Workers' Compensation Update:
2023 in review and what's on the horizon?

March 19, 2024

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Content Disclaimer

The information presented is general in nature and is intended to present an overview of workers' compensation. The written and verbal contents of the presentation are not intended to constitute consulting and/or advice and no client relationship is established between the presenter and attendees.

Agenda & Objectives

- **Workers' Compensation – Updates**

  - Financial Status of the industry
  - Important impacts on workers' comp
  - Reducing costs of workers' comp in your organization
  - The Future of things

Polling Question

Have you attended a previous Heffernan Webinar?

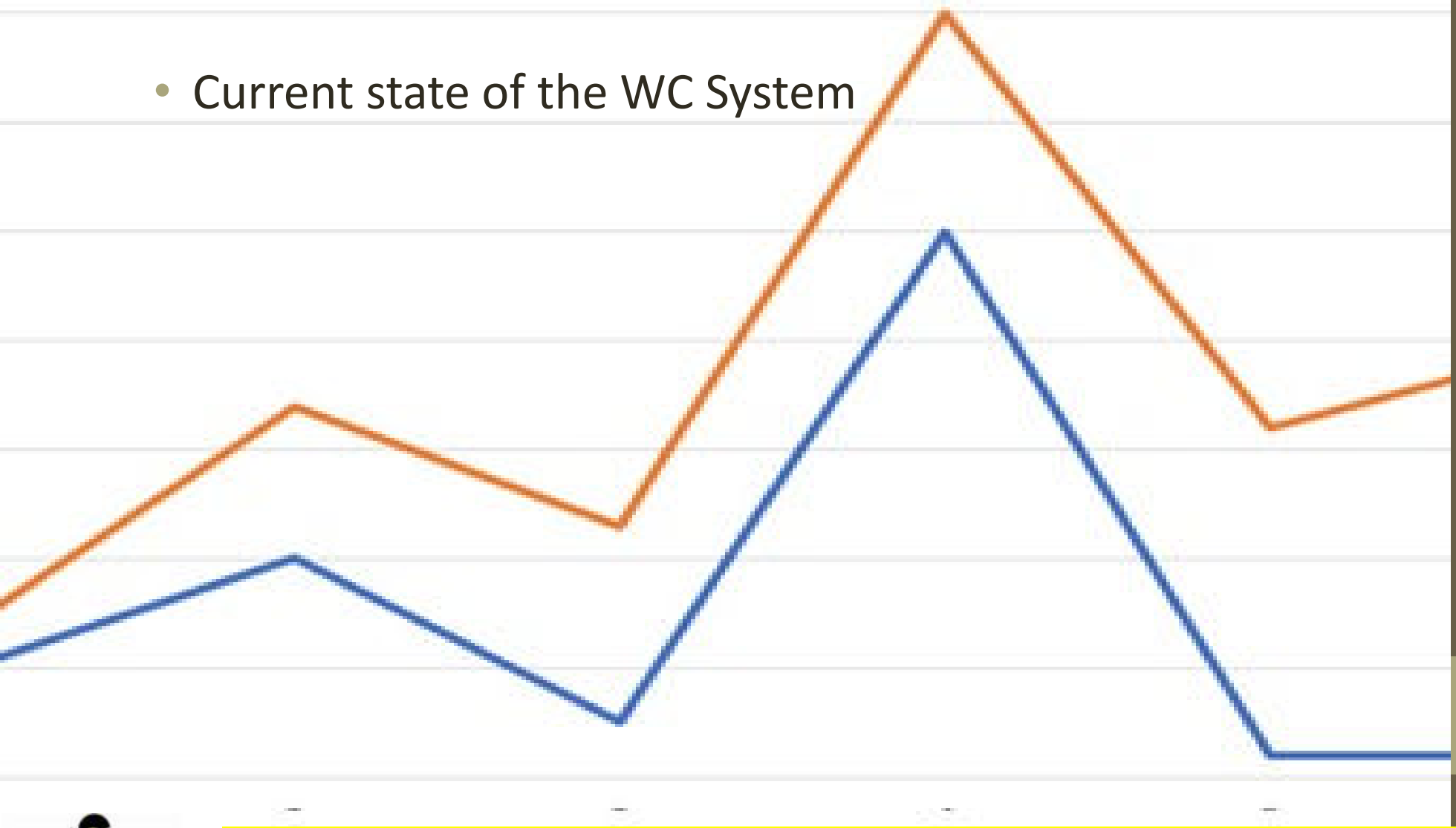
- Yes
- No

Polling Question

- What type of business are you in?
  - Hospitality
  - Agriculture, Construction, or Manufacturing
  - Wholesale/Retail
  - Non-profit or Government
  - Other

Trends and Updates

- Current state of the WC System

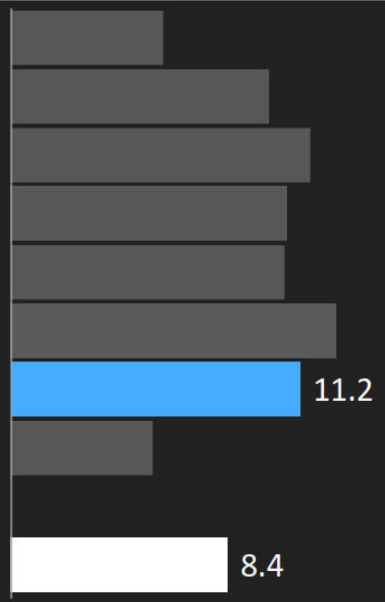


Premiums paid for WC

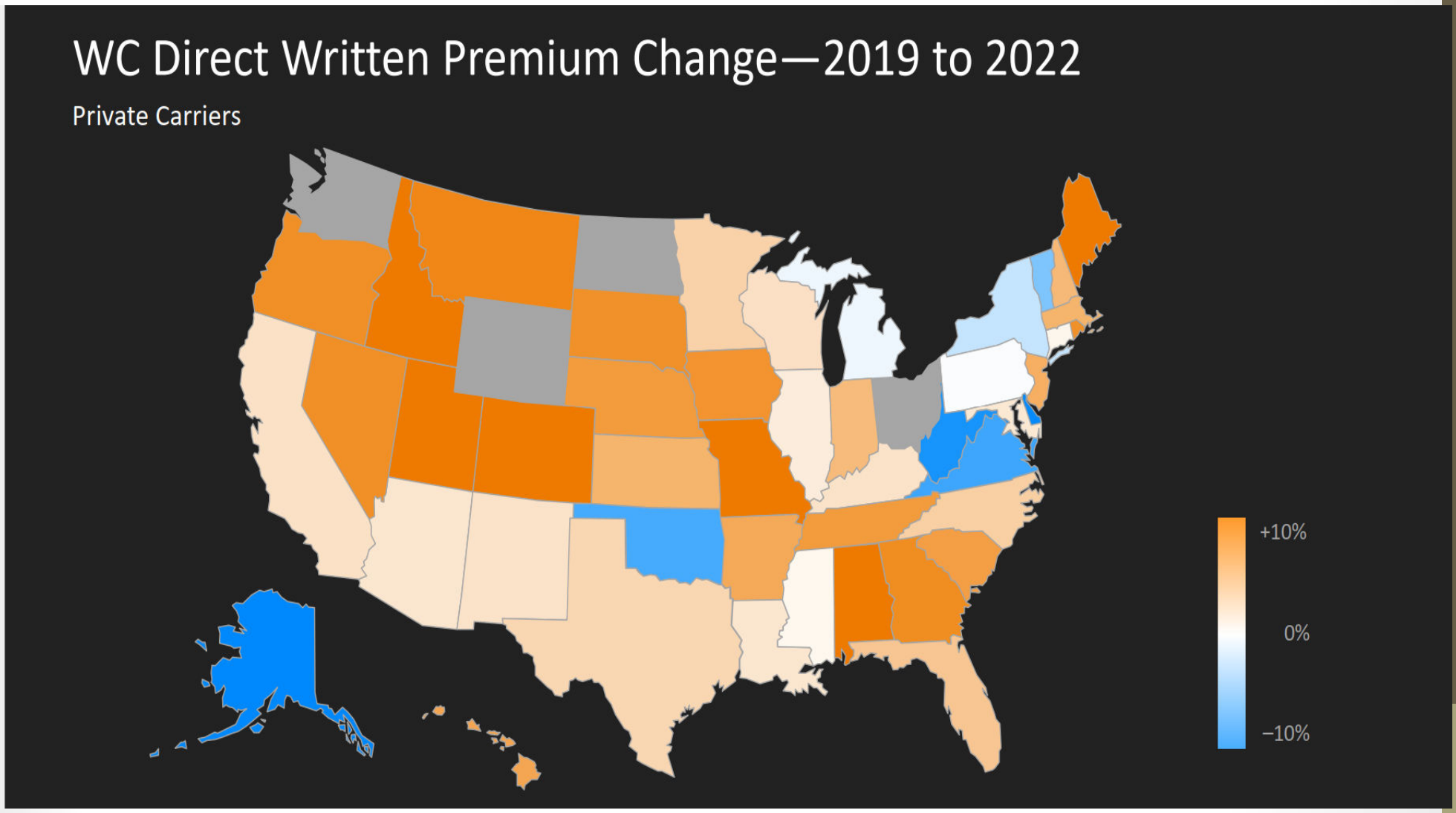
P&C Industry Net Written Premium Growth—2021 to 2022

