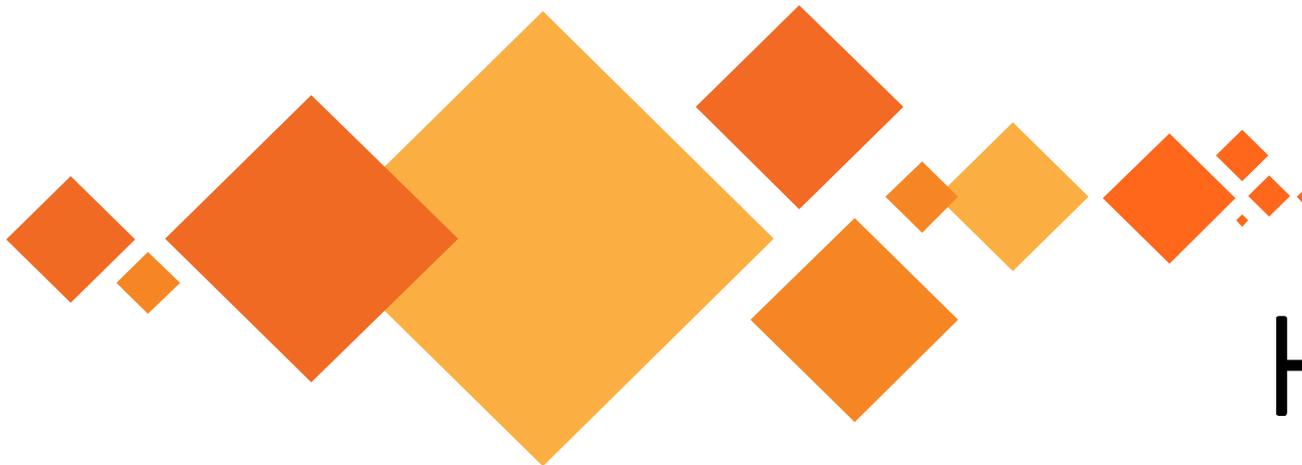


The Politics of Workers' Compensation

A National Perspective

Brian Allen

Vice President, Government Affairs



HELIOS

What Are the Influencers?

- ▶ Politics
- ▶ Litigation
- ▶ Economic Factors
- ▶ National Trends in Workers' Compensation

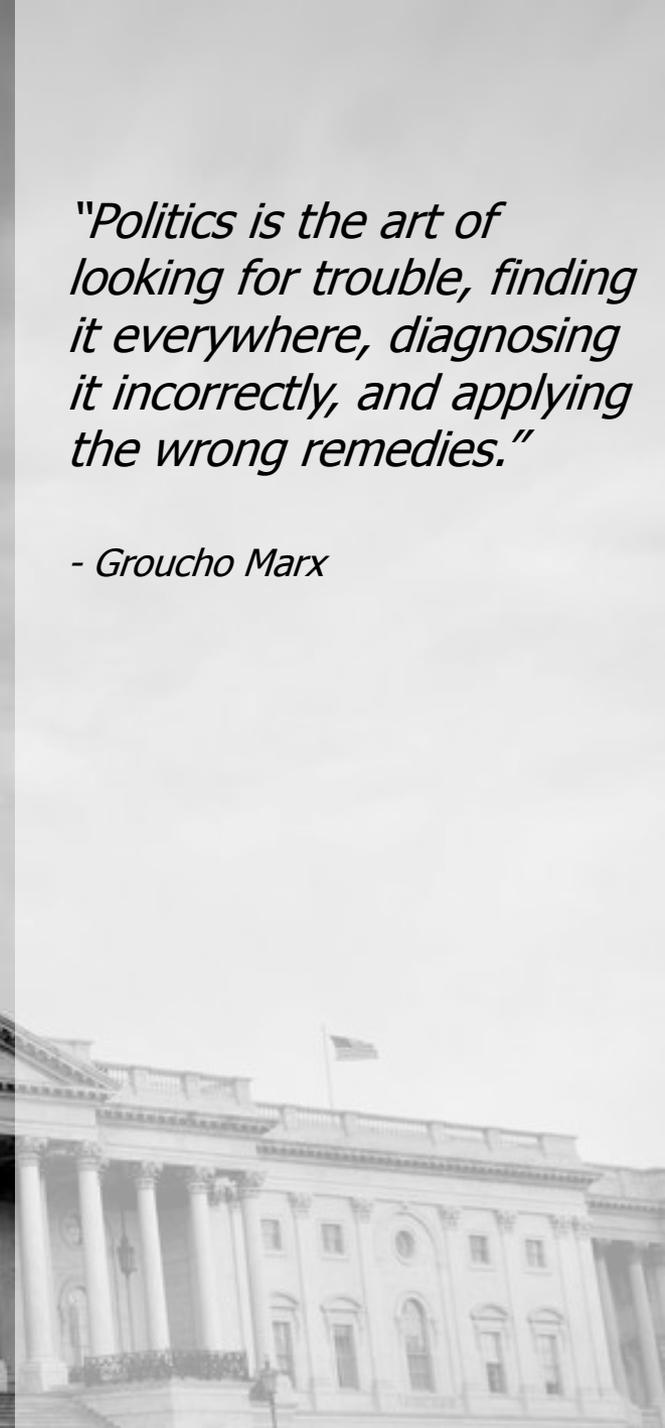


Politics



"Politics is the art of looking for trouble, finding it everywhere, diagnosing it incorrectly, and applying the wrong remedies."

