Merging FM insurers pledge continuity

By KATHRYN J. McINTYRE

JOHNSTON, R.I.—Executives of the Allendale and Arkwright-Boston mutual insurance companies are striving for minimal disruptions for policyholders when the two largest Factory Mutual System companies merge at the end of the year.

Policyholders with both companies generally seem to expect a smooth transition. But there is some concern about what kind of underwriting philosophy will emerge in the new company, which will retain the Allendale name over a combined 1977 premium volume of $393.4 million.

Risk managers placing business with either of the property insurers for the most part appeared nonchalant when questioned by *Business Insurance* about the merger. "I don't see how it will affect us," was the typical response.

'We have had differences of opinion on underwriting and these will have to be resolved. They will almost certainly be resolved in favor of the policyholder.'

—William Goodall
Allendale chairman

Walt Woodard, assistant risk manager for The Boeing Co., suggested, "The effect of a merger is felt more in the firms that merge than by the insureds." That was Boeing's observation as a policyholder with Manufacturers Mutual Insurance Co. when it merged in 1968 with two other mutuals to form MFB Mutual, later renamed Allendale.

Leland L. Carle, vp of finance at Riceland Foods in Stuttgart, Ark., also reported no change in service after its insurer, Mutual Boiler, merged with Arkwright-Boston in 1974.

But at least one Arkwright-Boston policyholder is "sitting on pins and needles to see what's going to happen." Robert Rich, director of risk management and insurance at Gold Kist in Atlanta, has had better luck placing risks with Arkwright-Boston than with Allendale. He's particularly uneasy about the status of a quote he has from Arkwright-Boston on a soybean processing plant that Allendale wouldn't underwrite.

"Anyone in my position would be concerned," Mr. Rich suggested.

"Of course we will honor each other's commitments to policyholders," pro-

Continued on page 33

Reprisals feared

Few firms demand warrants of OSHA

By RICHARD MARINI

NEW YORK—Few corporations are requiring court orders before allowing officials of the Occupational Safety & Health Administration to inspect their plants.

OSHA officials say less than 2% of employers have required search warrants since the Supreme Court ruled that firms had the right to deny access to OSHA inspectors without court orders. It appears that many companies fear reprisals if they require warrants.

"You're totally within your rights to require a search warrant," explained John P. Stephenson, an official in the corporate risk department at the Ball Corp. in Muncie, Ind. "But if you do, you run the risk of punitive reprisals. So, here at Ball we don't ask for warrants."

But the American Conservative Union, the 70,000 member group that financed the court battle that led to the decision allowing firms to demand warrants, hopes to encourage more firms to stand up to OSHA officials.

"The federal government has no business in the field," said Gary Jarmin, director of the group's "Stop OSHA" project. "It's a job for state supported agencies."

The ACU contributed over $60,000 in legal aid to support Bill Barlow in his legal battle against OSHA. "Stop OSHA" is now two years old and, according to Mr. Jarmin, its ultimate goal is to "abolish" the agency.

"In terms of its goals, OSHA is one of the government's most counterproductive agencies," he said. "Not only has it not improved worker health and safety, but it has also created a bad environment between business and government. Many businessmen now feel that they're 'guilty until proven innocent' in the eyes of OSHA."

Mr. Jarmin claimed that after years of decline, the incidence of industrial accidents has leveled off since OSHA's creation in 1971.

However, William Mead, chief of the division of periodic surveys for the office of safety and health sta-

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The inside story

Free trade zone risks

The New York insurance department is designating 301 risks, ranging from abstractors liability to yacht charterers, for special exemption from regulation under the state's new free trade zone law. Page 2.

Liquid gas insurance pool?

Companies in the liquid gas industry dispute a GAO report that recommends the creation of a federal insurance pool to meet catastrophe claims after private insurance has been exhausted. Page 3.

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business insurance

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U.S. court rules insurance can cover job bias suits

By JERRY GEISEL

SAVANNAH, Ga.—In a landmark case, a federal judge has ruled that insurance policies that provide coverage against discrimination do not violate public policy and are valid.

U.S. district court judge Alexander A. Lawrence rejected CNA Insurance Co.'s contention that an insurance contract is unenforceable if "it is injurious to the public or contravenes some established interest of society."

The decision could act as a powerful precedent for other courts as they tackle similar suits in which insurers have refused to pay discrimination claims.

The court decision could also mean that risk managers can seriously negotiate with their insurers on whether discrimination coverage can be included in umbrella policies, said Wyatt Co. consultant Bill Gill.

Mr. Gill noted that underwriters are skittish about even discussing discrimination coverage, let alone providing it, since many have felt such coverage was illegal.

"But when a court says it is not against public policy to offer such coverage, discussion can be continued as part of the negotiating posture," he said. "At least the door is open."

While the decision may have opened the gate for discussion, observers believe it is unlikely that judge Lawrence's ruling will reverse the increasing trend of insurers to exclude discrimination as a covered risk in umbrella policies.

"The most likely response of the

Continued on page 34

Ailing Blues switch strategy

CHICAGO—Senior executive vp William E. Ryan denies that Blue Cross & Blue Shield Assns. is working on a new business strategy just because business with large, multi-state employers has fallen off.

But the facts are, as he admits:

- For the first time in Blue Cross & Blue Shield history, enrollment is declining, by over one million in the last two years.
- The drop in enrollment is primarily due to the movement of national accounts from BC & BS plans to insurance companies.
- New BC & BS products, marketing approaches and business methods are being developed that target the national account market.

Specifically, work will begin this fall on a new master contract for national accounts. The contract will offer options on coverage and plan design, such as a chance to include cost sharing in a BC & BS program.

"We are going to try and put together a matrix of benefit alternatives for more flexibility in the product we offer national accounts across the country," Mr. Ryan said. "We intend to have more flexibility than we do now in a program that can be committed by any (BC/BS) plan for any other plan for a national account."

The association is the national coordinating arm of the nation's Blue Cross and Blue Shield plans.

The benefit options will address in-patient and out-patient treatment, preventive care and dental,

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Photo: Kathryn J. McIntyre

A new master contract should be ready for marketing by mid-1979, says William Ryan.

N.Y. designates 301 risks for free trade zone list

By ELLIS SIMON

NEW YORK—The state insurance department here is designating 301 risks, ranging from abstractors liability to yacht charterers, for exemption from regulation under the state's new free trade zone law.

A public hearing on the proposed regulation, called regulation 86, will be held Aug. 22 at the department's World Trade Center office.

In addition to the list of special risks designated by the insurace department, specially licensed insurers would be exempt from regulation on rates and forms on single risks generating $100,000 or more in annual premium or two or more risks generating $250,000 or more in premium.

The trade zone, which becomes effective Sept. 1, was mandated by passage of legislation in June that also authorized creation of the New York Insurance Exchange.

Insurance companies eligible to become licensed as free zone underwriters would have to maintain twice the minimum required surplus or $4 million. A free zone license would have to be renewed annually at a fee of $1,000.

In addition, their annual free zone writing would be limited to the greater of 20% of surplus prior to the beginning of the fiscal year or an amount which when combined with other net premiums equals 200% of policyholders' surplus at the beginning of the period.

However, no insurer's free zone revenues would be permitted to exceed 25% of its total premium except where a company proposes to write free zone risks only in accordance with a plan approved by the superintendent.

The draft regulation also requires free zone policies to contain a warning printed in large-size type stating that the policy is not subject to New York regulations on rate and form. Coverage written on risks in New York must meet minimum department standards in areas not relating to rate and form, however.

While out-of-state risks are exempt from state regulation in such areas, they are also exempt from New York state premium tax.

Selection of special risks eligible for free zone status was done by checking the number of filings on each class of business and including only those that had less than a specified number, according to an insurance department aide.

AIG advertisement touting the N.Y. free trade zone.

Among the more unusual risks included on the list are ear piercing liability, pet health insurance, reward insurance, stud fee coverage, waterbed liability coverage and massage parlor package.

However, it also includes numerous forms of professional errors and omissions, plus errors and ommissions coverages for pension and employe benefits trustees, various municipal liability forms, flood insurance and oil industry coverages.

Few medical malpractice and product liability classifications were included in the list, however. Sidney Bleiberg, assistant chief of the insurance department's property and casualty bureau, said the hearing would allow interested parties to comment on what type of risks needed inclusion and what should be dropped.

An AIG advertisement in The Wall Street Journal used a full-length pinup photograph of Betty Grable to illustrate that with the free zone AIG will be able to cover any risks as easily as Lloyd's of London. Lloyd's at one time insured Ms. Grable's famed legs for $1 million. ■

Publisher's Privilege

During the almost 11 years *Business Insurance* has been published, a number of talented reporters, writers and editors have helped shape the character and personality of this newsmagazine. None, perhaps, has been more influential in this task than its present editor, Susan Alt.

When Susan joined *BI* five years ago as managing editor she immersed herself in a program of formal education about what this business of risk management and underwriting is all about. First came her Associate in Risk Management diploma from The Insurance Institute of America. Now, after only three years of self-study, with no time off from her very demanding job as editor, she has the much coveted CPCU designation.

But knowing Susan Alt, I doubt whether she'll hang up her cap and gown. Before long, it's my guess, we'll see Susan Alt immersed in another study program which will further sharpen her understanding of the field touched and influenced by the newsmagazine she so ably edits.

So, as *BI's* publisher, I congratulate Susan on her achievement. I also express my thanks and admiration to a talented and loyal staff that supports Susan and without which it might have taken longer to achieve the CPCU designation.

We are all very proud of you, Susan.

Alfred Malecki

Alfred Malecki

Alberta taps new officers

CALGARY—Rick Bonnett of Wainoco Oil & Gas Ltd. has been elected president of the Alberta chapter of the Risk & Insurance Management Society.

Bill Holmes of Dome Petroleum is the new vp. Edna Taylor of Pacific Petroleum Ltd. has been named secretary and Morman Bird of Conmac Western Industries is the new treasurer. ■

for your information...

Greek ship owners complain Lloyd's discriminates against their ships

ATHENS—Owners of Greek ships are complaining that Lloyd's is being unfair by imposing an extra premium on goods that are carried in any of their vessels that are over 15 years old.

They are threatening to move their hull insurance away from the London market, but Lloyd's is adamant that the new rates must stay.

The move has been made by U.K. marine insurers who feel that ships from Greece—as well as from Liberia, Panama and more than a dozen other registry flags—are causing perils to cargo underwriters if they are too old.

Cargo ships from the U.S. and other leading maritime countries are not affected by the ruling, which has been adopted by all U.K. underwriters after an assessment of casualty statistics in the last few years.

Their recommendations may be adopted by other insurance markets, but Greek shipowners are still hoping the sanctions will be lifted. Antony Chandris, their president, believes they make "unfair discriminations" with other countries with poor accident records.

Under the new scheme, there will be a 50% additional premium levied on cargo insurance where the goods are carried in ships registered in Greece, Cyprus, Liberia, Panama, Costa Rica, the Dominican Republic, Honduras, Lebanon, Maldive Islands, Malta, Morocco, Nicaragua, Singapore and Somalia.

The extra levy applies only to vessels more than 15 years old. But since one-third of the Greek merchant fleet comes within this category, the effect will hit hard at its ability to compete with other countries.

Bank bond premiums climb

WASHINGTON—The nation's banks paid almost 16% more last year for bankers blanket bond coverage, according to preliminary results from a confidential survey by the American Bankers Assn.

Bond coverage accounted for about 50% of the total $200 million in insurance premiums paid by full service banks in 1977, the ABA says. Banks absorbed 48% of losses from employe dishonesty.

Complete results from the association's second annual bank insurance survey are expected to be released in the next few weeks.

National health panel urged

WASHINGTON—Sen. Jacob Javits (R-N.Y.) is urging the establishment of a joint House-Senate committee that will have exclusive jurisdiction over national health insurance legislation.

In introducing the proposal, Sen. Javits noted that overlapping congressional jurisdiction over health policy has slowed the drive toward national health insurance.

Currently, four congressional committees control health policy legislation. By reducing the number of committees that will deal with national health insurance to one, Congress will have an "effective mechanism for facilitating consideration of national health insurance legislation," Sen. Javits said.

Past-65 worker regulations due

WASHINGTON—The Labor Department plans to issue regulations this month clarifying how the new law that raises the mandatory retirement age to 70 affects employe benefit plans.

The Labor Department regulations will resolve such issues as whether benefits, such as life insurance and sick leave, can be reduced for employes who work past age 65.

Self-insurance fund triples risks

LAKELAND, Fla.—The number of companies participating in Florida's first state-approved workers compensation self-insured fund that covers all risk categories has tripled since the fund began to operate in April.

C.C. Dockery, administrator of the Associated Industries of Florida Self-Insurers Fund, said 49 companies have joined the fund, up from the original 16 companies. He expects the number of participants to rise to 115 by next year.

The annual premium flow now stands at $1.7 million. Mr. Dockery predicted that figure will more than double by the time the fund celebrates its first anniversary next April.

The fund's loss ratio currently is 11%, though Mr. Dockery doesn't believe that "fantastically good" record can continue indefinitely. However, he expects the fund to show a 10% underwriting profit or "maybe even a little better" during the first year.

Textiler sues insurer, bank

EL PASO, Tex.—Suits filed by Farah Manufacturing Co. in federal and state court here have charged Prudential Insurance Co. and State National Bank of El Paso with having conspired with two other lenders to obtain control of Farah in order to liquidate its assets and obtain repayment of their loans.

The suits, each of which seeks $68 million in actual damages plus twice that amount in punitive damages, charge the lenders with economic duress, deceit and fraud against the company and mismanagement by the defendants' directors. No individual directors were named in the suits, however, according to Farah's attorney, Tom Thomas of Dallas.

Mr. Thomas explained that suits were not brought against the two other defendants in the alleged conspiracy, Republic National Bank of Dallas and Continental Illinois National Bank & Trust of Chicago, since a national bank can only be sued where its home office is located. Therefore Farah Manufacturing Co. preferred to bring suit against its insurer and bank in its home town of El Paso.

He added that where conspiracy is proved each member of that conspiracy is jointly and singly liable for damages. Should either suit prove favorable to Farah, the four lenders could apportion damages among themselves, he said.

The damages alleged by Farah were said to have occurred during a period between 1976 and 1978 when the lenders were alleged to have control of management and Willie Farah was ousted. Mr. Farah, currently chairman and acting president, said the suits were filed so the company could recover lost capital and restore jobs to former employes and equity to former stockholders.

