

business insurance

update:

World Airways files suit after runway crash

BOSTON—World Airways Inc. is seeking \$75 million in damages from the Federal Aviation Administration and the operator of Logan International Airport in the Jan. 23 icy runway skid that wrecked a DC-10 wide-body jet and apparently killed two passengers.

The financially strapped carrier's claim
Continued on next page

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Reporting weekly for corporate risk, employee benefit and financial executives/\$1 a copy; \$40 a year

Beep! Beep!

Bellow of the bleep banishes bad backs

By EILEEN NORRIS

SAN FRANCISCO—Employees at Foremost-McKesson Inc. are electronically beeped when they lift heavy objects incorrectly.

But the lashing is in good taste and actually helps prevent pain.

The bleep comes from a beeping sensor that warns workers when they're lifting or bending the wrong way.

Foremost-McKesson, a multifaceted employer whose operations range from liquor distribution centers to wholesale drug warehouses to dairies, is bending over backward to try to school employees in back injury prevention.

Employee back injuries cost the company \$1.2 million last year in medical claims alone.



Cartoon: Milt Priggee

Such an out-of-pocket expense can really hit employers like Foremost-McKesson, which is totally self-insured in 25 of the 40 states it operates in and self-insured for the first \$200,000 in the remaining states.

On top of the \$1.2 million paid for injury claims is an estimated \$2 million that was spent in retraining costs, lost time and reduced productivity from back injuries.

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Fred S. James files suit charging takeover plot

By LEN STRAZEWSKI

NEW YORK—Fred S. James & Co. Inc., the nation's fifth-largest insurance brokerage, is charging two of its largest shareholders with conspiring to help a third party take over the corporation, according to a lawsuit filed last week.

The suit, filed in U.S. District Court in New York, says John A. Rathmell, vice chairman of Fred S. James & Co. of Texas Inc., and Thomas J. Ryan, former James president and chief executive officer, violated securities exchange reporting and anti-fraud regulations.

It alleges the defendants conspired with other shareholders and acquired more than 5% of James stock without filing Form 13D with the Securities and Exchange Commission.

The suit was filed by the law firm of Skadden, Arps, Slate, Meagher & Flom, considered to be the premier corporate takeover experts in New York. James' long-standing counsel in Chicago, represented on the brokerage's board of directors, is Bell, Boyd, Lloyd, Haddad & Burns.

Mssrs. Rathmell and Ryan, according to court documents, together own approximately 5.2% of outstanding James shares. The corporation's officers and directors, according to the firm's 1981 proxy statement, own only about 4.7% of outstanding shares.

The suit charges that Mssrs. Rathmell and Ryan had increased their James holdings in the open market and had contacted at least two other stockholders to suggest a joint effort.

"The avowed purpose of this unlawful dis-
Continued on page 43

Federal judge upholds 1980 multiemployer law

By JERRY GEISEL

READING, Pa.—A federal court judge here is the first to back the constitutionality of the 1980 federal law that gives multiemployer pension plans the power to demand enormous payments from employers who leave the plans.



Graphic: Amy Palmer

law is unconstitutional.

Judge Troutman is the first federal judge to deal in depth with the question of the constitutionality of the Multiemployer Amendments Act. Experts are quick to point out that this ruling came at the pre-trial stage, and the judge could still reverse his ruling.

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Changes in ERISA needed, federal pension chief says

By JERRY GEISEL

WASHINGTON—The new U.S. pension administrator says it is time to revamp the Employee Retirement Income Security Act not only to make the pension reform law more effective, but also easier to live with.

"The challenge is deregulating where prudent, but at the same time, regulate more effectively," says Jeffrey Clayton, administrator of the Labor Department's Office of Pension and Welfare Benefit Programs.

Changes in ERISA that the Labor Department is considering, Mr. Clayton told *Business Insurance*, include:

- Not requiring employers to distribute summary annual reports to pension plan participants. This lengthy document describes a plan's financial transactions during a year.

- "The SAR is of limited value. I have doubts about how helpful it is to the rank and file," he said. Instead of expensive mass distribution of the SARs, employers instead could post the document and make copies available to employees who request them, Mr. Clayton suggested.

- Reducing the number of questions asked on Form 5500, the annual financial reporting form em-

ployers with benefit plans file with the federal government. "We're examining the form to see if we really need all the information we are asking for," Mr. Clayton said.

- Making it easier for employers to attach amendments to their summary plan descriptions when they make changes to their benefit plans.

Although some of these changes have been proposed before and some would require congressional approval, the Reagan administration, after initially shying away from pension issues, is committed to making ERISA a better law, Mr. Clayton said.

"The administration is very interested in ERISA. ERISA issues once were dormant. That is no longer the case," Mr. Clayton promises.



Mr. Clayton

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Finally, it's final

The Environmental Protection Agency's on-again, off-again pollution liability insurance regulations for hazardous waste handlers are on again—and this time for sure.

The decision to mandate sudden and non-sudden pollution coverage was confirmed to BI by two high-ranking EPA officials, including EPA Administrator Anne Gorsuch's special assistant for hazardous waste. Story on Page 2.

And now, another idea

Now that the EPA has finally decided to make hazardous waste generators and disposers have insurance to clean up any pollution they cause, Rep. John J. LaFalce, D-N.Y., is introducing legislation to curtail the chance of pollution.

His bill would prohibit the landfill disposal of hazardous waste if alternative methods of disposal—like incineration or chemical treatment—exist.

This would reduce long-tail liability from gradual pollution at landfills, he says. Story on Page 2.

Graphic: Jim Bakasetas

update:

World Airways files suit

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against the FAA and the Massachusetts Port Authority is contained in its March 30 answer to a passenger suit filed in U.S. District Court here. It argues in a third-party complaint that the FAA failed to provide safe air traffic control on the night Flight 30 overran the runway on landing and rolled into Boston Harbor.

"We feel that the runway was kept open far too long in the face of rapidly deteriorating conditions," said a World lawyer.

Two of 208 passengers aboard are missing and presumed dead. Thirty-two passengers have filed injury claims and four lawsuits have been filed. World seeks losses for the \$48.5 million insured value of the aircraft, which has been sold for scrap.

It also asks for contribution or indemnity for loss of use and profits from the plane, salvage costs, passenger expenses and "the loss of World Airways' good-record credit for aviation insurance."

"We would show whatever increase in premium that they (World) would now be required to pay" if the matter goes to trial, said James F. Meehan, of the Boston law firm of Parker, Coulter, Daley & White, hired by World's insurers to represent the Oakland, Calif.-based airline.

Insurer's libel suit dismissed

CHICAGO—Cook County Circuit Court Judge Myron Gomberg last week dismissed all seven counts of a lawsuit brought against *Business Insurance* by Old Republic Insurance Co.

Ruling that the article was protected by the "innocent construction rule" that governs libel cases in Illinois, Judge Gomberg dismissed the three counts of the lawsuit that charged *Business Insurance* with libel and ruled that no amendment of those charges would be accepted. The innocent construction rule requires that articles that are capable of being construed in an innocent, non-defamatory manner, must be given that construction and be deemed non-actionable as a matter of law.

He also dismissed, without leave to amend, two counts charging the magazine with violation of Illinois and Kentucky insurance codes.

Two other counts, one charging tortious interference with prospective business advantage and the other charging violation of the Uniform Deceptive Trade Practices Act, were stricken. But Old Republic was granted 28 days from the March 29 rulings in which to file an amended pleading to attempt to state a good cause of action under those theories.

Old Republic had charged that a Nov. 17, 1980, article in *Business Insurance* regarding a regular triennial audit of the insurer by the Pennsylvania and Kentucky insurance departments contained false and defamatory statements. It had sought nearly \$300 million in damages.

Tennessee OKs captive bills

NASHVILLE, Tenn.—Tennessee now just needs the governor's signature to have new captive insurance company rules.

The Legislature has given final approval to a bill, S.B. 2304, that amends the state's 1978 captive law to allow pure captives—those controlled by a single company—to directly write all commercial property/casualty lines.

Currently, direct writing by captives has been limited to professional liability, errors and omissions and comprehensive general liability exposures (*BI*, March 29).

Under another approved bill, S.B. 1599, an employer that wants to charter a captive in Tennessee no longer would have to prove that adequate markets do not exist in the United States.

PBGC hike sent to Congress

WASHINGTON—The Pension Benefit Guaranty Corp.'s board of directors last week said it would submit a proposed hike in pension termination insurance premiums to Congress for approval (*BI*, March 29).

Under the proposal, the premiums would rise to an annual \$6 per plan participant from \$2.60, a 131% increase. Congressional approval is expected.

CG/INA meet merger deadline

Connecticut General Corp. and INA Corp. jointly say they have completed their merger into a new company known as CIGNA Corp., effective April 1 as originally planned. The shares of each company were acquired by the new parent and the parent's stock will now be traded on all major exchanges, they added. The merger was approved by insurance regulators in Connecticut, Pennsylvania and other states in which the companies are admitted.

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This is it: EPA will stick with pollution cover rules

By JOHN W. MILLIGAN

WASHINGTON—It's final: Companies that generate or dispose of hazardous waste will need pollution liability insurance.

But the federal Environmental Protection Agency again is going to give them more time to comply with the rules and also will allow self-insurance.

Changing its position for the second time in less than six months and just a week before published rules were to take effect, the EPA has decided it will enforce the insurance rules first proposed in December 1978 for sudden and gradual pollution.

This has been confirmed by two high-ranking EPA officials, including Whit Field, special assistant for hazardous waste to EPA Administrator Anne M. Gorsuch.

The decision to keep the pollution coverage rules follows months of confusing delays. The EPA first postponed the regulations in October 1981 and then, after stating publicly last fall that it would drop the rules altogether, stalled on publishing an official notice needed to get hazardous waste handlers out from under the gun.

The final turnaround to mandatory liability insurance is due to the "overwhelming support" for the requirement by generators and disposers of hazardous waste, state regulators and environmental groups, according to a second EPA official who asked not to be identified. He said Administrator Gorsuch has received mail "9-1 against

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Bill would ban disposal of wastes in landfills

WASHINGTON—A New York congressman wants to ban the disposal of hazardous wastes in landfills if other treatment alternatives exist.

Such a law would reduce long-tail liability for pollution risks for many waste generators and disposers, some experts say.

The Hazardous Waste Disposal Act of 1982, introduced by Democratic Rep. John J. LaFalce, whose congressional district includes the Love Canal waste disposal site, specifically would:

- Place an immediate and permanent ban on the disposal of all liquid hazardous wastes at landfill sites.

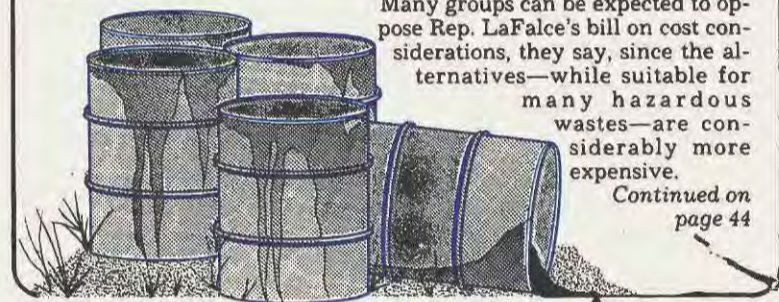
The federal Environmental Protection Agency recently reinstated a ban on the landfill disposal of all containerized liquid wastes (*BI*, March 8).

However, the agency has also proposed that landfill operators be allowed to dispose of such wastes as long as they do not exceed 25% of the site's capacity.

- Prohibit the disposal of all other hazardous wastes where "technologically feasible and reasonably available alternative means of treatment or disposal exist."

The bill is especially directed at wastes that have the ability to penetrate a disposal site's clay or synthetic membrane liner and do environmental damage.

The bill's key terms, experts say, are "technologically feasible and reasonably available" alternatives, such as incineration or chemical treatment.



Many groups can be expected to oppose Rep. LaFalce's bill on cost considerations, they say, since the alternatives—while suitable for many hazardous wastes—are considerably more expensive.

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Agent Orange maker asks court for Keene ruling, too

By JERRY GEISEL

WASHINGTON—For the third time in less than a month, a manufacturer is asking a federal court in Washington to grant it the broadest possible interpretation of insurance coverage for long-latent injuries.

Hercules Inc., a major chemical manufacturer, is asking a U.S. District Court to decide how its primary liability insurer should pay for the cost of defending claims for injuries allegedly caused by the herbicide Agent Orange used in the Vietnam War.

The suit, filed against Aetna Casualty & Surety Co., will be the third test of whether a landmark decision in the District of Columbia Court of Appeals involving insurance coverage for asbestos claims applies to other long-latent disease claims.

That court ruled last October in Keene Corp. vs. INA that all of a manufacturer's insurers from the time a claimant is exposed to asbestos through diagnosis of an injury are liable for damages paid to claimants (*BI*, Oct. 12, 1981). The Supreme Court recently let stand the triple-trigger decision (*BI*, March 15).

That appellate ruling, which reversed the trial court,

vastly broadens insurance coverage available to Keene Corp. of New York.

The first attempts to have the Keene decision applied to other suits involving long-latent disease claims came in suits filed last month by Eli Lilly & Co. and E.R. Squibb & Sons, manufacturers of the anti-miscarriage drug DES, against their insurers (*BI*, March 22). Those suits also were filed in federal court in Washington.

Like Lilly and Squibb, Hercules' attorneys confirmed that the favorable Keene ruling influenced its choice of court for filing the lawsuit against Aetna.

In fact, attorney Jerold Oshinsky, who represented Keene in its battle against its insurers, also is representing Hercules.

Hercules, based in Wilmington, Del., is one of several chemical manufacturers that is facing hundreds of product liability suits filed by veterans who say their exposure to the herbicide Agent Orange during the Vietnam War has caused a variety of disorders including cancer, personality changes and birth defects in their children and stillbirths.

The manufacturers, aside from Hercules, include

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Expanded computer policy offered

By STEPHEN TARNOFF

EVANSTON, Ill.—A computer crime policy is now available in the United States market, knocking out Lloyd's of London's monopoly and broadening the coverage beyond financial institutions.

Shand, Morahan & Co. Inc., an Evanston, Ill.-based underwriting manager, is now offering a policy covering losses due to unauthorized access to a company's computer systems.

It's the first United States market to offer the coverage, which is not identical to the recently developed Lloyd's policy.

While the Lloyd's computer crime policy is available only to financial institutions such as banks (*BI*, Nov. 16), the Shand policy will cover any company that relies on computers, including securities brokerages, law firms, savings and loans, collection agencies and

manufacturers.

"We're the only ones offering the coverage (for all companies)," says Eileen Gerharz, who researched and developed the coverage for Shand. "We are the first to my knowledge."

The policy covers losses, suffered by the policyholder and third parties, resulting from unauthorized access to a data processing system, Ms. Gerharz said. Currently, the maximum limit of coverage is \$10 million, but that likely will be increased.

The policy does not require the intruder to have a manifest intention to enter the system to obtain financial gain, Ms. Gerharz adds. For example, damage to the system as a result of a prank would be covered.

The policy covers occurrences anywhere in the world, but coverage for defense costs incurred in litigation with third parties claiming damages are covered

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Asbestos claims: The debate goes on

By STEPHEN TARNOFF

CHICAGO—They've only just begun to fight.

And anyone involved in the battle over who will pick up the tab for asbestos-related injuries better stop now and replenish supplies—the battle will be a long one.

Leslie Cheek, vp for federal affairs for Crum & Forster, says the battle of lawsuits among asbestos makers, their primary insurers, their umbrella and excess carriers and any reinsurers will continue five to 10 years.

"The battle over insurance coverage has really just begun," he said, referring to the court battles and decision of recent years as only the first volley.

"No matter what the outcome, it will be a major embarrassment to the insurance industry," he adds.

And there's no way matters will be resolved outside the courts. The difference in the various coverage theories could mean the difference of millions of dollars for an insurance company, he said.

Mr. Cheek was one of four insurance industry spokesmen who participated in an asbestos litigation conference March 22 and 23 here sponsored by Law & Business, a subsidiary of the publishing firm Harcourt Brace Jovanovich. The others were Talmadge Neece, vp and staff counsel for broker John-

son & Higgins; William Bailey, vp and claims counsel for Commercial Union Insurance Co.; and Floyd H. Knowlton, vp of the casualty, property and claims department at The Travelers Insurance Cos. Commercial Union and The Travelers are insurers for some of the major asbestos manufacturers.

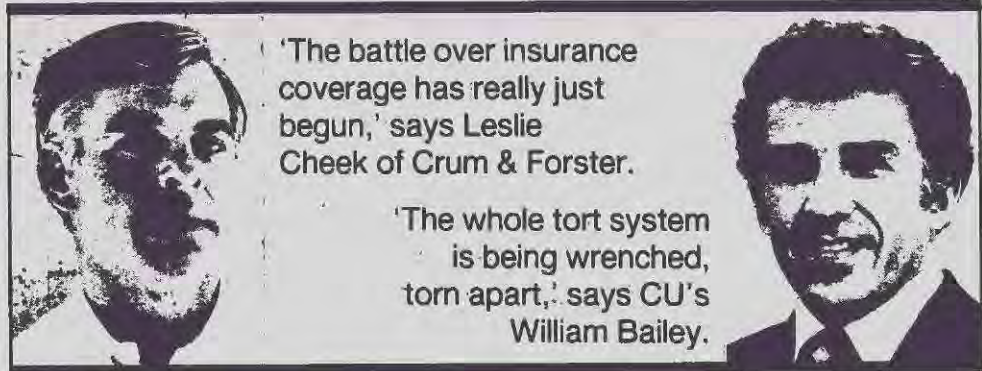
They all agree it will be a long battle to strike a financial solution for asbestos or any other long-latent disease claims. And, they say the worst of the fighting probably is not over for asbestos.

Before it does end, the nation's insurance industry and the legal system could be scarred, some of them predict. The blows already are having such impact that the insurance industry is rethinking the writing of policies that could be called on to cover long-latent injuries, they point out.

"Is there going to be a solution to this at all?" Mr. Neece of Johnson & Higgins asked rhetorically. "Frankly, I doubt it."

Already an estimated 16,000 plaintiffs in 10,000 cases are suing asbestos manufacturers and suppliers who in turn are expecting their insurers to pick up the tab, said Wendell B. Alcorn, Jr., conference chairman. Others, however, place the number of plaintiffs as high as 45,000.

These claims in turn have sparked about 25 lawsuits between insurers and their policyholders over whether the language in insur-



'The battle over insurance coverage has really just begun,' says Leslie Cheek of Crum & Forster.

'The whole tort system is being wrenched, torn apart,' says CU's William Bailey.

ance policies written decades ago should be construed to provide coverage today.

So far, courts around the country have come up with three approaches to delineate insurance coverage for asbestos-related injuries—the exposure, manifestation and triple-trigger theories.

Under exposure, insurers on the risk at the time the worker was exposed to asbestos are held liable. With manifestation, coverage is triggered when the long-latent disease is discovered in the victim.

Recently, a third theory that triggers coverage during exposure, latency and manifestation of the disease has been upheld.

Depending who is asked, the blame for the

tangle of asbestos litigation goes to the courts, the plaintiffs' bar, the federal government, the tobacco industry or the insurance industry.

Mr. Cheek blamed the insurance companies because of unclear language in insurance contracts that makes more than one interpretation possible. But he levels much criticism on the courts for "their wholesale construction of contractual relationships."

The courts have "done irretrievable damage" to relationships in the insurance industry that have existed for centuries, he said.

The long-term implications could be changes in the comprehensive general liabil-

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Air Florida's coverage costs rise after Washington crash

By STACY SHAPIRO and BILL DENSMORE

LONDON—Air Florida Inc., facing at least 22 lawsuits since its Flight 90 crashed into the Potomac River in Washington in January, is paying at least \$790,000 more this policy year for insurance, London insurance industry sources say.

London and U.S. sources also say the carrier has shifted a bigger portion of its \$500 million in comprehensive hull/liability coverage to U.S. markets, but they interpret the move differently.

The Jan. 13 crash that killed 76 came as the airline's broker Fred S. James & Co. was negotiating the Feb. 1 renewal of Air Florida's coverage from the broker's Miami and Dallas offices.

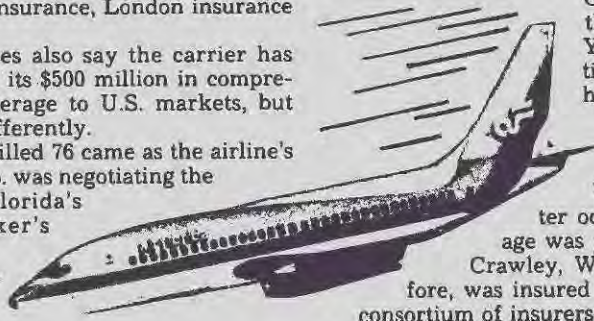
The coverage in the London market, which is still brokered in London by Crawley, Warren & Co. Ltd. and in the U.S. by James, now costs \$5.07 million compared with \$4.28 million before renewals. This is to cover a fleet devalued from \$630 million to \$576 million, said one of Air Florida's reinsurers.

U.S. sources would not reveal how much, if any, the U.S. premiums were raised.

The 18.5% premium hike for the London coverage most likely prompted the move to place more of the risk in the U.S. market, London sources speculated.

The hike is based partly on the \$12 million hull loss from the Jan. 13 crash and passenger claims that could range from \$25 million to \$40 million (BI, Jan. 18).

But one U.S. source involved in the placement of the insurance said the airline probably wanted to shift its claims lead closer to home—from the British-based Orion Insurance Co., under the old coverage, to the New York-based Associated Aviation Underwriters, which now has the lead.



Air Florida and Fred S. James officials declined comment.

When the Washington disaster occurred, Air Florida's coverage was placed 95% overseas through Crawley, Warren. The total loss, therefore, was insured by this single policy with a consortium of insurers—5% with Aviation Office of America Inc. in Dallas (part of Crum & Forster), 25% with La Reunion Aeriene in France and the rest with Lloyd's and London companies led by Orion.

As of Feb. 1, Air Florida has cut the Americans out of the Crawley, Warren-placed consortium and given them a greater direct percentage. The AOA now insures 7.5% of the hull and liability, while AAU takes 15%, brokers Crawley, Warren confirmed. La Reunion keeps its 25% cut, but the London market—still led by

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Judge allows Sedco to try to limit its liability in oil spill

By STEVE SHERWOOD

HOUSTON, Texas—Sedco Inc.'s liability in the world's worst oil spill could be limited to \$350,000, following a precedent-setting ruling by a U.S. District Court judge here.

The Dallas-based exploration company is named in lawsuits seeking almost \$400 million in damages following the 1979 Ixtoc I oil spill off Mexico's Yucatan Peninsula.

Located in the Bay of Campeche, Ixtoc I blew out June 3, 1979, leaving the oil well, which once produced 30,000 barrels of oil a day, flowing for nine months before it could be capped.

Spillage fouled beaches, inlets and fisheries all along the Texas coast.

In a summary judgment March 30, Judge Robert O'Connor ruled that the semi-submersible SEDCO 135 rig used in drilling of Ixtoc I is a "vessel." Under maritime law this designation entitles Sedco to attempt to limit its liability in the blowout to the destroyed vessel's post-spill value of about \$350,000. The rig originally cost \$35 million to build, sources say.

Although semi-submersible rigs have long been considered vessels in other legal cases involving maritime law, Judge O'Connor is the first to use the designation to apply the Limitation of Liability Act to an oil rig. The act limits a vessel owner's pollution liability to the vessel's value after a spill.

While the ruling itself sets a precedent, Judge O'Connor says, it only allows Sedco to pursue the limitation. Whether it succeeds will depend on further litigation.

The \$400 million in lawsuits, that were filed in September and October 1979 and later consolidated in Judge O'Connor's court, also

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Insurers 1981 results: More bad news

By BILL DENSMORE

NEW YORK—The news is bad, but still not bad enough to force a change.

That's what the year-end results of 22 major property/casualty insurers surveyed by *Business Insurance* show.

Almost all the insurers reported big underwriting losses that were more than offset by investment income gains. And the analysts asked to comment on the figures reiterated that the current commercial lines underwriting cycle, especially in casualty sectors, will not turn soon.

"It does look like personal lines rates have turned, but commercial rates have not and commercial casualty rates probably won't for a year or so," says Robert V. Brokaw, a senior analyst with Mabon Nugent & Co. in New York, a specialty stock brokerage.

Commercial property rates, particularly in multiperil lines, may begin to firm in the third quarter and "go up at an annual rate compared with inflation of 3% to 4%," Mr. Brokaw adds.

The industry's written premiums grew 4% between 1980 and 1981, down from 6.5% from

1979 to 1980, according to the Insurance Services Office. "It's the slowest compared with inflation that premiums have grown since World War II," adds Mr. Brokaw, who points out that losses also grew slowly.

It's the same old story, the analysts say. Investment income is keeping insurers in the black despite huge underwriting losses. The squeeze on the bottom line will tighten later this year, they add, but not enough to produce a sudden surge in rates.

"They can continue to maintain their earnings by under-reserving and by investment income gains," says Herbert E. Goodfriend, a vp and senior analyst with Bache Halsey Stuart Shields in New York, which is owned by Prudential Insurance Co.'s Pruco subsidiary.

In a nutshell, the *BI* survey reports:

- The 22 property/casualty insurers posted an average 4.1% increase in net operating income during 1981 over 1980.

- That increase was made possible by an average 17% jump in aftertax investment income, which more than offset a 58% hike in pretax underwriting losses. Net operating income averaged about 5.9% of revenues, the

survey shows.

- Pretax underwriting losses totaled \$2.35 billion in 1981, up from \$1.48 billion in 1980, an additional loss on paper of \$860 million. At the same time, aftertax investment income rose to \$4.49 billion from \$3.84 billion in 1980.

- The combined ratio for the insurers averaged about 105.3% after dividends paid to policyholders, up from 103.0% during the previous year. Thus, for every \$100 the 21 surveyed companies earned in premiums during 1981, they incurred about \$105.30 in underwriting losses and expenses.

Analysts said the combined ratio for the entire industry was approximately 106%, an increase from 104% last year. They predict that the industry's combined ratio will surge even higher during 1982—probably around 108% but perhaps as high as 111%.

"Underwriting will stay in the red for the rest of the decade," predicts Joseph H. Dowling, first vp of Drexel, Burnham Lambert Inc., who follows the insurance industry from his firm's Westport, Conn., office. "The euphoria of the late 1970s when more than one management swore to Wall Street that it wouldn't go into the (rate) depression of 1973

has been erased."

Bache's Mr. Goodfriend noted that first-quarter 1982 combined ratios have already been reported by The Hartford Insurance Group at 114.4% and by Aetna Life & Casualty Co. at 113.6%. Those compare with fiscal 1981 figures of 109.3% and 112.1%, respectively.

One analyst thinks there's another force besides interest rates acting to keep rates stable and competition fierce.

"Several chief executives feel the cycle is not being driven by high interest rates but rather by the need of some second-tier insurers to continue to generate a positive cash flow," says Allerton Cushman Jr. of Morgan Stanley & Co.'s New York office. "The general view of (insurance company) chief executives is that it has been a very rough first quarter."

Indeed, five different winter storms produced \$343.9 million in insured catastrophe losses for the industry during January—more than double the previous high of \$163.5 million set in January 1979. Worse still, the \$343.9 million figure equals half the catastro-

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Michigan comp bill step in 'wrong' direction?

LANSING, Mich.—Sometimes good intentions get lost in the legislative maze.

In Michigan, a bill was recently introduced intending to deny workers compensation benefits to employees injured or killed on the job if the worker was pursuing social or recreational activities at the time of the incident.

But an amendment added to the bill and approved by the House Labor Committee March 12 may in fact make it easier for injured workers or survivors to collect from the system, says Michael Gillman, chairman of the Workers Compensation Appeals Board in Michigan.

"The amendment appears to represent the opposite direction of what was intended," he said, adding that he wrote a letter to the

around the states

chairman of the Labor Committee that pointed out the inadvertent error.

The bill said if a worker's injury resulted from primarily recreational activities that were "slightly" work related, he or she should be denied benefits.

But the amendment, intended as a compromise to Michigan's strong labor movement, said that if an employee were involved primarily in a recreational activity that was "partially" work-related, he or she would be awarded workers compensation benefits.

Mr. Gillman says the amendment could be interpreted to offer the worker more protection than in-

tended and open the door to more recreation claims.

"I'm an administrator, so I'll administer it, but I think this amendment may make it easier for traveling employees who aren't working at the time of their accident or injury to file for benefits," said Mr. Gillman.

The proposed H.B. 5252, which is before a Senate committee, stems from an infamous case in Michigan in which benefits were awarded to the widow of a man who suffered carbon monoxide poisoning while having sex with a co-worker while on assignment in London (*BI*, June 29, 1981).

The Michigan Chamber of Com-

merce called the case "outrageous" and said it gave the state "a black eye."

A 37-year-old project engineer for GKN Automotive Components Inc. of Birmingham, Mich., collapsed March 23, 1979, in a co-worker's London flat after the two had sexual relations near a faulty space heater.

The woman recovered, but Domenico Signorelli lapsed into a coma and never regained consciousness.