- Groucho Marx



Politics

- ▶ Constituent Issues
 - #1 Issue is Re-Election, Need Constituent Votes (Pennsylvania Example)
 - Make up of Constituency
- ▶ Party Politics
 - Balance of Power in Legislature
 - Governor vs Legislature
 - Illinois
 - Wisconsin
- ▶ Media - NPR, ProPublica, and Mother Jones

Special Interests



“Politics is supposed to be the second-oldest profession. I have come to realize that it bears a very close resemblance to the first.” *Ronald Reagan*



"The strategy of the people that were opposed to this bill was to put the right amount of dollars in the right hands and get the bill blocked. And they were successful in doing that."

Florida State Senator Alan Hays following the defeat in 2011 of the physician dispensing legislation

Special Interests

- ▶ New Hampshire
 - Governor's Reform Commission
 - Legislative Outcomes
- ▶ Louisiana - Formulary Legislation

examiner.com

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APRIL 28, 2014

Salt Lake City 47*
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The Salt Lake Tribune

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The Huffington Post | By Lydia O'Connor

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Litigation

Litigation

▶ Florida

- *Florida Workers' Advocates v. State of Florida* – August 2014
 - 11th Circuit Court Judge Jorge Cueto ruled the Florida Workers' Compensation Act as unconstitutional since it no longer afforded injured workers “**a reasonable alternative to the tort remedy supplanted.**”
 - Oral arguments on appeal heard in March of 2015
- *Morales v. Zenith Insurance Company* – FL Supreme Court Ruling January 2015 - Exclusive Remedy provisions upheld by the Court

▶ Oklahoma

- 2013 Reform Legislation Challenged
 - Suit filed by a firefighters union and two legislators claiming the law was “overly broad”
 - April 27, 2015, OK Supreme Court refused to hear the case

Litigation

▶ New Mexico

- *Vialpando v. Ben's Automotive Services and Redwood Fire and Casualty*
 - Treating Physician prescribed medical marijuana for back pain
 - May 2014 – NM Court of Appeals upheld the Workers' Compensation Judge's order that the insurance company must pay for the medical marijuana
- *Miguel Maez v. Riley Industrial and Chartis*
 - Treating Physician prescribed medical marijuana for back pain
 - January 2015 – NM Court of Appeals ruled that the carrier must pay for "medically necessary" and "reasonable" treatment, including medical marijuana

▶ California

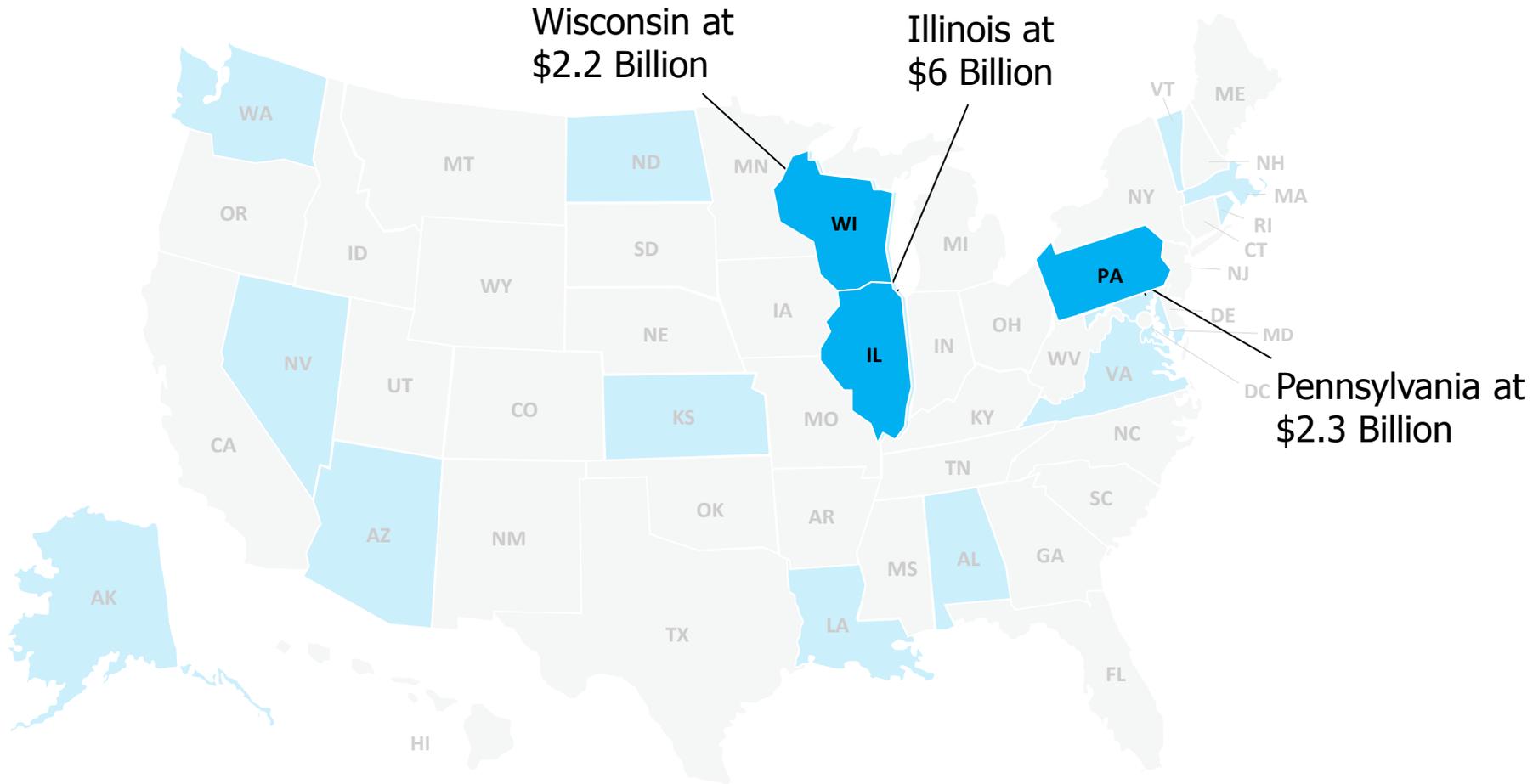
- South Coast Framing v WCAB
 - Injured worker was taking medications prescribed by personal doctor and a workers' comp doctor
 - Combination of five drugs proved to be lethal
 - Unclear how each medication influenced death
 - CA Supreme Court ruled that the workers' comp drugs were a "proximate cause"