Mr. Thomas noted that Farah Manufacturing Co. is current on its outstanding loans from the four lenders. ■

GUIDE TO FEATURES

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errors & omissions

• Some readers may have misinterpreted a *Business Insurance* chart summarizing no-fault laws published July 24. The states of Connecticut, Hawaii, Kentucky, Nevada, New York and North Dakota offer unlimited medical benefits only up to the aggregate limit for benefits in those states. In addition, Massachusetts has an aggregate limit of $2,000 for medical and funeral benefits, wage loss and essential services, not a total of $8,000 as shown in the chart.

Liquid gas firms dispute need for federal income

By ELLIS SIMON

NEW YORK—Companies in the high risk liquefied gas industry say they don't need a federal compensation fund modeled on the nuclear power plant pool.

The General Accounting Office, the investigatory arm of Congress, is urging that firms that transport, store or use liquefied natural gas or petroleum gas be required to contribute to a federal compensation fund. But firms contacted by *Business Insurance* said the insurance coverage available through commercial markets is sufficient to meet any disaster.

Under the GAO proposal, firms involved in the handling of liquefied gases would be required to carry the maximum liability insurance available from the private sector and contribute a fixed sum per British thermal unit to the compensation fund.

The fund would pay claims beyond those paid by private insurers up to an unspecified fixed ceiling for each catastrophe. Consumers of the liquefied gases would pay the cost of insuring facilities plus covering the risks of those near the operation.

The GAO also urges that the United States be "subrogated to the rights of injured persons compensated by the fund so that the attorney general can sue companies or persons responsible for whatever monies the fund has paid out."

This feature was added because the GAO felt that even with the $560 million coverage available under the Price-Anderson Act to cover nuclear liability, there was no assurance that all legitimate claimants would be fully compensated.

Instead it proposed that Congress enact legislation allowing injured parties of hazardous materials accidents to sue "all companies in the corporate chain back to the beneficial corporate owners" for damages above those covered by insurance and the fund.

The report noted that most liquefied gas carriers and terminals are subsidiaries of larger firms and therefore have minimal capitalization.

Some liquefied gas carriers and terminal operators said they were unwilling to discuss the GAO proposals, as were several insurers of liquefied gas facilities. However, those who were willing to comment said they did not see the need for such measures.

A spokesman for El Paso Co., whose El Paso Natural Gas subsidiary operates six LNG ships, said there was adequate insurance coverage available through the private sector.

Ocean-going LNG ships can get unlimited liability coverage through the protection and indemnity clubs. Terminals can get between $100 million and $150 million in liability protection, which would be adequate if they were located in remote areas, he added.

The GAO report noted that an 1851 statute limits liability of shipowners to a vessel's salvage value plus the value of its cargo. The El Paso spokesman noted, however, that that standard has been ignored in recent years.

Liability coverage for LNG and LPG facilities is not only available, but the markets have improved over the past three to four years, noted J. William Sherar, chairman of Corroon & Black—Armistead Miller Wallace of New Orleans.

Years ago, only large firms could get coverage through conventional markets with small companies going to surplus underwriters. Mr. Sherar added that he would "hate" to see government get involved in handling liability for LNG and LPG firms.

A liability fund will be unnecessary as long as adequate liability coverage can be obtained through commercial markets, but it might be feasible if coverage were needed above commercial limits, said Joseph V. Yandoli, director of insurance for Columbia Natural Gas of Delaware.

A Columbia subsidiary has 50% interest in the Cove Point, Md., terminal, one of three port facilities on the East Coast that handle LNG shipments. The others are at Elba Island, Ga., and Everett, Mass.

Columbia and its partner, Consolidated Natural Gas of Pittsburgh, each have approximately $150 million coverage on the Maryland terminal and are in the process of increasing it to $200 million, Mr. Yandoli said. With no reduction in interest, their total coverage would be $400 million.

"We find underwriters are not afraid of LNG in London," Mr. Yandoli said. "If they were afraid of it, they wouldn't be selling it (liability coverage)."

Mr. Yandoli said he felt there was a greater likelihood of a catastrophe at the large refinery complexes around New York and Philadelphia. The Cove Point terminal occupies a small part of an isolated 1,000 acre site 60 miles south of Baltimore, he noted.

One of the terminals, Everett, Mass., is located less than two miles from downtown Boston. Burt Weber, corporate insurance manager for Cabot Corp., whose Distrigas of Massachusetts subsidiary owns and operates the Everett terminal, said his firm would not comment on the GAO report due to its sensitivity.

However, he noted that the facility has operated for nine years without a mishap. ■

Photo: Wide World

Christine Onassis and new husband Sergi Kauzov

Will Onassis wedding begat Lloyd's dowery?

LONDON—Has the gossip column world truly lost jetsetter Christina Onassis to a matronly life in Russia as Mrs. Sergei Kauzov? More important, is the world of private enterprise about to lose its largest shipping fleet to Soviet ownership? And is Lloyd's about to lose the premium dollars it earns as the principal insurer of the giant Greek fleet to the Russian state insurance company?

Speculation is swirling around syndicates at Lloyd's of London where interest in the recent marriage of Christina to her Russian business friend runs almost as high as in celebrity scandal sheets. Olympic Maritime, the Onassis shipping empire has been insured at Lloyd's since its meager beginnings in the mid-1930s and now is reportedly insured to $600 million by Lloyd's and other U.K. companies.

Anxiety is running high in Athens that Christina may flip her substantial interest in the family shipping empire to Russian control.

Should Christina really make Russia her home that unlikely development could portend almost anything. Insurance on the shipping fleet could be placed with Ingosstrakh, the Russian state insurance company. Whether or not the risk would be reinsured with other markets is still only more speculation since the Soviet company normally only reinsurers some of its foreign cargo commitments and costlier ships.

Lloyd's palmists predict, however, that the insurance will stay with Lloyd's and the other present risk takers for at least awhile since the coverage was just renewed and won't expire until June 1979 at the earliest. ■

the benefit beat

Kodak grants most benefits to post-65 workers

EASTMAN KODAK CO. workers who stay on the job past age 65 will continue to receive most of the benefits they did prior to their 65th birthday, including the continued accrual of retirement income credits to age 70. The new corporate policy, in response to Congressional action that raised the mandatory retirement age to 70, is effective Jan. 1.

Among the few changes in benefits that an employe working past 65 will experience are termination of coverage under the survivor benefit insurance plan and a reduction in life insurance coverage under the contributory group plan. Instead of a life insurance benefit of two-times annual base pay afforded workers through age 65, an active worker's benefit after age 65 will be a decreasing multiple of his annual base pay at 65. At 66 the benefit drops to a multiple of 1.8, at 67 the multiple is 1.6 and so on until age 70 and over when the benefit levels to his annual base pay at 65. These same amounts of insurance are provided at company cost to workers who retire with 20 years of service and five years of coverage under the contributory plan. Active workers over 65 will see the cost of their contributory health insurance plan decline since they are eligible for Medicare. When an employe retires, Kodak pays the full cost of continuing Kodak's health care benefits.

Otherwise, Kodak workers on the job past 65 will find no change in their benefits such as participation in the wage dividend, savings and investment plan or the company TRESOP.

SAN DIEGO school district employes won increased dental, hospital and life insurance benefits this month that will cost the district $251 per employe annually. The district will now pay for dependent dental coverage and the hospital room and board allowance was increased to $105 a day from $95 a day. The number of days of in-patient hospital care for nervous conditions was increased to 90 from 30. Life insurance is now one times salary instead of a flat $7,500 for employes and $10,000 for managers. Employe relations supervisor Ron Bippert noted that negotiations in California are concentrating on benefits since most salaries are frozen following the passage of Proposition 13.

WORKERS WON bigger wage and benefit settlements in contracts settled during the first six months of 1978 than in bargaining agreements reached during 1977. The Bureau of Labor Statistics said agreements reached during the first half of this year called for an average increase of 10.1% in wages and benefits during the first year of the contract. Last year, the average hike in wages and benefits during a contract's first year was 9.6%.

PREEMPT STATE LAWS that require employers to provide specific benefits in their employe benefit programs, the powerful insurance trade associations have urged Congress, but leave intact other state regulation of group insurance contracts. The American Council of Life Insurance and the Health Insurance Assn. term "alarming" recent court rulings that states can mandate benefits in insured employe benefit plans but cannot require specific benefits in self-funded programs. These court decisions on the scope of the preemption clause of the pension reform law are "placing insurers in an untenable competitive disadvantage with uninsured plans and are eroding the protection afforded employes by traditional state regulatory controls that protect their coverages," the association argued. The proposal would not, however, preempt state regulations on conversion requirements, which require the offer of insurance for persons who leave group programs.

ERISA SHOULD be amended so that the pension reform law will preempt state laws relating to employe benefit plans only when the state law clashes with the federal law, urges the California legislature. The lawmakers also recommend that regulations be adopted to clarify the definition of multiple employer trusts subject to ERISA. The California resolution was to President Carter and to the Senate Human Resources Committee, which has jurisdiction over ERISA-related matters.

THE SENATE unanimously approved a measure that would prevent the Internal Revenue Service from issuing any new regulations covering the taxation of employe benefits before 1980. In passing the legislation, Sen. Russell Long (D-La.) warned that the IRS and Treasury Department are seriously considering imposing taxes on benefits that never have been taxed before. "It is our view that the Treasury Department and the IRS should not tax them (benefits) by regulatory fiat; if we are going to tax them, we ought to tax them by an act of Congress," Sen. Long said. "If the law is to be changed, we ought to do it. That is what the bill addresses." The measure now goes to a conference committee with the House, which previously passed a slightly different version.

ABITIBI PAPER CO. of Toronto will provide an extended health care and dental plan for 4,500 hourly employes in Ontario and Quebec as part of a two year contract with the Canadian Paperworkers Union. The extended health care plan, offered through Blue Cross/Blue Shield, will provide semi-private rooms and prescription drugs with no contribution from employes. However, employes will be assessed a $10 deductible for single members and a $20 deductible for family members for each occurrence. The new program supplements Abitibi's contributions to the Ontario Hospital Insurance Plan and the Quebec Medicare Plan, which have been increased from $11.50 to $19 per month for single members and from $24 to $38 per

Continued on following page

the benefit beat

Continued from preceding page

month for family members. In addition, a dental plan has been established through Blue Cross based on the fee schedule of the Ontario Dental Assn. The company provides 100% of the contribution to this plan as well.

Pension benefits have increased through a "bonus" that boosts the amount of pension accrued between Jan. 1, 1973, and Dec. 31, 1977, by 25% and the total pension accrued prior to Dec. 31, 1977, by 6%. In addition, the company has reduced the requirement for early retirement without reduced benefits from age 62 and 20 years service to 61 and 20 years service. As an incentive for early retirement, Abitibi will provide pensioners with a supplemental benefit of $9 per month for each year of service, up to 30 years, until they become eligible for Canadian government pension benefits at age 65. Group life benefits have been increased from $21,000 to $25,000 for each hourly employe at a monthly cost to employes of 30 cents per $1,000.

NORTH DAKOTA has licensed its first health maintenance organization providing prepaid medical care, according to insurance commissioner Byron Knutson. The West River health maintenance organization will operate in Adams, Bowman, Grant, Hettinger and Slope counties, he said. It is also seeking a South Dakota license to operate in Corson, Harding and Perkins counties. A 1975 law placed HMOs under the supervision of the insurance and state health departments. ■

Carter streamlines regulation to salve pension law wounds

WASHINGTON—Administrative, compliance and reporting problems associated with the pension reform law may be eased under a reorganization plan announced this month by the White House.

ERISA would be streamlined by clearly dividing responsibility for the program between the Labor and Treasury Departments.

Currently, the two departments often jointly administer identical provisions of ERISA, resulting in lengthy delays in issuing regulations and exemptions as well as bureaucratic "runarounds," the White House said.

Under the reorganization plan, Treasury would be given primary jurisdiction for setting pension plan minimum standards for funding, participation, vesting rights and benefit payments. However, Labor would retain its authority to approve certain Treasury rulings and regulations that primarily affect collectively bargained plans.

On the other hand, the Labor Department would have jurisdiction over establishing fiduciary standards for pension and welfare benefit plans. It would be up to Labor to issue exemptions from the prohibited transactions provisions of ERISA.

By giving Labor sole jurisdiction in issuing exemptions to the various prohibited transactions provisions, the Administration believes it can slice in half the time needed to process exemption requests. It now takes an average of 15 months to act on an exemption request, with some applications being held up for as long as three years.

The reorganization plan would automatically become law after 60 legislative days unless Congress specifically votes to reject the program. However, if the session ends before the 60 days are up, Congress would have to give its approval in order for the plan to go into effect.

The Administration's proposal closely resembles legislation (S.2352) passed by the Senate Finance Committee last year that also would give Treasury jurisdiction for funding, vesting and participation and put fiduciary responsibility and prohibited transactions in Labor's turf.

Furthermore, under an informal working agreement, Labor and Treasury already have divided their responsibilities for ERISA enforcement and regulations similar to what the Administration proposed.

Meanwhile, the Administration announced that Treasury and Labor are going to eliminate some reporting requirements to reduce the paperwork burden ERISA has imposed on plan administrators.

The Labor Department plans to eliminate the plan description form known as EBS-1 by merging it into other forms. EBS-1, which is six pages long now, must be completed by all new plans. Existing plans are expected to file the EBS-1 form every 10 years, a requirement that would be eliminated.

In addition, pension plans with fewer than 100 participants would only be required to file a full compliance report (Form 5500-C) once every three years, and an abbreviated statement the other two years. Currently, Form 5500 must be filed annually for all pension plans.

These reporting changes are expected to result in a 20% reduction in paperwork, the government estimated. ■

OSHA opens company logs on injuries

WASHINGTON—Workers now will be able to look at their employer's log of job-related injuries and illnesses, the Occupational Safety & Health Administration (OSHA) announced this month.

The new OSHA rule will affect millions of employers who not only will have to open up their injury and accident records to current employes, but also to former workers.

Prior to the rule, regular access to the log was limited to OSHA health and safety officers, representatives of the Bureau of Labor Statistics and the Secretary of the Health, Education and Welfare Department. Employes only had access to an annual statistical summary, rather than the actual records.