His employer of two months has appealed the award, which could total as much as \$150,000, but the Workers Compensation Appeal Board won't hear the case for at least a year because of a backlog of cases, said Mr. Gillman.

In the meantime, the widow has been receiving 70% of the weekly

award since the judge's ruling in December 1980.

There also was a move by the Board of Michigan Businessmen, a coalition of 900 member businesses, to oust Administrative Law Judge Leo J. LaPorte from the bench after he awarded Mr. Signorelli's family benefits, but BOMB never got that movement off the ground, said Bernice Clark, the group's founder.

In ruling on the case, Judge LaPorte said the deceased's work assignment in England, where he was assigned for training purposes, "exposed him to situations and hazards that were different in nature and degree than those found in Michigan."

"Man is by nature a social creature. It is not reasonable to expect that an employee who is on assignment in a distant land will simply stare at the walls of his hotel room after work."

Under Michigan law, Mrs. Signorelli and her two children are eligible to receive \$167 a week for up to 500 weeks and burial benefits. The children also are eligible to receive benefits after the 500 weeks until they each reach 21.

Work comp rate cut

BOSTON—The Massachusetts insurance commissioner has approved a 10% retroactive workers compensation rate reduction for some employer groups and increased it 10% for others, after it was discovered rates were miscalculated.

Commissioner Michael Sabbagh approved the retroactive revisions, some back to January 1981 and others to this January, after the Construction Industries of Massachusetts complained that the factors used in figuring the rates were unfair, excessive and discriminatory to the construction and manufacturing industries.

The miscalculation apparently resulted from a lack of information at the time the rate requests were filed and later approved, said Howard Mahler, director of the state rating bureau.

County criticized

MINEOLA, N.Y.—Two groups of insurance agents and brokers have criticized Nassau County's decision to bypass the agency system and invite insurers to submit direct bids in the hope of reducing its property insurance costs (*BI*, March 22).

The president of the Insurance Brokers' Assn. of the State of New York Inc., William D. Pringle, said that Nassau County's approach to insurance buying could turn out to be counterproductive.

He explained that brokers work in a competitive market where obtaining the best coverage for the lowest price is the primary objective.

Mr. Pringle also said the county's plan could cost it money since it would have to hire professionals to provide services normally offered by agents or brokers.

The Professional Insurance Agents of New York had earlier criticized the plan.

The county, located on Long Island, is seeking a direct underwriter of a \$100 million blanket property coverage for more than 300 facilities, including the Nassau Coliseum, home of the New York Islanders hockey team. The total estimated value of the property is \$864.8 million.

The county's insurance analyst, Stephen J. O'Connell has said the county is not trying to bypass the agent/broker system and would work through an agent or broker depending on the winning insurer's desires.

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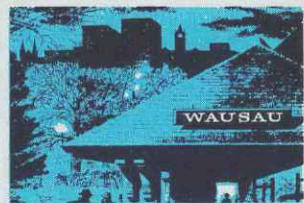
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editorial opinions

Bleeping back problems

We think it's one *bleep* of an idea.

Foremost-McKesson Inc. in San Francisco and Consolidated Foods Corp. in Chicago equip their workers with electronic sensors that *sensor* workers' movements and beep out loud if they are about to lift something the wrong way.

A bad bend gets beeped.

As Associate Editor Eileen Norris reports on Page 1, it's a novel approach to reducing the nagging problem of on-the-job back injuries and the painful costs those injuries slap on employers through workers compensation programs.

The loss-control manager at Foremost-McKesson figures his company can save \$500,000 in medical costs over the next two years by using the sensors in conjunction with a total back education program.

The idea behind the beeping black box, which is small enough to fit in a shirt pocket, is to make the employee aware of how many times he bends the wrong way or lifts incorrectly and to stop him before he can hurt his back.

Acting as a constant guardian angel, the beeper keeps the worker on the right track, not letting him veer back to his bad habits.

But unlike the imaginary guardian angels of grade school days, the sensor doesn't whisper in your ear. It bellows its beep for all one's fellow workers to hear.

And, speaking from experience, that is what we think makes it such an effective tool.

No, we don't have a back injury program in the *Business Insurance* newsroom, where the editors and reporters seldom lift anything heavier than their fingers to a keyboard or a phone to their ears. But we understand the cruel effectiveness of loud beeps and beeps in training programs.

Our introduction came last year when we converted to an electronic editing system, filled our newsroom with video display terminals—machines very similar to typewriters with television screens attached—and pushed our typewriters into corners and buried our pencils in drawers. The VDT is an efficient tool and probably the nicest thing an editor or reporter could have—if it just didn't beep.

Yes, our VDTs beep when we make an error while using them. And even with phones ringing off the hook and reporters and editors talking, the beep penetrates across the room to everyone else's ears.

After a year with our electronic system, a single beep is easily forgiven by co-workers and routinely overlooked.

But if an editor or reporter is clearly asking his VDT to perform a feat as impossible as lifting a 100-pound box without bending your knees, the terminal beeps and beeps until it annoys everyone. And the wisecracks that follow make you want to learn the right way—fast.

We agree with Foremost-McKesson and Consolidated Foods that it is a *bleep* of a good way to teach.

letters

Cutting employers' health care costs

To the editor: William E. Hembree's Perspective article, "Sharing medical costs with workers may not curb health care inflation" (*BI*, March 8), is correct from his point of view. Increasing deductibles and discontinuing stop-loss provisions will cause more harm than good.

Medical plan cost containment cannot be accomplished by penalizing the employee who depends upon his or her employee benefits program to save them from financial ruin because of excessive medical bills.

As long as there are no controls on medical service costs, the charges are going to continue to escalate.

I contend that each employer can reduce costs by eliminating non-contributory plans. Because of this advice, our office has seen dramatic changes in participation of employees in the programs we administer. Why do employers continue to provide non-contributory coverage to employees and dependents?

By eliminating non-contributory coverage totally, an employer should find a reduction in participation of possibly 25%. An employee is not going to voluntarily waive his or her benefits if they are non-contributory, but they will waive them if they are being charged a percentage of the cost if their spouse has coverage or they themselves have other benefits from another source.

Even if the employees who have benefits available from another source elect to remain in the employer's plan, the employer still has the current savings because of the employee contribution.

I believe that many employers who are eligible for benefits elsewhere will remain in the plan because they live with the fear that their spouse may terminate their employment and the benefits would be lost, as I explained in a recent Perspective article (*BI*, Dec. 14, 1981).

My problem in discussing this partial solution with benefit managers is that we are discussing decreasing take-home pay for this person as well; but they should see this as a far better way to reduce costs

than by reducing benefit levels in current plans. An employee can stand a reduction of \$15 a week in take-home pay if he is assured that he will never have a medical bill that could ruin him.

Mel Paul

Employee benefits manager
Nelson Charlmers Inc.
Teaneck, N.J.

Quake coverage

To the editor: I have expressed the opinion that less than 10% of the residential, business and industrial properties in California carry earthquake insurance, but this may be wholly inaccurate (*BI*, March 22).

Despite the reporting requirements to the California Insurance Department, I doubt whether anyone really knows how much earthquake insurance is written in the state, keeping in mind that non-admitted insurers do not have to report. There also may be domestic insurers that are not reporting accurately because they do not understand how to report.

Also, I'd like to add that large multinational corporations have little trouble getting earthquake insurance at low cost, but this does not mean what is provided is adequate.

While the earthquake rates are probably the lowest I have ever witnessed, it does not mean that the public is responding. We wrote more earthquake when the market was tight and the rates were high. I guess you might say that when there is a shortage of capacity, everybody wants in on the action.

As our economy winds down, we are seeing insureds drop coverages like earthquake insurance.

H.P. Schlander

Global Surplus Insurance Services Inc.
Los Angeles

Group term life debate

To the editor: Once again I must take exception with Richard Duffy's argument regarding the potential advantages of buying individual term insurance in lieu of group term insurance.

His statement in his letter (*BI*, March 15) is not technically correct. He said, "If an individual 40-year-old man is going to

incur a tax of \$276 because he has \$150,000 of group life, then theoretically the \$276 is listed as additional income."

Table 1 (Reg. 1.79-3(d)(2)) derives the economic value of group term insurance above \$50,000 and not the tax. Therefore, if he had used "on" instead of "of" in his statement, there would be some merit to what he said. However, I again point out that his isolated argument is predicated on the most favorable assumptions, without considering the aspects of increasing individual renewable term rates, mode of payment and the guaranteed issue aspects of group term insurance.

Gregory Hare

Employee benefit specialist
John L. Wortham & Son
Houston

Preferred provider plans

To the editor: "Preferred provider plans" (*BI*, March 8) can cut medical costs if employers or insurers screen the discounted bills for medical necessity and appropriateness of treatment. Without such screening, employers may be surprised when their health care costs continue to escalate at the same rate because providers have recovered those discounts by overutilization of services.

"Insurers differ on what is 'reasonable'" (*BI*, March 8) states that without an R&C schedule, insurers usually pay whatever a hospital charges for room and board and ancillary fees. In the same issue, "Auditors check for hospital billing errors" comments that "hospitals are paid as they have billed."

Thus, if every line of ancillary services isn't reviewed through parameters established for medical necessity, discounts will be wiped out. Errors that are only discerned through a line-by-line review impact the savings that can be realized.

Samuel X. Kaplan

U.S. Administrators Inc.
Los Angeles

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Published weekly at 740 Rush St., Chicago, Ill. 60611. Offices: 220 East 42nd St., New York, N.Y. 10017; Suite 515, National Press Building, Washington, D.C. 20045; 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 5327 N. Central Expwy., Suite 200, Dallas, Texas 75205; 25 Bedford Square, London WC1B 3HG, England. \$1 a copy. \$40 a year in U.S. Canada and all other foreign add \$14 for surface mail. Europe and Middle East only add \$35 for air delivery. First-class mail to U. S. and Canada only, add \$50. WILLIAM STRONG, vp-circulation. DIANE WALSH, circulation manager. ROGER DIGREGORIO, fulfillment director. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Dept., Business Insurance, 740 Rush St., Chicago, Ill. 60611 or phone 312-649-5221. Telex 25-4248; Cable CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.



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Thinking in a different dimension.

Ford thinks savings plan is a better idea

Ford Motor Co. is offering some of its employees a new investment savings plan that functions as a money market mutual fund.

The new benefit, the Ford Money Account, which is being offered to more than 70,000 salaried U.S. employees, invests exclusively in short-term floating rate demand notes issued by the company's financial services subsidiary, Ford Motor Credit.

Most other money market mutual funds hold a diversified investment portfolio.

The new account, Ford officials say, offers another investment tool to satisfy employee demands and generates additional capital for Ford Motor Credit.

Employees previously had asked to invest in the automaker's commercial paper, but the minimum

benefit beat

investment required—\$10,000—made such a plan unreasonable for most workers.

Ford Motor Credit, company officials said, will issue up to \$100 million in notes and could generate more than \$40 million during the first year if all eligible employees contribute at least \$50. Additional issues, subject to approval by the Securities and Exchange Commission, could be made if employee demand is high.

The Bank of New York functions as the administrative agent and trustee for the plan.

Employees investing in the plan will earn a yield that is 0.5% higher than the average of all the listed

taxable money market mutual funds money available in the marketplace. The rate will vary weekly.

The plan, like a money market fund, offers employees instant liquidity and check-writing features. Investors, Ford officials say, will be guaranteed the face value of their contributions.

"No employee will lose any money in this plan," a Ford spokesman explained. "The notes are payable at face value of what they put in."

Minimum contributions of \$25 can be made through payroll deduction or wire transfers from banks, thrift institutions or other

financial service facilities.

All salaried employees, except those working with foreign subsidiaries, on leaves of absence and salaried union employees, are eligible to invest.

Ford's 103,000 hourly workers will be offered the benefit if it is approved by the United Auto Workers union.

AT&T benefits

Although American Telephone & Telegraph Co. soon may be forced to shed its 22 operating units, most Bell System employees will continue to receive the same generous benefits now offered by the telecommunications giant.

Under an agreement reached between AT&T and its major union, the 500,000-member Communica-

tions Workers of America, union members will be protected from cuts in pensions and disability and health insurance benefits for seven years from the time they are transferred to a divested unit.

In addition, AT&T says that future benefits promised in its August 1980 contract with the union will be offered. For example, AT&T will offer a new vision care program next January.

AT&T, the nation's largest private employer with about 1 million workers, recently agreed to shed its local operating units by July 1983 as part of an antitrust settlement with the federal government (BI, Jan. 18).

Switches insurers

The tiny city of New Holstein, Wis., has chosen to switch rather than fight a proposed 46% increase for life, health and dental insurance premiums.

The city, which has 34 employees, has switched its health and dental coverages to Blue Cross of Wisconsin and Surgical Blue Shield Inc. from Wisconsin Physicians Services, a service plan that negotiates with area physicians.

And as part of the health insurance package, life insurance coverage has been transferred to Health Insurance Corp., a Blue Cross affiliate based in Milwaukee, from SAFECO Insurance Co.

The switch, according to City Clerk Lee Tikalski, will allow the city to maintain the same level of benefits while saving \$13,584.

The new insurers are charging New Holstein a combined annual life, health and dental insurance premium of \$55,000. The city previously had paid \$47,000 annually, but a rate increase proposed by Wisconsin Physicians Service would have pushed the combined premium to \$68,000.

New Holstein, located 25 miles northeast of Sheboygan, pays 100% of its group insurance premiums. Since it did not have any intention of requiring employees to share the cost, Mr. Tikalski says, a change of underwriters was necessary.

"The proposed 46% premium increase simply was too much," he explains. "We were happy with the service we were getting from WPS, but we couldn't afford the premium increase."

New Holstein's health plan provides employees with up to 365 days of hospitalization in a semi-private room, 100% coverage for outpatient care, surgery and emergency care, outpatient diagnostic testing, X-rays and mental care in the hospital and pays reasonable and customary charges for physician care.

The health plan also provides for treatment in a Christian Science treatment center.

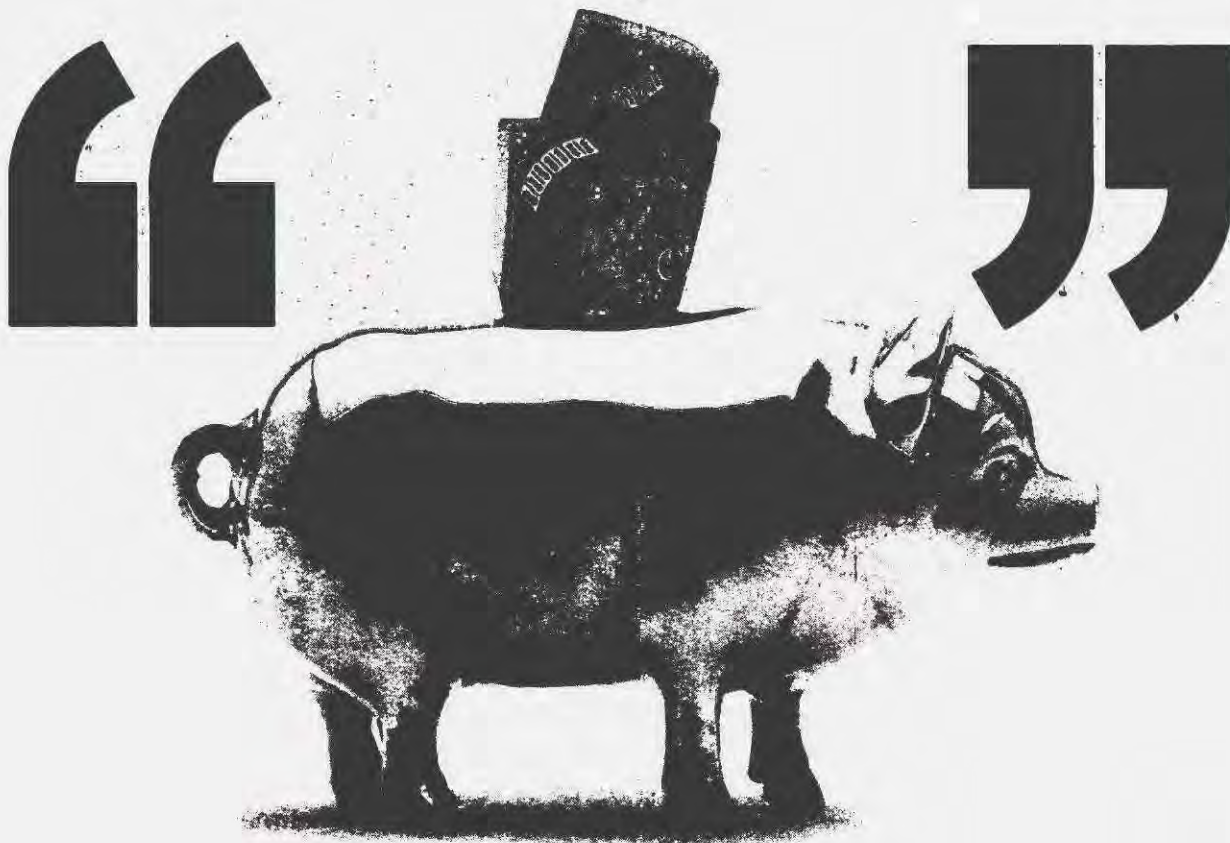
The dental plan pays 80% of the first \$1,000 of diagnostic, preventive and restorative dental work per family member. Employees pay 100% of all dental charges above the yearly \$1,000 coverage limit.

The plan also pays 60% of orthodontic charges, up to a lifetime maximum of \$1,000. The plan covers 80% of prosthetic services.

An employee deductible is not required with either the health or the dental plan.

Employees are covered by a \$2,000 life insurance policy, which has accidental death and disability riders. The disability rider provides disabled employees with a payment of \$30 a week after 120 days, up to a maximum of 26 weeks.

We'd like to know if you've made any benefit changes. Write James Lawson, Associate Editor, Business Insurance, 220 E. 42nd St., New York, N.Y. 10017; 212-210-0143.



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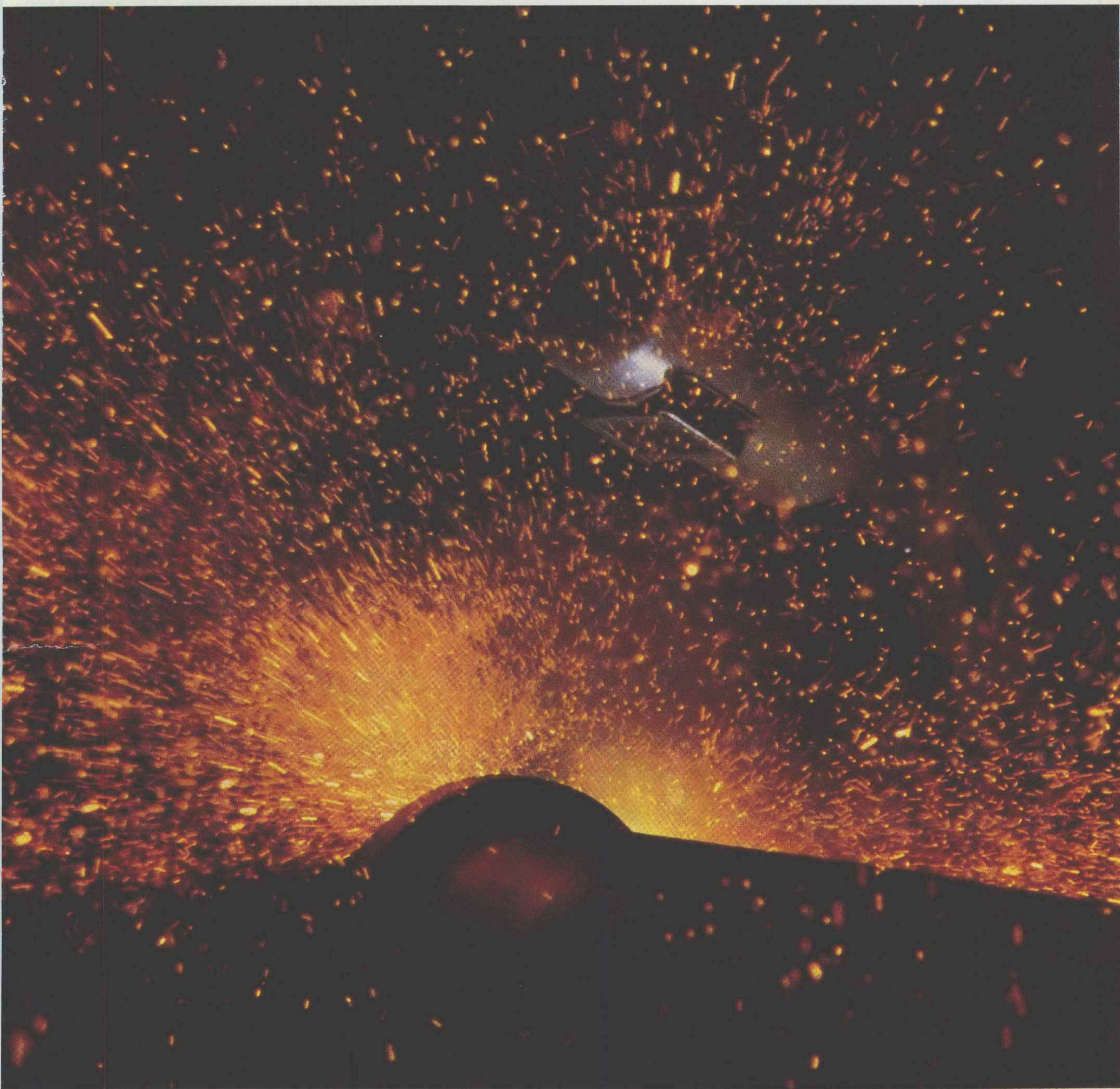
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Asbestos claims: The debate goes on

Continued from page 3

ity contracts now in force, he adds.

The Insurance Services Office is currently considering two alternatives (BI, Dec. 28, 1981). One would make clear that an "occurrence" of a disease is when it manifests itself, Mr. Cheek said.

The other would change the current CGL contract from an occurrence to a claims-made form. The effect would be to limit coverage to the policy in force when the claim is made.

Both would render the exposure vs. manifestation controversy irrelevant, prevent the cumulation of limits under current theories and give more certainty to insurers in paying and defending claims, Mr. Cheek added.

But he said that such changes will enable an insurer to jump off a troublesome risk more easily, possibly making it more difficult for a policyholder to get coverage and pay judgments.

But he warned the conference participants: "The insurance industry is not willing or able to be society's guarantor that every victim of every unknown long-latency disease will recover unlimited common law damages for his suffering."

Already, Lloyd's of London has said the potential exposure and conflicting court decisions would be reflected in its coverage, Mr. Cheek said.

In January, Lloyd's syndicates Janson, Green Ltd. and P.C.W. Underwriting

Agencies Ltd. wrote a health hazard exclusion clause into their umbrella liability insurance policies to eliminate coverage for long-latent diseases for new policies and renewals (BI, Jan. 4).

"If Lloyd's takes a bearish position, it is certain that the domestic insurance industry will be even more reluctant to make a market for industries with long-latency disease exposures," he added.

Mr. Bailey of Commercial Union Insurance Co. says the tort system, the insurance industry and the nation's economy are threatened if the asbestos claims problem is not solved.

"The whole tort system is being wrenched, torn apart," he said. "We are paying an enormous price tag for litigating these issues."

Disputing often-quoted statistics predicting the death rate from asbestos exposure, he questioned whether the number of claims has peaked.

"For those who would have me believe this has seen its worst, please produce for me your data," Mr. Bailey said.

Mr. Knowlton of The Travelers said about 400 claims are being filed per month, and agreed there is no evidence the rate has peaked.

However, he points out the number of claims filed in previous months sometimes was as high as 1,000. And since many of the asbestos victims were exposed to the products while working in

naval shipyards in World War II, the number of claims should decline as time passes. He says insurers, plaintiffs and defendants will have to work together to come to a mutual solution.

"To approach these cases, we must do so on a unified basis," he said, adding that crises worse than asbestos will be forthcoming.

But the insurance industry itself is not seriously threatened, he said. "That simply isn't the case. But there is an unmanageable situation because everyone is fighting with each other."

Mr. Neece of Johnson & Higgins said the immediate problem was "how to deal with 15,000 cases out there and an unknown number of cases behind them that haven't been brought."

A solution has to be found to handle the problem without disrupting society and the legal system, he said.

He rejected the possibility of new insurance policies and legislation having any immediate impact. "None of these will be effective very soon," he said.

Frederick M. Baron, a plaintiff's attorney and former head of the Dallas Trial Lawyers Assn. who also spoke at the conference, said that the insurance stalemate greatly affects how plaintiff attorneys approach cases.

Many cases can't be settled with defense counsel because the issue of coverage is not resolved. This causes delays and increases in attorney fees, Mr. Baron said.

Which theory applies? That's a good question

CHICAGO—Exposure vs. manifestation.

Get two persons involved in asbestos litigation in the same room and ask them how the long-latent claims should be paid—and the now familiar debate begins again.

"Manifestation is an ambiguous term. It applies all losses to fewer policies," says Floyd H. Knowlton of The Travelers Insurance Cos., which subscribes to the exposure theory that says an injury occurs when the injured is exposed to the harmful substance. The manifestation interpretation could have a devastating effect on insurance companies and asbestos manufacturers, he adds.

Not so, counters William Bailey, vp and claims counsel for Commercial Union Insurance Co. "Exposure violates the basic tenets of insurance underwriting," he says. "Manifestation ought to be the correct theory."

The manifestation theory says insurance coverage is triggered when the injury is diagnosed. In the case of asbestos and other long-latent diseases, the time between exposure to the harmful product and manifestation of the disease can be as much as 20 years.

The two men whose companies are heavily involved in asbestos litigation debated their viewpoints at a conference March 22 and 23 sponsored by Law & Business Inc.

They aren't the only ones who disagree. Some 25 lawsuits are currently being litigated between insurers and policyholders over what theory of coverage should be applied in asbestos cases.

Which employee costs more

The desk on the left: One look at the debris, and it's a good guess this worker is nervous, jumpy, and overweight. And who wouldn't be, with all that caffeine, nicotine and sugar?

This person is also a prime candidate for more than his fair share of sick days and medical bills—adding up the cost of insurance for everyone.

fewer medical bills. Smaller insurance premiums. And, as you might guess, this person is much more productive.

Now comes the surprise: Both of these desks belong to the same worker. The change for the better came with an exciting new program marketed by NWNL—STAYWELL.

Designed and administered by Central Data, STAYWELL teaches and encourages healthier lifestyles for 40 hours a week. And the program is an effective, low-cost way to reduce your health care costs.



City catches worker's false claim

FT. LAUDERDALE—All things considered, former city building inspector Edgar Xirinachs probably wishes he had gone ahead and paid his own medical bill.

Instead, he filed a \$69 workers compensation claim, alleging his injury arose out of the course of his employment.

But he was caught.

Mr. Xirinachs has lost his \$21,000-a-year city job, was convicted of workers compensation fraud, fined \$5,000 and put on probation for three years.

And all over a few fractured ribs.

He claimed the accident occurred on the job, but a jury bought the city prosecutor's version of the incident and convicted Mr. Xirinachs of defrauding the state workers compensation system.

A witness told the court that the 43-year-old city employee had complained to him of cracking his ribs lifting weights the day before he filed a workers compensation claim with his supervisor.

That story was strikingly different from the version told to the supervisor by Mr. Xirinachs, who said he had slipped and broken his ribs inspecting a building site.

While a \$69 claim may not be the biggest fraud case ever cracked, Ft. Lauderdale Risk Manager Ron Torre says it's the example the incident sets that's important.

"We've had suspicious claims before, but by the time we'd get

around to telling the service company, it would be ancient history," he said.

"It's a shame that this employee is hit with a three-year probation and a \$5,000 fine, but it's good to see that fraudulent claims can be reduced if a carrier or self-insured employer takes an active role," Mr. Torre said.

The city of Ft. Lauderdale has been self-insuring its workers compensation risks since 1974, but only took on the job of processing its own claims about two years ago, the risk manager added.

And what did it cost the city in court costs and man-hours to nab

Mr. Xirinachs?

"We spent about three or four hours on this case," said Mr. Torre, including the hour and a half it took the adjuster to go to the building site to interview the witness.

The witness turned out to be a carpenter that Mr. Xirinachs had casually told that he hurt his ribs lifting weights.

Without a witness, the fraud case would have been just speculation on the part of the city, added Mr. Torre.

He just hopes the incident will make other workers "think twice" about submitting phony workers compensation claims. ■

South Carolina health costs soar

COLUMBIA, S.C.—Health care cost increases in South Carolina exceeded the national average last year, according to Blue Cross & Blue Shield of South Carolina.

According to company figures, the average cost of a day in the hospital for a South Carolinian covered by private health insurance totaled \$243, a 20.1% increase over the average cost per day in 1980.

The average cost per hospital confinement was \$1,431, up 20.7% from \$1,185 in 1980.

"While the cost of health care nationally was increasing some 12% or 13%, South Carolina's increases exceeded 20% last year," noted

President Joseph F. Sullivan.

"With further Medicare cutbacks and reductions in Medicaid benefits, the private business sector can expect more shifting of costs from government insurance programs to group insurance plans, with large increases in indigent care costs, which result in bad debts for hospitals, which must pass these cost shifts onto other payers."

