

State of the Line: Louisiana

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Discussion Points

- **A quick look at Louisiana**
- **Adoption of Medical Guidelines**
- **Legislative changes in 2010**
- **Other developments in Louisiana in 2010**
- **A look ahead to 2011**

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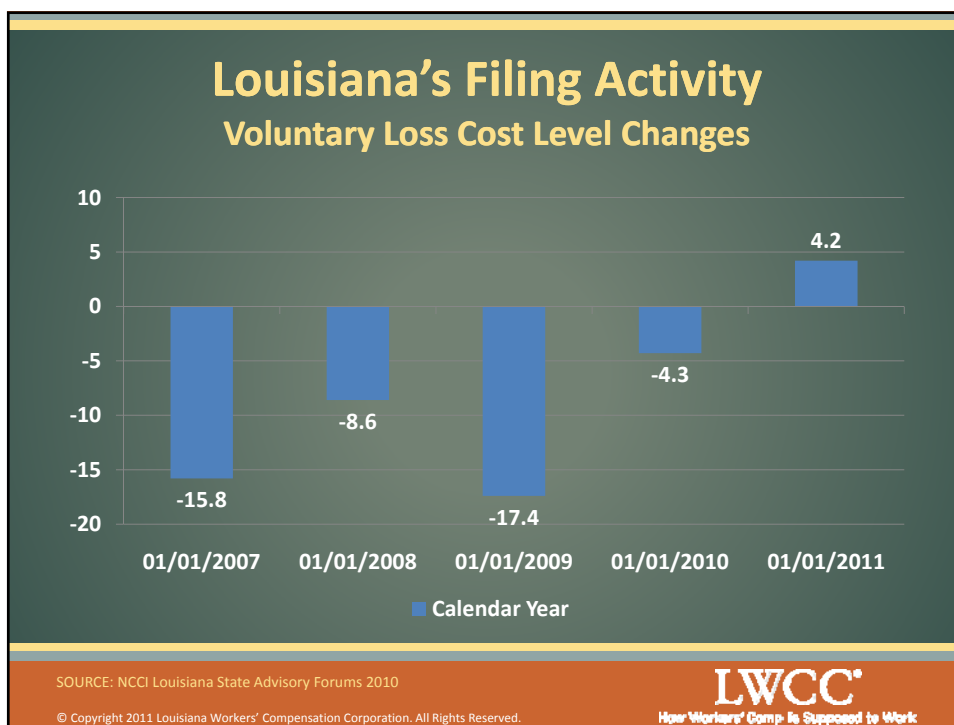
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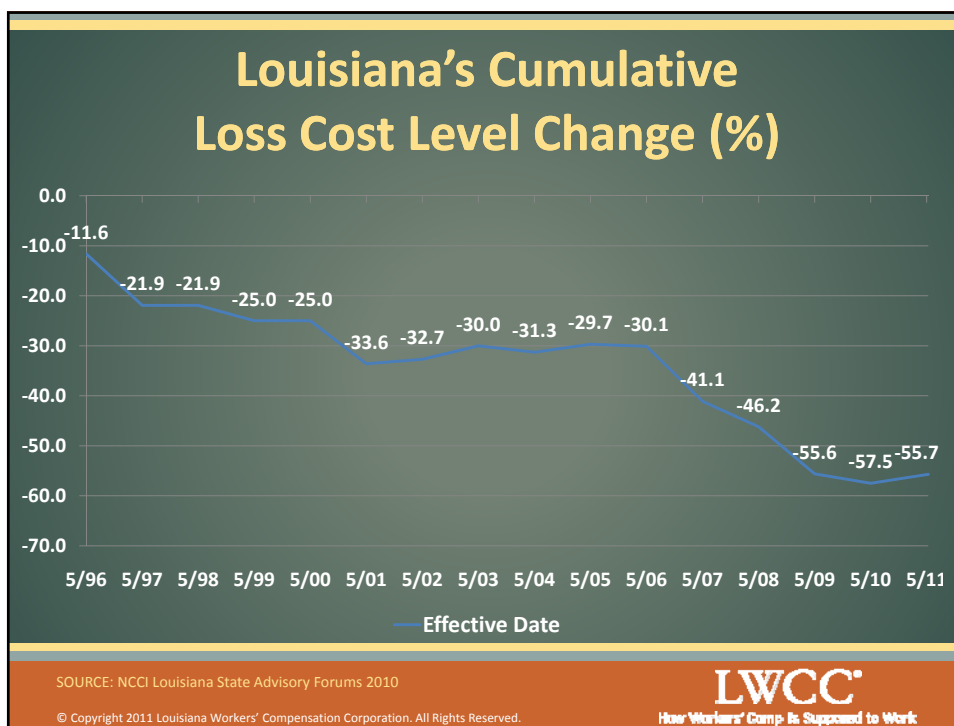
A Quick Look at Louisiana

