It's a problem because shifting dynamics in the U.S. workforce are creating a scenario where disability insurance is going to become quite necessary, said Alex Dumont, vice president of product marketing for The Standard, which offers life and disability insurance.

First, the Great Recession set a number of workers back financially; to recoup losses, many are staying on the job longer than anticipated. By 2020, the Bureau of Labor Statistics estimates that five generations of Americans will be working, with a quarter being baby boomers ages 55 and up.

An older workforce increases the chances of higher health care costs as well as lost working time because of illnesses and disability leave. Today, more than 37 million Americans have what is considered a disability, and about half are between the working ages of 18 to 64, U.S. Census Bureau figures show.

In today's workplace, nonmedical benefits like disability insurance "play a really important role in keeping health care costs down," Dumont said. "The longer employees delay retirement and need to stay in the workforce, the strain is going to increase [health care] costs to the employer and employee more than ever before."

There are a lot of misconceptions about disability insurance — whether it's needed, how much is needed and the expense. One thing is clear: When it is offered, employees participate.

When disability insurance is offered in the workplace, 98 percent of private industry workers take advantage of short-term disability and 96 percent enroll in long-term disability, the 2013 National Compensation Survey numbers show.

Employers typically pay $10 to $30 per worker each month for disability insurance, according to the Consumer Federation of America. Nearly two-thirds of workers surveyed in a 2013 study by the Washington, D.C., consumer group said they would pay the monthly premiums for protection.

Group disability in particular "is one kind of insurance that offers very good value to the employer as well as the employee," said Stephen Brobeck, executive director for the Consumer Federation of America. "Clearly, more employers would offer it if they understood how inexpensive it is and that employees would happily pay the premium."

Avoiding the 'Bermuda Triangle' of Employment Law

By Richard Hu and Heather A. Jackson

What do you do when one of your workers is injured? Send them a get-well card, of course, but also keep in mind that a number of federal and state laws could come into play.

There is also the so-called "Bermuda Triangle" of employment law: workers' compensation, the Family and Medical Leave Act, and the Americans with Disabilities Act. Because the interplay of these laws presents dangerous territory, fraught with the potential for disaster and potential liability, employers should be aware of the complexity of these laws.

Employers should also be aware that individual state laws may impose additional (and sometimes inconsistent) requirements, and that workers' compensation schemes vary in each state.

- **What Does Each Law Address?** Workers' compensation is governed by state law and provides financial assistance, medical care and other benefits to workers who suffer a job-related injury or disability. The FMLA is a federal law that provides a worker temporary leave for a "serious health condition" that either the employee or the employee's family member is dealing with. Finally, the ADA is a federal law that prohibits employers from discriminating against a person with a "disability."
- **Who Is Covered by Each Law?** These laws do not apply equally to all employers and employees. Workers' compensation generally applies to all employers and covers all employees upon hire, but each state has its own law. The FMLA applies to private employers with 50 or more employees working within 75 miles from the employee's worksite and only covers employees who have worked for their employers for at least 1,250 hours over the 12 months immediately prior to the leave. Finally, the ADA applies to private and public employers with 15 or more employees.
- **What Does Each Law Require?** Because each law has different requirements, their interplay is often challenging. Workers' compensation programs vary from state to state, but generally provide workers with job-related injuries benefits such as medical care, temporary total disability benefits and death benefits for surviving family members. They also often prohibit retaliation against employees for filing workers' compensation claims. The FMLA, on the other hand, entitles an eligible worker to 12 weeks of unpaid leave for treatment and recovery of a "serious health condition" or to take care of an immediate family member with a "serious health condition," but requires the employer to continue to provide the worker with health insurance and allow the worker to return to the same or equivalent job after the leave. Finally, the ADA requires an employer to make reasonable accommodations, such as providing a modified work schedule, or even a period of leave, in some circumstances, for employees' disabilities if that accommodation is necessary for the employee to perform the essential job functions.

Familiarize yourself with applicable laws, and keep in mind that legal counsel is often necessary to help you navigate this "Bermuda Triangle."

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