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# 012


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

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# Not your average property claim

BY **IAN V. MURESS**  
*CEO, International, Sedgwick*

Property claims commonly involve losses from weather disasters that impact homes and businesses. However, these claims do not always include a damaged roof or a flooded basement.

What happens when the loss is the Treasure of Notre Dame, a collection of holy relics and artwork housed in the Cathedral of Notre Dame scorched from a devastating fire? Or a multi-million dollar film set ruined by a storm on a tropical island? Or even a widespread E. coli outbreak caused by a contaminated crop of spinach? For Sedgwick's specialty practice groups, it's just another interesting day at work.

## WHEN PROPERTY IS PRICELESS

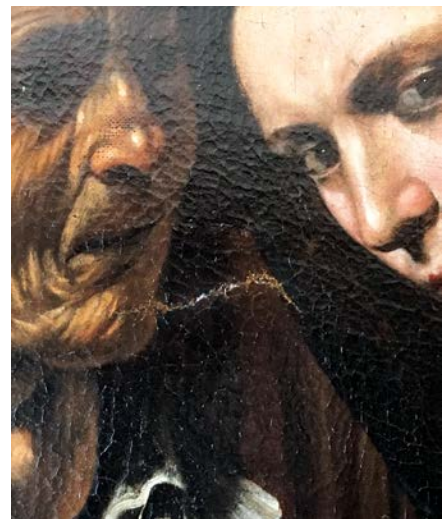
Property loss claims involving fine art, priceless treasures and rare or high-dollar items require specialists who have unique expertise in each area. Loss adjusters with experience serving as auctioneers, gemstone specialists and art historians can offer valuable insight. These specialists can provide preliminary valuations and risk analyses before any damage occurs. They can also assess the losses and offer restoration options if the items can be recovered. Pricing some works of art may require industry experts with knowledge on specific artists or art periods.

When word that a tragic fire broke out in the Notre Dame Cathedral in Paris in April, Sedgwick's fine arts experts began assembling a team of specialists in sculpture, stained glass, fabrics, painting, frames, ancient instruments and more to assess the damage. As the insurance assessor for the Treasure of Notre Dame, a team led by fine arts claims specialist Michel Honoré was tasked with assessing the state of the Treasure.

While it's difficult to put a monetary price on pieces with a profound spiritual value that are essentially priceless, the work is made easier by expert valuations.

Sedgwick's fine arts specialty team applies their expertise to focus on a range of items including statues and sculptures, silverware, jewelry and an increasing volume of old photographs. They have worked on many memorable claims including the fire in a wing of the Ritz Hotel in Paris in 2016 soon after their €100 million refurbishment, the Notre Dame Cathedral fire and a Van Gogh painting that came back from an exhibition with a hole in it.

The fine arts team was also involved recently in a mysterious case where an auction house employee in Toulouse, France discovered a rare Caravaggio painting. After evaluation, the Sedgwick team helped identify the artwork as the missing piece of a collection that had been lost for over 400 years. What sounds like pages taken from a mystery novel is just another assignment for our highly skilled fine arts team.



SEDGWICK'S FINE ARTS EXPERTS BEGAN ASSEMBLING A TEAM OF SPECIALISTS IN SCULPTURE, STAINED GLASS, FABRICS, PAINTING, FRAMES, ANCIENT INSTRUMENTS AND MORE TO ASSESS THE DAMAGE OF THE NOTRE DAME CATHEDRAL.





**ING NEWS**

**45 CATHEDRAL ON**





EVERE WEATHER

TROPICAL STORM

## WHEN THERE'S TROUBLE IN PARADISE

If weather-related damage occurs on the set of a television series or movie, claims adjusters that understand the production process, media equipment and the entertainment business can help keep the filming schedule on track.

When a large production company was struck by storms during filming at its tropical island location, its handmade sets were damaged beyond repair, causing considerable disruption to its filming schedule. Given the large budget and high profile of the television series, losses from the storm had the potential to exceed £1 million.

Sedgwick's media and entertainment specialists were notified of the loss and our adjusters were able to immediately assist with mitigation measures and helped develop the rescheduling strategy. The primary objective was to ensure the filming was completed within the production company's strict delivery deadlines. The series aired with viewers unaware that there had ever been trouble in paradise.

In addition to television shows, Sedgwick's team also has experience managing claims for concert tours, theater productions, movies and more.



**GIVEN THE LARGE BUDGET AND HIGH  
PROFILE OF THE TELEVISION SERIES,  
LOSSES FROM THE STORM HAD THE  
POTENTIAL TO EXCEED £1 MILLION.**



## WHEN AGRICULTURAL CLAIMS INCLUDE SPINACH AND BEEF RECALLS

Claims involving the agriculture and farming industries may be caused by weather-related events, but one of the biggest issues they face is food safety. The public has grown increasingly aware of this problem due to government-mandated recalls of contaminated or possibly contaminated foods.

When a case of salmonella was detected from beef and an E. coli outbreak occurred from contaminated spinach, Sedgwick's agriculture and rural network of specialists was there to help. In the event of a recall, response speed is crucial. With a dedicated global team of specialty loss adjusters, we can respond quickly and investigate and recommend the best strategy for prompt resolution. These types of losses can include the cost to pull the product from the market, the cost to reproduce the product, business interruption costs and claims involving illnesses and property damage.

The agribusiness and farming industries are changing and evolving daily — worldwide. Machinery is getting bigger and more complex, farm sizes are growing and costs are increasing. Our experts have a working knowledge of the farming, forestry, agriculture and feed industries. Through their experience, they bring real empathy for those who live and work in rural communities and a deep understanding of loss adjusting in this unique market.



IN THE CASE OF A RECALL, OUR TEAM OF SPECIALTY LOSS ADJUSTERS CAN RESPOND QUICKLY, INVESTIGATE AND RECOMMEND THE BEST STRATEGY FOR PROMPT RESOLUTION.





**BREAKING**

**SAFETY ALERT - MASSIVE RE**

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# Litigation management – What's next?

BY **KATHY TAZIC**

*Managing Director, Client Services, Sedgwick*

It's well known that litigation is a consistent cost driver in casualty claims management. At Sedgwick, we realize there are a variety of factors driving litigation rates, timing and ultimately the impact of litigation on overall exposure. In early 2019, we began rethinking our approach to help our client partners manage this significant issue.

Our first step was to look at our pre-litigation approach. We reviewed our processes and communication to consider whether the way we approach the process was making it easier, explaining the complexities properly so that injured workers and liability claimants could easily understand how things worked and follow the best path to ensure quick recovery from an unfortunate event. We revised our accessibility to self-service as a component of this pre-litigation approach; 24/7 access to pertinent claim information helps provide just-in-time status. Our self-service tools include helpful videos on the claims process and a chatbot, so routine questions can be answered anytime in a medium that's the most comfortable for consumers.



We recognize that sometimes, in spite of our best efforts, litigation will occur. Our modernized approach takes a new look at how we handle these cases to ensure we're managing them appropriately and resolving the right claims at the right time. We developed new litigation guidelines, with clearly outlined billing and service expectations, and communicated them to all of our outside attorneys. We've started offering a legal bill management partner as an optional part of our service to customers, ensuring that attorneys bill to the new guidelines without fail.