Economic Factors

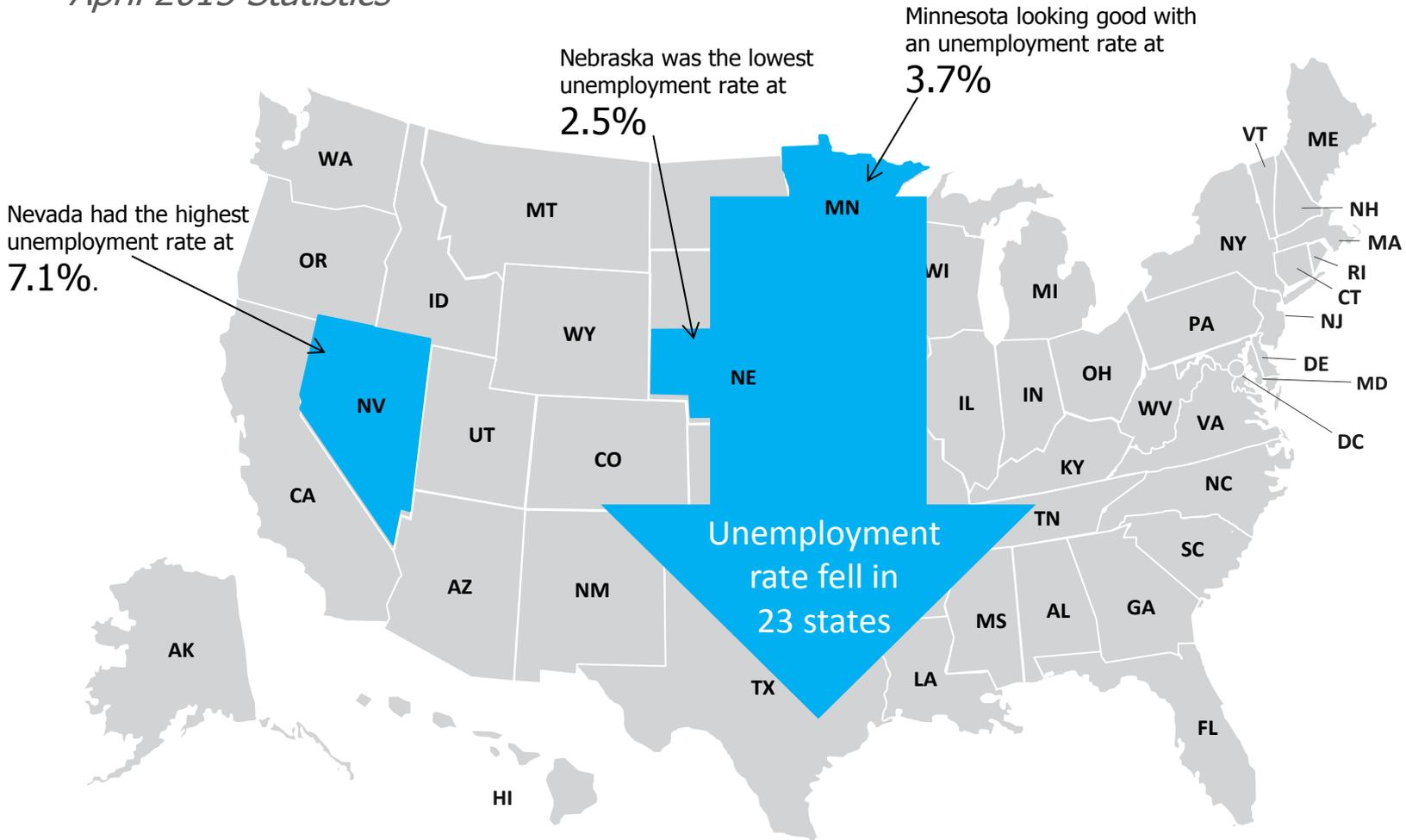
Budget Deficits

At the start of 2015, 16 states were facing budget deficits



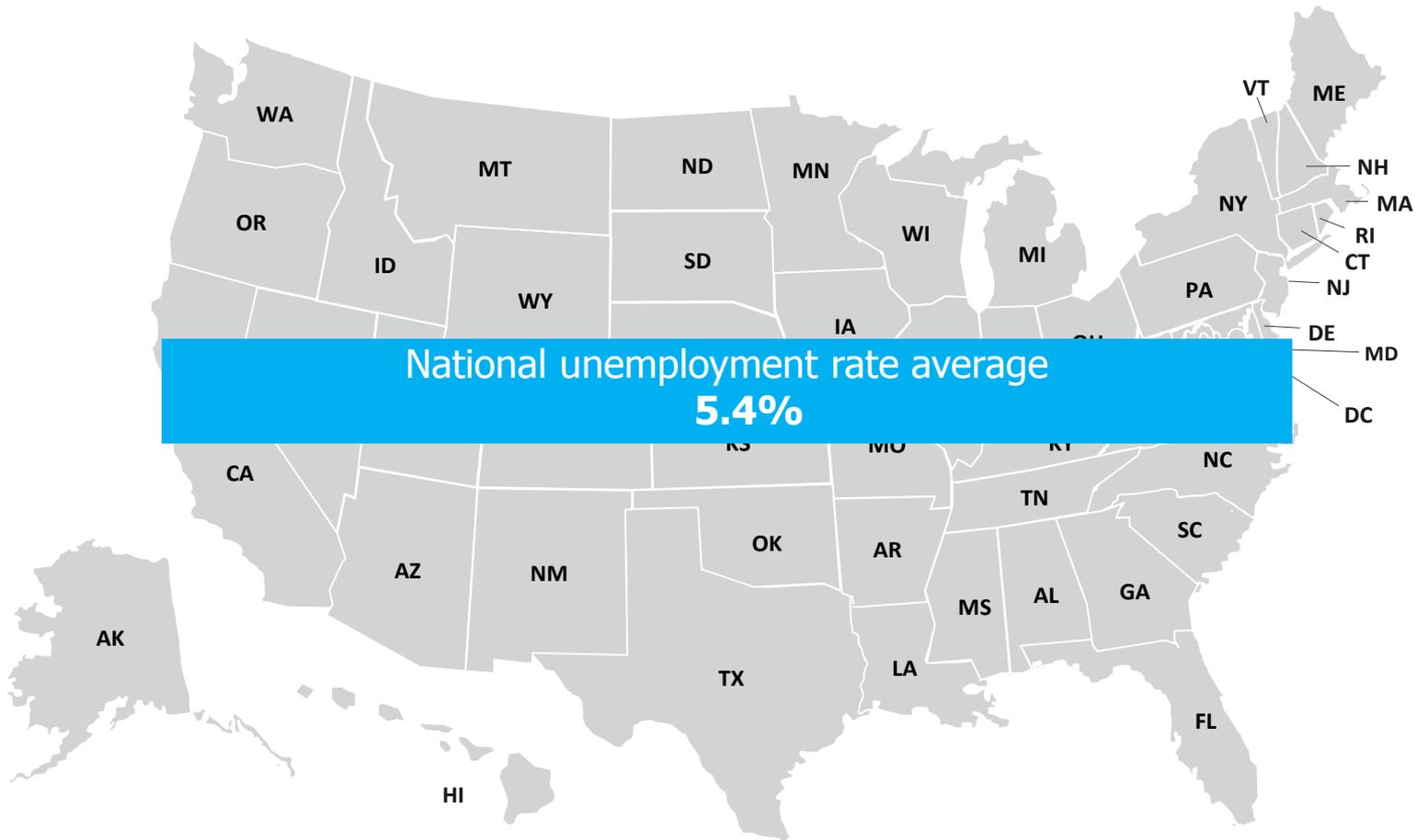
Under and Unemployment

April 2015 Statistics



Under and Unemployment

April 2015 Statistics



Economic Factors

- ▶ Business Development
 - Organic Job Growth
 - Importing Jobs
 - Pro-growth legislation filed
 - Tort Reform
 - Tax Incentives
 - Workers' compensation changes to reduce costs
- ▶ Affordable Care Act

Affordable Care Act

- ▶ Cost shifting
- ▶ Advances in care delivery
 - Telehealth
 - Emphasis on outcomes (ACOs)
 - Emerging technology
 - Evolving scope of practice
- ▶ Persistent challenge of pain management



National Trends in Workers' Compensation

Major Reform Efforts

Opt-Out

- ▶ Oklahoma
- ▶ Tennessee
- ▶ South Carolina
- ▶ Effort pushed by the Association for Responsible Alternatives to Workers' Compensation (ARAWC) - ARAWC.org

