



# 2019 Annual Meeting & Educational Conference

## **SEEING THE FULL PICTURE:**

Workers' Compensation Industry Trends and  
Legislative Updates 2019 - 2020

# PRESENTERS



Michele Hibbert-Iacobacci, CCSP, OHCC  
Senior Vice President, Regulatory Compliance Management  
Mitchell Casualty Solutions



Brian Allen  
Vice President, Government Affairs  
Mitchell Pharmacy Solutions



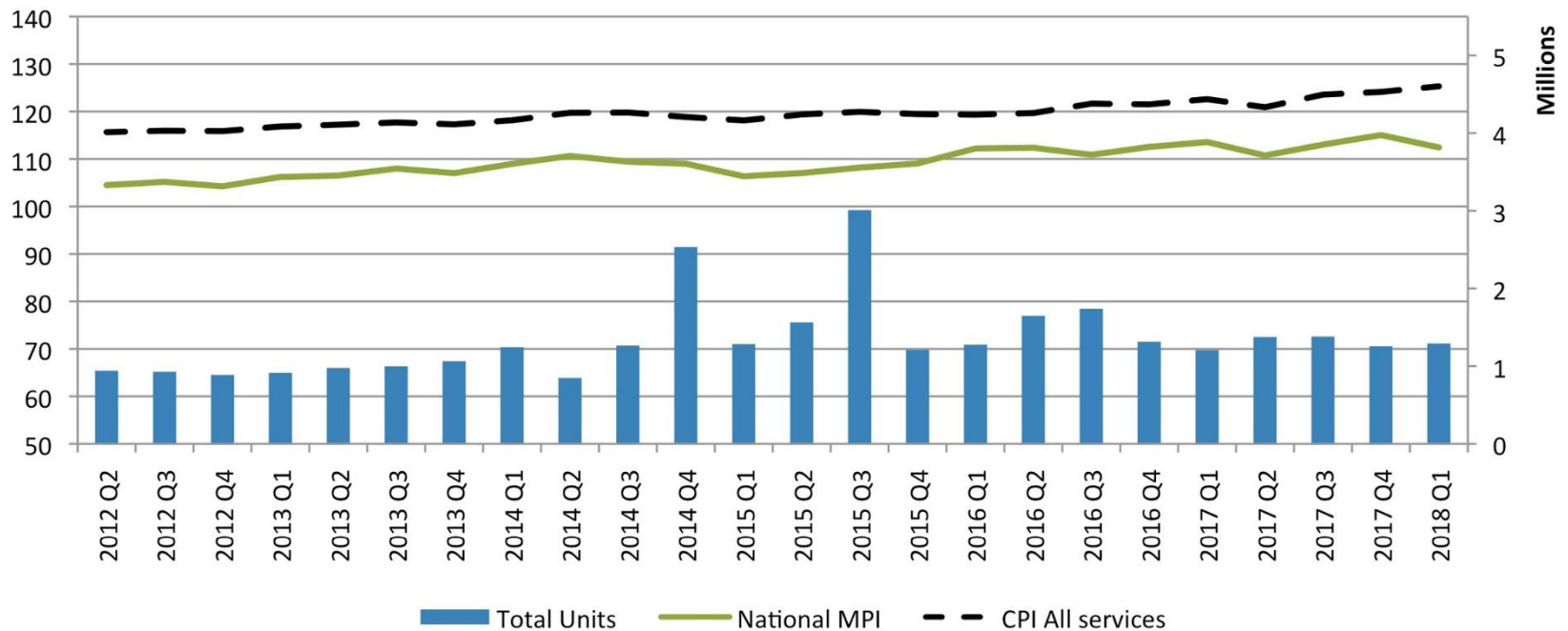
