



# COVID-19:

## Viewpoint: Business Impacts from COVID-19: Insurance and Other Considerations



# Insurance Considerations for Manufacturers and Distributors

# Presenters

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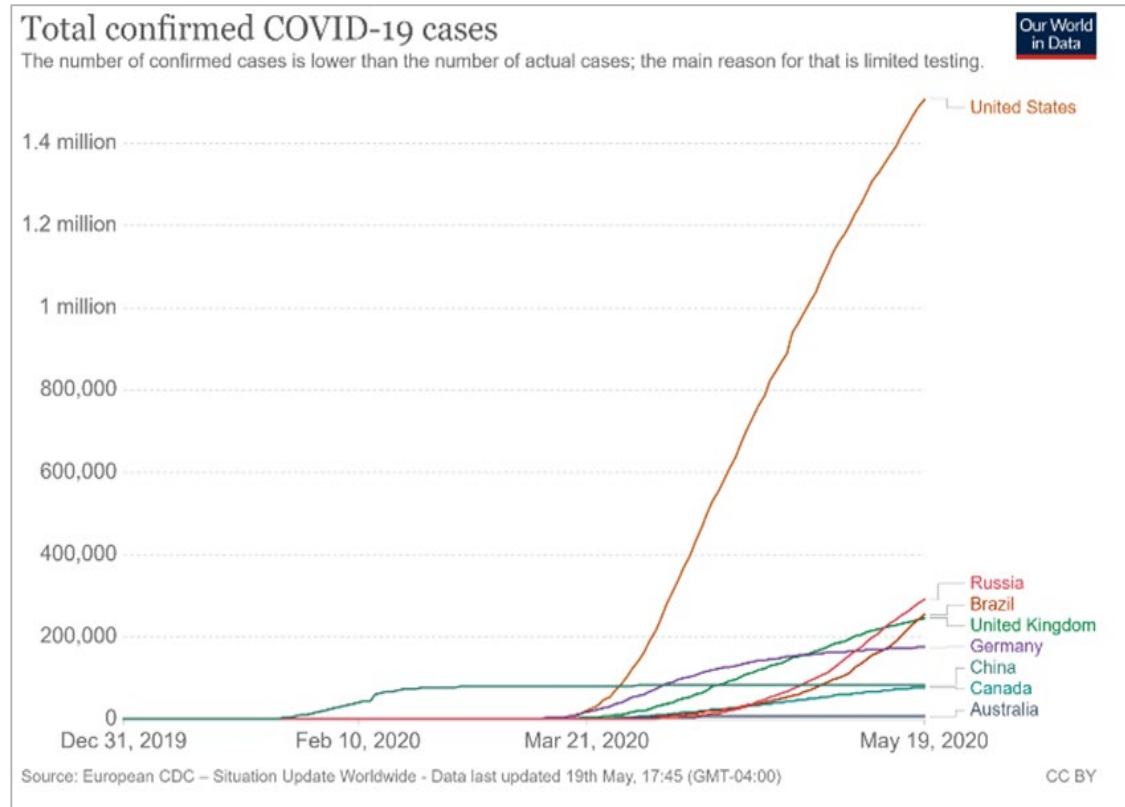


# Overview – COVID-19 Current Statistics

# Where Are We Today Statistically?

COVID-19 Current Cases (May 19, 2020 - Per Google News)

Location	Confirmed Cases	Cases per 1M People	Deaths	Mortality Rate
<b>Worldwide</b>	4,897,567	630	323,286	6.6%
<b>United States</b>	1,558,631	4,729	92,258	5.9%
<b>Kentucky</b>	8,069	1,847	366	4.5%
<b>Indiana</b>	28,705	4,405	1,678	5.8%
<b>Ohio</b>	28,952	2,508	1,720	5.9%
<b>California</b>	81,795	2,171	3,334	4.1%
<b>New York</b>	352,845	18,093	22,843	6.5%