General Reform Efforts

- ▶ Illinois
- ▶ Wisconsin
- ▶ New Hampshire
- ▶ Louisiana

Medication Formulary

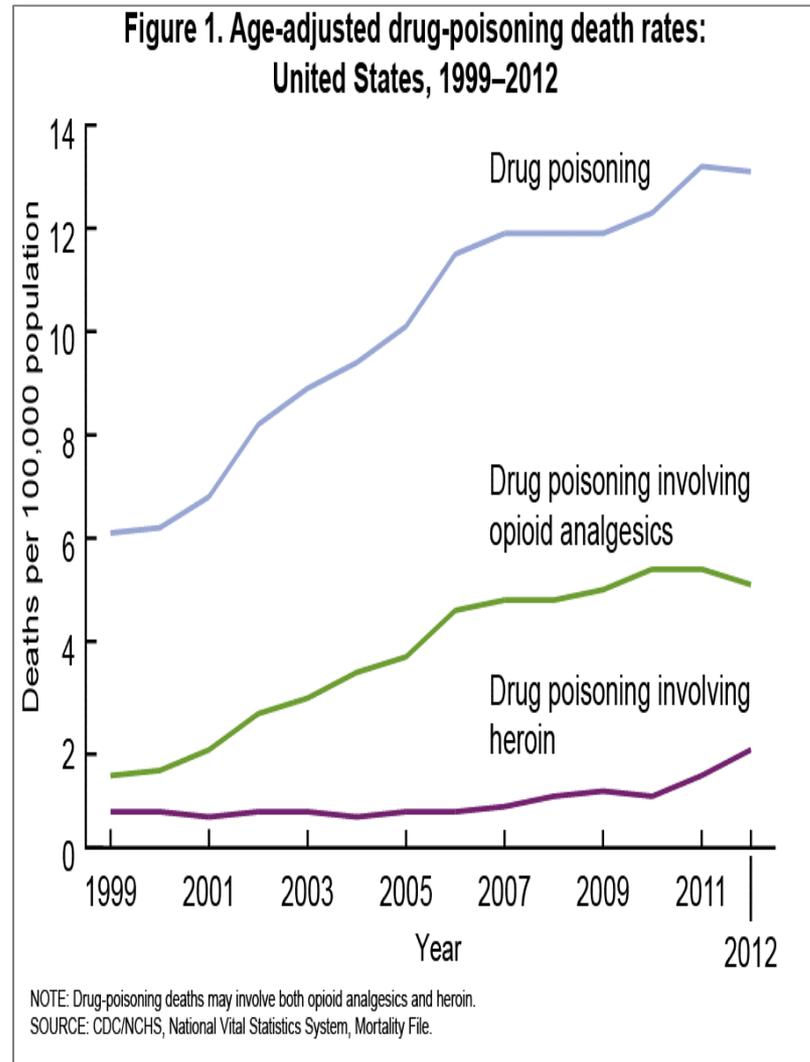
Currently in Use

- ▶ Texas
- ▶ Washington
- ▶ Ohio
- ▶ Oklahoma
- ▶ Wyoming
- ▶ North Dakota
- ▶ Delaware (Preferred Drug List)

Under Consideration

- ▶ Tennessee
- ▶ Arkansas
- ▶ California
- ▶ Louisiana
- ▶ Michigan
- ▶ Maine
- ▶ Nebraska
- ▶ North Carolina
- ▶ South Carolina

Opioid Analgesics



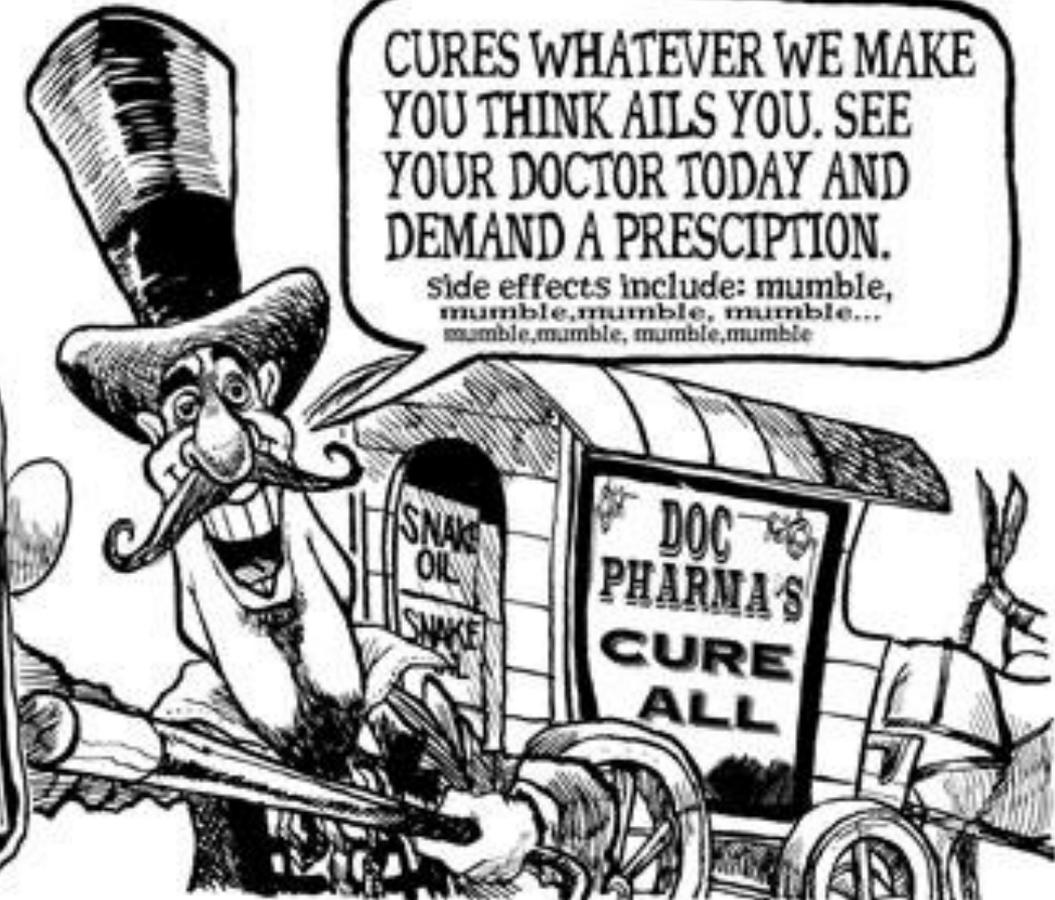
Opioid Analgesics

- ▶ Tools Being Employed in Workers' Compensation
 - Formularies
 - Treatment Guidelines
 - Urine Drug Monitoring
 - Opioid Use Agreements
- ▶ General Tools
 - Prescription Drug Databases
 - Missouri still the final holdout
 - SB 63 made it to the House floor but failed to get calendared before adjournment
 - Many states enhanced programs to combat prescription drug abuse
 - Will there be a federal PDMP?
 - Increasing investigation and enforcement
 - Rescheduling



CURES WHATEVER WE MAKE
YOU THINK AILS YOU. SEE
YOUR DOCTOR TODAY AND
DEMAND A PRESCRIPTION.

side effects include: mumble,
mumble, mumble, mumble...
mumble, mumble, mumble, mumble



Compounded Medications

“Compounded drugs are not FDA-approved. This means that FDA does not verify the safety, or effectiveness of compounded drugs. Consumers and health professionals rely on the drug approval process to ensure that drugs are safe and effective and made in accordance with Federal quality standards. Compounded drugs also lack an FDA finding of manufacturing quality before such drugs are marketed.”



