



## NCSI is seeking speakers for the 2020 Annual Meeting

The National Council of Self-Insurers' has supported the interests of workers' compensation self-insurers since 1946. We welcome speakers in a wide variety of topics that are geared towards the specific needs of our members. The theme for our 2020 conference is: How to build a better Self-Insurance Program.

Do you have an idea for a great presentation or have a subject matter that you would like covered that fits with our theme? If so, submit your proposals [here](#).

Some of our selection criteria include:

- All presentations must focus on ways for self-insured employers to improve the governance of their workers' compensation programs. We are specifically looking for topics that have the "how to . . ." as the main take-away.
- All panels must include a self-insured employer representative.
- Individual presentations will be assigned an NCSI Board of Managers member to moderate the session.
- Topics should be innovative, current, engaging and relevant to self-insured employers, claims administrators, adjusters, and attorneys in the management of workers' compensation claims.

Now it is time to start planning on attending the 2020 Annual Meeting. We will be meeting June 7-10 at the beautiful Hyatt Regency Scottsdale at Gainey Ranch! Be sure to put the dates on your calendar!



## Medical Marijuana Trend means Growing Discrimination Exposures

As reported in Business Insurance, a growing number of workers and job applicants are successfully suing businesses for discrimination after they terminate or fail to hire them because of their medical marijuana use, experts say.

The trend is expected to accelerate with 33 states and the District of Columbia to date having legalized medical marijuana's use, these experts say.

Recent cases include a Nov. 22 ruling by the Court of Common Pleas of Lackawanna County in Scranton, Pennsylvania, which became the first state or federal court in Pennsylvania to rule on the issue.

Complicating the situation for employers, meanwhile, is the fact that marijuana remains an illegal drug under federal law and various state laws create a patchwork quilt of legislation for them to follow.

Experts recommend that employers make an effort to engage in an interactive process with workers in states where medical marijuana has been legalized. To read the entire article click [here](#).

## NCSI Welcomes New Member

The National Council of Self-Insurers' is pleased to welcome new member MedCall Advisors. MedCall Advisors is a revolutionary tele-emergent care medical service utilizing technology to immediately connect anyone experiencing a medical event with a board-certified physician in Emergency Medicine.

**MedCall**  
ADVISORS

## WHAT'S NEW

### Is it Time to Audit that PBM?

As a follow up to last quarter's Scoop important and informative article by Staff Mark on PBMs, in this edition we present an article by Joe Paduda, President of CompPharma, LLC, a research and consulting firm focused on pharmacy management in workers' compensation.

Self-insured employers audit workers' comp medical and legal bills, claims handling, reserving, and state reporting--essentially every aspect of a workers' comp program--except pharmacy. Yet pharmacy is one of the more complex and confusing components of any workers' comp program, and one of the least well understood.

There are obscure pricing methodologies, multiple pricing standards, dense contract language, and obtuse definitions. The supply chain is byzantine in its complexity and benchmark data is only available to industry insiders, making WC pharmacy inscrutable to anyone not steeped in these issues.

Until recently, employers and their Pharmacy Benefit Managers [PBMs] were focused primarily on the rampant overuse of opioids by injured workers – as well they should have been. As opioid overuse has dropped significantly over the last few years, employers are turning their attention to ensuring the prices they are paying for drugs are both market-competitive and consistent with the terms of their PBM contracts.

That's not to imply PBMs are acting in bad faith, rather the overwhelming focus on addressing the opioid crisis left little oxygen for other efforts.

Our experience assessing workers' comp PBM programs indicates 3-7 percent of drug costs billed to employers are inappropriate. This happens when PBMs fail to update their pricing tables on a timely basis, mis-categorize generic drugs as brand, bill for drugs unrelated to an occupational injury, don't comply with "lesser-of" language, and/or don't make the correct rebate payments (if indicated).

That's the "contract compliance" issue; what is often more important is comparing actual prices paid to a highly credible benchmark. While not every employer is large enough to expect best-in-class pricing for their pharmacy program, even smaller payers can get much lower drug prices – if they know what to ask for.

Finally, the PBM assessment process itself need not consume a lot of employers' internal resources nor require major investment. A credible consulting organization will handle the process for you and deliver actionable findings in less than a month.

## What Employers Need to Know About Robots and AI in the Workplace

The National Law Review has published a second article in a series of three focused on the implications of robots and AI in the workplace, and potential areas of risk and exposure for employers. This article provides a link to the first article that focused on employee hiring and termination. This article picks up the discussion with issues relating to wage and hour, collective bargaining/unionization, accommodation of employees under the Americans with Disabilities Act, Workers Compensation and regulatory considerations.