# Worlds Largest Pandemics

## DEATH TOLL [HIGHEST TO LOWEST]

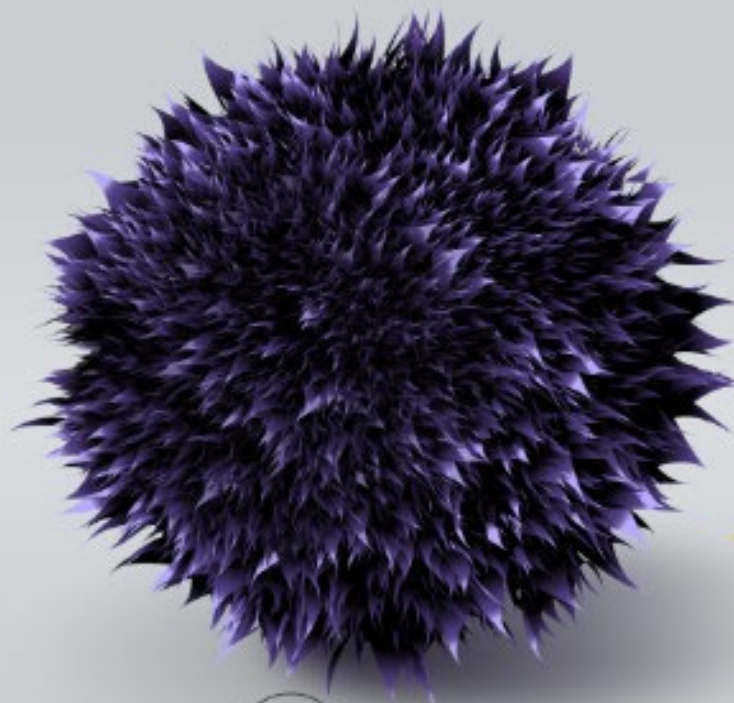
the impact of COVID-19 because the disease is new to medicine, and data is still coming in.

\*Johns Hopkins University estimates

**200M**

**Black Death (Bubonic Plague)**

1347-1351



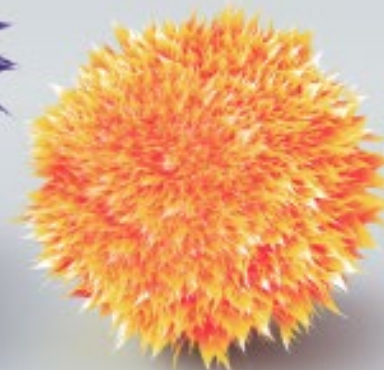
The plague originated in rats and spread to humans via infected fleas.

↑ The outbreak wiped out 30-50% of Europe's population. It took more than 200 years for the continent's population to recover.

**56M**

**Smallpox**

1520



↑ **Smallpox** killed an estimated 90% of Native Americans. In Europe during the 1800s, an estimated 400,000 people were being killed by smallpox annually. The first ever vaccine was created to ward off smallpox.