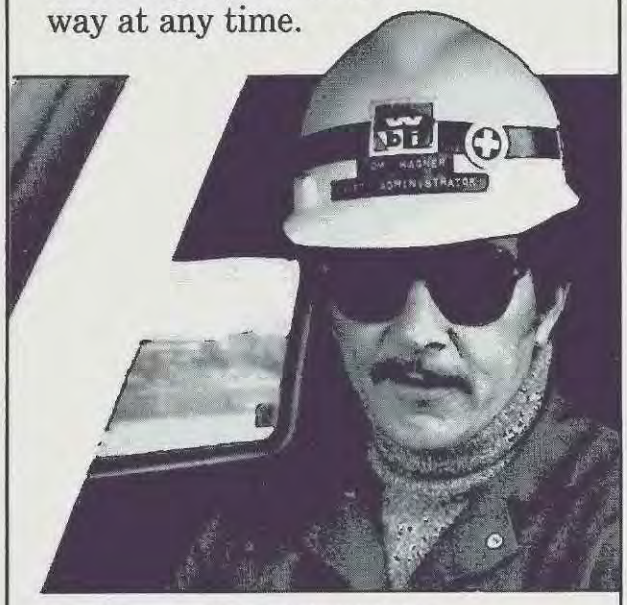
In announcing the new final rule, OSHA Administrator Eual Bingham said: "Employes will be more fully alerted to actual and possible hazards in the workplace and thus would be significantly assisted in their efforts . . . to protect themselves from hazards." ■

HOW DO YOU PUT SAFETY TOGETHER-WHEN YOUR JOBSITES ARE SCATTERED?

A WAUSAU STORY SAFETY IDEA

How do you make sure the safety plan you have on paper is being put into practice throughout widely scattered job sites? Wisconsin Bridge & Iron, one of our Milwaukee policyholders, may have 20 or more projects under way at any time.

You can easily see the van's immediate, tangible benefits. Less obviously, the van represents one part of WBI management's *total commitment* to job safety.



Tom Wagner—Safety Administrator

So, in addition to a vigorous safety program, they created an effective new approach. Tom Wagner, their safety administrator, drives to job sites in a van that's literally a safety department store on wheels.

That commitment has driven major accidents down 60% during the last 5 years... a destination we know is well worth driving for.

Their business is fabricating and erecting steel buildings. It's a business with plenty of potential for injury.

The van brings an inventory of safety glasses, replacement lenses, goggles, ear plugs and muffs, welding hoods, hard hats, warning signs and tags, plus belts and lanyards for elevated steel work. It also carries air monitors, fire extinguishers, first aid supplies, voltmeters and outlet testers. It's a traveling classroom complete with audiovisual equipment as well.

Wausau's Ed Baxa Visits WB&I Safety Van

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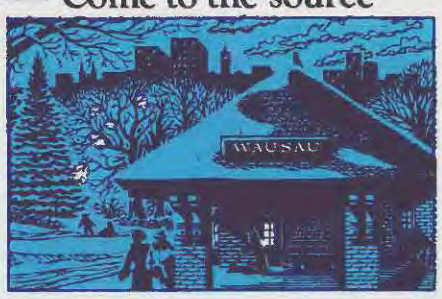

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editorial opinions

National health: A burst of sanity

CRITICS OF JIMMY CARTER are hard at it, screaming bloody murder that he failed once again to take a strong position on an important issue, that being national health insurance. But the legions of businesses that have sometimes been for Carter and sometimes against him now find a few positive points accruing in his favor.

Carter's principles that will govern any national health programs are just that—principles. We're still a long way from any concrete program and probably light years away from the passage of legislation launching the country on a most-ambitious project. Therein lies the rub for Carter foes, who see doubletalk, excuses and compromise in Carter's principles where they seek all-encompassing and costly care for everyone, immediately.

As we pointed out in our Aug. 7 story, nearly all the business and insurance groups we talked to had some good things to say about Carter's compromise proposals. It seems as if the Carter administration is listening to the business community (which stands to pay a large part of the bills) in a number of areas.

Most important, the administration agreed that there will be cost-sharing in any NHI program. Deductibles or coinsurance are vital to hold costs and utilization down in any government program.

Also, recognizing the failure of past programs like Medicare and Medicaid which stimulated demand for health care services and allowed costs to get completely out of hand, the administration says an NHI program will be gradually phased in. This will allow for new problems to be solved as they arise, one at a time, before proceeding with the next phase. Hopefully, this will prevent the system (and the taxpayers) from being completely overwhelmed by an ungovernable mess.

Next program

Finally, the administration has decided there will be a significant role for the private insurance industry in NHI. We aren't particularly happy about the prospect that one immense organization—Blue Cross/Blue Shield—appears to be the leading contender for the dominant role in such a plan. Instead, we would hope that private sector involvement will be balanced and will include a broad cross-section of insurance industry talent. Including the insurance industry in any NHI program will lend an element of professional management and efficiency to the setup, factors government programs traditionally have lacked.

We're glad to see those who favor a rational approach to billion-dollar spending win out, for the time being anyway. Proposition 13, Carter should recognize, is a clear indicator that not everyone thinks big bureaucracy is best. We may be witnessing the birth (or rebirth) of a new age of sanity in dealing with the gradual movement towards socialism.

A special look at peculiar risks

INSURING SUPERSTAR PELE'S ability to play soccer and tennis champ Bjorn Borg's appearance at a championship match requires the special knowledge and skill of people who've dealt with unusual risks.

Similarly, race horses, racing cars and America's Cup sailboats pose problems demanding tailored insurance policies and, almost certainly, tailored insurance premiums for events that are a little riskier and characters a whole lot more valuable than the usual man-in-the-street.

Beyond the one-time events to be insured, some managers have to buy insurance for businesses that consistently involve risky activities. Consider the risk management questions facing owners and managers of discotheques, rock concerts, sports events with their hordes of spectators and valuable players, skateboard parks, hang gliding schools and around-the-world tours for famous symphony orchestras.

Imagine what you'd do if your corporate chairman of the board was about to ascend into the clouds in a small basket hanging by a tether from a hot air balloon to glide across the country or the state.

We'll talk to the specialists at Lloyd's and in this country—and we'll talk to the risk managers and insurance buyers—who routinely deal with these specialty risks, in a spotlight issue of *Business Insurance* Oct. 31.

If you've an idea for a specialty risks story, or if you've a tall tale to tell about handling a specialty risk problem, call or write Susan Alt at *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611 (312) 649-5278.

letters

Business Insurance *welcomes letters from its readers. Please keep your comments as brief as possible and we reserve the right to edit or shorten letters for clarity or space. Please send your comments to Letters to the Editor,* Business Insurance *Magazine, 740 N. Rush St., Chicago, Ill. 60611.*

Proposition 13

To the editor: Hurry for Robert Walters. He stated the impact of Proposition 13 very well (*BI*, June 26). The peril is to those public risk managers who cannot demonstrate their ability to reduce the cost of risk.

Proposition 13 will be a test of the mettle of each public risk manager. Some will be found wanting and fall by the wayside, of course. Now certainly isn't the time for any of them to sit on their duff or rest on their laurels.

Larry Bell
Manager, insurance & claims, Alyeska Pipeline Service Co., Anchorage, Alaska

P.S. I like Bob's efficient staffing, too. Who needs a 17 man staff anyway?

Road liability

To the editor: The Oakland County road commission is initiating a highway risk management program for Oakland County, a 900-square mile county with one million people. We are attempting to identify and reduce our road liability exposures and we would very much like to benefit from the experience of anyone else who has worked in this field.

Most, if not all, agencies responsible for streets, roads and highways have implemented routine traffic engineering improvements over the years and many have taken advantage of the various federal safety programs. However, we have yet to find another agency which has officially placed safety as its number one priority or which has attempted to approach the highway safety problem from a comprehensive multi-factor (driver, vehicle and road environment) standpoint.

I would appreciate any information or contacts that might be useful in our endeavors.

Brent O. Bair

Transportation planning coordinator, Oakland County, Mich.

Mr. Bair may be contacted at the Board of County Road Commissioners, Oakland County, 31001 Lahser Road, Birmingham, Mich. 48010.

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Labor official, senator clash on preemption

WASHINGTON—A top Administration official clashed sharply with members of a Senate panel on whether states have the right to regulate and set requirements for benefits.

Undersecretary of labor Robert J. Brown said the Administration was firmly opposed to legislation that would give states authority to regulate benefit plans.

Mr. Brown said the preemption provision of the pension reform law, which gives only Congress the right to regulate plans, is vital.

Mr. Brown told the Senate panel, which was meeting to discuss a packet of bills that call for the first major revisions in ERISA since the law was passed in 1974, that there could be a disaster without federal preemption.

"We would have 50 different state regulations for benefits and the results would be chaos" for employers who would have to contend with a hodge-podge of varying state requirements, he said.

But Sen. Spark Matsunaga (D-Hawaii) said he objected to the premise that only the federal government has the power to regulate benefit plans. He pointed out that Hawaii's health care act, which requires employers to offer a minimum level of benefits, has resulted in almost universal health care coverage at a low cost.

A state law that so broadly extends the net of coverage to residents should be saluted and copied by other states, rather than being thrown out by a federal district court for violating the preemption section of ERISA, Sen. Matsunaga added.

Sen. Jacob Javits (R-N.Y.) said he believed states should be innovative in establishing benefits, but added that he was concerned about the possible side effects of allowing states complete leeway in regulating benefit plans.

But both authors of the pension reform law, Sen. Javits and Sen. Harrison Williams (D-N.J.), agreed that Congress should give immediate attention to the preemption issue. "We will move on this," Sen. Williams vowed, with Sen. Lloyd Bentsen (D-Texas) observing that preemption implications were not adequately discussed when ERISA passed four years ago.

On another issue, Treasury official Daniel Halperin expressed concern about the Javits-Williams legislation (S. 3017) that would give employers tax credits for upgrading their pension plans.

Mr. Halperin said the bill, which grants a 5% tax credit to plans that improve benefits above the minimum ERISA requirements, might cost the Treasury $4.4 billion.

Instead of such a broadly-based credit, Mr. Halperin suggested that the credit be focused more narrowly, such as to employers whose work force has a low average pay.

The Labor Department sidestepped the issue of whether ERISA could be administered more efficiently if only one agency ran the program, as proposed by Sen. Williams and Sen. Javits.

Undersecretary Brown did say the Administration's reorganization plan, which will hand over to Labor responsibility for fiduciary matters and give Treasury authority for participation, vesting and funding standards, should provide interim relief to dual jurisdiction problems.

Mr. Brown objected to legislation that would eliminate the summary annual report, since information contained in the report is vital to employe's understanding their pension plan.

Instead of doing away with the summary annual report, Mr. Brown said the Labor Department will drastically revise the form to make it easier for employers to fill out. He added that Labor would consider a proposal in which employers could post the summary annual report in a central location and eliminate the current requirement of distribution to each employe.

SEC chairman Harold M. Williams told the panel that he opposes the Javits-Williams bill because it would overturn a lower court decision extending the anti-fraud provisions of the securities laws to pensions. ■

More control motivates 2 to self-insure

By SUSAN ALT

CHICAGO—The prospect of better corporate control provided the motivation for two large companies to undertake self-insuring their workers compensation programs in recent months, according to the risk managers for these firms.

During *Business Insurance's* National Conference on Workers Compensation, Dennis Brescoll, associate risk manager for Chicago-based Esmark Inc., and Edward R. Lloyd, director of insurance at Dan River Inc. of Greenville, S.C., related their experiences in going to a self-insured plan from an insured program.

"We felt the control aspect was probably the most important" reason to become self-insured for workers compensation, said Mr. Brescoll, but the potential cost savings were also attractive. There was a concern at Esmark that a lot of claims were already being paid in-house without being reported to headquarters or to the insurance company. He also told the story of one plant where outsiders were inviting workers to lunch and offering free meals to get them to go to medical facilities and check on "injuries" during lunch hours.

Thus, Esmark chose its facilities in Illinois and Iowa for a test program, launching its self-insurance plan last November.

Similarly, Dan River viewed the cash flow aspects as positive, along with potential cost savings and improved control over claims. The textile firm's costs were "getting out of control. Our retro and modification factors were almost impossible to control. In addition, we had reduced the frequency and severity of accidents and still our costs were going up," said Mr. Lloyd.

In the end, Esmark chose to hire an outside administrator—Fred S. James & Co.—to handle claims, as did Dan River with its choice of the Gallagher Bassett division of Arthur J. Gallagher & Co.

Dan River went self-insured in four states in April, deferring its changeover three months from the original Jan. 1 target date. The whole change required one year of planning, said Mr. Lloyd, who obtained feasibility studies from two firms, allowing them six months to complete the studies. Another three months were allowed for assessing the two studies, making a decision and convincing management about the need for a change. The last three months were allotted to get state filings approved and to buy excess insurance coverage.

Although Mr. Lloyd said it's impossible to tell at this point what the actual cost savings will be, Dan River's renewal quote for the four states indicated the firm's deposit premium alone would rise to about $88,000 per month. "We wanted this money in our pocket," he concluded. April through June claims expenses have been only $14,500 under the self-insured program, including all administrative expenses.

Esmark chose to go with an outside administrator of claims because any in-house person would have to be "a superstar" and the company felt it couldn't get the right person. Esmark solicited proposals from four services providers, finally choosing James because it offered the quality Esmark felt were needed.

Esmark pays a flat fee to James because it wanted to avoid any incentive for the administrator to pay more claims. The program is proceeding so well that Esmark is moving toward self-insurance in another nine states.

Mr. Lloyd said his two studies done by different firms were "very close in dollar terms, but the difference was in claims handling. One firm recommended we farm out the various services. The other had the capabilities all in-house and offered to put a top person in an office practically on our premises to concentrate on our account."

Esmark outlined five separate areas of change to complete the shift to a self-insured plan: Qualify as a self-insurer in the two states; establish banking and accounting procedures (Esmark chose to issue its own checks, which involved getting five different kinds of checks printed up); make visits to plants to inform operating managers about the change to self-insurance, how the system works and what's expected of them; establish procedures for claims handling and check writing authority, and purchase excess insurance.

Mr. Brescoll identified a number of key issues which would spell success or failure for the plan. Esmark wanted the single individual at Fred S. James to be responsible for claims administration and to be totally accountable for the Esmark account. "We didn't want to always be second-guessing the administrator. That individual is accountable for results," said Mr. Brescoll.

Esmark "hadn't been getting the necessary investigation" of claims from its insurance company, so Mr. Brescoll established a guideline that said "all questionable claims will be investigated." The plant managers involved in the program notify the administrator about questionable claims that should be investigated.

Esmark requires its claims administrator to visit each plant at least once a month, meeting with the local manager and filing a report on the meeting.

Esmark requires its administrator to report any serious losses or any changes in reserves for outstanding claims and also established procedures for auditing claims files on a regular basis and auditing reserves regularly to assure their adequacy.

Both companies gave their claims administrators check-writing authority up to $2,500 per claim. Mr. Lloyd believes this provides "plenty of latitude" to make settlements.