Private Carriers

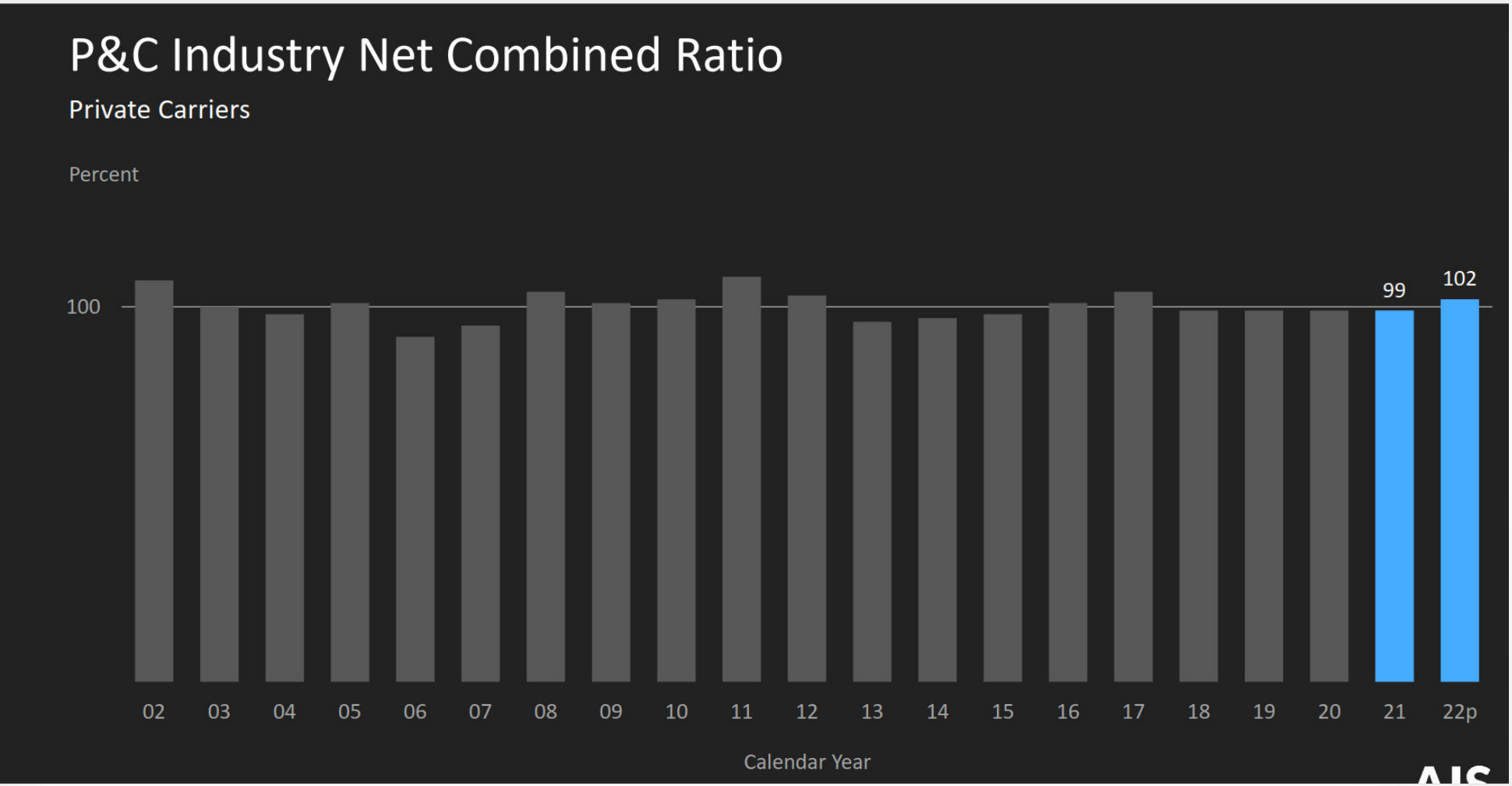
Line of Business	2021 ($B)	2022p ($B)	% Change From 2021
Personal Auto	252.9	267.9	
Homeowners	103.4	113.8	
Other Liability (Incl. Product Liability)	89.1	99.4	
Commercial Auto	46.6	51.6	
Commercial Multi-Peril	43.7	48.4	
Fire & Allied Lines (Incl. Earthquake)	41.9	47.2	
Workers Compensation	38.2	42.5	11.2
All Other Lines	95.1	100.3	
Total P&C Industry	**710.9**	**771.0**	8.4



DWP Changes by State for WC



Profitability

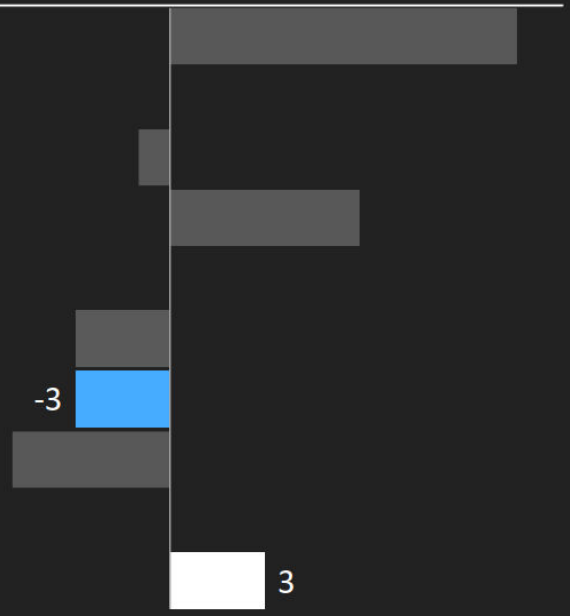


Profitability-by line of insurance

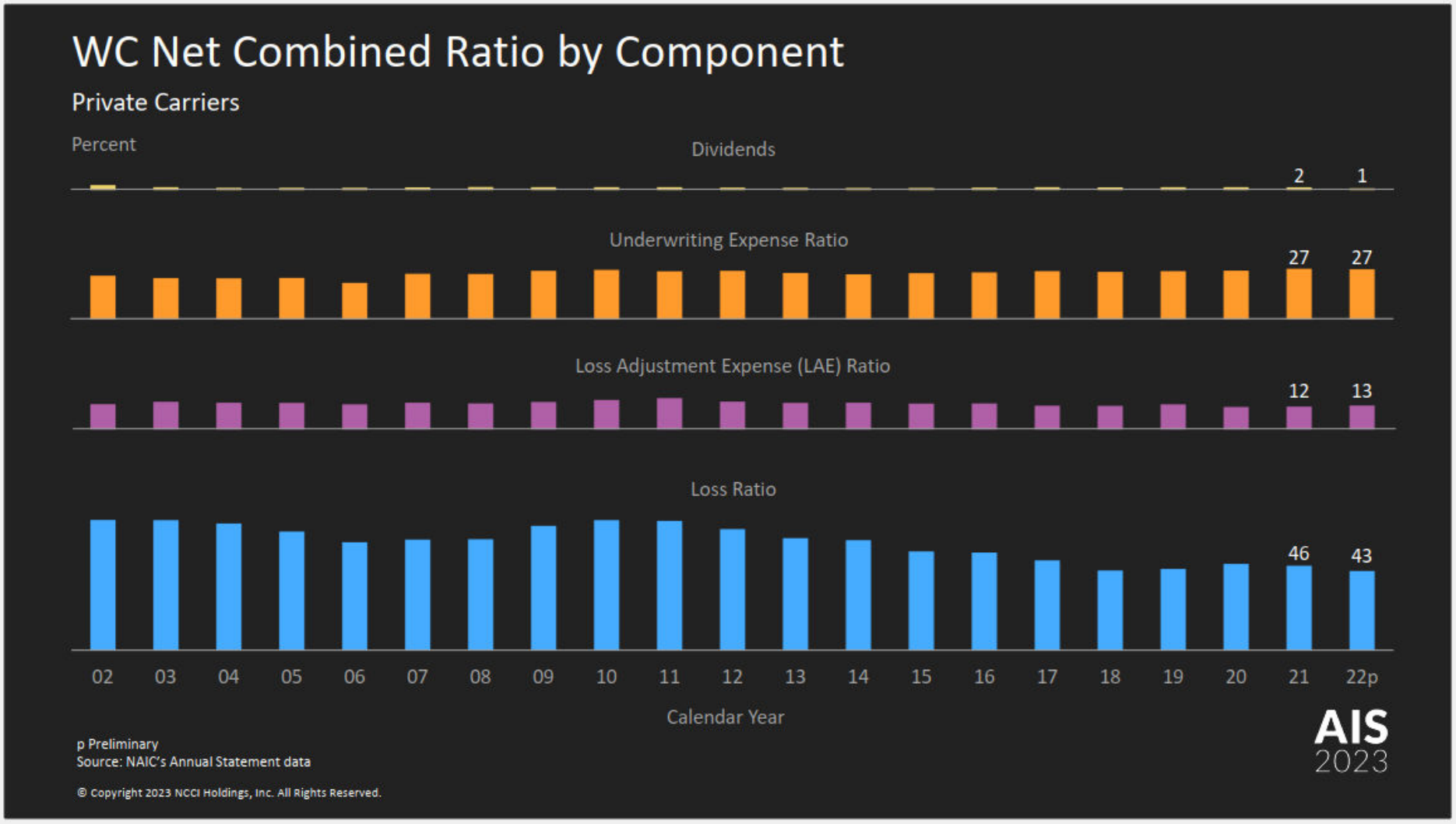
P&C Industry Net Combined Ratio

Private Carriers

Line of Business	2021 (%)	2022p (%)
Personal Auto	101	112
Homeowners	104	104
Other Liability (Incl. Product Liability)	97	96
Commercial Auto	99	105
Commercial Multi-Peril	106	106
Fire & Allied Lines (Incl. Earthquake)	99	96
Workers Compensation	87	84
All Other Lines	92	87
Total P&C Industry	**99**	**102**