BC/BS of South Carolina provides health coverage to about 1 million state residents, mostly employees enrolled in group benefit plans. It also administers the federal Medicare program for an additional 345,000 South Carolinians. ■

Besides the exposure and manifestation theories, a third theory, called the triple-trigger theory, says all insurers on a risk during exposure, latency and manifestation of a disease are liable.

None of the insurance companies advocate this theory that provides the most coverage for the asbestos manufacturer and the largest risk for the insurers as a group.

Mr. Knowlton says exposure is the best theory because it provides broad coverage, is founded on policy language, meets the reasonable expectation of the parties, follows legal liability of the policyholders and provides for a workable allocation of losses and coordination of legal defenses.

"The burning question is when did the injury occur," he says.

"Where injury occurs, it occurs shortly after exposure," he contends.

"It is the injury itself and not its discovery that subjects the manufacturer to liability."

Policyholders expect as broad a coverage as possible, Mr. Knowlton said.

And insurance trade association papers have shown that the underwriting intent was for cumulative injury cases to be governed by the exposure theory, he adds.

"The majority of the insurance companies at the time policies were written said they specifically did not intend manifestation," he said.

Insurers also can more easily ap-

portion defending suits under exposure, Mr. Knowlton added.

He said the biggest problems for insurers are "to take care of injured claimants" and to find a means for reducing the costs of defending cases.

Unfortunately, it is not through the courts that the help will come, he says.

"Rhetoric and the courts don't seem to be of any help to us."

Mr. Bailey said manifestation is the proper interpretation of Commercial Union's policies but that it is possible other companies might have intended the exposure theory to be applicable.

But exposure does not look to traditional insurance contract methods such as the dates in a contract and the premium charged, Mr. Bailey said.

Premiums are calculated by determining the probability of what a company has to pay over a period of time, he pointed out, more in accord with the manifestation theory. "Insurance is not is not a crap game," Mr. Bailey said. "We calculate the expectation of loss against the actuality when the policy period expires."

"We have to do business on a cycle. Exposure (theory) takes the cycle and financial reporting and tosses them out the window."

Moreover, the exposure theory "totally misconstrues bodily injury and disease," he said. Courts that never had trouble interpreting the meaning of those terms before are now giving them new definitions. ■

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Lords to consider Lloyd's bill next month

By STACY SHAPIRO
and JOHN MILLER

london line

LONDON—Opponents of the Lloyd's of London self-regulation bill will get another chance to voice their displeasure when a House of Lords committee begins hearings on the bill May 4.

The committee will hear six petitions opposing clauses dealing with divestment of broking and underwriting agencies, immunity from liability for the proposed Council of Lloyd's and election procedures for council members.

The committee hearings are expected to last three weeks.

One petition has been lodged by Alexander Howden Group Ltd. with support from Stenhouse Holdings, Minet Holdings and C.E. Heath, all Lloyd's brokers. Another

petition is supported by Lloyd's underwriting agencies Andrew Drysdale Underwriting Ltd.; Cassidy Davis Ltd.; Holmes, Hayday (Underwriting Agencies); R.J. Kiln & Co.; Roberts & Hiscox; and Henry Ralph Rokeby-Johnson.

Some of these companies are opposing divestment because it may hurt large Lloyd's brokers, including Howden and Stenhouse, which own substantial Lloyd's underwriting agencies.

Other petitioners are opposing the Lloyd's bill because they feel some of its clauses may rock what they consider to be a sound boat.

"I feel strongly against divestment," said Tony Cassidy, chair-

man of an independent Lloyd's underwriting agency, Cassidy Davis Ltd.

"I have worked in the Lloyd's market for 27 years and there is a cohesiveness with the links between broker and underwriter. And there is no doubt that brokers owning parts of underwriting agencies have helped with this."

Severing those ties may affect the Lloyd's market, he added.

Mr. Cassidy once worked for Howden's underwriting group as an underwriter, but he decided to go independent. "But I am not any different as an underwriter than when I worked for a broker," he said.

Malcolm Pearson, director of Lloyd's broker Pearson Webb Springbett (London) has also filed a petition. He strongly favors eliminating the immunity from liability clause, which would give the Lloyd's Council immunity from lawsuits filed by Lloyd's members.

Mr. Pearson also supported petitions against the bill when it was in the House of Commons.

The House of Commons finally approved the Lloyd's bill last month after months of hearings and debate (BI, March 15).

Winter's wrath

Spring is in the air and the daffodils are blooming, but Britain's biting winter is still on insurers' minds.

Total losses from the arctic

weather that gripped Britain in December and January have topped 200 million pounds (approximately \$356 million), according to the British Insurance Assn.

"This appears to be the largest series of claims in respect to a natural disaster recorded in this country," the BIA said. The only natural disaster to come close was the bitter winter of 1963, when the claims bill totaled 114 million pounds (\$202.9 million) when adjusted for inflation.

Insurance register

The "A to Z" of British insurance companies and related firms is now available in the "City Financial 1982 Insurance Register."

"Over the past 20 years or so we have seen the arrival of numerous subsidiaries, branches and contact offices of overseas companies," said Julius Neave, managing director of Mercantile & General Reinsurance P.L.C.

"The register identifies these, plus loss adjusters and assessors, and provides a valuable new piece of insurance equipment," he said.

For more information about the publication, which will be revised annually, contact City Financial Business Publications Ltd., Orient House, 42/45 New Broad St., London EC2M 1QY; 01-628-3004.

Petrochemical losses

Millions of pounds in losses have suddenly hit International Oil Insurers, a British-based pool, because of intensive damage to petrochemical plants in the Middle East and other areas of the world.

Last year's claims were the worst in the last three years and caused the pool to post an underwriting loss of 5.52 million pounds (\$9.8 million). That loss virtually wiped out all the profits the pool has earned since it was founded seven years ago.

The pool, in its annual report, said that 244 claims were received during 1981, compared with 169 in 1980. Incurred losses last year totaled almost 17 million pounds (\$31.8 million).

After allowing for investment income, the pool reported a net deficit of 3.5 million pounds (\$6.5 million), compared with a 6.3 million pound (\$11.8 million) profit in 1980. Premium income in 1980 was a record 22.2 million pounds (\$41.5 million) of which 3.5 million pounds (\$6.5 million) was ceded to reinsurance companies.

The most serious loss reported by the pool was 10 million pounds (\$18.7 million) of damage at a refined products tank farm in the Middle East. Three other claims were valued at more than a million pounds each.

The pool is supported by an aggregate of 46 leading insurance companies and Lloyd's of London in the United Kingdom, France and Norway.

The outlook for this year is uncertain, says the pool's chairman, Kenneth G. Addison of Sun Alliance Group.

"We always recognize the business carries a high loss potential and results are likely to fluctuate from year to year," Mr. Addison reported. "But the deficit last year is a setback in our efforts to attain a reasonable underwriting profit over a period of time. Our overall underwriting profit has now been reduced to a bare 0.5% of net written premiums since we were formed seven years ago."

Mr. Addison stressed the need to build up reserves so the pool's growing capacity will not be destroyed just to obtain investment income buoyed up by abnormally high interest rates.

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APRIL 12-14. Effective Loss Control Management course in Houston, sponsored by International Safety Associates; \$395. International Safety Associates, 126 Northpoint Drive, Suite 157, Houston, Texas 77060; 713-999-0000.

APRIL 12-16. Occupational Respiratory Protection course in Los Angeles, sponsored by the Institute of Safety & Systems Management; \$475. University of Southern California, Institute of Safety & Systems Management, Office of Extension & In-Service Programs, Los Angeles, Calif. 90007; 213-743-6523/6524.

APRIL 13-14. Health Care Cost Containment workshop in New York, sponsored by the Health Research Institute; \$395. Workshop Coordinator, Health Research Institute, 49 Quail Court, Suite 200, Walnut Creek, Calif. 94596; 415-676-2320.

APRIL 13-14. How to Reduce Your Trucking Insurance Cost seminar in Washington, sponsored by the International Risk Management Institute Inc.; \$435; \$375 for two or more participants. International Risk Management Institute, Suite 208, Building III, 10300 N. Central Expressway, Dallas, Texas 75231; 214-363-9656.

APRIL 14-16. Safety for the Oil Field Industry seminar in Houston, sponsored by the Interna-

tional Safety Academy; \$375. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

APRIL 15-16. Quantitative Techniques for Risk Management seminar in New York, sponsored by The College of Insurance; \$475. The College of Insurance, 123 William St., New York, N.Y. 10038; 212-962-4111.

APRIL 18-21. Food Industry Institute program in Las Vegas, Nev., sponsored by the International Foundation of Employee Benefit Plans; members, \$390; non-members, \$465. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

APRIL 18-23. 20th Annual Risk Management conference in Washington, sponsored by the Risk & Insurance Management Society; members, \$420; non-members, \$520. Partial conference, members, \$350; non-members, \$425. Conference Department, RIMS, 205 E. 42nd St., New York, N.Y. 10017.

APRIL 19-21. Assets Protection course in London, sponsored by the American Society for Industrial Security; members, \$595; non-members, \$650. ASIS, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

APRIL 19-22. Inspector Training seminar in Houston, sponsored by the International Safety Academy; \$490. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

APRIL 19-23. Accredited Safety Auditors conference in Atlanta, sponsored by the International Loss Control Institute; \$625. ILCI, Box 345, Loganville, Ga. 30249; 404-466-2208.

APRIL 19-23. Fundamentals of Industrial Hygiene Monitoring course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; \$425. Also **June 14-18** in Long Grove. John N. Garis, Manager, NATLSCO, G-3, Route 22, Long Grove, Ill. 60049.

APRIL 20-21. Product Liability & Tort Law Reform conference in Arlington, Va., sponsored by the National Legal Center for the Public Interest; \$285. J.J. Wuerthner Jr., NLCPI Conference Coordinator, 1101 17th St. N.W., Suite 810, Washington, D.C. 20036; 202-296-1683.

APRIL 20-22. Industrial Fire School course in Marinette, Wis., sponsored by The Anslu Co.; \$650. Anslu Fire School, 1 Stanton St., Marinette, Wis. 54143; 715-735-7411.

APRIL 21-22. Fire Safety in Buildings conference in New York, sponsored by the Society of Fire Protection Engineers and the Engineering News Record; \$477; two or more participants from the same company, \$420. D. Peter Lund, Executive Director, Society of Fire Protection Engineers, 60 Batterymarch St., Boston, Mass. 02110; 617-482-0686.

APRIL 22. Employee Benefits in a Changing Economy conference in Portland, Ore., sponsored by Western Pension Conference; members, \$45; non-members, \$55. Ronald S. Grossmann, 900 Southwest 5th Ave., Suite 2200, Portland, Ore. 97204; 503-224-3380.

APRIL 22-23. Management of Oil & Gas Exploration Risk seminar in Pittsburgh, sponsored by The Wharton School of the University of Pennsylvania; \$795, plus \$100 registration fee per organization. Registrar, 14th Floor, University Conference Center, 360 Lexington Ave., New York, N.Y. 10017; 212-953-9022.

APRIL 22-23. Product Safety Concepts and Practices course in Washington, sponsored by the International Institute of Safety & Health; \$245; for three or more participants from the same company, \$195. Harold M. Gordon, IISH, 5010A Nicholson Lane, Rockville, Md. 20852; 301-984-8969.

APRIL 25-28. NAI Annual Workshop in Phoenix, Ariz., sponsored by the National Assn. of Independent Insurers; members, \$125; subscribers, \$200. NAI Convention Office, 333 N. Michigan Ave., Suite 1632, Chicago, Ill. 60601; 312-782-2958.

APRIL 25-28. Insurance for Non-Insurance Professionals seminars on life/health and property/casualty in Princeton, N.J., sponsored by The College of Insurance; \$495. Margaret Wilder, The College of Insurance, 123 William St., New York, N.Y. 10038; 212-962-4111.

APRIL 25-28. World Insurance Congress in Philadelphia, sponsored by the Philadelphia World Insurance Congress; \$1,000; full-time municipal, state, national government and governmental agencies, legislators and full-time teachers at accredited colleges and universities, \$250. Philadelphia World Insurance Congress, Box 1982, Philadelphia, Pa. 19105; 215-563-5815; telex 831-519.

APRIL 26-28. Safety Inspection Training seminar in Houston, sponsored by the International Safety Associates; \$395. International Safety Associates, 126 Northpoint Drive, Suite 157, Houston, Texas 77060; 713-999-0000.

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Groups continue push for tort reform bill

By JERRY GEISEL

WASHINGTON—Although the Reagan administration says it's not yet backing federal product liability tort reform legislation, business groups will continue to battle for a federal law.

"We're not discouraged. We'll continue to be active and coordinate the views of the business community," said Victor Schwartz, counsel for the Product Liability Alliance, a group of more than 150 trade associations and employers that want a federal product liability law.

Last month, the administration said a federal tort reform law runs counter to the administration's plan to reduce the role of the federal government.

"Except where outweighed by pressing national needs, this means leaving states free to adopt their own standards, enforced by state officials in state courts," Commerce Secretary Malcolm Baldrige told the Senate Consumer subcommittee last month (*BI*, March 22).

But Mr. Schwartz believes by the time the dust settles, the administration will not oppose federal product liability legislation. "The idea is being considered at the highest levels. It has not been rejected," he explained.

Meanwhile, Sen. Bob Kasten, R-Wis., is expected to introduce this month federal product liability legislation in bill form. Mr. Kasten's previous efforts (*BI*, March 8) were presented as draft proposals.

Help wanted

The Pension Benefit Guaranty Corp. needs help.

The federal agency, which guarantees workers' vested pension benefits, wants to hire 40 additional staff members beginning Oct. 1 to speed the processing of terminated pension plans, according to PBGC Executive Director Robert Nagle.

When a company terminates its pension plan, the PBGC has to conduct certain audit and actuarial work before the agency can take over the plan's assets.

In addition, the new staffers are needed to help the agency implement the Multiemployer Pension Plan Amendments Act, the 1980 law that requires employers that leave multiemployer plans to pay a share of the plan's unfunded vested benefits.

The PBGC now has about 450 employees and an administrative budget of about \$27 million. Congressional approval is needed for the PBGC to expand its staff.

Longshore

Workers covered under the federal Longshoremen's and Harbor Workers' Act can only file claims for on-the-job injuries, the Supreme Court has ruled.

"The fact that something unexpectedly goes wrong with the human frame does not establish an 'injury' within the meaning" of the law, said Justice John Paul Stevens.

The 6-2 decision overturned a 1980 appellate court ruling that a worker had a right under the Longshore Act to file a claim without proving

washington

that he was injured on the job.

The case involved a worker who said he injured his neck and shoulders while doing overhead duct work. Federal officials later concluded that he made up the accident and denied his claim.

The appeals court had said that as long as the employer was unable to prove that the injury was not job-related, the worker could collect.

Multiemployer bill

Legislation that would allow employers to leave multiemployer pension plans without having to pay for the promised unfunded

benefits would turn the clock back on pension reform, a union official says.

Under legislation, S. 1748, proposed by Sen. Orrin Hatch, R-Utah, "the clock is turned back to the days prior to the enactment of ERISA," says Robert Georgine, president of the AFL-CIO Buildings Trades Council and chairman of the National Coordinating Committee for Multiemployer Plans.

"If a multiemployer plan fails, there will be no benefit guarantees for participants and retirees. After a lifetime of work, these individuals will be denied pension benefits," Mr. Georgine said of Sen. Hatch's bill.

Mr. Georgine, who played a key role in the passage of the Multiemployer Pension Plan Amendments Act in 1980, said employers and unions should work together so that the multiemployer law is administered sensibly.

Computer errors

The Social Security Administration's computer system is acting up again.

In the latest snafu, the agency sent checks with overpayments totaling \$10 million to 2,000 retirees because of a computer software problem.

The checks were sent to beneficiaries who continue to work. Under law, their benefits are reduced by \$1 for every \$2 of salary over a certain limit—\$6,000 for

those over 64 and \$4,440 for those between 62 and 64.

The beneficiaries had submitted wage reports to the agency, which is supposed to use the reports to adjust the size of the retirees' checks. But instead of just adjusting the checks, the agency's computers spewed out a year's worth of benefits.

Social Security Commissioner John Svahn said agency officials are contacting the beneficiaries to get the money back. In some cases, a collection schedule will be set up, while in others future checks will be reduced to recover the overpayment.

Mr. Svahn recently announced that the pension agency plans to spend \$479 million over the next five years to overhaul its obsolete computer system.

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AIG offers excess property layer for reactors

American International Group is providing \$45 million in excess property insurance for nuclear utilities, partially plugging a \$50 million hole between the primary and excess coverage offered by other insurers.

AIG noticed a "very good initial response" to its \$45 million layer excess of \$450 million and has bound a number of risks, observes Michael Morrison, president of American Home Insurance Co. and senior vp at AIG.

But this response has slowed as primary property insurers plan capacity increases of their own. Mr. Morrison expects AIG to counteract by eventually shifting its excess coverage to higher levels.

Two groups currently provide \$450 million in primary property insurance. American Nuclear In-

markets

surers and Mutual Atomic Energy Reinsurance Pool, both commercial risk pools, plan to boost their primary capacity to \$460 million on April 15, and hope to market a full \$500 million primary layer later this year.

A second insurer—Bermuda-based captive Nuclear Mutual Ltd.—is scheduled to increase its primary capacity to \$500 million in August.

Until AIG began offering its coverage, a \$50 million hole existed between \$450 million and \$499 million. Another insurer markets \$290 million excess of \$500 million.

AIG, which also is a member of the ANI property insurance pool,

went outside the pool with its additional capacity because of the coverage gap, Mr. Morrison notes.

The price for the coverage varies, Mr. Morrison says, although the cost of AIG's coverage is similar to the underlying primary layer since losses severe enough to exceed \$450 million will probably top \$495 million as well.

"Anything that goes over that, you're going to go big," he says of a loss that would pierce the \$450 million primary layer. "You're not going to get partial losses—either small fires or big losses."

AIG has reinsured its coverage through a pool of several U.S. and foreign insurers, including un-

derwriters at Lloyd's of London, he says.

Mr. Morrison concedes that moves by primary insurers to increase their primary capacity to \$500 million "may have some bearing" on faltering demand for AIG's coverage.

Should a lack of demand continue, he says, AIG may move its capacity to higher excess levels and consider increasing its capacity.

HMO sold

Connecticut General Life Insurance Co. has cut in half the number of health maintenance organizations it sponsors.

Last month, Connecticut General sold Columbia Medical Plan, its money-losing HMO in Columbia, Md., to Blue Cross of Maryland in a

\$5.1 million transaction.

"Basically, it was a business decision," said a Connecticut General spokesman, noting that Columbia Medical Plan has not made money since it began operating in 1969.

Columbia Medical Plan now serves about 21,000 members. The monthly premium for individual coverage is \$69, while monthly premiums for family coverage range from \$138.30 to \$183.70, depending on the size of the family and the kind of plan selected.

Blue Cross of Maryland says it will not raise rates or change benefits for the next year.

Connecticut General says it will continue to operate its remaining HMO, Arizona Health Plan of Phoenix, which has about 70,000 members. The Arizona plan, which began operating in 1972, is profitable, according to the company.

Claims processing

Benefit Services Division, a subsidiary of Dallas-based Control Data Corp., has been formed to market a new computer-based claims processing system that includes both administrative services and a new computer software package.

The new program is based on Control Data's experience in processing insurance claims for its own employees nationwide.

The system contains two components. The first is an administrative claims service for self-insured groups and government health care programs. The second component is a computer software package for claims administration by self-administered groups and insurance companies that do not have automated claims delivery capabilities.

Risk management

Fireman's Fund Risk Management Services Inc. has been formed to provide risk management services, including claims and industrial hygiene services.

A subsidiary of San Francisco-based Fireman's Fund Insurance Cos., the new company will provide field claims adjusting services at more than 100 locations throughout the United States.

Other related services include claims file audits, rehabilitation nursing services, information management systems to support and refine planning and decision-making and loss-control activities.

The risk management firm also will provide industrial hygiene field surveys and complete laboratory analysis services.

New name

The Risk Education & Research Center, a property/casualty, workers compensation and employee benefit insurance consultant based in Eugene, Ore., has changed its name to Risk Research Group.

Acquisitions

Meidinger Inc. has reached an agreement in principle to acquire Bily, White & Lee, a Houston actuarial firm.

Corroon & Black Corp. has reached an agreement in principle to acquire Rowan-Wilson Inc., an insurance brokerage located in Pasadena, Calif.

New offices

Progressive Casualty Insurance Co. has changed the address of its Lima, Ohio, claims office to Box 727, Lima, Ohio 45802.

Insurance Management Associates Inc. has opened a new office at Box 5595, Topeka, Kan. 66605, 316-233-4849.



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Second surgical opinion plans popular: Study

By JAMES C. LAWSON

NEW YORK—Rising health care costs have a large number of employers second-guessing their workers' doctors.

Eighty-four percent of employers surveyed said they provided coverage for second surgical opinions as a health care cost-control tool, according to a recently released study by Towers, Perrin, Forster & Crosby, a New York-based consulting firm.

More than 75% of the companies also said they provided coverage for pre-admission testing and surgi-centers—private clinic-like facilities where minor surgery is performed on an outpatient basis—as alternative methods of containing health care costs.

And some of the employers, the

survey reveals, also endorse hospice care, home health care, pre-authorization of hospital confinements, health maintenance organizations and extended care facility programs in their company health care plans.

The TPF&C study, conducted late last year, includes replies from 213 employer members of its Employee Benefit Information Center, a research agency that monitors employee benefit programs, trends and benefit performances.

The Employee Benefit Information Center consists of 350 Fortune 1,000 employers.

And while the survey did not question the effectiveness of such programs, TPF&C officials say it is an indication of the acceptance of these measures.

"This survey looks at cost-containment measures that are more visible to the employee," explains Richard Ostuw, a TPF&C consultant in Cleveland.

"These cost-containment programs are ones that put employees in more control of how they control health care costs," Mr. Ostuw explains.

According to the survey, 95% of the companies that cover second surgical opinions do not require their workers to seek such an opinion.

The 2% of the employers that require second surgical opinions say they are mandatory only for certain procedures.

Eighteen percent of the employers that cover second surgical opinion programs offer cash incentives to their employees that use the pro-

gram, and only 14% of the companies offering the coverage require that the second opinion be obtained from among a specified group of doctors.

"Second surgical opinions can generate substantial savings," explains Mr. Ostuw. "There's a feeling among employers that it (second surgical opinions) has to help so 'we'll do whatever we can' to make it work. Benefit managers are also saying 'it's a nice benefit we can add with no additional cost.'"

But coverage for second surgical opinions is not a panacea for an employer's health care cost ills, benefit consultants say. In many cases, second surgical opinion programs are not utilized when they are offered, they note.

John Hickey, a partner with Kwasha Lipton, a benefit consulting firm in Fort Lee, N.J., suggests that to make a second surgical opinion program really work, you have to provide employees with a list of company-approved physicians.

The success of such a program, adds Mr. Ostuw, also often hinges upon the doctor-patient relationship.

But employers are almost unanimous in endorsing coverage for pre-admission testing, a program that allows employees to have certain medical tests performed in a less-expensive facility before they are admitted to hospital. Some 94% of the employers surveyed by TFP&C provided such coverage.

And costs incurred by employees at surgi-centers are covered at 87% of the surveyed companies.

Eighty-one percent of the companies offer their employees coverage through a federally qualified health maintenance organization program, according to the study. Seven of those companies offer coverage by more than 50 HMOs to their nationwide workforce.

But while the number of employers offering HMO programs is high, employee utilization is low, the survey indicates. In nearly 75% of the companies that offer an HMO option, less than 8% of the eligible employees join an HMO.

Benefit consultants say HMO utilization is low partly because some employees prefer using their own family physicians rather than HMO physicians and because some employees may not live or work close to such a facility.

Extended care facility programs, which provide less-expensive post-hospital care, are covered by 74% of the surveyed companies. Extended care facilities include skilled nursing homes, which provide around-the-clock medical care to persons recuperating from hospital surgery or other medical treatment.

While extended care facilities can be effective in reducing some health care costs, they also can be ineffective, especially if the patient goes to such a facility rather than return home when home care would suffice, or if the patient stays longer than required, says Ed Freedman, vp and manager of the consulting unit at Alexander & Alexander Inc. in New York.

Home health care programs, which provide employees with rehabilitative medical care by a nurse who visits the home, are covered by 53% of the responding companies.

Hospice care programs, providing medical care to terminally ill patients either at home or at an alternative health care facility, are covered by 35% of the surveyed employers. Of those employers, 20% cover hospice care in residential facilities.

Sixty-two percent of the employers surveyed said they cover emergency treatments in a doctor's office—instead of a hospital emergency room—and 39% said they cover similar emergency care for illnesses.

Only 3% of the companies participating in the survey said they require pre-authorization of non-emergency hospital care.

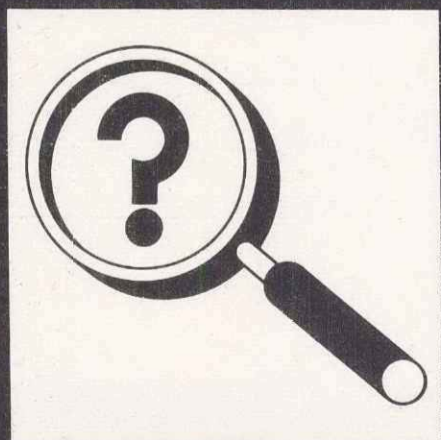
TPF&C officials say, though, the small number of companies requiring pre-authorization is not surprising since it is a relatively new concept.

"Look to utilization," suggests TPF&C's Mr. Ostuw.

"If the benefit managers find they have a high incidence of surgery, they should consider a second surgical opinion," he says. ■

Q. Which insurance broker is as good at identifying your risk management problems as it is at solving them?

A. Rollins Burdick Hunter.



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Taking Risk Out Of Risk Management
Worldwide

Heskett named Hanna's risk manager

Gene H. Heskett, 30, has been promoted to risk manager at Hanna Mining Co. in Cleveland, a new position. Mr. Heskett, formerly assistant risk manager, will handle the administration of insurance programs for Hanna and will report to Assistant Treasurer Duane Allen. Mr. Heskett received a bachelor's degree in mathematics and a master of business administration from Ohio State University. He joined Hanna in 1977 as risk management assistant.

comings & goings: buyers

Trust and was in charge of its insurance program. Mr. Lazarz received a bachelor degree from the College of St. Thomas in St. Paul, Minn., and a master of business administration from Northern Illinois University in DeKalb. He reports to Thomas Lueck, Northern Trust's

risk manager.

We'd like to report on staff changes in your risk management or employee benefits department. Contact Sallie J. Drury, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5398.

When you're looking for services

turn to the

INSURANCE SERVICES GUIDE.

on page 44

business insurance

Textron Inc. in Providence, R.I., has promoted John L. Morse, 49, to assistant vp for risk management and insurance. He will oversee loss-control and group insurance functions. Mr. Morse joined Textron in 1962 as a staff assistant in the insurance department. He left in 1973 to become president of Frank B. Hall & Co. of Rhode Island Inc. He also served as a principal consultant with D.A. Betterley Risk Management Consultants Inc. before he rejoined Textron in 1977 as director of corporate insurance. He received a bachelor's degree from the University of Rhode Island. Mr. Morse reports to Thomas D. Soutter, senior vp and general counsel.

Thomas Naglieri has been promoted to the new position of vp of human resources at the New York Daily News. He is responsible for loss prevention, employee benefits, human resource development, recruitment and compensation for the company. Previously, Mr. Naglieri was director of labor relations at the Daily News and at ACF Industries in New York. Mr. Naglieri received a bachelor of science degree in business administration from Bryant College in Providence, R.I. He reports to Robert Hunt, president, publisher and chief executive officer.

