

Business Insurance

Reporting Weekly on Corporate Risk, Employee Benefit and Managed Health Care News / \$4

Entire contents copyright © 2000 by Crain Communications Inc. All rights reserved.

Judge urges tobacco litigants to ponder universal settlement

NEW YORK—A federal judge is calling for cigarette makers to participate in a global settlement of all U.S. tobacco cases.

U.S. District Court Judge Jack B. Weinstein said that U.S. tobacco companies and their plaintiffs—including the U.S. government—should consider settling all claims for smoking-related health problems under one agreement.

The judge is hearing several tobacco cases, one of which is a class action on behalf of U.S. smokers with lung cancer. The judge said
See Updates on next page

Insurer's 10-K brings more bad news

By DOUGLAS McLEOD

ROCK HILL, N.Y.—Troubled Frontier Insurance Group Inc. is taking steps to rebuild its capital base, but its most recent financial filing reveals the hurdles it still faces in its turnaround effort.

Those hurdles may also have become higher last Friday, when A.M. Best Co. downgraded ratings of its underwriting units to C++ from B, citing unexpected disclosures in Frontier's 1999 10-K filing with the Securities and Exchange Commission.

The disclosures included a \$45.5 million increase in Frontier's previously announced net loss for 1999, bringing the total net loss to

\$278.5 million, compared with a loss of \$43.6 million in 1998.

In addition, Ernst & Young L.L.P., Frontier's auditor, expressed "substantial doubt" about the insurer's ability to survive as a going concern, citing its recurring operating losses and weakened capitalization. Frontier's shareholder's equity plummeted to \$78.6 million at the end of 1999, from \$394.2 million the previous year.

The 10-K also reported that Frontier's largest underwriting unit, Frontier Insurance Co., failed to meet minimum risk-based capital standards set by the National Assn. of Insurance Commissioners. The New York Insur-



ance Department, Frontier's domiciliary regulator, does not use the NAIC guidelines, though, and is still assessing whether the insurer meets New York's own risk-based capital standards.

Meanwhile, the Frontier group's

financial condition has left it in violation of covenants in its loan agreements with several banks. The banks, led by Deutsche Bank A.G.'s New York branch, have waived the violations until April 30 while Frontier negotiates revised covenants. The insurer is widely expected to reach new agreements with its banks, which are unlikely to opt for an attempt to accelerate Frontier's repayment of \$67.5 million in debt, analysts say.

Frontier officials took issue with both the Best rating downgrade and Ernst & Young's "going concern" warning and tried to counter the barrage of bad news with announcements of progress

in the insurer's "corrective action plan."

For example, Frontier last week reported a "non-binding letter of agreement" to sell its Western Indemnity Insurance Co. medical malpractice unit back to its previous owner, Houston-based Galtney Investment Inc. Frontier bought the insurer from Galtney in 1997 for \$48.5 million; terms of the proposed sale will not be announced until a definitive agreement is reached, the insurer said.

Frontier also signed a letter of intent to sell Regency Insurance Co., a small auto insurance unit, to an undisclosed buyer, according to the 1999 10-K.

See Frontier on page 22

CalPERS moves to cut rate hikes

By ROBERTO CENICEROS

SACRAMENTO, Calif.—In an effort to offset health-care inflation, one of the nation's biggest health care purchasers is considering proposals to in-

crease its members' copayments and change their purchasing habits.

Under proposals announced last week by the California Public Employees' Retirement System, the purchasing giant would double copayments to \$10 from \$5 for doctor visits and also for brand-name prescription drug purchases.



In addition, through an education campaign, CalPERS will try to encourage partici-

pants to be wiser buyers of costly prescription drugs, as well as decrease unnecessary utilization of medical care, a spokesman said.

Sacramento-based CalPERS purchases health care coverage for more than 1.1 million state employees, retirees and their family members.

The organization attributes continuing health care cost increases to annual rises in drug costs of 15% to 20%, an aging membership, cost pressures from the retrofitting of hospitals to withstand earthquakes, legislative protections for consumers, and the increased financial needs of medical providers.

The proposals to revise its plan design were approved by CalPERS' Health Benefits Committee. If they are accepted by CalPERS' Board of Administration, members could see the average rate increase they pay health maintenance organizations rise only 4.9%, while rates for preferred provider plans would increase

See CalPERS on page 22

No panic amid market volatility 401(k) funds stand pat

By JOANNE WOJCIK KOCHANIEC

The fact that 401(k) plan participants pretty much let their money stay put despite last week's stock market gyrations demonstrates that employers' investment education programs are paying off, benefit experts say.

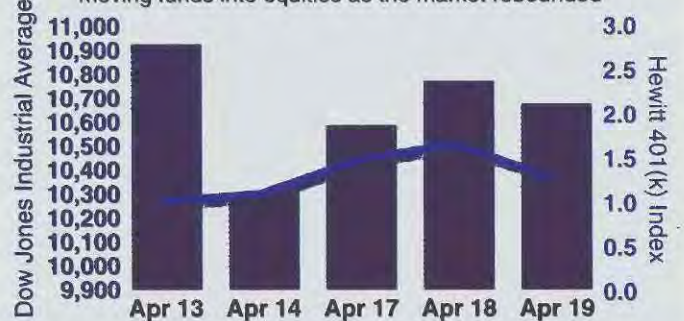
Still, a small percentage of plan participants seemed to be trying to time the market, shifting funds into equities when the market was low on Monday and then back into fixed investments later in the week after the Dow recouped some of its April 14 losses, some 401(k) fund managers found.

"The money's not moving," said Ray Brusca, vp-benefits at Black & Decker in Towson, Md., whose 401(k) plan is managed by

See 401(k) on page 6

Staying in the market

Hewitt's index of 401(k) fund transfer activity found investors moving funds into equities as the market rebounded



GRAPHIC BY ADAM DOI

RIMS seeks standards Initial focus on auto liability, workers comp data

By MICHAEL BRADFORD

CHICAGO—Risk managers are pushing insurers and third-party administrators to develop a standard data delivery format that would eliminate some information technology headaches.

In a "data summit" held in Chicago last week, a Risk & Insurance Management Society Inc. task force met with insurers, third-party administrators and others to encourage the adoption of data standards for workers compensation and automobile liability claims.

Meanwhile, RIMS also participated in the Clinton administration's Critical Infrastructure Assurance Conference, a meeting held last week at the White House to kick off efforts to improve in-

formation security.

On the data standards front, RIMS aims to avoid taking an overly ambitious approach, initially targeting only auto liability and workers comp data.

"Others have been down this road" and have failed because their efforts were too broad, said Chris Mandel, RIMS' vp-external affairs. "We didn't bite off more than we could chew. We carved out a smaller piece of the pie, specifically targeting something that could go straight to the risk manager's heart in terms of portability."

Risk managers claim, among other things, that a lack of standardized data makes it difficult and expensive to convert claims data when switching insurers or TPAs.

Mr. Mandel, who is senior director of risk management at Tricon Global Restaurants Inc. in Louisville, Ky., was unable to attend the summit. He said RIMS held the meeting as a way to "get the major players in agreement" and establish the "first step down the road in obtaining that portability when we switch insurers and TPAs."

RIMS President Susan Meltzer, who is assistant vp-insurance and risk management at Sun Life Assurance Co. of Canada in Toronto, said, "We've done a lot of talking at RIMS about what is wrong with the industry; one of those things is a lack of standards."

A lack of standardized data presents many problems for risk managers, including the costs
See Standards on page 21

To Subscribe Call

1-888-446-1422 in the U.S. or

1-313-446-0450 outside the U.S. or

go online to www.businessinsurance.com

Updates

Mass tobacco settlement urged

Continued from previous page
 in an order issued earlier this week, that the case should be expanded to include everyone with smoking-related claims, so that all tobacco litigation can be resolved.
 "We're still reviewing," said Michael York, an attorney for Philip Morris, in regard to the order. "We're going to look at it and see what our rights and obligations might be."
 Judge Weinstein is known for his handling of mass tort cases, including those involving asbestos and Agent Orange bodily injury claims.

Doctors fault Aetna, Texas pact

AUSTIN, Texas—Aetna U.S. Healthcare's proposed settlement with the Texas attorney general, under which the HMO would change its managed care practices, is getting a harsh look from some physicians and other states' officials.

Aetna U.S. Healthcare, a unit of Hartford, Conn.-based Aetna Inc., agreed earlier this month to change its business practices in Texas to settle a lawsuit filed against it and other HMOs by the state's attorney general. As part of the settlement, Aetna U.S. Healthcare agreed to establish an ombudsperson to help resolve consumer complaints and to eliminate provisions in provider contracts that allegedly gave doctors financial incentives to deny treatment (BI, April 17).

Dr. D. Ted Lewers, chairman of the Chicago-based American Medical Assn., said, "Our concern is quite simple. If this goes out and other states use it as a model, then we cannot accept it."

He said the only way to use the settlement as a model is if other states have the same laws as Texas.

"We're continuing to meet with the Texas Attorney General's Office. We'll try to work to see how the loopholes can be filled," Dr. Lewers said, referring to financial arrangements, among other things.

Regulatory panel taps prosecutor

SACRAMENTO, Calif.—A former federal prosecutor who specialized in white-collar crime will serve as special counsel to California's Assembly Insurance Committee for an April 26 hearing.

The hearing will focus on Insurance Commissioner Chuck Quackenbush's handling of fines levied against insurers for their Northridge earthquake claims-paying practices.

Matthew Jacobs, a former assistant U.S. attorney in Sacramento, was hired by Assembly Speaker Bob Hertzberg, D-Van Nuys, to help conduct a number of investigations. According to the speaker's office, Mr. Jacobs' first assignment will be advising the Insurance Committee.

Dan Edwards, deputy insurance commissioner, said Mr. Quackenbush is pleased that the April 26 hearing will give him the opportunity to clear the air and get the facts straight.

In a statement earlier this month in response to the Insurance Committee's inquiry, the Department of Insurance said the commissioner has broad authority in handling insurance issues and that Mr. Quackenbush levied realistic fines against insurance companies. The Department noted that Mr. Quackenbush has fined law-breaking insurers a total of \$56 million as commissioner (BI, April 17).

Online risk exchange launched

PROVIDENCE, R.I.—A new Internet company says it can save money for risk managers who use its online service to buy insurance directly from insurers.

Providence, R.I.-based Global Risk Exchange will begin a test period next month during which policyholders can purchase umbrella and excess liability coverages. Other coverages are expected to be added soon.

The service, at www.grx.com, allows insurers to return quotes directly to the buyer. Insurers also can provide information on their services, and buyers have access to insurance company research. Global Risk Exchange is negotiating with a block of insurers and could not name the companies. Participating insurers, however, are those with top financial ratings, according to the company.

Global Risk Exchange expects most buyers will continue to use a broker, consultant or other professional adviser when purchasing coverage through the service, said Matthew Flanagan, executive vp. "They can give us the name and that person will have access to the system."

The company also plans to offer a risk management package called The RiskAssistant. Its first release will provide automated handling of certificates of insurance, an electronic loss-run generator and a tool for first-reports-of-loss.

Enhance denies suit charges

NEW YORK—In its first detailed response to a lawsuit filed against it, Enhance Financial Services and its financial guarantee insurer subsidiary, Asset Guaranty Insurance Co., vigorously deny they are responsible for the financial problems of Baltimore-based Creditrust Corp.

Creditrust alleges in a lawsuit, which also names former EFS Senior Vp Charles Henneman, that "maliciously false and disparaging statements" posted anonymously by Mr. Henneman online led to a decrease in Creditrust's capitalization (BI, April 10). The lawsuit says the postings had been filed on a Yahoo! message board.

See Updates on page 22

Marsh forecasts hikes in most lines

Expect rates to rise

By GAVIN SOUTER

NEW YORK—Buyers of commercial insurance should expect rate hikes in 2000, but for most those increases won't be dramatic, a broker executive says.

"We are not calling this a hard market, but a correction," said Frank Gundersen, managing director, global property/casualty at Marsh Inc. in New York.

Insurers in most sectors are insisting on higher premiums in 2000, but, so far, the increases paid by buyers have been moderate, said a panel of Marsh brokers at the 2000 Insurance Market Forecast & Review seminar held

by Marsh in New York last week.

Generally, risks renewing in 2000 that have had few or no losses will see single-digit rate increases, while those with some adverse experience will see low double-digit rate increases, Mr. Gundersen said.

In addition to rate increases, corporate policyholders will see a change in appetite from insurers that, in recent years, have been willing to extensively write multi-year programs, but which now will be unwilling to lock in low rates in a rising market, he said.

"Multiyear programs are hard to come by, and if you can get one, it's probably a good idea to take

advantage of it," he said.

One of the main factors that has led to the change has been consolidation among insurers, he said.

Executives at merging insurers often say they will not reduce their capacity, "but, in my experience, 1 plus 1 equals 1.2," he said.

Also, as companies merge and look to cut payrolls, underwriters become more conservative, fearing that any blunders will cost them their jobs, Mr. Gundersen said.

Other factors that have led to the rate increases are the likely reduction in policyholder surplus for 2000, rising loss ratios, and

See Outlook on page 21

Microsoft coverage in dispute

WASHINGTON—Microsoft Corp. is embroiled in litigation with its general liability insurer, Zurich-American Insurance Co., over possible coverage in connection with more than 100 civil antitrust suits pending against the software maker.

The civil suits parallel antitrust litigation the federal government and state attorneys general brought against Redmond, Wash.-based Microsoft.

Microsoft

Schaumburg, Ill.-based Zurich-American

can, several other primary and excess liability insurers that covered Microsoft since 1990 have been drawn into the legal proceedings. A suit Zurich-American filed March 23 in U.S. District Court in Washington, D.C., names both Microsoft and Fidelity & Guaranty Insurance Co., a St. Paul Cos. Inc. unit, as defendants. Zurich-American is seeking a declaratory judgment on its rights and obligations under the primary general liability policy it issued to Microsoft for the period July 1, 1999, to July 1, 2000.

The policy provides up to \$5 million of liability coverage, including a \$1 million self-insured reten-

tion, but no cap on defense coverage, said Zurich-American attorney Thomas W. Brunner, of Wiley, Rein & Fielding in Washington. The insurer says its policy does not cover antitrust violations.

The suit also seeks a contribution from F&G, Microsoft's general liability insurer from July 1 1997, to July 1999, in the event Zurich-American must provide coverage to Microsoft.

Four days after Zurich-American filed its suit, Microsoft filed suit in federal court in Seattle, seeking a declaratory judgment on the coverage and defense issues.

On April 13, F&G filed a third-party complaint in federal court in Washington, seeking a declaratory judgment on the rights and obligations of it and other insurers. They are: Long Grove, Ill.-based American Manufacturers Mutual Insurance Co., a Kemper Cos. unit; Warren, N.J.-based Federal Insurance Co., a Chubb Corp. unit; National Union Fire Insurance Co. of Pittsburgh, Pa., an American International Group Inc. unit; and Hartford, Conn.-based Twin City Fire Insurance Co., a Hartford Financial Services Group unit.

—By Judy Greenwald

AIG exec joins Reliance as COO

NEW YORK—Reliance Group Holdings Inc. has attracted another high-profile insurance executive to aid its efforts to turn around its ailing business.

John Cavoeres, the former president of National Union Fire Insurance Co. of Pittsburgh, Pa., last week was named chief operating officer of Reliance's consolidated insurance operations.

Before joining National Union, the directors and officers liability insurer unit of American International Group Inc., he was chief underwriting officer at Chubb Corp. in Warren, N.J.

Mr. Cavoeres has been replaced at National Union by John Keogh, who formerly was executive vp of AIG's domestic

brokerage group. Prior to that, Mr. Keogh was president and COO of Lexington Insurance Co.

At Reliance, Mr. Cavoeres will work with former Chubb colleague Terry Van Gilder, who was chosen last fall to lead the turnaround of Reliance National Insurance Co., the main commercial insurer of Reliance Group. Earlier this year, Mr. Van Gilder was named president and chief executive officer of Reliance Insurance Group and announced his intentions to consolidate all of Reliance's insurance operations into one unit.

Mr. Cavoeres said he worked with Mr. Van Gilder at Chubb for 15 years, and his good working relationship with Mr. Van

Gilder was one of the main reasons that he joined Reliance.

"The second reason is, I think it's a challenge. To a certain degree, they have put the worst behind them, but I see it as a challenge to turn the company around," he said.

Several areas could be developed to strengthen Reliance, Mr. Cavoeres said.

Internet-based products, such as CyberComp, can be expanded to cover other risks; the D&O liability department can be built up to cover middle-market risks as well as large corporate accounts; and the international business of Reliance should be expanded, he said.

—By Gavin Souter

Inside

• The planned efforts of the California Public Employees' Retirement system to increase participants' copayments are modest design changes that would help curb waste and make members better consumers of health care services, this week's editorial says. **PAGE 8**

• U.K. risk managers and insurers need to be aware that the European Convention on Human Rights will necessitate changes in many business practices and likely will result in far more litigation. **PAGE 15**

• A leading risk manager reveals what risk managers really want from their brokers, writes Publisher and Editorial Director Kathryn J. McIntyre. **PAGE 21**

Departments

Advertiser Index16
 Books & Ideas14

Classifieds18
 Comings & Goings: Industry12
 Commentary21
 For the Record23
 Global Briefs15
 Insurance Services Guide16
 International15
 Letters8
 Opinions8
 Perspectives13
 Ticker23

Business Insurance (ISSN 0007-6864) Vol. 34, No. 17, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to *Business Insurance*, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207. \$4 a copy and \$89 a year in U.S. \$108 in Canada and Mexico (includes GST). All other countries \$209 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Copyright 2000 by Crain Communications Inc.

More to cost of illness than doctor bill: Panel

By MICHAEL PRINCE

ATLANTA—What employers don't know is costing them lots of money.

Employers that don't take an integrated look at the total costs of illness may be getting an inaccurate idea of how much money employee illnesses drain from their company, three speakers said last week at the National Managed Health Care Congress in Atlanta.

To get a more accurate picture of how much money is spent on illness, employers need to look beyond actual medical bills. This requires adopting an integrated approach to cost evaluation that embraces short- and long-term disability, sick leave policies and related medical costs.

"It's a sea change in how many

The National Managed Health Care Congress

NMHCC

More conference coverage on page 10

corporate benefit systems are set up and implemented," said Paul Greenberg, principal and director at Analysis Group/Economics in Cambridge, Mass.

Direct costs include such items as inpatient care, outpatient care and drug costs. Indirect costs in-

clude short- and long-term disability, workers comp and what he calls "presenteeism," when people are on the job but too impaired either physically or mentally to function at a high level.

Direct costs garner most of employers' attention, but indirect costs often impose greater financial burdens on employers, he said.

Ultimately, an employer should look at all of the factors that influence the productivity of workers, regardless of their source, and determine the cost from each disease.

"The fact that it's not easy to measure doesn't mean it's impossible to measure or it's not important to measure," he said.

Employers typically look at ways to control medical costs for a

See Costs on page 9

Officials digging into project

BOSTON—Federal prosecutors are investigating a self-insurance program for the massive Boston Central Artery/Tunnel construction project after a federal audit found the program was overfunded and that project managers improperly credited expected insurance savings against the project's total cost.

The self-insurance program for the project—which includes a new highway through downtown Boston and a new tunnel under Boston Harbor—covers workers compensation and general liability risks during construction. Units of American International Group Inc. provide administration and other services to the program.



PHOTO: KRT

Workers walk in part of Boston's 'Big Dig' project.

