Prescription Drug Monitoring Program (KASPER).¹

Gabapentin has two FDA approved uses, which are partial seizures and post-herpetic neuralgia. Non-FDA approved uses include diabetic peripheral neuropathy, fibromyalgia and post-operative pain. Long-term use of gabapentin and pregabalin (generic name) analogues augment the euphoric effects of opioids, increasing the risk of physiological/physical dependence and abuse potential.

There is now a greater emphasis placed on monitoring gabapentin and pregabalin analogue usage. The concern of abuse potential grows with the increasing use of these medicines. The Express Scripts Drug Trend Report of 2016 further demonstrated the increasing use of Lyrica, as Lyrica was part of the top ten traditional utilized drugs.² Use of Lyrica is expected to increase in the future, so careful monitoring of Lyrica and other gabapentin and pregabalin analogues is crucial in limiting the potential harm that may result from the overuse of these agents.

Sedgwick and our pharmacy benefits managers will work to educate prescribers, injured employees and pharmacies as this newly implemented law takes effect.

REFERENCES

¹ Gabapentin Becomes a Schedule 5 Controlled Substance in Kentucky – Kentucky Coalition of Nurse Practitioners & Nurse Midwives. N.p., n.d. Web. April 14, 2017.
<http://www.kcnpnm.org/news/340636/Gabapentin-Becomes-a-Schedule-5-Controlled-Substance-in-Kentucky-.htm>

² <http://lab.express-scripts.com/lab/drug-trend-report>

RESOURCE

Gabapentin: The new high. Sedgwick Connection blog. Dr. Linda Manna, Clinical Pharmacist, Sedgwick. September 1, 2016.
<http://blog.sedgwick.com/2016/09/01/gabapentin-new-high/>

OSHA makes compliance-related changes

BY **MALCOLM DODGE**

VP, Risk Services, Sedgwick

OSHA EXTENDS 2016 ELECTRONIC REPORTING DATE

The U.S. Occupational Safety and Health Administration (OSHA) has extended the date for employers to submit injury and illness records electronically. While the final rule originally instituted a July 1, 2017 submission deadline, OSHA later extended the date to December 1, 2017. The administration has indicated that its electronic submission test site will be available in August, giving employers about four months to validate their electronic reporting processes. Below are the reporting requirements for employers. Additional information on the final rule is available on [OSHA's website](#).

Employer requirements:

ESTABLISHMENTS WITH 250 OR MORE EMPLOYEES IN INDUSTRIES COVERED BY THE RECORDKEEPING REGULATION	Must submit information from their 2016 Form 300A by December 1, 2017
ESTABLISHMENTS WITH 20-249 EMPLOYEES IN CERTAIN HIGH-RISK INDUSTRIES	Must submit information from their 2016 Form 300A by December 1, 2017
ESTABLISHMENTS WITH FEWER THAN 20 EMPLOYEES	No reporting is required
EMPLOYERS WHO ARE PARTIALLY EXEMPT FROM RECORDKEEPING	No reporting is required

Sedgwick's experienced team offers a range of OSHA recordkeeping solutions. We can submit reports on behalf of customers that utilize our OSHA services or they can opt to submit the reports themselves. Customers with reporting questions should contact their client services director.

TIMEFRAME REDUCED FOR OSHA CITATIONS

According to the April 2017 congressional resolution, a recordkeeping citation must now be issued within six months of the violation; previously, the Occupational Safety and Health Administration (OSHA) could issue citations for up to six months beyond the five-year timeframe in which employers are obligated to maintain records on recordable workplace injuries and illnesses.

A congressional resolution approved in April 2017 limits the timeframe in which OSHA can penalize employers for violating its requirements to make and maintain records of workplace injuries and illnesses. On April 3, 2017, President Donald Trump signed into law [H.J. Resolution 83](#), which nullifies the Department of Labor (DOL) rule titled "Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness" (see [81 Federal Register 91792](#)). The DOL rule, which served to clarify employers' ongoing obligations regarding those records, was issued in response to the U.S. District Court decision in *Volks Constructors v. Secretary of Labor*.¹ The court stated: *OSHA cited and fined petitioner Volks Constructors for failing to properly record certain workplace injuries and for failing to properly maintain its injury log between January 2002 and April 2006. OSHA issued the citations in November 2006, which was, as Volks points out, at least six months after the last unrecorded injury occurred. Because 'no citation may be issued... after the expiration of six months following the occurrence of any violation,' 29 U.S.C. § 658(c), we agree with Volks that the citations are untimely and should be vacated.*

The April 2017 resolution reduces OSHA's authority to issue citations for recordkeeping errors. Consistent with the *Volks* decision, a citation must now be issued within six months of the violation. (The resolution does not change employers' obligations to record and maintain OSHA records for the current year plus five years.) OSHA inspectors have abided by the *Volks* decision since 2012, so employers should see no change in the administration's processes for reviewing records.