Partnering with the legal community to work toward shared goals, understanding the right time to resolve matters and which strategies to try are all key components to the strategy.

After looking at how to change our pre-litigation process and how we actively manage matters in litigation, we evaluated how to measure these changes with respect to their impact on overall claim costs, litigation rates and time matters. We do this in two ways. First, we set goals for

clients to establish a path from each calendar year's starting point to where we expect to be. We then measure those goals using an interactive litigation scorecard, available on-demand. In addition to standardized metrics, our legal bill management partnership now allows us to provide clients with data on their law firm utilization, outcomes by jurisdiction and how their firms compare to others that work on similar matters for similar customers. This drives accountability for all parties and helps us consistently improve financial results by being laser-focused on the critical elements of costly cases.



Our employer partners want to know the best ways to improve overall litigation percentages and costs. Our standard recommendations are wrapped into our new approach and look something like this:

- Know what drives your numbers: The first step is to clearly understand when, where and why litigation is occurring. Take a close look at litigation lag times, locations and the percentage of claims that arrive already litigated. This can help determine where to focus in terms of mitigating future cases.
- Set goals for targeting your key drivers: Common program targets include new percentages of claims in litigation, resolution time and specific spend categories. Establish strategies based on the opportunities you find when researching the reasons behind litigation.
- Gain commitment from your law partners: Ensure that your panel is stocked with attorneys who understand your philosophy about litigation, share your business goals and know that a litigated claim's best outcome is just that – the best outcome – and do not focus solely on the process. Sharing goals with the legal community helps your partners better design their services to meet your needs.
- Communicate what matters: Litigated claims are a costly but inevitable reality in casualty claims management. Customers with the best outcomes use a combined approach that is empathic in up-front management, contains rigor when litigation occurs and uses the combined resources of their Sedgwick claims examiner and attorneys in complex matters to agree on what the right disposition looks like.

We are committed to implementing ongoing enhancements that reflect the needs of consumers in the claims process as well as our employer partners. While litigation is a reality in casualty claims management, a combination of these strategies will create an environment where it is the exception, not the norm, and outcomes are the best they can be.







# Expert view

Q&A with Max Koonce,  
Chief Claims Officer, Casualty, Sedgwick

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

**edge:**

What trends are we seeing in litigation management?

**Max:**

There are probably three main reasons people reach out to attorneys for workers' compensation or liability claims. First, they may have a general fear or lack of understanding of the process. Second, they

may get frustrated with the claims administration process. These are the two reasons we have some control over. With advocacy and technology, we're working to ensure people have prompt and appropriate communication and the needed information in front of them through our examiners and/or mySedgwick.

Litigation avoidance comes through increased awareness and support. We're supporting people through communication, empathy and understanding from the start of their process with us through every step along the way – something that ties into the basic **caring counts®** beliefs and values of Sedgwick.

And then sometimes people are just intent on having legal representation through their claim. We steadily achieve positive movement with our clients' casualty expense, yet litigation continues to occur. In turn, it must be managed, taking into consideration all aspects of the immediate lawsuit and its associated expenses, as well as determining the value with respect to overall claims resolution. We must manage the expenses associated to help drive toward a resolution that attains the best value for each individual claim.

**edge:**

How is Sedgwick addressing litigation management trends for our clients?

**Max:**

Clients expect us to ensure appropriate management of litigated matters, focused on driving the best outcomes. They turn to Sedgwick because of our expertise and results. Our focus, first and foremost, is to prevent litigation, yet when it does occur, to ensure we have the best resources available.

The role of data and its importance in changing the trajectory of a claim is something we have always focused on. With analytics, we continually look to find the pinch points and apply best practices to prompt better outcomes for all parties in the process. As we continue to accumulate data, we're able to build improved litigation scorecards, allowing us to conduct analysis on attorneys and overall management of the matters they're responsible for. With new litigation management partners, we now will be able to track even more data points that will allow us to further refine our methodology and generate enhanced modeling for attorney selection.

**edge:**

How is advocacy evolving as a tool in the claims management process?

**Max:**

It's centered on communication. It's about empathy, it's about understanding. And that must be conceptualized in every aspect of the claims process. We must recognize how our actions impact the individual customer who has been involved in a liability claim or employee involved in a workers' compensation claim.

At best, we're dealing with five different generations in the workforce today, approaching six, and each has a completely different viewpoint on communications and expectations, as well as the relay of information. Our mySedgwick tools support this, allowing us to expand communication avenues for the claims process better suited to each person's expectations. The challenge is ensuring there's a level of comfort with not only the process, but how the process is working and that we are meeting needs of the individual.



Advocacy is intrinsic to our business. The manner in which we manage a claim is very different now compared to even 10 years ago. Then, one approach could handle the vast majority. Now, we must view things through an individual's different life stages and expectations for the future. Today, we have to be adaptable; every claim has to be evaluated on its own idiosyncrasies. Our examiners' approach is tailored, supported by focused training. We are continually evolving the process to help them recognize the right steps to take. Data and decision optimization are helping us look at specific types of claims and the individual involved, and put the right resources on claims at the right time. The process is event-driven vs. task-driven. We are moving beyond general best practices to best practices for each scenario.

**edge:**

What other trending topics are you seeing in the market?

**Max:**

Several things we know are top of mind for our clients. One is cyber resilience; we have technology in every aspect of our daily and professional lives. With a greater number of areas of exposure, everyone must be evaluating how to prevent, cover, mitigate and remedy the risks. Our liability experts regularly address this topic, and recently shared some great advice<sup>1</sup> in the last issue of the edge.

Another trending topic is the definition of "independent contractor" – we've seen differing decisions by various jurisdictions across the country as to what is considered an independent contractor vs. an employee. California recently passed legislation<sup>2</sup> that invoked

a new three-point test for the state, while the National Labor Relations Board earlier this year published a conflicting, more employer-friendly opinion<sup>3</sup>, relying on its "common law" test to classify independent contractors. With more and more employers considering the use of gig employment, how do these conflicting decisions play into your overall casualty program from a risk standpoint, as well as a coverage and compliance standpoint?

With recent, groundbreaking federal court decisions<sup>4</sup> as a backdrop, clients are also talking about product liability exposure. To what extent is a retailer responsible for the products sold in their physical locations, as well as in an online marketplace? The courts are opening up a realm of possibility for lawsuits and challenges, as well as increased exposure for retailers and third-party vendors, particularly those who do not have adequate coverage. We'll watch as the appeals process continues.

Also, with the expiration of the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) nearing in 2020, employers are starting to consider how future TRIPRA renewal could potentially impact their individual risk management programs from the standpoint of exposure

and coverage, particularly as they approach property and casualty renewals. We're paying attention and we advise clients to do the same. To learn more, you can read a recent blog<sup>5</sup> from our expert Chris Mandel, who is keeping a close eye as things develop.

## MAX KOONCE

Max is regarded as one of America's foremost experts on workers' compensation and retail risk management. Prior to joining Sedgwick in 2015, he served as senior director of risk management for Walmart Stores, Inc. — the nation's largest private-sector employer — and as president of Claims Management, Inc., Walmart's wholly owned third-party administrator. An attorney by trade, Max was previously an administrative law judge for the Arkansas Workers' Compensation Commission and an appellate court justice for the Arkansas Court of Appeals. He has been an active player in our industry throughout his career, serving on various state self-insured association boards, along with the National Council of Self-Insurers (NCSI) and Strategic Services on Unemployment & Workers' Compensation (UWC). Max continues to serve as a board member for several non-profits and industry risk management advisory committees. He holds a bachelor's degree from Harding University and a JD from the University of Arkansas at Little Rock, and he is a member of both the Arkansas and American Bar Associations.