An audit by the U.S. Department of Transportation's Office of the Inspector General last month concluded that the self-insurance trust, with account balances of \$274 million as of Jan. 31, was overfunded by \$150 million.

The audit also assailed the project's management for crediting \$826 million expected to be in the trust in 2017—when the self-insurance program is to be wound up—against the project's total cost. The credit has had the effect of understating the project's total cost, the audit noted.

The project, also known as the Big Dig, is facing a potential \$1.4 billion overrun of an earlier \$10.8 billion budget. The project is expected to cost \$13.6 billion.

Big Dig officials deny that the self-insurance trust is overfunded and say that the Federal Highway Administration has approved the project's longstanding practice of crediting projected insurance savings against project costs.

Project officials confirmed in a press conference this month that U.S. Attorney Donald K. Stern in Boston had notified them that he was opening an investigation into the self-insurance program. Federal prosecutors also sent letters seeking information from the project's insurance broker, Boston-based Sheppard Riley Coughlin, and its construction manager, Bechtel/Parsons Brinckerhoff, according to press reports.

—By Douglas McLeod

Virtual training makes gains

New online tools target employment risks

By SALLY ROBERTS

Newly developed online tools for training employees in appropriate workplace practices can help employers stem their own liability in harassment cases, proponents of the approaches say.

Live seminars and presentations continue to be a successful way to educate employees about company policies on harassment and discrimination and on behavior



within the workplace. But because employees can access online employment practices training materials at their convenience, the approach eliminates the absenteeism that can be a problem with seminars, advocates say.

Moreover, new online training tools enable human resource and risk managers to easily track and document which employees have completed the online testing material. That, according to several employment practices training experts, is the biggest advantage of the online approach.

In dual decisions handed down in 1998, the U.S. Supreme Court ruled that employers are vicariously liable for a supervisor's harassment if it culminates in a "tangible employment action," such as termination or demotion, of the harassed employee. The high court ruled, however, in *Burlington Industries Inc. vs. Kimberly B. Ellerth* and *Beth Ann Faragher vs. the City of Boca Raton*, that if the harass-

ment does not result in a tangible action, an employer can reduce or eliminate its liability if it exercises "reasonable care" to prevent and promptly correct harassment and if the harassed employee fails to take advantage of any preventive or corrective opportunities provided by the employer (BI, June 29, 1998).

EPL attorneys say that having records showing that supervisors and employees have taken and passed online training tutorials will go a long way in demonstrating that a company took "reasonable care" in the prevention of harassment.

Online training "creates what companies have struggled with: how to train, how to do it efficiently, and how to track it, so if they ever get sued" they can defend themselves in court, said Gerald L. Maatman Jr., head of Baker & McKenzie's global employment law practice group in Chicago.

Online records "can be put right into evidence in a litigation context," said Mr. Maatman, referring to EPL Select, a new online workplace training tool he developed for Boston-based Lexington Insurance Co.

EPL Select, offered free to policyholders alongside Lexington's other EPL risk management services, is a two-tiered online tutorial that enables employers to provide human resource and preventive litigation training to managers and workplace training to non-

See Online on next page

Aon puts rough 1999 behind it

Despite 'indigestion,' acquisitions to help build on strengths: Ryan

By LEE FLETCHER

CHICAGO—Speaking at Aon Corp.'s annual stockholders' meeting last Tuesday, Aon Chairman and Chief Executive Officer Patrick G. Ryan defended the company's acquisitions and emphasized the broker's continued strength, despite a steep earnings decline in 1999.

Overall, Aon's net income dropped 34.9% to \$352 million in 1999. Brokerage revenues increased 9.2% to \$4.8 billion, helped by new business. Total corporate revenues for 1999, including underwriting operations and investment income, rose 8.9% to about \$7.1 billion.

Mr. Ryan said Aon's large acquisitions over the past several years were "attractive" deals, and he attributed difficulties in integration to "growing pains."

"We believe we made these acquisitions at very good prices. We achieved consolidation savings of approximately \$300 million, which is what we



'This major acquisition phase is substantially complete, and we can move forward to further integration and strengthening of our global franchise.'

— Patrick Ryan

planned," he said.

Aon is "suffering some indigestion" from the integration of these businesses, but the company is getting its "arms around them," Mr. Ryan said.

In 1999, Aon recorded special charges totaling \$313 million related to restructuring, costs stemming from alleged improper pension sales in the

United Kingdom, settlements over the failed Uncover workers compensation pool, and other litigation matters, according to Mr. Ryan.

Looking ahead, he said that "this major acquisition phase is substantially complete, and we can move forward to further integration and

strengthening of our global franchise."

"We will also be looking at more ways to rationalize our expense base without negatively affecting the quality of service to our clients and policyholders," Mr. Ryan said.

Aon's stock closed Thursday at \$26.13 per share, down from a 52-week high of \$46.63. The markets were closed Friday.

Illegal alien eligible for comp

Award affirmed

By MEG FLETCHER

HARRISBURG, Pa.—An illegal alien injured while working in Pennsylvania can collect workers compensation benefits, according to a recent ruling by a commonwealth court.

A three-judge panel affirmed a Workers' Compensation Appeal Board's decision that claimant Carlos Astudillo is not precluded from receiving workers comp benefits, even though he did not have proper Immigration and Naturalization Service documentation to be legally employed in the United States.

The 10-page decision cites state courts in Florida, Louisiana, New Jersey and Oklahoma that have issued similar rulings.

In a separate action, the Virginia Legislature also adopted a similar interpretation when it voted last week to overturn the governor's veto of H.B. 1036—allowing both legal and illegal aliens to receive workers comp medical benefits. In essence, the bill's pas-

sage modified the Virginia Supreme Court's earlier ruling that an undocumented worker cannot be considered an "employee" under the state's workers comp act, according to the American Insurance Assn.

In the Pennsylvania case, Mr. Astudillo was hired as a maintenance worker by The Reinforced Earth Co., based in Vienna, Va. In May 1994, he injured his head, neck, shoulders and upper back when he was struck by a steel beam. He suffered a concussion with a mild head injury, contusion and abrasion of the left arm, an acute cervical and lumbo-sacral strain and sprain.

According to court papers, he continues to be disabled and is unable to perform the duties of his pre-injury position. He could return to work, however, if he did not have to climb scaffolds or ladders or lift more than 20 to 25 pounds, according to court records.

The employer, who is insured by See Comp on page 12

Online

Continued from page 3

supervisory employees (*BI*, April 17).

The management training consists of several 15- to 30-minute EPL training modules, covering such topics as hiring, employee termination and sexual harassment. Each module has a test, and the results are tracked, graded and analyzed.

The training and orientation for non-supervisory personnel enable employers to establish employee knowledge of the company's anti-discrimination and anti-harassment policies, as well as familiarity with available channels for filing complaints.

Complementing the tutorial are advice on workplace practices; frequently asked questions; and links to sources of information on such topics as hiring, terminations and the Americans with Disabilities Act. The

site also offers news alerts for policyholders, with information on legal cases, risk management tips and other significant legal and human resource developments.

"We wanted to give our clients the best risk management services available," said Lisa Bee, director of EPL Risk Management Services for Lexington. Although Lexington was already providing many of the services, with the exception of the tutorial, Ms. Bee said that the insurer wanted to use a more "cutting edge art state of the art" approach.

Indeed, those familiar with employment practices training say that online training is catching on with more employers.

According to Jack Ivancevich, a director and managing director of content development for HighTechCampus.com, the \$65 billion corporate training market is growing. Although most training is related to technology and computer applications more

compliance training—including training on sexual harassment prevention—is taking place online, he said.

HighTechCampus.com, which went live in January with several online training courses, including one on sexual harassment prevention (*BI*, Jan. 7), continues to attract clients.

"Business is moving along exceedingly well," said Gary R. Griffith, chairman of HighTechCampus.com and chairman and chief executive officer of Summit Global Partners Inc. in Dallas. Within the next month, the company will begin offering courses on age discrimination prevention, ADA topics and workplace violence prevention, Mr. Griffith said.

Carol Merchasin, a labor attorney in the Chicago firm of Seyfarth Shaw, said that, given the recent Supreme Court decisions, employers "really must do training. And when you're looking at a large organization and having to train each and every

one of the employees, employers are looking to a variety of ways to train and to get the message out."

Computer games are one tool employers can use in training efforts.

Seyfarth Shaw recently developed content for a new online training product called "The Sexual Harassment Prevention Certifier." The tutorial is offered by games2train.com, a six-year-old New York-based company that develops games as learning solutions for businesses.

"We make the boring fun," said Marc Prensky, chairman and founder of games2train.com.

Acknowledging that sexual harassment prevention training is very serious business, Mr. Prensky said that the learning process is much more engaging in a game environment.

The sexual harassment prevention certifier offers a series of 10 video games designed to certify that employees and supervisors of a corpora-

ny have undergone training on sexual harassment law and company policies.

Each game presents questions in various contexts. For example, a supervisor playing the solitaire-type game on the computer would be asked a question every time he or she moved a card to the top row, Mr. Prensky explained. Other games are modeled after the video game Pac-Man and the quiz shows Jeopardy! and Who Wants to be a Millionaire.

If a player gives an incorrect answer, he or she is referred to a reference document to read. Later in the game, the player will be asked the question again, though in a different form each time, until it is answered correctly. The certifier can track each employee's progress and score. Questions presented in the games are designed for six different populations, including office employees, office managers, non-office employees, non-office managers, sales employees and sales managers.

Ms. Merchasin of Seyfarth Shaw said the firm has developed training content for all forms of harassment and discrimination prevention.

Karen Ludington, president of The Ludington Co. Inc., a human resource consulting and training firm in Holden, Mass., said that, in general, "online training is the up-and-coming thing for lots of topics."

She said, however, that she has "serious reservations" about Internet training on illegal harassment prevention.

Ms. Ludington said that the legal and technical aspects of harassment and discrimination can effectively be learned over the Internet, "but there is so much more to getting people to understand how their behavior can affect others," she said.

"We need to get people to feel, for example, how gay-bashing comments and jokes can make somebody feel. . . . We need to use real-life examples, and you can't do that with a computer."

Those with new online training tools say that their products can be used in conjunction with other training techniques.

"This is not to replace in-person training," Mr. Maatman said of EPL Select. "This is the bare minimum for people in charge with managerial responsibility." **BI**

BI makes edit staff changes

CHICAGO—*Business Insurance* has added a new member to its editorial staff in Chicago.

Joe Walker has joined the magazine as a copy editor. Mr. Walker is responsible for editing news stories and writing headlines.

He replaces Richard Trout, who left *Business Insurance* to take an editing position at sister publication *BtoB*.

Mr. Walker, 39, has worked at various newspapers for the past 15 years. Before joining *Business Insurance*



Mr. Walker

in April, he worked as a copy editor at The Southern Illinoisan in Carbondale, Ill.

He has a bachelor of science degree in English from Southeast Missouri State University in Cape Girardeau.

Mr. Walker can be reached at 312-649-5283. **BI**



Ask Bev

Is now the right time to review your company's pension plan?

"It's tough to compete in today's marketplace. There are mergers and acquisitions and an ongoing war for talent. Employers are beginning to realize that their employees don't value their pension benefits. As a result, many companies are meeting the challenge by taking a closer look at their pension plan. If these issues sound familiar to you, now is the time to look at your pension plan and make sure it's working to meet your company's goals.

Bev Landstrom knows the value of a well-designed pension plan. She is one of the nation's leading experts on pension benefits, and has consulted for some of the world's largest and most prestigious companies. Bev and her team of actuaries and consultants make ASA the fastest growing employee benefits consulting firm. Bev knows **what it takes** to help make your pension plan work harder. Just ask her. Contact Bev at askbev@asabenefits.com or call her at 732 302 2105.



What it takes.

CALIFORNIA | FLORIDA | ILLINOIS | MASSACHUSETTS
NEW JERSEY | NEW YORK | NORTH CAROLINA
ONTARIO | WASHINGTON, DC

Cluttered.

Global economy.

Unsecured capacity.

Untested resources.

Information overload.

Too little time.

Too many choices.

Time to streamline.

Time for Zurich U.S.



Zurich U.S. Offering a whole new approach to business risk. Integrated. Customized.
Streamlined. Close to you. Regardless of your size. *Your aspirations. Our passion.*



ZURICH

*Property • Casualty • Liability
Marine • D&O • Environmental Liability
Accident & Health • Integrated Solutions*

www.zurichus.com • 1-800-382-2150

Policies underwritten by member companies of Zurich U.S.
including Zurich American Insurance Company.
Coverages may not be available in all states.

401(k)

Continued from page 1
T. Rowe Price.

Mr. Brusca added that he hasn't received a single call from plan participants concerned about their investments' performance.

"People are sitting tight, but I don't know if it's because they understand there will be fluctuations or they're just lazy or they just don't understand what's going on," he said.

But Bill Kahn, a principal in the Fort Lee, N.J., office of PwC Kwasha HR Solutions, attributes the lack of participant panic to effective investment education.

"A lot of communication strategies that have gone on over the past five years are paying off" because "even with the volatility that's going on, we're not seeing a dramatic change" in the volume

of 401(k) transactions, he said.

"We saw a very minor net transfer out of equities on Friday—0.04 of a percent," he said. But, "it's not like everyone's running to the phones."

However, on the Monday following the April 14 correction, "there was a small net increase in transfers into stock funds," Mr. Kahn said, suggesting that some people may have been trying to get in when the market was low.

Then again, Fridays are typically low-volume days, while Mondays are generally high-volume days in terms of 401(k) transactions, he also pointed out.

"There's no question the education is working," concurred David Wray, president of the Chicago-based Profit Sharing/401(k) Council of America, a non-profit group of about 1,200 plan sponsors nationwide. "The employer community has spent billions of

dollars and thousands of man-hours teaching people about investing" in what he dubbed "the largest adult education program in history."

'You're not supposed to be day-trading your retirement account,' says Patricia Neal Jensen

As a result, "short, sharp corrections" such as the one that happened Friday, April 14, "do not seem to faze the participants at all," he said.

"Even on the most volatile days, the amount that moves around is less than 2%," Mr. Wray estimated.

"It's really important for fund sponsors to teach participants that it's about the long term and that volatility is part of the system," Mr. Wray stressed.

The council estimates \$1.7 trillion is invested in 401(k) plans and 70% of that money was invested in stocks at year-end 1999. This compares with 45% invested in stocks in 1990.

Lincolnshire, Ill.-based consultant Hewitt Associates L.L.C., which tracks the daily investment transfer activity of nearly 1.5 million employees, found some slight fluctuations in 401(k) transaction levels in recent days but, for the most part, transaction levels were within the normal range.

"Despite the stock market's recent volatility, the Hewitt 401(k) Index shows that, for the most part, plan participants are staying put with their investments," a Hewitt spokeswoman said.

In fact, the movement following the April 14 correction was actually below that recorded on March 31, when transfer activity was 2.86—nearly triple the daily average—with money moving out of fixed-income funds into equity funds, according to the index. A typical reading on Hewitt's Index is 1.0.

Transactions were close to the normal level on Friday at 1.09 but jumped slightly to 1.47 on Monday and 1.66 on Tuesday. The movement was mostly out of fixed-income funds into equity funds on both Monday and Tuesday, but the flow reversed itself on Wednesday, the Hewitt Index found (see chart, page 1).

Similar incremental movements were reported by Don Biron, director of business development for administrative services at Towers Perrin in Philadelphia, "but volumes aren't out of the ordinary," he said.

"We're seeing some money move around in our 401(k) plans, but it's both in and out of stock funds," he said.

Perhaps another reason for the 401(k) plan complacency is the fact that the vast bulk of employer-sponsored retirement plan money is invested in large-company growth stocks typically tracked by the Standard & Poor's 500, making them less vulnerable to the steep market fluctuations like that which occurred on the NASDAQ last Friday, according to Mr. Wray of the Profit Sharing/401(k) Council.

But Patricia Neal Jensen, U.S. pension sales vp at Great West Life & Annuity Co. in Denver, said that 401(k) plan exposure to volatile market fluctuations is likely to increase as more employers add so-called "sector" funds—those that focus on particular industries and are typically traded on NASDAQ—to their mix of retirement plan offerings.

"They have been adding tech funds like crazy over the last year and a half," she said, adding that perhaps the most popular new offering is the Janus Twenty fund. "If you look inside Janus Twenty, it's loaded up with technology."

As a result of this shift, Ms. Jensen urges employers to warn participants about the possibility that the market may not continue its upward trend forever.

"Participants think it's always going to be like Friday to Monday," she said of the stock market's rebound. "What I'm concerned about is if the market goes down and keeps going down."

She also said that employers should watch out for participants switching among funds on a daily basis, using the new offerings as get-rich-quick schemes. "These are retirement plans. You're not supposed to be day-trading your retirement account," she said.

But Messrs. Wray and Kahn were a bit more optimistic about the future 401(k) investment picture.

"There's a definite correlation between the long bull market and baby boomers being in their peak saving years," Mr. Wray said. "It's going to continue for the next 10 to 15 years."

Besides, investors should consider the advantages of investing in stocks over fixed-income vehicles, which have gained an average of just 5% each year for the past three years, said PwC's Mr. Kahn.

"Which was worse, losing 20% on Friday after a compounded gain of over 100% over the last three years or gaining just 15% over the same period?" Mr. Kahn asked.

WE'RE
MOVING AHEAD.
TOGETHER
WE'LL WIN.

THANKS TO OUR MOST VALUED
AGENTS AND PARTNERS OF CHOICE.

"Our goals have been discussed and the path has been set.

We'll reach our goals together, on that you can bet."

The positive energy generated at CNA HPA® 2000 in Dallas will power us all in moving ahead with unprecedented success.

From a poem by Darlene Howard, ATS - Milwaukee Branch. For the full text, visit us at www.cna.com/hpa2000

CNA

For All the Commitments You Make®

AMA asking for antitrust relief, patient protection

By **ELIZABETH THOMPSON**
and **KRISTEN HALLAM**

Crain News Service

CHICAGO—The American Medical Assn. appears to be using state courts as an advocacy tool to whip up anti-HMO sentiments as it pushes for physician antitrust relief and patient protection legislation on the federal level.

"All of these issues relate to one thing: advocacy for the patient," said Dr. Donald Palmisano, a surgeon from Metairie, La., and a member of the AMA's board of trustees. "We want to use all available means to protect the patient."

Dr. Palmisano said the AMA, through its 5-year-old Litigation Center, has joined lawsuits in Georgia and New York that challenge insurers' payment practices. The center also is reviewing cases in several other states.

The timing of the AMA's announcements of some of these legal endeavors mirrors congressional actions on antitrust relief and patient protection.

AMA President Dr. Thomas Reardon said the AMA is fighting in the courts, through federal and state legislatures, and through the U.S. Justice Department. But he said the synchronicity of recent events is just "happenstance."

"We've been working on the patient's bill of rights for over five years now and on the Campbell bill (a physician antitrust bill sponsored by Rep. Thomas Campbell, R-Calif.) for a year and a half," Dr. Reardon said. "The message is that we will continue to look at opportunities to do what we have to do to protect patients."

But insurers said it's no coincidence, and they've launched ad campaigns to counteract some of the negative publicity and influence the national debate.

"Timing is everything," said a spokesman for the Blue Cross & Blue Shield Assn. "Anyone who says they don't release things based on timing is either lucky or good at what they do. And the AMA is very good at what they do."

For example, about the same time that a congressional conference committee was preparing to hammer out a managed care bill, the AMA joined the Medical Assn. of Georgia in filing a class-action complaint against Aetna U.S. Healthcare, alleging violation of the state's prompt-pay law.