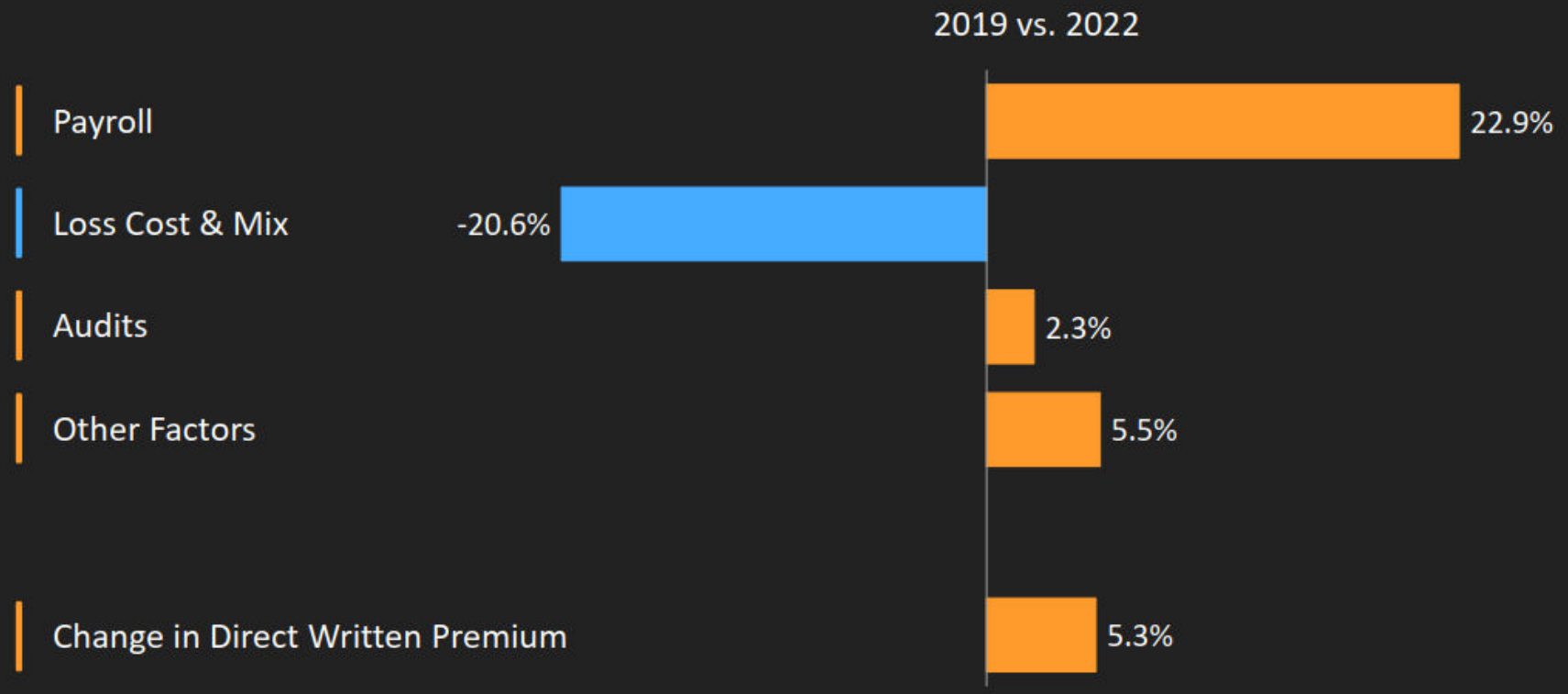


Profitability-Workers' Comp



WC Direct Written Premium Change by Component

Private Carriers—NCCI States



Sources: Direct Written Premium Change: NAIC's Annual Statement Statutory Page 14 for all states where NCCI provides ratemaking services
Components: NCCI's Policy Data

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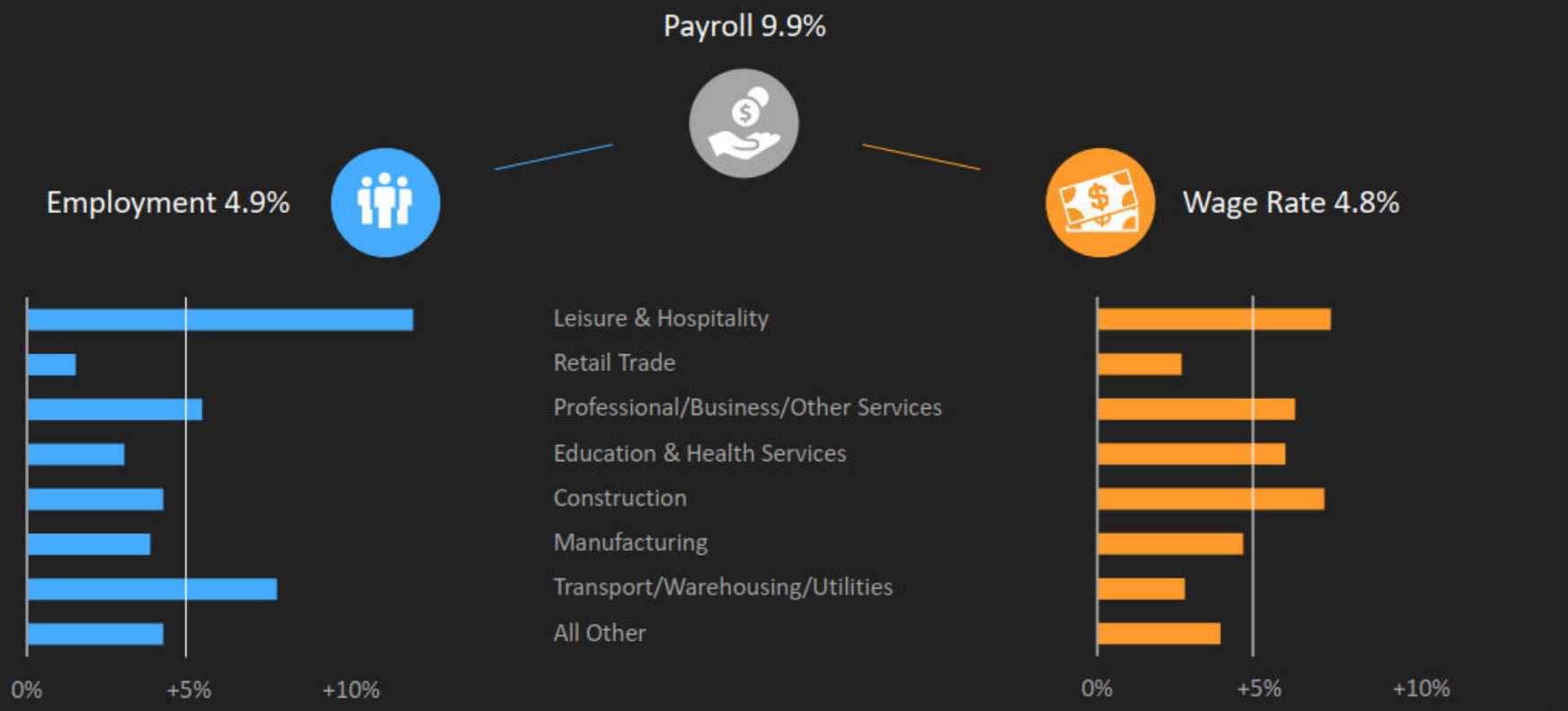
AIS 2023

Changes in Payroll by Component—2021 to 2022



Sources: US Bureau of Labor Statistics; US Bureau of Economic Analysis; NCCI

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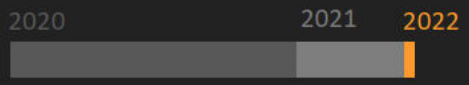
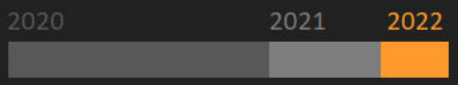
AIS 2023