Robots and AI have implications for employers in the areas of workers' compensation. The issues with respect to workers' compensation are two-fold. First, the technologies described above could potentially reduce workers' compensation claims and accelerate an injured employee's return to duty. To read the entire article, click [here](#).

## Bi-partisan Bill would Require Comp Coverage for Alien Workers

On December 12<sup>th</sup> Business Insurance reported that Congressional leaders on Wednesday passed a bill that rewrites immigration requirements for immigrant farmworkers in the United States and require employers to provide workers compensation regardless of state laws.

H.B. 5038, known as the Farm Workforce Modernization Act of 2019, contains provisions related to alien farmworkers, including provisions establishing a certified agricultural worker status and changing a certain temporary worker program. It had 63 co-sponsors, both Republicans and Democrats, and passed 260 to 165.

Addressing the workers compensation requirements, the bill states that "if a job opportunity is not covered by or is exempt from the State workers' compensation law, a registered agricultural employer shall provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment, which will provide benefits at least equal to those provided under the State workers' compensation law."

State laws are mixed on workers compensation requirements for foreign, or undocumented, workers, with at least one state — Wyoming — requiring that a worker be in the United States legally to obtain workers compensation benefits. It remains a hot-button issue in comp circles.

## MESSAGE FROM PHIL & JILL

### As 2019 comes to a close...



I want to take this time to thank you all for your continued support of NCSI. It has been a terrific 2019 and we look forward to an exciting and prosperous new year. As you can see from the Scoop content, we continue to face interesting challenges in workers' compensation but none that we cannot address as a collective. As Phil noted in the Q3 Scoop, it is essential that we all work together through our various state organizations and NCSI to address these issues and safeguard the original tenets of workers' compensation while supporting the continuation of self-insurance. We will be discussing the ways that you can work to improve your self-insured program at our 202 Annual Meeting so be sure to put the

dates on the calendar! We will be meeting June 7-10 at the beautiful Hyatt Regency Scottsdale at Gainey Ranch in Arizona. Hope to see you all there.

And I promised another article on MSA's in the Q3 Scoop...well, you will be getting that shortly but as a stand-alone article. The content is so robust and important that we felt that the article deserved its own edition of the Scoop...stay tuned to receive that in the next few days!

I wish you all a very happy and healthy holiday season and look forward to working with everyone in 2020! **Jill Dulich, Executive Director**

It's time to close out another chapter in our workers' compensation careers, and time to look forward to what lies ahead for us both at the state and federal level. There will be plenty of time as we look to the future as to what may happen with MSA's; are they independent contractors or employees; cannabis and opioid medical management; reflecting on why I'm fortunate for having self-insured my workers' compensation program, and on and on.

For now, it's time to put work aside, if even for a little bit, and reflect on the things in your life that you are thankful for but don't always take the time to appreciate. Even if you are determined to continue working, look outside for a few minutes to observe that big tree out your window or the kids playing in the front yard. Even that brief moment may give you a different perspective on how you view your work life and those 'daunting' challenges/expectations which will always be there but that beautiful view outside your window may not.

On behalf of the NCSI Executive Committee, I truly wish for you a restful holiday where you can take some time to reflect on that view you have. And let's all hope for a less stressful 2020, together we can make it better. **Phil Millhollon, President**

## ADVOCACY **IN ACTION**

### National Academy of Social Insurance Publishes its 2019 Report

The National Academy of Social Insurance has published its 2019 report on Workers' Compensation: Benefits, Costs, and Coverage. This report is based on 2017 data and offers updated data from 2013 to 2016. As the Executive Summary states, despite being a core component of the U.S. social insurance system, workers' compensation often receives less attention than other SI programs, like Social Security and Medicare, in part because it has no federal aspect. To fill this gap, the National Academy of Social Insurance produces an annual report on state and federal workers' compensation program benefits, costs and coverage.

Workers' compensation is the oldest social insurance program in the U.S. the first state to pass workers' compensation laws did so in the 1920s. At that time, the many workers who were injured on the job, rarely received any compensation. The laws that were passed in response to this situation are sometimes referred to as the "Grand Bargain" due to the combination of benefits and compromises made by each of the parties.

The report highlights several areas including:

- Covered employment and wages
- Benefits paid
- Employer Costs

You can access a digital copy of the report to review or share on the NASI website at <https://www.nasi.org/research/workers-compensation> along with an executive summary and four State Spotlights exploring unusual data trends in Florida, Missouri, Ohio and Wyoming.

## NCSI member Grimmway Enterprises does it right



A family of *Growing* companies.™



Grimmway Enterprises, Inc. is a Kern County, California based grower, packer and shipper of vegetable products with over 5,000 agricultural and production employees and facilities in several California locations as well as Washington, Colorado, Georgia and Florida. The mission of their Workers' Compensation Department is to treat their employees with dignity and compassion while ensuring prompt and effective medical services.