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Declines in Louisiana Claim Frequency have Slowed

- **Policy year 1994**
 - 41 work-related accidents per \$1 million of on-leveled premium.
- **Policy year 2008**
 - 13 work-related accidents per million of on-leveled premium.

SOURCE: NCCI Louisiana State Advisory Forums 2010
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Louisiana Indemnity Average Claim Severity

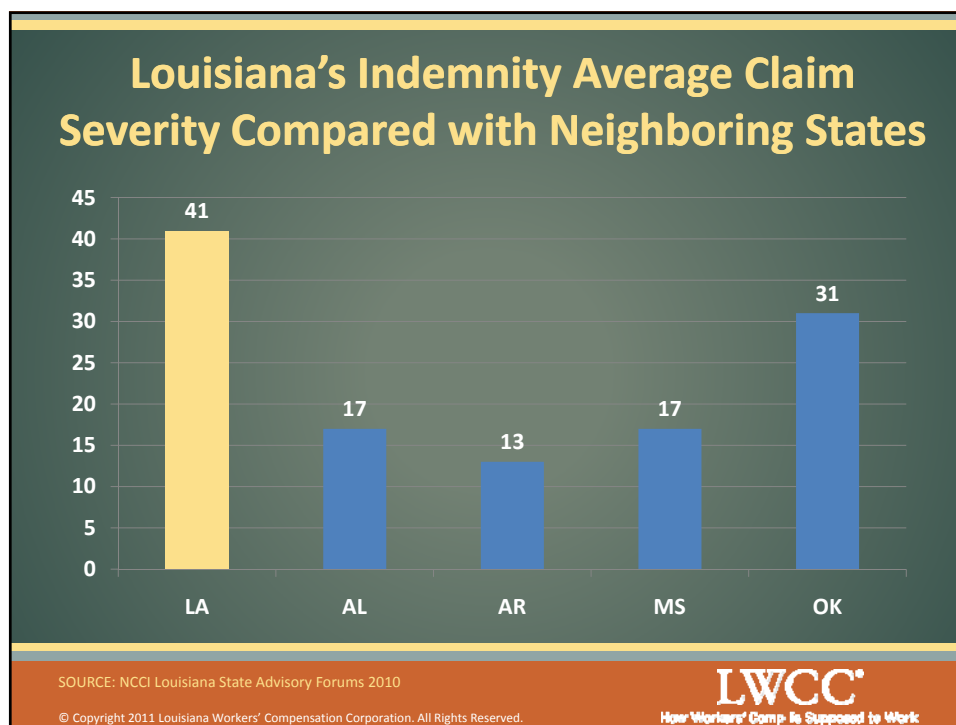
- **Policy year 1994**
 - \$17,200 per claim - actual Indemnity Average Claim Severity.
 - \$30,100 per claim - adjusted to Current Wage Level Indemnity Average Claim Severity.
- **Policy Year 2008**
 - \$42,700 per claim - actual Indemnity Average Claim Severity.
 - \$41,200 per claim - adjusted to Current Wage Level Indemnity Average Claim Severity.