# WORKERS' COMPENSATION INDUSTRY TRENDS

Charge Severity | Unit Cost | Utilization

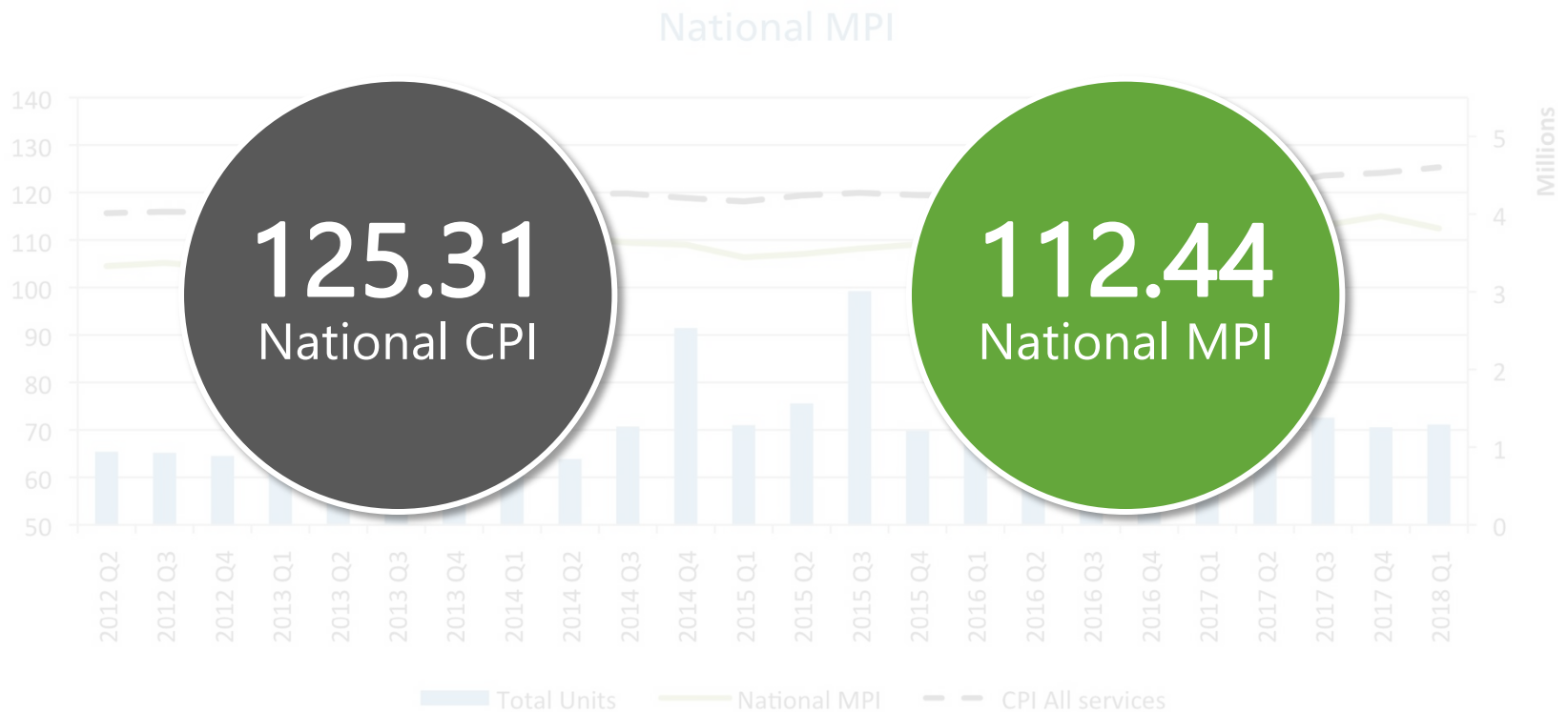


# WORKERS' COMPENSATION

National MPI

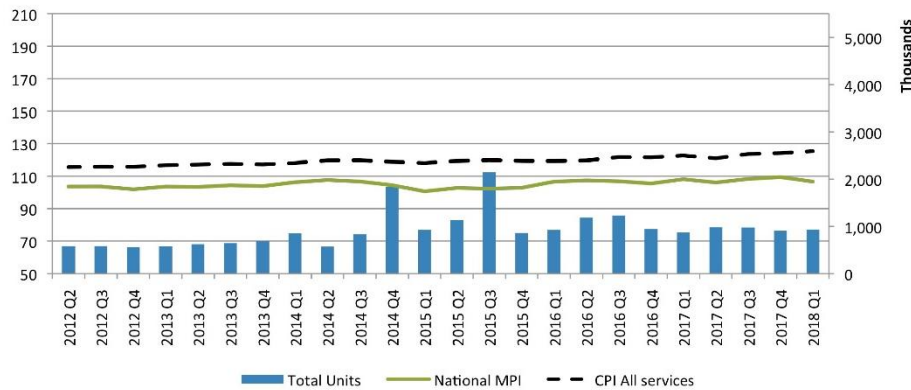


# WORKERS' COMPENSATION

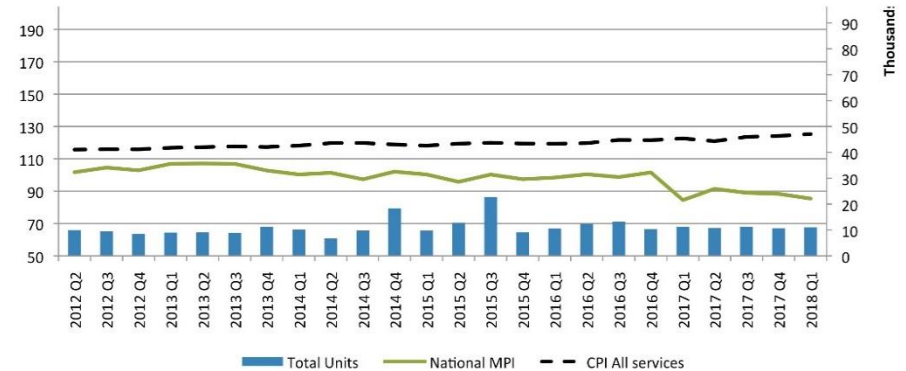


# WORKERS' COMP MPI

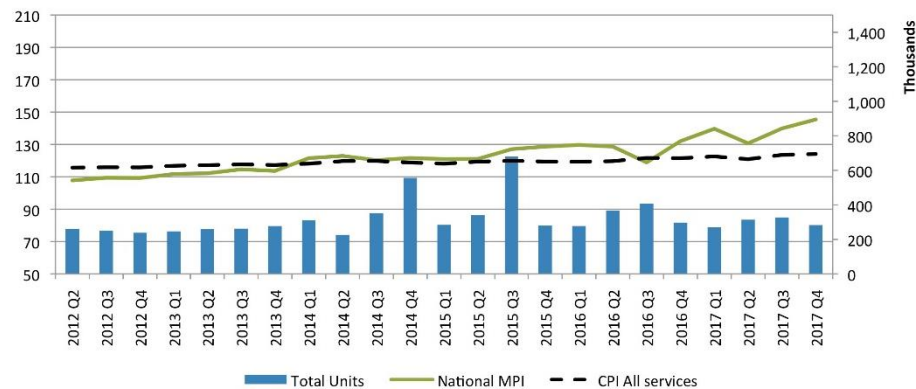
## Physical Medicine MPI



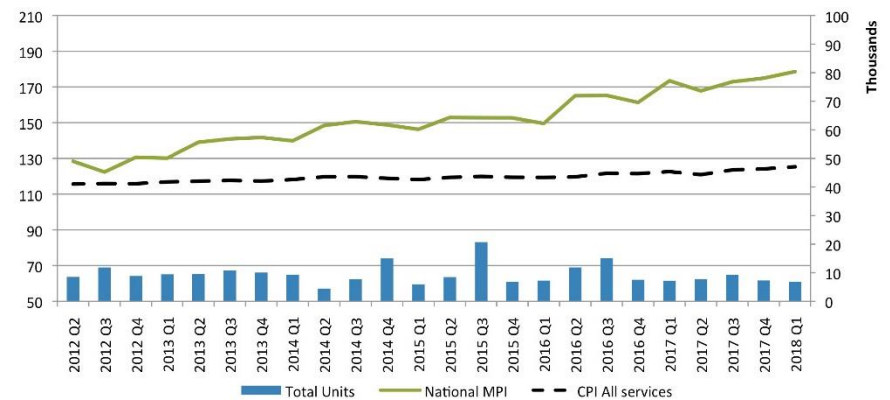