Keith J. Lazarz, 32, was appointed trust and insurance manager of The Northern Trust Co. in Chicago. He handles the placement of insurance for all trust-held property. He formerly served as assistant treasurer with Chicago Title &

Rim maker sues CBS, institute

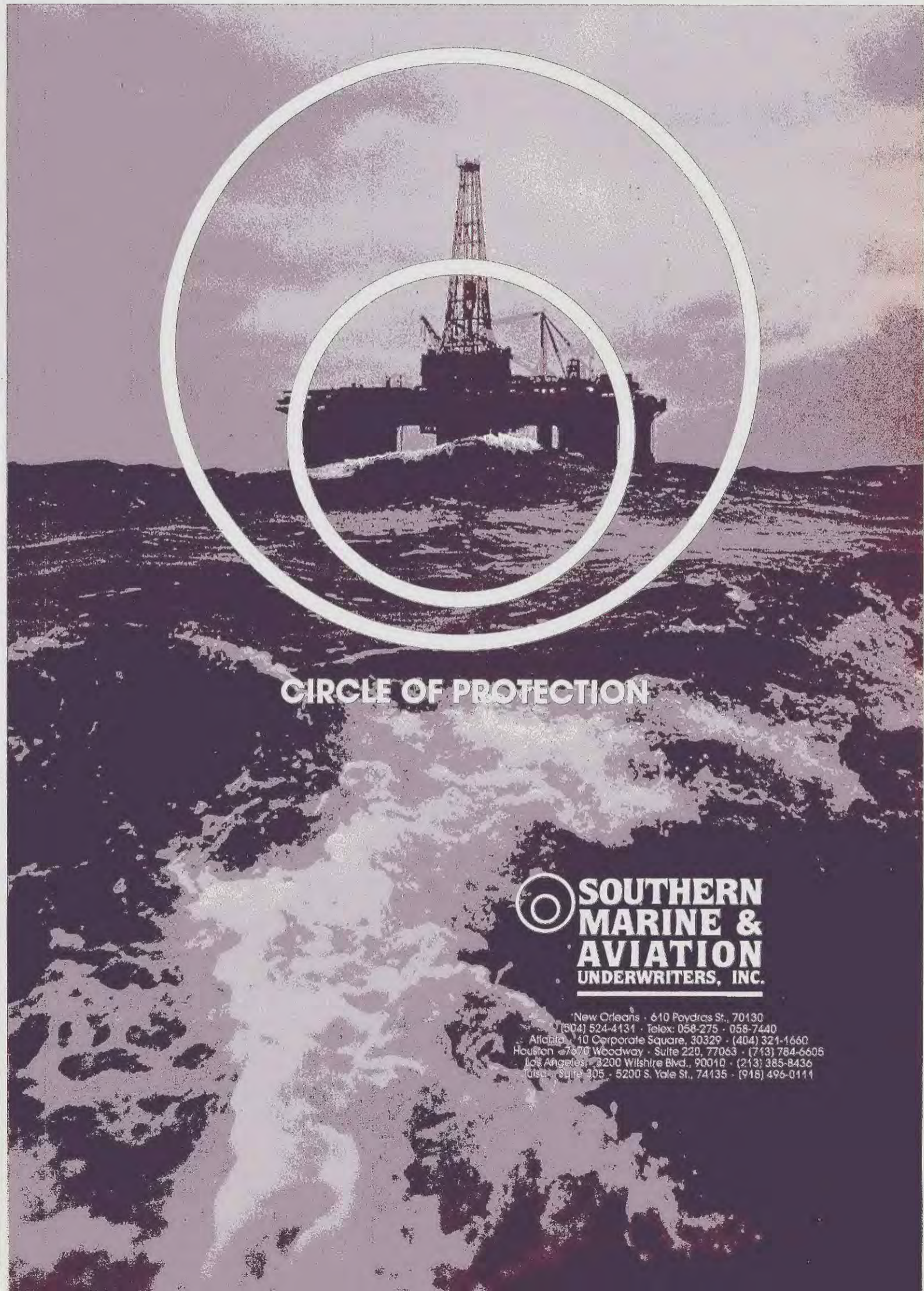
HARRISBURG, Pa.—A manufacturer of multipiece truck tire rims is blaming the Insurance Institute for Highway Safety, an industry group in Washington, and CBS Inc. for a sharp hike in the firm's product liability insurance premiums.

Redco Corp. of Red Lion, Pa., said the rate its product liability insurer, American Universal Insurance Co. of Providence, R.I., charges jumped to \$15 per \$1,000 of coverage from \$4 following after the "Killer Wheels" segment was broadcast on CBS's "60 Minutes."


In a suit filed in U.S. District Court in Harrisburg, Redco charges that the IIHS provided information to CBS that was false and misleading. It said the IIHS told CBS that the multipiece rim was more hazardous than the single-piece rim although it hadn't performed studies on single-piece rims and "knew from information provided to it by a qualified engineer that multipiece rims are as safe as single-piece rims."

Redco, which is seeking unspecified compensatory and punitive damages from the IIHS and CBS, says the number of lawsuits filed against the firm tripled since the segment was aired in March and September 1981.

Both the IIHS and CBS declined to comment on the suit.



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"Not too long ago, large liability claims and awards were only seen occasionally in the medical profession, but those days are over," says Richard F. Hazel, Managing Director at Marsh & McLennan, Incorporated. "Now, any licensed person can face serious liability claims.

"These people are leaning more and more heavily on their professional associations for help in matters like insurance," he says, "and that is where we come in." Hazel, manager of the New York sales department, is deeply involved in development of group association business. We look to our underwriters just as association members look to associations for guidance.

"We have to depend on our insurers, especially those like INA, which have specialized resources, and that's important when you're addressing pastoral counselors one day and doctors the next."

Hazel feels the insurance industry has just scratched the surface of a rapidly expanding field. "There are many professional coverages to write, and this is only the beginning. Once professionals are provided with the critical coverages, they become a prime market for accident, life, even group homeowners policies.

"In all these areas we work closely with our insurers, particularly where specialized coverages is concerned," he concludes. "We seek insurers like INA with a known track record in professional group liability. There is no substitute for experience and service."

"By the mid-1970's, the frequency and severity of professional liability claims against doctors had risen to a point where many insurance companies simply got out of the market," says Dr. Ervin Nichols, director of practice activities for the American College of Obstetricians and Gynecologists (ACOG). "This left physicians with a choice between paying astronomical premiums, practicing without coverage, or discontinuing practice altogether."

Reliable coverage in a turbulent market.
 American College of Obstetricians & Gynecologists
 Dr. Ervin Nichols



The ACOG responded to the crisis by asking its insurance broker, Frank B. Hall & Co. of Illinois, to find a carrier willing to offer group coverage to the ACOG's 15,000 member specialists.

"The company we selected was INA," comments Nichols, "and its program was attractive for two reasons. First, their coverage was priced competitively. And equally important, they agreed to help us take positive steps to reduce the risk of liability claims against our members."

To bring about such a reduction, INA continuously gathers and analyzes claims data from physicians' groups around the country. The ACOG then uses this input to keep its members up-to-date on recent trends in liability litigation—and new safety procedures in patient care.

"While our claims prevention program is still too new to be accurately assessed," concludes Nichols, "we can definitely credit INA with providing a stable, reliable source of coverage for our membership. And, in view of the volatile atmosphere surrounding professional liability, that in itself is a significant accomplishment."

"Excess liability umbrella policies have long been a necessity in corporate coverage," says Arthur G. Larocca, Executive Vice President of the John F. Curry Agency in New York. "But the demand for personal umbrellas is fast catching up.

"As our society becomes more affluent, as well as more litigious, people of above-average means need protection. INA has been responsive to this need."

The latest development at INA permits agents and brokers to write one umbrella policy with a limit of up to \$10 million. "Before this, we had to string together a series of \$1 million policies from a variety of sources to meet our customers' needs. Now, we can efficiently offer new customers the limits they require as well as upgrade existing coverages."

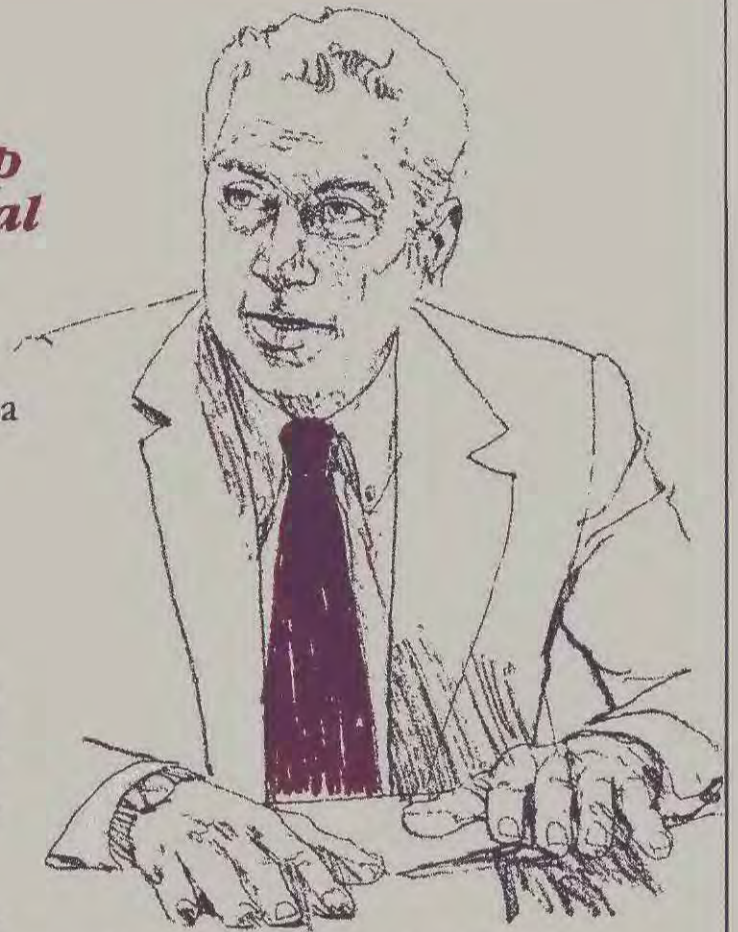
The greatest potential for brokers in this area, according to Mr. Larocca, is in the growing trend among larger corporations to offer personal umbrella coverage under group contracts to their executives as a fringe benefit.

"Not only is this an exciting new source of revenue for agents and brokers," he continues, "but it is a tremendous boost to the benefits packages that companies need to assemble to attract and keep top executive talent.

"I see this as a smart product for smart customers," he concludes, "and the most astute brokers will be able to bring the two parties together."

Opening up the personal umbrella market.

-John F. Curry's
Arthur G. Larocca



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BENEFIT COMMUNICATION

Clarity and creativity deliver the message

By Elayne Lewis

RETIREMENT age lowered to age 30 with two years of experience; monthly pension now equal to full monthly salary; collect pension benefits immediately with no reduction in monthly amount; all employee medical bills covered by corporation with no deductible; total hospital, surgical, medical, dental and eye care coverage.

Although that statement is absolutely false, it succeeds in getting your attention. Getting and keeping the attention of the employee is the prime objective of a corporate benefits communicator.

In employee benefits, communication is the technique of expressing ideas effectively and transmitting information. It's not only what you say, it's how you present it. And whether printed, filmed or spoken, communication begins with the written word. Here are some writing tips.

Write actively, not passively; passive sentences depersonalize. It's a sneaky way to avoid taking responsibility or pinning ideas on anyone. Very rarely does a passive sentence lend emphasis or variety. People use the active voice when talking; writers should, too.

Learn to mix compound and simple sentences. A series of compound sentences can bog a reader down in excess clauses

that range from confusing to exhausting. A good writer automatically mixes types of sentences.

Also remember to use long and short words. Big words add interest and depth. Short words lend color and clarity and communicate quickly to the widest variety of people. Some writers have a tendency to use longer words to sound more dignified when short ones will do.

Actually, one or two well-placed longer words will give all the dignity your readers can bear.

A few "nevers" to consider are:

- Never refer to your company as "your company."
- Never cut the chief executive officer's or president's message after it has been approved or signed, not even by so much as a word or comma.
- Never refer to yourself in print as "we" unless you are pregnant or have a mouse in your pocket.
- Never let anyone read between the lines; fill in the spaces.

If for every action there is a reaction, what type of reaction do you want and how do you attain it? Begin by becoming the employee. The more alike two people are, the better they communicate. Think about what you would want to hear or read, how you would like it presented and what would make you sit up and take notice. Talk to the employees, not at them.

The three most important objectives of any report to employees are if they read or listen to it, they talk about it and they respond to it.

There are two

things to keep in mind when trying to achieve these objectives. First, only 7% of the overall emotional impact of a message is conveyed by words; 38% is conveyed by tone of voice and 55% through facial expressions, according to researcher Albert Mehrlian. Secondly, communication is a feeling as well as a message that must be conveyed; it has an identity or a character, I believe.

If the communication is printed, like a booklet, handbook or brochure, the tone of voice and facial expression must be conveyed in words and design. Too often, we are tied to contractual language or legal jargon and are left with little room for practical, well-crafted and creative writing. That leaves the design to transmit the subtleties of communication.

Design is a creative person's delight—the playground of communication. It encompasses the typeface for the text, headlines, point size, line spacing and how the printed information is laid out on the page (in straight paragraphs, two or three columns on a page or in other ways). It includes color of ink, color and texture of paper, the artwork and photographs needed and the amount of blank or "white" space.

Initially, the typeface does not seem important, but never take it for granted. There are three categories that almost all styles fall into:

- Serif, which has short lines stemming from and at an angle to the upper and lower ends of the strokes of a letter. These are serif styles:

Times Roman Bold
Souvenir Light
Century

- Sans serif typefaces—with no serifs (or curlicues)—including:

Helvetica
Geneva Bold

- Display or decorative styles, which are unique and reflect the current trends in type and design, including:

Arnold Bocklin
Zipper
Stencil Bold

There are hundreds of typefaces to choose from and most are available in light, medium, bold and italic. Unless you are held to corporate identity or policy, the preference is yours.

Point size and leading are as important to the legibility of the copy as the content itself. For example, use nine on 11. This simply means you should be using

nine-point size lettering with two-point leading in between each line. An average leading is 1½ to two points between lines.

The point size of the main header (or title) can be any size, based on design and availability of space. The difference between the header and body of the text is usually not less than three point sizes.

Booklets may have subheaders. A good rule of thumb would be to use a two-point size difference between the main header and the subheader, and a three-point size difference between the subheader and the body. When all else fails, look at it. Is there enough visual distinction between the main head, subhead and body?

Straight paragraphs vs. two columns vs. three columns per page will largely depend on the page size and material to be printed. A 5½-by-8½-inch booklet can easily accommodate all the text needed and look graphically appealing with a straight paragraph approach.

On the other hand, an 8½-by-11 inch newsletter will allow more content space with the two- or three-column method and will be better structured both visually and graphically.

Paper and ink have the ability to subtly set the mood of the communication. A soft gray paper with wine-colored ink projects a calm, soothing effect, whereas a canary yellow-coated stock with navy blue bold lettering will jump right off the paper and snatch one's attention. There are more than 500 various colors and shades of ink and just as many variations in colors, textures and weights of paper.

Sit back and match the combination of paper and ink to the message and mood of the communication. In other words, pitch all the paper samples and ink charts in the middle of your desk and start creating.

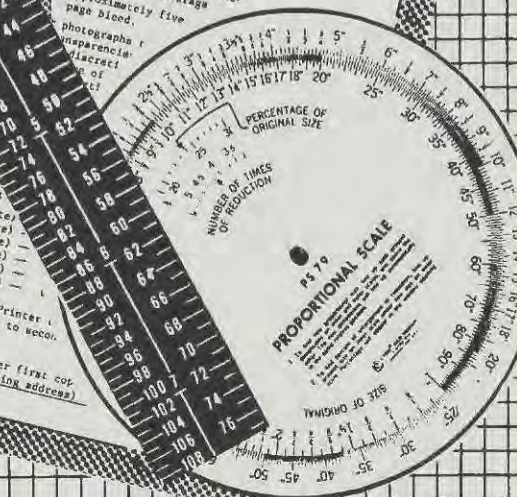
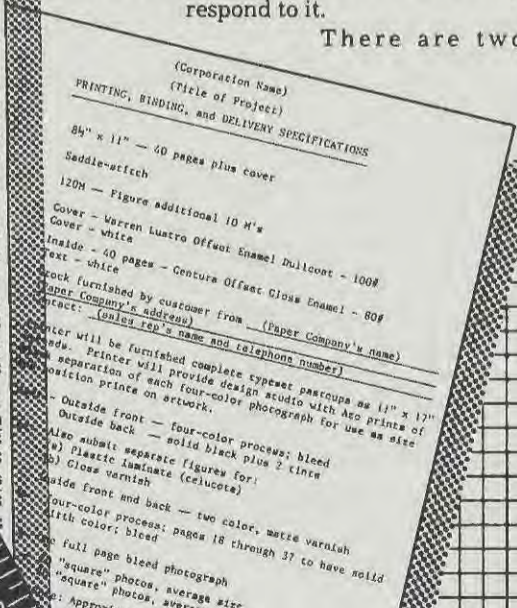
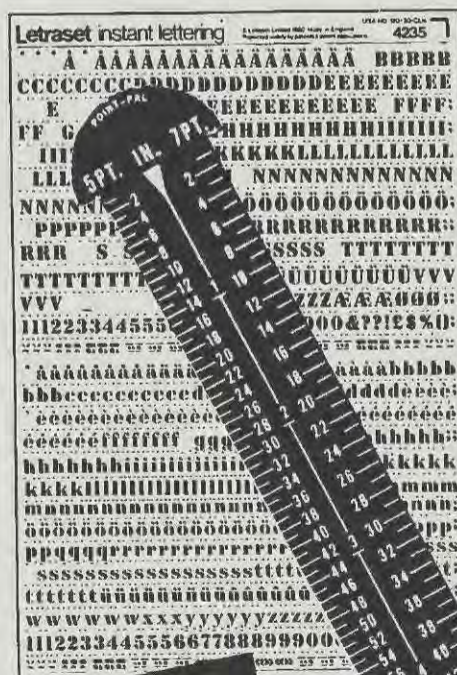
Pictures, photographs and other forms of artwork are important, especially on the lead page of your booklet or pamphlet. Artwork, particularly in the form of graphs, charts, sketches and drawings, can clarify an obscure article or illuminate or add humor to dry and often wordy facts.

Many special screens and treatments can be applied to change the total effect of the artwork. Halftone negative, duotone, steel etch screen, wavy line screen, mezzotint screen and posterization are just a few of the processes.

Much can also be done with photographs, sketches, line art and clip art to soften the tone when regular halftone screens are applied.

If in doubt, your printer can recommend the best method for your particular project.

Continued on next page



Elayne Lewis is compensation information coordinator for Eaton Corp. in Cleveland.



speaking out

Insurer inaction hurts policyholder's loss history

By Robert A. Wilson

ALARGE Chicago-area electronic sound and communications company retained our company in May 1980 to review two areas of their workers compensation program.

The first area was the adequacy of the current policy and pricing of that policy. The second was the prior year retrospective premium computations and experience modification computations.

The current policy had been issued under a one-year retrospective plan with relatively high minimum and maximum premiums. The minimum was reduced substantially at renewal with the maximum premium potential increased only slightly.

In reviewing the activities of prior years, however, we uncovered the fact that the insurance company, a large direct

Robert A. Wilson is president of Corporate Risk Management Inc. in Hinsdale, Ill.

writer, listed a loss for which \$21,000 had been reserved in 1974. That amount was included in establishing the experience modification for 1976, 1977 and 1978. Obviously, this claim was large enough to trace to its origin and the final settlement.

After a great deal of searching, we were able to confirm that a payment of \$169 for medical expenses was made on Aug. 12, 1976. This was more than two years after the date of loss.

As far as we could determine, no other payments were made before or after that date. We ultimately determined that the insurance company closed the claim on Oct. 26, 1979, indicating on their closing report that "net medical paid" was \$169. This was more than five years after the claim was first reported and reserved at \$21,000.

Although the client asked for a claims summary in September 1980, it was not received until April 1981. At that time, the client requested the National Council on

Compensation Insurance to promulgate new experience modifications for 1976, 1977 and 1978. This would entitle the client to substantial refunds. The NCCI could not comply because the insurer did not file the required "C" report with them. The "C" report states that a claim was closed without indemnity payments and permits the NCCI to recompute the prior experience modifications.

The insurer was asked to file a "C" report and recompute the experience modification. Much to our amazement, it replied that "because of the delay, it is no longer possible to reopen this matter."

The client was certainly in an unfavorable position. The NCCI cannot change the experience modification without a "C" report. Yet, the insurance company refuses to file a "C" report because of the date of the item. This is "Catch-22" in action.

Since the client was still a policyholder, we suggested they consider treating the

client on a more equitable basis. This could be accomplished by allowing a retroactive schedule credit for each of the three years when the improper experience modification was applied.

After three more months of negotiations, the insurance company finally agreed to allow a retroactive schedule credit of \$15,000 that approximated 60% of the savings if a "C" report had been filed on a timely basis.

The credit is welcome. It does not, however, reflect the loss of the use of money at a time when it has been relatively expensive to borrow.

It certainly seems unreasonable that a legitimate refund should take more than a year to obtain. Further, it would appear that the insurer should have voluntarily remedied the problem without the client threatening to file a lawsuit. This seems to be another example of the failure of an insurance company to treat its policyholders on a fair and equitable basis.

Good communications require planning, goals and continuity

By Kenneth P. Shapiro

FEW THINGS in an organization are so important—but so neglected—as communications. Without a formal communication structure and policy, which have their own impact as well as an influence on the organization's informal communication network, companies risk productivity and morale problems through poor communication and misunderstanding.

Failure to communicate can also make employees feel neglected. In fact, recent survey research shows that a growing number of middle managers feel that top management is not communicating well enough with them (*BI*, Dec. 7, 1981).

Here are five basic steps to help establish a communication system in your organization:

- Analyze the present role and position of communications within the organizational structure.
- Determine management objectives and employee perceptions.
- Establish a planned, continuing communication program that integrates management objectives and employee information needs.
- Implement the plan by producing written material, audiovisuals or other items.
- Measure the effectiveness of the communication efforts.

How are these steps accomplished?

First, use interviews at different levels of management to determine the communication objectives of the organization.

Employee perceptions are identified through specially designed attitude

management

surveys with supplementary interviews as needed.

Interviews with communication personnel and the management to whom they report can indicate the present role of communication and its place in the organization.

You must thoroughly sample all communications material to determine what media is currently used and how well. Then you must consider what other methods would work.

Once the objectives are identified, and management and employee perceptions are determined, the next step is meeting with management to plan a continuing communication program for a one- to three-year period. The plan should reflect management objectives and employee perceptions. For example, if employees believe they have poor benefits, while comparative data shows benefits to be average or better, the task is to present information that will help correct employee perceptions.

Once the program is agreed upon, the organization can produce the necessary communications material or use an outside consultant.

The final—and critical—step is to measure the effectiveness of your communications and to plan the program. By re-administering the employee attitude survey in later years, you can compare the first survey's results with the results obtained after making improvements. Generally, the initial employee concerns are significantly reduced. Of course, new issues surface that can be used as the basis for planning the following year's program.

Remember, communication is not a memo or an audiovisual aid or any other specific item. Rather, it is a planned, continuing process that promotes and facilitates understanding within all levels of an organization. Using it well influences the success of an organization.

Clarity and creativity deliver benefit message

Continued from previous page

When selecting a printer, price is not the main factor. It's the quality for the price. If an in-house print shop is not available, or if it is not equipped to handle your specific job, bid it out.

Be as detailed as possible in the bid specifications: exact size and approximate number of pages; type of binding; quantity; specific paper stock, including weight; type of artwork and who is providing what to whom; ink color; when the copy will be available; and the deadline for proofs and when they will be returned for correction. State if final proofs will be required before printing, how many are needed and where to deliver the final printed material. Give as many details as you can.

The salesperson from your printing company can be the best friend a benefit manager can have. Anyone can sit in your office and tell you that they can print anything you want, any way you want it. But the salesperson who can tell you how to make your ideas better and make them work will be the most valuable to you. For example, he can make suggestions to improve your work, like using a 15% screen instead of a 25% screen to get the contrast you need, or use posterization when your artwork isn't clear enough for a mezzotint screen. You may not agree, but it's food for thought.

If one of your projects is producing the employee benefits statement in-house, by computer, your job has just begun. The task of writing the text remains virtually the same, although the approach may vary slightly. Yet the printing of the statement cover and the first page of the statement, the computer-printed side, is a whole new ball game.

Your choice of printing houses available narrows drastically. It is the computer printing companies that become ultimately more important, and locating one that can handle the artwork you have in mind makes it even more difficult. There are such places—but you have to look a little harder, demand samples of their work that correspond to yours and be more specific with bid specifications.

In this instance, exact registry is the name of the game. A multifold computer form cannot be 1/1,000th of an inch off. If it is, then the 1,000th form will be off an inch. And with your luck it will be the chairman who receives that one.

On the other side of the coin are the computer calculation and print programs. The computer programmer and computer analyst are the people in charge, knowing what code or codes on the employees' personnel records triggers certain benefit values to compute and which calculation triggers various messages to print. But you have to provide the calculations, the messages and tell them where you want them to print on the statement, and if they don't, why.

A quick, one-day computer course to familiarize yourself with computer language is about the best thing you have going for you. No computer person talks English. It's all master tapes, calc programs, decks, input, output, hard copy, dump, JCLs, error listing, edit listing, hasp list, card code and file maintenance. And when you get a call from a computer center telling you that the computer abended, you will know whether to jump out the 28th floor window to your final glory or call everyone you know and throw a party.

The secret, though, to a successful employee benefits communication program is very simple: a talented staff (even if it's a staff of one), an understanding boss (or supervisor) and a very large bottle of aspirin.



Kenneth P. Shapiro is a vp at Hay Huggins & Co. in Philadelphia. His column on management appears monthly in Business Insurance.

"The Hartford's top-notch underwriters bring special skills to standard commercial lines."

An interview with Tony Lubimir, Senior Vice President, Office of Underwriting, The Hartford.

Q. The Hartford is known for the quality of its underwriters. Why is that?

A. Our whole approach to the market depends upon developing and keeping outstanding underwriters. That's why we give top priority to specialized training and career incentives that make underwriting both challenging and rewarding. For example, we created the position of Executive Underwriter for our most experienced professionals. They have broad underwriting and pricing authority coupled with production responsibility. The position may be unique in the industry.

Q. How do insurance buyers benefit from the specialized training of Hartford underwriters?



A. Their insurance needs are addressed by an underwriting professional with in-depth experience and expert knowledge of the particular type of coverage involved. That high level of underwriting expertise is just what brokers and agents tell us

they need to help their clients—especially in the current business environment, where *quality* of protection is as important as price.

Q. How does that underwriting expertise help insurance buyers get high-quality, cost-effective protection?

A. The more underwriters know about available programs, the better they can put together a plan that is truly responsive to a particular situation. This is especially true in complex areas such as Workers' Compensation, where a superficial approach may not produce a program that works in a buyer's best long-term interest.

Q. What happens when insurance buyers need specialized underwriting help on both the Property and Casualty sides?

A. They get it. The Hartford has a well-coordinated team approach that gives brokers and agents unlimited access to specialized underwriting and loss control assistance—in effect, our best corporate underwriting resources—when called for.

Q. Do Hartford underwriters in the field have adequate authority to accept or reject risks without consulting the home office?

A. Because of the superior training and experience of our underwriters, we're able to give them significant authority within which to operate. In fact, over 95% of underwriting decisions are made in our regional offices. Of course, our field underwriters are encouraged to utilize all corporate resources to develop the best approach to a given situation.



Q. Is The Hartford consistent in its underwriting program?

A. It is our policy to be. We don't cover a particular type of risk one year and drop it the next. This will become an even more important factor as the market starts to respond to adverse underwriting results.

Q. How can insurance buyers take advantage of Hartford underwriting capability?

A. By contacting a broker or independent agent who represents The Hartford.



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Cardwell named executive vp at BC/BS

J. Bruce Cardwell has been named executive vp of the Blue Cross & Blue Shield Assns. in Chicago.

In his new position, Mr. Cardwell heads five BC/BS divisions: finance, government programs, human resources and administrative services, business support services and systems.

Mr. Cardwell had been the group's senior vp for government programs. He was formerly vp and treasurer of the Corporation for Public Broadcasting.

The Blue Cross & Blue Shield Assns. serve as the coordinating agencies for the 109 BC/BS plans throughout the United States.

Other insurer changes:

Donald F. Craib Jr., formerly vice chairman of administration for Sears, Roebuck & Co., elected

comings & goings: industry

chairman and chief executive officer of the Allstate Insurance Group. He succeeds **Archie R. Boe**, who was elected president of Sears, Roebuck & Co.

Richard J. Haayen, previously president of Allstate Insurance Co., was named president and chief operating officer.

Allison R. Henry appointed chief operating officer at Zurich-American Insurance Cos. in Schaumburg, Ill., a new position. Mr. Henry remains executive vp.

Gene Pierceall elected president and chief executive officer for Omaha Indemnity Co. in Omaha, Neb., the property/casualty affiliate of Mutual of Omaha Cos. Mr.

Pierceall joined the company last year as senior executive vp and chief operating officer. He succeeds **Robert D. Vacinek** who was named president emeritus.

Joseph C. Simnor elected president of American International Transport Agency Inc. of New York, an affiliate of the American International Group. Mr. Simnor had been executive vp and chief operating officer of the company.

John D. Ruan III appointed president of Carriers Insurance Cos. in Des Moines, Iowa. Carriers is a property/casualty company with an emphasis on the trucking industry.

William A. Bloch Jr. appointed

vp of field operations at CU Commercial Lines Inc. in Boston, a division of Commercial Union Insurance Cos. Mr. Bloch was most recently San Francisco commercial lines service office manager.

Dan R. Carmichael named vp for the Southwestern region of the U.S. Insurance Group in Dallas. Mr. Carmichael was formerly vp for administration at USIG. He succeeds **F.F. Wasko**, who is retiring. USIG is a Crum & Forster subsidiary.

Michael T. Croke joined United Pacific/Reliance Insurance Cos. in Federal Way, Wash., as vp for special accounts in the commercial department. He is responsible for establishing a special accounts unit for larger commercial insurance buyers. Mr. Croke was previously with INA Special Risk Services.

Allen A. Sterger named manager of directors and officers liability insurance for Harbor Insurance Co. in Los Angeles. Mr. Sterger replaces **Thomas M. McHugh**, senior vp and manager of D&O lines, who is retiring.