The Direct Impact of COVID-19—Accident Years 2020–2022

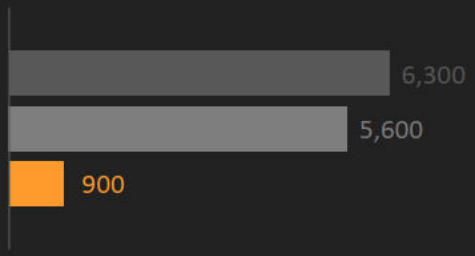
$628M in losses



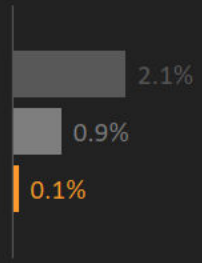
118,000 claims



$5,300 average severity



1% of total losses



AIS 2023

Source: NCCI's Financial Call data evaluated as of 12/31/2022

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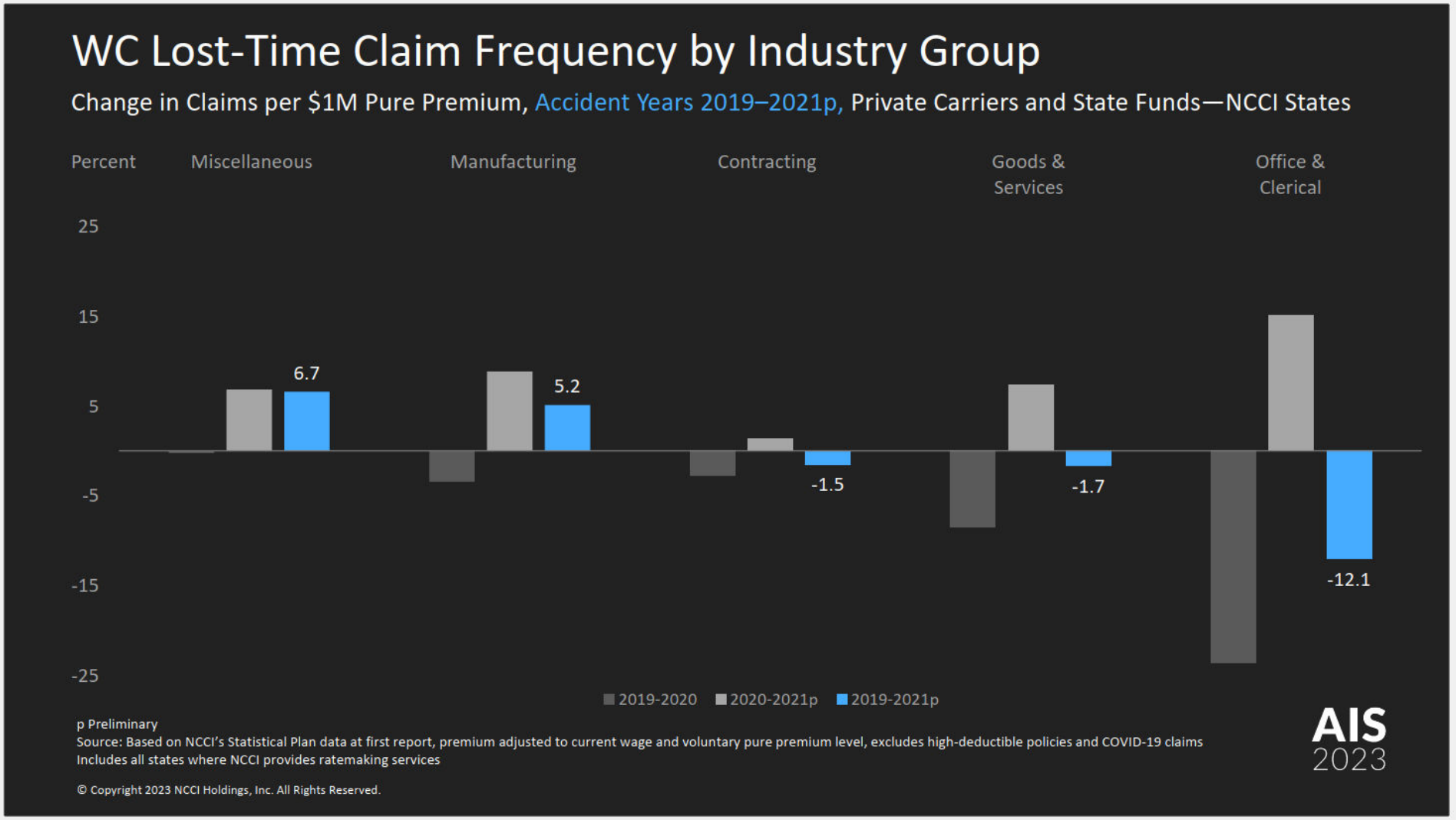
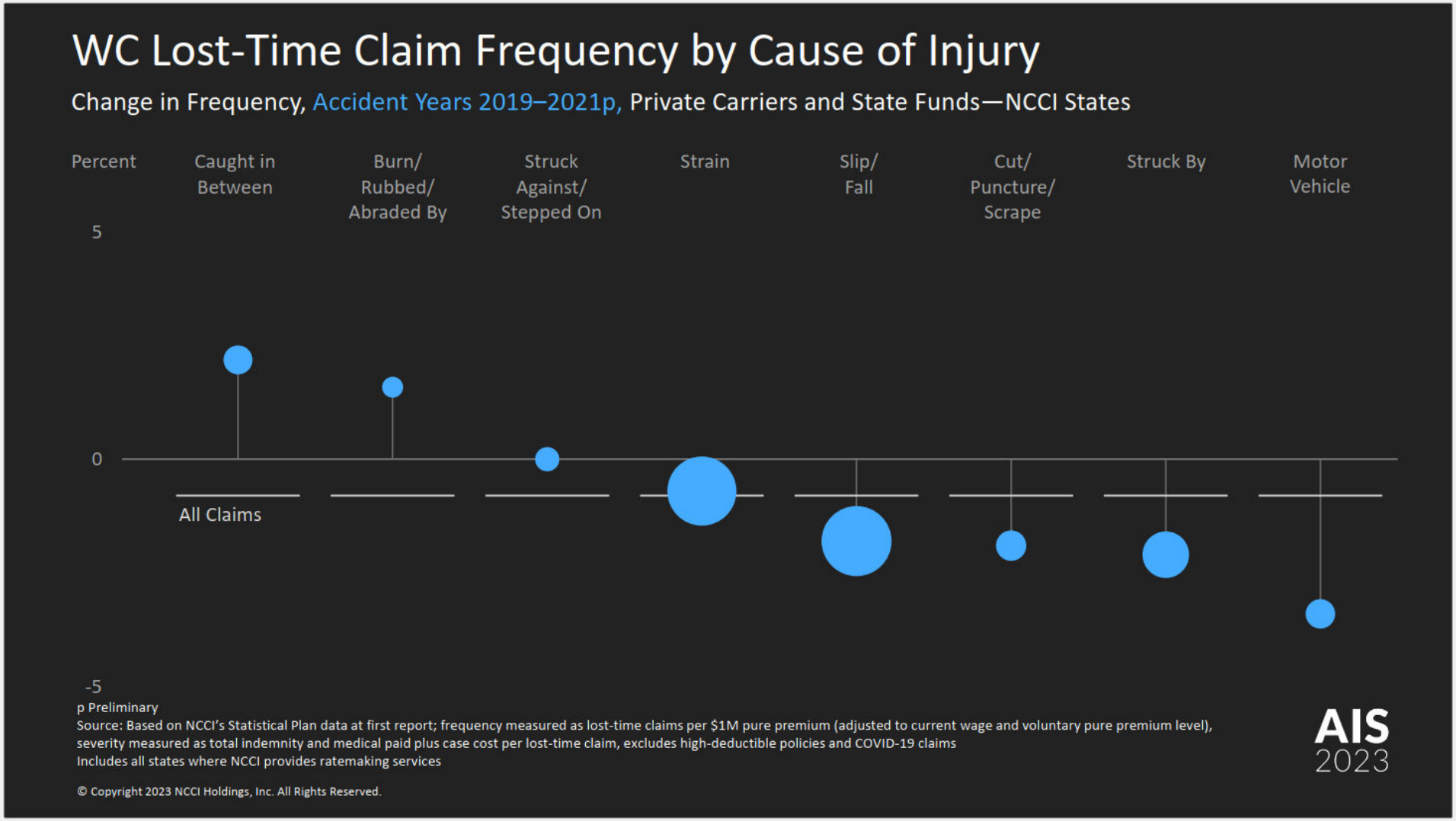
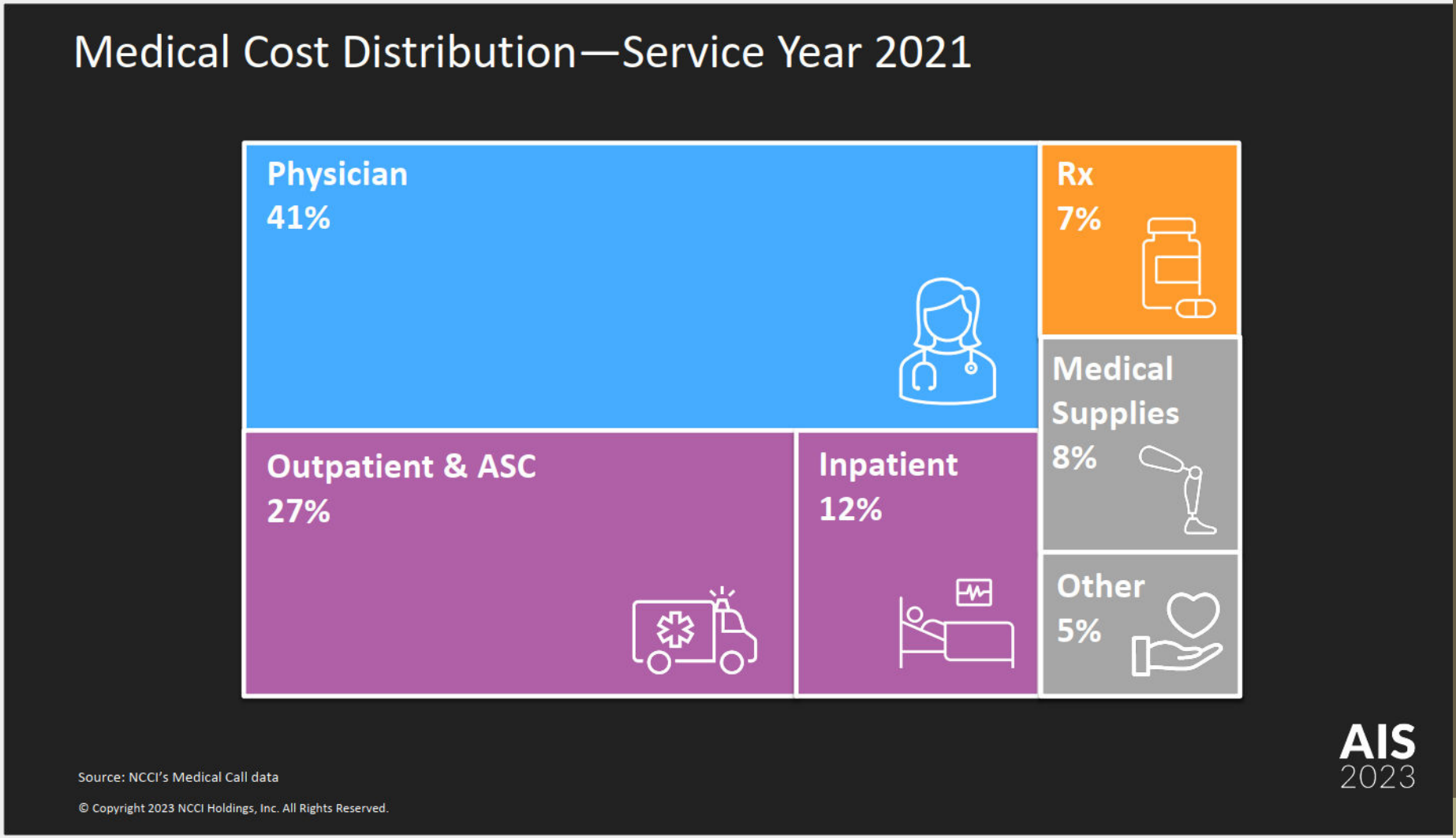
Lost Time Injury Costs:



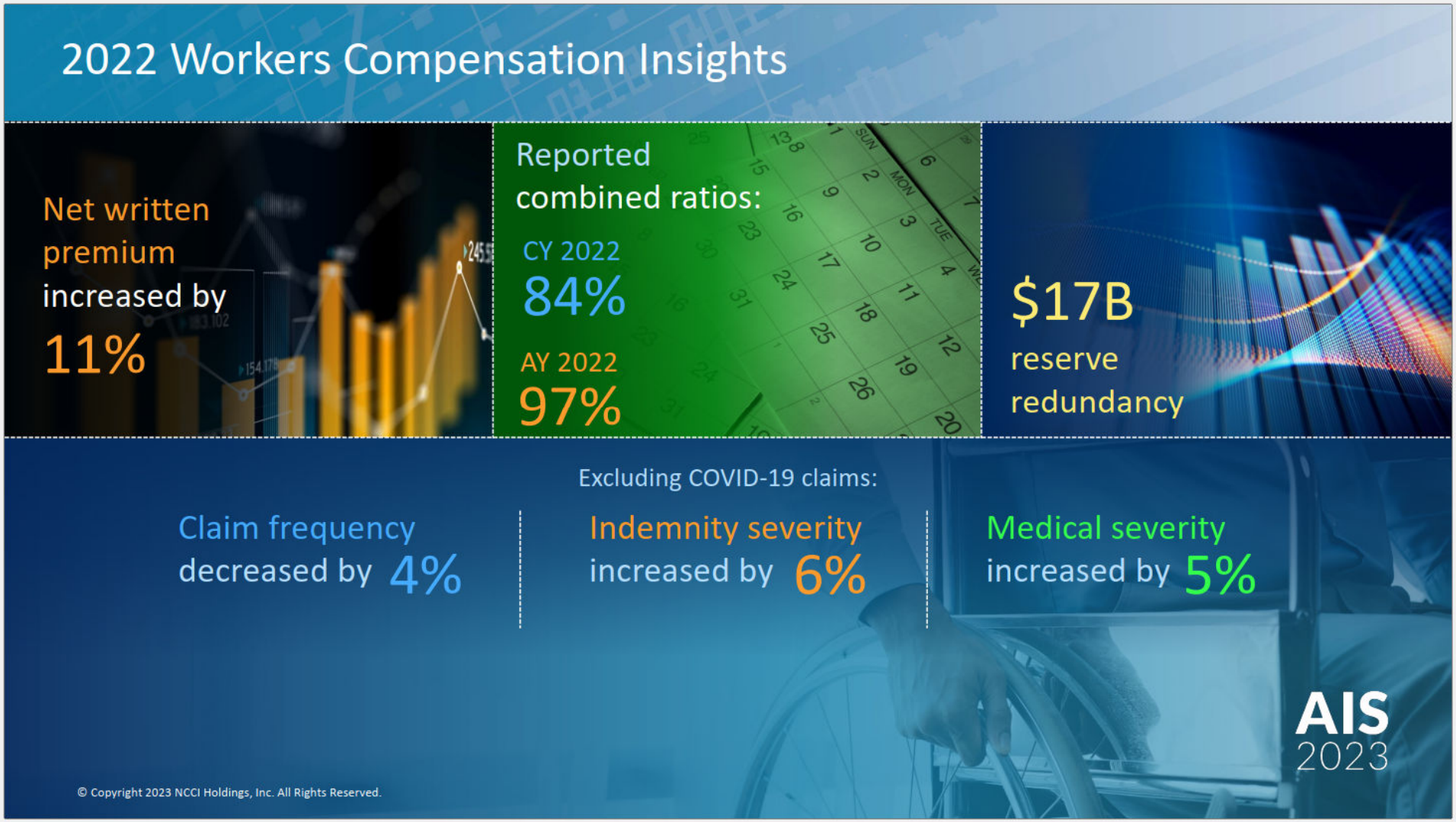
Lost Time Injury Costs by Type of Injury:



Medical Costs:



2022 Workers Compensation Insights



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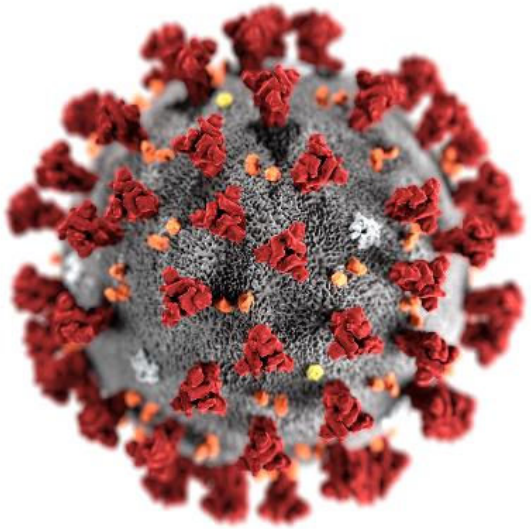
Here are some potential ongoing impacts of COVID-19:

1. Increased Rates
2. Legislative Changes
3. Shifts in Industry Risk Assessment
4. Impact on Claims Experience
5. Remote Work Considerations
6. Long-Term Health Effects
7. Economic Factors



COST OF CLAIMS

- The average cost of a workers' compensation claim in 2022 was $45,000. That is considered a "Direct Cost"
- The INDIRECT cost of a claim is estimated to be 2/3 of the direct cost (down time in production, supervisor investigation of the loss, temp employees or retraining of employees)
- Consider your "cost of doing business" (profit margin – may be 1% to 3%)
- Your cost of a $45,000 claim could cost you millions!

The extent to which the employer pays the direct costs depends on the nature of the employer's workers' compensation insurance policy. The employer always pays the indirect costs.

Injury Type	Instances	Direct Cost	Indirect Cost	Total Cost	Additional Sale (Indirect)	Additional Sale (Total)	
Claims Cost	1	$ 45,000	$ 49,500	$ 94,500	$ 1,650,000	$ 3,150,000	Remove

Totals

Estimated Direct Costs:	$ 45,000
Estimated Indirect Costs:	$ 49,500
Combined Total (Direct and Indirect Costs):	$ 94,500
Sales To Cover Indirect Costs:	$ 1,650,000
Sales To Cover Total Costs:	$ 3,150,000

Disclaimer:

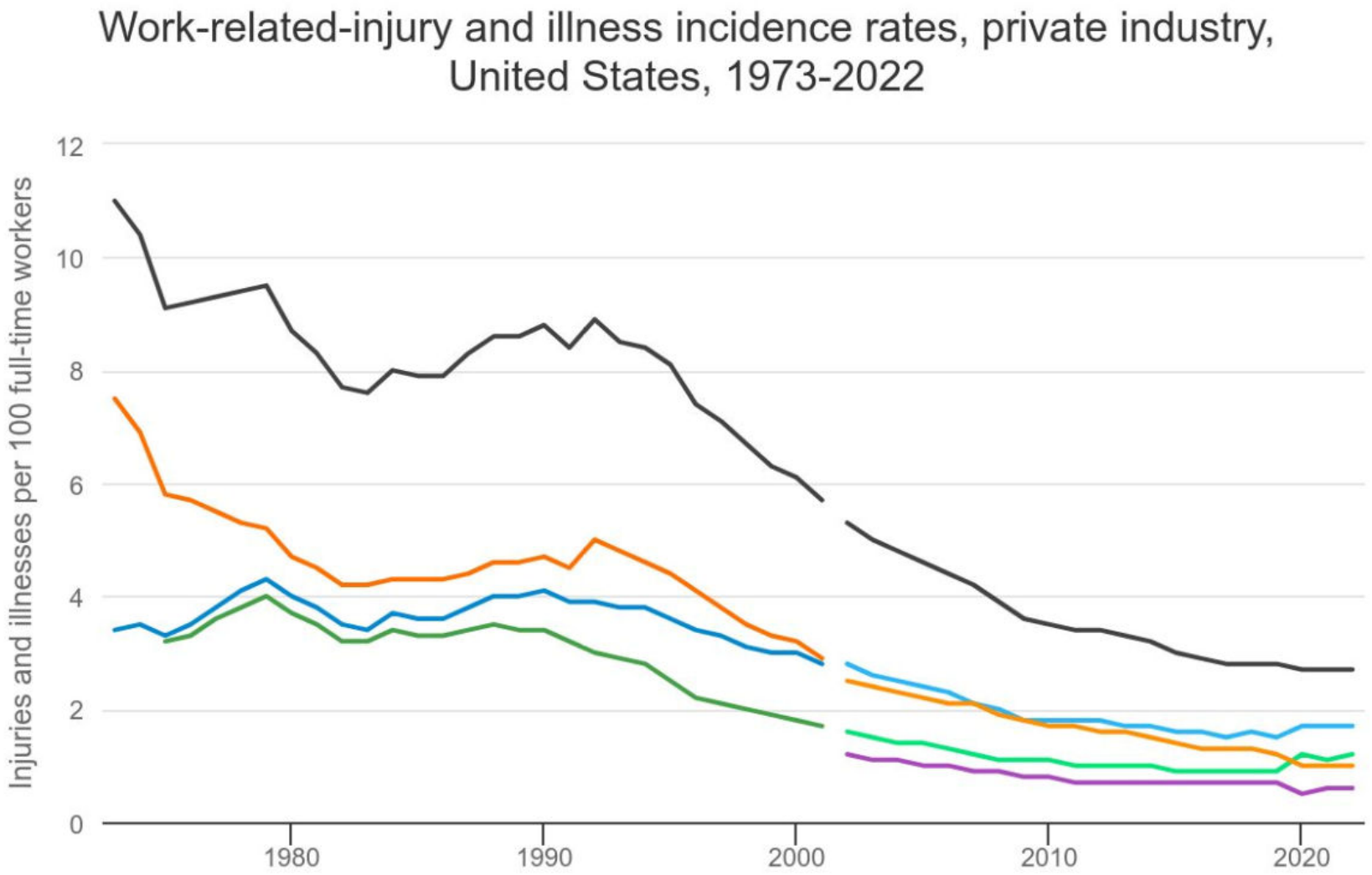
This program is not a new standard or regulation, and creates no new legal obligations. It is intended to help raise employers' awareness of the impact of occupational injuries and illnesses on profitability. The average claim cost estimates used in "$afety Pays" are provided by National Council on Compensation Insurance, Inc. (NCCI). The data reflects the average cost of lost time workers' compensation insurance claims derived from unit statistical reports submitted to NCCI for policy years 2015-2017. NCCI makes no guarantees nor assumes any responsibility for the accuracy of or any results obtained through the use of the NCCI data provided through this tool. NCCI's information and data may not be used or copied in any manner except as provided in conjunction with the OSHA website tool, "$afety Pays." Information entered into the form fields is not captured by OSHA. The system is not programmed to capture or relay any information entered or calculated by the

A $45,000 direct loss at a 3% profit margin in the company = Sales needed to cover the loss $3,150,000

https://www.osha.gov/safetypays/estimator

DIRECT COSTS INCLUDE:
• Medical bills
• Paid leave for the injured employee
INDIRECT COSTS INCLUDE:
• Callouts
• Staff turnover
• Burnout / poor performance (presenteeism)
• Reduced quality of care
• Lower patient satisfaction ratings

A bit of good news?



A bit of good news?

Private Carriers in 38 Jurisdictions, 1999-2019

Policy Period	Total	Medical Only (MO)	MO as Percent of Total	Temporary Total (TTD)	TTD as Percent of Total	Permanent Partial (PPD)	PPD as Percent of Total
1999	6,446	5,047	78.3%	927	14.4%	461	7.2%
2000	6,003	4,685	78.0%	870	14.5%	437	7.3%
2001	5,510	4,277	77.6%	799	14.5%	423	7.7%
2002	5,239	4,036	77.0%	770	14.7%	422	8.1%
2003	4,901	3,747	76.5%	725	14.8%	423	8.6%
2004	4,728	3,635	76.9%	702	14.8%	385	8.1%
2005	4,571	3,514	76.9%	667	14.6%	383	8.4%
2006	4,376	3,351	76.6%	638	14.6%	381	8.7%
2007	4,076	3,107	76.2%	587	14.4%	375	9.2%
2008	3,615	2,730	75.5%	515	14.2%	363	10.0%
2009	3,452	2,659	77.0%	521	15.1%	357	10.3%
2010	3,492	2,621	75.1%	509	14.6%	358	10.3%
2011	3,412	2,566	75.2%	504	14.8%	338	9.9%
2012	3,277	2,464	75.2%	486	14.8%	321	9.8%
2013	3,208	2,405	75.0%	484	15.1%	315	9.8%
2014	3,083	2,313	75.0%	470	15.2%	296	9.6%
2015	2,950	2,221	75.3%	454	15.4%	271	9.2%
2016	2,874	2,165	75.3%	459	16.0%	246	8.6%
2017	2,876	2,164	75.2%	466	16.2%	242	8.4%
2018	2,799	2,105	75.2%	460	16.4%	230	8.2%
2019	2,458	1,804	73.4%	439	17.9%	211	8.6%
Percent change, 1999-2019	-61.9	-64.3		-52.6		-54.2	

Source: National Council of Compensation Insurance, 1997-2023, Exhibit XII, *Annual Statistical Bulletin*. The most recent data available is 2019.

Total injuries down 61.9% 1999 to 2019

Fatal injuries down by 12% from 2001 to 2021

Polling Question

What do you think the most frequent Cause of injury in the workplace is?

- Overexertion/Lifting/Strains
- Auto Accidents
- Falls
- Struck By
- Other or Not sure

Liberty Mutual workplace safety index 2022

U.S. businesses spend more than one billion dollars a week on serious, nonfatal workplace injuries.

	Percent total	Cost billions	
1.	21.76%	$12.63	**Overexertion involving outside sources** (handling object)
2.	17.67%	$10.26	**Falls on same level**
3.	9.76%	$5.66	**Struck by object or equipment** (being hit by objects)
4.	8.73%	$5.07	**Falls to lower level**
5.	6.91%	$4.01	**Other exertions or bodily reactions** (awkward postures)
6.	6.18%	$3.59	**Roadway incidents involving motorized land vehicle** (vehicle crashes)
7.	4.34%	$2.52	**Slip or trip without fall**
8.	3.77%	$2.19	**Caught in or compressed by equipment or objects** (running equipment or machines)
9.	3.22%	$1.87	**Struck against object or equipment** (colliding with objects)
10.	2.39%	$1.39	**Non-roadway incidents involving motorized land vehicles**

Understanding top risks in the workplace is the first step to protecting your business. The Liberty Mutual Workplace Safety Index helps employers, risk managers, and safety practitioners make workplaces safer by identifying critical risk areas so that businesses can better allocate safety resources.

Developed annually, the Index ranks the top 10 causes of serious, nonfatal workplace injuries by their direct costs to U.S. businesses. The 2022 Index shows that these injuries amounted to $49.18 billion in direct U.S. workers compensation costs. This translates to almost one billion dollars per week that businesses spend on just the top 10 most costly injuries.

Workplace Safety

The 2022 Liberty Mutual Workplace Safety Index (WSI) compiles the top 10 causes of the most serious disabling workplace injuries – those that caused employees to miss work for more than five days – ranked by direct cost to employers based on medical and lost-wage expenses.

Top 3 Injuries on the safety index 2022

1. Overexertion involving outside sources (handling objects)

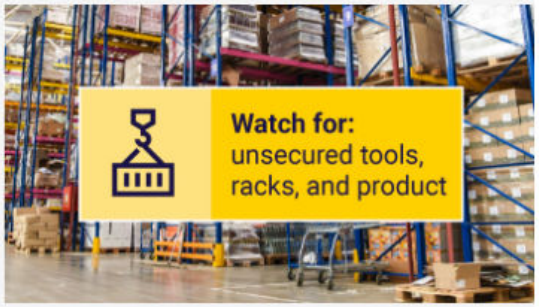
Cost per year: $12.63B

2. Falls on the same level

Cost per year: $10.26B

3. Struck by object or equipment (being hit by objects)

Cost per year: $5.66B



Prevention – what to do? Ask Questions:

- Can we design out the need to lift or use mechanical lifting devices?
- Are floor and walkways kept clear, level and dry?
- Do we restrict access underneath work areas?
- Do we design our work to reduce awkward, end-range, or prolonged postures?

Where are the most dangerous places to work?

1. **Construction:** It consistently ranks among the industries with the highest rates of workplace accidents and fatalities.
2. **Manufacturing:** Common accidents in manufacturing include equipment malfunctions, slip and fall accidents, and injuries from handling machinery.
3. **Agriculture:** Farming remains one of the most hazardous occupations globally.
4. **Transportation:** involves significant risks due to vehicle accidents, transportation of hazardous materials, and long hours of work leading to fatigue-related incidents.
5. **Healthcare:** healthcare workers face various workplace hazards such as exposure to infectious diseases, needlestick injuries, lifting injuries, and workplace violence.

New factors in the workplace

REMOTE WORKERS

Prior to 2020 less than 10% of the professional workforce worked from home all or most of the time, and while some experts put remote work at more than 70% during the peak of the pandemic, today, it seems we have normalized with approximately 60% now working primarily from home.