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# Time matters

*Improving access to behavioral health services in the workplace*

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BY **RHONDA STRIBLING**

*RN, Clinical Director, Workforce Absence*

As those who have experienced behavioral health concerns first-hand know, the struggle to overcome issues ranging from depression and anxiety to alcohol and substance abuse is real, frightening and often debilitating.

Unfortunately, many times people with behavioral health issues suffer in silence for months or even years...and that must change. We need to start answering some of the more difficult questions related to mental health. We need to speed the process of accessing care for those in need, so they can return to a sense of normalcy in their life and work.

A woman's profile is shown in silhouette, facing right. The image is split vertically: the left side is blue and the right side is orange. A large white circle is superimposed over the woman's face, containing a white clock face with two hands. The text "\$237 BILLION" is centered within the circle.

\$237  
BILLION

Overall, the Centers for Disease Control and Prevention estimates that behavioral health related problems, including depression, anxiety and addiction, cost the U.S. healthcare system and employers \$237 billion every year.



## THE SIZE OF THE PROBLEM

Achieving such a goal presents numerous but not insurmountable obstacles. Behavioral health problems in the workplace are not a simple area to address, or a niche issue affecting a few. According to the Integrated Benefits Institute (IBI)<sup>1</sup>, one out of four people will have a diagnosable mental health condition in their lifetime. Despite the prevalence, two-thirds of people never receive care. That stat is especially concerning as conditions can worsen over one's lifetime.

Understandably, the scope and depth of the problem have led to issues, challenges and, of course, increased costs in the workplace. According to a recently released FAIR Health Study<sup>2</sup>, claims with mental health diagnoses increased 108% as a percentage of all medical claims from 2007 to 2017...stop and think on that escalation for a moment.

Now consider just one component of behavioral health — depression. People suffering from depression submit an average of \$14,967 per year in claims, compared with \$5,929 a year for the total population according to a 2018 review<sup>3</sup> of claims data from Willis Towers Watson. Additionally, those with depression make six times as many emergency room visits as the overall population.

Thomas Parry, president of the IBI, notes that not only do most employees who say they are depressed never get treatment; often their cases do not show up in medical and pharmacy claims. Poor access to data makes it difficult for employers to understand the impact of behavioral health problems on their organizations.

Additionally, most mental health treatment is out of network and lacks care coordination, increasing costs and reducing effectiveness, says a study<sup>4</sup> conducted by the National Alliance of Healthcare Purchaser Coalitions.

Overall, the Centers for Disease Control and Prevention (CDC) estimates that behavioral health-related problems, including depression, anxiety and addiction, cost the U.S. healthcare system and employers \$237 billion every year.

## EMPLOYERS ARE LOOKING FOR ANSWERS

While the problems are significant, employers are just now starting to catch up to the need for more comprehensive diagnosis and treatment. At a recent IBI and Pacific Business Group on Health Symposium<sup>5</sup> held in San Francisco, several large employers including Boeing, Microsoft, Johnson & Johnson, Teledoc and Ernst & Young met to discuss the issue and solutions. As we have at several previous symposiums, Sedgwick attended and contributed significantly to the event's agenda and content. Sedgwick's Bryon Bass, SVP, Workforce Absence, was a presenter, and several of our colleagues and clients attended.

Attendees identified a number of solutions as critical to adequately address the challenges behavioral health issues present in the workplace. These include:

1. Connect people to care by making it socially acceptable to address mental health within your organization
2. Make access to care easier, including having in-house therapists and appointment times within the workday
3. Integrate mental health with primary care to ensure whole-person care
4. Engage and integrate employee assistance programs (EAP) and recognize old-school approaches may no longer work (for example, Gap/Old Navy changed the name of its EAP to "Benefits Concierge Service")
5. Ensure early intervention as it can help lower claims while it helps employees access needed care

## SEDGWICK'S ONGOING INNOVATION IN BEHAVIORAL HEALTH

Sedgwick agrees with the recommendations outlined at IBI and has already taken steps to put those recommendations, as well as others, into place for its clients. Working with employers to ensure that mental health services are a core component of workers' compensation and disability programs has been a foundation of Sedgwick's programs for decades.





Sedgwick data tells us that the earlier we identify problems and begin treatment, the lower the costs and the faster employees return to work.

As part of our continuous commitment to finding new ways to care for workers, we've recently introduced a behavioral health program for workforce absence (see sidebar). We also are committed to taking steps that make a difference for our clients' employees, for both workers' compensation and disability programs. For example, our behavioral health programs stress the following core elements:

- Intervene as early as possible in the process
- Gather more clinical information before receiving medical so that a claim decision can be recommended more quickly
- Enhance collaboration among the associate and disability specialist
- Enhance awareness and knowledge for the associate and disability specialist
- Emphasize best practice treatment protocols and entertain transitional return-to-work (RTW) options wherever possible
- Provide a wide range of resources to help workers better manage their condition (EAP, wellness programs, etc.)
- Take a more active role in supporting a healthy and safe return to work through conversations with the associate and healthcare provider

Sedgwick data tells us that the earlier we identify problems and begin treatment, the lower the costs and the faster the return to work. This guiding principle is true for workplace injuries as well as behavioral health challenges. Incorporating programs that ensure fast access to quality behavioral health support is vital to the success of employers today. Our knowledge-based economy needs workers who are physically, emotionally and mentally healthy to ensure they perform their tasks at the optimum level and can compete on a global stage.

*It's part of our **caring counts**® philosophy to ensure our clients' employees get the highest level of appropriate care for all workplace-related injuries and illnesses. We'll be sharing more about the importance of strong behavioral health programs and outcomes from Sedgwick's new program in the coming months. If you have questions, or need support yourself, please contact us at [sedgwick@sedgwick.com](mailto:sedgwick@sedgwick.com).*

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# Sedgwick's clinical behavioral health program expands into workforce absence

In July, Sedgwick launched its first clinical behavioral health program for our workforce absence clients, designed to ensure that workers with issues get prompt access to best in class mental health services. Building on Sedgwick's existing behavioral health solution, the new program places an even greater emphasis on clinical engagement for behavioral health in workforce absence scenarios, as well as the use of technology, communication and collaboration between the employee, providers and team.

In just a few months, the program has begun to significantly help our clients' employees with behavioral health needs. These are employees who may have suffered in silence — or worse — had they not accessed the services offered. Here are just a few examples of employees whose support has been accelerated through this new program:

An employee we spoke with confessed she had considered suicide. She had a history of depression with previous suicide attempts in her teens. She indicated that she had young children who needed her, which was preventing her from trying again, but that the compulsion to kill herself still crept into her daily life. She noted that she couldn't afford therapy and didn't know where to turn.

We warm transferred her to her employer's EAP and checked in with her the following day. We spoke with her behavioral health practitioner to ensure awareness and reached out to our client regarding advocacy program options to help her obtain the treatment she needed.