Two promotions were announced at Utica National Insurance Group in New Hartford, N.Y. **Philip N. Graziadei** named senior vp for regional office operations and **Walter R. Bateman** named vp for commercial lines sales.

George E. Lepage appointed vp and manager of the home office business risks department at Liberty Mutual Insurance Cos. in Boston.

Thomas E. Cahill named underwriting vp at the Celina Group of Celina, Ohio. Mr. Cahill was previously with American States Insurance Cos. in Indianapolis.

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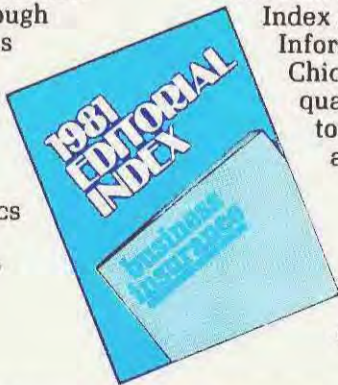
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Agents/brokers

Debra R. DeVita named vp of IWest Insurance Managers Inc. in San Diego. She was formerly manager of the IWest San Diego office.

Michael S. Georganos promoted to vp for underwriting at Paul Arnold Associates Inc. in Livingston, N.J. Mr. Georganos has been with the company since 1975.

Herbert J. Harris elected executive vp and director of Rollins Burdick Hunter of Oregon Inc. He will remain chief operating officer.

James B. Quinn, Jr. named vp at Reed Stenhouse Inc. of Washington.

Richard L. Michelson joined the Independent Agents Marketing Corp. as vp of marketing. The firm is the first producer group to establish a brokerage on the New York Insurance Exchange.

Reinsurers

Three promotions were announced at the Reinsurance Co. of America in Chicago. **John L. Stevens** named director of the firm. Mr. Stevens is a vp. **Gilbert B. Tosch** and **John D. Audas** named vps. They had been assistant vps.

Other suppliers

Kenneth McLennan joined The Risk Management Group in Honolulu as vp and principal. He is responsible for various insurance and benefits consulting functions. Mr. McLennan was formerly an assistant commandant of the U.S. Marine Corps.



Mr. McLennan

Patrick C. McDonald promoted to vp and home office claims manager for EBI Cos. in San Jose, Calif. Mr. McDonald was previously claims manager for the Santa Monica division of EBI.

Ransom Widmer promoted to benefit consultant at Buck Consultants Inc. in New York. Mr. Widmer had been an assistant benefit consultant at Buck.

Merwyn A. Hayes named senior vp at Booke & Co., consultants and actuaries, in Winston-Salem, N.C. Mr. Hayes continues to serve as president of Hayes & Associates, a management training and consulting firm. Also, **Ronald M. Tedder** promoted to vp and secretary/treasurer at Booke.

Charles F. Schanie has joined William M. Mercer Inc. in Louisville, Ky. He will be responsible for developing employee relations consulting for Mercer's East Central region. Mr. Schanie was previously an independent employee relations consultant.

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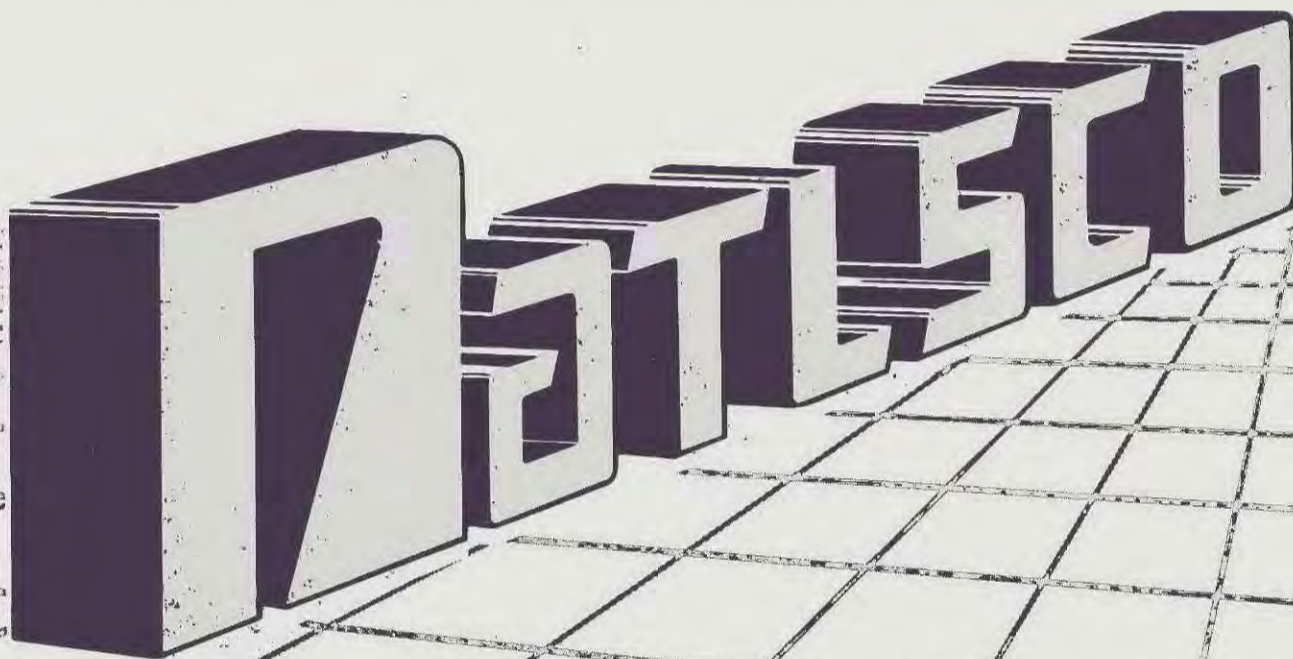
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Is comp the key?

Continued from previous page

There are exceptions to the low commissions, but they're few and far between.

Some insurance companies that specialize in workers compensation risks pay higher commissions because the coverage is their bread and butter.

And since workers compensation is often a high-premium coverage, more insurers also are anxious for the cash flow and resulting investment income in the current market.

"In a normal market, commissions (for workers compensation) range from about 7.5% to 10%," notes Steven Goodman, president of Goodman Insurance Agency Inc. in Anaheim, Calif. "But now 10% to 15% isn't unusual."

"Most carriers are offering bonuses, too," Mr. Goodman adds.

"And all kinds of deals are struck."

But most agents say that increasing competition among insurers willing to file low rate deviations or offer buyers cash-flow programs to win business isn't going to make commissions rise very much.

"If (insurers) want to be competitive, they can't go very high with commissions," explains Herbert Treweek, vp of Canon-Treweek Inc. in Gainesville, Fla. Rate reductions by insurers to attract business are coming out of commissions, he says.

But the hard work and low commissions are worth it if the agent or broker occasionally wins a high commission and if he can get his foot in the door for other business. "Agents and brokers are looking for the business because it can lead to the rest of the account," Mr. Treweek says.

Mr. Goodman agrees and cites other attractive features to workers compensation accounts.

Rates traditionally don't fluctuate much because they're set by the state. That means that agents and brokers can usually retain a large portion of their workers compensation book of business, he notes.

Other brokers suggest, thanks to cut-throat competition, workers compensation premium volume is better than no premium volume at all.

And because of the relatively high premium for workers compensation coverage, it can help meet insurance companies' requirement for premium volume, increasing overall contingency commissions.

"You've got to be after every piece of business you can get," Mr. Randall says.

And brokers and agents find ways to milk additional profit from the accounts.

Consulting, engineering and

claims services, for a fee, are general workers compensation programs that agents and brokers are learning to provide. Although such services previously were the tools of only the largest brokers, many smaller agents and brokers are supplementing insurance companies services with programs of their own (see related story).

The inability of insurers to provide needed services gives the impetus for brokers to build an expertise in workers compensation programs, notes Ronald O'Nan, senior vp for risk management services in the Chicago office of brokerage Corroon & Black.

Brokers have a closer, day-to-day relationship with policyholders, making it easier to assist in setting up programs, he explains.

"Insurance companies have been notorious for the lack of information they provide to clients," he says.

Brokers, as well as several independent vendors, come to the res-

cue, providing "everything from soup to nuts in risk-information programs," he says. Causation analysis, for example, becomes a tool to identify problem areas in workers compensation loss.

Once problems are identified, brokers work on loss control, either on their own or as supplements to insurance company programs.

Loss control contains two elements, Mr. O'Nan notes: the physical side, dealing with the environment, and the people side, involving control and management.

Engineering services fall into the first category of loss control, Mr. O'Nan explains. A broker may have an engineer, for example, help design a machine guard or a safe way to deal with chemicals. Fire protection may include installing a sprinkler system.

Working with employees and management may be the more difficult side of providing loss-control services, Mr. O'Nan says. Brokers often provide seminars on safety features.

Teaching people how to lift properly can be an important loss-control measure both in preventing a loss to the employer and warding off pain for the employee.

Direct employee assistance or helping an employer set up a safety policy or form a safety committee may be services more easily provided by a brokerage than by the insurance company, Mr. O'Nan notes.

Providing loss-control services is not the only way agents and brokers are winning the hearts of workers compensation policyholders.

Agents and brokers find they can aid their workers compensation business by keeping an eye on fluctuating state laws.

Since workers compensation is one of the most closely regulated insurance coverages, most states have many rules that can change.

Taking the time to explain the consequences of the changes to the client can help build a broker's reputation as someone who comes around for more than just renewals. And this good reputation may lead to other work comp business as well, as word gets around town.

More and more companies are finding overall risk management programs benefit from coordinated brokering.

For example, California courts during the last several years have rocked agents and brokers (along with the rest of the state's insurance community and business community) by cracking the employers' shield from employee injury lawsuits provided by the exclusive remedy provisions of the workers compensation system.

For example, the courts have ruled in some cases that an injured employee may sue his employer because of his "dual capacity" as employer and manufacturer. The concept holds that while an injured worker can't sue his company because of the employee-employer relationship, he can sue the company as a "manufacturer" if a product made for the public by the employer also is used by the employee on the job and results in his injury. The injured worker may be able to collect under both workers compensation laws and then under general liability laws as a "consumer" filing a product liability suit.

Such decisions heaped responsibility on agents and brokers to protect their policyholders. Encouraging policyholders to place workers compensation and general liability coverage with the same insurance company, for example, may save headaches for the policyholder, Mr. Goodman says.

If different insurance companies handle different coverages, policyholders may find themselves in the middle of a dispute over which insurer will pay the claims of an employee who is also a consumer, he explains.

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Brokers expand workers comp services

By DONNA LEIGH YANISH

"Service what you sell" is good advice for any salesman, and some brokers are finding new opportunities by expanding their workers compensation services.

Brokers, who have recognized their clients' needs for special services to handle workers compensation problems, are setting up subsidiaries to tackle the job and to attract consulting revenues.

Strategies vary. Two brokerage subsidiaries specializing in work-comp services attack problems from different ends of the battlefield.

Attitude Helpers, a division of Brandow, Howard, Kohler & Rosenbloom in Minneapolis, a broker with annual premium volume of more than \$25 million, has developed a front-end approach, concentrating on loss control.

Conversely, Risk Management Economics, a division of BRI Coverage Corp. in New York, which brings in about 10% of the brokerage's \$6.8 million in annual gross revenues, hits from the rear with an emphasis on claims management.

Loss control is key to reducing work comp costs, contends Amos Rosenbloom, president of Attitude Helpers and vp of the brokerage.

While loss-control programs should be motivated by an interest in employee well-being, that's just a part of the picture, he says.

"The bottom line is still the cost," Mr. Rosenbloom notes.

An effective loss-control program leads to a smaller experience modifier on workers compensation rates, and that leads to lower costs for coverage, he explains.

Initiating a good loss-control program isn't the end of the story, however. Once an employer has a program up and running, it must establish criteria for monitoring its effectiveness, Mr. Rosenbloom says. That requires good, hard data.

Making sure that correct data is used to check a loss-control program's effectiveness is an important part of servicing a client's workers compensation program, Mr. Rosenbloom says.

That service includes not accepting calculations from insurance companies and state rating bureaus without question. For example, if premiums are calculated by multiplying a rating category by a payroll figure, a watchdog may have to challenge the payroll figure or the rating category.

"You have to be alert to changes in the law as well," he adds.

Being alert can reduce the number of workers compensation claims, but an employee can't stop the claims altogether. Accidents happen and when they do, they're the subject of Risk Management Economics' program.

While Attitude Helpers' service is independent of the employer's workers compensation insurance, Risk Management Economics' program helps employers design self-insurance plans.

Preparing for self-insurance is the first step. Risk Management Economics evaluates an employer's prior loss history to determine future expected losses within a 5% margin of error, according to Richard A. Saitow, director of product development.

With that data in hand, Risk Management Economics helps the client set up a proper level of self-insured retention, Mr. Saitow says.

The client also must qualify under state law to self-insure workers compensation. Under New York law, the client is then able to buy reinsurance—purchased from National Union Insurance Co.—through the RME program. National Union also processes claims,

A/BT

Mr. Saitow explains.

Once the program is in place, Risk Management Economics begins the lion's share of its aid to employers—claims management.

The consultant places a claims manager, who remains an employee of RME, with the client. That person is responsible for controlling expenses and seeing that the client doesn't pay unnecessary costs, Mr. Saitow says.

"Our job is not to spend our client's money, and lack of control is the reason costs are so high."

"We pay about two-thirds of (the claims) we're charged for," Mr. Saitow says. "About one-third of the

expenses are for overtreatment, and we don't pay."

Employees continuously send in overcharges, he says, and they also send in charges for services unrelated to conditions covered by workers compensation.

One month, for example, the RME program received an aggregate of \$4,000 worth of claims, out of which it paid \$3,000.

When employees threaten to take the program to the work comp governing board to force the employers to pay for uncovered treatment, the employees never show up, Mr. Saitow contends.

While RME fights what it considers overcharges, it also tries to avoid the excess bills before they come in.

The consulting group has an informal arrangement with doctors

in private practice who are skilled in areas common to workers compensation claims, like orthopedics.

"We try to get claimants to use those doctors as treating doctors or at least as consulting doctors," Mr. Saitow says.

"That helps screen out phony claims. If the employee doesn't want the doctor involved, we get suspicious."

If there's a question on the claim, the firm doesn't pay it.

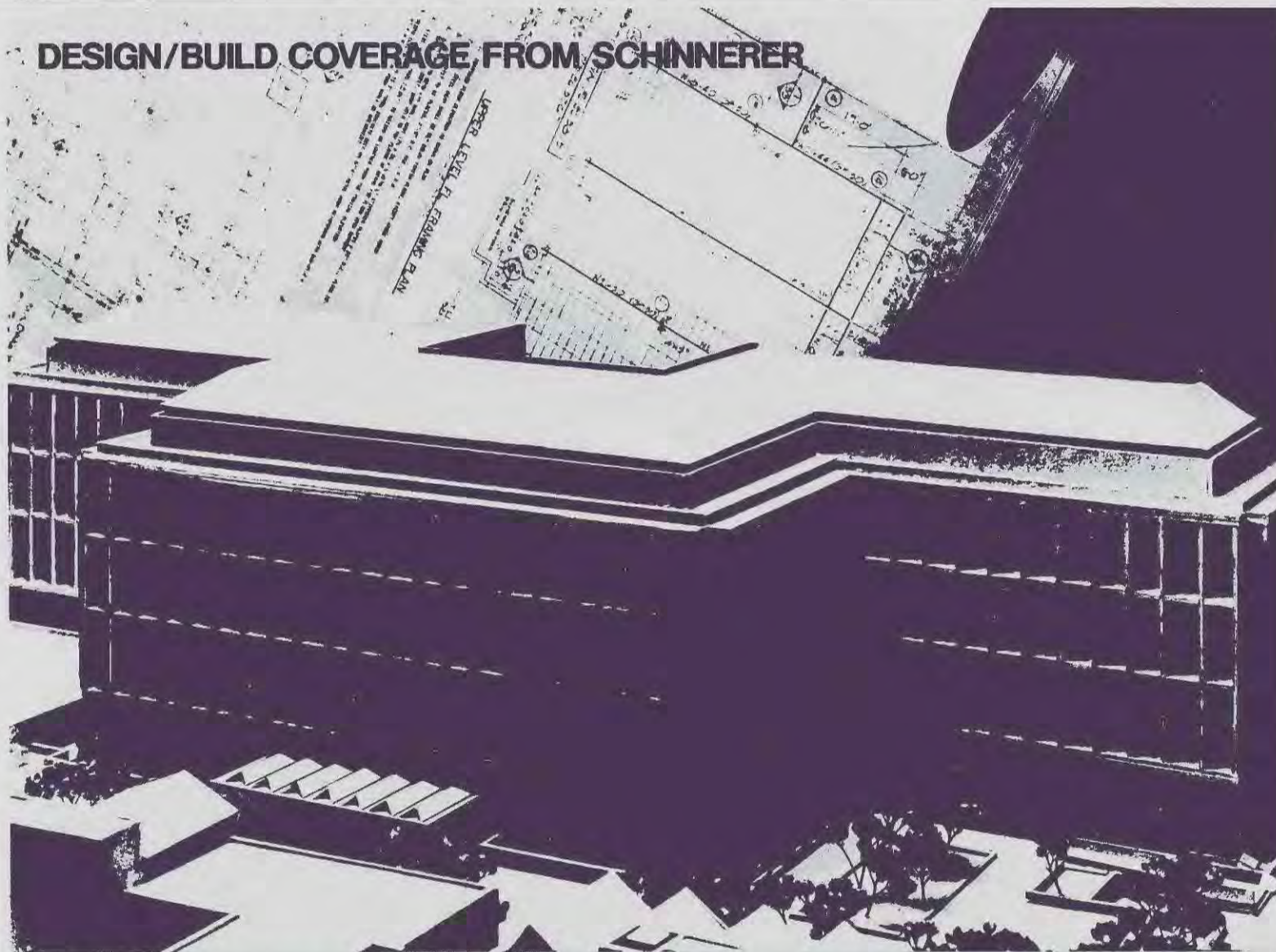
RME also questions hospital charges if the consultant thinks they're excessive. The firm's doctors, whether treating or consulting, audit hospital bills to make sure they're appropriate.

"We use our professionals to check up on other professionals," Mr. Saitow says. "We've found that's when we get results." ■



Mr. Rosenbloom

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Open rating may not spur sales battles

Don't look for much accelerated competition in states ready to allow open rating of workers compensation coverage, agents and brokers say.

Producers already are selling and marketing at a fever pitch.

"Two years ago I would have had to say that we'll really have to gear up," notes Jan Blick, president of Blick & Dillon Inc. in Cadillac, Mich. "But the last two years got very competitive on everything else, we'll just have to expand that to workers compensation."

Most agents and brokers haven't thought much about what competitive rating of workers competition will bring.

Although this freedom for insurers to vary workers compensation rates practically at will is predicted to stimulate rating battles and sales

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rates, it's too early to speculate on real impact, even in states that already have mandated open rating, they say.

While Minnesota, Michigan and Oregon have passed necessary legislation, only Oregon will enact competitive rating this year. Open rating is slated to begin in Michigan in January 1983 and in Minnesota by the middle of next year.

Oregon agents and brokers have a clearer picture of life with open rating than do their Minnesota and Michigan counterparts. But even there, "We're currently in a holding pattern," says Tom Pearson, as-

sistant vp in the Portland office of Marsh & McLennan Inc.

When open rating begins in July, the National Council on Compensation Insurance will publish loss data from information it has stored in computers, Mr. Pearson explains. That will establish the pure premium rate.

Insurance companies and the state insurance fund then will establish their own rates, taking into account their expenses and various rating plans they're offering. Each insurance company will have a different rate, Mr. Pearson notes.

With that information in hand, brokers will be able to counsel clients about just what the market has available in workers compensation rates.

Brokers at Marsh & McLennan will plug each insurer's rates into a

computer, along with the rating plans available and have the information right at their fingertips, Mr. Pearson says.

Workers compensation buyers may be waiting with baited breath for an inkling of what the rates will be, but the overall plans accompanying the rates are equally or perhaps more important, Mr. Pearson notes.

"The insurance company offering the high rate could be the best (workers compensation) plan for the client," he contends. The higher rate may be more than compensated for by the rating program being offered, he explains.

A plan's cash-flow structure, for example, can spread payments out, allowing the client to retain the funds longer in investments.

The return on those investments may make a plan with a higher rate more attractive than another plan with a lower rate and a more restrictive cash-flow policy.

"I don't think we'll see dividend plans offered" more often under open rating than they had been before, Mr. Pearson says. Traditionally, insurance companies active in workers compensation have shied away from dividend programs in favor of retrospective rating plans, he says.

Other brokers have other ideas. The industry will move away from the retrospective rating plans toward guaranteed cost programs for workers compensation, contends James H. Hefty Jr., senior vp at Fred S. James & Co. Inc. in Portland, Ore. That will allow the insurance companies and state funds to compete by cutting rates, he explains.

Right now, the Oregon state fund underwrites about 50% to 60% of the state's workers compensation insurance. The fund traditionally has insured the higher risks, Mr. Hefty notes.

"With the market as such, almost everyone will write anything," he contends.

But, for the time being, only four or five insurers aggressively compete for the state's workers compensation business, agents and brokers note.

That's a real contrast to the market in Minnesota, where more than 20 insurers are hustling workers compensation business. Open rating in the state is more than a year away, but one broker doesn't think that it will make that much difference—at least not to large accounts.

Current Minnesota law establishes the published rate as a maximum, explains Alan R. Diamond, senior vp for Frank B. Hall & Co. of Minnesota Inc. in Minneapolis. With favorable cash-flow plans and other programs available, any substantial size client doesn't pay published rates, he explains.

It's the smaller accounts, with premium volumes of about \$40,000 to \$50,000, that are going to feel the effects of open rating, Mr. Diamond believes. Those clients usually have to accept whatever insurers offer as the rate for workers compensation, he says.

They don't have the premium volume to attract the innovative pricing programs afforded to their larger counterparts.

Within the smaller accounts, the classes with the poorest loss experience will feel open rating's strongest negative punch, Mr. Diamond continues. Insurers will be able to deviate from established rates both going up and down, he explains, while today insurance companies can only slash points off the published figures.

As the potential crunch on smaller accounts comes closer, agents and brokers may be able to prepare their clients before it hits.

While many industry sources predict that open rating will bring a drop in rates, agents and brokers must anticipate how their clients will react.

Michigan already has had an inkling of that scenario since the state Legislature recently passed a bill cutting workers compensation rates by 20%.

The drop in rates may be quite difficult to explain, notes Steven Randall, underwriting manager for Braun & Braun Inc. in Flint, Mich. Unless the agent or broker prepares the client for the decrease, "he's going to think he's been raped for 20 years," he contends. The agent and broker has to know how to explain that rates are going down, he adds.

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New York state fund has unfair advantage, local brokers charge

Agents and brokers are keeping a close watch on state insurance funds that compete with private insurers for workers compensation risks.

Twelve states have these competitive funds, and competition between them and the commercial insurers that agents and brokers represent is generally fierce.

The state funds don't play by the rules of fair competition, agents and brokers in some states claim.

New York's state fund, which underwrites about a third of the workers compensation risks in that state, has license to grant discounts to and levy surcharges on employers buying insurance from it, according to Robert Bauge, president of Associated Brokerage Center in Levittown, N.Y.

Commercial insurers, however, can't surcharge and discounts are limited by regulations requiring insurers to file such rate deviations with the state Insurance Department, Mr. Bauge says.

Requiring commercial insurers to file in advance prohibits them from using a more flexible rating

Changing the system for state comp funds is not an easy task, Robert Bauge says.

system that would stimulate competition with the state fund, adds John J. Faley, Jr., president of the Independent Insurance Agents Assn. of New York.

The state fund, however, counters that private insurers have more flexibility in providing workers compensation coverage.

Because it's a government agency, the state fund is fettered with more bureaucracy than commercial insurers face, contends Arnold Kideckel, executive director of the fund.

New York law requires that the state fund take anyone into the fund regardless of the risk, he notes.

That's a tremendous competitive disadvantage, he contends, although it's partially offset by the ability to surcharge.

The fund can only cancel policyholders for not paying premiums, but it can't cancel unprofitable employers.

While agents and brokers would like the commercial insurer to have the same breaks the state fund has, changing the system is not an easy task, Mr. Bauge says.

"We're going to the state to correct the state," he adds.

Agents and brokers in one state, however, were able to "correct" the state fund's activity. They convinced the Oklahoma State Insurance Fund's Board of Governors not to allow the fund to offer front-end discounts, according to Gene McCrory, president of North American Insurance Agency in Oklahoma City.

Independent agents and brokers had been watching the state fund lean toward a competitive position in the marketplace, new ground for the traditionally non-competitive group.

Originally, the fund was started to insure public bodies and to take companies that couldn't buy workers compensation insurance any

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where else, Mr. McCrory explains.

But before the agents and brokers met with the board, the fund was eyeing discounts to make an aggressive play for other business, Mr. McCrory says.

The agents and brokers headed this off. The state fund still insures government workers and will accept other employers, but it doesn't solicit non-government business. ■

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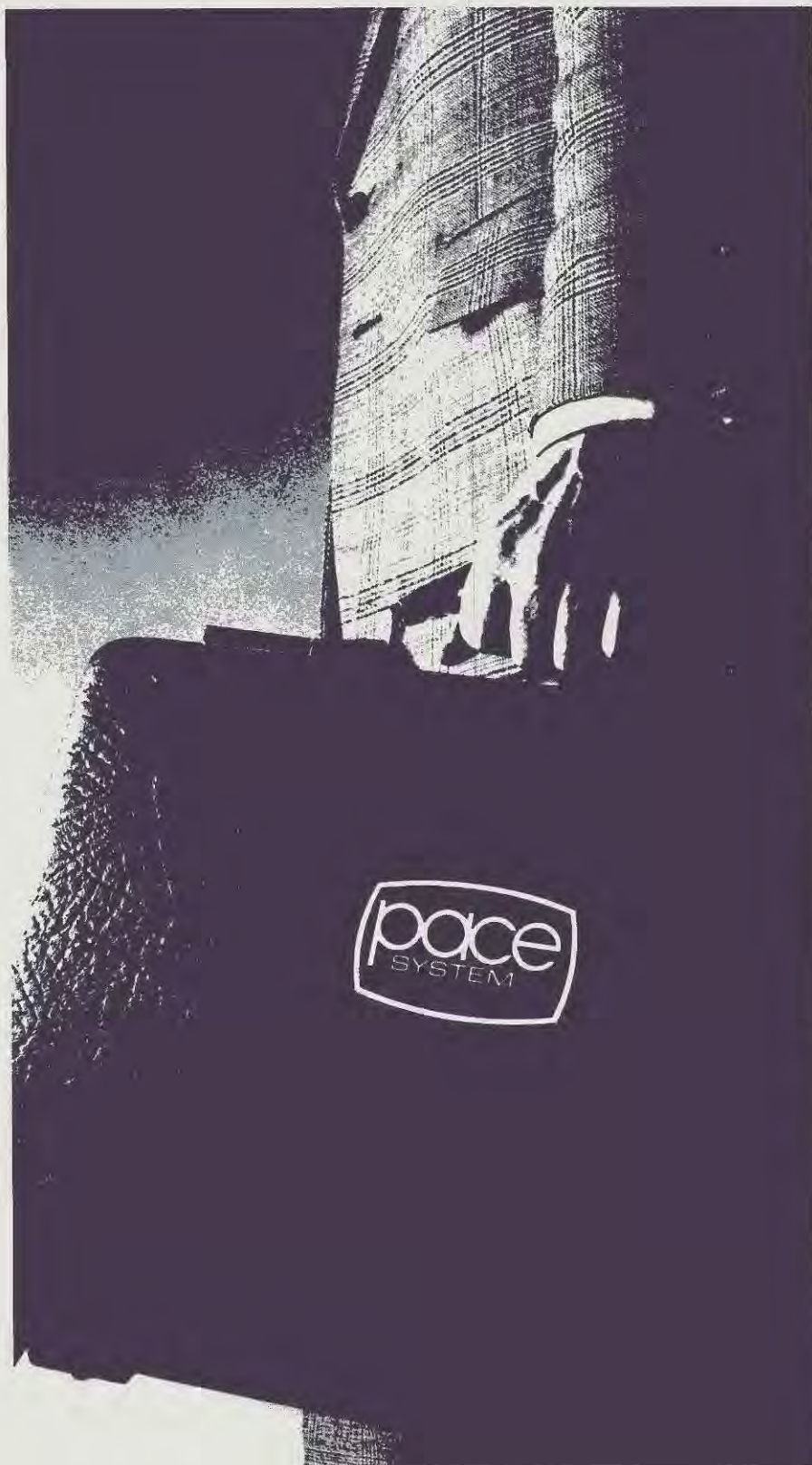
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*Source: Employee Benefit Plan Review, April 1981

LTD protection up to \$10,000.

As inflation has taken salaries to new heights, LTD benefits – in real terms – have begun to pale. Especially for people at the top. Unionmutual saw the need to increase maximum benefits to where these highly paid people (often the ones who decide whether a company will buy a given policy), could themselves be well protected. Now monthly benefits of \$5,000, \$8,000 and even \$10,000 are possible. And by making our benefits more attractive, we've increased your opportunity for more sales.