Dan River has "already seen a decided difference between the services we get from Gallagher Bassett" and those provided previously by an insurance company using safety personnel, said Mr. Lloyd.

His conclusion is that the program's "paying for itself already." Dan River, too, pays a flat fee to the outside administrator, high enough to compensate for 25% more claims than what the company believed would have to be handled.

Mr. Lloyd pointed out that a new self-insurance plan won't necessarily prevent the bad accidents from happening; it'll just help to keep them from being so expensive. He cited a case of an electrocution death of a Dan River employe during the third week of July that is costing Dan River $85,000 over 500 weeks to the widow and two children. That works out to about $160 per week, he noted.

"Had we still been insured, that loss would have cost us $127,655 when the first retro rolled around—we would have had to pay it right up front." ■

business insurance
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Conference reports

- **Cumulative injury** claims aren't unique to California, that state's just labeled them. Page 12.
- **New directions** can cut work comp losses, 2 experts contend. Page 14.
- **Employers must** set up vocational rehabilitation plans or face tougher state laws. Page 16.
- **Tapes of talks** at the *BI* conference are available. See coupon on page 36.

Few markets write self-insurance bonds

CHICAGO—Finding the market for a bond, not securing a particular size of bond, is the primary problem in self-insuring workers compensation risks, says John A. Millikin, vp of Alexander & Alexander in Chicago.

"We're in trouble if the bond market gets any worse," Mr. Millikin warned attendees of a special discussion on markets for self-insurers at the *Business Insurance* conference.

"And without a market for a bond, forget self-insuring, unless you want to put corporate assets in escrow," Mr. Millikin advised, since state regulators want assurances that claims will be paid.

Sniffing out markets, Mr. Millikin has found The American Druggists Insurance Co. and Kemper are beginning to write bonds for Illinois self-insurers, while Utica Mutual is quietly writing some bonds for Kentucky self-insurers. INA, Chubb and CNA may also fulfill a company's request for a bond.

With bonding requirements met, a potential self-insurer of workers compensation risks must locate an excess insurance market. Specific excess is written by a host of major casualty insurers, Mr. Millikin noted. Aggregate excess is written by fewer companies.

The Chicago office of A&A identifies Safety Mutual of St. Louis, Employers Reinsurance Corp. and International Surplus Lines as the aggregate excess writers for self-insured workers compensation programs in the Midwest. ■

More states recognize long term injury claims

NATIONAL CONFERENCE ON WORKERS COMPENSATION

CHICAGO—Compensation for cumulative injury is "not unique to California," warns Alan Tebb, general manager of the California Workers Compensation Institute.

"The seeds of cumulative injury are in Florida, Illinois and Michigan to name a few," he said. "Our supreme court has just assigned a label to it."

The judicially evolved doctrine of cumulative injury recognizes the effect of job-related stress and strain that physically or mentally disables a worker over a period of time.

Workers in California are increasingly tapping this source of compensation income, Mr. Tebb told attendees of the *Business Insurance* National Conference on Workers Compensation.

Claims citing cumulative injury are growing at a rate of 25% a year, he said. In 1974, less than 1% of all disabling injuries were attributable to the cumulative effect of employment. In 1978, it's estimated over 3% of all claims for workers compensation in California will be based on cumulative injury.

While the percentages of total claims seem small, Mr. Tebb said, the costs are not. In 1976, cumulative injury claims cost insured California employers $137 million or one of every eight dollars paid for workers compensation claims. In 1978, the cost of cumulative injury awards is expected to hit $200 million and by the end of this decade the cost is expected to soar to $300 million without any increase in benefits.

A study conducted by the California Workers Compensation Institute has identified the source of these claims as primarily older workers, citing back, heart and vascular injuries. Nearly every claim is litigated and the average award of $9,218 is immediately reduced by an average $780 attorney's bill.

"We think this data is relevant elsewhere," Mr. Tebb said, since California is a recognized "leader" in developments of workers compensation. (Details of the study were reported in the May 1, 1977, issue of *Business Insurance*.)

Robert J. Benjamin, claims-rehabilitation manager of the California State Compensation Insurance Fund, added "cumulative injury is here to stay." Based on his experience, Mr. Benjamin outlined four methods for controlling the cost of cumulative injury claims in workers compensation programs:

- Mandate that all administrative remedies be exhausted before a claimant can apply for a hearing in front of the workers compensation appeals board since the advisory hearing process is costly.
- Establish a group of doctors who will evaluate the claimant's condition to prevent "opinion shopping" by both the claimant and the employer.
- Compensate workers for permanent disability only when it affects their ability to compete for a job, not just as a matter of course for an injury.
- Employers should maintain safety programs and a program of periodic physical examinations of workers to uncover conditions before they become problems. ■

A reminder from PBGC

WASHINGTON—The Pension Benefit Guaranty Corp. (PBGC) is reminding pension plan administrators that the annual premium form, PBGC-1, should be mailed to the PBGC at P.O. Box 2454, Washington, D.C. 20013.

However, Form 5500, the basic annual report for employe benefit plans, should be filed with the IRS Center in the plan sponsor's area.

For plan years beginning in 1978, PBGC-1 is due seven months after the end of the previous plan year. For example, the PBGC-1 for a plan year beginning Jan. 1, 1978, should have been filed with the PBGC by July 31, 1978.

We look, but do we see?

What you see here is sand. What you don't see is water. The fact is, nearly all of the sand in this photo is under water.

This sand bar, off the coast of McKay, Australia, looks like any sand bar, anywhere in the world. But if one were to examine the chemical makeup of the sand and water, one would find elements characteristic of that area exclusively.

The same type of close examination is necessary when evaluating the protection of industrial properties. On the surface, a warehouse in Little Rock, for instance, looks no different than a warehouse in Sydney. But subtle differences do exist. Local considerations that must be dealt with on an individual basis when it comes to protection requirements.

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New directions can cut losses, 2 experts contend

CHICAGO—"When I tell a plant manager he has to work two-and-a-half days to pay last month's losses, it scares the hell out of him," chortles Coca-Cola of Los Angeles safety director Walter Pfeiffer.

He figures that since Coca-Cola averages 7% net after taxes on its annual gross income, someone has to generate $14 in gross revenues for every dollar lost. "So a $100 accident requires another $1,400 in gross revenues," he reasons.

The basic formula is applicable regardless of how losses are funded. "If you're insured you pay your losses indirectly and if you're self-insured you pay them directly," Mr. Pfeiffer said.

But the safety director doesn't hold losses down at Coca-Cola of Los Angeles plants with just scare tactics. He outlined for attendees of the *Business Insurance* National Conference on Workers Compensation the 12 points he considers fundamental to an effective loss-prevention program.

Together with cost-saving tips offered by consultant Harold V. Hodnick of Reed Shaw Stenhouse, the suggestions are enough to keep safety and workers compensation programs humming with new directions.

NATIONAL CONFERENCE ON WORKERS COMPENSATION

But Mr. Hodnick cautioned in his introduction, "You'll have chaos if you try to introduce all these at once."

Identifying casual claims handling as one of the primary contributors to rising workers compensation costs, Mr. Hodnick counseled, "A dollar you invest in a good workers compensation administration program will give you as good a return as a dollar invested anywhere in the plant."

First, a company should select a workers compensation coordinator who will be responsible for deciding if an alleged injury should be accepted or rejected. "He can be your fall guy at the local plant," Mr. Hodnick suggested. That takes the heat off the local manager when he turns down a claim.

A tough stance should particularly be taken on lost-time and "gray area" claims. Lost time should not be authorized without a physician's examination, Mr. Hodnick advised, even when the worker complains he started hurting on Saturday from something that happened on Friday so he stayed home the first few days of the next week.

Claims that don't pan out when investigated should be turned down and the worker told why. Of course, the claimant should be told of the appeal process, but he can be advised, for instance, on what the attorney will cost him.

The workers compensation administrator and the foreman should attend the hearing to induce the worker to be honest. Though the company may not win in the end, even if the award is merely reduced, the word will circulate that it's hard to get by with a questionable claim, Mr. Hodnick suggested.

Finally, Mr. Hodnick said, to control workers compensation costs a company needs an aggressive accident/safety program.

Mr. Pfeiffer's outline of the fundamentals of such a program starts with securing "top of the pyramid support," including a written policy on loss prevention that says "the working environment should be as free of hazards as possible and workers should be as careful as possible."

Implementing that policy requires a safety director, backed up by a safety organization. There should be a general safety committee, a safety committee in each location and one in each department as well as a workers' committee.

The committees should be charged with reviewing all accidents that have occurred since the previous meeting, they should walk through a particular area, review all previous recommendations and make new ones based on the day's tour.

Safety inspections should also be conducted by a person with special expertise, either hired on staff or brought in from outside. Particular targets for checks should include machine guarding, the quality of the air, electrical grounding, housekeeping and equipment.

Self-compliance with government regulations is advised, Mr. Pfeiffer stressed, from meeting the requirements of the local electrical code to complying with Occupational Safety & Health Administration standards.

Safety education programs should be conducted for supervisors and at least one person on each shift should be trained in administering first aid and CPR (cardiopulmonary resuscitation).

Accident records should be maintained, Mr. Pfeiffer said, since "the only positive benefit of an accident is the record."

Though Mr. Pfeiffer has implemented safety incentive programs—such as awarding pieces of a four-part cutlery set quarterly to holders of accident-free records—he warns you don't want to make the prizes so enticing as to create "an accident non-reporting program."

Primary, he maintains, is securing supervisor cooperation. "If the first line supervisor won't tolerate it, accidents won't happen." ■

New chairman

A. Edward Gschwind, president and chief executive officer of the Worexco Corp. and the First International Reinsurance Co., is the new chairman of the Independent Reinsurance Underwriters Assn.

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Begin job rehabilitation plans or else . . .

By SUSAN ALT

CHICAGO—Employers should be taking positive steps to set up in-house vocational rehabilitation programs and to set aside funds for rehabilitation of injured workers in an effort to counter mandatory rehabilitation laws such as the costly one in California, says the director of Diversified Vocational Services.

It was a vacuum in the area of rehabilitation of injured workers that led to California's stringent law and a 50-person state bureau to enforce it, Linda Abernathy told the first annual National Conference on Workers Compensation sponsored by *Business Insurance*. Though the intent of the law may have been good, it "has become a tool for litigation and a law that benefits too many people who are not disabled . . . a new social welfare system with employers picking up the tab," she believes. Diversified Vocational Services is a division of Fred S. James & Co.

Because temporary disability payments in California must be made to an injured worker during the entire time the worker's receiving job retraining, a "typical" vocational rehabilitation plan can cost an insurer or self-insured company over $11,000, she estimated.

This typical plan involves six months to two years of retraining in a new or related field, 10 to 30 hours of counseling, aptitude testing and research into the selected field and disability benefits up to the $154 a week maximum in California.

She urged employers to embark on cost-effective methods of handling vocational rehabilitation for disabled employes before they get the same kind of legislation passed in their states.

NATIONAL CONFERENCE ON WORKERS COMPENSATION

"Corporations must organize vocational rehab programs just as they have with production, finance, sales and law," she said. "Only in this way can corporations have cost-effective plans for successfully dealing with the industrially injured. Some major companies are starting this, but in most cases no focal unit is systematically planning an overall in-house vocational rehab approach tied into union regulations, seniority and production needs.

"A very few companies are getting smart and setting up a separate reserve for rehabilitation, so it becomes clear to them where the dollar is being spent and so it is spent wisely," Ms. Abernathy noted. She urged employers to "tune in to results and not reports," and to demand itemized bills from outside rehabilitation counselors to see where the dollars are being spent.

In addition, she urged employers to take other steps to assure a successful rehabilitation program. "Get loss control involved . . . if 55% of back injury cases are employes over 45 and the company is spending the major medical dollar on pre-employment x-rays, then perhaps there is a question whether you are spending the preventative dollar wisely."

"Corporations must organize vocation rehab programs just as they have with production, finance, sales and law," says expert Linda Abernathy.

She advocated studying loss runs, identifying patterns of injury, analyzing trends, studying in-depth how vocational rehabilitation was used in past injury cases, determining how well it worked and who made it work and computerizing injury resolutions to provide data of "how to do it better time-wise and dollar-wise."

For those companies already covered by mandatory rehabilitation laws, she advocated:

- Timely recognition of cases and assignment to high-quality vocational counselors.
- Keep applicant attorneys informed to prevent costly second-vendor interference.
- Try to keep cases out of litigation.
- Work with the loss control department to establish in-plant, return-to-work programs for injured employes.
- Management should meet with unions to discuss ways to allow disabled workers to obtain different jobs without having to meet seniority requirements and other bidding provisions.
- Make management aware that vocational rehabilitation vendors shouldn't be doing claims work at $30 to $50 an hour.
- Encourage separate reserving for vocational rehabilitation, "so we can share accurate statistical information on just how costly this benefit is."
- Make claims adjusters cost-accountable.
- Insist that defense attorneys become better versed in vocational rehabilitation.
- Insist on itemized billing by vocational services vendors.

Ms. Abernathy warned employers in California that if they or their insurance company fail to notify the state rehabilitation bureau of an injured worker who's entitled to vocational rehabilitation, "the bureau soon finds out anyway because injury notices are computerized . . . So if you don't call them, they'll call you."

She lamented the fact that under California law even chronic back strain is a case for vocational rehab if there's a doctor's report recommending only limited lifting by the worker on the job. She illustrated the nature of the California law by noting that vocational rehab is required even if the permanent disability rating is less that 5%, or in cases of contact dermatitis where the disability would be removed by taking the worker from the field causing the disability.

The California rehabilitation bureau generally views a vocational rehabilitation plan involving reassignment to lighter work as acceptable only if the injured worker wants it, if the lighter job will give the worker new skills which could be used elsewhere if the worker is laid off, if a labor market survey shows acceptable local demand for workers with those skills and if the wages are comparable and the chance for advancement similar. ■

Mmmmmm, mmmmmm, good?

Firm's dental operation may fill cost cavities

CAMDEN, N.J.—Campbell Soup Co. is taking the matter of escalating employe benefits costs into its own hands.

With a do-it-yourself flair, the food company is building its own dental facility on site to develop a dental care program.

The in-house dental office will eliminate the need for dental insurance, allowing the company to better control dental benefit cost at a time when Campbell's medical expenses have been climbing 15% to 20% per year.

With that experience, top management at Campbell's was sold on the idea of the dental office even though several consultants, including Johnson & Higgins and two dental consultants, recommended against it. Campbell's is believed to be the first company to attempt to conquer rising benefit costs by setting up its own dental shop.