A young man was pulled over by police and accused of committing a crime, which he did not commit. The accusation upset him to the extent that he was unable to drive or function at home or work. The man was already connected with his healthcare provider and seeking therapy, but we were able to direct him to the additional supportive resources of his employer's EAP.

A young woman who was held up by gunpoint was afraid to leave her home. Her fears impacted her work performance and productivity and were an issue of concern to her managers and colleagues. We were able to confirm she had an appointment with her healthcare provider and advised her of the benefits available through her employer's EAP.

In all these situations, because of Sedgwick's new program, the behavioral health clinician was able to quickly approve a plan of treatment even before receiving medical information, which helped the individuals focus on their well-being and better understand and access treatment options provided by their employer.

Close communication with the clinician and processes that ensure prompt access to care are the hallmarks of the program. There is an emphasis on follow up to ensure appropriate interventions are undertaken, as well as an enhanced effort to see that critical information about the employee is available to relevant parties. System notes help streamline and appropriately direct calls.

Through this process, Sedgwick will be able to better answer the following questions critical to ensuring workers with behavioral health access the care needed:

- Was the clinician able to talk with the associate?
- Was an EAP or another wellness benefit agreed to by the associate?
- Are there any RTW challenges that need to be addressed?
- Who did the worker speak with, a psychiatrist or other provider?
- What type of therapy (e.g., talk), is being provided?
- Was the RTW plan sooner than the provider and associate initially projected?
- At the end of the call, did the associate express any concerns or negative perceptions with the clinician's discussion?

While all of these steps are important, there is another important issue to address. To fully meet the needs of workers with depression, anxiety, substance abuse or other behavioral health concerns, we must take the stigma out of mental health and assure workers with such conditions that they will be treated just as any other colleague with an illness or disease.

## **MAKING A POSITIVE IMPACT**

Mental health hits a broad swath of workers today, often during the prime of their careers. Programs such as Sedgwick's behavioral health initiative for workforce absence are an important, emerging option for employers to ensure employees have access to the care they need to return to productivity at work and to a better life at home. As a former client of Sedgwick's, I am truly excited to now be part of the team supporting and enhancing programs for those who rely on our care. Seeing firsthand how changes like these, and the meaningful interactions built into the process, can make such an impact on the cases we manage really helps us understand the power of **caring counts!**



# Community spotlight

*Supporting therapy pets and the amazing health benefits they provide*

BY **TRACY MOCK**  
VP, Marketing, Sedgwick

The RIMS Annual Conference and Exhibition not only gives colleagues the chance to connect with many risk management professionals, but the event also provides an important platform for giving back to the community and encouraging others to join in. At the 2019 RIMS conference, which took place April 28 – May 1 in Boston, Sedgwick hosted New England Pet Partners as its designated charity at the Wellness ZENter. Conference attendees were filled with laughs and smiles, which is a key part of the organization's mission.



Their partners work with healthcare facilities, education organizations and community events in the New England area. In addition, New England Pet Partners provides individual pet-assisted therapy programs, therapeutic intervention and resources to support the needs of healthcare professionals and other organizations. Their mission of bringing people and pets together to enhance well-being and education with pet-assisted therapy was fulfilled as they brightened the moods and opened the minds of conference attendees who visited the Wellness ZENter.

Going along with Sedgwick's theme for the week, **caring forward**, the company presented a check for \$10,000 to New England Pet Partners to further support its mission.

Throughout the conference, the organization's mission was apparent. Jonathan Mast, director of digital strategy at Sedgwick, emphasized how rejuvenated visitors felt after spending a short amount of time with the therapy animals. The affection they received from the animals had a strong impact on their drained moods from traveling.

Being a responsible corporate citizen, Sedgwick is committed to giving back to the community. By choosing New England Pet Partners, we were able to accomplish this while focusing on one of our key areas for giving, which is health and wellness.

*To learn more about the organization and opportunities to become involved, visit [newenglandpetpartners.org](http://newenglandpetpartners.org).*





## RESOURCES

### New England Pet Partners

<http://www.newenglandpetpartners.org/index.html>

Therapy animals produce smiles. Blog article highlighting the Therapy Animals of San Antonio at the RIMS 2018 Wellness ZENTER. Written by Jonathan Mast, Director, Social Media, Sedgwick. April 23, 2018.

<https://www.sedgwick.com/blog/2018/04/23/therapy-animals-produce-smiles>





# First responder legislation trend continues

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BY **DESIREE TOLBERT-RENDER**

*AVP, National Technical Compliance,  
Workers' Compensation, Sedgwick*

The introduction and passage of legislation across the country impacting benefits for first responders continues to be a trend in 2019. These bills primarily focus on cancer presumptions, mental health coverage, the expansion of covered first responder personnel and benefits for eligible spouses. Here is a summary of the state bills addressing each of these areas.



## CANCER PRESUMPTIONS

Several states have passed bills that expanded cancer presumptions for first responders this year. Many trace the acceleration of this trend to the October 14, 2013 release of research by the National Institute for Occupational Safety and Health (NIOSH) that found higher rates of cancers, including mesothelioma, among firefighters than in the U.S. population as a whole. According to the researchers, these findings strengthened the scientific evidence for a relation between firefighting and cancer because it involved a larger population of firefighters than previous studies and the firefighters were followed for a longer period of time. States that recently passed bills expanding cancer presumptions include Montana, New Jersey, Texas and Virginia.

### **MONTANA**

Reportedly, Montana was one of only approximately five states without a “presumptive law” for firefighters. This changed on April 18, 2019 when Governor Steve Bullock signed Senate Bill 160, the Firefighter Protection Act, into law. This legislation defines presumptive diseases as those contracted during work, including myocardial infarction, colorectal cancer, mesothelioma, non-Hodgkin’s lymphoma and cancers of the esophagus, brain, lung and breast. This measure also provides insurers with an option to rebut these claims.



## NEW JERSEY

On July 8, 2019, Governor Phil Murphy signed Assembly No. 4882/ Senate No. 3474 and Senate Bill 716/Assembly No. 1741 into law. This legislation adds presumptions for New Jersey public safety employees, including those who volunteered for 9/11 rescue, recovery and clean-up efforts at World Trade Center sites.