"Delay of payments is not a problem unique to Georgia," said a MAG spokeswoman. "What the AMA and MAG can do with these lawsuits is point to these cases as good examples."

She said the problem has existed for years and that the action comes now only because doctors need to pay their bills—and because the suit is one the medical groups believe they can win.

A month after joining the Georgia suit, the AMA joined another complaint in New York charging that Metropolitan Life Insurance Co. and United HealthCare Corp. used flawed data to calculate low reimbursement rates for out-of-network providers.

The AMA announced its participation in the litigation on March 15, the day before the House Judiciary Committee began debating Rep. Campbell's collective-bargaining bill. That bill would exempt physicians from certain federal antitrust laws that bar competitors from jointly negotiating with buyers or, in this case, health insurers. The committee passed the bill late last month.

"The theme is the same, but it's

not a coordinated thing between the litigation and the lobbying on bills. Both travel very separate time tracks," said a spokesman for the Medical Society of the State of New York.

He said the AMA-backed actions in New York and Georgia are all part of a broad movement to level the playing field in the relationship among practicing physicians, managed care organizations and patients.

But health insurers said it's hypocritical for physicians to push for greater liability for HMOs in patient protection legislation while trying to limit their own exposure to antitrust suits in another piece of legislation.

"Physician groups should understand better than anyone the negative consequences of our overly litigious society," said Chip Kahn,

president of the Health Insurance Assn. of America. "It amazes me that they would choose to raise everyone else's costs to meet some economic end" for themselves.

Dr. Palmisano countered that the AMA is just giving insurers a taste of the medicine doctors have had to swallow for decades.

"We have advocated for years that the tort system should be changed, but this is what we have, so everyone should be treated the same—physicians and insurers," he said.

The AMA also is not shy about asking the Justice Department to investigate insurers for possible antitrust violations.

The AMA and the Pennsylvania Medical Society want federal investigators to look into whether Highmark Blue Cross & Blue Shield, which controls almost 70% of the

market in western Pennsylvania, and Independence Blue Cross, which has about 57% of the eastern Pennsylvania market, have agreed not to compete with each other.

The two physician groups issued a joint press release announcing their request on March 22, the scheduled date for the House Judiciary Committee's final vote on Rep. Campbell's bill. That vote was postponed until March 30, when the committee passed the measure 26-2.

Dr. Donald Smith president of the Pennsylvania Medical Society, said a three-year study of the state's managed care markets showed the market domination in Pennsylvania "is the worst of any state in the union."

A Highmark Blues spokesman said Highmark market operations are consistent with territorial li-

censing agreements with the national Blue Cross & Blue Shield Assn. He added that the charge that the dominant Pennsylvania Blues restrict patient choice "makes no sense."

Regarding coordination of the request to the Justice Department and the AMA's lobbying efforts on behalf of the Campbell bill, Dr. Smith said he thinks the actions are complementary, but each takes a different approach.

A Justice Department spokeswoman said the department receives many investigation requests but declined to say how it handles those requests.

Elizabeth Thompson and Kristen Hallam are reporters for Modern Healthcare, a sister publication of Business Insurance.

You can't afford to be ringside...
become an e-contender with ChannelPoint.

"There's no doubt about it. Leveraging the Internet is the key to winning customers in today's insurance marketplace. That's why Zurich Kemper Life chose ChannelPoint—the heavyweight champion in insurance e-business."

The ChannelPoint Commerce Internet exchange platform makes e-commerce happen for carriers. Our platform enables insurance companies to create configurable online marketplaces that allow them to conduct e-business with their distribution partners.

John Scott—President and CEO, Zurich Kemper Life

it's **happening!**

The future of the insurance industry is here.
Check out www.channelpoint.com or call 888-454-CHPT

channelpoint

Opinions

Do more to hold down costs

With health care inflation rising and managed care under attack, employers once again need to take a hard look to see if they are doing everything reasonably possible to keep costs under control.

A case in point is the California Public Employees' Retirement System, one of the nation's largest health care purchasers. In all, CalPERS purchases health care coverage for more than 1.1 million state employees, retirees and their family members.

CalPERS appears to be discovering that purchasing clout alone is not enough to hold down costs. It is facing rate increases averaging almost 9% in 2001 for the HMO plans it offers participants. That comes on top of a nearly 10% average rate hike it is paying HMOs in 2000.

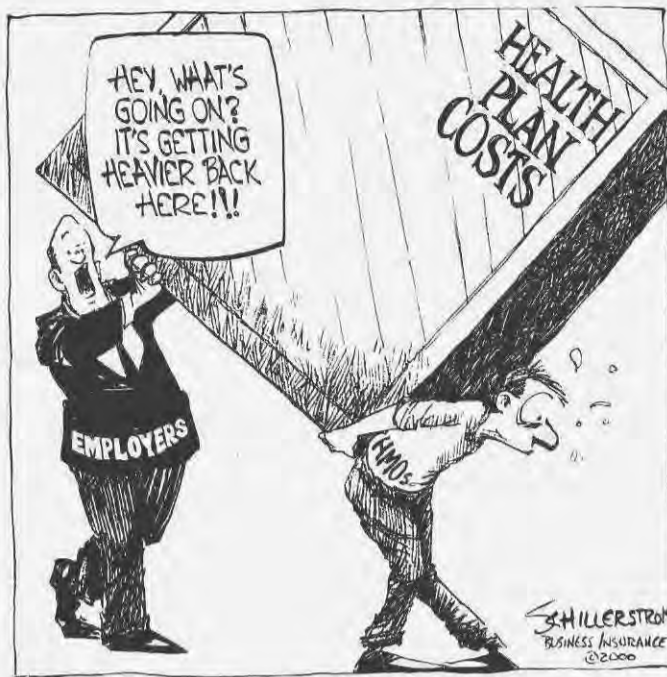
To combat 2001's planned increase, the purchasing giant is considering raising participants' copayments for the first time since 1993 and changing the design of its plan to encourage less-expensive generic prescription purchases. For example, copayments for doctor office visits would rise to \$10 per visit from \$5, while pharmacy copayments would increase to \$10 each for brand-name drugs, compared with a previous copayment of \$5 each for all formulary drugs. Generic drugs would continue to carry a \$5 copayment.

Based on these changes, the average rate increase CalPERS would pay its HMOs in 2001 would drop to a much more modest 4.9%.

The puzzling thing is not that CalPERS is proposing these changes but that it waited so long to advance them. These, in fact, are very modest design changes that would help to curb unnecessary utilization and make members better consumers of health care services.

Most employers have already taken similar steps to try to control brand name drug utilization and shift some of the added cost of health care to plan participants.

For those that have not, now is the time for all employers and other purchasers to review their plans, or face unrestrained health care costs increases.



CalPERS has held off formalizing its plan in the face of opposition from labor unions that represent state employees. Tough union opposition caused the Boeing Co. to step back from introducing cost-sharing for the first time under its health plan last month.

We hope that CalPERS is not similarly dissuaded from implementing reasonable cost controls to its plan. The fact is, workers who desire job security and rising compensation cannot expect to receive overly rich health care benefits that fail to curb excessive use of health care services and do not encourage purchase of less-expensive prescription options.

If employers are unable to get their arms around rising health care costs, the result will be less-profitable and less-competitive companies. It could also mean more employers, especially smaller companies, dropping health care benefits. Neither consequence of rising health care inflation would be in employees' best interest.

Letters

FEMA public risk proposal is on target

To the Editor: Your April 17 editorial titled "Sharing the Catastrophe Risk" is right on the mark.

The Alliance of American Insurers recently sent a letter to the Federal Emergency Management Agency supporting its proposed regulation that would require public entities to purchase insurance in order to be eligible for federal assistance.

In light of the likely political opposition from California and other states subject to

catastrophic losses, FEMA Director James Lee Witt should be applauded for having the political courage to propose this regulation.

The federal government now contributes up to 75% of the cost of rebuilding damaged public buildings when the president declares a national disaster. Public entities should take responsible action, such as the purchase of insurance, in order to limit taxpayer expense for federal disaster relief.

The Alliance also had some of the same concerns you expressed in your editorial about the lack of a self-insured option and higher self-retention limits. Still, we strongly agree that this FEMA proposal is a step in the right direction.

Patrick Musick
Assistant Vp-
Property/Casualty Insurance
Alliance of American Insurers
Downers Grove, Ill.

How to streamline state regulation

To the editor: Regarding Paul Winston's April 3 commentary on who can best regulate insurance: Winston Churchill once said that democracy was the worst kind of government—except for all others. I submit that

state regulation of insurance is the worst kind—except for all others.

This does not mean that state regulation cannot be improved. You correctly said it can and should. However, a major impediment to improvement is the current need to traverse the labyrinth of National Assn. of Insurance Commissioner formal recommendation and adoption by 51 separate jurisdictions.

Why not cut the number to perhaps a dozen insurance regulating agencies, each composed of highly-trained regulators? This can be done if the states enter into interstate compacts, ideally each encompassing one NAIC zone. Existing interstate compacts regulate land use, water use, financial institutions, etc., so insurance regulatory com-

pacts would not be a total innovation.

One state in each zone would regulate, for all states in that zone, life and health forms and rate filings, another property and casualty forms and rate filings, a third complaints, a fourth admissions to do business, and so on. Advantages of scale would make each state even more expert in the regulatory field it administered.

To be sure, California, New York and some other inner-directed states will not join with their zone-mates. Even so, the compact concept will lower, from 51 to maybe a dozen, the number of state-specific compliance obligation regulatees would have to satisfy.

Nathaniel B. Taft
White Plains, N.Y.

Business Insurance

Reporting weekly on corporate risk, employee benefit and managed health care news

Vice President/
Publisher/Editorial Director: Kathryn J. McInlyre, AEM (Chicago)

Associate Publisher/Advertising Director: Martin J. Ross III (New York)

Editor: Paul D. Winston (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Regis J. Coccia (Chicago)

Graphics Editor: Kathy L. Barnes (Chicago)

Senior Editors: Meg Fletcher, AEM (Chicago)

Judy Greenwald (San Jose)

Dave Lenkus (Tucson)

Douglas McLeod (New York)

Joanne Wojcik Kochaniec (Denver)

Rodd Zalkas (Chicago)

Washington Editor: Mark A. Hofmann (Washington)

Bureau Chiefs: Roberto Cenicerros (Los Angeles)

Gavin Sauter (New York)

Edwin Unsworth (London)

Associate Editors: Michael Bradford (New Orleans)

Michael Prince (New York)

Sally Roberts (Denver)

Sarah Veysey (London)

Staff Reporter: Lee Fletcher (Chicago)

Director Editor: Kevin P. Edison (Chicago)

Assistant Directory Editor: Michel Schwartz (Chicago)

Copy Editors: Dermot Connolly (Chicago)

Mary B. Nick (Chicago)

Matt Scroggins (Chicago)

Joe Walker (Chicago)

Assistant Graphics/Online Editor: Amy R. Kepka (Chicago)

Editorial Assistant: Shirley Henry (Chicago)

Assistant to the Publisher: Karen Brown Tucker (Chicago)

Editorial Cartoonist: Roger Schillerstrom (Chicago)

Midwest Advertising Manager: Robert L. Niesse (Chicago)

Eastern Advertising Manager: Blake Delany (New York)

District Managers: Karen Cosco (New York)

Chris Graff (New York)

Robert B. Murray (New York)

Deborah D. Neale (Chicago)

Allison Sidorosky (New York)

Classified Advertising Manager: Iris Amleshi (Chicago)

Sales Assistant: Iori Lieberman (Los Angeles)

Production Manager: Cheryl Magiera (Chicago)

Director of Communications: Ronnie I. Drachman (New York)

Promotion Manager: Elizabeth F. Ostow (New York)

EDITORIAL: Chicago: 312-649-5398

Denver: 303-698-7601

London: 207-457-1400

Los Angeles: 323-651-3710

New Orleans: 504-364-1908

New York: 212-210-0100

San Jose: 408-774-1500

Tucson: 520-579-1937

Washington: 202-662-7200

ADVERTISING: Chicago: 312-649-5276

New York: 212-210-0228

Los Angeles: 323-651-3710

COMMUNICATIONS: New York: 212-210-0132

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

Keith E. Crain
Chairman
Merrilee Crain
Secretary

Rance Crain
President
Mary Kay Crain
Treasurer

William A. Morrow
Executive Vice President/Operations
Robert C. Adams
Vice President/Production
Peter Johnson
Vice President/Circulation

G.D. Crain Jr.
Founder (1885-1973)

Mrs. G.D. Crain Jr.
Chairman (1911-1996)

S.R. Bernstein
Chairman-executive committee (1907-1993)

Published weekly at 740 N. Rush St., Chicago, Ill. 60611-2590, Fax 312-280-3174. Email: biweb@crain.com. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax 212-210-0704, CRAIN.COM NYK; 473 Fairfield Ave., Gretna, LA 70056, Fax 504-364-1337; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax 202-638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947, Fax 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax 408-774-1155; New Garden House, 78 Hatton Garden, London EC1N 8LD England, Fax 207-457-1440; 8157 N. Torrey Way, Tucson, Ariz. 85743, Fax 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214, Fax 303-733-2244. \$4 a copy and \$89 a year in U.S. \$108 in Canada and Mexico (includes GST). All other countries \$209 a year (includes expedited air delivery). DON MERENDORF, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 888-446-1422 or 313-446-0450, Fax 313-446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-254-0890. For reprints or reprint permission contact: KAREN BROWN TUCKER, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312-280-3174.

BPA INTERNATIONAL www.businessinsurance.com

TO SUBSCRIBE CALL 888-446-1422 • 313-446-0450 outside of the United States

Costs

Continued from page 3

particular disease state, such as diabetes, or a certain category, such as workers comp. But looking at only these limited categories is not enough to address an employer's total illness-related costs, he stressed.

Another overlooked toll is that side effects from a treatment may impair the worker as much as the disease in the first place, Mr. Greenberg said.

One goal underlying an integrated approach to measuring the cost of illness is determining the total cost of a specific disease, said Howard Birnbaum, vp of Analysis Group/Economics in Cambridge, Mass.

The customary method, looking at the medical costs charged to that specific disease, is not sufficient as it does not include numerous other, usually more expensive, items that may be linked, he said.

For example, the annual cost of depression to an employer for 1997 was \$11,096 per employee per year, according to data collected by his firm, Mr. Birnbaum said.

Only 41% of that amount, however, stems directly from depression itself, he said. Other medical problems often associated with depression account for 38%, while other mental health problems related to depression, such as anxiety or alcoholism, account for the remaining 21%, he said.

In addition, of the money employers spent on depression, only 16% stems from direct medical costs for treating the depression, with the remainder from disability, workers comp, lost productivity and related physical and mental ailments related to depression.

So, an employer that only looks at the actual medical costs for treating depression will not see the much larger expense the disease is creating, Mr. Birnbaum explained.

"Patients with depression are expensive, but for reasons other than for treating them for depression," he said.

Therefore, to truly determine the costs, "you just don't want to look at health care costs," he said.

If employers try to squeeze health care costs, without addressing other cost areas, it will only shift the money out of the health care area into a different one, such as disability or workers comp, Mr. Birnbaum said.

Another study the firm conducted shows that after a person receives treatment for depression, the number of disability days decreases, compared with the time immediately before the treatment began.

This shows that treatment can reduce the number of disability days,

he noted. Although this means increasing the medical costs for treating depression, it lowers the disability costs associated with the disease, he explained.

Mr. Birnbaum also noted that not all employers are affected the same by every disease. Each employer should determine which illnesses have the greatest cost impact to them, and look for ways to reduce those total costs, he advised.

A new approach is needed that shifts away from focusing on individual types of benefits, said Dr. Harold Gardner, chief executive officer of Options & Choices Inc., a Cheyenne, Wyo., consultant that focuses on integrated benefits.

For example, only about 10% of employees consume 74% of the total money an employer spends on benefits, he estimated. This is spread among disability, workers comp and health care. To reduce overall costs, a program should especially focus

on managing the costs of this small group of workers, and not the employee population as a whole, he said.

Employees can be divided into six groups according to the types of claims filed, Dr. Gardner said.

The first, comprising 29% of the average employee population, submits virtually no claims. The second group—31% of employees—only submits minor claims. For these two groups, adding an expensive managed care program will probably cost more money than it saves, he said.

The third group, accounting for about 26% of employees, use benefits to take time off and use up more money for disability and absenteeism than for health care.

The fourth group, only 6%, is those who submit claims only for major problems, usually major medical events, such as having a baby. They consume about 18% of total

benefit costs.

It's the next group, however, that eats up the real money, Dr. Gardner said. Although this fifth group consists of only 8% of all employees, it consumes about 53% of all costs, with workers comp costs the largest component of those expenses.

Within this fifth group, four categories of problems account for the bulk of these claims, Dr. Gardner said. They are: repetitive stress injuries; stress and anxiety; chronic pain; and drug and alcohol-related problems.

The sixth and final group consists of extreme medical cases, such as cancer care and organ transplants, that cover only 0.4% of employees and 8% of costs.

One problem with the current health care system is that it focuses a lot of resources on this last group, though it consumes a relatively small amount of the total money spent.

Instead, he asserts, more time and effort should be dedicated to where the most money is spent and address the people in those categories.

"Managing people is critical," he said.

He said that the people who will create those costs can be identified through some easy-to-administer tests after hiring and then given special attention.

In another study, Dr. Gardner said that in evaluating 3,637 mental health patients over two years, each on average incurred \$28,818 in total health and productivity costs. But of that amount, only \$854, or 3%, was from direct medical costs for their mental health condition. The rest came from disability, workers comp, lost productivity and other medical claims.

"If you only look at the mental health medical costs, you're only looking at a fraction of the risks," he said. **BI**

Preserving collectors peace of mind.

As the leading authority in the protection, preservation and insurance of fine art and collectibles, AXA Nordstern Art Insurance Corporation insures the world's finest collections. And as a member of the global AXA Group, with \$650 billion* in assets under management, we offer the clout of one of the world's largest financial services companies. The AXA Group includes AXA Financial and its companies: AXA Advisors, Equitable Life, Alliance Capital and DLJ. Please call 1-877-AXA-4-ART.



**Nordstern
ART**

NEW YORK

CHICAGO

DALLAS

BEVERLY HILLS

AXA Nordstern Art Insurance Corporation is solely responsible for its own obligations.

*As of 12/31/96

NMHCC in 2001

ATLANTA—Managed care executives, benefit managers and health care providers converged on Atlanta last week for the 12th Annual National Managed Health Care Congress.

The April 16-18 meeting featured more than 500 exhibitors and more than 150 informative sessions covering 12 areas in the managed care field.

Next year's congress will be held on March 19-22 in Atlanta. For more information or to register, call the NMHCC at 781-663-6000.

New disability management ideas promoted

By MICHAEL PRINCE

ATLANTA—More innovative approaches are needed for employers to reduce the costs of workers compensation and disability programs, according to two human resource consultants.

One interesting method to get workers back to work sooner after an injury is to apply sports medicine rehabilitation methods to them, said Suzanne Fowler Thomas, chief operating officer at Performance Dynamics Inc. in Muncie, Ind.

In rehabilitating injured athletes, the key is teamwork and motivating the person to work hard. "It needs to be the same kind of thing when working with industrial athletes," Ms. Fowler Thomas said. The athletic approach to rehabilitation has been shown to be the best method to return injured people to their original health, she said. But it generally has been limited to athletes and not widely applied to injured workers in general.

rehabilitation concept.