New factors in the workplace

WORKPLACE VIOLENCE PROGRAMS

- **Certain industries**, such as healthcare, social services, and retail, have historically experienced higher rates of workplace violence due to factors such as interactions with volatile individuals, handling of cash, or exposure to high-stress environments.
- **Legislative and Regulatory Changes:** Many jurisdictions have implemented legislation and regulations aimed at preventing workplace violence and protecting workers. These efforts often include requirements for risk assessments, training programs, and policies and procedures to address potential violence in the workplace.

Workplace Violence – CA new regulation under SB 553 (implemented July 2024)

- The latest data shows in the U.S., an average of 1.3 million nonfatal violent crimes in the workplace occurred annually from 2015 to 2019. There were 57 fatal incidents.
- Females are twice as likely to be assaulted in the workplace
- Number of injuries reported by victim-offender relationship shows 43% of incidents are from patients (in the healthcare field) with the next highest at 23% being from students (schools/education)
- Employers must have a workplace Violence Prevention Plan
  - In writing showing responsible party, how to respond to reports, ways to communicate, review plan annually, training, recordkeeping and reporting

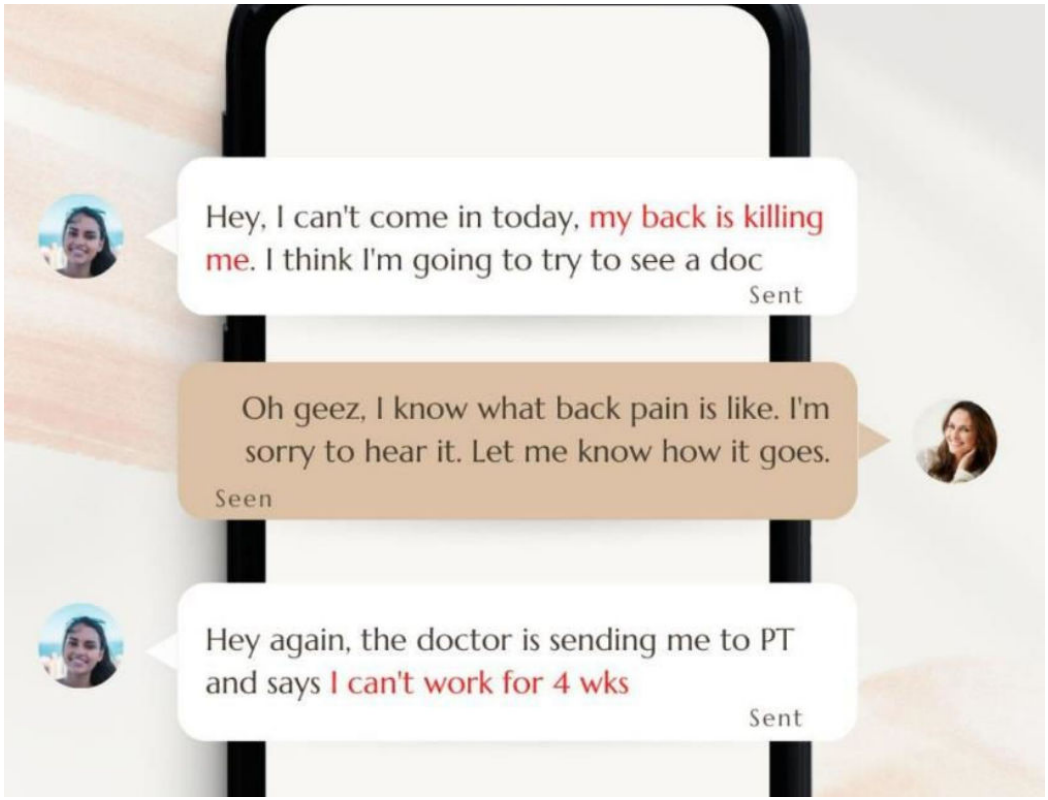
PREVENTION-What to do?

- Conduct regular self-inspection safety audits to identify and eliminate hazardous conditions.
  - NOTE: Make Zoom calls with remote employees to review their workspace conditions from an ergonomic view
- Good housekeeping-keep the floor clear of any materials that could cause a worker to slip or trip.
- Provide employees with adequate personal protective equipment – and enforce it's use!
- Properly train all employees and train often; newer employees are the most vulnerable to an accident, and seasoned employees can always use a refresher course.
- Recycle, Rinse, Repeat!

CONTROL COSTS-What to do?

- Investigate and Report injuries quickly– injured worker to supervisor, supervisor to HR, HR to insurance company…
- Get immediate and appropriate medical attention – MPN's, quality relationship with the doctor/medical facility
- Communication with injured person, insurance carrier and doctors
- Have a strong return to work program (modified duty)

CONTROL COSTS- “claim gone wrong!”



Employer:
Knows the employee has a long history of back problems and calling off work. Assumes this is just another issue with pre-existing back problems. Thinks they are being a great, understanding employer by not asking questions.

Employee:
Contacts employer two weeks later and asks when they will get paid.

Employer:
Confused. Explains that the employee doesn't have any PTO remaining

Claim gone wrong!

Employee:
States they should be paid since this is a work injury, and now the doctor is talking about surgery.

Employer:
Upset. Delays reporting the injury until they receive a letter of representation from an attorney. Demands the claim be denied.

Claim gone wrong!

Adjuster: (To all employers and supervisors) This happens ALL the time. Please don't ever assume the cause of your employee's complaint. Always ask. In most jurisdictions, it will be darn near impossible to deny the claim once the employee has settled on their story of work-injury. Don't be afraid of "creating claims". The claims will create themselves if you avoid the details. The best thing you can do is determine all the facts up front, report the incident immediately to your Work Comp insurance, and maintain integrity.

Claim gone RIGHT!

Here's a fictional case example of a workers' compensation claim in 2023:

Case Example:

Background: John Smith, a 35-year-old warehouse worker, was employed by XYZ Logistics, a large distribution company. John's job responsibilities included loading and unloading heavy cargo from trucks, operating forklifts, and organizing inventory in the warehouse. On a typical workday in 2023, John suffered a severe back injury while lifting a pallet of goods, resulting in significant pain and limited mobility.

Claim gone RIGHT!

Injury and Medical Treatment: Upon experiencing the injury, John immediately reported the incident to his supervisor and sought medical attention from the company's designated healthcare provider. An initial evaluation revealed that John had sustained a herniated disc in his lumbar spine, requiring prompt medical intervention. He underwent diagnostic tests, including MRI scans, to assess the extent of the injury and develop a treatment plan.

The treating physician prescribed a comprehensive course of treatment, including:

- Physical therapy sessions to improve flexibility, strength, and range of motion.
- Prescription medications to manage pain and inflammation, with careful monitoring to minimize the risk of opioid dependence or adverse side effects.
- Injections of corticosteroids or nerve blocks to alleviate pain and facilitate rehabilitation.
- Occupational therapy to address ergonomic issues and teach proper lifting techniques to prevent future injuries.

Claim gone RIGHT!

Workers' Compensation Claim Process: John filed a workers' compensation claim with XYZ Logistics' insurance carrier, seeking coverage for medical expenses, wage replacement benefits, and vocational rehabilitation services during his recovery period. The claim was promptly processed, and John received timely authorization for necessary medical treatments and diagnostic procedures.

Throughout the claim process, John's employer provided ongoing support and accommodations to facilitate his return to work as soon as medically feasible. XYZ Logistics implemented modified duty assignments, adjusted work schedules, and provided ergonomic equipment to accommodate John's physical limitations while ensuring his continued productivity and job satisfaction.

Claim gone RIGHT!

Resolution and Return to Work: After several months of intensive medical treatment and rehabilitation, John's condition gradually improved, allowing him to return to light-duty work at the warehouse with temporary restrictions on lifting and bending. XYZ Logistics collaborated with John's healthcare providers to develop a phased return-to-work plan, gradually increasing his job duties and responsibilities as he regained strength and mobility.

Despite the challenges posed by his injury, John successfully transitioned back to full-duty status within a reasonable timeframe, thanks to the collaborative efforts of his employer, healthcare providers, and workers' compensation team. XYZ Logistics' proactive approach to injury prevention, claims management, and employee support helped minimize the impact of the incident on John's health, finances, and overall well-being.

Claim gone RIGHT!

Lessons Learned: This case example illustrates the importance of:

- timely injury reporting,
- comprehensive medical treatment,
- effective communication, and
- proactive return-to-work strategies

By prioritizing employee safety, health, and recovery, employers can mitigate the adverse consequences of workplace injuries, foster a supportive work environment, and promote sustainable business operations.