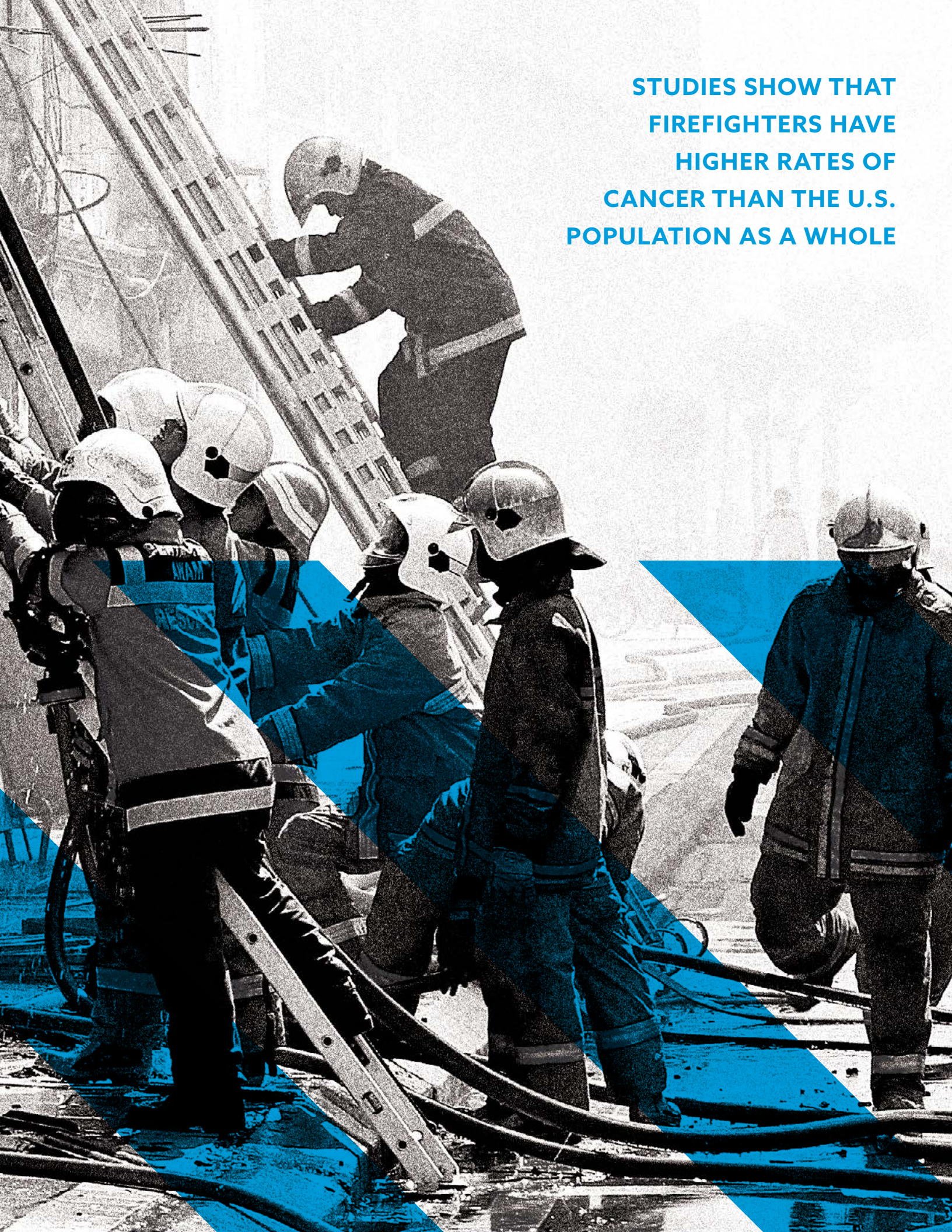
Under Assembly 4882, permanent and total disability resulting from a qualifying condition or impairment of health will be presumed to have occurred during and as a result of performing the employee's regular duties if they participated in World Trade Center rescue, recovery or clean-up operations for a minimum of eight hours. This presumption is rebuttable by competent evidence and available whether or not the employee was instructed by an employer to participate. This bill was named after Lieutenant Bill Ricci, a professional firefighter, who volunteered to serve at Ground Zero after the terrorist attacks on September 11, 2001 and was ineligible for an accidental disability retirement under previously existing law.

Senate No. 716 reforms New Jersey workers' compensation law to no longer require first responders and firefighters to prove causation for their illnesses. Under the new law, firefighters under age 76 with seven or more years of service who suffer an injury, illness or death that may be caused by cancer are presumed to be covered under workers' compensation.

For all other first responders, including paid or volunteer emergency, correctional, fire, police and medical personnel, a rebuttable presumption of coverage is created with evidence of exposure to a known carcinogen, cancer-causing radiation or radioactive substances in the course of employment. Public safety workers are also required to prove that the injury, illness or death manifested during their employment. Employers are required to maintain records of instances of the workers deployed where the presence of known carcinogens was indicated under the Worker and Community Right to Know Act and where events occurred that could result in exposure to those carcinogens.



STUDIES SHOW THAT  
FIREFIGHTERS HAVE  
HIGHER RATES OF  
CANCER THAN THE U.S.  
POPULATION AS A WHOLE





## TEXAS

Senate Bill 2551 was signed into law by Governor Abbott on June 10, 2019 and became effective immediately. The bill specifies the 11 cancers subject to the legal presumption regarding cancer. This measure also details the process for rebuttal of the presumption. To aid in managing the financial risks associated with this bill, self-insured governmental entities are granted the authority to create an account that is allowed to accumulate and reinvest assets for exclusive payment of lifetime income and death benefits to current and future beneficiaries.

## VIRGINIA

House Bill 1804/Senate Bill 1030 added cancers of the colon, brain or testes to the list of cancers presumed to be an occupational disease covered by the Virginia Workers' Compensation Act for firefighters and other specified first responders who develop cancer. To become effective, this measure must be reenacted by the 2020 session of the Virginia General Assembly. This bill directs the 2020 session of the General Assembly to consider any research, findings and recommendations from the Joint Legislative Audit and Review Commission's review of the Virginia Workers' Compensation program when considering and enacting any legislation relating to workers' compensation and the presumption of compensability for certain cancers.

# MENTAL HEALTH COVERAGE

First responders by the nature of their jobs are faced with traumatic and stressful events beyond what the general public typically experiences. According to a May 2018 Supplemental Research Bulletin by Substance Abuse and Mental Health Services Administration focused on mental health and substance use concerns in first responders, approximately 30% develop behavioral health conditions including, but not limited to, depression and post-traumatic stress disorder (PTSD). Connecticut, Florida, Louisiana, Nevada, New Hampshire, New Mexico and Oregon were among the states to pass bills this year that will allow coverage for PTSD for first responders.

## CONNECTICUT

Senate Bill 164 adds coverage for state and local police, parole officers or firefighters if diagnosed with PTSD as a direct result of a qualifying event in the line of duty. Additionally, this bill requires the Connecticut Department of Emergency Services and Public Protection, the Department of Corrections, the State Fire Marshall and municipalities, in consultation with the Department of Mental Health and Addiction Services, to provide self-care and resiliency training for various emergency personnel. Most provisions of this legislation became effective July 1, 2019.

## FLORIDA

House Bill 983 ratifies a rule implementing the 2018 legislation, Senate Bill 376, which allowed workers' compensation benefits for PTSD without an accompanying physical injury. Florida Rule 69L-3.009 provides additional guidance on the statutory language as it relates to qualifying events in the course of employment that involve "grievous bodily harm of a nature that shocks the conscience." The Notice of Ratification was published on June 28, 2019 in volume 45, number 126, in the Florida Administrative Register.





# 30%

DEVELOP BEHAVIORAL HEALTH  
CONDITIONS INCLUDING, BUT NOT  
LIMITED TO, DEPRESSION AND  
POST-TRAUMATIC STRESS DISORDER



## LOUISIANA

Senate Bill 107 adds post-traumatic stress injury as presumptively an occupational disease for any fire employee, including voluntary firefighters covered under a workers' compensation policy that provides coverage for a volunteer member of a volunteer company, emergency medical services personnel or any employee of a police department. A post-traumatic injury that arises solely from a legitimate personnel action such as a transfer, promotion, demotion or termination is not excluded as compensable. This legislation became effective August 1, 2019.