By recognizing the lack of value of these old assumptions, employers can reduce some of the \$40 billion to \$70 billion in direct costs—and even more in indirect costs—that they annually pay.

Despite the success she has seen in applying sports rehab, the best approach is still prevention, Ms. Fowler Thomas said. "The return on investment is incredible," she said.

Another great idea to reduce costs is to put a rehabilitation clinic at the worksite. The therapists "become involved in what's going on around them" when this is done, she said.

In a formal pilot study with an onsite center at a car-making plant in 1997, the number of lost

workdays from injury dropped from 170 in three months to 17 over a five-month period. This saved the employer an estimated

ful," she said.

Another different approach to reducing workers comp costs is to integrate it with all other benefit

disparate programs under one roof, employers can better lower absenteeism while improving productivity and performance, she said.

Ms. Werblo said that some employers believe that integrated disability management can only be achieved by having the same insurer for workers comp and medical benefits. But this is not necessary, and a program can achieve its goals by having the different plans work closely together, she said.

More important than putting all policies with the same insurer is making sure that all the employer's corporate policies are aligned toward the goal of reducing absenteeism and returning the worker to

Continued on next page

'Is it more important for an athlete to get back to playing tennis than your employee to get back to work? I don't think so,' says Suzanne Fowler Thomas.

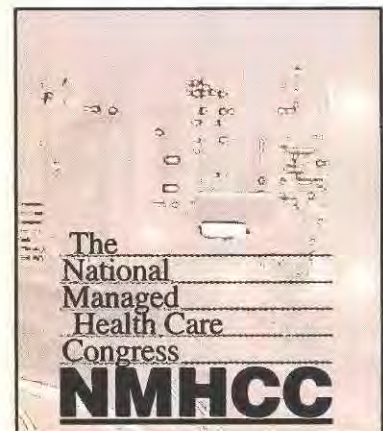
\$30,000, Ms. Fowler Thomas said. And the costs are small because an elaborate facility is not necessary.

"There is a lot you can do in a small room that can be very help-

plans covering lost worker days, said Jackelyn Werblo, client manager for The AAC Group, a human resource consulting company in Dallas. By integrating all these

Watch this space.

dotRis



"Is it more important for an athlete to get back to playing tennis than your employee to get back to work? I don't think so," Ms. Fowler Thomas told attendees at The National Managed Health Care Congress, held April 16-19 in Atlanta.

In an informal pilot project conducted by Performance Dynamics, these principles were applied to 68 injured workers. All of these workers had been out of work for long periods of time because of their injuries and failed to recover through standard rehabilitation treatment.

After being treated with sports medicine rehabilitation methods, 98% of these patients were able to avoid surgery, and 57% returned to full functionality. "These people were not only back but were back to their original jobs," she said.

Beyond applying sports rehabilitation techniques, it's also important to dispense with some shopworn ideas about rehabilitating injured workers.

Ms. Fowler Thomas dubbed these "assumptions that were no longer valid."

One invalid approach is to do things as they have always been done. This does not work if that way has not been successful, she said, and a new way, such as applying sports rehab techniques, should be tried.

Another example is the idea of treating the symptom. But the sports medicine approach, she said, is to treat the whole person. Sometimes the symptom can result from an injury far from the area, she said, or it can be caused by a way of moving a different part of the body.

And another assumption is to modify the job. At times, it's necessary "to modify the employee to the job," she said, another sports

Continued from previous page
the job. In evaluating whether an employer has properly aligned its policies, the place to start is not the workers comp program, a customary starting point. Rather, a broader approach is needed, she said.

Ms. Werblo recommends starting at the organization's sickness and accident policies to see whether those are managed, or whether requests for leave are automatically granted.

From there, employers should look at their attendance policies, discipline policies and their long-term disability and medical plans. Only after that does an employer reach the workers comp program. And the backbone of any good workers comp program is safety, she said.

"There is no better cure for workers comp costs than prevention," she said.

The review also should encompass the organization's administration of Family and Medical Leave Act leaves and the Americans with Disabilities Act issues, she said.

Finally, any review should include the company's employee assistance program. "They really can be an integral part of your integrated disability philosophies," she said.

For example, substance abuse and mental illness cost U.S. companies billions in lost-time accidents each year, she said, and 65% of on-the-job accidents are related to drugs or alcohol.

"It's not a nice thing to have. It's a critical part of ensuring you can control all of your costs with lost time," she said.

The session was moderated by Dr. Thomas Sevier, medical director at Performance Dynamics in Muncie, Ind. **BI**

Carmakers win defect cases

Nissan, Suzuki successfully defend design defect claims

By **ERIC FREEDMAN**
Crain News Service

Juries in El Paso, Texas, and Spokane, Wash., have cleared Nissan North America Inc. and American Suzuki Motor Corp., respectively, of design defect claims in two sport-utility vehicle rollover cases.

In both product liability lawsuits, the plaintiffs unsuccessfully sought multimillion-dollar verdicts.

In a 1997 Texas crash, Ricardo Parra was injured when his 1993 Nissan Pathfinder left the pavement after what Nissan North America called an "accident-avoidance steering maneuver."

He asked for \$8 million to \$9 million in damages at trial before El Paso District Judge Patrick Garcia, alleging the Pathfinder was defective because its center of gravity was too high and its track width too narrow.

Nissan offered expert testimony defending the vehicle's handling and stability and attributing the accident to Mr. Parra's steering too hard and too fast at highway speeds.

"The plaintiff's counsel's tack was to indict the whole SUV industry," Nissan senior counsel Colleen Gillespie said.

She said the company argued that the theory advanced by the plaintiff's expert would make

"school buses, delivery trucks and anything other than passenger cars" unsafe.

Mr. Parra's lawyer, Thomas McElroy of Dallas, said he didn't know whether there will be an appeal.

In the Washington case, a Spokane County Superior Court jury rejected a claim by James McCoy that a 1986 Suzuki Samurai was defectively designed. A passing vehicle struck Mr. McCoy after he stopped to help direct traffic at the scene of a 1987 rollover accident involving the Samurai.

He requested \$5.8 million in damages, claiming that if the Samurai wasn't prone to roll over, the accident wouldn't have occurred, he wouldn't have stopped to help and, therefore, he would not have been injured.

American Suzuki Motor Corp. denied the vehicle was defective.

After three hours of deliberation, the jury agreed and found the Samurai was not defective, according to Lori Schweitzer, the national trial counsel for American Suzuki.

Mr. McCoy's lawyer, Roger Felice of Seattle, said he will recommend that his client appeal, contending Judge Kathleen O'Connor should not have excluded evidence about Suzuki's "crisis plan" for the Samurai.

The existence of the plan was "totally inconsistent with the company's position at trial" that the Samurai wasn't defective, he said.

Suzuki settled the injured driver's product liability claim during jury deliberations in a separate, earlier trial.

The amount of the settlement was confidential, Ms. Schweitzer said.

Mr. Freedman is a correspondent for Automotive News, a sister publication of Business Insurance.

k.com

Buy risk. Sell risk. Settle and trade claims.

dotRisklimited
e-solutions for worldwide business insurance
& claims markets

Business Insurance®

**Upcoming
BI directories**

**401(k) Plan
Administrators**

Issue date	May 22
Deadline	April 28

**EAP/Dependent Care
Resources**

Issue date	June 26
Deadline	May 26

Agents & Brokers*

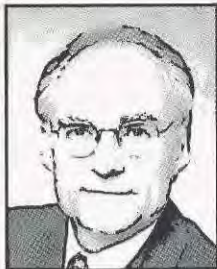
Issue date	July 17
Deadline	June 2

For more information or to receive a questionnaire for one of the directories, please contact Directory Editor Kevin Edison at 312-649-5279. Directory questionnaires also can be printed from the directory area of BI's Web site, www.businessinsurance.com.

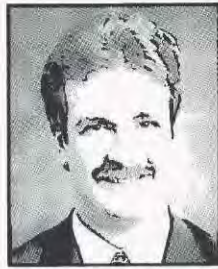
**Questionnaires will be mailed and available on the BI Web site in early May.*

GAB Robins appoints CFO

The GAB Robins Group of Cos. has named **Robert E. Broatch** executive vp and chief financial officer. Mr. Broatch comes to Parsippany, N.J.-



Mr. Broatch



Mr. Calvocoressi

based GAB Robins from UNUMProvident Corp., where he was senior vp and CFO.

Newark N.J.-based Horizon Blue Cross Blue Shield of New

Comings & Goings: Industry

Jersey has named **Thomas J. Calvocoressi** vp, general counsel and secretary. Mr. Calvocoressi previously was with Aetna Inc., where he most recently was vp and general counsel.

PHS Health Plans of Shelton, Conn., has appointed **Barry Averill** as president. In his new role, Mr. Averill, who previously was with Humana Inc., will be responsible for operations in Connecticut, New York, New Jersey and Pennsylvania. PHS is a unit of Foundation Health Systems Inc.

Insurers

Schaumburg, Ill.-based Zurich Global Energy, a newly expanded unit of Zurich Financial Services Group, has named **James D. Miller** to the position of chief underwriting officer. Mr. Miller, who will be based in the unit's London office, previously was with American International Group Inc.'s energy department, where he was engineering manager.

Associated Aviation Underwriters has named **Jan. E. Jonker** executive vp and director of international accounts in AAU's London office. Prior to joining AAU, Mr. Jonker was managing director of the Dutch Aviation Pool in Amsterdam. In addition, Mr.

Jonker serves as president of the International Union of Aviation Insurers. AAU, which has headquarters in Short Hills, N.J., is jointly owned by Chubb Corp. and CNA Financial Corp.

RLI Corp. of Peoria, Ill., has promoted two to vp: **Donald J. Driscoll** has been named vp, claim; **Piyush K. Singh** is vp, systems development. Mr. Driscoll has been assistant vp, claim at RLI since January 1998. Mr. Singh has been assistant vp, systems development since April 1998. RLI Corp., through subsidiaries RLI Insurance Co., Mt. Hawley Insurance Co., Underwriters Indemnity Co. and Planet Indemnity Co., underwrites selected property and casualty insurance products.

Chubb Executive Risk Inc., a Simsbury, Conn.-based unit of Chubb Corp., has appointed several vps. **John C. Anderson** is vp, customer service division and account service center department manager; **Gregory P. Barabas** is vp, claim department manager; **Timothy J. Covello** is vp, professional services department manager; **Christine A. Dart** is vp, product training manager; **Fred T. DeFilippo** is vp, marketing manager e-commerce; **Matthew P. Dolan** is vp, health care department manager; **Anthony S. Galban** is vp, directors and officers underwriting manager; **Jane L. Hodgson** is vp, forefront/power underwriting manager; **Susan R. Huntington** is vp, health care department consultant; **Christopher M. Mango** is vp, new product development manager; **John J. Moroney** is vp, professional services-underwriting

manager; **Joshua O. Stein** is vp, reinsurance manager; and **David A. Sukert** is vp, professional services-underwriting manager, lawyers.

Brokers

Richmond, Va.-based The Rutherford Cos. has promoted **Robert A. Bamberger** to senior vp. Mr. Bamberger, who joined Rutherford in 1998, previously was a vp.

Cavignac & Associates, a San Diego-based commercial insurance brokerage firm, has appointed **James P. Schabarum** and **Scott A. Bedingfield** principals. Mr. Schabarum joined the



Mr. Schabarum

broker in 1996 as head of its construction and surety bond department. Prior to joining Cavignac & Associates, he was with Hartwell Corp. Mr. Bedingfield, who also joined the firm in 1996, came from John Burnham & Co. in San Diego. **BI**



Mr. Bedingfield

1991 society of customer service professionals (socap) award of special distinction, 1993 florida governor's business leadership award, 1993 florida commission on human rights, recognition for advocacy equality and diversity, 1994-1997 community blood bank, silent hero award, 1997 professional insurance marketing association (pima) award for best payroll deduction marketing materials, 1998 first ever model business award presented by the leon county board of county commissioners, 1998 top 100 insurance brokers of U.S. business, 1998 listed national third party administrators, florida trend, may 1998 issue listed the top benefits consultants in florida 1998 the top 100 insurance brokers of U.S. business, 1998 listed national third party administrators, florida trend, may 1998 issue listed the top benefits consultants in florida, 1997 professional insurance marketing association (pima) award for best payroll deduction marketing materials

FBMC

Third Party Administrator

Fringe Benefits Management Company

1 800 872-0345 ext. 348 www.fbmc-benefits.com

Comp

Continued from page 3

the State Workers' Insurance Fund, unsuccessfully argued that Mr. Astudillo was not eligible for benefits because he was an illegal alien. It also unsuccessfully argued the court should adopt a public policy excep-

tion in an unrelated case involving an escaped prisoner, which the court rejected.

Judge Dan Pellegrini wrote in the opinion that "it would not serve 'public policy' to deny workers' compensation benefits to an illegal alien merely because of their immigration status because all that would do is reward an employer who failed to properly ascertain an employee's immigration status at the time of hire. Further, to do so would potentially subvert any public policy against illegal immigration because employers may actively seek out illegal aliens rather than citizens or legal residents because they will not be forced to insure against or absorb the costs of work-related injuries."

The employer also unsuccessfully

argued that the claimant's benefits should be immediately terminated because he would be unavailable for suitable alternative employment. The court responded by noting that under Pennsylvania law benefits "are not conditioned upon whether the employee has marketed his remaining work capacity."

In addition, the employer is not entitled to suspension or modification of the claimant's benefits because the employer presented no evidence about the type of alternate positions the claimant could perform, according to the decision.

An attorney for the employer declined to comment on the case.

A spokesman for the insurer said it is studying the decision and has not decided whether to appeal. **BI**

Carvill

Reinsurance Intermediary

INDEPENDENCE
INTEGRITY
SERVICE

CONSISTENT PHILOSOPHY & PERFORMANCE

SINCE 1977

Atlanta Bermuda Chicago London Stamford

1-800-CARVILL

Business Insurance

Subscription Service

www.businessinsurance.com

New Subscriptions

You can now subscribe to our publication over the Web.

Simply fill out our subscription form and we will get your first issue to you right away.

Moving? Change of address? New job?

If you're leaving your current location, make sure you don't leave behind the late-breaking, agenda-setting news that helps you stay on top of your business.

You can change your information with us online, immediately.

Billing or renewal inquiry?

Verify your subscription details or pay an invoice.

If you receive a notice from us after you have paid, it is likely due to correspondence crossing in the mail.

However, if you receive a second notice after you have paid, contact us and include a copy of both sides of your canceled check.

For more information about a subscription, please contact the customer service department at

1-888-446-1422

www.businessinsurance.com

Take voluntary ergonomics action now

By Troy Hanson

AFTER YEARS of frustrated attempts at regulating ergonomic hazards in the workplace, the Occupational Safety and Health Administration is finally poised to put an ergonomics rule on the books. For employers and insurers, the proposed rule has serious implications, especially in regard to its medical management provisions.

Since the early 1990s, OSHA has been attempting to regulate ergonomic hazards, citing the cost and prevalence of musculoskeletal disorders as its rationale. According to the Bureau of Labor Statistics, these injuries account for one-third of all occupational injuries, and OSHA estimates the costs in workers compensation benefits to be as high as \$20 billion a year.

In November 1999, the agency proposed a far-reaching standard that would cover manufacturers and materials-handling operations, as well as workplaces in which a single MSD has been reported. A few industries—agriculture, construction, and maritime—are exempt.

The standard applies when an OSHA-recordable MSD is reported in a job that is "reasonably likely" to have caused or contributed to that type of MSD. The hazardous activities must also be central to the job or make up a significant amount of the employee's time. As employers and insurers are well aware, the proposed standard is highly controversial, and the center of that controversy is the MSD management section.

Under this section, the employer must promptly respond to any reported MSD using the following measures, at no cost to the employee:

- Determine whether temporary work restrictions are necessary. The restrictions may include a job transfer, alternative duty or removal from the workplace. The employer must follow the physician's recommendations and follow up to determine whether the restrictions are helping to resolve the MSD.
- Provide access to a physician, if necessary.
- Provide the physician with job and hazard descriptions and other pertinent information.
- Obtain a confidential written medical opinion and provide a copy to the employee.
- Provide a cash subsidy (of 90% to 100% of wages) and maintain benefits and seniority rights for up to six months of disability leave.
- Maintain records of MSD management.

The MSD management provisions raise several serious issues.

First, the mandate of medical and wage benefits is in direct conflict with state workers comp laws. According to the exclusive-remedy rule, workers comp benefits are the only remedy for a work-related injury. The proposed rule carves out an enormous exception to the exclusive-remedy rule by creating a new set of federal remedies for a subset of work-related injuries.

Secondly, the MSD management section appears to violate OSHA's own mandate. Under Section 4(b)(4) of the Occupational Safety and Health Act, OSHA is prohibited from promulgating any rules that "affect" workers comp. The ergonomics rule would clearly affect workers comp, because it expands the definition of a "work-related injury" by establishing a lower threshold of proof for MSDs. In other words, a worker could meet the criteria for coverage under the ergonomics rule, while being denied coverage under workers comp laws. The practical effect would be twofold: more covered injuries and more employer responsibilities.

This lower threshold raises further questions and concerns. For example, the OSHA MSDs may not be covered by the standard workers comp insurance policy. Would an employer have to purchase an additional insurance policy to cover these injuries?

Also, what incentives would the rule create for employees? Would they be more inclined to file claims under the OSHA provisions rather than workers comp? And supposing a worker made a fraudulent OSHA claim, would workers compensation fraud laws apply if only OSHA benefits are obtained?

OSHA's attempt to make inroads into workers compensation laws will undoubtedly lead to lawsuits challenging the MSD provisions—if the provisions survive the rulemaking process. But if history is any guide, OSHA might prevail on this issue.

In 1978, the agency promulgated a controversial lead standard with striking similarities to the ergonomics proposal's MSD management provisions. The lead standard obligates employers to provide similar cash subsidies for up to 18 months for employees who are placed on medical leave because of excessive blood-lead levels.

A group of lead manufacturers filed a lawsuit

Some basic steps can bring workers comp programs in line with practices advocated by disability and return-to-work experts.

challenging the standard on the basis that it encroached upon workers comp laws. But the Court of Appeals for the District of Columbia held in a 1980 case, *AFL-CIO vs. Marshall*, that the medical removal provisions were within OSHA's "broad" grant of authority.

Of course, an attempt by OSHA to extend its authority through the ergonomics standard may not fare as well today as the lead standard's medical removal provisions did in 1980. One reason is the controversial OSHA Cooperative Compliance Program, a "voluntary" safety program aimed at reducing injury rates that punished companies that refused to participate. The program was struck down last year by the Court of Appeals for the District of Columbia. In that case, the court found that OSHA had exceeded its authority by failing to follow proper rulemaking procedures. It may be that the tide has turned.

Another reason is that much has transpired since 1980 in terms of disability and leave policies. Today, employers must contend with Americans with Disabilities Act and Families Medical Leave Act policies, both of which overlap with workers compensation laws. Adding an OSHA leave policy would entangle employers in an increasingly complex web of legal doctrines. Given this situation, a reviewing court could take a more-sympathetic view to the plight of employers, especially considering that 1.9 million employers would be affected.

Regardless of how this issue shakes out in the courts, the question is: Should employers take voluntary action now, while the ergonomics proposal is winding its way through the cumbersome rulemaking process?

If MSDs are a concern in the employer's workplace, then the employer should begin addressing ergonomics, if it has not done so already. There are two good reasons for doing so.