REFERENCE

¹ *Volks Constructors v. Secretary of Labor*. Decision date April 6, 2012. [https://www.cadc.uscourts.gov/internet/opinions.nsf/018A542863EAA754852579D8004E AFF4/\\$file/11-1106-1367462.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/018A542863EAA754852579D8004E AFF4/$file/11-1106-1367462.pdf)

RESOURCES

OSHA website. Final rule issued to improve tracking of workplace injuries and illnesses. <https://www.osha.gov/recordkeeping/finalrule/>

OSHA website. NAICS codes and industries list. <https://www.osha.gov/recordkeeping/NAICScodesforelectronicsubmission.html>

Congressional resolution limits timeframe for OSHA citations. Sedgwick Connection blog. Malcolm Dodge, VP of risk services, Sedgwick. April 7, 2017. <http://blog.sedgwick.com/2017/04/07/congressional-resolution-limits-timeframe-for-osh-citations/>

H.J. Resolution 83. 115th Congress. April 3, 2017. <https://www.congress.gov/bill/115th-congress/house-joint-resolution/83>

Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness. December 19, 2016. <https://www.federalregister.gov/documents/2016/12/19/2016-30410/clarification-of-employers-continuing-obligation-to-make-and-maintain-an-accurate-record-of-each>

U.S. Court of Appeals for the District of Columbia Circuit. *Volks Constructors v. Secretary of Labor*. Decision date April 6, 2012. [https://www.cadc.uscourts.gov/internet/opinions.nsf/018A542863EAA754852579D8004E AFF4/\\$file/11-1106-1367462.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/018A542863EAA754852579D8004E AFF4/$file/11-1106-1367462.pdf)

New York introduces workers' compensation reforms

BY **DARRELL BROWN, ARM**

Chief Claims Officer, Sedgwick

On April 10, 2017, New York Gov. Andrew Cuomo signed the state's 2017-2018 budget bills, which include significant workers' compensation reforms. [Click here](#) to view the workers' compensation reforms in Part NNN of Senate 2009-C and its House companion, Assembly 3009-C (page 156). Sedgwick and many of our customers were involved in advocating for some of the key reform measures enacted.

Several related changes were announced as a result of the requirements in the budget bills. On July 17, 2017, [the New York Compensation Insurance Rating Board \(NYCIRB\)](#) announced a decrease of 4.5 percent in the overall loss cost level in New York effective October 1, 2017. According to [a statement issued by the New York Office of the Governor](#), employers in the state will save an estimated \$400 million in reduced premiums this year. Additionally, on July 28, 2017, [the NYCIRB announced a 1.7 percent decrease of loss costs](#)

for policies with an effective date between April 10, 2017 and September 30, 2017.

The following key state budget provisions are not yet effective, but could create possible savings for employers:

- **Revisions to Medical Impairment Guidelines for Scheduled Loss of Use awards** – Requires the adoption of revised permanency guidelines by January 1, 2018; the guidelines are to be reflective of advances in modern medicine that enhance healing and result in better outcomes.
- **Creation of a prescription drug formulary** – The Workers' Compensation Board chair must establish a comprehensive prescription drug formulary on or before December 31, 2017.

The New York State Workers' Compensation Board (WCB) has issued several bulletins regarding the following provisions in the [2017 reforms](#):

- **Changes temporary disability durations** – Amends workers' compensation law to provide a credit for periods of temporary disability that extends beyond 2.5 years (130 weeks) from the date of injury. This rule applies to all injuries with dates of accident or disability after April 9, 2017.

- **Post-PPD labor market attachment** – Provides that after Board determination of permanent partial disability (PPD), a claimant who is entitled to benefits at the time of classification is no longer required to demonstrate ongoing labor market attachment. This change does not affect the question of attachment during periods of temporary disability prior to classification.
- **Creates safety valve** – Extends the period of temporary disability beyond 2.5 years (130 weeks) when the Board makes a determination that the claimant has not yet reached maximum medical improvement on that date. This applies to all injuries with dates of accident or disability on or after April 10, 2017.
- **Provides claimant right to hearing** – Requires the Board to hold a hearing within 45 days of request from a claimant if payments have not been started but the claim has not been denied under specific circumstances. [Subject No. 046-937](#) explains when the 45-day hearing is appropriate.

■ **Lowers extreme hardship determination threshold** –

Claimants who are found to have a loss of wage earning capacity (LWEC) of greater than 75% may now apply for such determination (formerly the threshold was greater than 80%). The rule also applies to claimants whose claims were previously adjudicated with a LWEC greater than 75%. **Subject No. 046-938** describes how an injured worker may apply for a reclassification redetermination under WCL § 35(3) and the standard the Board will use to determine whether the injured worker has met the burden of proving an extreme hardship.

■ **Mandatory full board**

review – When a Board Panel reduces an LWEC finding to below the safety net threshold, and the LWEC had previously been determined by a workers' compensation law judge (WCLJ) to exceed the threshold, any request for full board review will be considered a request for mandatory full board review.

Other workers' compensation reform measures in the state's 2017 budget bills include:

■ **Limits defense in mental injury claims involving first responders** –

Prohibits the WCB from disallowing

mental injury claims because the stress was not greater than that which usually occurs in the normal work environment if filed by a police officer, firefighter, emergency technician, paramedic or other person certified to provide medical care in emergencies, or an emergency dispatcher (due to extraordinary stress incurred in a work-related emergency).

■ **Adds establishment of the Board's performance standards** –

Empowers the WCB to administratively assess an aggregate penalty to any carrier or self-insured employer that fails to meet established performance standards.

■ **Requires a study of independent medical examination (IME)**

utilization – Directs the WCB chair to conduct a study of IME utilization in New York and convene an advisory committee consisting of relevant stakeholders and experts.

■ **Requires an annual report of overall system savings as a result of the 2017 reforms** –

The public actuary must issue a report on or before June 1, 2018, and each of the next 10 years, that indicates the overall savings in the workers' compensation system as a result of the 2017 reforms.

We are preparing to implement the changes and will continue to monitor the Board's activity regarding implementation of the formulary and revision to guidelines for scheduled loss of use awards.

RESOURCES

New York State Assembly website. Part NNN of Senate 2009-C and House companion, Assembly 3009-C (page 156). January 23, 2017.

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http://www.wcb.ny.gov/content/main/SubjectNos/sn046_936.jsp

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