## NEVADA

Assembly Bill No. 492 revises the circumstances in which a first responder or an employee of the state or local government is eligible to receive compensation under industrial insurance for stress-related claims. This bill also requires an agency which employs a first responder, including those serving as volunteers, to provide educational training to the first responder related to the awareness, prevention, mitigation and treatment of mental health issues. These provisions became effective upon approval by Governor Steve Sisolak on June 3, 2019.

## NEW HAMPSHIRE

Senate Bill 59 was signed into law on July 17, 2019 and added PTSD and acute stress disorder to the definition of "injury" for the purposes of workers' compensation for an employee who meets the definition of an "emergency response/public safety work" employee under the law. This bill also established a commission to study the incidence of PTSD in first responders.

Additionally, this legislation amended language regarding the eligibility for a first responder's cancer presumption from a responder who lived a tobacco-free life to a tobacco-free "lifestyle." A "tobacco-free lifestyle" is defined as no use within the past six months of any tobacco product, including cigarettes, cigars, chewing tobacco, snuff or pipe tobacco four or more times in a week, except in the case of religious or ceremonial use of tobacco, such as by Alaska natives or Native Americans.



## NEW MEXICO

On April 2, 2019, Governor Michelle Grisham signed House Bill 324 into law. This bill adds PTSD diagnosed by a physician or psychologist that results in physical impairment, primary or secondary mental impairment or death to the list of conditions presumed to be proximately caused by employment as a firefighter.

## OREGON

Senate Bill 507 creates a new presumption of compensability for acute stress disorder or PTSD filed by first responders working for public entities and diagnosed by a psychiatrist or psychologist. The presumption of compensability can be rebutted by the employer proving through clear and convincing evidence the work duties were “not of real importance or great consequence” in causing the condition. This applies to claims filed on the 91<sup>st</sup> day after the legislative sessions ended on June 30, 2019.

# INCREASED DEATH BENEFITS FOR SURVIVORS

Tragically, first responders sometimes die in service to their communities. This year, Alabama and West Virginia passed legislation to expand the death benefits paid to help the families of first responders replace the loss of income.

## ALABAMA

In 2018, House Bill 192 revised the law to provide that if a dependent is the surviving spouse of a law enforcement officer or firefighter killed as a result of injuries received while engaged in the performance of his or her duties, the compensation does not cease upon remarriage. During this year’s legislative session, House Bill 187 amends that provision to cover deaths occurring on or after January 1, 2018.

## WEST VIRGINIA

Senate Bill 291 which has been approved by Governor Jim Justice changed the name of the West Virginia Fire and EMS Survivor Benefit Act to the West Virginia Emergency Responders Survivor Benefit Act. Division of Forestry personnel who die as a proximate

result of their participation in wildland fire fighting, emergency response or disaster response operations are added as eligible for survivor benefits the same as other first responders.

The fiscal impact of these presumption bills for first responders on state, county and local government is usually difficult to forecast. A research brief published in November 2018 by the National Council on Compensation Insurance discusses the challenges to estimating the cost of first responder presumption bills and highlights key issues to be considered when such legislation is proposed.

*Despite the unknown costs, the trend of introducing these bills is expected to continue. If you have questions on workers' compensation benefits for first responders, please contact your Sedgwick client services director.*

## RESOURCES

### NIOSH research article

<https://oem.bmj.com/content/71/6/388.full>

### Montana Senate Bill 160

<https://leg.mt.gov/bills/2019/billpdf/SB0160.pdf>

### New Jersey Assembly No. 4882/ Senate No. 3474

<https://www.njleg.state.nj.us/bills/BillView.asp?BillNumber=A4882>

### New Jersey Senate Bill 716/Assembly No. 1741

<https://www.njleg.state.nj.us/bills/BillView.asp?BillNumber=S716>

### Texas Senate Bill 2551

<https://capitol.texas.gov/tlodocs/86R/billtext/pdf/SB02551F.pdf#navpanes=0>

### Virginia House Bill 1804/Senate Bill 1030

<http://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+CHAP0415+pdf>

### Virginia Joint Legislative Audit and Review Commission's review of the Virginia Workers' Compensation program

<http://jlarc.virginia.gov/calendar.asp>

### Supplemental Research Bulletin by Substance Abuse and Mental Health Services Administration

<https://www.samhsa.gov/sites/default/files/dtac/supplementalresearchbulletin-firstresponders-may2018.pdf>

### Connecticut Senate Bill 164

<https://www.cga.ct.gov/2019/ACT/pa/pdf/2019PA-00017-R00SB-00164-PA.pdf>

### Florida House Bill 983

<http://laws.flrules.org/2019/139>

### Florida Rule 69L-3.009

<https://www.myfloridacfo.com/Division/WC/pdf/69L-3.009-Adopted.pdf>

### Florida Notice of Ratification

[https://www.flrules.org/Gateway/View\\_notice.asp?id=22062279](https://www.flrules.org/Gateway/View_notice.asp?id=22062279)

### Louisiana Senate Bill 107

<http://www.legis.la.gov/legis/ViewDocument.aspx?d=1143719>

### Nevada Assembly Bill No. 492

<https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6945/Overview>

### New Mexico House Bill 324

<https://nmlegis.gov/Sessions/19 Regular/final/HB0324.pdf>

### Oregon Senate Bill 507

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB507/Enrolled>

### Alabama House Bill 187

<http://alisondb.legislature.state.al.us/alison/searchableinstruments/2019RS/bills/HB187.html>