Compounded Medications

- ▶ Difficult to find reliable, third-party studies of efficacy
- ▶ Many compounded medications being used in workers' compensation system have a high cost

Compounded Medication	Days Supply	Billed at
Folic Acid/Pyridoxal	30	\$6,426.41
Levocetirizine/Pentoxifylline	30	\$22,735.72
Fluticasone/Levocetirizine	30	\$10,489.70

Physician Dispensing and Repackaged Medications

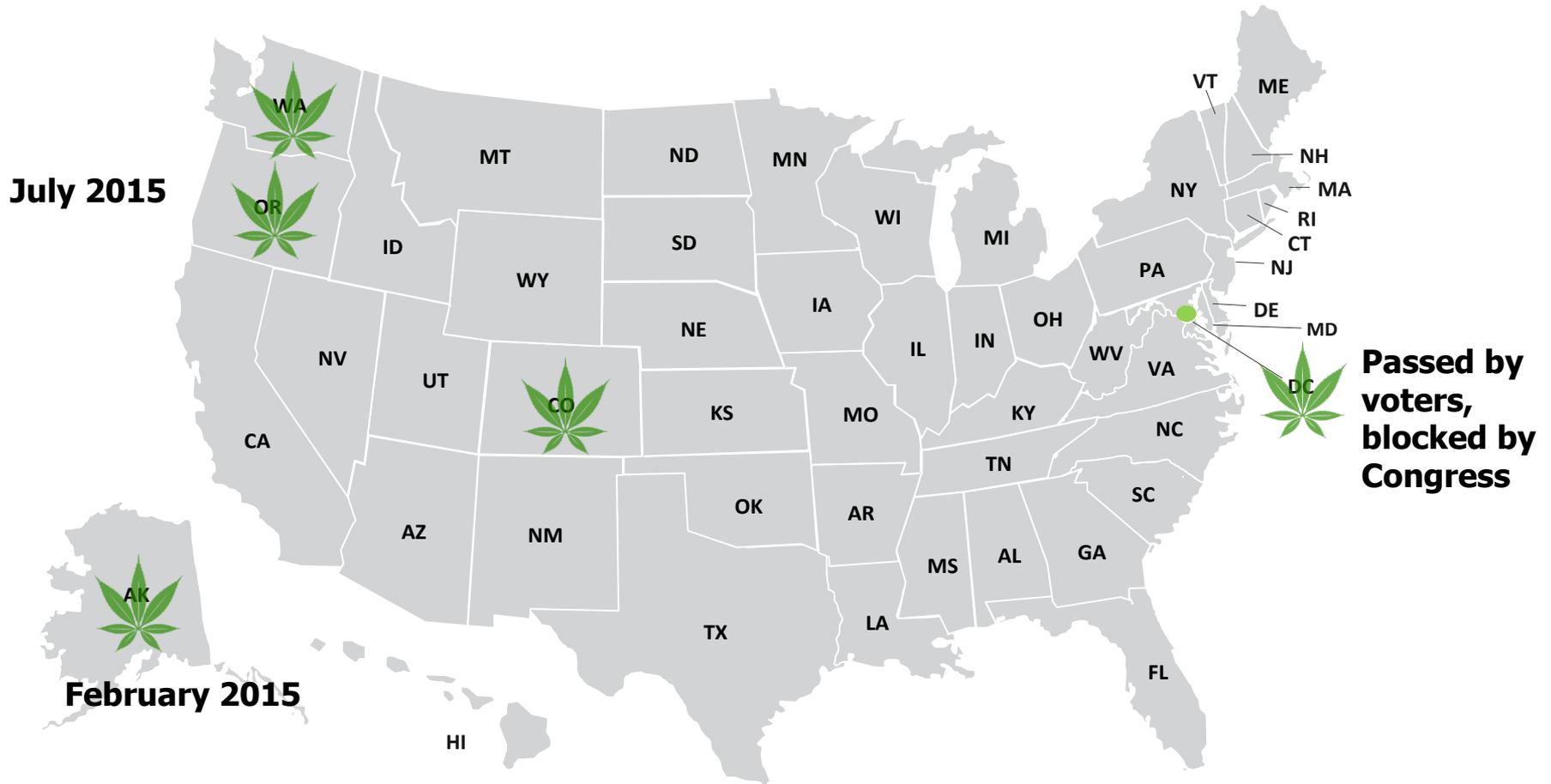
- ▶ Laws and regulations to control costs require the medications be billed using the manufacturer's National Drug Code (NDC) rather than the repackaged NDC
- ▶ Revival of physician dispensing
- ▶ Exploitation of Loophole
 - WCRI study released January 15, 2015
 - Several small manufacturers created “new dose” pills for repackagers
 - Cyclobenzepine HCL traditionally prescribed in 5mg or 10mg doses: \$0.99 to \$1.79 per pill
 - New dose of 7.5mg created: New average wholesale price assigned - \$3.79 per pill
 - New strategy will be needed to combat this new pricing approach

Medical Marijuana

- ▶ Medical Marijuana is now legal in 24 states
 - Texas passed a cannabis oil bill on May 20
- ▶ Changing Schedule I status
 - DEA has asked the FDA to study the schedule change
 - California court questioning if Schedule I status violates equal protection clause of the 14th amendment
- ▶ Is it inevitable?