First, many companies that have established voluntary ergonomics programs have achieved remarkable successes: they have lowered workers comp premiums, reduced injury rates and improved lost time rates—not to mention the decrease in human suffering that has resulted. Secondly, if the MSD provisions survive the rulemaking process, the ergonomics proposal has a "grandfather clause" that would allow existing programs to be maintained, provided they meet the basic obligations of the federal standard.

Therefore, using the MSD management section as a guide, here are some basic steps that employers should incorporate into their workers comp programs:

- Create job descriptions. A job description allows the physician to concentrate on the medical issues and avoids leaving the description of the job up to the injured worker. The key is to provide as much detail as possible. For example, rather than simply stating that the job requires "lifting," state how much lifting is required and describe the actual task. With a good job description, the employer would be fulfilling its responsibility under the proposed rule to provide the physician with pertinent information about the worker's job.

- Emphasize early intervention. Ideally, when an injury occurs, the employer should immediately contact the worker and direct him or her to a physician, if necessary. Most workers appreciate the concern shown for their well being, and statistics show that prompt medical attention means a better chance of a healthy and speedy return to work. Otherwise, a treatable set of symptoms may become a full-blown injury. An early intervention policy would fulfill the standard's requirement that employers provide prompt medical care when necessary.

- Provide alternative duty. As a practical matter, employers should have light or alternative duty positions available for injured workers as soon they are allowed to return to work. Employers should therefore consider developing a "job bank" that can be used as alternative duty during an injured worker's recovery. This would fulfill the proposed standards requirement that employers provide information to the physician about what alternative duty is available.

- Build a physician network. Employers should set up a network of medical providers who understand the goal of return to work and who are familiar with the workplace—either through work site visits or through videotapes of the jobs. With this information, physicians can make informed decisions—rather than rely on guesswork—as to the most-appropriate work restrictions. This would fulfill the proposed standards requirement that the employer provide the physician with information about the job and an opportunity to visit the workplace.

- Obtain meaningful medical opinions. An important step in the return-to-work process involves explaining to employees the nature of the injury and the reason for the return to work. In particular, employers should ensure that their physicians explain to employees that returning to work is an important part of the treatment in that it will help them recover faster. Providing this information would fulfill the obligation to provide the employee with a copy of the medical opinion.

By getting a head start on the standard's requirements, employers would be satisfying two important objectives. They would bring their workers compensation programs in line with the voluntary best practices recommended by many disability and return-to-work experts. In addition, if the MSD management protocols are adopted, the employer would have a program that is tailored to its own corporate culture rather than having to build a program based on the more-rigid requirements of OSHA's ergonomics standard. **BI**



Troy Hanson is an attorney and senior analyst for CCH Inc.'s health and human resources division in Riverwoods, Ill. CCH is a provider of human resources and employment law information.

'Titles,' 'slogans' rulings expand coverage

By Philip H. Hecht

WITH THE EXPLOSIVE growth of Internet advertising, it is not surprising that numerous trademark infringement lawsuits have been filed by companies anxious to protect their intellectual property rights against real or imagined encroachment. Congress' passage of legislation in 1999 prohibiting cybersquatting and other forms of Internet infringement make it likely that more of these claims will be brought in the future.

Risk managers for policyholders targeted by these claims will want to know from the beginning whether there is potential insurance coverage for both the costs of defense and the costs of paying judgments or settlements to successful plaintiffs. When it comes to insurance coverage, it is important to understand that not all trademarks are created equal.

Coverage for trademark infringement is provided under the "advertising injury" section found in most standard-form commercial general liability policies. These policies typically define "advertising injury" as an injury "arising solely out of one or more [covered] offenses committed in the course of advertising your goods, products or services." The list of covered offenses includes "infringement of copyright, title or slogan" or "infringement of trademarked or service marked titles or slogans."

Standard-form CGL policies sometimes also contain an "intellectual property" exclusion, which bars coverage for advertising injury arising out of infringement of a "trademark or service mark or certification mark or collective mark or trade name, other than trademarked or service marked titles or slogans." Policies with this exclusion do not provide coverage for trademark infringement claims unless the word or phrase in question fits within the exception for "trademarked or service marked titles or slogans."

Over the last several years, a number of cases have addressed the advertising injury section in the context of trademark infringement claims and have found no coverage. But a November 1999 decision by a U.S. district court in New York signals a favorable shift on the intellectual property exclusion and the availability of coverage for trademark infringement. The ruling could have a significant impact, because New York is the center of the fashion and advertising industries and many infringement cases are filed there.

In *Hugo Boss Fashions Inc. vs. Federal Insurance Co.*,

the United States District Court for the Southern District of New York ruled that a trademarked name may qualify as a "slogan" if it conveys a message to consumers concerning the nature and quality of a particular product. This decision arose out of a 1997 lawsuit filed against Hugo Boss, an international designer and manufacturer of men's fashion clothing, by Boss Manufacturing Co., a U.S. company that makes inexpensive work boots and gloves. That lawsuit alleged trademark infringement, unfair competition and trademark dilution because Hugo Boss had used the name "Boss" in advertising and selling fashion boots and gloves in the United States.

Hugo Boss' liability insurer, Federal, refused to provide a defense in the trademark infringement lawsuit. Federal argued, among other things, that the name "Boss" does not fit within the exception to the intellectual property exclusion in its policies. Although its policies do not define the terms "title" or "slogan," Federal took the position that "title" refers to the name of a literary or artistic composition, such as a book or motion picture, and that "Boss" cannot be a "slogan" because it is the name of a company and does not describe a product.

The district court disagreed, ruling that even a single word may qualify as a "slogan" under the ordinary dictionary definition of that term. According to the court, "English dictionaries generally define 'slogan' as a word or combination of words that acts as an attention-getting device. The word 'Boss' appears to do just that, given that [the] complaint alleges that the word 'Boss' is used 'to identify and promote its products and to distinguish its products from those offered by others.'"

In deciding in favor of coverage, the court relied on its earlier decision in *A Touch of Class Inc. vs. Aetna Casualty & Surety Co.*, which concerned a similar trademark infringement claim. In that case, a jewelry company named A Touch of Class Ltd. sued another jewelry company because of the latter's use of the phrase "A Touch of Class" in advertising its products. The court held that the plaintiff's trademark infringement claims came within the exception to the intellectual property exclusion because the mark in question conveyed a message to consumers concerning the nature and quality of the particular product, even though the company selling that product used the same name to identify its business.

Several lessons can be drawn from these decisions by policyholders and their risk managers. First, and most

obviously, not all trademarks are intended to convey messages about the nature and quality of the products on which they appear. Some, like "Nike," "McDonald's" or "Ford," are well-recognized but non-qualitative names and cannot be said to be titles or slogans.

Second, non-linguistic symbols, like the familiar Nike swoosh, can be used as trademarks but these also clearly are not titles or slogans. As the court observed in *A Touch of Class*, "Trademarks can be the color of an item, e.g., pink sugar-substitute packets; the location of a patch on a pair of jeans, e.g., on the back hip of one brand of jeans; the scent of an item, e.g., that of a household deodorizing spray; and the design of a package, e.g., the wrapper of a candy bar. None of these trademarks involves the product's title or slogan."

Finally, there is a category of trademarks that can be said to convey qualitative or descriptive messages about the products on which they appear. In *Hugo Boss Fashions*, the court found that the word "Boss" indicates that the products on which it is used "are of a first-rate quality and that the wearer is 'above the rest' or 'in control.'" From the standpoint of policyholders and risk managers, it is important to realize that these kinds of trademarks may be covered under standard-form CGL policies.

When faced with claims or lawsuits for trademark infringement, risk managers should review their policies to determine whether coverage is provided for advertising injury and, if so, whether the policies contain versions of the intellectual property exclusion. Even if a policy has an intellectual property exclusion, a risk manager should notify the insurer and demand a defense because of the exception in the exclusion for "titles" and "slogans."

As *Hugo Boss Fashions* demonstrates, those two little words just might be the key to insurance coverage for trademark infringement. **BI**



Philip H. Hecht is a partner in the Washington office of Kirkpatrick & Lockhart L.L.P., a Pittsburgh-based law firm.

RIMS manual clarifies certificates of insurance

"Certificates of Insurance: Where Do They Fit Into the Risk Management Scheme"

Prepared by the RIMS Research Committee

Published by the Risk & Insurance Management Society Inc., 655 Third Ave., New York, N.Y. 10017-5637; (212) 286-9292

\$40 for RIMS members, \$50 for non-members

By Kevin M. Quinley

Perhaps few areas of risk management create as much confusion as certificates of insurance. As one risk manager once told me, "My policy is to get as many as possible and to give as few as possible."

Certificates of insurance are items risk managers demand. They are needed to do business, to assuage business partners, to render vendors acceptable and to make commerce happen. Are they mini-policies of insurance or are they simply evidence of insurance? What obligations and rights do they impose? How can additional insureds best safeguard themselves through the use of these certificates? These inconvenient questions rarely need to be addressed—unless there is a loss or claim.

A recent manual prepared by the research committee of the Risk and Insurance Management

Book Review

Society Inc., titled "Certificates of Insurance," tries to dispel much of the confusion and myth surrounding insurance certificates.

This manual is not simply theoretical; it has been written for shirt-sleeve practitioners. In 68 pages, the committee provides a concise and practical manual for busy risk managers. "Certificates of Insurance" is divided into five main sections:

- What It Is, What It Is Not
- Drafting Insurance Requirements
- Specialty Language and Endorsements
- Distribution and Management
- Contract Review

The chapter on "Drafting Insurance Requirements" addresses topics such as the differences between named insureds and additional insureds, insurance limits, claims-made vs. occurrence forms, and insurer acceptability. I would have liked to have seen a section on control of the defense; this is often an overlooked area in additional-insured situations. Many an entity will fight hard to get its defense picked up, only to find out that it must relinquish control of the defense to another company and its insurer. This is ironic

considering that more firms are demanding claims control autonomy from their own insurers.

The RIMS manual provides much useful information about managing certificates of insurance in ways that prevent problems. Supplementing the written text are reprints of additional-insured endorsements and forms commonly used in the insurance industry.

It is possible to have a few quibbles with this book. Both a glossary and a checklist of what risk managers should and shouldn't do should have been included.

Despite these minor points, RIMS should be applauded for this practical manual, which should hold something of interest to every risk manager. **BI**



Kevin M. Quinley is senior vp of risk services for MEDMARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. He holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

INTERNATIONAL

Global Briefs

Insurance broker **Jardine Lloyd Thompson Group P.L.C.** has entered into an agreement to combine its U.K. retail and employee benefits operations with Liverpool-based **Burke Ford Holdings Ltd.** The combined business will operate as **Jardine Lloyd Thompson U.K. Holdings Ltd.**, as part of the **JLT Corporate Risks & Services division**. For the year ended Aug. 31, 1999, **Burke Ford** recorded total revenues of £10.7 million (\$17.2 million). **Jardine Lloyd Thompson** will own 81% of the new entity, while **Burke Ford** will own 19%. . . **Zurich Financial Services Group** plans to unify its operations under a Switzerland-based holding company. **ZFS** will apply for a primary listing on the Swiss stock exchange and a secondary listing on the London Stock Exchange, according to the company. . . A report by rating agency **A.M. Best Co.** suggests that just 10 syndicates produced 53% of the **Lloyd's market's 1997 loss** of £176.3 million (\$284.8 million). The Best survey also reveals that 50% of **Lloyd's** managing agencies posted a profit for the 1997 year of account. Best predicted that, for 1998, just 10 managing agencies would return a profit and 20 would have overall losses totaling more than 10% of their capacity. . . **Copenhagen Reinsurance Group** and **Euclidian Group P.L.C.** are joining forces to offer **finite risk reinsurance**. Denmark-based **Copenhagen Re** will write the coverage, while **Lloyd's** underwriter and registered broker **Euclidian**, which specializes in finite risk, will provide consulting services. **Copenhagen Re** Chief Executive Officer **Jan Hornsberg** said that he expects most of the business to be written will be long-tail and outside the area of catastrophe risk. . . **Kidnapping** has grown to record levels, according to a survey by U.K. insurer **Hiscox Group P.L.C.** The **Hiscox** survey showed that premium volume levels in kidnap and ransom insurance are growing by 20% each year. Since 1992, reported kidnappings have increased by 70%, though 1999 saw just a 6% increase in the number of kidnappings. More than half of the world's kidnap-for-ransom incidents over the past decade have occurred in Colombia; in 1999, more than 70% of the worldwide total of incidents occurred there. . . Members of **New South Wales**-based **NRMA Group** have voted overwhelmingly to demutualize **NRMA Insurance Ltd.**, Australia's largest multiline insurer. A decisive 82% of the group's 1.8 million members voted in favor of the demutualization of **NRMA Insurance**. **Ernst & Young**, one of **NRMA's** advisers, has valued the stock at between \$2.57 Australian and \$2.91 Australian (between \$1.53 and \$1.73) per share, based on an issue of 1 billion shares. **NRMA Insurance** has a 19% share of the Australian non-life insurance market. . . **Munich Reinsurance Co.** is acquiring retroactively from Jan. 1, 2000, a 60.13% stake in **Alte Leipziger Europa Beteiligungsgesellschaft A.G.** from **Alte Leipziger Holding A.G.** **Bad Homburg**-based **AL Europa** holds majority stakes in several insurance companies, mainly based in Central and Eastern Europe. Of the 14 companies in which **AL Europa** holds stakes, 12 are based in Estonia, Latvia, Lithuania, Poland, Russia or Belarus. **Munich Re** Chief Executive Officer **Hans-Jurgen Schinzler** said the acquisition would enable the reinsurance company to profit directly from the development of the Eastern and Central European region.

China WTO entry stalls after talks

By SARAH VEYSEY

BEIJING—China appears increasingly unlikely to join the World Trade Organization by year's end after recent membership talks held between China and the European Union reached a stalemate on, among other issues, foreign ownership of Chinese financial services.

The European Union and the Beijing administration had hoped to forge a bilateral agreement on China's bid to join the WTO during the course of a four-day summit in March. But long-standing disputes over greater foreign access to China's financial services industry and its telecommunications network are thought by observers to have been among the key stumbling blocks in the recent negotiations.

Talks held in February in Beijing between the trade commissions of the European Union and of China faltered when the E.U. delegation insisted that

foreign firms should be allowed up to 51% ownership of Chinese telecommunications firms.

In the March round of talks, also held in Beijing, the Europeans had hoped to persuade China's trade minister, **Shi Guangsheng**, to allow foreign firms to hold up to 25% of the equity in Chinese financial services companies. Despite the intervention of E.U. Trade Minister **Pascal Lamy** and Chinese Prime Minister **Zhu Rongji**, however, the talks ended in disappointment.

Mr. Lamy said that the talks were "held in a constructive spirit, with positive movement on both sides resulting in a certain narrowing of differences on the outstanding issues under negotiation." But he conceded that "conclusion of a bilateral agreement was not possible at this stage."

The Chinese Trade Ministry issued a statement describing the talks as "positive." See *China* on page 18



PHOTO: REUTERS

Chinese trade officials distributed statements late last month announcing the failure of talks with E.U. officials on China's entry into the World Trade Organization.

U.K. businesses advised to get into Act

Human Rights Act may expand obligations for many companies

By CAROLYN ALDRED

LONDON—U.K. risk managers and insurers need to be aware that the European Convention on Human Rights will have an impact on many business practices and likely will result in far more litigation, advisers warn.

The 1950 convention, which over the years has been adopted in several European Union countries, takes effect in the United Kingdom on Oct. 2 as the U.K. Human Rights Act.

"Many companies, private and voluntary organizations, do not realize that they may have obligations under the Human Rights Act 1998. . . Preparations for these obligations need to be made now and not left until after the act comes into force," said a statement issued by the Institute for Public Policy Research, a London-based political think tank that recently hosted a conference on the act.

The act "represents a hugely significant

constitutional change. As such, it has profound implications for business," said conference speaker **Jim Harrower**, senior executive vp of the security services company **Group 4 Securitas (UK) Ltd.** **Group 4 UK** is

The U.K. Human Rights Act represents 'a hugely significant constitutional change' and has 'profound implications for business,' says Jim Harrower.

based in Broadway, Worcestershire, and is a subsidiary of **Group 4 Securitas (International) BV** of the Hague, Netherlands.

The act incorporates the 1950 European Convention on Human Rights into British law and is "probably the most significant constitutional change" since the 1689 Bill of

Rights, said government Home Secretary **Jack Straw**, who spoke at the IPPC conference in London late last month. Mr. Straw was referring to the historic document that limited the power of the English sovereign.

Under the Human Rights Act, every public authority or company with a public function will have to act in accordance with the ECHR and can be taken to court if it should fail to do so. The act—which applies to everyone, including employees, customers and the general public—deliberately does not define "public authority" or "public function" in detail, and it will be for the courts to interpret the act, according to the government Home Office.

Examples of companies likely to fall under the act include privatized utilities, such as power and water companies; regulatory bodies and professional associations that serve in regulatory capacities—this could, for example, include **Lloyd's of London**, which acts as a market regulator; charities; See *Rights* on next page

Plane crashes in Philippines



PHOTO: AFP

Rescue workers search through the wreckage of Air Philippines Flight 541, which crashed in the southern Philippines, killing 131 passengers and crew.

DAVAO, Philippines—Air Philippines' insurance is led by **ACE Ltd.** and **Houston Casualty Co.** for liability and hull claims, respectively, arising from last week's crash of a jet that killed all on board.

A total of 131 passengers and crew perished after Air Philippines Flight 541 crashed on a small island in the Philippines shortly before it was due to land last Wednesday morning.

Many of the passengers on board the Boeing 737-200 were traveling from Manila to Davao and its surrounding resorts for the Easter holiday, an airline spokesman in Manila said.

All 124 passengers and seven crew died in the crash, he said.

The cause of the crash, which occurred just before the plane was to land in Davao, was not immediately apparent, the spokesman said.

The cockpit data and voice recorders—the so-called black boxes—have been found and are being sent to the National Transportation Safety Board in Washington for analysis.

Unspecified limits of liability coverage is led by a unit of **ACE** in London. **Houston Casualty** leads insurance for the airline's hull, whose loss has been valued at \$4 million. The airline's coverage was placed by London units of **Aon Group Inc.**, the broker confirmed.

—By Gavin Souter and Dave Lenckus

www.businessinsurance.com

Tired of traveling the same old roads
searching for something new on the horizon?

Take the most direct route to news, commentary, trends and
information on the movers, shakers and events that drive our market.
Now the industry's leading newsmagazine is also the
most up-to-date, comprehensive and informative online destination.

Give your engine a break from searching. When you're looking for news
that affects how you do business, go directly to www.businessinsurance.com ...
taking the business of insurance in a whole new direction.

New York - T. 212.210.0134 • Chicago - T. 312.649.5276 • Los Angeles - T. 323.370.2456
F. 212.210.0704 F. 312.649.7937 F. 323.655.8157

**Business
Insurance**
a publication of Crain Communications Inc.

China

Continued from page 15

itive, constructive and fruitful." The statement added that "both sides hope to reach agreement as soon as possible, and the negotiations will continue in the future."

Mr. Lamy is now in talks with the governments of E.U. member countries and the European Parliament to try to decide how to approach a fresh round of negotiations with China expected to begin within the next few months.

Before the March round of talks, a delegation of French insurers traveled to China to discuss opportunities for European insurers. At the end of those talks, the head of the delegation, Denis Kessler, president of the Federation Francaise des Societes d'Assurances, said he was confident a solution could be reached between Beijing and the European Union.