**40-50M**

**Spanish Flu**

1918-1919



**30-50M**

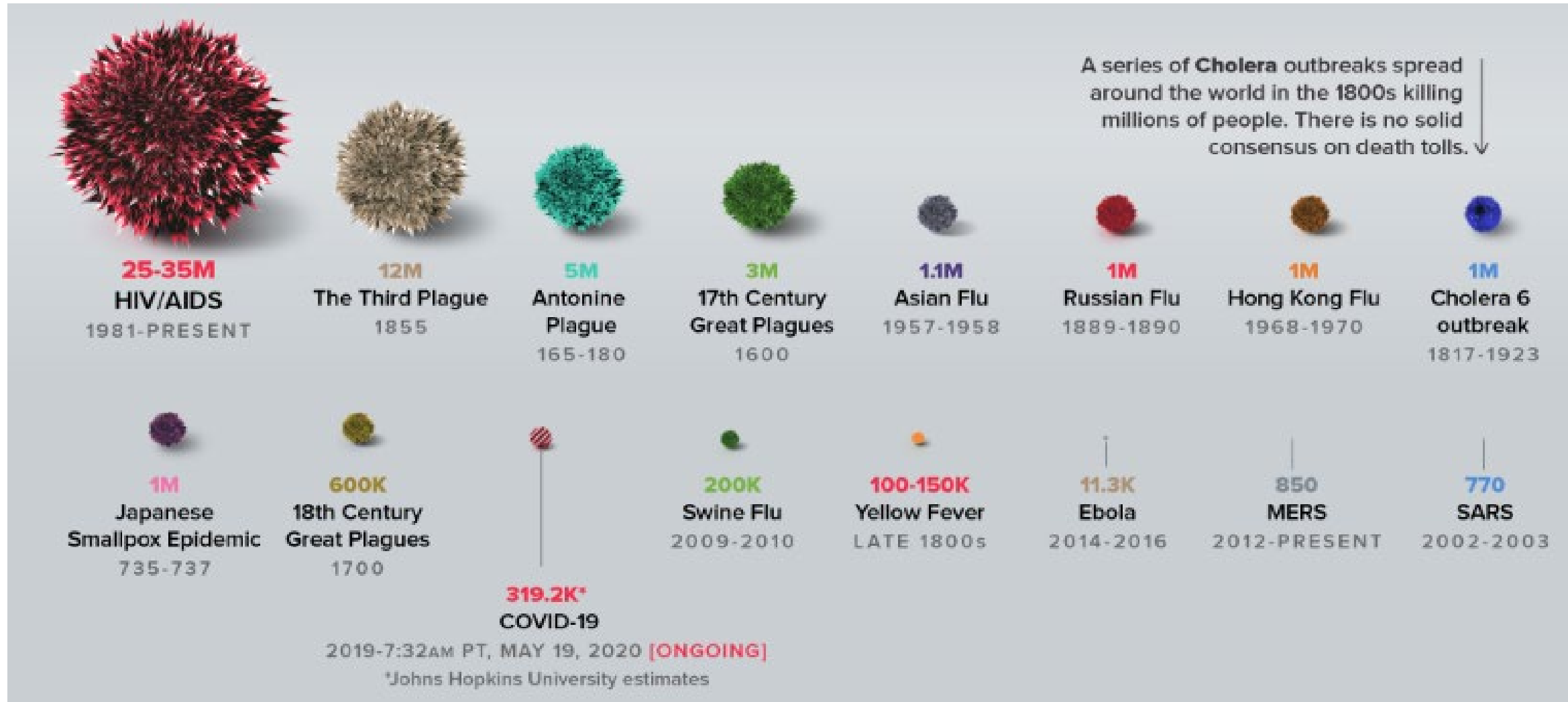
**Plague of Justinian**

541-542















↑ The death toll of this plague is still under debate as new evidence is uncovered, but many think it may have helped hasten the fall of the Roman Empire.

# More Recent Pandemics (Impacts)





## COVID-19 death toll compared to other pandemics

PANDEMIC	DATES	DEATH TOLL
 Smallpox	~3,000 years–1979 <sup>A</sup>	>300,000,000 <sup>B</sup>
 Black Death	1347–1351	~225,000,000 <sup>C</sup>
 Spanish Flu (H1N1)	1918–1919	50,000,000
 HIV/AIDS	1981–Present	23,600,000–43,800,000
 Cholera	1899–1923 <sup>D</sup>	>1,500,000
 Asian Flu (H2N2)	1957–1958	1,100,000
 Russian Flu (likely H2N2)	1889–1890	1,000,000
 Hong Kong Flu (H3N2)	1968–1970	1,000,000
 Swine Flu (H1N1)	2009–2010	151,700–575,400
 COVID-19	2019–Present	319,213 <sup>E</sup>
 Ebola	2014–2016	11,300
 MERS	2012–Present	866