## Major Radiology MPI



## Evaluation & Management MPI



## Emergency Room MPI



# WORKERS' COMP MPI

Physical Medicine MPI

106.6

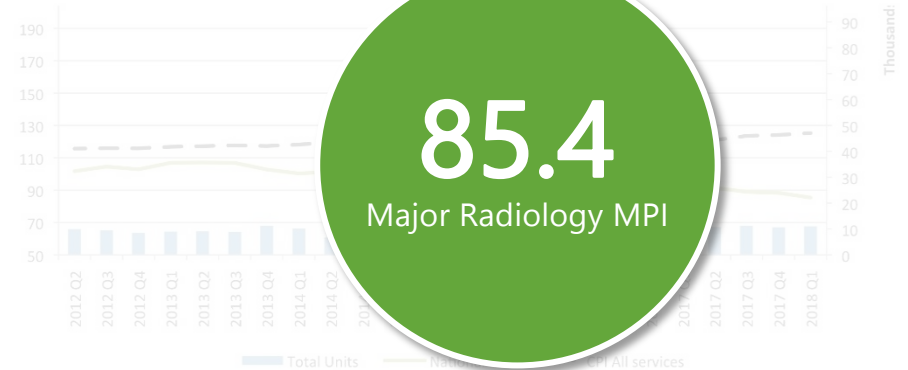
Physical Medicine MPI



Major Radiology MPI

85.4

Major Radiology MPI



Evaluation & Management MPI

142.05

Evaluation & Mgmt. MPI



Emergency Room MPI

178.6

Emergency Room MPI



# FEDERAL CHANGES



## Evaluation and Management

- CMS same payment for 2 – 5 level payments
- Add on codes
- Documentation required