The French delegation met with the mayors of Beijing and Shanghai and the vp of the China Insurance Regulatory Commission.

The French delegation told Chinese officials that they would like to see as many insurance licenses awarded to European insurers as to U.S. companies. Currently, of the 14 foreign insurance licenses that have been granted, nine are held by U.S. insurers.

"We want to make sure that if a U.S. insurance company gets a new license, a European company will get one, too," said Mr. Kessler.

The delegation also requested that foreign insurers be allowed to hold up to 25% of the equity of Chinese insurers. Currently, regulations limit foreign equity holding to 5%.

Meanwhile, Groupama-GAN S.A., France's second-largest multiline insurer, has applied for a property/casualty license in China. The group's application was filed shortly after Bernard Delas, Groupama-GAN's chief executive officer and a member of the French delegation, returned from China.

'We want to make sure that if a U.S. insurance company gets a new license, a European company gets one, too,' says Denis Kessler of the Federation Francaise des Societes d'Assurances.

Groupama-GAN has been present in China since 1994, when Groupe des Assurances Nationales opened a representative office in Beijing. Mutual insurer Groupama acquired GAN, which had been owned by the French government, in 1998.

"With China's forthcoming membership in the World Trade Organization, we believe the opening up of the insurance market in China will set a favorable backdrop for Groupama's continuous effort for cooperation with the Chinese insurance market," Mr. Delas said.

"Our development strategy in China hinges on two axes: on one hand, we intend

to operate as soon as possible in this market as a direct insurer; on the other hand, we will continue to develop our long-term cooperation with local insurers," he said.

During the French delegation's visit to China, Mr. Delas spoke at a liability insurance conference and stressed that the sharing of information would continue to form part of Groupama's strategy in China.

"As a leader in the industry, we are very pleased to provide insurance practitioners in China with industry knowledge and know-how through an ongoing educational and exchange program tailor-designed for the industry," he said.

Only one French insurer, AXA S.A., currently has a license to do business in China. In July, Paris-based AXA entered into a joint venture agreement with the state-owned, Beijing-based China National Metals & Minerals Import & Export Corp., known as Minmetals.

CNP Assurances of Paris has also applied for a license. Both Paris-based credit insurer Coface S.A. and Paris-based broker Gras Savoye, which were also part of the FFSA delegation, have expressed interest in entering China.

In March, Paris-based reinsurer SCOR S.A. opened a representative office in China.

SCOR CEO Jacques Blondeau said, "We are delighted to have been authorized by the China Insurance Regulatory Commission to open an office in Beijing. It will enable our teams to respond faster to the needs of the Chinese market and provide our clients with an improved quality of service." **BI**

Business Insurance®

EVENTS

Tenth World Captive and Alternative Risk Financing Forum

Co-sponsored by *Business Insurance*, Skandia/SINSER and Tillinghast-Towers Perrin, this event addresses the use of captive insurance companies and other alternative risk financing programs.

Sessions during this three-day conference address topics such as new risk financing alternatives, reinsurance, aggregate stop loss and finite coverages, tax issues, rent-a-captives, investments and case studies.

The 2000 forum will be held Nov. 13-15 in Miami.

For details on registration or exhibits, please contact:

Tina Gassman, Executive Director
World Captive Forum
4248 Park Glen Rd.
Minneapolis, MN 55416
Phone: 612-928-4659
Fax: 612-929-1318
tgassman@harringtoncompany.com

Professional Marketplace

www.businessinsurance.com

To place your ad, contact Irais Amleshi

Phone: (312) 649-5340

Fax: (312) 649-7937

E-Mail: iamleshi@crain.com

Business Insurance, Classified Department,
740 N. Rush Street, Chicago, IL 60611-2590

Call for details on Blind Box
and Internet Advertising

REQUEST FOR INFORMATION

REQUEST FOR INFORMATION STATE BOARD OF ADMINISTRATION OF FLORIDA

The State Board of Administration (SBA) is soliciting competitive responses from firms offering reinsurance intermediary services to the Florida Hurricane Catastrophe Fund (FHCF). The Request For Information (RFI) will be available by 9 a.m. EST on April 25, 2000, and may be obtained from the FHCF web site: <http://www.fsba.state.fl.us/fhcf/> (under Announcements). The deadline for submitting responses is 4 p.m. EST on May 15, 2000.

HELP WANTED

Risk Pool Manager

NH School Boards Insurance Trust is seeking an Executive Director to manage all operations for statewide public school pool providing full risk management services to members. Require dedicated team leader, with strong commitment to public education, and demonstrated creativity and ability to manage change. Requirements include BA, extensive technical risk management knowledge, excellent verbal and writing skills, and least 5-8 years pool management experience. CPCU or ARM desirable. To request application and job description, send resume and letter of interest to NHSBIT Board Chair: by mail to 46 Bay St., Manchester, NH 03104; by FAX to (603) 623-1776; by e-mail to edp@nhsbit.org. Applications due by June 15.

HELP WANTED

Agency Sales Manager

Rapidly expanding MGA seeks high-energy sales manager with proven success in building a business-to-business sales team. This candidate will report directly to the President and have full profit and loss responsibility. Will expand point of sale program to realty and financial services partners. Will develop and manage statewide and multi-state rollout. Excellent compensation package with quarterly bonus program. Comprehensive benefits package. Please fax resume with salary requirements to (850)894-1830. Attention: Stephen Tanner.

HELP WANTED

DISABILITY MANAGEMENT SPECIALIST \$2,998 - \$3,654 Monthly Tulare County, California

Centrally located in California and home to Sequoia National Park, Tulare County offers a quality lifestyle and affordable living. The County's Risk Management Division is seeking candidates for a new position that will assist in administering and coordinating the County Return to Work and Disability Management Program. Requirements include two years of college level work in business, public administration or risk management, and two years experience in insurance claims determination or certified insurance rehabilitation. Applications accepted continuously until filled. Contact Tulare County Personnel, 2900 W. Burrell Ave., Visalia, CA 93291, (559) 773-6266.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
IN RE PETITION OF DAN YORAM SCHWARZMANN AND
COLIN GRAHAM EIRC, AS JOINT PROVISIONAL LIQUIDATORS OF
BLACK SEA AND BALTIC GENERAL INSURANCE COMPANY LIMITED,
CASE NO. 98-B-46759 (CB)

NOTICE IS HEREBY GIVEN THAT ON APRIL 12, 2000, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. § 304 ORIGINALLY ENTERED IN THIS CASE ON OCTOBER 5, 1998. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING TO CONSIDER WHETHER IT SHALL BE CONTINUED, WHICH HEARING IS SCHEDULED TO BE HELD ON SEPTEMBER 13, 2000 AT 2:00 P.M. (THE "RETURN DATE") BEFORE THE HONORABLE CORNELIUS BLACKSHEAR, IN ROOM 601 OF THE ALEXANDER HAMILTON CUSTOM HOUSE, ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE CORNELIUS BLACKSHEAR AND SERVED ON COUNSEL FOR THE PETITIONERS LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONERS.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE PETITIONERS
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112
(212) 408-5100
ATTN: HOWARD SEIFE, ESQ.
FRANCISCO VAZQUEZ, ESQ.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
IN THE PETITION OF COLIN GRAHAM
BIRD AND PAUL ANTHONY BREFETON
EVANS, AS JOINT PROVISIONAL
LIQUIDATORS OF NORTH ATLANTIC
INSURANCE COMPANY LIMITED, F/K/A
BRITISH NATIONAL LIFE INSURANCE
SOCIETY LIMITED AND BRITISH
NATIONAL INSURANCE COMPANY LIMITED,
Case No. 97-B-41602 (JHG)

NOTICE IS HEREBY GIVEN that on April 12, 2000, the Bankruptcy Court entered an order (the "Order") continuing the Preliminary Injunction Order pursuant to 11 U.S.C. §§ 105 and 304(b) originally entered in this case on April 7, 1997. The Order shall remain in effect pending a hearing scheduled for October 10, 2000 at 9:30 a.m. before the Honorable Jeffrey H. Gallet in Room 523 in the Alexander Hamilton Custom House, One Bowling Green, New York, New York. Any person wishing to obtain a copy of the Order should contact Lori Dillon (212) 504-6480.

CADWALADER, WICKERSHAM & TAFT
100 Maiden Lane
New York, New York 10038
Tel: (212) 504-6000
Fax: (212) 504-6666
Attention: Kenneth P. Coleman, Esq.
Stephen Doody, Esq.

SITUATION WANTED

Highly productive Life Insurance professional seeks PNC Broker Affiliation to do life and group insurance and pension sales.

New York State: Queens, Nassau & Suffolk Counties only.

Please respond to: Business Insurance, Box 3127, 740 N. Rush Street, Chicago, IL 60611-2590.

BUSINESS OPPORTUNITIES

Franchised Auto Dealer Program

Edward E. Hall & Co.
established 1866

Rapidly growing MGA seeks New Car Auto Dealer Producers
Must have current book and expertise in this area.

MGA will write all lines needed for Auto Dealer clients.

A+ rated carriers used in this shrinking marketplace.

Available in majority of states.

Please call (212)227-5472
Contacts: Michael Heagerty,
Joe Gerrity

Looking for a
candidate to fill the job?

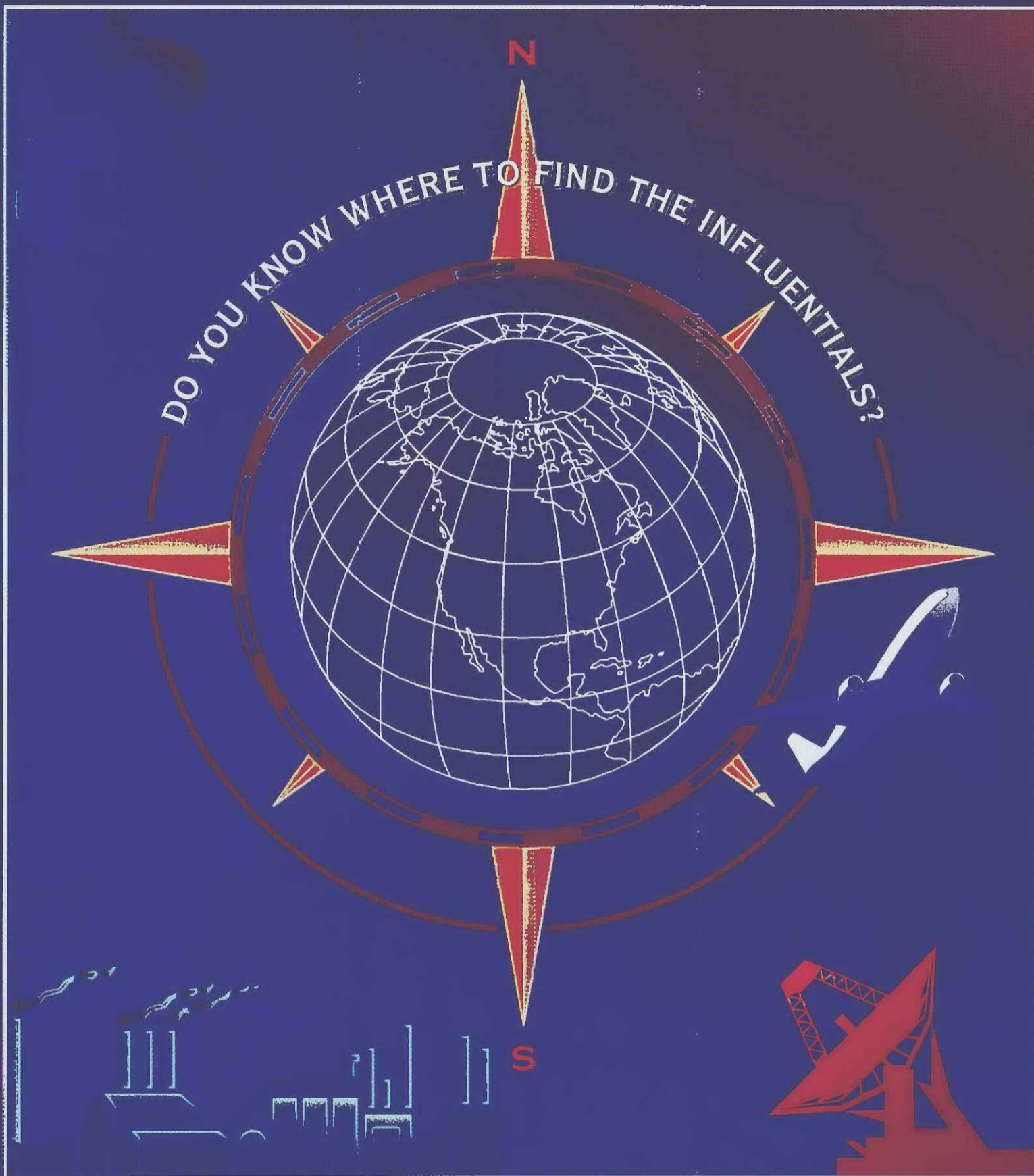
The most talented men and women in the insurance industry know
where to turn when they want to make their moves.

Advertise in **Business Insurance**.
Call 312-649-5340 for Advertising details

www.businessinsurance.com

For all the latest in Corporate Risk, Employee Benefit and Managed Health Care News, visit **BI** online for a host of in-depth news and services that include Updates, Datebook, Classifieds, and more.

New York: Tel: 212-210-0134 • Fax: 212-210-0704 • Chicago: Tel: 312-649-5276 • Fax: 312-649-7937 • Los Angeles: Tel: 323-651-3710 • Fax: 323-655-8157



1999
2000

DIRECTORY OF BUYERS

When you want to reach corporate influentials who matter most in purchasing commercial insurance, risk management, employee benefits and related products and services, you'll want to reach for the most comprehensive reference tool from the publishers of *Business Insurance*.

In the Directory of U.S.-Based Corporate Buyers you'll find nearly 15,000 executives from more than 2,600 companies. Listings include company address, telephone and fax numbers, web address when available, plus vital statistics on:

- primary type of business
- revenue or assets, when available
- number of employees, when available
- name and title of chief financial officer
- names and titles of executives directly responsible for employee benefits . . . pension/retirement plans . . . personnel . . . risk & insurance management . . . property/casualty insurance . . . international employee benefits and/or risk management.

The seventeenth annual edition of *BI's* Directory of U.S.-Based Corporate Buyers is only \$95*. You'll get a 15% discount on orders of 5 or more copies.

The Directory of U.S.-Based Corporate Buyers is also available on CD-Rom for the PC. You can print your own labels or reports in a variety of formats directly from your computer. The electronic version is \$595 or \$297.50 for an upgrade from a previous version. Special pricing is available for network/multiple users.

For information about the BID Software, or to order your printed copy, call: **313-446-0450**.

*Plus tax where applicable.

**Business
Insurance**
www.businessinsurance.com



GO FOR THE GOLD

R I M S 2 0 0 0 S A N F R A N C I S C O

There's a gold mine of opportunity awaiting you in the pages of *Business Insurance*, where 136,000* corporate decision-makers will turn for a post-conference appraisal of the Risk & Insurance Management Society's 38th annual conference and exhibition, held in San Francisco.

From the latest trends and developments to the most important issues and presentations, *BI's* RIMS Reports will convey every nugget of information from this year's conference in the Golden State. Your ad in these issues will be seen by all the risk and benefits managers, CEOs, CFOs and buyers of insurance, reinsurance, risk management, workers comp and healthcare products and services who want to stay on top of what's happening in risk management, employee benefits and workers comp.

If you want to secure your good fortune, *BI's* RIMS Reports are full of golden opportunities, and they're waiting for you at the end of this year's conference. Reserve your ad space in *Business Insurance* today.

* Includes pass-along readership



San Francisco Convention & Visitors Bureau Photo

RIMS REPORT: EMPLOYEE BENEFITS & WORKERS COMP

Distribution: AAMGA

Publishing: May 8 • Ad Closing: April 26

RIMS REPORT: RISK MANAGEMENT

Publishing: May 15 • Ad Closing: May 3

**Business
Insurance**
www.businessinsurance.com

New York
212-210-0134

Chicago
312-649-5276

Los Angeles
323-651-3710

Commentary

Everything a broker should want to hear

What do risk managers really want from their brokers?

The now-defunct Quality Insurance Congress tried to answer that question with the development of the controversial Quality Scorecard. We won't have a scorecard this year, but, thankfully, the Risk & Insurance Management Society will issue one next year.

In the meantime, a new paper written by a risk management leader answers the question in greater depth and with more analysis than any scorecard could. In fact, it is the best commentary on the subject I have read or heard of in the 23 years I have been covering risk management and insurance brokers.

William J. Kelly, managing director of J.P. Morgan and a former president of RIMS, wrote his paper, "Everything I Ever Wanted to Say to an Insurance Broker," in response to an invitation to address the Willis Exceptional Producers' Meeting, held earlier this month in Tucson, Ariz. He was told he could "say whatever I've always wanted to say to insurance brokers."

I didn't attend the meeting, but Bill sent me a copy of his remarks, and I couldn't put it down. His 10 demands are proactive and provocative, yet thoroughly practical.

Bill's top demand of an insurance broker is that his account manager have "a thorough knowledge of the resources of the brokerage firm." Commenting that "the major brokerage firms all have excellent capabilities," Bill reminded the group that he needs "someone who knows where they are and can gain immediate access to them."

Bill observed that gaining access to needed resources can be difficult due to "any cultural, political, geographic or compensation issue" that can exist at a brokerage firm. "But... if these resources are not immediately available to me, then they might as well not exist."

"The expertise of its specialists" is Bill's second demand of a brokerage firm, and he doesn't mean just "knowledge of available markets but knowledge of the coverage itself, its nuances and historical development."

Such expertise allows "interaction among the broker, risk manager and the underwriter," creating "a synergy wherein their combined work product is better than that which any one of them could have achieved."

Noting that he was speaking from the perspective of someone at a large global firm, Bill said he needs not only a broker with a global network but one that also has "a global identity, with products and services delivered consistently and in a seamless manner throughout the world." And skip the domestic vs. international teams, he advised, though he phrased it more politely than that.

Bill also wants a broker that can syndicate his risks globally. "Communication that is concise, well edited and without boiler plate" is Bill's No. 5 demand. "The broker's proposal will be judged not by the color of its graphics but, rather, by the character of its content," he advised.

"Timeliness or a sense of urgency" is Bill's next request. "There is a lack of a sense of urgency in our business, which is not consistent with the pace at which global commerce is currently conducted," he observes. "This is further aggravated by the consistently late adoption of new technology within the insurance sector."

Coming in way down at No. 7—but still very important—is the broker's "negotiating leverage, clout." Bill advises brokers to remember to exercise such leverage not only in negotiating contracts but also in negotiating claims.

At No. 8, Bill wants a broker that will price its service based on a negotiated service level agreement, "with clear incentives and penalties," something the industry has yet to do.

"Knowledge by the broker of my firm's business" comes in at No. 9. "I have found it much easier in recent years to discuss new product concepts with individuals, particularly reinsurance underwriters, who have been hired from management consulting and banking backgrounds."

The final category is "claims," Bill says, pointing out that "a serious claim is the one circumstance in which the insured's senior management really takes note of insurance and assesses its value." Yet he notes, "when the reservation-of-rights letter is received, the broker will advise the insured to get a lawyer. Admittedly, this is ultimately necessary, but I am always surprised at the speed with which the broker disengages in a D&O claim situation."

This is only a brief recap of Bill's remarks, in which he also commented on the future challenge of addressing operating risk.