Campbell's plans to save "quite a few bucks" with the in-house program. Figures, however, on the savings the facility will produce won't be available until the program has been operating for approximately a year, according to a Campbell's source.

The unit cost of the dental facility will depend on how many employes use it. If it is used regularly, unit costs will be economical but if it is used rarely, the program could become a "lemon," the Campbell's source said.

Start-up costs for the facility were estimated at $100,000. That cost includes renovation of two adjoining executive offices for the dental office, consultation fees, dental chairs and other supplies.

Campbell's will employ a full-time qualified dentist, dental assistant, full-time hygienist and secretarial assistants.

The dental office will draw customers from 1,500 salaried employes at the general office. Dentists normally consider 1,000 patients to be a sufficient base for a practice.

Campbell's has preliminary plans to expand the dental office to smaller plant locations within the state if it works well at the general office. Several smaller plants would receive dental care from a mobile dental unit transported to the sites.

The food company plans to begin operating the dental office by the end of September.

A full range of general dentistry services will be available except for major oral surgery, periodontic treatment and orthodontic treatment.

Dental benefits will include full payment for necessary diagnostic and preventive dental care, including cleaning and diagnostic x-rays. For all other treatment procedures, the company will pay 100% of the dental facility's fixed costs and 50% of variable costs, defined as dental supplies and the dental staff's employe benefits and salary. ■

Unit focuses on prevention

CAMDEN, N.J.—In another experiment to contain employe benefit costs, Campbell Soup Co. has created a medical facility with an emphasis on preventive care and in-house medical treatments.

The program is a step ahead of the typical, industrial medical program that often evaluates noise levels, treats worker injuries and screens new employes. The food company plans to reap savings in major medical expenses.

One of the highlights of the medical facility is that it can prescribe drugs rather than referring an employe to another doctor to get a prescription. The facility will prescribe generic rather than brand name drugs, a further savings for the company.

Treatment is given for such conditions as hypertension, upper respiratory infections, allergies, weight control, hemorrhoids, headaches, low back strains and gynecological care. ■

around the states

Michigan house okays tort reform bill

LANSING—The Michigan house on a 91-0 vote approved a product liability reform measure (substitute HB 5689) that gives manufacturers a defense against liability if the product conformed with industry or government safety standards at the time of manufacture.

The bill also provides a defense if the cause of injury was an alteration or modification of the product. Furthermore, courts could award costs and reasonable attorneys' fees to the defendant if a claim or defense is determined to be frivolous.

In addition, the proposal calls for reducing the amount of any award to the extent that the plaintiff's negligence contributed to the accident.

The bill now goes to the senate where a vote is expected next month.

Heart attacks

HARRISBURG—The Pennsylvania supreme court has ruled that most survivors of heart attack victims who die on the job are eligible to receive workers compensation payments.

To obtain such compensation, the court ruled, survivors must show only that the person was "performing his or her usual job assignment at the time of the fatal heart attack." Survivors must also show, the court said, that there is "a connection between the work and the heart attack supported by competent medical testimony."

In the past, survivors could not collect unless they proved that the heart attack "resulted from unusual strain or exertion in the course of employment."

The high court said that only a "casual connection" was needed, and granted benefits to the survivors of two Philadelphia men who had medically recognized "heart conditions" but continued to work up until their fatal attacks. The change in policy, the court said, was dictated by amendments to the workers compensation law passed by the general assembly in 1972.

Comp hike killed

SALEM—Oregon insurance commissioner Bill Fritz has rejected a request for an average 13.6% increase in workers compensation insurance rates.

He said there was "insufficient evidence to support any rate increases at this time."

Mr. Fritz's decision followed an earlier hearing on the issue at which some employers testified that they would have to move their businesses out of Oregon if the workers compensation rates were raised. Oregon's rates are among the highest in the nation.

Deputy insurance commissioner Richard McGavock said 15 providers of workers compensation insurance were called on at the hearing to defend the increase. The insurance can be provided by the state accident insurance fund, licensed private insurance companies or through companies' own programs.

"They failed to make their case," Mr. McGavock said. He added that actuarial studies of the present rate system, as well as consideration of insurance company profits and dividend payments, persuaded the insurance commissioner that the 13.6% increase in rates was unnecessary.

Immunity overruled

HARRISBURG—The Pennsylvania supreme court has struck down the 200-year-old doctrine of "sovereign immunity" that gave the state immunity from personal liability suits.

Justice Rolf Larsen, whose vote was the deciding one, said in a one-paragraph concurring opinion that he could think of "no greater function or more honorable pursuit than for the sovereign (the state) to care for those whom it has injured or maimed."

The three justices who dissented argued that the doctrine of sovereignty is mandated by the state constitution. They also warned that stripping Pennsylvania of its immunity would open the door to an avalanche of costly suits.

As recently as a year ago, the supreme court upheld the doctrine of sovereignty by a 4-3 margin.

Malpractice fund

JUNEAU—The Alaska legislature has passed a bill reversing a 1976 law that required physicians to purchase malpractice insurance from the state fund as a condition of licensure.

Doctors, who objected to the mandate, may continue to purchase insurance from Medical Indemnity Corp. of Alaska or they may buy their malpractice insurance from private companies. They may even choose to go bare now.

At least 35% of the state's 370 private physicians will have to purchase MICA coverage or the state fund will be forced out of business under a provision of the new law. Faced with competition, MICA has lowered its rates and increased its limits.

Product liability

TRENTON—An opinion by the New Jersey supreme court held that manufacturers of industrial equipment can be held liable if they do not install proper safety devices on the machines they sell.

The high court ruled that an injured worker can sue and collect damages if he can prove a manufacturer knowingly marketed a potentially unsafe machine and did nothing to eliminate the hazard.

The decision was given in a case involving Jose Francisco Cepeda of New York, who lost four fingers in 1968 while operating a machine that cuts plastic into tiny pellets. The machine contained a safety guard, but the guard had been removed prior to the accident.

The court concluded that the manufacturer, Cumberland Engineering Co. of Rhode Island, was liable for Mr. Cepeda's injury since it should have known that the machine would be dangerous without the safety guard.

Further, the court said a special device that would have made the machine inoperable when the guard was removed could have been installed by the manufacturer for $25. ■

25% savings eyed

Chicago hospital group prescribes pooled risks

Crain News Service

CHICAGO—The Chicago Hospital Council is offering its members a pooled trust as an alternative to increasing malpractice insurance costs.

The council's program, called the Chicago Hospital Risk Pooling Program (CHRPP), is designed to slash an estimated 25% from current hospital insurance premiums for professional liability and comprehensive general liability.

If all 100 member hospitals opt to participate in the program, the council estimates a potential savings of $25 million over commercial insurance rates, or roughly $250,000 per hospital.

When a hospital files a letter of intent to participate in CHRPP, an actuarial feasibility study will determine the hospital's contribution to the fund. Part of the money will remain in the trust to cover individual losses, with the remainder used to purchase insurance protection to cover the portion of individual claims that exceeds $1 million. As the trust accrues interest, the amount hospitals donate will decrease.

Donald Wood, council vp and acting trust administrator, said it would be "advantageous for hospitals who have their own trusts to enter the CHC program through the potentials of the pool." There is no capital requirement as would be required for a captive insurance company.

The trust technically offers $5 million in maximum protection per occurrence with excess insurance underwritten by Walker, Sullivan Co.—a Los Angeles-based firm with a long history in hospital insurance—up to $20 million. The trust is managed by Continental Bank. Wyatt & Co. are the actuaries.

Mr. Wood believes there will be "fewer claims against the participating hospitals because of the educational component of the program." He noted that "accidents will happen and you can't prevent some of them, but we're going to stress loss control and loss prevention."

He also hopes hospitals will take a second look at their procedures for examining credentials and issuing privileges for physicians. Hospitals should ascertain whether their employes are "doing the work they are really qualified to do."

Prior to Illinois legislation passed in September 1977, hospitals were able to set up individual trusts but could not pool their efforts. The University of Chicago Hospitals and Clinics, a frequent target of malpractice charges and a CHC member, set up a self-insurance program in July 1976. ■

Calif. insurer in trouble

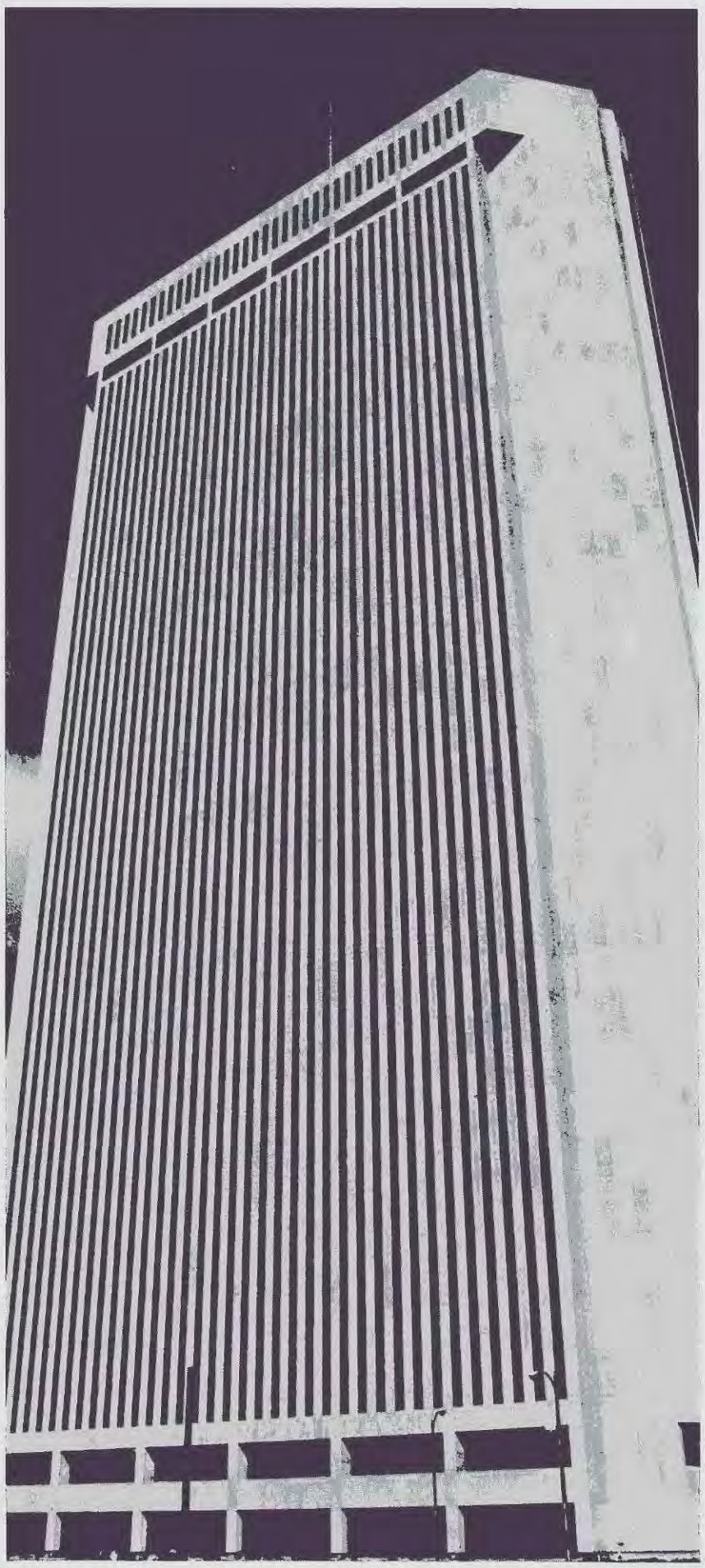
PALO ALTO, Calif.—The California state insurance department has obtained a court order placing Eldorado Insurance Co., a property-liability insurer, into conservatorship.

The order came on the heels of a July insurance department examination which found that Eldorado's liabilities exceeded its assets by $2,983,208 as of the end of 1977, contrary to the company's own year-end figures which showed a surplus of $916,792.

Last August, Eldorado was ordered by the insurance department to cancel all existing insurance policies after the department decided that the company was in financial difficulty.

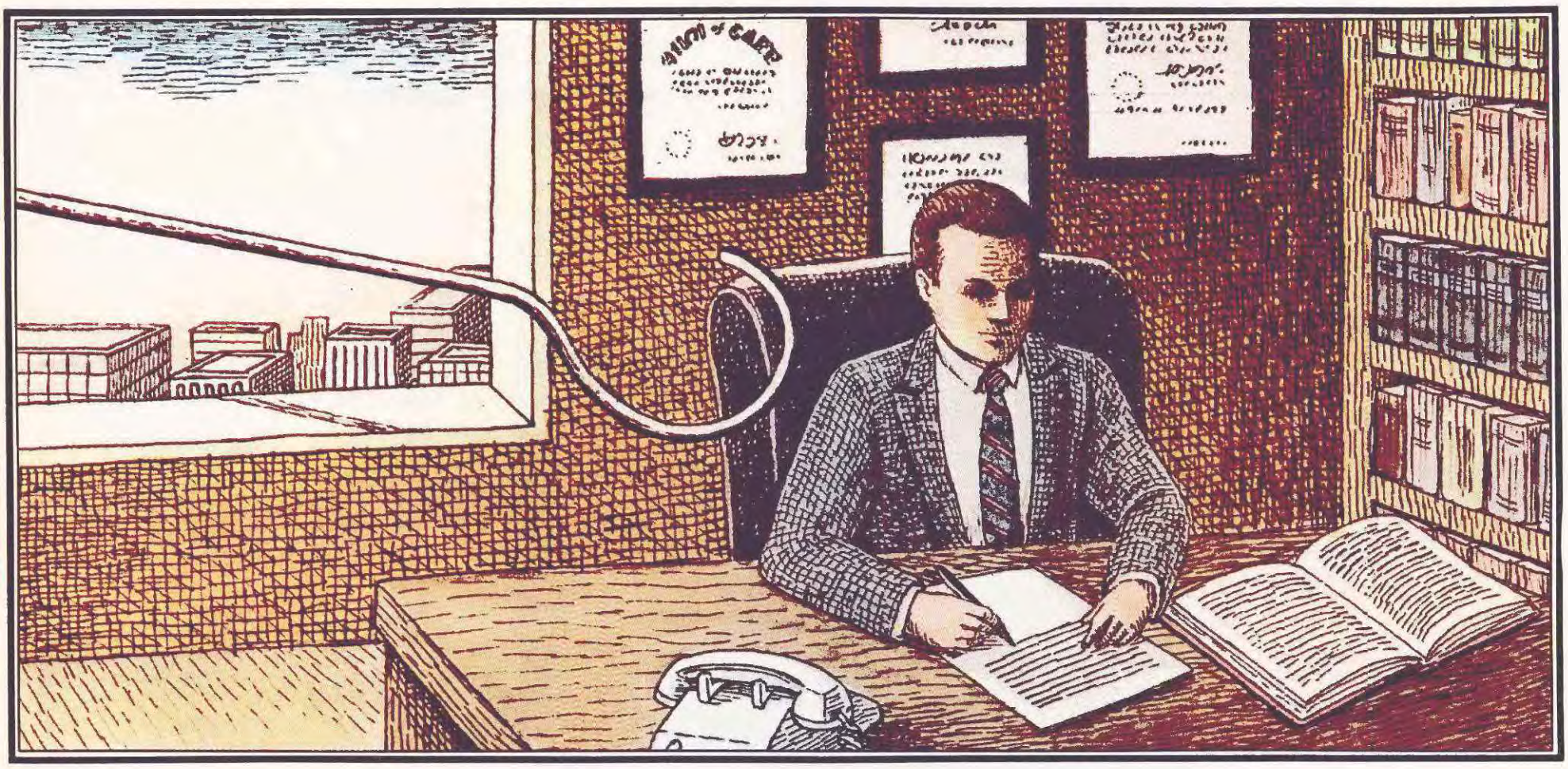
"Since then, the department has been paying off claims," said Barry Bertram, chief of the department's consumer affairs division. Should rehabilitation efforts prove fruitless, the insurance commissioner may apply to the court for an order to liquidate Eldorado.