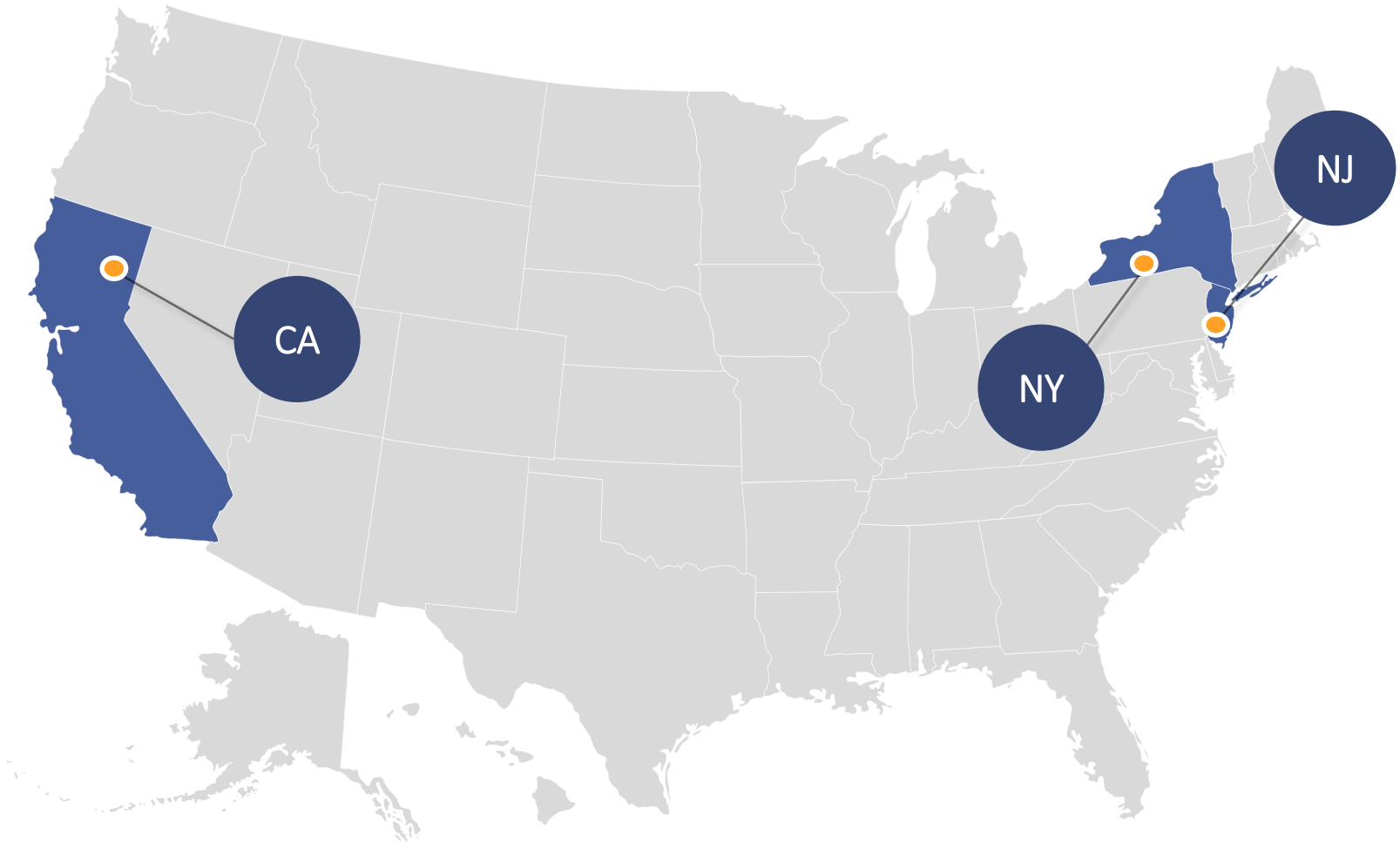
## Remote Patient Monitoring

- New codes being added
- Potential for fraud and abuse



# LITIGATION & LEGISLATION

# LITIGATION & LEGISLATION UPDATES



# NEW JERSEY



## Major Developments:

### **eBill**

Work Comp  
Auto Casualty

### **Arbitrations**

Out of State  
New York

**Marijuana  
Legalization**

# NEW YORK



## Major Developments:

Pharmacy

Fee Schedules

# CALIFORNIA



## Major Developments:

King v.  
CompPartners

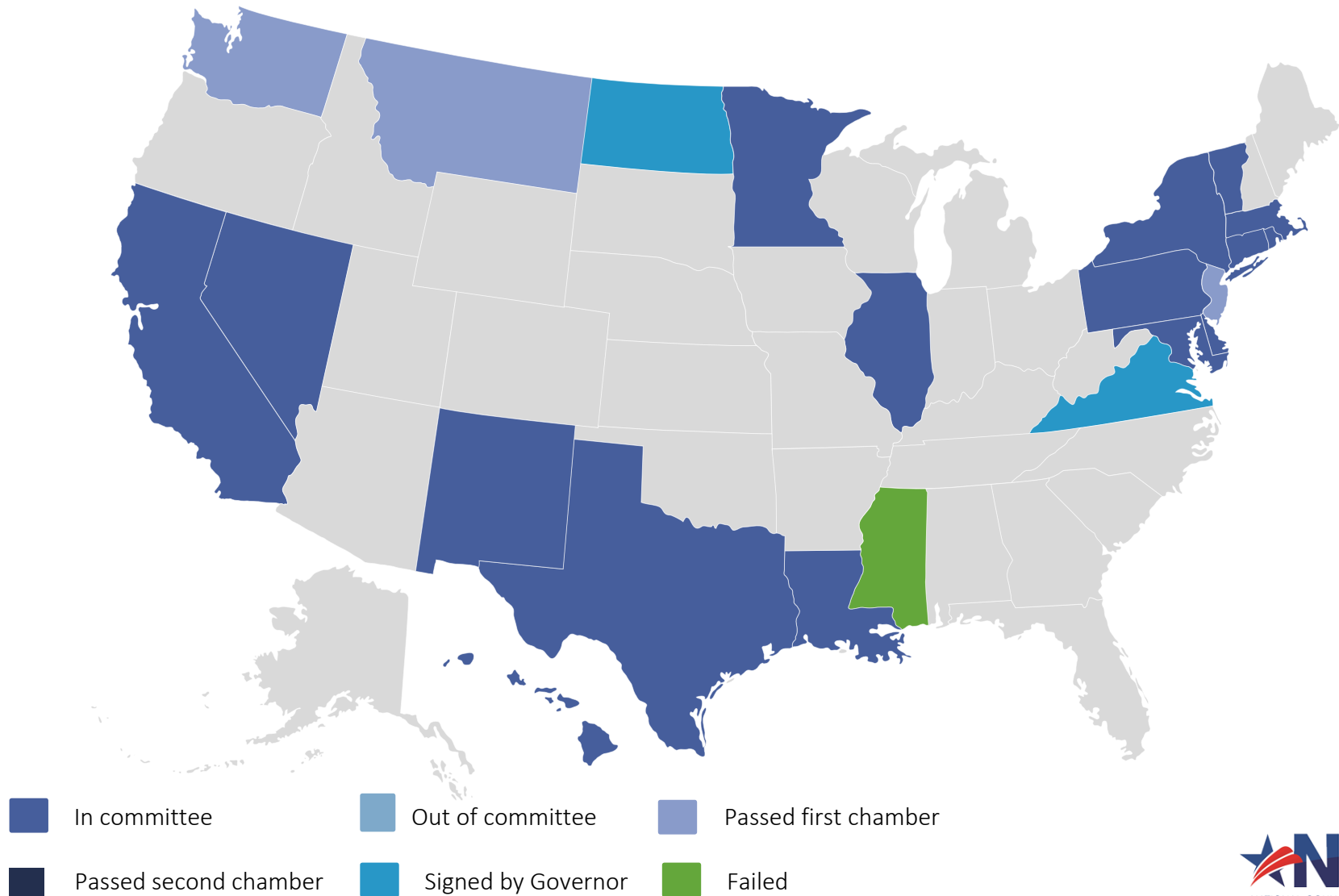
Pebble v.  
Santa Clara Organics

Consumer Privacy  
& Security



# ADDITIONAL LEGISLATIVE UPDATES

## Consumer Privacy: 2019 Legislative Session



# ADDITIONAL LEGISLATIVE UPDATES

## Benefit Reforms

### Presumptions

- Highly prevalent in 2019 legislatures for first responders
  - Cancer
  - Mental Health/PTSD

### Employee Choice Of Provider

- Growing issue in 2019
- Most bills have stalled so far

# **ADDITIONAL LEGISLATIVE UPDATES**

## **Health Care Cost Transparency**

### **Nearly Every State**

### **Mostly For General Health Care**

- Drugs, from manufacturer through the supply chain
- Requiring providers/health insurers to post prices for various procedures

### **Federal Government Weighing In**

- Price info on ads
- Rebate prohibition

### **Solutions Elusive**

- Single-payer models
- Stronger government ACA-like mandates

# FORMULARY LEGISLATION







# FORMULARIES

## New York

WC Board released 3<sup>rd</sup> revised draft drug formulary rule in April, 2019