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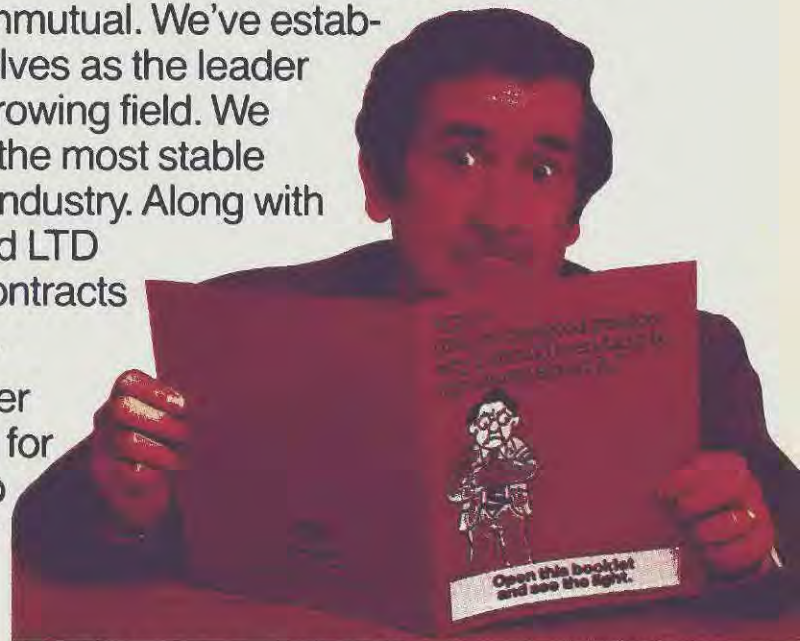
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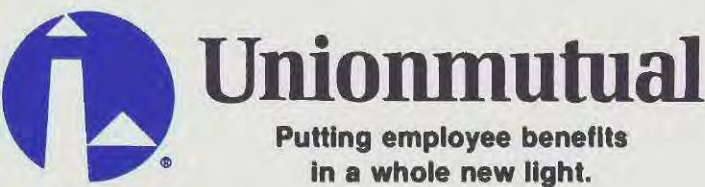
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BI-4/5

Agents starting to dive into comp pools

States that allow groups of employers to pool workers compensation risks are providing both new problems and new possibilities for agents and brokers.

Wherever the self-funded pools compete with premium-hungry insurers, agents and brokers are in there fighting—on one side or another.

While many states permit groups of employers to self-insure workers compensation under one common program, pools in some states are more active than others.

In Oregon, for example, state laws permit pooling, but that alternative has never caught on as a popular source of workers compensation coverage.

Across the country in Florida, however, more than 20 self-insurance pools vigorously compete with

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commercial insurers for workers compensation risks, providing some new challenges to agents there.

Prior to 1979, when the Associated Industries of Florida started its self-funded work comp pool, few used agents and brokers to sell their programs. But when the Associated Industries' pool chose to market the pool through independent agents, it grew from one of the state's smallest to one of the largest, according to President John Shebel.

Now, most pools use independent agents to market their groups, Mr.

Shebel notes, and Florida agents are in the thick of the competition.

In addition to selling, the agents counsel clients on whether to place their workers compensation risks with commercial insurance companies or self-insurance pools.

Such advice must be given with care, notes Herbert Treweek, vp of Canon-Treweek Inc. in Gainesville, Fla., and president of the Florida Assn. of Insurance Agents.

"You have to be careful to explain that self-insured funds may have additional obligations for members," he notes.

For example, with self-insurance pools, members must assume joint liability, Mr. Treweek says. That means that participants in the pool are liable for outstanding claims that occur.

"They are, in reality, the finan-

cial backers of the self-insurance pool," he explains.

That financial liability may become academic as the pools grow and gain more members, but it's still on paper as a financial obligation.

The pools also attempt to minimize the liability by buying reinsurance, Mr. Treweek notes, adding policyholders should recognize the protection this affords.

Potential pool members should understand a self-insured fund's dividend policy, too.

"Consider the time value of money," says Hyatt Brown, president of Brown & Brown of Daytona Beach, Fla. Employers in self-funded pools should know how much they must put up for how long and how much will be re-

turned, he says.

Staying abreast of programs offered by workers compensation providers can be a major project, agents say. Both pools and commercial insurers continue to change their workers compensation programs, sweetening offers with front-end discounts and back-end dividends.

Agents shouldn't renew policyholders' workers compensation coverage without re-evaluating their needs, one agent notes, especially now that so many options are available.

In the past, when employers were digging around just to find workers compensation coverage, rather than choosing from several competitive alternatives, agents could let programs slide along from year to year.

Florida's shift to a wage-loss workers compensation program, however, changed the competitive picture.

Under the wage-loss concept, an injured worker doesn't receive permanent partial disability benefits, except for extreme impairments. Instead, benefits are paid only for proven lost wages after an accident.

Insurance companies foresaw an almost immediate impact on the profit margins for workers compensation under the wage-loss law, Mr. Treweek contends.

"Before wage-loss, (insurance) companies were losing their tails," Mr. Treweek says. "No one was active in small risks."

Enter the wage-loss legislation.

One by one, insurance companies asked the state Insurance Department to approve discounts to policyholders.

"Now 28 to 30 insurance companies are giving from 10% to 17% front-end discounts and are also giving dividends," Mr. Treweek notes.

The self-insurance pools are also dangling discounts of up to 15% as well as dividends in front of prospective pool members, he adds.

While Florida agents are earning profits from the fast and furious competition, agents and brokers in Illinois are still fighting for the right to market the five self-insurance pools in the state.

Only one of the workers compensation pools, sponsored by the Illinois Manufacturers' Assn., markets through agents and brokers. In the other four cases, the sponsors and administrators exclusively market the pools.

In the long run, all the pools will have to market through independent agents and brokers to get a large enough membership to be successful, believes Ronald O'Nan, senior vp for risk management services in the Chicago office of Corroon & Black Corp., which administers the manufacturers' pool.

But in the short run, some of the pools' administrators say agents and brokers aren't the answer to their marketing needs.

"Brokers' interest in self-insurance is minimal," contends David Segel, vp of Self Insurance Service Inc., administrator for Midwest Industries Management Assn.'s workers compensation pool.

"Only the enlightened segment (among agents and brokers) is interested in exploring the area," he says. For most agents and brokers "self-interest and normal instinct says that self-insurance is bad."

Illinois agents and brokers disagree. Many say they want to market self-insurance pools and believe they can do a good job.

They point to the Florida agents' success in helping to build the pools there and say they want to dive into the market, too.

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Agents investigate merger proposition for research groups

Two national research projects on automation for agents and brokers may be merging.

A merger between the Insurance Institute for Research and the Agency Company Operations Research & Development Corp. was suggested by the Independent Insurance Agents of America's executive committee.

The IIAA, which originally established IIR and ACORD, established a task force to study the merger.

ACORD conducts research on standardization of insurance forms. Although current products offered by the group are aimed at personal lines agents, products on the drawing board include standardized property consulting inspection forms for agents and direct bill and commercial quotation procedures.

IIR researches the evolving field of agency automation and interfaces. The organization produces seminars and publications on what's available to agents and brokers from insurers.

The call for the merger follows an apparent increase in the joint efforts between the two groups. All their projects deal with automation in general, cutting across both commercial and personal lines.

Last year, the groups implemented an IIR/ACORD Joint Standards Program to develop a set of industrywide standards to support the creation of an electronic agent/insurance company interface system.

Early last month, the groups formed another special task force that was charged with developing a specialized "blueprint" that details for vendors the specific needs of agents that are contemplating automation.

The task force will conduct on-site studies of 15 to 20 agencies of varying sizes, automated sophistication and mix of business to identify and establish a priority of spe-

A/BT

cific, yet common, agency needs.

The results of the task force's research will be combined with related insurance industry efforts to develop the blueprint.

Despite the apparent increasing collaboration between IIR and ACORD, both groups refused to discuss the merger negotiations and are not individually supporting a union.

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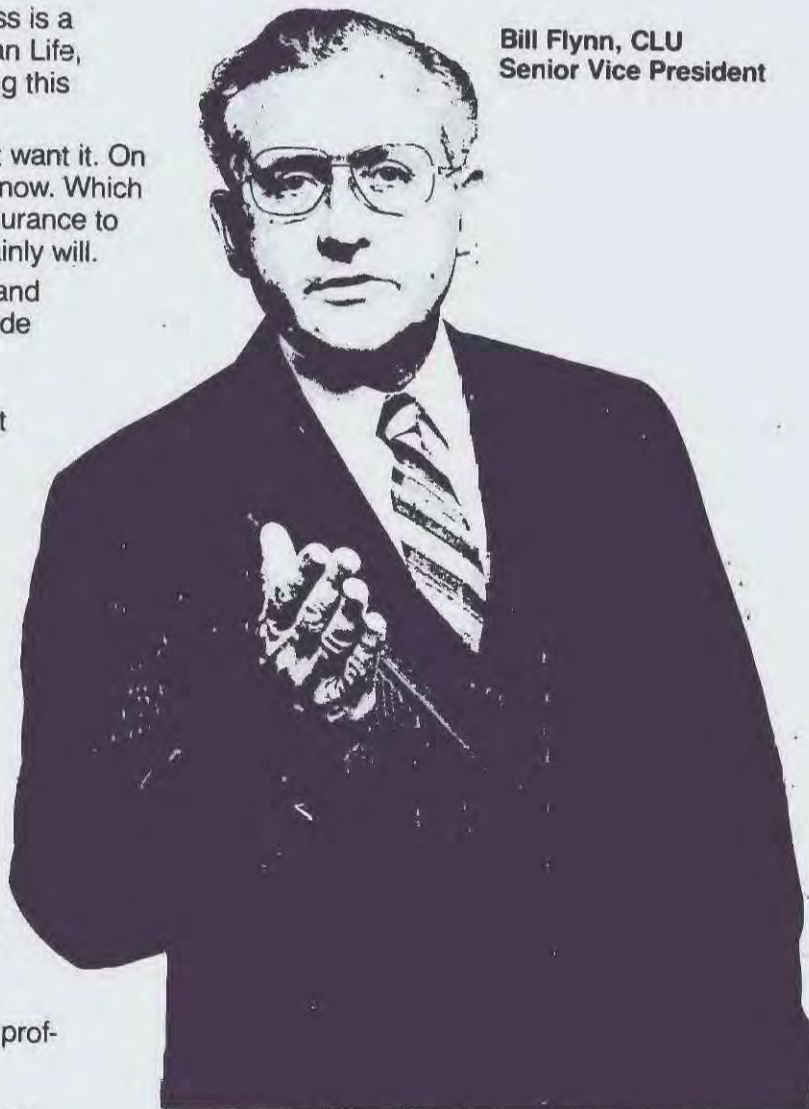
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Learn how to profit from comp

Seminars on how to make money on workers compensation lines will be offered throughout April by the education department of the Independent Insurance Agents Assn. of New York Inc.

Topics at the workshops include:

- How to increase earnings by charging advisory service fees properly.
- How to appeal claims to the workers compensation rating board successfully.
- How to use the services of the rating board to optimum advantage.
- How to recognize risks eligible for experience rating.

The instructor for the seminars will be Robert H. Bauge, president of Associated Brokerage Center of Levittown, N.Y., and chairman of IIAANY's Special Workers Compensation Committee.

Registration fee for the full-day seminars is \$50. For more information and registration forms, call the IIAANY education department at 315-432-9111.

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Deregulation won't end federal threat: Jordan

Don't sit back contently thinking the federal government will never step foot on the state insurance regulators' turf.

That warning, leveled by Donald L. Jordan, executive director of the National Assn. of Insurance Brokers, may be somewhat unusual today, with the Reagan administration's emphasizing state rather than federal regulation.

But the belief that efforts to decentralize government have shifted the real action to the states is one of several myths now permeating insurance industry thinking, Mr. Jordan says.

The industry seems to believe that "with political division and confusion in abundance in Wash-

A/BT

ington and a single-mindedness exhibited by policymakers to heal our ailing economy, the actions of Congress and the executive branch are now of less immediate and direct concern to the insurance industry," Mr. Jordan says.

Two other myths are in the making in the insurance industry as well, he explains:

- State regulators are smarting from budget cuts and tilting toward competitive rating practices. So, commissioners are shifting atten-

tion from regulation of market conduct to questions of insurer solvency.

"As a consequence," Mr. Jordan says, brokers and insurers think "the commercial insurance marketplace will remain relatively free from the hand of state regulators."

- The insurance industry can also feel secure that the existing system of state regulation will not be seriously challenged.

Rather, it feels regulations will not be substantially modified or restructured. Any thoughts about federal initiatives for the modification or abandonment of the industry's prized McCarran-Ferguson Act should be considered heresy.

These myths, although popular,

mask a potentially serious pressure straining the existing regulatory structures, Mr. Jordan says.

"Such pressures, at a minimum, mean that discussions of national regulatory alternatives could become increasingly relevant, and that some form of federal regulation of the insurance industry, at least in part, is not an idle threat."

Tension from within the insurance industry stems from the rapid development of national markets and demands by insurance consumers to further simplify and standardize insurance products, he says. Consumers are demanding that the industry achieve savings from economies of scale in insur-

ance distribution and servicing.

"Certainly the prospects for the mass marketing of commercial lines that many see in the offing rely on a nationwide market that is not fettered by unnecessary constraints," Mr. Jordan notes.

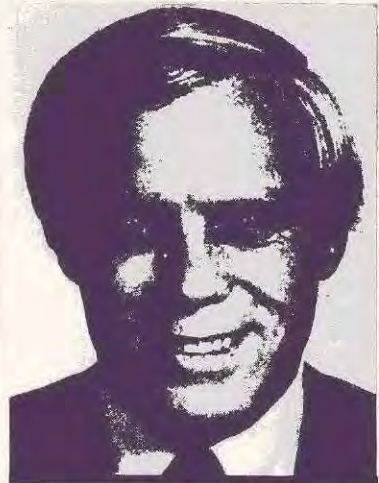
Multistate agency franchises also complement more of a regional or national approach to product marketing and services, he adds.

Also, there is a growing shift in emphasis within the financial services industry from a traditional vertical integration to an increase in horizontal mergers and acquisitions, Mr. Jordan said.

Although the insurance industry has already gone through a major period of horizontal integration, financial industry mergers could spur federal officials into a new period of regulation.

Mr. Jordan also thinks the growing international scope of the insurance industry is causing added tension for the regulatory system.

"Our pluralistic state-regulated system faces difficulty when negotiations are conducted by the executive branch with foreign govern-



Even with deregulation there are new federal standards promulgated, NAIB's Mr. Jordan says.

ments on insurance regulatory practices.

"Specifically, how will 50 state regulators get their act together when insurance is on the negotiating table as part of the next round of General Agreement for Trade and Tariffs negotiations?" he asked.

While these pressures are beginning to bear on insurance regulators, the federal government is already stepping within their turf, Mr. Jordan notes.

Even with federal deregulation efforts, there are still new federal standards being promulgated," he says. And as these rules increase in number, more and more federal agencies become involved with the insurance industry, he said.

However, after drawing the picture of federal lawmakers eating away at the state governments' territory, Mr. Jordan admits that heavy national regulation is not imminent.

"Any potential change in McCarran-Ferguson is not likely to occur in this Congress or the next," he says. "But pressures for change are in the wind."

"A greater federal move toward insurance regulation could grow out of current efforts to restructure the entire financial service industry and provide relief to ailing thrift institutions."

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Computer expenditures can be tax-deductible

By **ROBERT FEINSCHREIBER**

Expenditures for software development by insurance brokers and agents and corporate risk managers are eligible for an important new tax benefit. A revision in the law provides a 25% tax credit for increases in research and development expenditures, including software development.

Also, increases in software expenditures now provide tax credits. An example will help illustrate how the tax deduction works. An agency or brokerage spent \$400,000 on software development last year and spends \$800,000 on software development this year.

Assuming the agency or brokerage makes no other research and development expenditures, the deduction this year is \$800,000, saving \$368,000 at the standard corporate tax rate of 46%. And the tax credit is \$100,000, 25% of the \$400,000 increase, which is a dollar-for-dollar offset against the company's tax bill.

The new credit, however, applies to software development that has been undertaken only since July 1, 1981.



Mr. Feinschreiber

The credit is scheduled to expire at the end of 1985. But, with the insurance industry on the threshold of what many believe will be widespread automation, many agents and brokers may benefit from the credit during its four-year lifetime.

And, if the tax credit program is successful in encouraging additional R&D, the credit may be made a permanent feature of the tax law.

Some facets of computer science qualify as R&D and are eligible for the tax credit, but some do not. Because of this, agency and brokerage computer specialists must work with tax attorneys to delineate what activities are eligible or ineligible.

One result of the new law is the additional record-keeping responsibilities that will be thrust upon computer specialists, programmers and their staffs.

Both in-house software development and contract development costs qualify for the credit, but under different rules. As a result, the amount of a tax credit may be affected by the decision to do software development in-house or by contract. In-house development may be favored only if adequate data is maintained.

Many aspects of computer science qualify for tax credits. Software development encompasses searches, investigations and experimentation. The purpose of these operations can be to discover information or to apply research results to develop a plan or design. Or they

can pertain to the development of new or significantly improved computer software.

If an agency or brokerage is developing a new program, these are some of the activities that will qualify for the tax credit:

- Preparing plans and preliminary specifications for the new program.
- Preparing the program.
- Testing the program to determine its capabilities and cost-effectiveness.

Routine testing of software is ineligible for the credit. However, if testing is undertaken in order to improve the software, the testing is considered software development that qualifies as R&D. The cost of adopting an existing program to a

specific need, testing the feasibility of a minor program or slightly modifying an existing program is not eligible for credit. Routine or periodic changes in software are also ineligible.

In-house software development, wages and supplies qualify for the credit. Lease or license payments for hardware or software used in development are also eligible, but overhead is ineligible.

For contract software development, 65% of the payments are considered to be for wages, supplies and leases, so 65% is automatically treated as research expenditure.

The rules for in-house software development are relatively broad. Thus, eligibility is not limited to the software development itself.

Both direct supervision and support for software development also qualify for the credit. Salaries and wages paid to these individuals are taken into account, but benefits and compensation that are not subject to withholding are outside the scope of the credit.

While direct supervision of development qualifies for credit, general management activities are ineligible. Thus, the salary of the data processing director should qualify, at least in part.

When a computer specialist has indirect reporting responsibility to an executive who is also involved in software development, a portion of the executive's compensation should qualify. For example, all or part of the salary of the vp of data

processing should be eligible for the credit.

Since direct support of software development also qualifies for tax benefits, wages paid to technical staff and even some non-technical employees may come within the credit computation. These are examples of support activities that qualify:

- A programmer enters data into the computer to test a new program.
- A secretary types reports describing the capabilities of the new program.
- A statistician analyzes the reliability of the new program.

Other expenditures indirectly related to the software development

Continued on next page

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The illustration shows a perspective view of a city street with several buildings. In the foreground, two large dice are stacked on top of each other, casting long shadows. The dice are positioned as if they have just been rolled, with the top die showing a six and the bottom die showing a one. The street is labeled 'PARKS PLACE' and 'AVENUE'. The overall scene is rendered in a dark, monochromatic style with strong highlights and shadows, creating a dramatic and somewhat ominous atmosphere.

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**Receive tax credit
for software R&D**

Continued from previous page
don't qualify for the credit. Here are some of the ineligible activities:

- A payroll clerk prepares the salary checks for computer scientists and programmers.
- An accountant provides services to the computer scientists and programmers.
- The agency or brokerage treasurer raises funds for a new software development facility.

When a computer scientist or aide is involved in both eligible and ineligible activities, record keeping may become burdensome.

However, the new tax law contains a bonus for firms that maintain the data. If a computer scientist and others devote at least 80%

of their time to software development, then all their time is treated as applicable to development. Thus, their entire salaries are within the scope of the credit.

Supplies used for software development also qualify for the credit. This applies to items that are used in new product testing, experimentation or other aspects of software development.

Eligible supplies include the cost of paper and electricity used by the hardware during the software development. However, items like land, buildings, equipment and the hardware itself are ineligible.

Software development performed by outside parties qualifies for the credit. Two types of contracts are eligible: those for general research and those involving basic research.

General research can be performed by anyone the agency selects. Basic research must be undertaken by a college, university, tax-exempt scientific organization or scientific foundation.

Thus, an agency or brokerage can contract with an outside computer or other software development organization to perform all or part of its development. Payments to an employee can qualify only under the in-house software development provisions, not the contract research provisions.

The agency or brokerage entering into the software development contract must also make their own software development payments. If a different firm pays for the development, neither gets the tax credit.

However, agencies and brokerages that form a joint venture for software research are allowed to share the credit. That makes the program available to smaller agencies and brokerages as well.

Yet a software development contract must be worded carefully because the credit is awarded only once. If the software developer gets the credit, then the outside research organization cannot consider any of its costs to fulfill the contract eligible expenses.

Grants and contract payments for basic research can also qualify for tax credit. The recipient must qualify as a college, university, scientific research organization or special foundation. Thus, basic research performed in a university computer science department provides a tax credit to the company funding the research.

The expenditures for basic research qualify only if there is a written contract between the agency or brokerage funding the research and the institution providing the research. Like the research contract provision, 65% of the payments are eligible for credit.

An agency or brokerage cannot accelerate its tax credit by paying for the software development in advance. The credit is earned only as the development is conducted.

In many instances, it will be difficult to determine the portion of software development that takes place one year from another. The contract should be drafted in a manner that specifies identification of the software development that takes place during a year.

The credit is based on the increase in R&D expenditures over a base period amount. During the first year, the base is the amount of R&D in the prior year. The second year, two years are averaged in the base. During the third and subsequent years of the credit, the base is the average R&D level for the three preceding years.

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Unions favor mandatory cost controls

By **JERRY GEISEL**

WASHINGTON—Placing mandatory cost controls on hospital and other medical services would be the most effective way to cool soaring health care costs, according to union leaders.

Under a proposal announced last week by labor union members of the Health Security Action Council, hospitals would have to negotiate their budgets with state officials.

Ceilings on hospital payments would be based on the previous year's expenditures with increases allowed for inflation.

In addition, physicians' fees would be negotiated annually at the state level among insurers, state officials and medical officials. A similar system now exists in some Canadian provinces.

Each state also would be required to appoint a laboratory and X-ray payment committee to develop annual fee schedules for these ser-

vices.

"We are convinced that this is a soundly thought-through and important way to provide a constructive alternative to contain health care costs," said Douglas Fraser, president of the United Auto Workers and chairman of the health council.

Mr. Fraser says private employers' and workers' health insurance costs would be slashed by more than \$7 billion annually if a cost-containment program were adopted.

In contrast, the Reagan administration's plan to trim federal government health expenditures by reducing Medicare benefits and making employers extend their group health insurance plans to workers who stay on the job after age 65 (*BI*, Jan. 18) would only shift costs to the private sector, Mr. Fraser contends.

The administration's "approach will not contain costs; it will only cause added suffering and death due to slashed services and entitlements," the UAW chief added.

Members of the Health Security Action Council, formed earlier this year to examine ways to control health care inflation, include the Business Roundtable, the American Hospital Assn. and the American Medical Assn., as well as several labor groups.

However, the Business Roundtable, the AHA and the AMA have not endorsed mandatory cost controls on physicians or hospitals.

Mr. Fraser said he will try to drum up support in Congress for the cost-control proposals. Other proposals to place cost controls on doctors and physicians have never moved beyond the committee level during five years of legislative battles in Congress.

Mr. Fraser concedes that getting cost-control legislation through Congress would be difficult, but momentum for such controls is growing. "When a system is in disarray...there is new awareness in Congress that something has to be done," he said.

The cost of health care has recently been rising twice as fast as the Consumer Price Index. ■

Chicago 'I' Day will examine industry future

CHICAGO—The 46th Annual Chicago Insurance Day, to be held April 30, will examine the future of the insurance industry.

The program will feature key insurance industry officials who will be questioned about their plans for the future by two prominent insurance lawyers.

The panelists include: Harold H. Hines Jr., president of Ryan Insurance Group Inc.; Richard J. Haayen, president of Allstate Insurance Co.; Jack Payan, president-elect of the Independent Insurance Agents of America.; K. Daniel Streiff, vp of the insurance division of First National Bank of Chicago; Michael Levy, president of Insurance World Corp.; Illinois Insurance Director Philip R. O'Connor; Arthur P. Bostwick, risk manager at Stone Container Corp.; and Philip L. Engel, vp of marketing at CNA Insurance Cos.

They will be questioned by Illinois state Rep. Bernard E. Epton, chairman of the House Insurance Committee, and Frederick B. Karl, general counsel of the Florida Assn. of Insurance Agents.

More information about the program, to be held at the Palmer House hotel, can be obtained from the Chicago Board of Underwriters by calling 312-236-4888. ■

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ERISA changes needed: Pension official

Continued from page 1

One reason that ERISA and other benefit issues may have been dormant is that until December, the pension administrator's slot was filled by Ian Lanoff, a Democrat appointed during the first year of the Carter administration.

But in December, Mr. Lanoff resigned to go into private law practice, and Mr. Clayton, a political

appointee, left his labor law practice in Salt Lake City to become the new pension administrator and oversee regulation of the nation's 500,000 private pension plans.

During those four months, Mr. Clayton, 34, has immersed himself in a wide variety of pension and benefit issues. His observations include:

- A federal legislative solution

may be needed to control the growth of largely unregulated self-funded multiple employer trusts, which provide comprehensive health insurance coverage to individuals and smaller firms.

- A "loophole" in ERISA that allows some employers to dump their underfunded pension plans on the Pension Benefit Guaranty Corp. should be closed.

- It would be premature to pass legislation that would exempt small employers from buying mandatory government pension termination insurance from the PBGC.

- Some of the financial problems facing multiemployer pension plans were the result of a flawed liability system in which there wasn't a relationship between the benefits promised and the contributions employers made to the plans.

As a first step in regulating self-funded METs that go broke and leave medical bills unpaid, Mr. Clayton says the department is moving faster in issuing advisory opinion letters on whether a MET is a bona fide employee benefit plan protected from state regulation by ERISA or is an unauthorized insurance operation subject to state regulation.

These advisory opinion letters are given great weight by federal judges when state insurance department officials file suit to try to shut down mismanaged self-funded METs. However, during the previous administration, it took the Labor Department as long as three years to publish the letters.

Beyond those letters, Mr. Clayton acknowledges that legislation may be needed to narrow the scope of ERISA pre-emption so that it becomes more difficult for METs to claim that they are protected from state regulation by federal law.

One way that could be done, Mr. Clayton said, is to make it clear through legislation that ERISA pre-emption only applies to benefit plans negotiated through collective bargaining; benefit plans sponsored by employers for its employees or subsidiaries; and to employers in the same industry that sponsor a plan.

Few self-funded METs could meet these tests since most are marketed to unrelated employers or individuals by third-party administrators.

In the pension area, Mr. Clayton says the administration supports a provision in pending legislation, H.R. 4330, that would bar employers from trying to improve their balance sheets by dumping underfunded pension plans on the PBGC.

Under ERISA, the PBGC has the right to collect 30% of a company's net worth to guarantee the vested benefits of workers and retirees if the company terminates its pension plan with insufficient assets to pay promised benefits.

At the time ERISA was passed in 1974, pension experts thought the 30% withdrawal liability charge would be a sufficient penalty to deter companies from terminating their badly underfunded pension plans and sticking the PBGC with the pension liabilities.

But now some companies, with little or no net worth, are beginning to realize that the 30% "sting" won't hurt very much. For example, AlloyTek Inc., a Grand Rapids, Mich., aerospace firm, which said it had a zero net worth, last year tried to shift \$4.5 million in underfunded pension liabilities to the PBGC and set up a new defined contribution

plan (BI, June 22, 1981).

Although AlloyTek later dropped its plan to set up a new retirement program after it became embroiled in litigation with the PBGC, pension experts say the issue of shifting pension liabilities to the PBGC remains alive.

As more employers dump their pension plans on the PBGC, the cost of employer termination insurance—now \$2.60 annually per plan participant—could rise dramatically to cover the cost of these liabilities. Higher termination insurance premiums, in turn, might cause more employers to unload their pension plans.

To deal with this growing problem, the administration says the event that triggers PBGC benefit guarantees should be changed from the termination of a plan to the insolvency of the firm sponsoring a plan, a concept contained in H.R. 4330, proposed by Rep. John Erlenborn, R-Ill.

"The administration has taken a position: The (ERISA net worth) loophole must be closed," Mr. Clayton said.

But the administration cannot yet support another provision in Mr. Erlenborn's bill that would exempt firms with less than 35 pension plan participants from paying termination insurance premiums to the PBGC, even though their workers' benefits still would be guaranteed by the agency.

Mr. Clayton says it isn't clear if it costs the PBGC more to collect the premiums than it receives, as Mr. Erlenborn contends. "I don't think larger firms should subsidize smaller ones," Mr. Clayton said.

The pension administrator said the question of who should pay for the massive liabilities of the nation's 2,000 multiemployer pension plans is a "very tough issue."