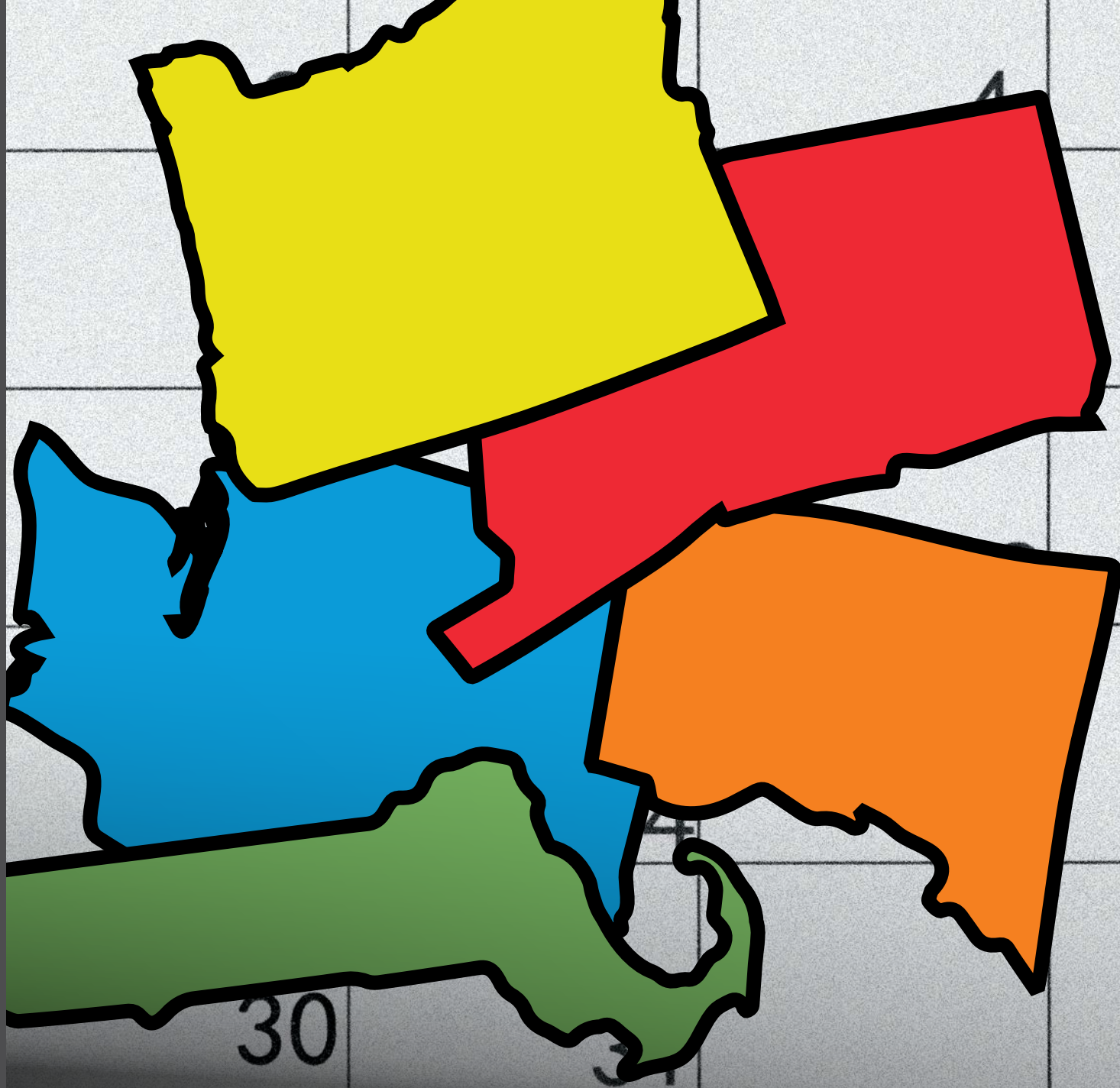
### West Virginia Senate Bill 291

[http://wvlegislature.gov/Bill\\_Text\\_HTML/2019\\_SESSIONS/RS/bills/SB291%20SUB1%20ENR.pdf](http://wvlegislature.gov/Bill_Text_HTML/2019_SESSIONS/RS/bills/SB291%20SUB1%20ENR.pdf)

### National Council on Compensation Insurance research brief

<https://www.ncci.com/Articles/Documents/Insights-Research-Brief-Presumptive-Coverage.pdf>





## Edging up

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*Short takes on emerging industry issues — paid family and medical leave programs, a national drug update and a technology enhancement*

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# Recent PFML updates

BY **BRYON BASS**

*SVP, Workforce Absence, Sedgwick*

Several states have added paid family and medical leave programs or announced changes in the past few months. Below is a summary of the updates in Connecticut, the District of Columbia, Massachusetts, Oregon and Washington.

## CONNECTICUT PAID FAMILY AND MEDICAL LEAVE PROGRAM

Starting in 2022, Connecticut will offer paid family and medical leave benefits to workers. The state's new Paid Family and Medical Leave (CT PFML) program will be funded by an employee payroll tax, and it will allow employees to take between 12 and 14 weeks of paid time to treat a serious illness, care for a sick relative, care for a newborn child, serve as an organ or bone marrow donor or address issues related to family or domestic violence. The law also expands the covered individuals and reasons for coverage under the existing Connecticut Family and Medical Leave Act (CT FMLA) effective January 1, 2022.

As directed by the legislature, premium payments begin on January 1, 2021 and benefits can be taken starting January 1, 2022.

Rulemaking for the new law is expected to start soon. Sedgwick is currently monitoring the rulemaking process and will provide our feedback to the regulators, as directed. We will keep clients apprised of matters regarding the CT PFML program as they arise.

## DISTRICT OF COLUMBIA PAID FAMILY LEAVE PROGRAM

As previously communicated, starting on July 1, 2020, the District of Columbia will offer paid family leave benefits to workers. The District of Columbia Paid Family Leave (DC PFL) program will be funded entirely by employers, and the program and benefits paid will be administered by the DC Department of Employment Services (DOES).

As directed by the legislature, employer taxes will be payable July 1, 2019 and benefits can be taken starting July 1, 2020.

Rulemaking for the new law was broken down into two chapters, separating the employer contributions and paid leave benefits. The rulemaking process regarding employer contributions is complete and information is now available on employer responsibilities on the DC PFL website.

The second chapter, regarding the administration of paid leave benefits, is currently in rulemaking. However, the paid leave benefits will be administered fully by DOES and employers do not have the option to opt out or set up a private plan. Therefore, Sedgwick intends to administer DC PFL as an offset to any benefit an employee may be concurrently eligible to receive under their employer's paid leave policies.

Sedgwick's disability and absence compliance group continues to review the proposed regulations and will provide additional details on how this will impact the administration of disability and absence management programs toward the end of 2019. For more information, see the DOES website.



## **MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE PROGRAM — PAYROLL TAX DELAY**

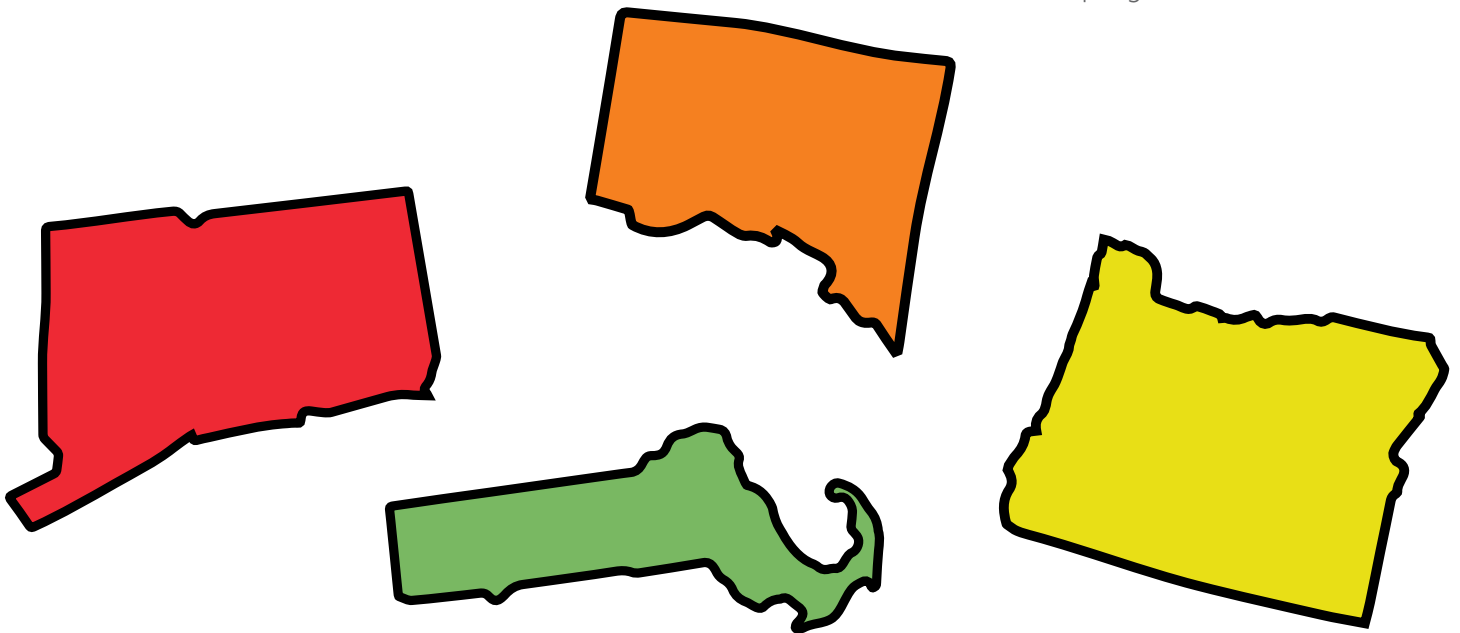
As announced on June 12, 2019, Massachusetts Governor Charlie Baker and legislators agreed to seek a three-month delay to the start of a payroll tax to fund the Paid Family and Medical Leave (PFML) program for all Massachusetts workers, and would look to “clarify” the program’s details. The measure has passed and is now official. Important information about the delay:

- The collection of the 0.63% payroll tax from employers to begin July 1 has been postponed until October 1. Additionally, the Department of Family and Medical Leave (DFML) sent a notice to employers announcing that the tax rate had increased by 19% — from 0.63% to 0.75%.

- The timeline to provide the required employee notices has been extended to September 20, 2019. Check the DFML website for updated notices.
- The DFML has extended the timelines for exemption applications to December 20, 2019. As a reminder, employers that offer paid leave benefits that are at least as generous as those required under the PFML law may apply to the DFML for an exemption from making contributions.
- The PFML final regulations were posted on the DFML website on June 17, 2019.

## **OREGON PAID FAMILY AND MEDICAL LEAVE PROGRAM**

Starting in 2023, Oregon will offer paid family and medical leave benefits to workers. The Oregon paid family and medical leave (OR PFML) program will be funded by an employee and employer payroll tax. It will allow employees to take 12 weeks of paid time to treat a serious illness, care for a sick relative, care for a newborn child or address issues related to family or domestic violence (safe leave). Two additional weeks are available for leave related to pregnancy, childbirth and related conditions. The law is in addition to the Oregon Family Leave Act (OFLA), which is an unpaid leave of absence law; the two laws run concurrently when applicable. There is a maximum entitlement of 16 weeks of any combination of leave under the OR PFML program or the OFLA.



As directed by the legislature, premium payments will begin January 1, 2022 and benefits can be taken starting January 1, 2023.

Rulemaking for the new law is expected to start soon. Regulations must be finalized and adopted by the Oregon Director of the Employment Department no later than September 1, 2021. Sedgwick is currently monitoring the rulemaking process and will provide our feedback to the regulators, as directed. We will keep clients apprised of matters regarding the OR PFML program as they arise.

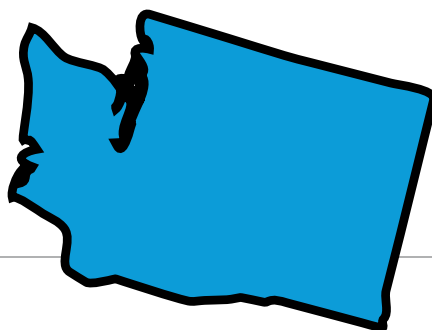
### **WASHINGTON PAID FAMILY AND MEDICAL LEAVE — NEW REPORTING DEADLINE**

The Washington Employment Security Department (ESD) has pushed back the first reporting deadline under the state's new Paid Family and Medical Leave (PFML) law to August 31, 2019. By that date, all Washington employers must file reports about their employees, including wages and associated hours worked

during the first two quarters of 2019. In addition, Washington employers must remit all premiums due for those first two quarters. To file these reports and remit premiums, Washington employers will need PFML accounts with ESD. Detailed instructions on creating accounts, filing reports and remitting premiums are available on the ESD PFML web page. With the exception of these first two quarters, the law requires Washington employers to report information and remit premiums by the last day of the month after every completed quarter.

Washington's PFML law went into effect on January 1, 2019. This year, the state will collect premiums and information from Washington employers. Starting on January 1, 2020, eligible employees may apply to ESD for benefits under this law.

*Clients with questions about the state programs described above should contact their Sedgwick client services representative.*



## **RESOURCES**

### **DISTRICT OF COLUMBIA**

#### **DC PFL website**

<https://dcpaidfamilyleave.dc.gov/employers/>

#### **DOES website**

<https://does.dc.gov/page/dc-paid-family-leave>

### **MASSACHUSETTS**

#### **Notice to employers**

<https://www.mass.gov/info-details/informing-your-workforce-about-paid-family-and-medical-leave>

#### **DFML website**

<https://www.mass.gov/orgs/departments-of-family-and-medical-leave>

#### **PFML final regulations**

<https://www.mass.gov/regulations/458-CMR-200-department-of-family-and-medical-leave>

### **WASHINGTON**

#### **ESD PFML**

[https://www.paidleave.wa.gov/reporting?utm\\_medium=email&utm\\_source=govdelivery](https://www.paidleave.wa.gov/reporting?utm_medium=email&utm_source=govdelivery)



# New generic Lyrica will help lower MSAs

BY **MICHAEL R. MERLINO II, ESQ.**  
SVP, Medicare Compliance, Sedgwick

As you may have heard, the U.S. Food and Drug Administration (FDA) recently approved the generic version of Lyrica (pregabalin). The price for 75 mg of Lyrica is about \$9.36 per dose in RED BOOK, the drug information resource used by the Centers for Medicare & Medicaid Services (CMS). A common dosage is twice per day. Under the current CMS pricing model, which requires all prescription drugs to be priced

for life, a patient with a 20-year life expectancy would need \$136,656 allocated for Lyrica.

Since CMS requires the use of RED BOOK for all drug pricing, we could not realize any price decrease in Medicare Set-Asides (MSAs) until RED BOOK posted the inexpensive pregabalin prices. And now it has. According to RED BOOK, we can price most common dosages of pregabalin at \$.57 to \$.80 per dose. At the least expensive price (75 mg), we can allocate the same person with a lifetime supply (20 years) of pregabalin for only \$8,322. This is a reduction of \$128,334 from the Lyrica pricing.

With this new generic pricing, it appears that Lyrica will no longer be a drug that "prevents settlements."

Please keep in mind that the treating physician must prescribe the generic alternative and the claimant has to fill generic in order for CMS to approve it in an MSA allocation.

*For more information on the FDA's approval, see its recent news release at <https://www.fda.gov/news-events/press-announcements/fda-approves-first-generics-lyrica>.*

# General liability claims added to mySedgwick

BY **LAUREN CUNNINGHAM**  
SVP, Casualty Operations, Sedgwick

Sedgwick is pleased to announce that we are expanding mySedgwick, our self-service tool for consumers, to include access to general liability claims.

With mySedgwick, users can view claim and payment status, contact their examiner, upload claim documents and images, and more.

The features in mySedgwick are focused on the user experience and include:

- Quicker access to claims information
- A user-friendly graphical interface

- A dashboard with information on claim status and notifications
- A learning center with frequently asked questions that we developed to help explain the claims process

*If you have questions about mySedgwick, please contact your client services director.*

Subscribe to the **edge** at  
*[edge.sedgwick.com](http://edge.sedgwick.com)*





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