## Indiana

Adopted ODG formulary

## Montana

ODG drug formulary adopted, effective April 1, 2019

## Kentucky

ODG drug formulary adopted, effective July 1, 2019

## Illinois

Bill running to create formulary

## Nebraska

Bill running to create formulary

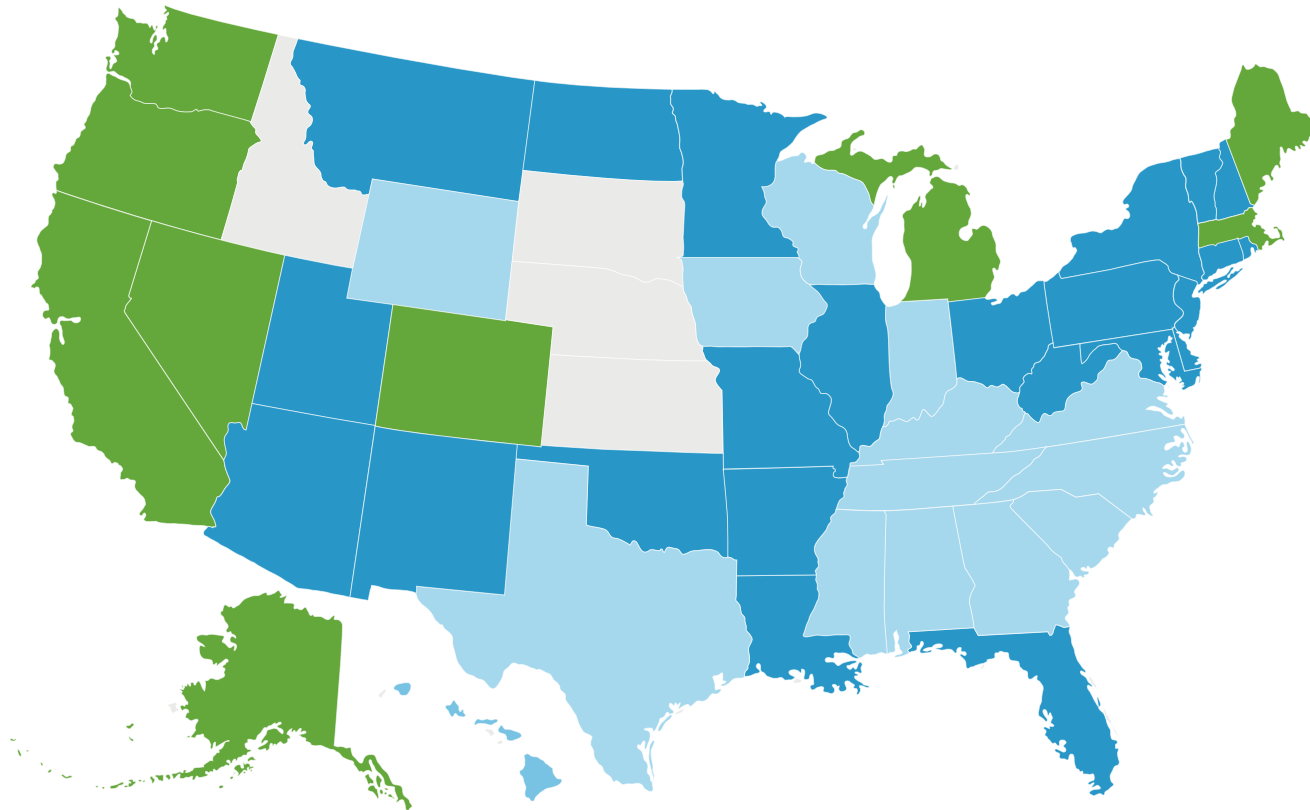
# MEDICAL MARIJUANA



# MEDICAL MARIJUANA TRENDS

- More state legalization
- Clinical trials to identify and qualify medical uses, potential side effects
- More clarification on insurer reimbursement or payment
- Auto & billing trends