# Compared to Other Pandemics – Statistics to Date



Non-Presidential  
Election Years

Swine Flu  
2010

EBOLA  
2014

EBOLA  
2018

Presidential  
Election Years

2004  
SARS

2008  
AVIAN Bird  
Flu

2012  
MERS

2016  
ZIKA

2020  
COVID-19

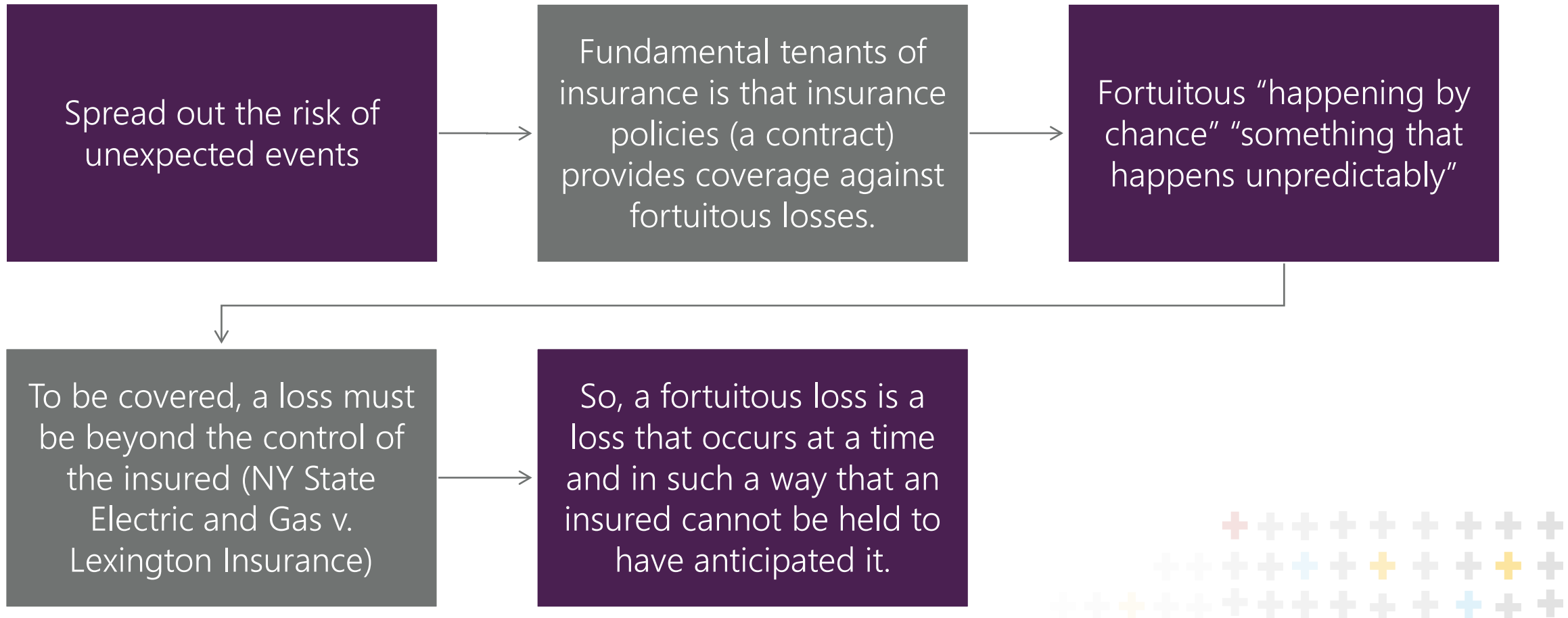
# Insurance Considerations Caused by the Covid-19 Pandemic

- + Medical Insurance
- + Workers' Compensation
- + Business Interruptions
- + Liability Considerations
  - + D&O Insurance
- + Captive Considerations  
(Alternative Risk Transfer Vehicles)



# Insurance 101: What is the Purpose of Insurance?

Risk Coverage for Fortuitous Events – Accept, Transfer, Accept:



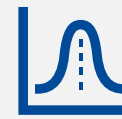
# Insurance Perspective – Considerations for Manufacturers



The insurance industry has recognized the likelihood of a resulting **increase in claims volume** across numerous lines of coverage.



Much of the recent focus has been on ramifications to insurers with **business interruption** insurance – and the impact it will have on the P&C industry.



Broader view shows many disparate lines of insurance will be impacted.

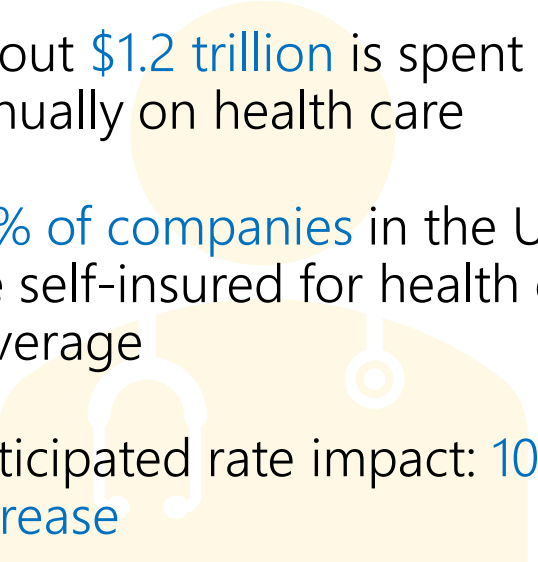


Social, institutional and governmental reactions are significant – far reaching “damage” beyond the virus itself.