But he understands why Congress decided in 1980 to make employers responsible for paying a share of the plan's unfunded vested benefits when it

passed the Multiemployer Pension Plan Amendments Act.

"The system before the Multiemployer Amendments Act was headed for trouble. Those who paid the costs, the employers, were not the ones (union trustees) who promised the benefits," Mr. Clayton said.

By making employers responsible for multiemployer plans' liabilities it was believed that employers would become more involved in managing the plans and would resist benefit promises that could not be paid.

Some pension experts say this is finally happening. Borden Inc., for example, won a court order barring a dairy multiemployer plan from boosting benefits that would have resulted in unfunded liabilities (BI, Aug. 24, 1981).

But the price of trying to impose pension funding responsibility has been high. "It is a sad situation where a person who has built up a company over a lifetime finds out he can't sell...because of potential (withdrawal) liabilities," Mr. Clayton said.

But he said removing withdrawal liability and insurance protection for multiemployer participants is unacceptable because it would lead to the collapse of plans and leave beneficiaries without promised benefits.

"Someone has to pay for the benefits. The question is what is the most equitable division between employers, employees and the government," Mr. Clayton says.

'The administration is very interested in ERISA. It is a primary issue,' Mr. Clayton explains.

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- A guide that provides answers to questions contractors often ask about the **Multiemployer Pension Plan Amendments Act** is available from the Associated General Contractors. The guide contains chapters on withdrawal liability, sale of assets and the level of benefits guaranteed. Other chapters explain why there are special rules for the construction industry. Copies of "A Practical Guide to Understanding the Multiemployer Pension Plan Amendments Act of 1980" are available for \$6.50 for AGC members and \$13 for non-members from the AGC Publications Department, Box A, 1957 E St. N.W., Washington, D.C. 20006.

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- The Insurance Information Institute has issued a monograph, "Environmental Pollution: Liability and Insurance," which discusses the major laws, regulations and international conventions dealing with pollution and environmental liability. The publication, written by Matthew Lenz Jr., assistant to the president of The College of Insurance in New York, also outlines the major forms of pollution insurance coverage available.

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- **Amendments made in 1978 to the 1967 Age Discrimination in Employment Act** are discussed in "Age in Employment: The Effects of ADEA," a 40-page booklet from Buck Consultants Inc. and the New York Chamber of Commerce & Industry. The booklet costs \$15 per copy and is available from the New York Chamber of Commerce & Industry, Third Floor, 200 Madison Ave., New York, N.Y. 10016.

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Agent Orange maker sues primary insurer

Continued from page 2

Dow Chemical Co. of Midland, Mich.; Monsanto Co. of St. Louis; Diamond Shamrock Corp. of Cleveland; and Thompson Hayward Co. of Kansas City, Kan.

The firms and the Veterans Administration have denied that there is a link between service in Vietnam, exposure to Agent Orange and subsequent injuries (*BI*, Dec. 15, 1980).

But the Agent Orange cases, which have been consolidated in a special multidistrict litigation panel in New York, are still in the pre-trial stage while a variety of legal issues are being thrashed out.

As a result, the firms haven't had to pay any damage awards yet. But the chemical manufacturers say they have incurred enormous legal costs during the early legal battles.

For example, Hercules already has spent hundreds of thousands of dollars and legal costs could total millions of dollars once trials begin, its attorney says.

However, Hercules says Aetna has failed to pay "in full" the cost of defending Agent Orange claims during the early rounds of legal proceedings. That violates primary policies issued by Aetna during the 1960s, according to the suit. After 1969, Hercules assumed a high self-insured retention.

Aetna confirms that, so far, it has only paid about one-third of Hercules' defense costs, said John F. Shea Jr., vp and claims counsel at Aetna.

The limits of Hercules' policy, which never exceeded an annual aggregate of \$1 million, do not apply to defense costs so there would not be a cap on how much the insurer would have to pay to defend claims.

The most significant value of the policies was requiring Aetna "to investigate, defend and pay for the defense in full of... Agent Orange claims," according to the suit.

In view of the Keene decision in

the asbestos case, Aetna must pay for all defense costs related to Agent Orange claims when any one of three possible situations—exposure, latency or manifestation—triggers coverage under Hercules' liability policies, the firm's attorneys say.

Under these triggers, Hercules could seek coverage from any single Aetna policy over the entire period beginning with a claimant's initial exposure to Agent Orange through diagnosis of a related disorder.

"I believe that the rationale of the Keene decision applies to other contexts such as Agent Orange," said Mr. Oshinsky.

However, Aetna believes coverage is limited to when Agent Orange disorders first manifest themselves.

Since symptoms can take years to develop after exposure, this interpretation would drastically limit Aetna's exposure.

Agent Orange was first dumped on the Vietnamese countryside in 1965 by the U.S. Air Force in an effort to destroy the jungle cover in which Viet Cong and North Vietnamese snipers hid. The use of the defoliant ceased in 1971.

Dow produced 38% of the Agent Orange purchased by the Air Force. Hercules manufactured about 18%, making it the third-largest producer of the herbicide.

Hercules wants the court to require Aetna to reimburse it for all fees, costs and expenses it incurs defending Agent Orange claims and lawsuits.

Attorney Mr. Oshinsky believes suits asking courts to rule on how policies covering long-latent disease claims will continue. "Until the insurance industry honors their obligations to policyholders, we will see more litigation."

The Hercules case has been assigned to U.S. District Judge Oliver Gasch. ■

Pitcher files malpractice suit

HOUSTON—J.R. Richard, the Houston Astros pitcher who suffered a stroke in 1980 and hasn't returned to major-league baseball since, is challenging the constitutionality of Texas' liability limit of \$773,000 for doctors and hospitals.

Lawyers for Mr. Richard filed a medical malpractice suit March 26 in Harris County District Court in Houston seeking "many times in excess" of the limit. The statute prohibits seeking of specific dollar amounts.

It claims four doctors failed to properly diagnose or treat a blood clot in the pitcher's shoulder area, which caused the stroke.

"Physicians should not be afforded any greater protection against liability from civil suits than any other citizens of the state of Texas," the suit charges. It asks Judge Jerry McAfee to rule on the law's constitutionality.

The suit is the first reported challenge to the 1977 Texas statute, which was enacted with the support of the medical lobby after the malpractice "crisis" of the mid-1970s. Similar statutes exist in at least 10 other states, according to a spokesman for St. Paul Fire & Marine Insurance Co., the nation's largest commercial insurer of medical malpractice.

Mr. Richard, 32, entered Methodist Hospital in Houston in July 1980. After tests determined he had a blocked artery near his shoulder blade, the doctors authorized his release from the hospital July 26 and a return to pitching.

On July 30, the pitcher collapsed

from a severe stroke during a light workout. The suit alleges the stroke resulted when the clot in his shoulder area broke free and circulated into the arteries of his brain.

The suit says Mr. Richard suffered visual disturbance, psychic trauma and impaired sight, speech, coordination and left-side movement. He underwent surgery in San Francisco two months later.

The suit charges negligence and seeks damages against a team physician, Dr. Harold J. Brelsford, and three specialists at Methodist Hospital. It charges Dr. Brelsford with misdiagnosing Mr. Richard's condition as a muscular rather than circulatory problem. Team officials won't say whether the Astros' insurance covers Dr. Brelsford.

The other three doctors are accused by Mr. Richard of having failed to correctly diagnose his condition while hospitalized and failing to operate on the clot while it was still in his shoulder area.

The statute at issue is Article 45-90(i) of the Texas Revised Civil Statutes. It limits the liability of any single doctor or health-care provider to no more than \$500,000 per occurrence for all damages except the costs of medical treatment and any continuing therapy paid by a plaintiff who prevails in court.

One section of the statute indexes the \$500,000 figure to the change in the Consumer Price Index between the law's Aug. 29, 1977, effective date and the date of any judgment. As of last week, that would increase the \$500,000 figure to about \$773,000. ■

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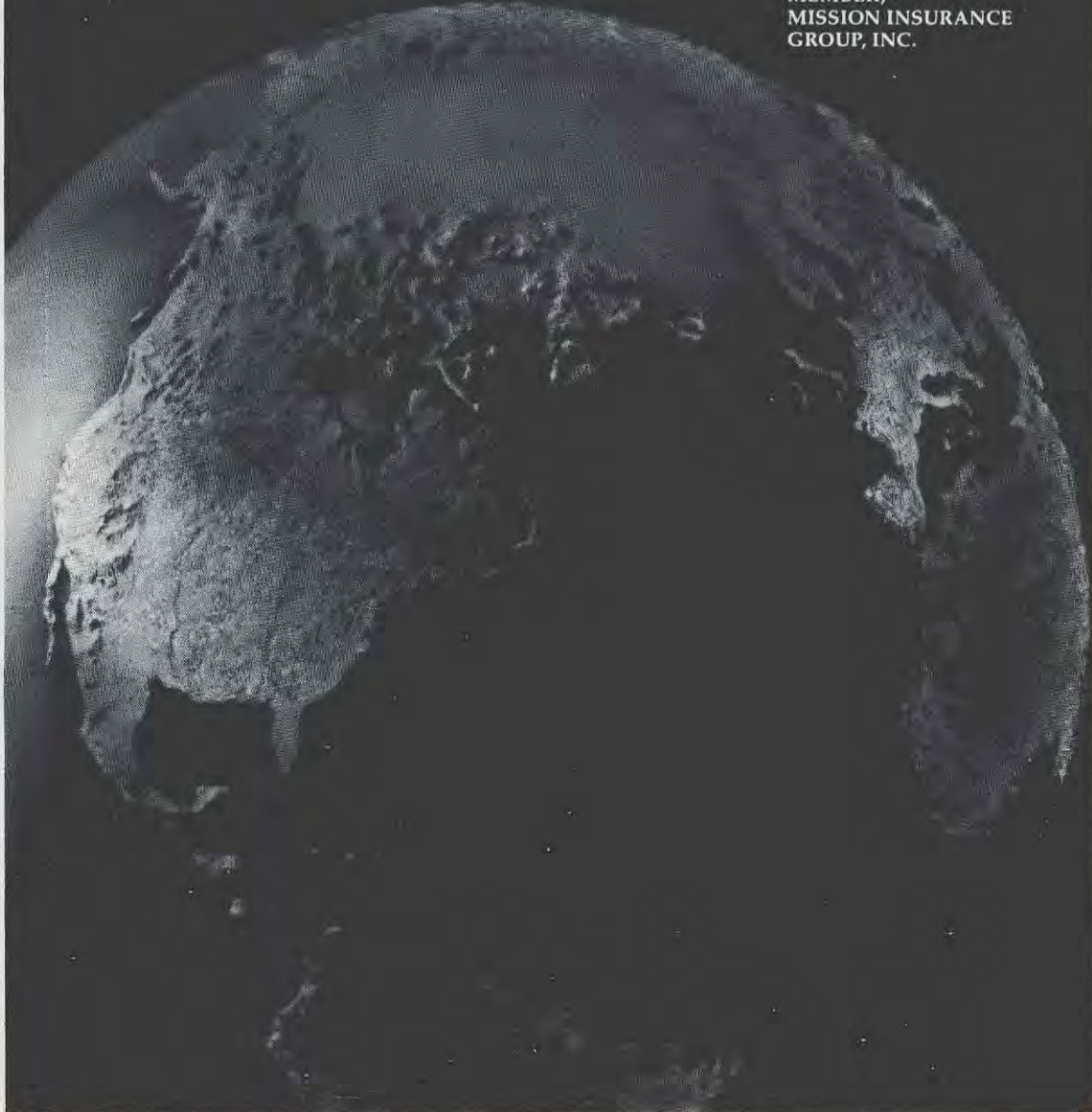


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1980 multiemployer law is constitutional: Federal judge

Continued from page 1

However, supporters of the act say his decision still will be cited in the dozens of other challenges to the law because of its in-depth treatment of the topic.

In a different case, a California federal judge, in a much narrower ruling, declared unconstitutional a retroactive provision in the Multiemployer Amendments Act that allows plans to collect withdrawal liability payments from employers that left the plans before the law was signed, but after its effective date.

However, this decision by U.S. District Court Judge Irving Hill, if upheld, would only apply to employers that withdrew from plans between April 29, 1980, —the law's effective date—and Sept. 26, 1980, —the day President Carter signed the legislation.

At least several dozen firms left multiemployer plans during that six-month period and now face tens of millions of dollars in withdrawal claims.

Judge Hill's decision is only a bench opinion. The Pension Benefit Guaranty Corp., which tried to

intervene in the California case involving two small family-owned construction firms, convinced the U.S. Court of Appeals in San Francisco to temporarily bar Judge Hill from issuing a formal opinion.

The PBGC, which insures workers' vested pension benefits, believes Judge Hill shouldn't render a decision until the agency has a chance to present its arguments supporting the constitutionality of the law.

Pension experts say the significance of Judge Troutman's much broader decision will be its value as a precedent in other cases challenging the act.

"It is clearly the strongest precedent in the evolving law on the multiemployer act," said Baruch Fellner, PBGC associate general counsel. "We will make certain that other courts are aware of it."

"It is the first case where a court has discussed the real issues" involved in the law, added Frank Cummings, an attorney with Nossaman, Krueger & Marsh in Washington, D.C.

However, other experts also note that it is much more difficult for a company to convince a judge that a law is unconstitutional during a preliminary legal proceeding, like Republic's bid for an injunction, than at the trial stage.

The party seeking an injunction has to convince the court that a law is "patently" unconstitutional, a very tough legal test.

As a result, it is possible that Judge Troutman could reverse himself after the Republic case goes to trial.

"This isn't a decision on the merits of the case," argues Edward Riss, president of Republic Industries of Kansas City, Kan. "The judge was saying that we haven't exhausted administrative remedies (such as arbitration).

"We would have liked to have won it (the preliminary injunction). But this is not a major setback," Mr. Riss told *Business Insurance*.

Judge Troutman's decision involved an \$850,000 withdrawal liability claim that the Central Pennsylvania Teamsters Pension Fund wants from Republic's trucking subsidiary, Johnson Motor Lines Inc. of Charlotte, N.C.

Johnson also faces withdrawal liability claims from three other multiemployer pension plans from which it withdrew after it went out of business during the summer of 1980.

One of those claims includes a \$16.9 million withdrawal liability bill from the Central States, Southeast & Southwest Areas Teamsters' pension fund. That claim alone is more than Republic's net worth (*BI*, July 20, 1981).

A federal judge in Chicago has issued a series of temporary injunctions barring the Central States plan from collecting withdrawal liability payments from Republic or Johnson.

All the claims arise from the Multiemployer Amendments Act, which requires firms leaving multiemployer plans to pay a share of the plan's unfunded vested benefits.

Because employer contributions to the plans haven't always matched the benefits promised to workers, the unfunded liabilities are enormous. That results in huge withdrawal liability claims.

In challenging the Multiemployer Amendments Act, Republic said the act allows multiemployer plan to take away assets without a hearing, a violation of due process promised in the Constitution.

The Pennsylvania multiemployer plan told Republic that if it

didn't begin making monthly withdrawal liability payments of \$10,500 within 60 days of the time it was billed, it would have to pay the entire claim of \$850,000.

But Judge Troutman said so long as a company submits its claim to arbitration, a multiemployer plan cannot demand an acceleration of payments even if the company is delinquent in paying the monthly withdrawal liability bills.

Republic also said the law is unconstitutional because it allows arbitrators and not a jury to settle withdrawal liability suits, a violation of the Seventh Amendment.

That argument "need not detain us long," Judge Troutman said. He noted that on several occasions Congress has required initial non-judicial remedies to disputes.

For example, disputes between employers and the Occupational Safety and Health Administration are ironed out by a special independent commission.

In addition, Judge Troutman said, the multiemployer law allows employers to appeal an arbitrator's findings to the courts.

Judge Troutman also said that Republic failed to prove that employers have to bear the full burden of the law.

For example, while a withdrawing employer now has to pay a share of the plan's unfunded vested benefits, the law allows multiemployer plans in "financial distress" to reduce benefit levels to retirees in order to prevent insolvency. Thus, some of the burden falls on the shoulders of participants.

Judge Troutman noted that the act remedied "inequitable" aspects of the prior law in which "employers who withdrew from a plan early were rewarded, while employers who remained were penalized."

Prior to the Multiemployer Amendments Act, an employer that withdrew from a multiemployer plan could escape paying for promised benefits if the plan did not collapse within five years of its withdrawal.

By making all employers liable for a share of a plan's liabilities, "the act strikes a reasonable, rational, non-arbitrary and constitutional balance in its benefits and burdens," Judge Troutman said.

Meanwhile, in the California case involving the withdrawal of Shelter Framing Corp. and G & R Roofing Co. from the Carpenters Pension Trust for Southern California, Judge Hill said the retroactive feature of the act was unconstitutional.

Judge Hill, who presides in Los Angeles, said he was not impressed by arguments that Congress had to apply the act retroactively to prevent large number of employers from leaving the plans before the bill became law.

"No employer was free to withdraw just because he wanted to. Every employer was bound by various kinds of notice provisions that had to precede any withdrawal. So they have not shown this alleged necessity at all," Judge Hill said.

While voiding G & R Roofing and Shelter Framing's withdrawal liability claims—the firms left their multiemployer plan during the summer of 1980 before the law was enacted—Judge Hill emphasized that he was not taking a position on the act's validity.

"Judge Hill's decision is significant for those employers whose withdrawal liability claims are retroactive," said Peter Turza, an attorney with Gibson, Dunn & Crutcher in Washington. "But it won't do much to help those with claims that are prospective."

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Beeping sensors keep backs up front

Continued from page 1
says Loss Control Manager David Hutchinson.

He estimates \$500,000 can be saved in the next two years if the company's 17,000 employees take heed from the beep. He's aiming to change the statistics that show that 40% of the 900 material-handling medical claims filed last year at Foremost-McKesson were for back injuries.

An electronic sensor is worn in the employee's pocket as a training tool to call attention to incorrect lifts or bends that are likely to trigger a bad back attack.

About the size of a pack of cigarettes, the prompter has a mercury electronic switch that makes the battery-powered device beep when it is tilted at an unsafe lifting angle. And to create a little healthy peer pressure amid the workforce, the beep is loud enough so that other workers hear the admonition, too.

As a company handling wine and liquor, drugs, chemicals and bottled water, many of Foremost-McKesson's workers spend a large portion of their day lifting heavy products.

With the help of the little black box, technically known as a "lift angle sensor" or "safe lifting prompter," lifting correctly may become second nature for employees.

"It's a conversation piece, but it accomplishes the goals of safety," Mr. Hutchinson says.

"The key to any effective material handling and safety training program is communications," he adds.

"Supervisors must provide individual instruction to employees to change work behavior, but barriers often result from inadequate training or ill feelings between employee and supervisor.

"The black box aids the supervisor's expertise or the employee/supervisor relationship to accomplish the task of reducing injuries," he explains.

The device was invented by the safety manager at Consolidated Foods Corp. in Chicago, who was trying to win a \$25,000 prize in a loss-prevention contest sponsored by an insurer two years ago.

Consolidated Foods had enough sensors made so that each safety director at its 40 affiliated companies could use the device for training purposes. The program was conducted on an informal basis and records of cost savings, if there were any, were not kept.

One of the major incentives for formalizing the program on an even larger scale was the fact that Consolidated Foods was paying out \$1 million a year in workers compensation claims for medical bills from back injuries, says Bill Thomas, the safety expert who invented the gadget.

"I wanted to win the \$25,000 prize and reduce the number of back injuries we were seeing," he says. "Necessity really is the mother of invention, even if I

didn't win the prize," he adds.

And, his efforts didn't go unnoticed.

Consolidated Foods, which has 80,000 employees, has ordered about 650 of the devices for distribution, and Foremost-McKesson ordered 500. Goodwill Industries in San Francisco is making the simple beeper for both companies for about \$7 each. They are not mass marketed at this time.

While the little black boxes may be the loudest instructor at Foremost-McKesson, they won't be expected to do the job of reducing back injuries alone. Instead, they will be part of a three-phase safety program the company started April 1 at its 300 locations.

In the first general awareness phase, employees are given a back owners' manual and a wallet-sized

card with instructions on how to lift properly. They also watch a 12-minute audiovisual program on the correct way to lift to prevent back injuries.

"We want to motivate them to take care of their back at home, at work and at play," says Mr. Hutchinson.

The second part of the program focuses on non-office employees, providing them with training about handling products in the area in which they work. That part of the program includes a personalized materials handling demonstration in which workers are schooled in lifting techniques on a one-to-one supervisor-employee basis.

Employees then are allowed to use the little sensor for about 45 minutes to an hour to help them remember how to lift without hurt-

ing their back.

The last phase of the program, which won't begin until April 1984, will concentrate on the company's truck drivers and salesman, who move or sell products from the company's facilities to the customer.

Those employees will be surveyed to find common problems and to devise a fitness program to help workers maintain their strength.

Although the beeper is a unique way to attack back injuries, the problem of back injuries on the job is widespread.

The National Council on Compensation Insurance, which keeps statistics on losses, says upper- and lower back injuries account for 27% of all workers compensation claims at an average cost of \$4,100 each. ■



Photo: Robert Kaufman
Loss Control Manager David Hutchinson has a beeper, too.

52 great issues coming up!

ISSUE NUMBER	ISSUE DATE	AD CLOSING
16. CAPTIVES/OFFSHORE ... RIMS	APR 19	APR 6
17. RIMS Conference Report # 1	APR 26	APR 14
18. RIMS Conference Report # 2	MAY 3	APR 21

more to come :

	ISSUE DATE	AD CLOSING
15. Employee Benefits Board Survey	APR 12	Mar 31
16. CAPTIVES/OFFSHORE ... RIMS REVIEW	APR 19	Apr 6
17. RIMS REPORT #1	APR 26	Apr 14
18. RIMS REPORT #2 and Annual Report Section	MAY 3	Apr 21
19.	MAY 10	Apr 28
20. Risk Management Board Survey	MAY 17	May 5
21. ILLINOIS MARKET REPORT	MAY 24	May 11
22.	MAY 31	May 19
23. EMPLOYEE BENEFITS: CONFRONTING THE FUTURE	JUN 7	May 25
24.	JUN 14	Jun 2
25. Employee Benefits Board Survey	JUN 21	Jun 9
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Midwest storm damage totaled

NEW YORK—Insured damage caused by wind, hail and tornadoes in portions of Oklahoma, Kansas and Missouri last month totaled an estimated \$55.3 million, according to the American Insurance Assn.

Approximately \$37 million in insured damage occurred in Oklahoma, with most reported in the Bartlesville area. Losses in Missouri totaled about \$15 million and damage in Kansas was estimated at \$3 million, according to C.E. Hermanson, assistant vp for property claims services. ■

Shand, Morahan offers computer policy

Continued from page 2

only if lawsuits are filed in United States or Canadian courts.

The policy does not cover actual physical or property damage to computers. "We're looking at damage to the actual data," Ms. Gerharz adds.

Under the Lloyd's electronic and computer crime policy, banks can purchase up to \$25 million of coverage against theft through computer fraud. Underwriters hope the limit per occurrence soon will reach \$100 million.

The Lloyd's policy includes coverage for unauthorized access to

terminals, fraudulent preparation of tapes or computer programs and unauthorized access to a bank's communication lines.

Neither Shand's nor Lloyd's policies cover losses due to unauthorized access by employees of the insured company. However, banks are usually covered for this exposure by a fidelity bond, said Grant Hubbard, Shand's vp for underwriting.

But, unlike the Lloyd's policy, the Shand policy responds if an employee's access to the system causes losses for a third party, Mr. Hubbard said.

Shand officials wouldn't discuss rates or deductible ranges, saying they could vary considerably depending on the circumstances. "It will be totally judgment-rated on each individual risk," Ms. Gerharz says.

When evaluating the risk, the insurer will look at management's attitude toward security operations, the entire electronic data processing network and security controls on people, operations and documents.

Policyholders will be required to fill out an application, but a secu-

urity audit will not be required for every risk.

Shand will issue the coverage through Evanston Insurance Co., for which it is the underwriting manager.

"We've definitely received lots of inquiries on coverage," Ms. Gerharz says. "This is a very dynamic, ongoing, constantly changing industry."

Shand already offers \$25 million in errors and omissions liability insurance for five bank wire systems used by financial institutions. E&O coverage for computer software also is available.

Loss control classes

The American Society of Safety Engineers and the Insurance Institute of America will co-sponsor two loss control management courses.

Loss Control Management 71 and 72 are two of the six courses offered toward the Associate in Loss Control Management designation. LCM 71 concentrates on hazard identification and analysis. LCM 72 focuses on loss control applications and management.

The fee for the IIA guide and exam is \$50. Charges of local study groups vary. For more information call Dr. George L. Head, Director of Risk Management/Loss Control Education, IIA, Malvern, Pa. 19380; 215-644-2100.

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Insurance Management: vps, directors, managers of insurance, risk, benefits, compensation, safety, security, etc.	5,791
Government, Associations, Unions, Educational Institutions	1,001
Commercial Consumers Sub-total	23,000
Insurance Agents & Brokers	9,741
Insurance Cos.	4,735
Financial Institutions	303
Actuaries, Attorneys, Adjusters, Appraisers & Consultants	2,208
Others allied to the field	776
TOTAL	40,763

*Source: Business Occupational breakdown of qualified circulation Nov. 2, 1981 issue as submitted to BPA for December 1981 BPA Publisher's Statement

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James files lawsuit charging takeover plot

Continued from page 1

closed group is to illegally assemble and deliver a control block of James common stock at a premium to a prearranged purchaser whose identity is presently unknown but believed to be a major United States corporation," the suit says.

Mssrs. Rathmell and Ryan and unnamed co-conspirators planned to secretly work together to individually acquire 4.99% of James stock without causing stock prices to increase, the usual result of a takeover attempt, the suit says.

Then, the group would join in late 1982 or early 1983 to sell their shares to a third party or take control of the company and then sell their holdings, the suit says.

James is seeking a preliminary and permanent injunction barring Mssrs. Rathmell and Ryan from purchasing, selling or transferring James stock, voting their shares or attempting to influence management policies.

Both Mr. Rathmell and Mr. Ryan denied all charges of wrongdoing and told *Business Insurance* that the lawsuit had caught them completely by surprise.

"I don't know anything about it," Mr. Rathmell told *BI*. "I heard about the suit just minutes before you called. It's ludicrous on the face of it. I'm not part of any group. My sole interest in James is selling my stock."

Mr. Rathmell, contacted at the

James office in Houston, says he is semi-retired and "has neither the time nor the inclination" to be involved in a takeover attempt.

James acquired Rathmell Cos., with offices in Houston, Washington and Bermuda, in October 1977 for 348,333 shares of James common stock, approximately 4.25% of all outstanding shares at the time. The acquisition made Mr. Rathmell, the sole shareholder of Rathmell Cos., the largest single James shareholder, industry sources say.

Although pleased with the deal at the time, Mr. Rathmell, according to industry sources, had become dissatisfied when the price of James stock began dropping last year. The stock closed at about \$22 per share last week, but it had re-

cently been hovering near the \$20 mark, about \$4 less than its level six months ago and nearly \$10 less than its peak in September 1981.

At that time, the brokerage was the subject of a variety of takeover rumors involving several alleged suitors, including Merrill Lynch, Pierce, Fenner & Smith, Sedgwick Group in the United Kingdom, INA Corp. and Ryder System Inc. (*BI*, Oct. 5, 1981).

Mr. Rathmell denies that he had become dissatisfied with the acquisition arrangements or with James. Mr. Ryan also denied charges contained in the suit.

"He says there's no truth to the complaint at all," a spokesman for Mr. Ryan said. "It caught him completely by surprise."

Charles Ruoff returns to James

NEW YORK—Charles Ruoff, who was recently president of Continental Risk Services Inc., returns to Fred S. James & Co. Inc. this week as head of national sales and services.

Mr. Ruoff, a nationally known expert on captive insurance companies and cash-flow plan design, left James in January 1980 to head Continental Risk Services and become senior vp of The Continental Corp., reporting to Chairman John B. Ricker Jr.

He rejoins James as senior vp, reporting to Chairman Charles O'Malley.

Mr. Ruoff "will be in charge of whatever aspects of sales and services he wants to be," James' senior executive vp Timothy Mahoney, told *Business Insurance*.

Mr. Mahoney directed sales and services as well as the New York region until he was promoted earlier this year.

Sedco to try to limit liability

Continued from page 3

named as defendants Pemex, Mexico's national oil company that owns the well, and Permargo, the Mexican-based drilling company hired by Pemex to drill Ixtoc I using Sedco's oil rig.

Plaintiffs include Texas Gulf fishermen, local governments and businesses whose property was damaged or revenues were reduced by the spill that hurt the tourist business along the Gulf Coast, the state of Texas and the U.S. Justice Department.

However, Judge O'Connor March 30 dismissed Pemex from all claims in the Ixtoc spill, saying it is outside the jurisdiction of the U.S. courts because it is an arm of the Mexican government, protected by the Foreign Sovereign Immunities Act.

Conversely, he denied Permargo's request that it too be dismissed from the suits.

Its attorneys argued that it is a foreign corporation also outside the jurisdiction of the U.S. courts. The judge disagreed, citing its U.S. business operations in Texas.