# CURRENT STATE OF LEGALIZATION

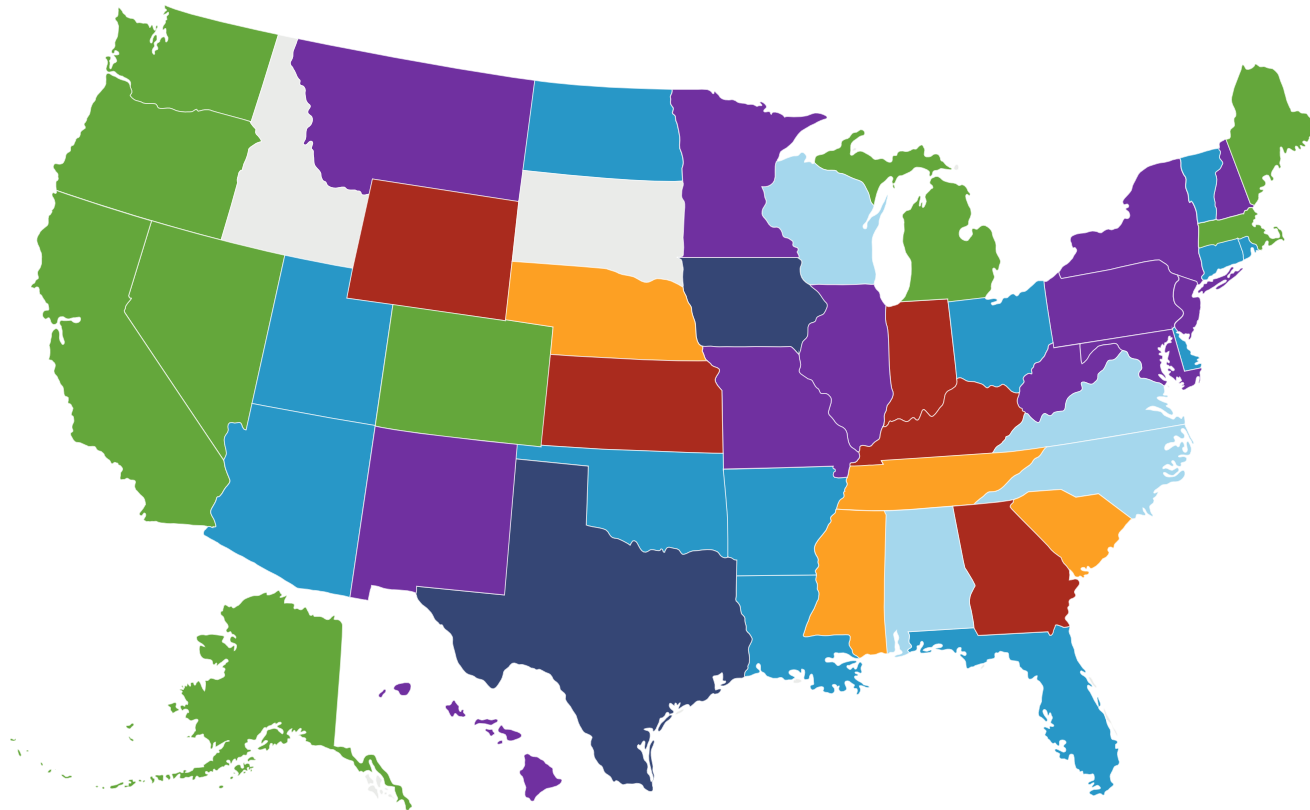









Medical and recreational  
marijuana legal

Medical marijuana legal

Limited-purpose medical  
marijuana legal

# POSSIBLE STATE OF LEGALIZATION



- |  |  |   |   |
|--|--|---|---|
|  Has medical, could add recreational      |  Pending medical and recreational |  Pending medical marijuana only          |  Medical marijuana bill failed |
|  Medical and recreational marijuana legal |  Medical marijuana legal          |  Limited-purpose medical marijuana legal |   |



# SUMMARY OF STATE ACTIONS

## Include on PDMP

### Opioids

- Replace opioids for chronic pain
- For opioid use disorder/withdrawal

### Location

- Home cultivation
- Tenant protection for users
- "Open Container Law" for marijuana

### Use

- Allow for expanded or any conditions
- Allow smoking for medical use

## Prohibit employment discrimination for medical marijuana use



# SUMMARY OF STATE ACTIONS

- Increasing legal age for recreational use to 25
- Potency limits placed on all marijuana products
- Health warning on medical marijuana products
- Medical marijuana allowed in schools
- Allow medical marijuana for minors
- Residential marijuana agriculture



# OF PARTICULAR NOTE

## Require workers' compensation to reimburse

- Kansas, Maine, New Jersey, New York, Vermont

## Exempt workers compensation from reimbursement

- Kentucky

## Repeal all legal use of marijuana

- Massachusetts – HB3531

## Urges slow legalization to consider impact in other states

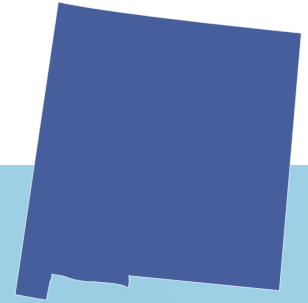
- Illinois HR 157

## Legalizes medical marijuana for animals

- New York SB 28356

# NEW MEXICO

## Fee Schedule for Medical Marijuana



### Court Cases:

Vialpando v.  
Ben's Automotive  
(2014)

Maez v.  
Riley Industries  
(2015)

Lewis v. American  
General Media  
(2015)

# NEW YORK



## Workers' Compensation Board:

Minimal risk of  
prosecution  
by federal  
authorities

Insurer  
definition  
did not include  
workers' comp  
insurers

Prescriber did  
not meet  
medical  
necessity test



# MINNESOTA



## Department of Health

Added “intractable pain”  
as eligible condition

## Department of Labor

Will not treat medical marijuana  
as illegal substance

# MAINE



## Bourgoin v. Twin Rivers Paper:

June 2018

Maine Supreme Court vacated  
Appellate Court decision

Requiring employer payment  
forced them to violate federal law

# NEW JERSEY



Pro-marijuana lobby efforts increasing

## Watson v. 84 Lumber:

Payer refused  
to reimburse  
due to federal  
illegality

Court concluded  
medical marijuana  
was reasonable  
& necessary

Court ordered  
reimbursement  
for medical  
marijuana

# AND IF THAT ISN'T ENOUGH...

## Magic Mushrooms

- **The next grass roots drug!**
  - **CA:** 2018 Attempted a ballot initiative
  - **Denver, Colorado:** Muni ballot initiative to decriminalize possession
  - **Oregon:** 2020? ballot initiative for medical use
- 
- **Iowa HF 249** - Legalize psilocybin, ibogaine and MDMA (ecstasy, “Molly”) for medicinal use
    - First-of-its-kind legislation
    - Limited support

# MARIJUANA | FEDERAL

HR 127:	Access & Research
HR 171:	Legitimate Use for States
HR 420:	Removal from CSA – Regulated Like Alcohol
HR 493:	Sensible Enforcement
HR 1119:	Reduces State/Federal Law Gaps
HR 1151:	Medical Marijuana for Veterans
HR 1456/S 597:	Marijuana Justice Act
HR 1687:	Ok for Federal Employees Use Where Legal
HR 7128:	VA Survey of Cannabis Use Act
S 1152:	SAFE Banking Act