# Overview – Health Insurance Impacts

# Health Insurance Considerations

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- + Employer sponsored plans cover 160 million Americans
  - + About \$1.2 trillion is spent annually on health care
  - + 66% of companies in the U.S. are self-insured for health care coverage
  - + Anticipated rate impact: 10% increase
  - + 6.5% of C-19 cases require hospitalization (age dependent)

- + Insurers are mandated to cover the cost of tests (waiving member costs)
- + Most fully insured carriers are waiving deductibles / copayments / coinsurance amounts (network providers)
- + AHIP is providing a summary of coverage by health insurer <https://www.ahip.org/health-insurance-providers-respond-to-coronavirus-covid-19/>
- + Self-insured companies vary in what costs they are covering
  - + HDHP's can now cover qualifying medical care for testing and treatment of Covid-19 (IRS Notice 2020-15 for HDHP's)(no deductible/no co-pay)
- + 11 states have re-opened exchanges (30 million without HI coverage)
- + Average cost of Covid-19 \$4k per case with hospitalization at \$22k each

# Health Insurance Snap Shot

- + Health Insurers are seeing dramatically lower claims volumes (mid-March through May) as elective surgeries and non-COVID-19 visits were halted
- + Expect a “bounce back” beginning in June as healthcare resumes elective procedures
  - + Providers have had limited revenues for approximately 2 months
- + Health insurers have not adjusted rates (unlike auto line of coverage)
- + Health cost increases due to COVID-19 not material thus far for most companies
- + Qualifying event resulting in some plans adding additional members



# RTW – Medical Plan Consideration

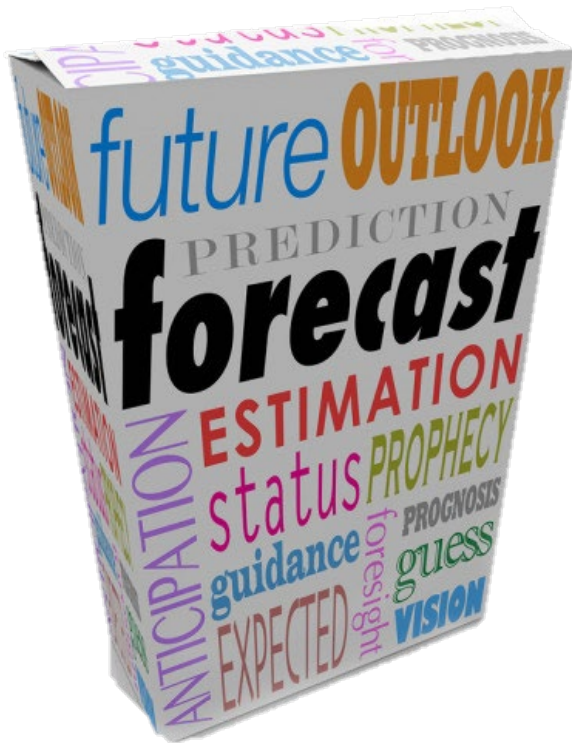
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- + Recent AHIP study anticipates \$150 Billion in COVID costs
  - + Review your medical plan – Fully Insured versus Self-Insured options and considerations
  - + Review loss data for the last three months to ensure you are benefiting currently from reduced usage (self-insured plans)
- + Expected increase in elective procures (2020 and 2021)
  - + “Pent up Demand” likely, revise financial forecasts to consider the impacts
  - + Risks: high utilization / increased hospital costs / quality of care concerns
  - + Plan design matters (Prior Auth / Referrals / Limitations / Med Mgmt)
- + Start thinking about renewal planning for the fall (2020/2021)
  - + Revise coverages?
  - + Talk to broker about expected premium rates for 2021
  - + Evaluate fully-Insured versus Self-Insured models



# Overview – Workers' Compensation

# Workers' Compensation Considerations



Nationally, workers' compensation claims remain low for COVID-19 out of 5 million total cases worldwide.