The 1977 year-end financial statement prepared by Eldorado showed assets of $22,402,076 and liabilities of $21,485,284 for a surplus of $916,792. ■



Nationwide's new 40 story headquarters. Opened December '76.

The Liability Thre



The attitude that the professional can do no wrong has been swept away by a tide of changing public opinion; by rising expectations about the quality and performance of services. As exposure to liability increases, professionals are re-examining their needs for broader insurance protection.

A brief review by INA of an insurance topic of current interest.

While the press and television have given wide coverage to the dramatic rise in medical malpractice cases, a less publicized—but equally serious—situation exists for professionals in other fields.

No longer immune from the threat of malpractice claims are such groups as attorneys, accountants, architects, engineers and building contractors. The last decade has also seen a marked increase in actions against real estate brokers, travel agents and many others providing personal services.

Underlying this trend is the growing public conviction—fostered in part by publicity and social pressure—that it is justifiable to "cash in" on a professional's alleged errors. And cash in heavily.

Attorneys under increasing pressure

The number of claims against attorneys and legal firms has doubled in the last 15 years. In 1977, it is estimated that approximately 15,000 malpractice cases came to trial or were settled out of court. And over the past two years the average award against lawyers has risen by 200%—to about $28,000.

One important factor in the growth of legal malpractice actions is the fact that lawyers themselves are suing and testifying against their fellow professionals—a phenomenon almost unheard-of a number of years ago.

This pattern of events not only affects the availability and cost of liability insurance for attorneys, but also has an impact on their fee structures. Defending litigation can now cost as much as $2,000 a day.

Other professions equally hard hit

In architecture and engineering, studies show a 20% annual increase in the number of malpractice suits. Awards for design and construction failures have tripled since 1960; from an average of about $5,000 each to

at to Professionals

well over $16,000 in 1977.

Multi-million dollar judgments are no longer uncommon in the building field. And a proliferation of government regulations leaves the design and engineering professional exposed to risks that were not even imaginable a decade ago.

Similar patterns exist in accounting, in tax work and in real estate—where agents have been sued by sellers who feel they did not get high enough prices. In the employment-agency field, clients have filed suit for the alleged "unsatisfactory performance" of new employees.

Loss-control steps

The safety procedures commonly used by businesses and industry can hardly be applied in most professional fields, but a number of positive programs are under way. In the legal field, special courses are available for attorneys dealing with the complexities of government regulations. Docket-control procedures are used to assure compliance with court-calendar dates. In addition, the American Bar Association is studying increased litigiousness among attorneys—and is considering the possibility of legislative remedies to limit awards in malpractice cases.

Accounting firms are scrutinizing with greater care the financial practices of clients and the reports of their auditors and officers. New caution is being applied in tax-preparation, and in matters relating to the new ERISA law.

In design and engineering, greater stress is placed on evaluating the financial underpinnings of proposed projects—in order to avoid the "thin-money" deals where suits may be brought to deny the professional his fees.

Controlling insurance costs

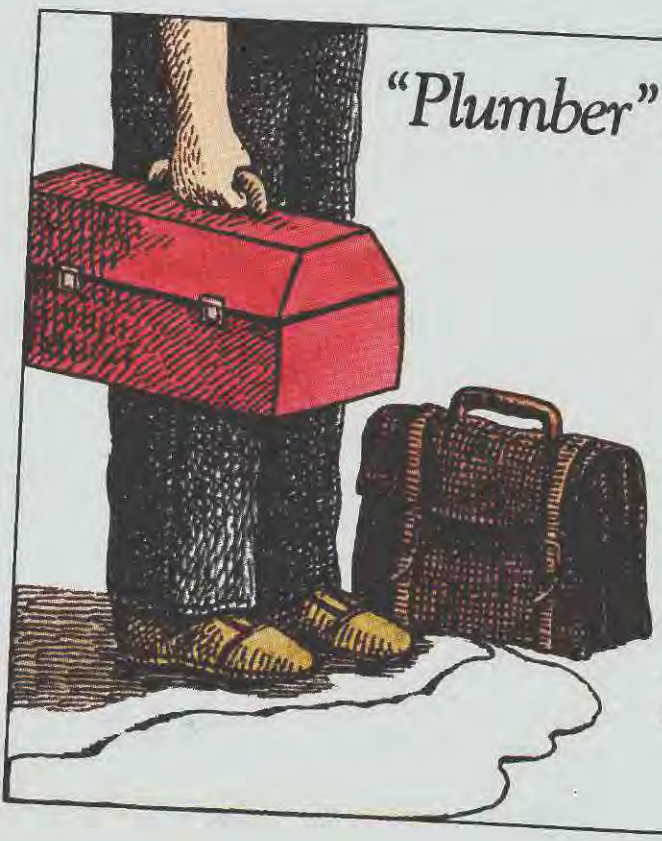
Within most professional fields, concepts such as self-insuring and establishing captive insurance firms are only in the formative stages. However, a number of state bar associations sponsor liability insurance packages to individual attorneys and law firms. And there are instances of pooling and other cooperative action by accounting firms to secure lower premiums.

In recognition of the professional's increasing exposure to liability and financial loss, INA has formed a special division to handle their complex insurance needs. Through this division, INAX Underwriting Agency, coverage can be arranged for a wide range of individual practitioners and professional firms.

* * * * *

The Insurance Company of North America was founded in 1792 in Independence Hall, Philadelphia. Today it is the largest component of INA Corporation's international network of insurance and financial services companies. In property and casualty insurance and risk management services, life and group insurance, health care management, and investment banking, INA and its affiliated companies offer a unique combination of products and services to business and industry around the world.

INA insurance products and services are available through selected independent agents and brokers. For an informative booklet on current trends in professional liability, write INA Corporation, 1600 Arch Street, Philadelphia, Pa. 19101.



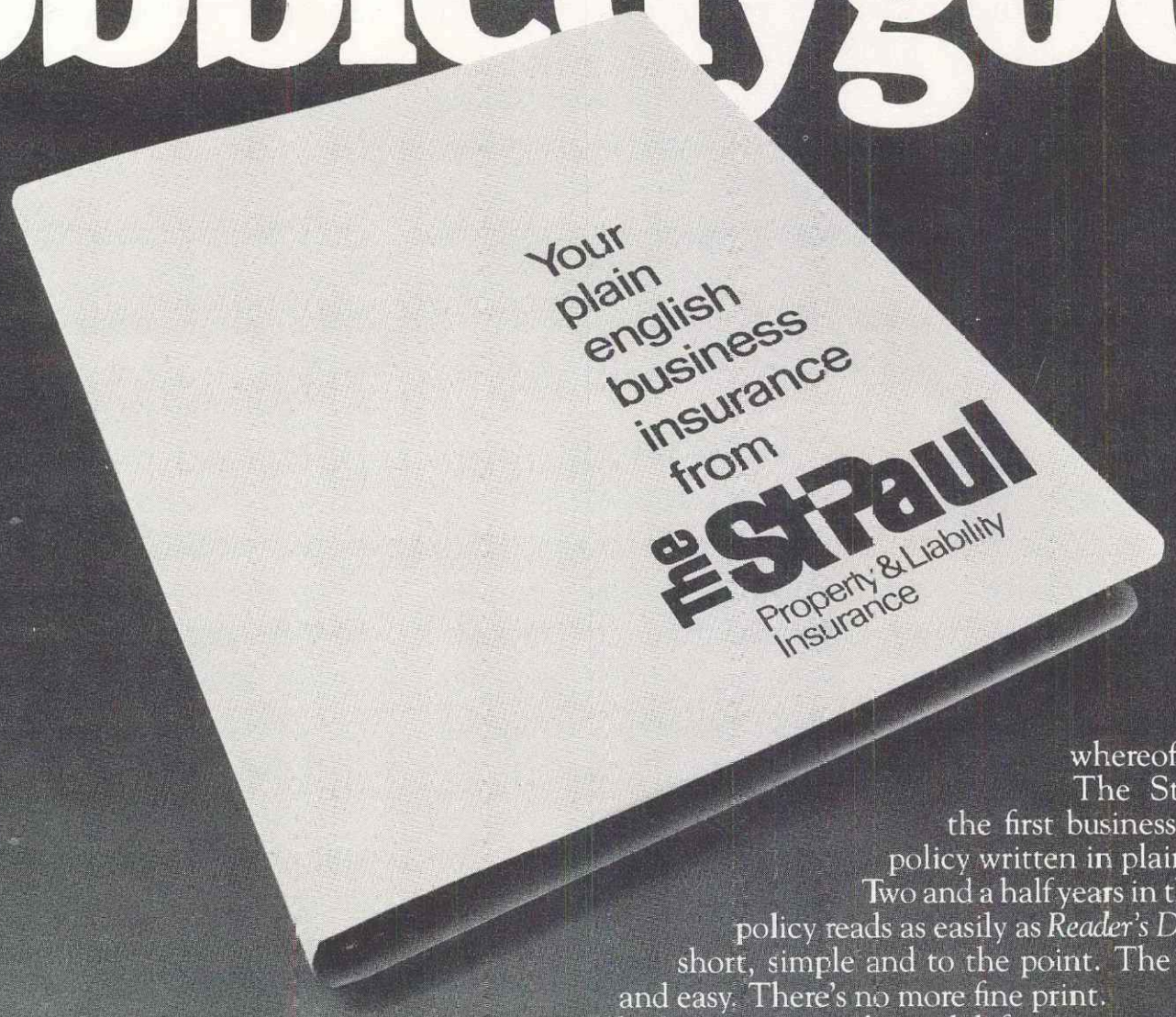
"Plumber" seeks $10,000,000 for lawyer's leaks

In a recent notable case, a convicted Watergate defendant sued his former lawyer for $10 million alleging that errors had been committed by leaking confidential material to "third parties." This would underline the growing need for law firms to make sure that evidentiary material is kept under tight security —even beyond the statute-of-limitations period for malpractice actions.

INA

The Professionals

Announcing the end of insurance gobbledygook.



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PERSPECTIVE

Safety: A textbook example

How one company discovered key to making their program work

By R. J. Holland, CSP
Senior consultant
Risk Planning Group
Darien, Conn.

THIS ARTICLE is designed to assist practicing insurance and risk management people in understanding the complexities and/or peculiarities of equipment and people involved in situations that lead to an accidental injury.

The case is real—The names are fictitious.

"Monday—May 2, 1977 - 5:15 p.m.- Mr. A. Y. Corso, age 29, Department B16, set-up man, received severe damage to backs of both hands in a tape-controlled lathe #1301 as he was setting up job D-117 to do operations 11, 12, and 13. He was dispatched to Green Hills Hospital by ambulance at 5:45 p.m. No report from physician at this time.

Jane Wilstead, RN
5/22/77

Tuesday—May 3, 1977 - safety director - 6:30 a.m.—Received report - Called on day shift nurse. No report of extent of damage to hands yet.

6:45 a.m.—Traveled to Dept. B16. Met foreman. Checked job D-117 (Mill aluminum castings #117489 both sides). Checked machine - new, foreign manufactured tape controlled milling machine. Safety covers made of plexiglass and equipped with safety interlock switches. Switches designed to cut power to machine while any human hand was involved in doing work at the point of tool contact. Foreman stated that the accident, "Shouldn't have happened because there was no way the machine would start up while the covers were raised." He, personally, knew that no one could get at the interior machine parts without raising the cover, at which time the safety interlock switches would activate and cut the power.

8:00 a.m.—Called corporate insurance director and asked that the insurance carrier be notified.

8:30 a.m.—Checked purchasing department buyer of machinery to look at copy of purchase order. Machine P.O. clearly stated "cover interlock switches" as an optional accessory at $15.00 extra cost.

8:45 a.m.—Checked tooling committee records dated November 1976, to find any comment about this particular machine purchase plan request. Note in minutes states, "Foreman requests all necessary safety devices available to be included in purchase per safety director standing order dated June 1976."

9:15 a.m.—Check of foreman safety report records of training. Entry noted "April 6, 1977, Mr. R. Swenson of the Glisson Industrial Machinery Distributors trained Mr. J. B. Droit and Mr. A. Y. Corso in set up and operation of lathe #1301."

9:30 a.m.—Nurse informed us that Mr. Corso sustained severe tendon, nerve and bone damage bilaterally. Probable loss of 50% use of hands. Long period of rehabilitation.

10:15 a.m.—Mr. E. Knells and Mr. R. Cordell of our insurance carrier called at main entry #1. Mr. Knells is the carrier engineer and Mr. Cordell is a contract electrical engineer used as their consultant.

10:30 a.m.—We proceeded to the Dept. #B16, met the foreman and our on-the-spot investigation began. Up until this time, according to standard safety procedure, no one had done anything to the machines except cut the power source.

The foreman carefully turned on the machine power source. He then explained to us how it worked and showed us a copy of the step-by-step procedure each operator was trained in. Mr. Cordell asked numerous questions about switches and circuitry. In 10 minutes we found that although the interlock switches were in place and the interior controller terminal block had connectors as per the wiring diagram, there were no wires leading from the terminal block to the switches. The operator was counting on the safety devices which he had been led to believe were there and which in reality were not working.