Pemex had moved for dismissal from all suits, arguing that a U.S. court lacks jurisdiction over actions performed by the company in its role as a foreign sovereign.

Issues this motion raises "strike to the very heart of the international nature of the Ixtoc I disaster," Judge O'Connor says.

Unlike the U.S., the Mexican government owns its country's natural resources, including oil, he says. In drilling the exploratory well in the Bay of Campeche, Pemex was fulfilling its government's mandate to develop state-owned mineral resources.

Since the company acted under Mexican law within its own national territory, in conjunction with other branches of its government, and was not engaged in commercial activity as defined by the U.S. Foreign Sovereign Immunity Act, it is not subject to the jurisdiction of a U.S. court, Judge O'Connor said in his declaratory judgment.

judge has applied the doctrine of foreign sovereign immunity to an oil spill, says a Houston attorney representing Sedco.

In denying Permargo's motion for dismissal, Judge O'Connor says the drilling company maintains a general agent in Galveston whose activities show a conscious, long-standing business presence in Texas.

Permargo also keeps Texas bank accounts to pay suppliers, has telephone listings in Houston and Galveston and has borrowed money from Texas banks to finance business ventures inside and outside Texas.

Since the lawsuits arose from Permargo's alleged negligence and the Ixtoc I disaster has had substantial impact on Texas businesses and individuals, Judge O'Connor says his court has jurisdiction and Permargo will have to defend the suits.

The original lawsuits, which were later consolidated, come from five sources:

- Fishermen, crabbers and oystermen seeking \$155 million for damages to their fisheries along the Texas gulf coast.

- Willacy County Navigation District, combining complaints from local governments, hotels, businesses and individuals who seek \$100 million for damage to property and loss of business. Much tourist business was lost after the spill left beaches blackened by oil and not fit for recreation.

- A third group of business people in the Port Isabel area seeking \$100 million for personal property damages.

- The State of Texas, which seeks a minimum of \$10 million for harm done by the oil spill to beds of lagoons, bays, inlets, territorial waters and the products generated from them. The state also wants compensation for tax revenue loss due to the oil spill's impact on tourist trade, seafood production and the general economy.

- The U.S. Justice Department, seeking about \$13 million in cleanup costs incurred by the U.S.

Coast Guard and an unspecified amount for environmental damages.

This is the only lawsuit that does not include Pemex as a defendant.

In addition, Sedco filed a third party complaint against Permargo and Pemex, asking indemnity for all claims against it as a result of the spill.

Mr. Ryan was ousted as president and chief executive officer of James in December 1975 by board members who are still officers of the corporation.

Since then, the corporation has gone through a series of management realignments beginning with a triumvirate chief executive structure, led by Chairman James Vaughan with President William Burch and Charles O'Malley, chairman of the executive committee.

Last year, Mr. Vaughan left the

brokerage and Mr. Burch stepped down to head the brokerage's Los Angeles division, leaving Mr. O'Malley as president, chairman and chief executive officer.

After leaving James in 1975, Mr. Ryan joined Marsh & McLennan Inc. as senior vp in the San Francisco office. Two years ago, with financing from Merrill Lynch and private investors, he founded ISU Cos. Inc., an insurance agency franchise firm in San Francisco (*BI*, March 29).

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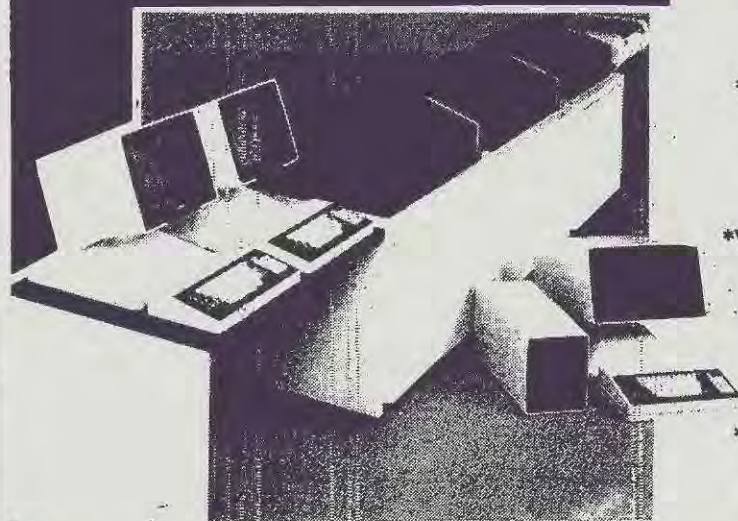
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Insurers' 1981 results: More bad news

Continued from page 3

the losses in all of 1981, industry figures show.

Aetna Life & Casualty, which tested the water last spring with an attempt to firm rates on some commercial lines, found the results as chilly as the winter storms, 1981 figures show.

It lost business.

Aetna, the industry leader in premium volume among stock companies, recorded a 3.4% drop in premium income on total revenues of \$13.5 billion last year.

Despite the rate hike, the company said commercial casualty lines accounted for more than half its underwriting loss for the year as premiums failed to keep pace with the inflationary effect on claims. The underwriting loss in commercial lines rose 184% to \$340.9 million in 1981 from \$119.7 million in 1980, and operating earnings in the commercial lines sector dropped 47% to \$81 million.

Aetna's aftertax operating income also fell about 3.4% as analysts say the insurer added to reserves to make up for under-reserving in prior years.

Another victim of prior year under-reserving, according to the analysts, was USF&G Co. of Baltimore, whose combined ratio jumped from 96.2% in 1980—much better than the industry average—to 106.7%. USF&G added \$183.6 million to its loss reserves, a 12% increase, while at the same time recording a drop in both written and earned premiums.

BI ticker

The result was a 26.2% decline in net operating income, the biggest such decline reported by companies surveyed by *Business Insurance*.

However, the reserving action appears to have earned USF&G the respect of the financial community. Its stock has risen since the beginning of the year. And USF&G reported a 20.4% rise in aftertax investment income, two percentage points above the survey average.

Aftertax operating income at The Hartford Insurance Group dropped 10.2% to \$268.1 million. But the insurer's net income after taxes was aided by one-time real estate and other transactions valued at \$42.6 million after taxes. The result was a net earnings gain of 4.8% despite the underwriting losses and lackluster investment gains.

The Hartford has followed a deliberate strategy, insiders say, of sacrificing market share instead of participating in rate wars. This will leave the group in a stronger position to profit when the underwriting cycle turns, management feels.

Kemper Corp. also recorded a major drop—11.7%—in operating earnings from its property/casualty and reinsurance operations.

But Kemper's overall results, aided by a strong life insurance showing, only dipped

6.3%. The company said price competition to generate cash flow remained strong, resulting in poor underwriting results.

"There is much speculation on when the underwriting cycle will turn, but no certainty," Joseph E. Leucke, Kemper's chairman and chief executive officer, said in a report to stockholders. "It will turn when the industry decides the balance between investment income and underwriting loss is unsatisfactory."

The Chubb Corp. experienced a 3.4% decline in earnings and attributed the dip to intensified price competition for commercial business. Its pretax underwriting results declined from a \$7.7 million profit during 1980 to a \$23 million loss during 1981.

Analysts pointed out that Chubb was aided by new reporting requirements for foreign currency translations, resulting in aftertax underwriting losses of only \$5.9 million.

Topping the list of percentage operating gains during 1981 was the relatively small Orion Capital Corp. of New York, parent of the Security Insurance Group, which posted a 26% gain in operating income. Two companies not heavily involved in commercial property/casualty lines, SAFECO Corp. and Ohio Casualty Co., along with with American International Group Inc. and General Re Corp., were the only four companies in the

BI survey to show underwriting profits.

AIG also posted a 22.4% gain in operating income, close behind CNA Financial Corp. and Orion. Analysts cited AIG's low expenses compared with the rest of the industry, its heavy use of reinsurance and its concentration on less competitive markets, like international insurance, for its success. AIG's operating income rose 22.4%, aftertax investment income was up 24.9% and its underwriting profit dropped about 10.6%, less than the industry average.

Many companies' 1981 earnings were aided

British Issues

30 March Companies	Price	P/E	Div. pence	Yield %	1 Week High—Low pence
Comm Union	138	11.5	16.86	12.2	146—138
Eagle Star	373	12.6	21.43	5.7	396—373
Genl Accident	320	7.1	23.21	7.3	320—318
Gdn Royal Exch	304	7.2	23.21	7.6	308—304
Phoenix	254	8.5	22.43	8.8	264—254
Royal	353	8.8	36.07	10.2	375—353
Sun Alliance	850	8.8	53.57	6.3	864—844

Brokers

CE Heath	Price	P/E	Div. pence	Yield %	1 Week High—Low pence
CE Heath	332	9.6	15.71	4.7	332—320
Hogg Robinson	110	8.5	8.57	7.8	115—110
JH Minot	171	10.1	6.80	4.0	171—166
Sedg Grp	164	10.6	8.57	5.2	164—162
Stenhouse Hldg	114	8.3	7.28	6.4	116—114
Stew Wrightson	205	9.3	17.14	8.4	212—205
Willis Faber	452	11.3	21.43	4.7	452—442

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

EPA changes mind, requires pollution cover

Continued from page 2

dropping the regulation."

Mr. Field said the EPA soon will publish a notice in the Federal Register that will:

- Confirm that there will be a pollution liability insurance requirement after all.
- Postpone the regulation again, setting a new compliance date of 60 days following the notice's publica-

tion. The agency also will provide for the obligatory public comment period.

The EPA hopes to publish this notice before April 13, the deadline for having sudden pollution coverage under the original rules.

Mr. Field said that self-insurance will be allowed for companies that pass a financial-strength test.

The only thing that could stop

the EPA rule now, according to Mr. Field, would be objections from the federal Office of Management and Budget, but that is not expected.

The OMB is the agency charged with final review of all new federal regulations. Last fall, it opposed the EPA regulation, questioning whether mandating pollution insurance should be federal government business or left to the states.

This was partly responsible for the October 1981 delay of the rules (*BI*, Sept. 14, 1981).

Now it has promised to conduct its review as soon as possible, the EPA official says.

The EPA pollution liability insurance regulation is broken down into two segments. The first part requires that all treatment, storage and disposal facilities (TSDFs) have liability coverage against sudden and accidental pollution incidents of \$1 million per occurrence and \$2 million annual aggregate. This applies to both generators and disposers of hazardous waste.

This portion of the regulation will go into effect 60 days after the EPA publishes the notice in the Federal Register that it will require the coverage.

A second portion of the rule mandates liability coverage for non-sudden and gradual pollution by companies that manage a hazardous waste landfill, surface impoundment or land treatment facility. This requirement applies only to disposers of hazardous waste and not the generators.

This segment, which will be phased in over 18 months, requires coverage of \$3 million per occurrence with a \$6 million annual aggregate.

Facilities with annual sales totaling \$10 million or more will have to purchase the coverage no later than six months after the sudden pollution insurance compliance date. The deadline for smaller companies will be phased in over the following 12 months.

Interviews with insurance brokers and environmental consultants indicate that a majority of TSDFs are already covered for sudden and accidental exposures. This coverage is provided under most general comprehensive liability policies.

However, not nearly as many have the coverage required for non-sudden or gradual pollution.

Meeting the financial strength test to allow self-insurance will be feasible for only the largest disposal facilities.

Additionally, the EPA will revise original rules that required a policy endorsement to make the policy conform with all coverage and limit regulations promulgated by the agency. Insurers objected to this endorsement, maintaining that because regulations are vague and subject to change, it would open them to unknown exposures. The EPA now says it will accept endorsements or certificates of insurance to confirm appropriate coverage.

Bill would limit waste dumping

Continued from page 2

However, several experts say such arguments will be countered by the fact that the proposal could reduce the long tail of liability that hazardous wastes pose for their generators.

That liability is spelled out in the Comprehensive Environmental Responsibility, Compensation and Liability Act, better known as the Superfund, which prohibits hazardous waste generators from transferring their liabilities through hold-harmless agreements to licensed disposal facilities.

If a pollution accident occurs and the disposal facility is no longer in business or cannot pay for cleanup, the generator is liable if the wastes can be traced back to it.

The Superfund also holds as strictly liable all companies involved with hazardous wastes—including transporters and disposal facilities—when the federal government must fund cleanup after an accident.

Defined simply as liability without fault, strict liability requires only a showing that a generator manufactured the wastes and these wastes were involved in a pollution accident that caused damages.

The net result for hazardous waste generators is that liability remains long after the wastes are buried at a disposal site.

Notes Michael J. Murphy, chief executive officer of Risk Science International, a Washington-based subsidiary of Frank B. Hall & Co. Inc.: "You made it, you own it."

One way to eliminate this liability—at least in theory—is to reduce the waste to a state where it is no longer a hazard.

Incineration and chemical treatment are two commercially available alternatives, and Mr. Murphy says such an approach to disposal is the "surest and ultimately most cost-effective way to reduce liabilities."

Steffen Plehn, a vp at Washington-based consultants Fred C. Hart Associates Inc., agrees.

"A lot of companies have decided to destroy that waste to eliminate the tail (of liability) rather than dispose of it and continue the tail," Mr. Plehn observes.

A third note of approval comes from an expected source, SCA Services Inc., a Boston-based firm that specializes in incineration and treatment of chemical hazardous wastes.

SCA, whose waste treatment division posted gross revenues of some \$45 million in 1981, operates an incineration plant in Chicago and a chemical treatment facility in Newark, N.J.

"I think the reason we have the customers we have is that they are concerned about their long-term liabilities," says George Kush, vp of environmental affairs for SCA's hazardous waste treatment division.

Yet while such an approach to hazardous waste management can reduce or eliminate future liabilities, there's a stumbling block: Incineration and treatment are expensive, despite their advantages.

Whether generators adopt these alternatives to dumping could depend on if the government adopts regulations providing incentives for companies to invest in high-technology treatment facilities, Mr. Plehn says.

If the Reagan administration adopts a permissive attitude on the landfill disposal of hazardous wastes, he adds, "that's where they're going to go."

Alternatives to landfill disposal have other problems as well. Experts agree that present disposal alternatives are not appropriate for all hazardous wastes. Mr. Kush at SCA Services estimates that some 30% to 40% of hazardous wastes are not "applicable" to some type of treatment or destruction.

And these techniques, such as incineration and treatment, can leave material behind that may still be hazardous, though in a reduced form, still posing potential liabilities for generators, says Dr. Reva Rubenstein, director of the Institute of Chemical Waste Management in Washington.

There also are many wastes that can be safely buried at disposal site facilities, Dr. Rubenstein adds.

Dr. Rubenstein voiced strong opposition to the LaFalce bill, pointing out that the EPA already has the authority, through the Resource Conservation and Recovery Act, to determine what hazardous substances can be safely buried.

An aide to Rep. LaFalce says the congressman would consider offering his bill as an amendment to RCRA, which is before Congress this year for reauthorization. Rep. LaFalce's primary intent was to "begin a dialogue on this issue of hazardous waste disposal," the aide says, adding that the congressman knows his bill must travel a long road before ever becoming law.

"We suffer no illusions," says the aide, "but we didn't do this just for show."

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Summary of major property/casualty insurer 1981 results

(all figures in thousands)

Corporate					Property/casualty operations								
Rank 1981	Company	Consolidated revenues 1981	Aftertax operating income 1981	Aftertax operating income 1980	Percent change 1980-1981	Combined ratio 1981	Combined ratio 1980	Pretax underwriting income (loss) 1981	Pretax underwriting income (loss) 1980	Percent change 1980-1981	Aftertax net investment income 1981	Aftertax net investment income 1980	Percent change 1980-1981
1	Orion Capital Corp.	250,725	9,199	7,270	26.5	105.9	101.9	(29,087)	(5,716)	—	25,400	16,459	—
2	CNA Financial Corp.	3,132,300	149,800	119,100	25.8	113.6	108.4	(252,800)	(155,200)	(62.9)	337,700	229,500	47.1
3	American Int'l. Group Inc.	3,155,000	345,327	282,169	22.4	96.1	95.5	71,069	79,481	(10.6)	228,481	182,897	24.9
4	St. Paul F&M Ins. Co.	1,508,965	162,156	135,890	19.3	104.1	104.3	(54,933)	(55,446)	0.9	206,338	170,759	20.8
5	Crum & Forster	1,932,817	176,153	151,462	16.3	104.4	104.4	(77,824)	(74,812)	(4.0)	215,299	181,863	18.4
6	General Re Corp.	1,423,058	177,475	154,359	15.0	99.1	98.8	11,100	9,500	15.8	179,349	147,132	21.9
7	Mission Ins. Group Inc.	433,985	45,676	40,486	12.8	100.4	99.0	(1,430)	3,361	(142.6)	42,123	32,861	28.2
8	Connecticut General Corp.	5,649,257	356,741	316,696	12.6	109.5	109.8	(101,637)	(85,067)	(19.5)	121,277	104,109	16.5
9	Ohio Casualty Co.	884,844	77,744	69,589	11.7	99.6	98.4	5,065	12,008	(57.8)	72,055	61,201	17.7
10	Fireman's Fund Ins. Cos.	3,100,000	231,000	210,000	10.0	103.2	103.3	(77,876)	(78,214)	0.4	257,444	238,682	7.9
11	Reliance Ins. Co. & subs.	1,104,754	100,864	92,052	9.6	103.7	103.5	(25,168)	(17,893)	(40.7)	143,248	123,676	15.8
12	INA Corp.	5,162,258	295,513	278,633	6.1	106.7	104.4	(179,423)	(112,452)	(59.6)	400,919	349,053	14.9
13	The Continental Corp.	3,466,227	203,465	192,500	5.7	110.1	107.1	(267,631)	(186,839)	(43.2)	288,375	272,144	6.0
14	ARMCO Ins. Group Inc.	641,560	34,956	33,924	3.0	108.1	107.0	(41,170)	(33,355)	(23.4)	56,264	50,847	10.6
15	SAFECO Corp.	1,435,564	84,683	82,177	3.0	97.8	98.9	9,304	17,661	(47.3)	82,356	74,498	10.6
16	American General Corp.	2,387,700	169,000	167,400	0.9	106.4	103.5	(35,688)	(16,457)	(116.9)	96,649	84,187	14.8
17	The Travelers Corp. & subs.	9,880,000	359,400	365,600	(1.7)	109.0	108.2	(261,200)	(197,700)	(32.1)	312,559	276,523	13.0
18	The Chubb Corp.	1,408,400	103,500	107,100	(3.4)	102.4	99.2	(23,000)	7,700	(398.7)	93,200	84,500	10.3
19	Aetna L&C Co.	13,531,900	491,100	508,300	(3.4)	112.1	105.9	(503,100)	(262,700)	(91.5)	435,700	360,500	20.9
20	The Hartford Ins. Group	5,076,000	268,100	298,400	(10.2)	109.3	105.6	(242,373)	(132,475)	(83.0)	393,156	365,385	7.6
21	Kemper Corp. (excl. life)	1,032,275	59,137	66,981	(11.7)	105.7	102.1	(55,013)	(19,547)	(181.4)	88,592	77,370	14.5
22	USF&G Co.	2,336,648	168,566	228,504	(26.2)	106.3	96.2	(80,845)	(104,649)	22.7	259,719	215,726	20.4
—	Commercial Union Ins. Cos.	—	—	28,828	—	108.1	104.7	(136,700)	(74,300)	(84.0)	153,000	136,200	12.3
	Cumulative	68,934,237	4,069,590	3,908,592	4.1	105.3	103.0	(2,350,360)	(1,483,111)	(58.4)	4,489,203	3,836,072	17.0

by what analysts termed extremely good results in workers compensation lines, especially in California. Combined ratios in the line averaged in the 80% range, they said.

But the analysts cautioned that workers compensation could be reaching a cyclical turning point as increased competition results in lower rates and declining underwriting income.

The results of another group of companies, including St. Paul Fire & Marine Insurance Co., were aided by lower than expected losses in property lines.

Companies with large books of business in the depressed Northeast, such as The Continental Corp., suffered larger than average underwriting losses, the analysts added. For example, Continental reported a pretax underwriting loss of \$267.6 million, up from \$186.8 million during 1980. The adverse regional business was cited as one reason for that result.

Insurers traditionally report their annual results in two different accounting "languages." The first, termed Generally Accepted Accounting Principles, or GAAP, is similar to the figures used by other U.S. corporations in stockholder reports and Securities and Exchange Commission filings.

The second method, statutory reporting, refers to guidelines established by the National Assn. of Insurance Commissioners for forms the companies file with each state. The statutory figures are intended to reflect the solvency of a company, but the GAAP numbers are regarded as more accurate re-

flections of year-to-year earnings and business results.

The statistics used in the BI survey are GAAP numbers from annual reports, stockholder statements or company financial officers.

According to statutory reports filed March 1 with state regulators, industry underwriting losses surged to \$4.27 billion, up from \$1.53 billion the previous year, while aftertax earnings of \$6.9 billion were down 8.8% from \$7.57 billion in 1980. At the same time, statutory net investment gains totaled \$13.19 billion, up 15.6% from \$11.41 billion in 1980.

In the accompanying chart, investment income figures for Reliance Insurance Co. and for Continental are pretax, and the Reliance

figures include only insurance subsidiaries. Orion Capital Corp. figures are not comparable year-to-year because of changes in subsidiaries, thus no percentage changes are shown.

Some figures for Commercial Union Insurance Cos. are not available and the insurer, as a result, is not ranked by earnings.

The Home Group Inc., a unit of City Investing Co., a New York-based holding company, apparently posted the worst combined ratio of any of the property/casualty insurers checked. Home's figures have not yet been released to analysts but in state regulatory filings the insurer cited its 1981 combined ratio as 114.4%, up from 106.8% in 1980. Other Home figures were not available and not included in the survey.

BI Industry Stock Report

MAR. 30, 1982 3/24/82 THRU 3/30/82

Insurance Cos.	Price	% Chg	P/E	S Div	% Yld	High	Low	Vol (000)
Aetna Life & Cas Co	NYSE	45.88	-2.1	7.5	2.52	5.5	47.38	45.88
American Bankers Ins Group	OTC	7.75	1.6	6.5	0.48	6.2	7.15	67.8
American Gen Ins Co	NYSE	42.38	-0.9	6.4	2.20	5.2	42.75	100.4
American Int'l Finl Corp	OTC	15.83	0.0	7.5	1.12	7.2	15.88	4.1
American Intl Group Inc	OTC	66.50	1.5	11.0	0.48	0.7	67.50	162.9
American Natl Ins Co	OTC	14.00	-0.9	5.9	0.76	5.4	14.00	24.8
American Sta Life Ins Co	OTC	15.50	0.0	5.0	0.80	5.2	15.50	15.25*
Aneco Reins Ltd	OTC	1.88	-6.2	0.0	0.00	0.0	2.00	1.88
Appalachian Natl Corp	OTC	2.63	0.0	0.1	0.00	0.0	2.63	0.0
Avencor Corp	AMEX	11.50	0.0	7.6	0.54	4.7	11.50	11.38
Banks Iowa Inc	OTC	36.00	2.9	5.5	1.48	4.1	36.00	35.50
Biteco Corp	OTC	31.00	0.0	4.7	1.92	6.2	31.00	31.00
Carolina Cas Ins Co	OTC	6.75	0.0	6.3	0.32	4.7	6.75	6.75
Chubb Corp	OTC	44.13	-3.0	5.2	2.92	6.6	45.88	44.13
Combined Intl Corp	NYSE	20.63	-4.1	5.6	1.80	8.7	21.50	20.63
Connecticut Gen Ins Corp	NYSE	50.25	1.3	5.8	2.04	4.1	50.63	50.25
Continental Corp	NYSE	27.13	-0.9	6.8	2.60	9.6	27.25	26.88
Crawford & Co	OTC	12.25	0.0	9.6	0.56	4.6	12.25	12.25
Crown Life Ins Co	OTC	80.25	0.0	5.9	3.10	3.9	80.25	80.25
Crum & Forster	NYSE	32.63	-1.1	5.3	1.64	5.0	33.25	32.63
Employers Cas Co	OTC	28.25	0.0	6.1	1.20	4.2	28.25	28.25
Equifax Inc	NYSE	30.88	3.3	8.8	2.60	8.4	30.88	30.13
Excelsior Ins Co	OTC	17.75	0.0	12.2	0.70	3.9	17.75	17.75
Farmers Group Inc	OTC	34.00	-0.4	9.6	1.24	3.6	34.13	34.00
First Colony Life Ins Co	OTC	63.63	0.0	18.9	1.02	1.6	63.63	63.63
Foremost Corp Amer	OTC	27.00	-2.7	7.5	1.12	4.1	27.25	27.00
Great West Life Assurn Co	OTC	215.00	-4.8	8.4	10.00	4.7	225.00	215.00*
Hanover Ins Co	OTC	32.00	4.1	4.0	0.72	2.3	32.00	31.00
Hartford Steam Boiler Insptn	OTC	38.00	0.0	6.5	2.80	7.4	38.00	38.00
Jefferson Natl Life Ins Co	OTC	34.00	7.9	10.4	0.76	2.2	34.00	32.50
Kemper Corp	OTC	32.88	-0.8	5.4	1.80	5.5	33.13	32.88
Lincoln Natl Corp Ind	NYSE	39.13	-3.7	6.4	3.00	7.7	40.13	39.13*
Mission Ins Group Inc	NYSE	33.88	0.4	5.9	1.20	3.5	35.00	33.88
Nationwide Corp Ohio	OTC	26.75	0.0	7.8	0.70	2.6	26.75	26.75
Northwestern Natl Life Ins	OTC	26.13	6.1	5.4	1.36	5.2	26.13	25.50
Ohio Cas Corp	OTC	44.38	-0.8	6.7	2.36	5.3	44.75	44.38
Old Rep Intl Corp	OTC	18.25	5.0	4.5	0.92	5.0	18.25	17.50
Preferred Risk Life Ins Co	OTC	20.00	3.9	5.9	0.92	4.6	20.00	19.88
Provident Life & Acc Ins Co	OTC	47.50	0.0	5.9	2.44	5.1	47.50	47.50
Ryan Ins Group Inc	OTC	19.00	-2.6	8.1	0.16	0.8	19.50	19.00
St. Paul Cos Inc	OTC	47.63	-1.0	6.3	2.60	5.5	48.88	47.63
Safeco Corp	OTC	39.75	1.3	6.9	2.20	5.5	40.00	39.63
Srl Corp	OTC	22.50	2.3	4.5	1.00	4.4	22.50	22.00
Seibels Bruce Group Inc	OTC	20.75	0.0	10.0	0.80	3.9	20.88	20.75
Statesman Group Inc	OTC	5.63	2.3	4.4	0.15	2.7	5.63	5.50
Tokio Marine & Fire Ins Co	OTC	95.75	2.7	7.6	1.00	1.0	96.63	95.25

MAR. 30, 1982 3/24/82 THRU 3/30/82

Agents/Brokers	Price	% Chg	P/E	S Div	% Yld	High	Low	Vol (000)
Alexander & Alexander Svcs	NYSE	28.38	-3.8	9.5	1.94	6.8	30.00	28.38
Baldwin & Lyons Inc	OTC	35.00	0.0	6.3	0.80	2.3	35.00	35.00
Corroon & Black Corp	NYSE	20.25	1.9	11.4	1.76	8.7	20.25	19.88
Crump E H Cos Inc	OTC	8.88	6.0	16.4	0.40	4.5	8.88	8.38
Hall Frank B & Co Inc	NYSE	28.38	9.7	10.7	1.70	6.0	28.75	26.25
Integrated Res Inc	AMEX	14.25	-1.7	5.1	0.00	0.0	14.25	14.25
James Fred S & Co Inc	NYSE	21.88	-0.6	10.2	1.60	7.3	22.00	21.50
Narvan & McLennan Cos Inc	NYSE	33.50	0.4	10.2	2.00	6.0	34.00*	33.13
PennCorp Finl Inc	NYSE	6.13	-3.9	4.9	0.16	2.6	6.25	6.13
Pinehurst Corp	OTC	8.88	2.9	10.7	0.00	0.0	9.00*	8.75
Poe & Assoc Inc	OTC	9.00	1.4	10.2	0.80	8.9	9.00	8.88
Reed Stenhouse Cos Ltd	OTC	11.63	-2.1	9.5	0.60	5.2	12.38*	11.50
Rollins Burdick Hunter Co	OTC	18.25	-2.7	11.4	1.32	7.2	18.88	18.25
AGENTS/BROKERS	AVERAGE				8.9			5.4
Conglomerates/Holding Cos.								
American Express(Fireman's Fd)	NYSE	46.63	-1.6	8.4	2.20	4.7	48.13*	46.63
Anderson Clayton(Hanger/PanAm)	NYSE	29.38	-2.1	6.0	1.32	4.5	29.38	29.13
Arco Inc	NYSE	19.50	-7.1	3.9	1.80	9.2	20.50	19.25*
City Investing Co. (Home Ins.)	NYSE	22.25	1.7	6.4	1.70	7.6	22.50	22.00
CNA Finl Corp (CNA)	NYSE	14.25	0.0	5.9	0.00	0.0	14.50	14.00
Control Data (Comm. Credit)	NYSE	30.75	-5.0	6.9	0.95	1.8	32.00	30.63
General Re Corp	NYSE	83.50	3.2	10.3	2.16	2.6		

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