## Anticipated Claims:

- + Employees of healthcare, mass transit or air travel
- + Employees routinely facing the general public in retail establishments
- + Working in crowded, open-air office spaces
- + California – large exposure for claims



# Workers' Compensation Considerations

- + Covid-19 covered under Workers' Compensation? **Maybe...**
- + Workers' Compensation laws provide for compensation for occupational diseases arising out of and **in the course of employment. Ordinary "diseases of life" are excluded.**
- + Washington state, California, Kentucky affirmed coverage for healthcare workers and first responders (job exposure quarantines and sickness); many other states are now adopting this model (state regulation) – 13 states adopted this provision
- + California made a bold affirmative move...



# Workers' Compensation Considerations

- + Testing generally not covered however treatment and indemnity (wage continuation) could be covered (state specific)
- + Insurers are reviewing COVID-19 claims on a case by case basis (proof of exposure arose out of or in the normal course and scope of employment)
- + General state statutes as now written on workers' compensation make it "near impossible" to meet the standards of proof to satisfy (outside of healthcare/first responders).
- + First Responders/Emergency Personnel: Executive Orders



# California's Bold Move – Back to Work



- + May 6, Executive Order (N-62-20) created a “rebuttable presumption” that an employee’s COVID-19 related illness arose out of the course of employment for workers’ compensation purposes if the employee tests positive or is diagnosed “within 14 days after that the employee performed labor or services at the employee’s place of employment at the employer’s direction.” The presumption does not apply if the employee worked from home. (for injury dates through July 5, 2020)
- + No waiting for temporary disability benefits.
- + So far, only state to take such action
- + Expected CA cost - \$11.2 billion (range of \$2 billion to \$33.6 billion)



# Workers' Comp Claim Reporting

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- + State "COVID-19" in the accident description for enhanced protocols
  - + Document if worker had contact with COVID-19 infected person (who/when)
  - + Confirm symptoms and diagnosis (documentation support)
  - + Other family members with symptoms?
  - + Other employees they came into contact with (6 feet/10 minutes)
- + File the claim immediately with your carrier





# Workers' Compensation Considerations – Employers Premiums

- + Will employers Workers' Compensation (WC) premiums be reduced due to the impacts of Covid-19?
  - + WC premiums are typically based off of annual payroll and the related class codes (job functions) of the individuals employed.
  - + NCCI states - **furloughed employees** (paid but not working) should be reported in class code 0012 and not included in workers' comp premium calculations.
  - + Employees working from home or with significantly different job duties are eligible for **reclassification to different class codes** (lower premium rates)-documentation require to be retained
  - + Cat No. 12 (**Covid-19**) claims are to be excluded from **experience ratings** and merit rating plans
- + **Resource:** <https://www.ncci.com/Articles/Pages/Insights-Coronavirus-FAQs.aspx>



# Overview – Business Interruption Coverage (BI)

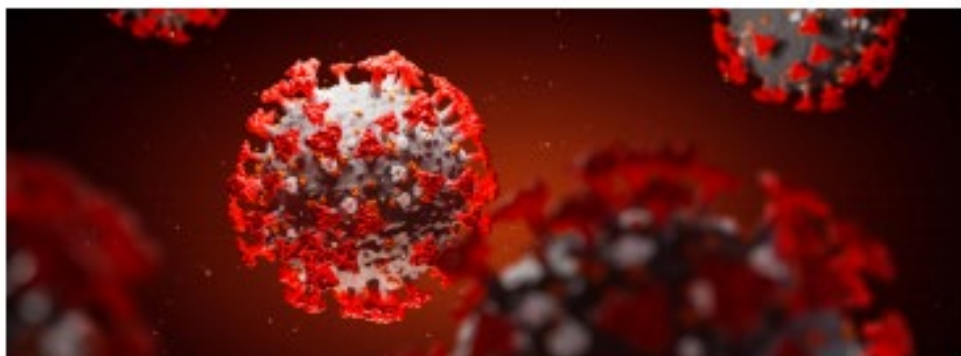
# Business Interruption (BI) Insurance

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- + Commonly sold as a component of commercial property coverage
- + Defined by the insurance contract “policy”
- + Lost profits and extra expenses when operations are impacted by “direct physical loss or damage”
- + Loss determined by the period it takes to restore the damaged property under the policy timelines.