The resulting insurance reserve in this case exceeded $100,000. Mr. Corso was totally absent from work for five months before he consented to rehabilitative measures. Today, he is again at work at a lesser job and a reduced paycheck. Estimates about 40% use of hands.

Workers compensation claims can be prevented if your safety program emphasizes motivation, says consultant R. J. Holland.

This was an accident that did not have to happen. Foreman safety instructional manuals required complete safety checking of new equipment. No such check report was found. This was a case where an assumption was made by the foreman. His assumption was incorrect. He felt that the manufacturer was trustworthy because the firm had been doing business with them for so long; they were friendly; they were helpful and quick to respond to calls for service.

Purchasing, receiving and maintenance were tardy in sending their notices of a new machine acquisition, arrival and delivery to department. The safety department, thereby, had no way to cross check with lack of knowledge that one was needed.

The insurance carrier brought subrogation action against the distributor and manufacturer. There is no final result yet.

The best safety program will not work if the motivation of all involved is faulty. An efficient risk management program places heavy emphasis on this aspect. ■

Big brokers carve their own niches in various lines

Close examination can reconcile their results

By Mark S. Lefenfeld
Russell R. Miller & Co.
San Francisco

WHY DID THE 1977 NET INCOME of Fred S. James, Alexander & Alexander and Corroon & Black show an average growth of 61.5% while net income at Marsh & McLennan, Frank B. Hall and Rollins Burdick Hunter grew by an average of only 22.7%? Some part of the answer may come from looking at the revenue sources of each company.

While a balanced book of business may be conceptually appealing, it would seem that each major public brokerage has attempted to carve out a well-defined niche for itself in the overall insurance market. In those instances where the relative concentration in a particular area is decreasing, one may argue that it is a result of conscious management decisions, the mere consequence of competition or the result of marked increases in casualty premiums over the past few years forcing other lines into a lesser percent of overall revenues.

An examination of the annual reports of the major publicly held insurance brokerages points up distinct contrasts when comparing business mix. Very specific comparisons are difficult due to the inconsistency among the companies of revenue source classification. Despite this, it is possible to recognize concentrations in certain areas as well as trends developing over time.

The companies analyzed are Marsh & McLennan, Alexander & Alexander, Frank B. Hall, Corroon & Black, Fred S. James and Rollins Burdick Hunter Co. Revenue sources have been calculated as a percent of total revenues. Consideration of previous years revenues is based on reported revenues, as distinguished from revenues restated to reflect acquisitions.

Property and casualty commissions obviously represent the largest portion of revenues of all the companies. Among those segregating property and casualty exclusively (Alexander & Alexander combines property and casualty with marine), Marsh & McLennan had the lowest property and casualty concentration during 1977 at 48% of total revenues, while Rollins Burdick

Continued on page 26

PERSPECTIVE

You can help firms discover safe paths in coming storms

By Peter Downes
Manager of Insurance
American Trading & Production Corp.
Baltimore

—Speaking Out—

INSURANCE MANAGERS need not bother to read this article—it does not concern them. While gathering together the thoughts that are reflected here, I had *risk* managers in mind.

It has occurred to me from time to time that corporations are living dangerously. Nobody loves them, least of all the people who work for them. Distrust of them has grown to such an extent throughout the entire population that everybody is out to get them. Indeed, things have reached such a pass that one commentator has remarked that "for practical purposes American business today has no political rights . . . it is simply futile to challenge legislation or regulatory proposals relating to business organizations in terms of freedom of speech, freedom from unreasonable search and seizure, freedom of contract, freedom to engage in political activity, or even the right to a fair trial."

The day when an executive could self-righteously proclaim that what is good for General Motors or whoever is good for the nation is long gone. Actually, he could still say it, but nowadays everybody within hearing distance would laugh helplessly at such a silly notion. And it is perhaps fair to say that corporations have brought this on themselves in large measure.

For my own part I feel that the "crime" of corporate society is that it has failed to recognize in time the inevitability of social change, the form that it has taken and probably will take in the future. And moreover, because it has failed to recognize changes, others are seeking to change corporate structures for it with the object of updating them, even if this is only in terms of what Irving Kristol has called the paranoid populist fantasies of subcommittee staffers.

As any of us might have guessed, Ralph Nader is well to the fore in making such suggestions. The last time I looked, one of his recommendations was that all corporations appoint a board of nine directors, each of which in addition to general duties would be charged with the special oversight for matters of social interest, such as employe welfare, consumer protection, environmental protection, community relations

Actually, I do not think that this particular proposal need be taken very seriously. It smells too strongly of corporative syndicalism which as everyone knows is just a fancy name for fascism.

Nevertheless, there are a number of other proposals of more substance which have as their object a change in the structure of boards of directors for the purpose of monitoring the conduct of management. One of these suggests the appointment of a "public director" whose job it would be to scan the behavior of the corporation, pointing out non-compliance with regulations, corporate illegality and unethical behavior.

My own thought on the proposal is that such a director would be unable to serve effectively. It would be a simple matter for the rest of the board to exclude him from discussions of any significance and any competent management is adept at concealing what they do not wish others to know.

Many law experts have suggested that boards of directors be composed mainly of independent directors with the object of making the board totally independent of management. In fact, some recent litigation has been conducted with the result that there has been such outside appointments and some corporations are now said to be making them voluntarily so as to change the relationship of management and board.

Finally, there is a proposal that all large corporations be federally chartered. The Senate Commerce Committee held hearings on the subject in June 1976 and I understand that the proposal is by no means dead. As one might expect, Ralph Nader is a strong advocate of the proposal, one of its objects being to nullify the laws of such states as Delaware. Proponents of the law seem to think that statutes relating to corporations in the various states are far too permissive.

Another objective of federal chartering will be to make major corporations more accountable to society for their action. The failure of corporations to meet federal standards on social services could see their charters revoked. It is anticipated that federal control would provide much more demanding regulations in terms of such matters as safety, pollution and employment.

There is not the space to describe the proposal in its entirety but if it ever comes to pass, one can safely predict that its impact on the economy will be enormous. For instance, the cost of doing business would increase significantly and would lead to the largest single government agency yet.

There is a strong possibility that changes in corporate structures will be imposed in the foreseeable future, says **Peter Downes.**

The foregoing is but a short selection from the various topics currently being discussed in the field of corporate change. The first thing that struck me about all of them is the strong probability that changes in corporate structures will be imposed upon us within the foreseeable future whether we like them or not. The second thing is that many of the topics being discussed include matters with which the risk manager is already closely involved and others of which leaders in the field say that the risk manager should be involved.

For myself, I go along with the author of the quotation at the beginning of this essay. It will, in general, be futile to challenge such legislation although there will be perhaps a slight chance of modifying a detail here and there. I think too that management must get used to the idea of adapting to the changes which will surely be made.

In order to do this, they must be made completely aware of what is involved. And the person well equipped to communicate this awareness within his own field of competence is the risk manager—who else? ■

What's up in the industry

M&M lags behind

MARSH & McLENNAN, where are you going?

Most of the nation's largest brokers continued to report major revenue gains in the first six months of 1978, but giant Marsh & McLennan's growth fell behind that of its major competitors.

William Burch

The nation's largest insurance broker said gross revenues increased 14% in the second quarter to $124.7 million from $109.1 million. For six months, revenues were up 16% to $250.8 million from $216.6 million. But Alexander & Alexander, which last year surpassed privately held Johnson & Higgins as the nation's number two broker, reported growth for both the second quarter and six-month period of just over 21%. A&A revenues reached $69.5 million for the second quarter and $137.5 million for six months.

Number four broker Frank B. Hall turned in a 21% advance for the second quarter amd a 22% increase for the six-month figure. Fred S. James, the fifth largest U.S. broker and the fastest growing of the big firms, reported a second quarter surge in earnings of 26% and a 28% increase for the six-month period. Fred S. James president William Burch interestingly said "premium rate increases contributed less extensively to revenue growth than in prior quarters."

Could all this mean that the competition in the insurance markets that we've all been hearing about is affecting M&M before the other brokers?

Meanwhile, the best six-month figures we've heard about have been turned in by Arthur J. Gallagher & Co., the privately held firm that releases information like a publicly held company. President Robert Gallagher reports a 43% increase in six-month revenue to $11.7 million as the firm speeds its drive to the top 10 of U.S. brokers.

* * *

There are also some interesting comments in the recent earnings reports of the major property-casualty insurers. Aetna Life & Casualty Co. reports that national accounts produced an underwriting loss for the first six months, primarily due to workers compensation losses. Small and medium-sized accounts also produced red ink and commercial auto coverage only broke even. But Aetna says improvements in general liability and professional liability more than offset the losses and the bottom line was an underwriting profit.

INA's combined loss and expense ratio for the first six months was 100.6%, says chairman Ralph S. Saul. Mr. Saul said the growth of property/casualty insurance premiums moderated as a result of increasing price competition but predicted a good year for INA due to a "careful approach to commercial insurance underwriting and balanced growth in life and group and non-insurance business."

—Greg David

Risk Management Notes

How one monopolistic fund for workers comp works

By Warren, McVeigh, Griffin
Risk management consultants
San Francisco

THE FOLLOWING STATES prohibit self-insurance and/or private insurers from writing workers compensation: Nevada, North Dakota, Texas, Wyoming, all prohibit self-insurance while there are monopolistic state funds in Nevada, North Dakota, Ohio, Washington, West Virginia and Wyoming.

Note that the states of Nevada, North Dakota and Wyoming appear twice, thus allowing only one option for workers compensation risk funding: insurance with the state fund. When faced with this situation, the state fund itself should be investigated for rating programs other than straight non-participating insurance.

For instance, the state of Nevada has a "self-rating plan" for eligible employers. To be eligible, an employer must:

- Be a corporation with a net worth of at least $2,500,000.
- Have a record of positive earnings for the past three years.
- Have Nevada compensation premiums of not less than $100,000 for the preceding three years, or payroll subject to Nevada compensation premium in excess of $10 million per year for the preceding three years.
- Have a modification factor of .95 or less for the five consecutive years preceding the date of application.

The self-rating plan offers possible financial advantages, rather than operational advantages, since the state still provides loss adjustment services and excess reinsurance under the plan. The employer pays a deposit of 33⅓% of the tentative premium, then quarterly payments thereafter. The tentative premium is the product of the average compensation premium rate for the preceding five years times the present payroll, with modifications to reflect changes in benefit levels. The employer is then eligible for a refund or additional billing for the difference between the tentative premium and his final premium.

The final premium is the sum of the employer's contributions to the excess and catastrophe reserve, primary losses incurred, adjustments to primary incurred losses from previous years and administrative expenses. ■

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Of course we could go on and on. Telling you about our comprehensive builder's risk installation insurance, our hospital operating income insurance plan, our valued form business interruption insurance, manufacturer's output policy, depreciation insurance, and our multi-peril special programs that have saved many groups time and money.

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American Home/National Union not only have what you need, we have the resources and the knowledge to back it all up. We have an A+: Class XIII rating from Best's Insurance Reports. We're member companies of the American International Group. With the experience you want. The engineering services you need. And the capacity to take on just about any sized risk.

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PERSPECTIVE

How insurer tackles skyrocketing inflation in hospital expenses

By Henry A. DiPrete and J. David Seay
Group operations
John Hancock
Boston

COST CONTAINMENT has become the dominant issue concerning America's health. The nation's health delivery system is on the verge of a serious fiscal crisis. At the same time, ever increasing demands are being made of it in terms of more technology, more benefits and more universal coverage. This very situation itself calls for close scrutiny of how the system operates, who pays for it and how it perhaps should operate and be financed.

Regardless of one's philosophical approach to the solution, the economic facts rapidly become history and are undisputed. Health is the nation's third largest industry in terms of work force, employing nearly five million persons, an increase of 88% since 1960. In terms of dollars, the health industry is growing at a rate of about $20 billion a year. The 1976 figures are in at over $139 billion and the 1977 projection is $160 billion. Contrast this to the often cited Defense Department budget. Defense spending was $90.2 billion in 1976 compared with over $139 billion in health costs.

The rate of inflation in health care has been more than double that of the rest of the economy in recent years. That is particularly alarming in light of the fact that health care as a percentage of the nation's gross national product is surprisingly large and increasing significantly each year. In 1976, health care costs accounted for 8.6% of the gross national product and economists project health care spending in 1981 to top $260 billion and account for 10% of the GNP with or without national health insurance.

Expressed in personal terms, per capita health costs averaged $638 in 1976—almost five times what it was in 1960—and is rapidly approaching the average per capita expenditure for food. Statistics such as these point obviously to an urgent need for a public policy of cost containment. Such a policy is currently being debated by the public, legislators, providers of care and private insurers, including John Hancock Mutual Life Insurance Co.

Since about two-thirds of the expenditures for health care are accounted for in the hospital and physician setting, most efforts will be directed in those two areas. In addition, many of the problems associated with cost increases are due to distortions in the delivery system and utilization patterns and by the unique nature of its reimbursement system.

For example, the cost per patient day for hospital confinement in 1976 ranged widely on a national basis from $116 a day in some parts of the country to more than $275 a day in other parts—a variation of over 100%. This is reflected in part by the varying length of stay, where the average hospital confinement ranged from five days in some states to almost 10 days elsewhere.

Similar variances are seen with physicians. Of the more than 400,000 physicians in the U.S. in 1976, representing approximately 191 physicians per 100,000 population, only 16% were in general practice. The rest were in specialty practice, a third of whom were surgeons. And, as you might assume, they are disproportionately spread. In some areas, there are as few as one physician for every 1,370 people while in other areas, there are as many as one for every 505 persons.

Additionally, and perhaps most importantly, the present system of third-party reimbursement for the cost of medical care isolates the individual "consumer" from the ordinary marketplace pressures. The result is that the patient is relatively unconcerned about the cost of the care inasmuch as a third party will pay it. However, the tremendous cost increases have precipitated concomitant rises in premiums, prompting both patients and employers to take a hard look at the problem.

The John Hancock has already begun to act in response to these problems. Examples of initiatives already undertaken by the John Hancock and other private insurers include coordination of benefits programs, which serve to reduce costs by curtailing payment of claims in excess of 100% to holders of more than one policy. Coordination-of-benefits savings to John Hancock policyholders for the year 1977 alone amounted to $37 million—a figure that represents a full 6.1% of total accident and health premiums for the year.