SOURCE: NCCI Louisiana State Advisory Forums 2010

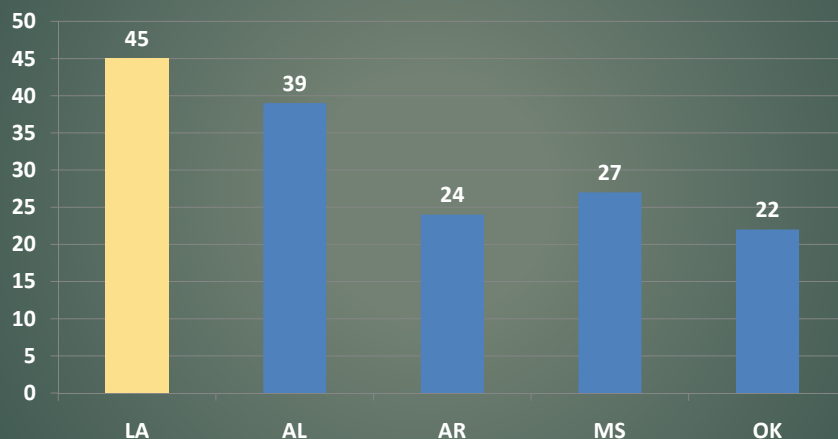
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Louisiana's Medical Average Claim Severity Compared with Neighboring States



SOURCE: NCCI Louisiana State Advisory Forums 2010

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WCRI - Key Findings for LA Comp Scope Med. Benchmarks, 11th Edition

- Medical costs/claim rose 15% from 2007/08 to 2008/09, faster than prior years and more than other study states.
- LA medical costs/claim among highest of 16 states.
 - More visits and/or higher prices paid for some commonly-delivered services (office visits, PM, X-rays).
 - Fee schedule rates higher than typical for many nonsurgical services, despite little change since 1994.
 - Highest Rx costs per claim of 16 states.
- Treatment Guidelines (eff. 1/1/11) may be opportunity to help reduce unnecessary utilization of medical services, deliver needed care faster.

SOURCE: WCRI Louisiana CompScope Advisory Committee

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Adoption of Medical Guidelines in Louisiana 2009-present

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Adoption of Medical Guidelines

- By Act No. 254 of 2009 Regular Legislative session (SB No. 303) amending LSA-R.S. 23:1203.1.
- Director shall promulgate rules establishing a medical treatment (guidelines) schedule by 1/1/11 (as extended by Act 619 of 2010).
- Medical guidelines shall meet the criteria set out in statute and “shall be organized in an interdisciplinary manner by particular regions of the body and organ system.”
- The schedule shall be developed by the conscientious, explicit, and judicious use of current best evidence in making decisions about the care of individual patients, integrating clinical expertise, which is the proficiency and judgment that clinicians acquire through clinical experience and clinical practice, with the best available external clinical evidence from systematic research.

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Adoption of Medical Guidelines

- **Guidelines shall meet all of the following criteria:**
 - Rely on specified, comprehensive, and ongoing systematic medical literature review.
 - Contain published criteria for rating studies and for determining strength of medical evidence including size of sample, financial interest of authors, design of study including any bias and statistical significance of study.
 - Current (developed, reviewed or revised within the previous 5 years)
 - Are interdisciplinary and address the frequency, duration, intensity, and appropriateness of treatment procedures and modalities for all disciplines commonly performing treatment of employment-related injuries and diseases.
 - Are by statute or rule adopted by any other state regarding medical treatment for workers' compensation injuries, diseases, or conditions.

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Adoption of Medical Guidelines (continued)

- Director shall appoint a Medical Director to assist and shall appoint a medical advisory committee (MAC) – multi-disciplinary approach.
- The MAC shall develop/recommend guidelines and submit to Director for formal adoption and promulgation.
- Director must review and update guidelines “no less often than every 2 years all in strict accordance with criteria set out in this statute”.
- Guidelines “should” apply to all treatment after implementation regardless of accident date.

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Adoption of Medical Guidelines

(continued)

- Physicians may treat outside the guidelines but must demonstrate by preponderance of the scientific medical evidence that a variance is reasonable under the circumstances.
- Speeds up UR (5 business days) and sets forth new appeal process where the OWC Medical Director will respond within 30 days.
- After the Medical Director responds, either party may file a 1008 (dispute) and the “medical director may be overturned when it is shown by clear and convincing evidence” the decision was not in accordance with this statute.

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So Where Are We Today?

- In the fall of 2010, MAC recommended amended version of Colorado Guidelines for adoption.
- Big Problem: Colorado is an employer choice state and Louisiana is an employee choice state.
- When Colorado adopted their guidelines, more worried about making sure injured workers were receiving adequate treatment.