# Fact Sheet: Understanding Business Interruption Insurance and Pandemics



## Global pandemic risks are uninsurable

- A pandemic impacts all lines of insurance at once.
- Only the federal government has the financial wherewithal to cover pandemic risks.
- A handful of business interruption policies cover communicable disease contamination; very few U.S. businesses purchase them.



## Retroactive payouts would bankrupt insurers

- Rewriting contracts after they have been agreed to by the parties involved would undermine a centerpiece of the U.S. economy.
- Requiring an insurer to pay for losses it never insured would cause irreparable harm to the industry.
- Mandating business interruption payouts would cost insurers at least \$255 billion per month;\* in three months, it would deplete the industry's nearly \$800 billion surplus.





### Insurers ready and actively paying covered claims

- Insurer stability is essential in meeting all the covered losses from people, businesses and communities.
- Covered losses include accidents, injuries, liability lawsuits, fires, and disasters such as windstorms.
- The industry's financial strength is especially important in an era of more frequent and severe hurricanes, tornadoes and wildfires.



### Policies clearly explain “virus and bacteria” exclusions

- Business interruption policies generally require the losses to be caused by physical damage to the property.
- The threat of a virus is generally not considered physical damage to the property.
- Policies typically have exclusions saying an insurer will not “pay for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.”



# Potential for BI Claims



Denial of access to premises due to governmental orders (“shutdown”, “quarantine”, “Essential v. Nonessential Services”): civil authority



Loss of use if the physical location has contamination (meat processing facilities – 500 cases of contagion among employees)



Disruption to supply sources, supply chain logistics and distribution channels



What you need to do: Read policy language closely, talk to your broker, have coverage counsel involved early on if you believe you have a basis for a claim, involve your accountants and forensic experts

# BI Reimbursement Hurdles

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- + Do your policies cover the effects of a **viral or bacterial based pandemic?**
- + Do your policies contain **exemptions** for damages from viral and biological agents and outbreak?
- + Absence of exclusions do not create coverage





# BI Reimbursement Hurdles

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- + Do you have **proof** that the damages are specifically insurable?
- + Does the policy contain language covering the prohibition of access, governmental/civil orders to restrict access (or cease normal operations) or imminent peril provisions that would trigger coverage under the insurance policy (often these orders also need proof of physical damage at or near the insureds business location)?



# Legislation and Pandemic Coverage

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- + Seven states have introduced/attempted to pass legislation in the past several weeks that would require insurers to cover COVID-19-related business interruption losses on a retroactive or retrospective basis.
- + New Jersey, Ohio, Massachusetts, New York, Louisiana, Pennsylvania, and South Carolina have been asked to put these legislative efforts on hold while the National Association of Insurance Commissioners (NAIC) works with federal legislators to develop solutions.
- + Federal – House bill HR 6494 drafted to void any provisions in BI policies purporting to exclude COVID-19.



# Legislation and Pandemic Coverage

Insurance policies are underwritten and priced in such a way that pandemic coverages have historically not been considered

- + Insurance industry: "We did not charge premium for it, so why would we have to cover it?"
- + Can insureds prove damage (property) under the policy (is coverage triggered?)
- + Specific exemptions in the policy: viral, pandemic exclusions
- + Limited specific coverage wording – subject to interpretation

## Proposed State Legislation:

- + Bills would unilaterally alter terms of existing contracts, and create substantial solvency risks for insurers
- + Would impact P&C industries ability to pay other types of claims (hurricanes, fires, etc.) and impact capacity in the market and likely dramatically increase pricing in the future
- + P&C capital level: about \$800 billion total; estimated cost of potential BI claims estimated at about \$250 billion a month in the U.S.

# Legislation and Pandemic Coverage

Bills include maintaining the policy limits, limiting the coverage to certain small businesses, and potential partial offsets (reimbursements to the insurance carrier) from state-run guaranty funds (which themselves have very limited capital).