Successful strategies and best practices (general)

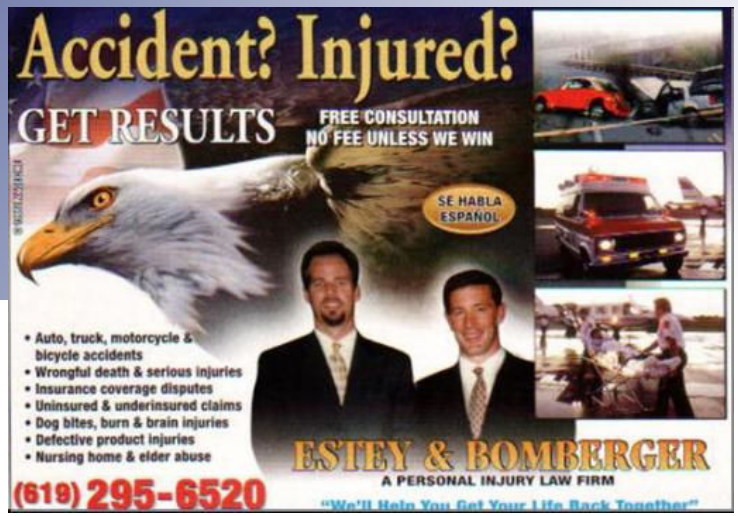
- Recovery opportunities (subrogation)
- Fraud and red flags (injured worker/witnesses)
- Loss Control (prevent others from being harmed the same way-remove hazards immediately)
- Minimizing the cost of injuries
  - After an injury
  - Reporting and investigation
  - Return to work
  - Medical providers
  - Claims team relationship
  - Broker/agent

Eliminate the Mystery of Workers' Compensation

- Provide fundamental information to supervisors and employees
- Reassure employees that their job is safe
- Tell injured employees about the reimbursement of mileage and other benefits they may not be aware of

Minimize Attorney Involvement

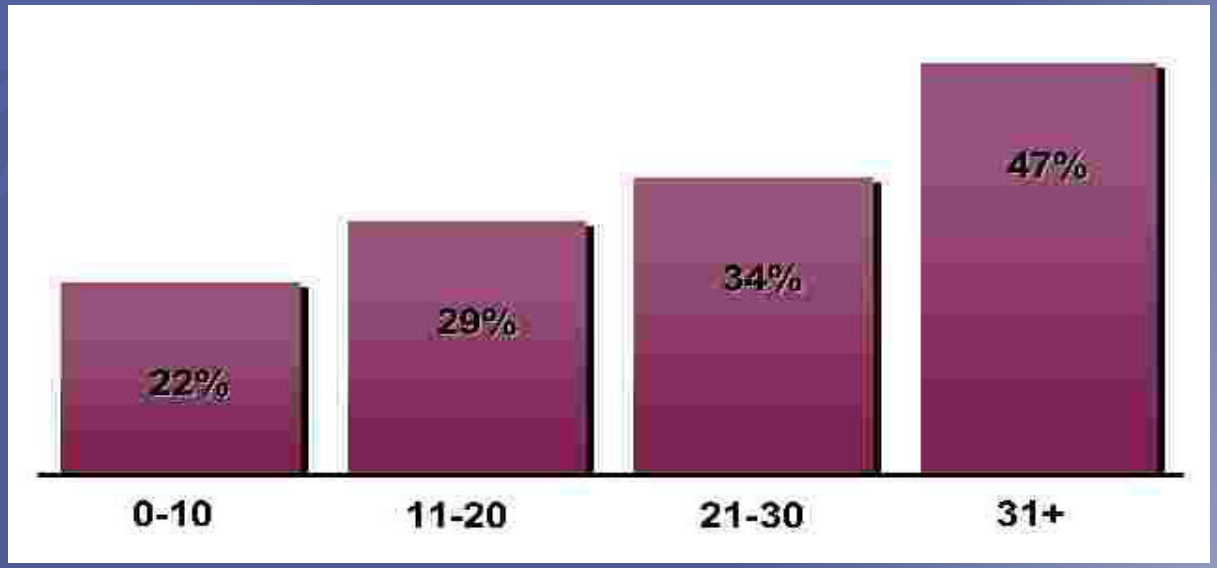
Where do you want your employees to learn about workers' compensation?



Minimize Attorney Involvement

- Get care for injured workers first
  - Do the paperwork later
- Notify claims team quickly after injury/notification
- Continue to practice “actively caring” steps

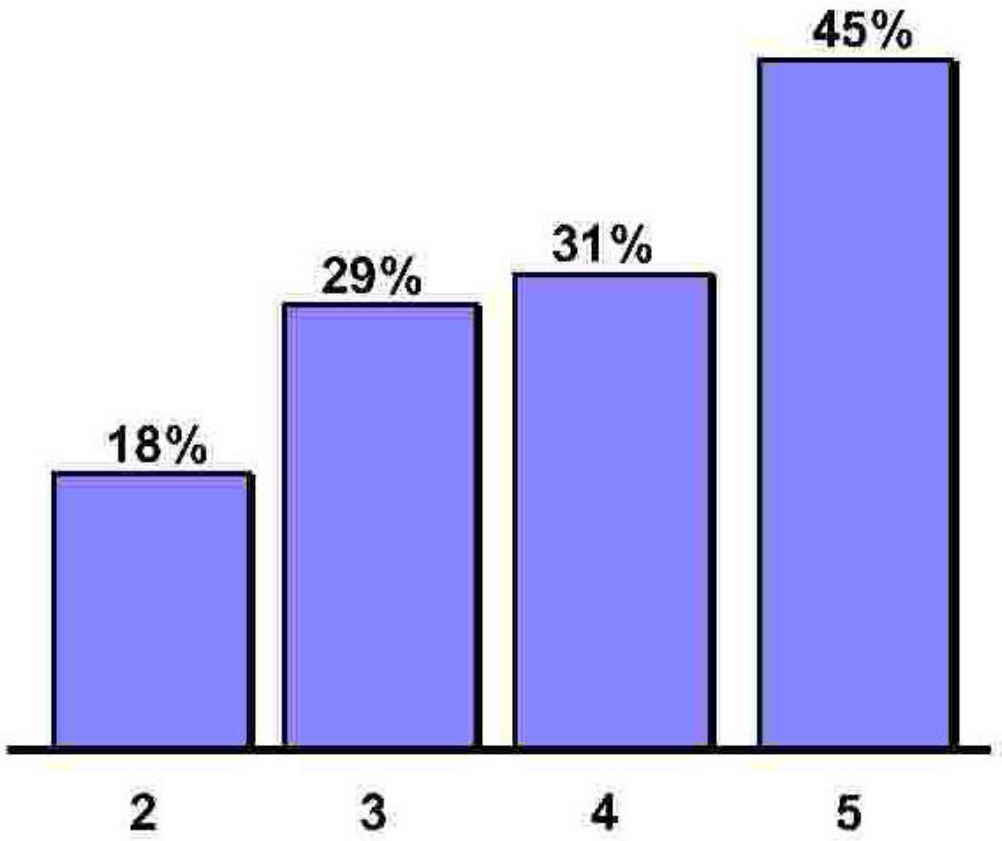
Minimize Attorney Involvement



The longer the reporting period – the higher the probability of litigation

Percentage of claims litigated, relative to report lag (in days: 10, 20, 30 and over 30)

Reporting costs



Injuries reported within 2 weeks of injury were 18% more expensive than those reported within one week.

…reported within 3 weeks were 29% more expensive than those reported within one week.

…reported at 4 weeks were 31% higher and at five weeks they were 45% higher.

Understand Employee Perception of Workers' Compensation

- Communication counts
- Show you care
- Treat people the way you would want to be treated
- Get help/medical care for injured
- Get well cards (signed by staff)
- Flower or other means of recognition
- Visits/calls
- Demonstrate understanding, caring behavior
- Discuss job security

Understand Employee Perception of Workers' Compensation

"… the preferred source for information should be provided by employers (supervisors) …"

What's the future holding?

- **Technology Integration:** Experts anticipate continued integration of technology into workers' compensation processes, including claims management, risk assessment, fraud detection, and injury prevention. Advancements in artificial intelligence (AI), machine learning, wearable devices, telemedicine, and data analytics are ***expected to streamline operations, improve efficiency, and enhance outcomes for injured workers.***
- **Telemedicine and Remote Work:** The COVID-19 pandemic accelerated the adoption of telemedicine and remote work arrangements, leading experts to predict their continued prevalence in the workers' compensation landscape. Telemedicine offers opportunities for virtual consultations, remote medical evaluations, and post-injury care, reducing the need for in-person visits and ***improving access to healthcare services for injured workers, particularly those in rural or underserved areas***.

What's the future holding?

- **Focus on Mental Health:** There's growing recognition of the importance of addressing mental health issues in the workplace and their impact on workers' compensation claims. Experts anticipate increased emphasis on mental health support, trauma-informed care, and holistic wellness programs to ***address psychological injuries, stress-related disorders, and workplace violence incidents***.

- **Regulatory Reform:** Legislative and regulatory changes are expected to shape the future of workers' compensation, with policymakers exploring ways to balance the needs of injured workers, employers, insurers, and healthcare providers. Reforms may focus on benefit adequacy, access to care, dispute resolution mechanisms, and cost containment strategies while ***addressing emerging risks and challenges in the evolving work environment.***

What's the future holding?

- **Workforce Trends:** Demographic shifts, such as an aging workforce, gig economy expansion, and remote work arrangements, are expected to influence workers' compensation trends. Experts anticipate changes in injury profiles, claim patterns, return-to-work strategies, and vocational rehabilitation needs as ***the composition of the workforce evolves and new employment models emerge.***

- **Prevention and Early Intervention:** There's a growing emphasis on prevention and early intervention strategies to mitigate workplace injuries and reduce workers' compensation costs. Employers, insurers, and safety professionals are investing in proactive risk management, safety training, ergonomic assessments, and wellness ***programs to prevent accidents, promote health, and improve overall workplace safety culture.***

What's the future holding?

- **Collaborative Partnerships:** Stakeholder collaboration and partnerships are seen as essential for addressing complex challenges and driving innovation in workers' compensation. Employers, insurers, healthcare providers, legal professionals, government agencies, and advocacy groups are working together to develop integrated solutions, share best practices, and ***improve outcomes for injured workers while ensuring the sustainability of the workers' compensation system.***

- Overall, while the future of workers' compensation may be shaped by various uncertainties and external factors, experts agree that embracing innovation, fostering collaboration, prioritizing prevention, and ***adapting to evolving workforce dynamics will be critical for navigating the changing landscape effectively and promoting a safer, healthier, and more resilient workplace for all.***

Discussion and Questions

Thank You!

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