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So Where Are We Today?

- **Current debate:** Will guidelines increase the cost of medical care in La. (i.e. -Oklahoma).
- **Pragmatic view:** Look what we have now?
Nothing. And this will be better and we will only improve it over time per SB 303.
- **Outliers.**
- **Trust the process.**
- **Emergency rule defeated and implementation delayed until April 20, 2011.**

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Legislative Changes in 2010

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Legislative Changes in 2010

- **Second Injury Fund – 23:1371 et. seq.**
 - Act 799 (SB 639).
 - Sunset date – December 31, 2014.
 - Changes deductible amounts (again).
 - Creates “PPD employee registry.”
 - Hire and fire authority now statutory.
 - Expanded definition of “knowledge “ via form.
 - Will help cut down on repetitive litigation.

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Legislative Changes in 2010

- **Electronic Medical Billing and Payment – 23:1203.2**
- **Act No. 4 (SB 255)**
 - Provides the Director shall by January 1, 2012, adopt rules and regulations regarding electronic submission, processing and payment of workers' compensation related medical bills.
 - Not sure who wants this.
 - How much and what is ROI?
 - Public versus private solution.

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Legislative Changes in 2010

- **Independent Medical Exams – 23:1123**
 - Act No. 3 (SB 106) – Amends and reenacts 23:1123.
 - Expands how Independent Medical Exams (IMEs) are used.
 - Includes condition of employee, but added “capacity to work” and “current medical treatment for the employee”.
- Also creates a statutory duty to report premium fraud to OWC (23:1172.2).
- Also clarifies that payers make elect to pay workers’ compensation benefits to injured workers through the electronic transfer of funds (23:1201.1).

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Legislative Changes in 2010

- **Sole Proprietors – exclusion from coverage - 23:1035(A)**
 - Act No. 120 (SB 107).
 - Clarifies that when a sole proprietor elects to exclude themselves from coverage under the Act, must be by written agreement “with his insurer or group self-insurance fund”.
 - Meant to prevent after-the-fact exclusions.

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Legislative Changes in 2010

- **Act No. 53 (HB 1088) – Amends and reenacts 23:1310.3**
 - Changes mandatory mediations in all workers' compensation lawsuits to voluntary and allows choice between OWC mediator or outside mediator.

- **Act No. 288 (HB 873) – Amends and reenacts 23:1170**
 - Failure to secure proper workers' compensation coverage.
 - Limits civil penalty for first offense to \$10,000.
 - Removes cap for subsequent violations.

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Legislative Changes in 2010

- **Act No. 688 (HB 239) – Mandates insurer and HMO anti-fraud plans.**
- **Act No. 203 (SB 9) – Text messaging is a moving violation and is no longer secondary. And for minors, use of a cell phone while driving is also a moving violation.**

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Other Developments in Louisiana in 2010

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Other Developments in Louisiana in 2010

- Evolution of PPO lawsuits.
- Agilus decision by La. Supreme Court:
 - Reversed lower courts.
 - Contracts for discounts below fee schedule are permissible.
 - Left open the question of “notice” under Title 40.
- Within days of decision, First Health settled with HCPs in the range of \$150M.

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Other Developments in Louisiana in 2010

- Increasing number of HCP lawsuits involving reduction of out-patient bills.
- Physician dispensing and manipulation of AWP.
- Increasing Rx costs – Johns Hopkins study.

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Other WCRI Study: Louisiana had Highest Rx Payment/Claim of 16 States

- Higher utilization: highest number of prescriptions per claim and pills per claim
- Higher prices paid to pharmacies, in part because pharmacy fee schedule unusually high, especially for generic drugs
- Expensive, brand name drugs used more often
- Prices much higher for physician-dispensed drugs than prices paid to pharmacies for same Rx

SOURCE: WCRI Louisiana CompScope Advisory Committee

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A look ahead to 2011

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A Look Ahead to 2011

- Fiscal only session this year, but each legislator allowed 5 non-fiscal bills.
- Undocumented workers – (Vaughn Roofing – US Supreme Court Writ denial).
- Changes to vocational rehabilitation – physician sign-off.
- Electronic Medical Bills.
- Rules regarding administration over Medical Guidelines.
- Refine UR rules.

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Questions?

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