If coverage is affirmed by statute, what will be the impact on the future of insurance:

Further  
hardening of  
the market

Limitations in  
future  
coverage(s):  
Policy Language

Pricing  
Increases across  
the board (30%  
or more)

New policies  
and lines of  
coverage

More  
conservative  
underwriting

Rebuilding of  
capital  
structures:  
Fewer Insurers

# Cases to Watch

- + Canjun Conti, LLC v. Lloyds of London, et. al. (New Orleans) (BI)
- + Chikasaw National Department of Commerce v. Lexington Insurance Co. (BI)
- + Kurivial vs. Princess Cruise Lines Ltd. (Commercial General Liability)
- + Douglas v. Norwegian Cruise lines (D&O Policy)
- + Legal and Policy Considerations:
  - + Viability of claims will depend on [the specific policy language](#)
  - + "All Risks", "All Causes" coverage language?
  - + [Exclusions](#) for communicable [disease](#), [government action](#), viral contagion, pandemics, pre-existing conditions (January 2020 forward impacts of Covid-19 were "foreseeable")
  - + Did the business take action to reduce loss (CGL coverage) and mitigate impacts? (Cruise Ship Industry example)
  - + Providing causation
  - + [Insurer concerns: Bad Faith Claims could be asserted as well](#)
  - + Agent and Broker Errors and Admissions



# Taking Action – What should U.S. Business Do?

# China Leading BI coverage for Pandemics – RTW Policies

- + As China returns to work, insurers are rolling out new policies and expanding coverage to affirmatively provide coverage if business activities are disrupted due to Covid-19.
  - + Most of these policies are free-of-charge or have low premiums being subsidized by the governments
  - + Many are state owned insurers
  - + Insurers in China are providing “return-to-work” coverages
  - + Many of these coverages will pay out for forced quarantines in surrounding areas, even if no infection occurs on the businesses premises
  - + Most of the coverages, for companies with employees up to 150, will pay out about \$14,000 to each employee that contracts Covid-19
  - + To date, insurers in China have paid out about \$14.5 million since March 27





# Returning to Work

- + Establish processes and policies to limit spread (CDC guidelines), restructure work environment and educate
- + Review your safety procedures and guidelines
- + Enhance awareness (posting/posters/signs) and re-education training
- + Talk to others (HR consultants, attorney's, insurance brokers) for advise
- + Understand your liability and risks associated with the "RTW" process
  - + PPE equipment
  - + Training
  - + Enforcing policies and rules
  - + Follow published CDC guidelines
- + Develop policies for what to do if an employee contracts COVID-19
  - + OSHA reporting (limited requirements)
  - + Reporting to Health Department and CDC <https://www.cdc.gov/coronavirus/2019-ncov/php/reporting-pui.html>
  - + Quarantine guidance for "impacted" co-workers
  - + Cleaning and timelines





## Intermediate

Create a detailed plan to return to pre-Pandemic levels and scale quickly (focus on efficiency, processes, protocols, "what if" considerations and planning for short-term contingencies in the event we see a Covid-19 bounce. Refocus on technology and security, workplace safety and consider expected trend in your customer demands and supply resources.

## Long-term

Reimagine your business and put dormant measures and plans in place to protect you for the next Pandemic like event (see timeline of viral outbreaks included in the forward of this material packet).

# Taking Action – Liability and WC Insurance

- + Read and understand your current insurance policies.
- + Measure and capture costs associated with the business interruption.
  - + **DON'T** change your basic accounting practices, but...
  - + **DO** track your normal ongoing costs separately from costs related to COVID-19 disruptions and put plans and policies in place to track identifiable COVID-19 costs.
- + For COVID-19 coverage in your workplace - WC:
  - + Consider WC coverage/claim file documentation and reporting
  - + Segregate payroll information (class code reporting) for furlough's, changes in roles and responsibilities, work from home code
  - + Consider mid-term premium adjustments (talk to your insurer) related to payroll and WC premiums



# Other Coverage Considerations

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- + Review cybersecurity coverage (uptick in cybersecurity events during pandemic response) and internal cybersecurity controls
- + Consider requesting changes to clarify or change policy provisions identified as “problems” during the pandemic
- + Affirmative coverage for pandemics (request pricing if clearly excluded from your current policy)
- + Talk to your broker/agent well before your renewal period – get educated and set expectations regarding renewals (hardening market)



# Long-term Considerations

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Are you identifying the lasting effects of the COVID-19 pandemic on your businesses and preparing financial models to plan for the future?

- + How will you respond to new risks?
- + How will your customers respond?
- + How will your suppliers respond?
- + How will your employees respond?
- + How will our government respond?



# Questions?

Thank You  
for your time!



**MCM COVID-19 Resource Center**

[www.mcmcpa.com/covid-19](http://www.mcmcpa.com/covid-19)