# OPIOIDS & FORMULARIES

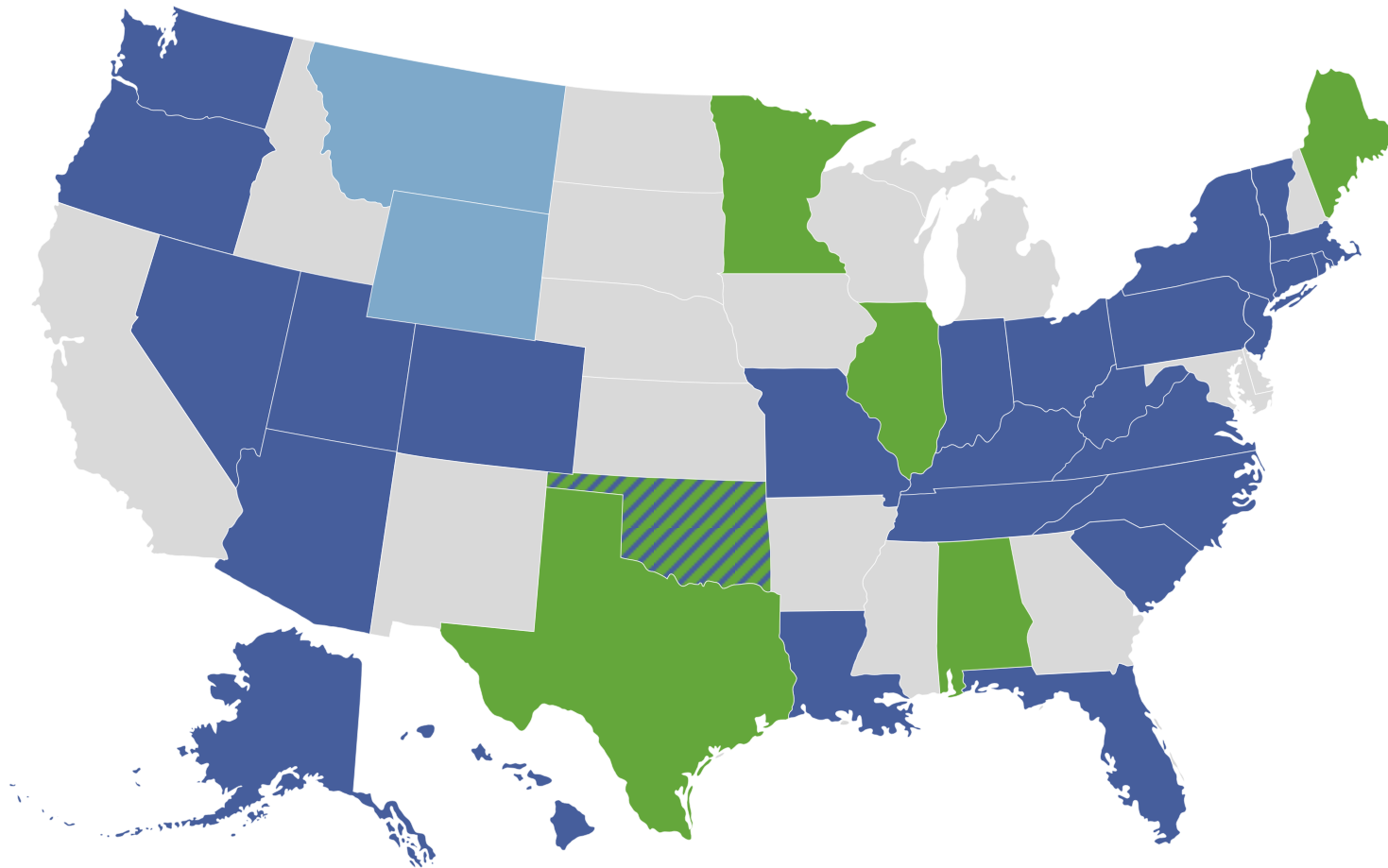


# OPIOID TRENDS

- Reduction in prescribing rates
- Opioid prescribing limits
- Medical marijuana as potential alternative
- Declining overdose death rates from prescription opioids
  - Deaths from street opioids are increasing
- Increased abuse of drugs used to treat substance abuse disorder



# OPIOID PRESCRIBING LIMITS



■ Opioid Prescribing Limits  
in Place

■ Opioid Limit Bills Passed  
2019

■ Opioid Limit Bills  
Running 2019

# OPIOID PRESCRIBING LEGISLATION

## 90+ bills in state legislatures

- Day limits for acute pain
- Patient disclosures or agreements
- Warning labels or caps on pill bottles
- Mandatory urine drug screening
- Co-prescribing naloxone
- Requiring insurers to cover detox services
- Workers' comp death benefits for overdose death for related opioids

## Federal

- John McCain opioid addiction and prevention act
- S 419 – requires the FDA to revoke one opioid authorization for each one approved

**New York & Tennessee: bills that would unwind opioid limits & prohibit any prior authorization for opioids**

# LEGISLATIVE TRENDS

Legislatures evaluating  
fidelity to “grand bargain”  
in workers’ comp

Directed  
managed care

Opioid  
prescribing  
limits

Drug formularies



# 2020 PREDICTIONS

Emergency  
Room Costs  
Rising

WC Payment  
Transparency –  
Fraud Focus

Consumer Privacy  
& Protection  
Legislation Will  
Continue



# 2020 PREDICTIONS

Medicare's New  
Evaluation & Mgmt.  
Model Implemented

Severity for  
Workers' Comp  
Remain Flat

Utilization  
Review, Major  
Reform Efforts



# 2020 PREDICTIONS

Challenges to  
Constitutionality of  
Workers' Comp Laws

Rescheduling  
of Medical  
Marijuana

Presumptions  
for First  
Responders

Opioid Pushback





# QUESTIONS?