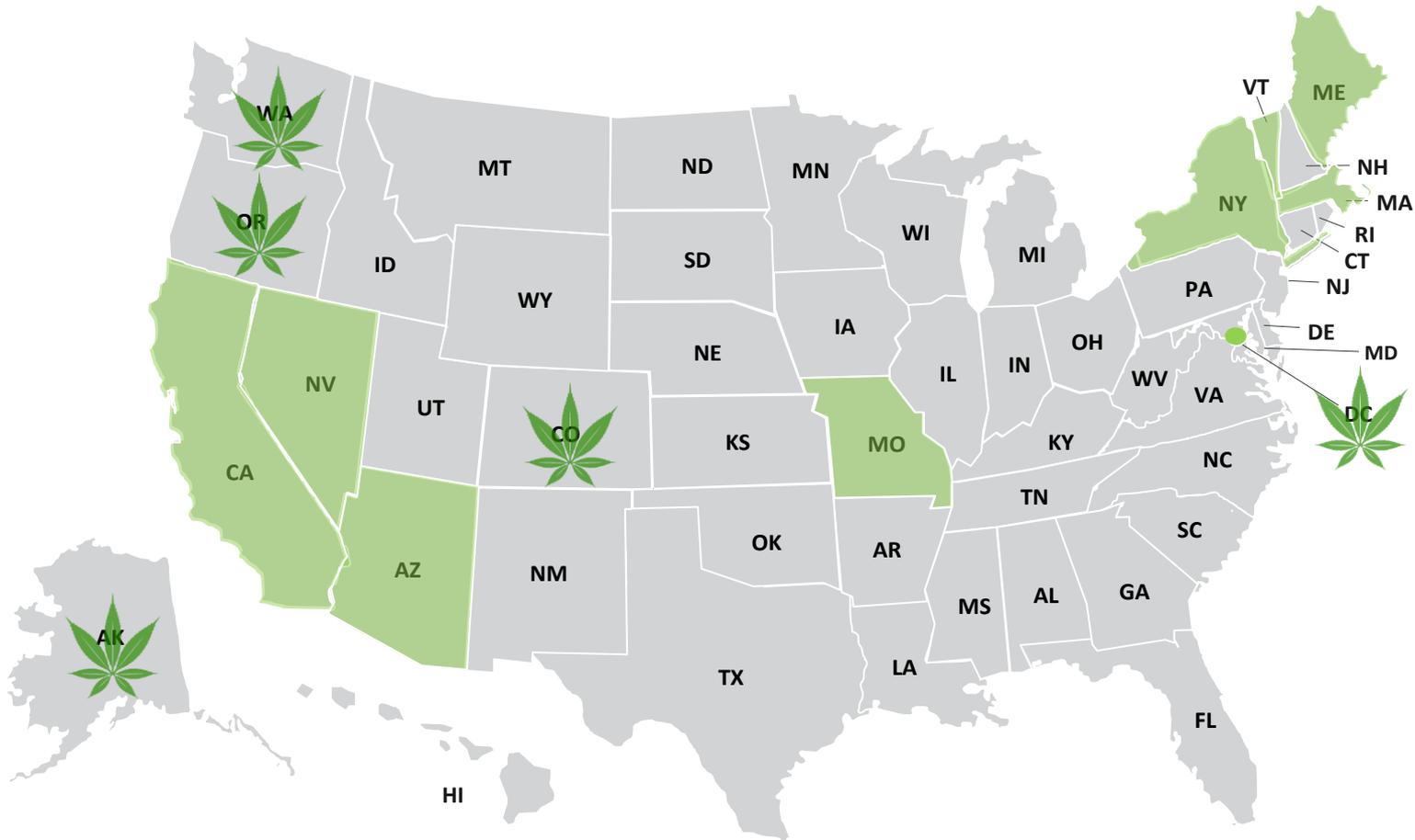
Recreational Marijuana

States where currently legal



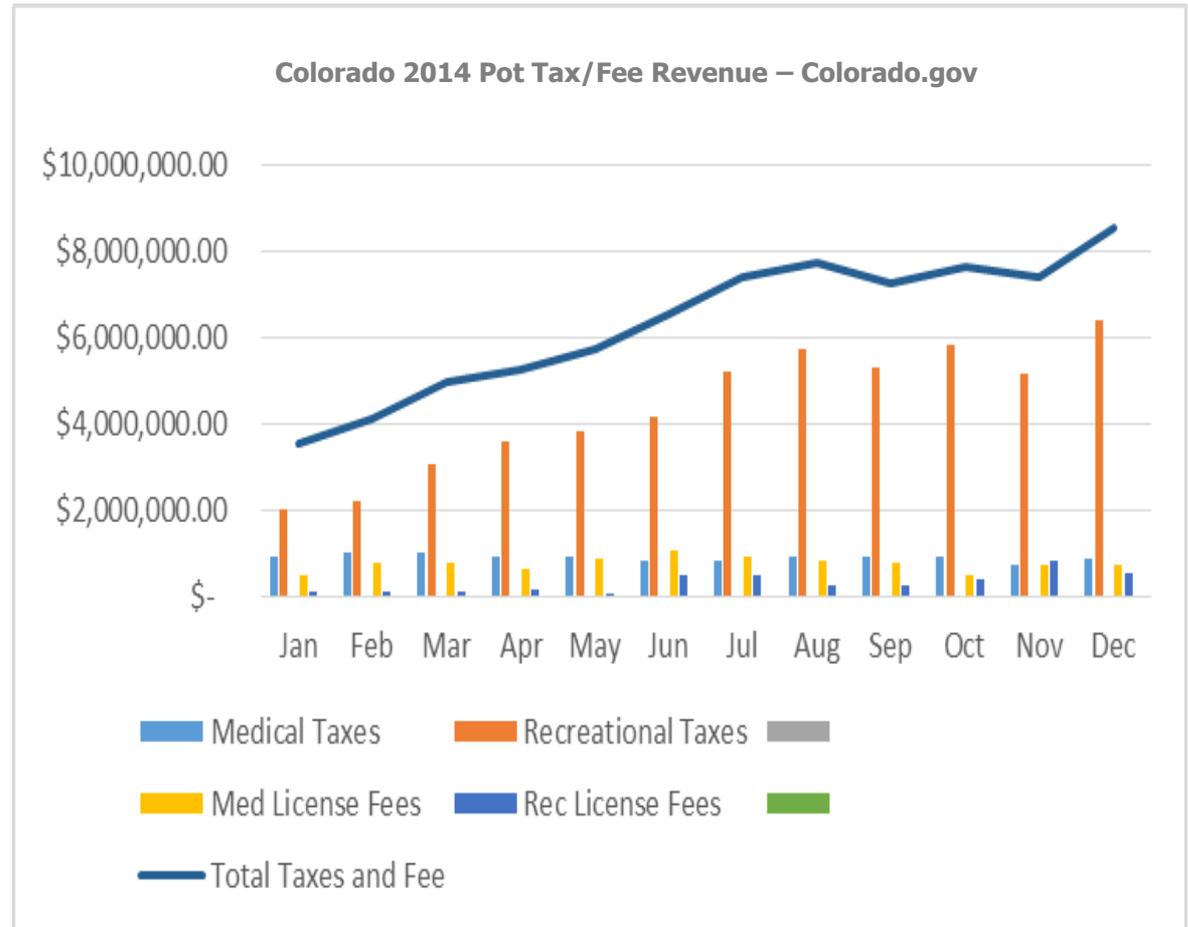
Recreational Marijuana

Coming to other states?



Legalization of Marijuana is Catching On

- ▶ Public Sentiment
- ▶ Cost of Enforcement
- ▶ Projected \$38.6 billion industry
- ▶ Revenue for states
- ▶ Total Colorado revenue for 2014 = \$76,155,364
- ▶ Misses \$100 million revenue projection



Other Issues

- ▶ Indemnity Benefits
 - As economy improves pressure to raise benefits increases
- ▶ Smoothing Administrative Processes