Maximizing their partnerships with their TPA, HCO/MPN partner, and legal defense team and with an emphasis on communication and medical control, Grimmway maintains an extremely low litigation rate and an almost non-existent lien allowance rate. An HCO/MPN hybrid is used, serving as a cost-controlling tool and saving them money on TD, PD, litigation, medical costs and liens to the extent that it turns the liens into a useless modality.

Medical control is vital to Grimmway's success and they review each potential denial via phone conferences with their TPA and DA's. An Early Return to Work program implemented two years ago has already reduced their TD costs by more than 30%. Maintaining very close relationships with their primary physicians is vital and the Workers' Comp team meets with each facility monthly to review all TD and Light Duty open claims. They support open communication with their injured workers through the use of staff called Employee Liaisons.

These employees help facilitate the Injured Workers' journey through the Workers' Compensation system, act as translators at medical evaluations and diagnostic testing, explain each step of the process to the Claimant making sure to answer all of their questions, and help facilitate prompt treatment, DME procurement and pharmacy services. Grimmway is committed to self-insurance as it affords them the ability to go above and beyond what is required of them by law, allowing them to treat their employees with compassion and genuine concern while reducing costs at the same time.

## ASIA (Arkansas Self-Insurers' Association) is Flourishing!

Phillip Scoggins, President of Arkansas Self-Insurers Association, has been on the board for the Arkansas Self-Insurers Association since 2011 and shares the changes that have enhanced the organization.

The board has had a lot of change over that time but never more than what we have experienced in the last year. The best part is its good change.

ASIA is flourishing right now. From 2018 to 2019 our membership has grown around 25% to 80 member companies. Arkansas is a small state, and this is a really good number. I believe there are two overarching reasons for that. The first is historically we have been more of an educational provider than anything else and we have worked to change this. The education aspect is extremely important, but we have been working hard at being more involved in legislation. I think that is attractive to companies across this state as ASIA has become a pathway to a voice with legislature. We have a Legislative Committee that does a fantastic job to make sure we are addressing legislative issues. We are also not opposed to hiring a lobbyist when needed and have done so.

The second is our Executive Director, Leslie Ballard, has made us uncomfortable. She has pushed for change. As a board I believe we have given Leslie the green light to make us uncomfortable and challenge the way we have done things. [Here](#) are some of the things I have seen Leslie push that I think have been crucial in ASIA flourishing.



## CALENDAR OF EVENTS

For more information on these and other upcoming evening, please visit [www.natcouncil.com](http://www.natcouncil.com)

**JANUARY 10 | Washington Self Insurers Association Winter West Conference**, 8:00 am – 4:30 pm, DoubleTree Suites by Hilton Southcenter, 16500 Southcenter Parkway, Seattle, WA 98188

**JANUARY 15 - 17 | New York Self-Insurers Association Annual Meeting**, 8:00 am – 5:00 pm, The Roosevelt Hotel, 45 East 45th Street & Madison Avenue, New York, NY 10017

**JANUARY 23 | Washington Self Insurers Association Winter East Conference**, 8:00 am – 4:30 pm, Historic Davenport Hotel, 10 S. Post Street, Spokane, WA 99201

**JANUARY 29 - 30 | Alabama Self-Insurers' Association 2020 Winter Workshop**, 8:00 am – 5:00 pm, Embassy Suites by Hilton, 300 Tallapoosa Street, Montgomery, AL 36104

**MARCH 12 - 13 | Arkansas Self-Insurers' Association Workers' Compensation Conference**, 8:00 am – 5:00 pm, Embassy Suites, 3303 S. Pinnacle Hills Parkway, Rogers, AR 72758

**MARCH 24 | Mississippi Association of Self-Insurers Spring Conference**, 8:00 am – 5:00 pm, Jackson Country Club, 345 St. Andrews Dr, Jackson, MS 39211

**MARCH 25 - 27 | North Carolina Self Insurers Association Annual Conference**, 8:00 am – 5:00 pm, Holiday Inn Resort, 1706 N. Lumina Ave., Wrightsville Beach, NC 28480

**APRIL 7 - 8 | Pennsylvania Self-Insurers' Association Annual Meeting**, 8:00 am – 2:30 pm, The Wyndham, 95 Presidential Circle, Gettysburg, PA 17325

**APRIL 20 - 21 | California Self-Insurers' Association Annual Meeting**, 9:00 am – 4:30 pm, Disneyland Hotel, 1150 Magic Way, Anaheim, CA 92802



*Meet Us  
at the  
Oasis...*



**NCSI 75th Annual Conference**  
**JUNE 7-10**  
**2020**

Hyatt Regency Scottsdale  
Resort & Spa At Gainey Ranch  
Scottsdale, AZ