I recommend that risk managers, brokers and insurers read the full text of Bill's paper. It is posted on the Web page of the International Federation of Risk & Insurance Management, of which Bill is chairman, at www.rims.org/ifrima.

Publisher and Editorial Director Kathryn J. McIntyre's commentary appears fortnightly. She can be reached at kmcintyre@crain.com.



Kathryn J. McIntyre

Outlook

Continued from page 2

a firming reinsurance market, he said. Brokers that deal with different sectors of the market detailed recent renewal rates and their expectations for future pricing in their areas:

Global property

The soft market for property rates continued in the first half of 1999, said Robert Howe, a managing director for Marsh in New York.

For the first six months of last year, reductions of between 5% and 20% were being granted on most property accounts, he noted.

On July 1, however, insurers were forced to pay increased premiums for reinsurance coverage, and they started to impose some rate increases on primary accounts with higher-than-average losses, Mr. Howe said.

More pressure on insurers to raise rates arose in early 2000, when it became clear that worldwide property catastrophe losses would total \$28 billion for 1999, he said.

Due to consolidation, "the number of reinsurers that these claims affect is getting smaller and smaller," Mr. Howe said. Reinsurers imposed significant increases in January, and increases of 20% should be common for reinsurance renewals for the remainder of 2000, he said.

"Some insurers will have to raise rates significantly to cover the treaty costs," Mr. Howe said. Other insurers will decide to retain more of the risks they cover, and that will make their underwriting more conservative, he said. "Most clients will see 5% to 20% increases, depending on their loss history," Mr. Howe said.

In the first quarter of 2000, 35% of Marsh clients in the New York area paid increases of 10% or more.

Policyholders that wish to curb rate increases should submit more-detailed information to insurers, he said. Increasingly, reinsurers depend on computer models to determine rates,

and insurers that can provide better information on the risks they cover are more likely to receive lower rates, lowering pressure, in turn, to increase their primary rates, Mr. Howe said.

Global casualty

The first three quarters of 1999 saw a continuation of the soft market for global casualty risks, said George Pallis, a senior vp at Marsh in New York.

"During the fourth quarter, there was a market shift with upward adjustments of up to 10%," he said.

There was no reduction in capacity, however, and people bought additional excess limits, Mr. Pallis said.

In the first quarter of 2000, renewals have been flat or have seen single-digit increases, he said.

According to a survey of Marsh clients in the New York area, 11% paid increases of 10% or more in the first quarter, and 38% paid increases of less than 10%.

For 2000, policyholders will likely find it hard to obtain guaranteed-cost programs, and multiyear contracts, when available, will require undiscounted, prepaid premiums, he said.

D&O liability

The directors and officers liability market was mainly flat in the fourth quarter of 1999, but some small increases appeared in the first quarter of 2000, said Steve Anderson, vice chairman of FINPRO, Marsh's management liability unit in New York.

Technology companies and health care companies, however, saw bigger increases, he said. Both sectors saw 15% to 25% increases in the first quarter, as underwriters became more wary of the volatility of stock prices in those industries, Mr. Anderson said.

The size of D&O claims and settlements has continued to grow over the past year, he said. In 1999, 240 D&O claims were filed in federal courts, and the number of claims of more than \$100 million increased, he said.

In general, for the rest of 2000, D&O rates will be flat or will rise slightly, he said. Technology and health care

companies, however, will continue to see rate increases of up to 25% or more, Mr. Anderson predicted.

Aviation

General aviation rates stabilized in the fourth quarter of 1999, as underwriters faced declining profits due to increased repair costs, said Robert Beyers, senior vp at Marsh in New York.

Capacity remains abundant, however, and even though four insurers control 70% of the market's capacity, aviation remains competitive, he said.

Liability limits of \$500 million and hull limits of up to \$50 million are readily available, Mr. Beyers said.

Increases in 2000 should be limited to 5% to 10% for most corporate aviation risks, Mr. Beyers said.

And those risks that insure their P/C risks with their aviation insurers may not see any increases, because the insurers are eager to retain all of the business, he said.

Ocean marine

Ocean marine risks enjoyed rate reductions of 5% to 30% in 1999, while many loss ratios were above 100%, minimal underwriting information was demanded and multiyear programs were readily available, said Robert Stearns, senior vp at Marsh in New York. Due to years of soft pricing, 1999 premiums were only about 60% or less of those in 1994, he noted.

"But over the past six weeks, we've seen a firming," Mr. Stearns said.

Risks have been renewing flat, and those accounts with high losses have been reviewed in detail, he said.

"We've actually spotted underwriters underwriting in the market again," he quipped.

For the remainder of 2000, average accounts should see rate increases of 10% or less, and accounts with higher losses will likely see increases of 10% or more, Mr. Stearns said.

Reinsurance rates are going up significantly more, he noted. At July 1, reinsurance rate increases of about 25% are expected, he said. **BI**

Standards

Continued from page 1

related to converting the information, the time needed to complete the conversions, and the potential for loss of data in the process, Mr. Mandel said.

Difficulties sometimes arise because insurers, TPAs and risk managers have different formats for claims and loss data. An employer that uses several insurers or more than one TPA may find that its partners use incompatible data formats.

Risk managers also have expressed concerns that insurers are reluctant to standardize data because they want to keep systems proprietary.

But though that possibility was raised at the summit, it no longer appears likely, said Meredith Randall, Atlanta-based director of product management for Risk Sciences Group Inc.

"I think that may be a notion that has had its time," Ms. Randall said. While some insurers and others may resist the development of a standard for competitive reasons, others realize that they provide a more valuable service by giving their clients information that is easy to use, she said.

Approximately 25 representatives from RIMS, insurance companies, TPAs, technology vendors and other business partners attended the meeting in Chicago. New York-based RIMS has created a data standards task force subcommittee of its technology advisory council and has joined with the University of Georgia's science and risk management departments to explore the development of standards.

The society says its next step is to talk with other organizations, such as

ACORD, the Pearl River, N.Y.-based non-profit standards developer for financial services, that have experience in creating standardized formats.

While no specific format has been selected, RIMS is looking closely at one known as "extensible markup language," or XML. XML is similar to hypertext markup language, or HTML, which is widely used for Internet sites.

"That's the one we're getting more behind," Mr. Mandel said of XML.

But Lance Ewing, chairman of RIMS' external affairs team, said XML "could be construed as a double-edged sword. It has most of the things risk managers want, but there are questions on how it would apply across the board, or globally. Before most risk managers put their stamp of approval on it, they have some questions," he said.

Mr. Ewing, who is director of insurance and loss prevention at GES Exposition Services in Las Vegas, said that any standard will need to be flexible, able to "allow those exceptions—or curveballs, if you will—that are continually thrown to risk managers."

RIMS demonstrated its members' concerns regarding data standardization in the form of a recent survey.

Responses from 227 members indicated the importance they placed on several matters. For example, 115 members considered it critically important to have standard definitions of "paid," "reserve" and "total incurred" claim amounts.

The survey also included anonymous comments from respondents.

One comment read, "The insurance company or TPA records appear to have been created for their own use, rather than the customers they serve." Another RIMS member wrote that

consolidation of insurance companies and TPAs "has not produced better databases and (risk management information systems). Perhaps worse. Standardization is a step in the right direction. The banks are able to do it."

In Washington, RIMS was represented at a White House meeting that marked the start of the Clinton administration's efforts to encourage improved information security.

The meeting, hosted by the Altamonte Springs, Fla.-based Institute of Internal Auditors, drew about 120 participants. Speakers from the U.S. government, technology companies and other organizations stressed the need to protect computerized information from unauthorized use.

Ms. Meltzer called the meeting "a call to action" to address the issue of information security.

Andy Steggle, who is RIMS' director of information systems and who attended the meeting with Ms. Meltzer, said the theme that was hammered home was the "broad responsibility to make sure organizations and companies have the right security around their information." There was a lot of discussion, he said, about the "risk management surrounding information security."

The meeting kicked off a series of regional conferences that will begin May 15 in Dallas. Other conferences are scheduled for June 27 in Atlanta, July 11 in Chicago, August 12 in San Francisco and Sept. 19 in New York.

The Institute of Internal Auditors has accepted an offer by RIMS to assist in the regional conferences. "We're really excited," Ms. Meltzer said, explaining that representatives from the society will attend the meetings and offer risk management expertise on information security. **BI**

Frontier

Continued from page 1

Still on the block is the company's surety division, which generated \$96.4 million—or 16.9%—of Frontier's \$570.9 million in earned premiums last year.

A Frontier official declined to comment on speculation that the company will soon put United Capital Insurance Co., one of its best-performing units, up for sale.

"We are looking to sell certain properties," Executive Vp Richard Seyffarth said when asked about United Capitol.

The asset sales are part of a restructuring plan that also includes:

- Underwriting changes, including efforts to shed business that falls outside Frontier's core specialty property/casualty lines.

The insurer has also responded to its rating downgrades by arranging fronting and cut-through deals with Clarendon Insurance Group and NAC Re Corp. to support Frontier with policyholders who require A-rated insurers. The arrangements increase Frontier's costs but give it a chance to retain business it would otherwise lose.

- Closing small, non-core operations, including several reinsurance program and underwriting management units.

- Cutting expenses, including cutbacks in staff, travel and other expenses.

"While the company understands the concerns of Ernst & Young regarding our financial position, management believes the plan will address these concerns and support Frontier's ongoing viability," Frontier Chairman Jerry E. Goldress said in a statement regarding the auditor's "going concern" disclaimer.

President Mark H. Mishler reacted similarly to Friday's rating downgrade: "We believe we have taken the steps necessary to strengthen the company's financial position, and we will continue to execute our corrective action measures," he said in a statement. "Our policyholders continue to be protected, and we have arrangements and contingency plans in place to provide our agents with the support they need."

In light of the disclosures in the insurer's latest 10-K, though, Frontier may be running out of time to turn itself around, analysts suggest.

The rating downgrade to C++ from

B will not make it as difficult for Frontier to attract business as would a downgrade to B from A-, the minimum rating required by many policyholders, said Karen Horvath, an A.M. Best vp in Oldwick, N.J.

The downgrade, however, "really increases the urgency and need for them to sell assets to reduce debt and rebuild capital," Ms. Horvath said.

"It's really taken them kind of a long time to get this going," added Michael Dion, a research analyst with Hoefler & Arnett in San Francisco.

Along with speeding up asset sales, Frontier must start generating profitable business, he said. While the asset sales will help, "they really need to turn around the core operations as well," Mr. Dion said. "If they keep reporting large operating losses and reserve increases, it's not going to happen."

While the asset sales will help, 'they really need to turn around the core operations as well,' says Michael Dion.

Whether Frontier will be able to attract and retain profitable business in the wake of recent bad news remains to be seen, he observed.

"They can only do so much in order to survive, and there comes a point where it becomes tough for them to write good business," Mr. Dion said.

Frontier's 1999 10-K filing revealed more about what the insurer is up against than some analysts were expecting.

For one thing, the filing reported that Frontier's 1999 net loss would be \$45.5 million larger than the unaudited loss figure the company had released in February. The expanded loss included a \$15 million write-down related to the sale of Western Indemnity and Regency; a \$10 million write-down related to medical malpractice coverage written for State University of New York physicians; and a \$16.8 million reserve increase stemming from a change in accounting treatment of surety losses demanded by Ernst & Young.

The added losses came on top of underwriting results that were al-

ready bad enough. Last September, Frontier had to boost reserves for medical malpractice, general liability and auto claims by \$136 million. This followed a \$155 million reserve charge taken in late 1998.

In addition, Frontier last year issued performance and payment surety bonds covering three entertainment events, including a "Celebrate 2000" New Year's Eve party scheduled for the Jacob Javits Convention Center in New York. None of the three events came off as planned, and Frontier now faces \$38.5 million in claims under the bonds. The insurer has denied liability under two of the three bonds and has filed declaratory judgment actions, its 10-K reports.

Another of the 10-K's unpleasant disclosures was Frontier Insurance Co.'s failure to meet minimum NAIC risk-based capital standards, which measure capital adequacy in relation to the riskiness of an insurer's book of business. According to the filing, Frontier Insurance's risk-based capital at the end of last year placed it at the "authorized control level," which gives a state insurance department authority "to take whatever regulatory actions it considers necessary to protect the best interest of the policyholders."

These actions could include restricting the insurer's operations or placing it in rehabilitation or liquidation, the 10-K notes.

New York regulators, however, apply their own capital adequacy standards rather than follow the NAIC guidelines, and New York examiners are still assessing Frontier's risk-based capital under the state's own formulas, an Insurance Department spokeswoman said.

While other states that follow the NAIC guidelines could act to restrict Frontier—for example, by issuing cease and desist orders barring underwriting in their states—only New York could begin rehabilitation or liquidation proceedings, Best's Ms. Horvath noted.

Frontier has been in touch with regulators in states where it does business to describe the insurer's "corrective action plan," and the company is not aware that any states are planning regulatory action, Frontier's Mr. Seyffarth said.

"As long as the company keeps us informed about its financial condition and progress with its corrective action plan, we do not anticipate any action by any other states," the New York department spokeswoman said. **BI**

es April 19 but decided to delay its action until May 17 to give members time to study the proposal.

The delay came after union leaders representing state workers balked at the copayment increases.

CalPERS' decisions are often seen as harbingers for similar moves nationwide.

Its current plans for cutting costs, though, already have been adopted by many employers, which have been steadily adjusting their prescription drug copayment structures to encourage employees to purchase generic medicines and to order bulk prescription drugs by mail.

CalPERS studied its plan for a year before recommending it, the spokesman said.

Changing the plan design for drug benefit copayments is now a common move among health care purchasers, said Jim Mortimer, president of the Midwest Business Group on Health, a Chicago-based purchasing coalition with 90 employer members in 11 states.

Increasing the current \$5 copay per doctor office visit to \$10 would put CalPERS in line with typical copayment levels, Mr. Mortimer added.

The Midwest coalition does look to CalPERS as a bellwether for health benefit rate movements, because

CalPERS negotiates its contracts earlier in the year than many other purchasers.

"That is pretty good," Mr. Mortimer said when he heard of CalPERS' proposed increase of 4.9%.

Some observers, however, say that CalPERS' experience should not serve as a benchmark for plans nationwide, because California's delivery system differs considerably from those in other regions. Additionally, CalPERS contracts with several plans available only in California and a few Western states.

CalPERS is definitely seen as a leader, though, in negotiating HMO contracts, especially by employers that are located in California or that have employees in the state, said Kirby Bosley, principal and head of William M. Mercer Inc.'s health care practice in Los Angeles.

Her clients already are thinking this is the year they have to "bite the bullet" and make changes in plan designs to offset rising health care costs, Ms. Bosley said.

Some employers had hoped that CalPERS' nearly 10% average rate hike in 1999 was an aberration. But now, with CalPERS announcing a second year of rising rates, the trend is set, Ms. Bosley said. She expects

Updates

Enhance denies suit charges

Continued from page 2

In its statement, an Enhance spokesman says, "The theory of damage underlying Creditrus's lawsuit is strained and ridiculous." The statement also says the companies had no knowledge of the posting activities described in the complaint "and that any such activity would have been unauthorized and against company policy."

The companies said that it would have been against their own interests as a Creditrus insurer to damage the company. They also denied Creditrus's charge that they were involved in a scheme to hurt the company to help its own debt collection affiliate, Sherman Financial Group.

IRB Brazil auction postponed

RIO DE JANEIRO, Brazil—The Brazilian government's planned April 25 auction of a 45% stake in reinsurer IRB Brasil Resseguros S.A. has been postponed after auditors questioned the planned minimum bid of 502 million reais (\$282.7 million).

The auditors from a Brazilian accountancy court, which conducts audits of all government-owned institutions, were carrying out their annual review of IRB when they determined that the asking price was not appropriate, said Jose Almeida, general coordinator for reinsurance at SUSEP, the Brazilian regulator. He did not have further details.

The minimum bid for the IRB has been altered twice in the past month. The original price of 519.3 million reais (\$292.5 million) was first lowered to 482.6 million reais (\$271.8 million) and then increased again to 502 million reais (\$282.7 million) last week. The change in price was attributed to varying calculations regarding the amount of tax the IRB owed.

A new auction date has not yet been set, Mr. Almeida said.

Briefly noted

The Hartford Financial Services Group Inc. has appointed **David K. Zwiener** president and chief operating officer of The Hartford's worldwide property/casualty operations. Mr. Zwiener will retain his current position of executive vp and chief financial officer of The Hartford until a successor is found. . . **Daniel T. Cox**, chairman and chief executive officer of Aon Consulting Worldwide in Chicago, has left Aon to pursue other interests. Don Ingram, chairman of Aon Consulting of the Americas, is assuming Mr. Cox's title and responsibilities. In 1999, Aon Consulting ranked as the sixth-largest benefit consulting firm in the world, with \$576 million in gross benefit consulting revenues. . . **Crawford & Co.** reported first-quarter revenues of \$177.4 million, a 3% increase over the same period in 1999. Crawford's profits increased 5% to \$10.5 million. . . **Hilb, Rogal & Hamilton Co.** posted first-quarter revenues of \$67.0 million, a 33.3% increase from \$50.3 million for the comparable period in 1999. The figures for the period ended March 31 reflect the addition of revenue from American Phoenix Corp., acquired in May 1999. A 42.7% increase in commissions and fees was offset by "significantly lower net gains from divestitures," according to a statement from the Richmond, Va.-based broker. . . **Metropolitan Life Insurance Co.** has completed its tender offer for all outstanding shares of Conning Corp. common stock not already owned by MetLife. More than 5.3 million shares were tendered in MetLife's \$12.50 per-share offer. Those shares, in addition to the shares that MetLife already owns, represent approximately 98% of Conning shares. MetLife expects to acquire the remaining 2% of shares for \$12.50 per share through a cash merger expected to be completed shortly.

CalPERS

Continued from page 1

by an average of 18%. The 4.9% average increase in HMO rates is big improvement over average rate hikes for 2000 of 9.7%.

The key to the lower average rate increase is the proposed increase in copayments.

Without that increase, 2001 rate hikes for HMOs would average 8.6%, according to CalPERS. By raising copayments, negotiators for CalPERS would shave \$100 million from the demands made by its health plans for the 2001 benefit year.

Under the Health Benefits Committee's proposal, copayments for doctor office visits would rise to \$10 per visit from \$5, while pharmacy copayments would increase to \$10 each for brand-name drugs, compared with a previous copayment of \$5 each for all formulary drugs. Generic drugs would continue to carry a \$5 copayment.

CalPERS has not changed its copayment structure since 1993; in that period, though, pharmaceutical costs have doubled, the spokesman said.

CalPERS' Board of Administration was scheduled to vote on the committee's approval of the increas-

that many employers will continue to pass on higher costs on to employees.

While many employers have already focused on changing their drug benefit strategy to limit higher costs, CalPERS' move is broader, because it also is increasing copayments for doctor visits, she said.

Still, whether a \$5 increase will really reduce unnecessary doctor visits is questionable, Ms. Bosley said.

State employee unions last week criticized the proposed increase in copayments as unfairly shifting costs to the chronically ill, those who are most in need of medical attention.

CalPERS staff members responded, however, that through the implementation of higher copayments, 90% of its members who are enrolled in HMOs will save money through lower overall premiums.

CalPERS has found that 98% of those members who account for the top 5% of drug utilization expenditures currently pay top retail prices, rather than requesting generic drugs or using mail order prescription services to lower costs, the spokesman said.