 - California reforming dispute process
 - Minnesota strengthens e-billing mandate
 - New York exploring state-sponsored data portal



Honoring the 100-year old Commitment

The workers' compensation system in this country is now 100 years old. Care must be taken to honor that commitment by balancing the various needs and interests while delivering to the injured worker the right care at the right time for an appropriate cost.

What does the future hold?

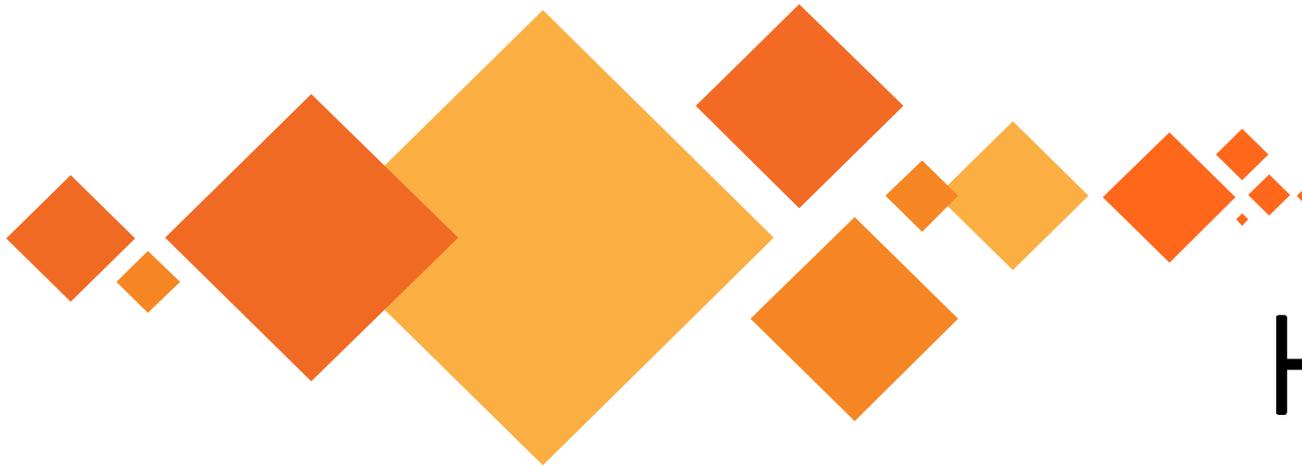


*"The best way to
predict the future is to
create it."*

Peter Drucker

Thank you!

Questions?



HELIOS