In addition to the proposed plan design changes, CalPERS intends to launch an education campaign aimed at changing the prescription purchasing habits of members. The

organization already has provided such information in a member newsletter, and it has run public-service advertisements in videos it produces for member associations.

The video spots attempt to counter the effect of magazine and television advertisements that encourage consumers to request specific, expensive name-brand drugs from their doctors. The system's efforts to date have been informal "baby steps," however, the spokesman said.

"Now we are talking about shifting into high gear, with an organized multimedia campaign," he said. Exactly what form that campaign will take, how much will be spent on it and whether it will involve outside advertising in general media remains to be determined, the spokesman said.

Intensive planning for the campaign will take place this summer, he said.

For now, the rate increases proposed by CalPERS' Health Benefits Committee for 2001 by its various plans include but are not limited to: Maxicare Corp., 2.9%; CIGNA Corp., 2.1%; Aetna US Healthcare, 7.0%; PacificCare Health Systems, 3.2%; Kaiser Permanente, 4.8%; Blue Shield HMO, 6.9%; and Health Net, 5.4%. **BI**

FTR FOR THE RECORD

Excerpts from BI's Daily Online Updates, April 17-21, 2000

► **TPA DEAL SCUTTLED** Insurance holding company UICI's proposed \$120 million acquisition of HealthPlan Services Corp. has been called off. James K. Murray Jr., chairman and chief executive officer of Tampa, Fla.-based HPS, a managed care and claims services company, noted in a release that UICI's troubled credit card business was a factor in the decision to break off the planned sale. UICI, which in March announced plans to exit the credit card business, recorded a \$179.1 million loss from its credit card operations in 1999, which translated into a \$145.9 million loss for the company for the year. UICI declined to comment beyond issuing a one-paragraph release stating that both companies have mutually agreed to terminate the transaction. Had the deal been realized, the combined companies' third-party administration operations would have handled more than 20 million claims annually.



PHOTO: AP/WIDE WORLD

Daniel Rohrbough, left, who lost his son, Brian, in the Columbine High School shootings, confers with attorney Barry Arrington. Fifteen families have filed suits over the shootings.

► **COLUMBINE SUITS** Nine suits from 15 families were filed last week against the Jefferson County (Colo.) Sheriff's Department alleging that law enforcement personnel, among other things, inadequately investigated the Columbine High School shootings that occurred one year ago. One suit, filed by the family of slain student Daniel Rohrbough, alleges that the 15-year-old was killed by police gunfire, not by gunman Eric

Harris and Dylan Klebold. Sheriff's Department officials could not be reached last week. The shootings, which left 15 dead including the two gunmen, occurred April 20, 1999, at the Littleton, Colo., school. Sources in Colorado say that the Sheriff's Department is self-insured. It is represented by county attorneys who are refusing to comment during the week of remembrance. A 1983 Colorado statute grants immunity to public entities except for willful and wanton misconduct. The suits were filed in Jefferson County District Court and the U.S. District Court in Denver.

► **E-SIGNATURE LAW** Kansas has followed the lead of other states moving to facilitate electronic insurance transactions with the enactment of H.B. 2879, the Uniform Electronic Transactions Act. The law is designed to ensure that electronic signatures and records have the same legal status as written signatures and records. "Accepting electronic signatures on insurance policies is a recognition of how more and more consumers are buying products and services these days," said Joseph Termini, associate counsel of the National Association of Independent Insurers. "While this is a significant first step, much more must be done to remove other barriers to electronic commerce."

► **TRAVELERS GAINS** Higher commercial insurance rates helped increase first-quarter operating income by 14% at Travelers Property Casualty Corp. Excluding the effects of accounting changes, though, Travelers' net income fell slightly compared with the first quarter of 1999. Operating income for the first quarter of 2000 was \$369.1



million, up 14.1% from the comparable period last year. "The commercial lines market continues to improve, with incremental benefits from rate increases achieved last year flowing through to the bottom line," Jay S. Fishman, chairman and chief executive officer, said in a statement. Net income, which includes realized investment gains, increased 64.8% to \$330.5 million in the first quarter.

Excluding a one-time accounting charge of \$133.1 million in the year-earlier quarter, net income fell 0.9%.

► **HOLOCAUST RECORDS** The American Insurance Assn. and several insurers are suing to stop California Insurance Commissioner Chuck Quackenbush from enforcing a law requiring them to submit policy records related to Holocaust victims. About 20,000



Mr. Quackenbush

California Holocaust survivors and their heirs are seeking millions of dollars in potentially unpaid life insurance claims. Insurers were to submit by April 7 all records related to insurance policies issued to people in Europe from 1920 to 1945. But the majority of companies believed to have exposures are litigating the matter rather than submit the information, according to a Department of Insurance spokesman. Insurers that fail to comply face suspension of their state licenses, according to the department. Insurers, however, claim in lawsuits that the state relief act is preempting the federal government's regulation of foreign commerce. Therefore, the act violates insurers' constitutional rights to due process, according to a spokeswoman for the Washington-based AIA. The suits seek injunctive relief. U.S.-based units of the European insurers did not write any of the policies California is pursuing and they do not control those records, the spokeswoman said. The AIA, along with American Re-Insurance Co., filed one suit March 22 in the United States District Court in Sacramento, Calif. That lawsuit was filed on behalf of several insurers. A second suit was filed by Gerling Global Re-Insurance Corp. of America in conjunction with other Gerling units. The suits are similar and could be consolidated, the Insurance Department spokesman said.

► **NEW MARINE POLICY** The St. Paul Cos. Inc. is offering a unique marine insurance package that combines property and general liability coverages. The package is available

to ports, marinas, stevedores, ship builders and ship repairers. It includes coverage for traditional marine exposures as well as property, inland marine and crime coverages. Linda Bonet, assistant vp-global marine for St. Paul Cos., said in a statement that St. Paul believes it is the first U.S. insurance company to offer such a package. The package offers policyholders "seamless coverage" and benefits intermediaries who are able to complete a marine property/casualty placement with one insurer, Ms. Bonet noted.

► **GE PENSION HIKE** General Electric Co. says its decision to boost the pension benefit it pays to 134,000 company retirees is not related to protests by pensioners and labor unions. Workers who retired on or before June 1, 1997, and those who left the company with at least 25 years of service on or before that date are eligible for the increases, as are surviving spouses. A GE spokesman said the change does not reflect an automatic cost-of-living increase for retirees. "It's something we review periodically and make increases when we think they are needed," he said of increasing benefits for inflation. Retiree protests in several cities and pressure from labor unions also did not influence GE, the spokesman added. The increase is the sixth that Fairfield, Conn.-based GE has given pensioners in the past 20 years.



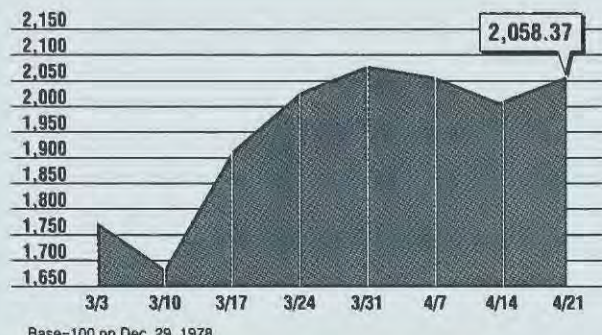
► **INFORMATION IN BRIEF** The St. Paul Cos. Inc. has completed its purchase of MMI Cos. Inc., a medical malpractice insurer. St. Paul paid \$192.3 million in cash for MMI and assumed \$165 million in MMI debt. ... American International Group Inc. will invest \$1 billion in General Atlantic Partners L.L.C., an Internet investment company, over five years. The investment will enable AIG and General Atlantic to build a "cutting edge" venture capital business, AIG Chairman and CEO Maurice R. Greenberg said in a statement. Separately, AIG last week launched a new Web site, www.aig-online.com, for its commercial policyholders. **BI**

Find daily coverage on Corporate Risk, Employee Benefit and Managed Health Care News at www.businessinsurance.com

BI Industry Stock Report APRIL 17, 2000, THROUGH APRIL 20, 2000

BROKERS						INSURERS/REINSURERS						HEALTH MAINTENANCE ORGANIZATIONS											
Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Year to date Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Year to date Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Year to date Vol.(000)			
Aon Corp.	NYS	26.13	1.70	-34.69	46.66	20.69	5410	Harleysville Group	NDO	15.63	5.93	9.65	20.88	11.63	36	Unitrin	NDO	32.75	-4.38	-12.96	42.38	30.50	285
Clark Bardas Holdings	NDO	13.81	2.79	-3.91	21.00	11.63	13	HSB Group Inc.	NYS	27.50	5.26	-18.67	42.25	21.50	597	UNUM Corp.	NYS	15.88	-2.68	-50.49	56.88	11.94	3537
E.W. Blanch Holdings Inc.	NYS	17.75	-2.41	-71.02	71.75	16.56	1090	HCC Insurance Holdings	NYS	11.13	-12.32	-15.64	25.13	8.00	530	Vesta Insurance Co.	NYS	4.94	0.00	27.42	7.88	3.44	195
Gallagher Arthur J. & Co.	NYS	32.94	2.13	1.74	33.25	23.00	805	ING Groep N.V.	NYS	55.88	-1.65	-8.40	63.94	46.81	298	XL Capital Ltd.	NYS	45.88	-5.05	-11.57	67.19	39.00	1156
Hilb, Rogal & Hamilton	NYS	28.25	2.03	0.00	29.13	17.00	24	IPC Holdings Ltd.	NDO	11.75	-2.08	-21.01	22.50	9.75	145	Zenith National Ins.	NYS	24.13	1.85	16.97	26.69	18.75	364
Kaye Group Inc.	NDO	6.25	-10.71	-25.37	11.88	5.00	12	Hartford Financial Services	NYS	47.44	7.20	0.13	66.44	29.38	3520	INSURERS/REINSURERS	AVERAGE		0.76	-6.76			
Marsh & McLennan	NYS	96.69	1.11	1.05	110.69	61.75	3142	John Hancock Financial Service	NYS	17.31	-7.05	1.84	20.13	13.44	6310								
Brown & Brown	NYS	38.69	0.65	0.98	40.63	30.38	53	LaSalle Re Holdings Ltd.	NYS	12.56	-1.47	-23.86	18.63	10.88	49								
BROKERS	AVERAGE	-1.20	-15.44					Lincoln National	NYS	33.25	5.77	-16.88	57.50	22.63	2171								
								MAIC Holdings Inc.	NYS	19.75	-3.07	-6.78	29.05	16.63	138								
								Markel Corp.	NYS	140.25	-3.19	-9.52	193.00	111.50	76								
								MBA Insurance Group	NYS	49.63	1.53	-6.04	71.88	36.31	1092								
								Meadowbrook Insur. Group	NYS	5.25	0.00	-20.00	15.31	4.75	15								
								MellLife	NYS	15.44	-3.52	8.33	17.25	14.25	21205								
								MMI Cos. Inc.	NYS	9.94	1.27	15.22	17.44	3.31	66								
								Mutual Risk Mgmt. Ltd.	NYS	17.00	-2.51	1.12	40.81	9.81	366								
								Navigator Group	NDO	10.00	-2.44	2.56	16.00	8.75	18								
								NYMag Inc.	NYS	14.13	-4.63	7.11	19.50	12.00	49								
								Ohio Casualty Corp.	NDO	15.88	0.79	-1.17	20.25	10.75	1121								
								Old Republic Int'l	NYS	12.50	-3.85	-8.26	20.69	10.63	1059								
								Partner Re Ltd.	NYS	35.63	-3.23	9.83	41.69	28.38	186								
								Penn-America Group Inc.	NYS	8.00	-1.59	3.23	11.06	6.63	54								
								PMA Capital Corporation	NDO	16.63	-1.48	-16.35	21.13	15.50	36								
								Philadelphia Cons. Holding	NDO	14.88	0.85	2.59	25.50	10.81	81								
								PXRE Corp.	NYS	15.13	0.83	16.35	21.25	9.94	9								
								Reliance Group Holdings	NYS	2.63	7.69	-60.38	10.88	2.31	1986								
								ReliaStar Financial Corp.	NYS	28.75	0.44	-26.63	49.81	23.75	1764								
								RenaissanceRe Holdings Ltd.	NYS	38.25	1.83	-6.42	43.19	30.00	195								
								Risk Capital Holdings	NDO	15.38	-1.01	21.78	17.38	11.00	25								
								RLI Corp.	NYS	31.88	-0.39	-6.25	38.81	26.25	31								
								St. Paul Cos.	NYS	30.69	2.29	-8.91	37.06	21.31	3878								
								SCOR	NYS	44.44	0.99	0.42	56.75	40.00	23								
								SAFECO Corp.	NDO	20.75	-9.78	-16.58	46.75	18.00	4849								
								SCPIE Holdings Inc.	NYS	29.75	0.63	-7.39	36.94	23.69	NA								
								Selbels Bruce Group	NDO	1.50	14.29	-14.29	6.25	1.31	17								
								Selective Ins. Group	NDO	18.88	9.42	9.82	22.50	14.63	167								
								Tokio Marine & Fire	NDO	51.25	0.49	-13.32	67.00	45.00	63								
								Torchmark Corp.	NYS	22.63	1.12	-22.15	38.00	18.75	1628								
								Transatlantic Holdings	NYS	81.56	-0.84	4.48	87.00	68.75	28								
								Travelers Property Casualty	NYS	42.00	0.90	22.63	42.00	27.69	4578								
								Trenwick Group Inc.	NYS	13.06	-4.57	-22.88	32.00	12.00	44								
								Unico American Corp.	NDO	5.88	20.51	-16.07	10.75	4.50	33								
								United Fire & Casualty	NDO	17.75	-3.73	-21.55	27.25	17.38	14								

BI Insurance Index



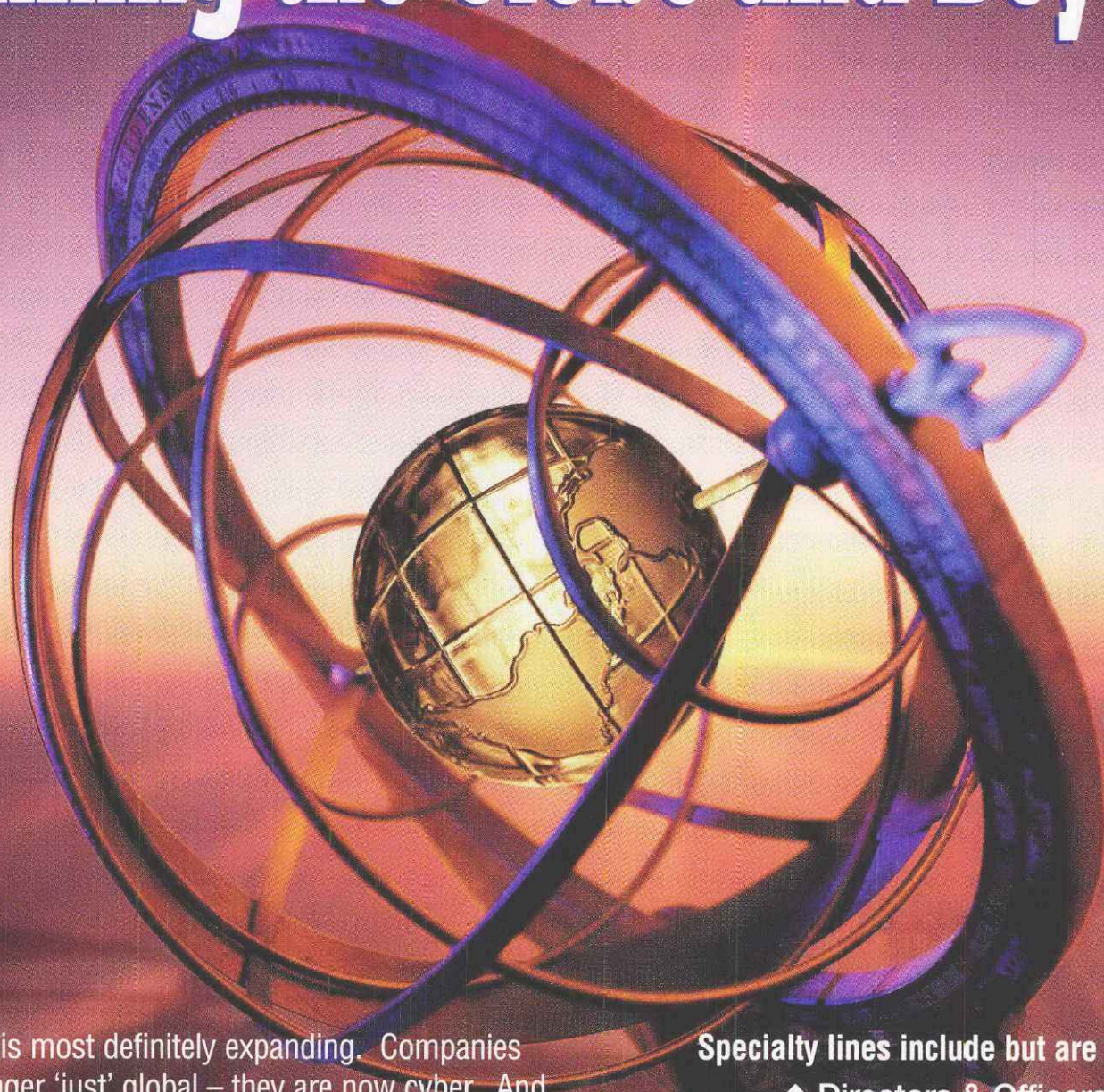
Base=100 on Dec. 29, 1978

Top advancing issues: Unico American Corp., Selbels Bruce Group, Foundation Health Systems Inc. Leading decliners: HCC Insurance Group, Kaye Group Inc., SAFECO Corp. Most active issue: Citigroup. The BI Index rose 2.5%; the Dow Jones 30 Industrials increased 5.2%; the S&P 500 went up 5.8%, and the NYSE Composite rose 4.6%. Average P/E: Brokers, 17.9; Insurers/reinsurers, 17.6; HMOs, 11.7

Source: CNET Investor (investor.cnet.com) Boulder, Colo.

Reliance National

Spanning the Globe and Beyond



The World is most definitely expanding. Companies are no longer 'just' global – they are now cyber. And as this world continues to expand into new frontiers, businesses need an insurance carrier who can travel at technology's pace, even remain one step ahead.

At Reliance National, our product portfolio combined with our reach - both on earth and in cyberspace - does just that...offers client's coverage to safely navigate on earth and over the internet. With offices in the U.S., Canada, Latin America, Europe, Southeast Asia, Africa, and of course, Cyberspace...we allow our insureds to target whatever part of the international business world they desire.

When looking for a comprehensive commercial insurance product portfolio, come to Reliance National...domestic, international or cyber...we reach all the right places.

Reliance National products and programs underwritten by Reliance Insurance Company, Reliance National Indemnity Company, Reliance National Insurance Company, Reliance Insurance Company of Illinois, Reliance Universal Insurance Company, and/or United Pacific Insurance Company.

Specialty lines include but are not limited to:

- ◆ Directors & Officers Liability
- ◆ Risk Management
- ◆ Excess Liability
- ◆ Professional Liability
- ◆ Healthcare
- ◆ Integrated Benefits
- ◆ Ocean Marine
- ◆ Petrochemical/Energy
- ◆ Property
- ◆ Construction

THE CHOICE



Reliance National

A Reliance Group Holdings Company

77 Water Street, New York, N.Y. 10005

<http://www.RelianceNational.com>

**For further information
write us or call (212) 858-6602**