The John Hancock has been a leader in writing second surgical opinion programs. Second surgical opinions for elective procedures are particularly cost effective in light of the steady increase in the number of elective surgical procedures performed in recent years. In 1973, a program with a large mid-Atlantic policyholder was established. During an experimental period of about 18 months, out of 88 persons who exercised their option to seek surgical consultation about 25% of the group had not had the original diagnosis confirmed. Applying the benefits against the original diagnosis, it was estimated that over $44,000 was saved in hospitalization, surgical and major medical expenses.

In addition, a number of Hancock group accounts are considering copayment and deductibles which can reduce premium costs while at the same time provide an effective incentive for the patient to be prudent in utilization of care.

The John Hancock has, along with other private insurance companies, attempted to reach out by educational programs to many different audiences within the health care field. They have developed and presented to many policyholders and others a series of speeches and cost containment presentations, along with prerecorded cassette tape programs aimed at outlining the nature of the health care delivery system and how its unique characteristics have added to the financing problems.

On a broader basis, the company works through various committees within the Health Insurance Assn. of America dealing with cost control strategy. We have worked recently on the amendments to the HMO Act, certificate of need guidelines, health manpower legislation, hospital cost containment legislation, and Health Planning Act amendments.

The legislative front is an area where action is inevitable. The John Hancock and HIAA have provided considerable industry input into the legislative proposals now being debated by many of the state legislatures as well as the Congress.

Readily available, centralized, and standardized claims data is urgently needed as a basis upon which effective actions can be taken. Additionally, the ability to publish or otherwise use the claims and utilization information would be a valuable new weapon in the fight against runaway inflation. The John Hancock is actively involved with other HIAA member companies in drafting a strategy for this singularly important goal. ■

Photo: The Doctors Co., Los Angeles

We've come a long way from the kits early doctors carried as health is now the nation's third largest industry.

Brokers . . .

Continued from page 23

Hunter Co. clearly had the most concentration in the property and casualty area at approximately 80% of its total 1977 revenues.

This relative share of Rollins Burdick Hunter revenues has been accelerating since 1973 when the company drew approximately 70% of its total revenues from property and casualty commissions. This share has increased each year since that time. This is a result of a slowdown in growth of the Rollins casualty commissions versus a recent surge in growth of their property commissions (15% growth in 1977 casualty commissions over 1976 versus 48% growth in 1977 property commissions over 1976). No other major public house showed this disparity in growth between property and casualty.

The three remaining major firms, Frank B. Hall, Corroon & Black and Fred S. James, all showed property and casualty commissions representing 60% to 65% of their total revenues.

Since Alexander & Alexander combines marine with property and casualty, it is difficult to draw specific conclusions. However, combined property and casualty and marine revenues of Alexander & Alexander amounted to 78% of total reported 1977 revenues, a concentration in this area second only to Rollins Burdick Hunter Co., at 84%.

Frank B. Hall and Fred S. James reported the strongest apparent marine concentrations at 8% and 9% of their respective total 1977 revenues. Although this concentration has remained strong over time, it has come down gradually since 1974 when both firms reported 11% of their total revenues coming from marine business. The fact that hulls have been laid up over the last several years is part of the explanation.

Frank B. Hall continues to report the highest concentration in aviation business at 6% of its total 1977 revenues. This appears to be the latest result of a gradual downward movement since 1975 and 1976 when aviation business represented 8% and 7% of Hall's total revenues.

Employe benefits and the life field are clearly dominated by Marsh & McLennan which had 20% of its total 1977 revenues coming from these areas. Corroon & Black and Alexander & Alexander both showed strength with 14% and 16% of their respective 1977 total revenues coming from employe benefits and life. Rollins Burdick Hunter Co. showed the lowest relative activity in employe benefits and life with 7% of its total 1977 revenues.

While the relative concentration of Marsh & McLennan and Alexander & Alexander in employe benefits and life has remained somewhat stable, Corroon & Black has accelerated its growth in this area through acquisitions as well as internal growth.

During 1973, employe benefits and life represented only 5% of Corroon & Black's total revenues. This share climbed slightly during the next two years up to 7% and 8% during 1974 and 1975 respectively. There was explosive growth during 1976 bringing Corroon & Black's employe benefits and life revenues up to 15% of total revenues for the year. This level has been maintained during 1977.

Marsh & McLennan similarly dominates the reinsurance field with 12% of its total 1977 revenues coming from this area. Marsh & McLennan has gradually increased its relative concentration since at least 1975 when reinsurance represented 10% of total revenues. Corroon & Black and Fred S. James are also strong with 9% and 7% of total 1977 revenues coming from the reinsurance activities. Corroon & Black, while showing good growth in the reinsurance area, has maintained a relatively stable overall portion of its book of business in the reinsurance area. Rollins Burdick Hunter Co. has a relatively light concentration in this area with only 4% of revenues in reinsurance.

Corroon & Black reported approximately 5% of its total 1977 revenues coming from bonds. Although this concentration appears strong in comparison to the other major public firms, this current concentration is down from past years, e.g. during 1973, 1974 and 1975, the bond business represented 10%, 9% and 8% of Corroon & Black's total reported revenues for each of those years respectively.

Although construction picked up in mid-1977 producing good absolute growth, it was not enough to improve the relative share of revenues produced by bonds in comparison to other lines.

While it is easy to read too much into the numbers discussed above, it is important to recognize the extreme changes in profits that can result from a gradual redistribution of a book of business. A continued awareness of the changing business mix can provide good clues for reconciling differences in operating results and explain major variations in profitability. ■

No indictments planned in club fire tragedy

NEWPORT, Ky.—A special grand jury here said it found no grounds for criminal indictments in connection with the Beverly Hills Supper Club fire in which 165 persons died last year.

The Campbell County grand jury said most of the blame was due to public apathy and a breakdown of communications between local and state fire authorities. While the jurors said in the 28-page report that there were some instances of negligence, it added that those acts were not "criminal in nature."

The grand jurors did not mention any fire, safety or building code violations at the huge supper club that burned the night of May 28, 1977.

But Gov. Julian Carroll said the failure of the grand jurors to issue indictments was "dramatically inconsistent" with the conclusions of "most everybody" in Kentucky. Gov. Carroll said he will appoint a special prosecutor to review the work of the grand jury. "This is an extraordinary step on my part," he said. "But this is an extraordinary case. A tragedy of national magnitude."

By contrast, a state police report, which was released in September 1977, charged there were numerous violations of state fire safety standards and added that some of those violations were intentional.

In one glaring disparity between the two reports, the grand jurors said there was no evidence of "inordinate delay" in either notifying patrons or the fire department when the blaze began. The state police report said club employes waited at least 20 minutes after the fire erupted before warning patrons of the danger.

The grand jury report, however, offered 21 specific recommendations to prevent future fire disasters including not giving building owners advance notice of inspections as well as inspecting properties both while a building is closed and during peak occupancy.

Meanwhile, a Feb. 13, 1979, date has been set for the first federal civil trial in the case for plaintiffs who have filed suit against the owners of the club. About $2 billion in damages are being sought from the owners by more than 1,000 plaintiffs.

Several hundred insurance companies, who are members of the Insurance Services Office and the Kentucky Fair Plan, also have been named as defendants and will be tried separately at a later date. ■

Bender buys Calif. broker

NEW YORK—Albert M. Bender Co., the insurance brokerage subsidiary of Bache Group Inc., has purchased the Orange County Insurance Agency of Santa Ana, Calif., through an exchange of 183,000 shares of Bache stock with a present market value of $1.4 million.

Acquisition of the $1 million agency is the first step in Bender's plans to become a national brokerage firm, according to Bender president Bernard H. Mizel. The company is currently negotiating with small regional agencies on the West and East Coasts and anticipates one or two additional mergers before the year's end, he said.

Bender's expansion program is being financed through the subsidiary's retained earnings, those of Bache and exchanges of Bache stock, said Mr. Mizel. However, he could not say how much the parent organization plans to invest in building up Bender.

Yet, Bender executive vp Robert Rossi noted, "We couldn't have acquired Orange County without Bache."

Mr. Mizel said he sees the firm growing primarily through servicing of medium size accounts in the $50,000 to $300,000 premium range. California, Oregon, Washington, Nevada and Arizona are being emphasized in current expansion plans although Mr. Mizel said he saw excellent prospects for growth in the Southeast. ■

dates for buyers

Sept. 25-27: The Risk Studies Foundation presents a three-day seminar on the **Future of Risk** featuring an interdisciplinary approach. Registration for the seminar to be held at the Waldorf-Astoria Hotel in New York City is $295 and attendance will be limited to 55 delegates. Contact Risk Studies Foundation, 205 East 42nd St., New York, N.Y. 10017.

SEPT. 25-27. Meidinger & Associates, actuaries and employe benefit consultants, will conduct its 13th annual **Trust & Investment Seminar** in Louisville, Ky. The seminar is planned for trust officers and investment managers active in employe benefits. Cost:, $325. Contact Sandra L. Wilkins, Meidinger Institute Inc., 2440 Grinstead Drive, Louisville, Ky. 40204; phone 502-499-1240.

SEPT. 28-29. Establishing, Operating and Managing Captive Insurance Companies is the title of a practical course sponsored by Risk Research Group in London. The course is designed for those who wish to form their own captive or advise clients in captive participation. Among the topics to be covered will be feasibility studies, underwriting, selection of location, accounting and taxation, loss control and claims, reinsurance. Cost is $78. Contact Gillian Morley, Risk Research Group, Bridge House, 181 Queen Victoria St., London EC4V 4 DD; phone 01-236-2175.

OCT. 5. Los Angeles chapter of RIMS to hold its annual conference at the Sheraton Universal Hotel in Universal City. Cost is $30 for members; $35 for nonmembers. Contact Wendy Hamilton, Newhall Land & Farming Co., 23823 N. Valencia Boulevard, Valencia, Calif. 91355; phone 805-255-4000. Or contact Barbara Fein, R & B Development Co., 2222 Corinth Ave., Los Angeles, Calif. 90064; phone 213-478-1021.

OCT. 15-17. Florida Department of Insurance to co-sponsor the 16th **Annual Life and Health Insurance Sales Seminar** at Florida State University in Tallahassee. Cost: $75 includes all meals and tuition. Contact George D. McDonald, seminar chairman, 2802 Saint Leonard Drive, Tallahassee, Fla. 32312; phone 904-488-8899.

OCT. 18-20. The 8th Annual International Insurance Conference organized by Management Centre Europe will be held in Montreux, Switzerland. The theme of this year's conference is "Let the Barriers Fall." It will cover the obstacles to be encountered in over protectionism, legislative inconsistencies and different trading environments. Cost is $54 for nonmembers and $49 for members. Contact Mike Johnson, Corporate Affairs Director, European Headquarters of the American Management Assn. International, Avenue des Arts 4, B-1040 Brussels, Belgium; phone 219-03-90.

OCT. 18-20. The first **New England Workshop for Risk Managers** sponsored by four RIMS chapters—Central Massachusetts/Rhode Island, Connecticut Valley, Fairfield/Westchester and Massachusetts. The meeting will be held in South Egremont, Mass., and will focus on everyday risk management problems. Cost: $40. Contact A. David Heilemann, Rogers Corp., Rogers, Conn. 06263; phone 203-774-9605.

OCT. 25-27: The State Insurance Funds Managers Assn., a national organization of government risk managers that meets to discuss self-insurance, will hold their annual meeting in Orlando, Fla. Contact Betty Ryals, Florida Dept. of Insurance, Division of Risk Management, Tallahassee, Fla. 32304 or call 904-488-5073.

OCT. 31-NOV. 1. Multiple Line Working Clinic to be held in Philadelphia and sponsored by Marine Insurance Handbook Inc. The theme of this clinic will be maintaining a balance between underwriting desirability, rate adequacy and intent of coverage. The clinic will be repeated in Columbus, Ohio, on **Nov. 8-9.** Cost is $90 per individual; $80 per individual if more than one person from a company attends. Contact William H. Rodda, Marine Insurance Handbook Inc., PO Box 723, Chicago, Il. 60690; phone 312-922-2276.

Higher retirement age may recast pension plans

By JOSEPH S. ROBINSON
Attorney-at-Law

BENEFIT MANAGERS and employes faced with the new retirement law may have to re-work their qualified pension plans, perhaps even reshape their retirement goals. That's because commencing in 1979 companies may not insist that an employe retire before age 70. There's an exception for top level people whose annual pension is at least $27,000. The latter do not come under the new rule.

Some of the considerations which may affect the cost and benefits of a retirement plan are:

- The reduction of pension plan costs with the rise in retirement age, unless the savings are used to boost benefits.
- A substantial rise in the number of over-65 employes will increase the cost of life insurance benefits as well as medical care reimbursement and disability payment.

While many employers may not have to alter their present pension since neither ERISA nor the new law require benefit accruals after the heretofore "normal" retirement age of 65, nevertheless, companies may want to amend their plans. In this connection it should be noted that, according to the Department of Labor, the labor force participation rate for males age 55 to 64 has declined from 85% in 1960 to 75% in 1975. Accordingly, early retirement provisions have been incorporated in more and more retirement plans in recent years.

Benefits payable at early retirement are usually lower than those payable at normal retirement date for several reasons:

- The employe has worked a shorter time and therefore has accumulated lesser benefits than he or she would have at the age of 65.
- In a plan where the benefits are related to final average salary, the worker's pay would probably continue to increase if he stayed on the job.
- If benefits begin at an earlier age, the cost to provide an income for life goes up. Therefore, the monthly benefit is usually reduced to reflect the earlier age on commencement of benefits.

A move to older and more widely spread retirement ages may help change work patterns in companies. These companies may provide opportunity for older persons to retire gradually by offering them part-time employment on a phase-out basis, with a gradual phase-in of pensions.

Such an arrangement may serve the needs of both the company and the employe better than either continued full-time work until age 70 or full retirement at some earlier age.

Women and pensions

Another ruling (announced by the U.S. Supreme Court in April 1978), forbids companies from asking women employes to kick in more than men just because statistically women live longer. However the decision does not prevent life insurance or annuity firms from charging higher premiums for females on the assumption that women will outlive men and therefore collect more benefits. But companies cannot enroll their employes in such plans unless they equalize the contributions and benefits.

Packaged pensions

Figuring out the logistics of setting up and running a pension plan can be a mind-boggling task—a challenge fit for a battery of experts. ERISA requires all kinds of new records to be kept which results in a paper blizzard. Every employe has to be given a clearly written description of the pension benefits and has to be provided with regular accounting of his or her share. However, the process has recently been somewhat simplified, particularly for small businesses.

benefit tax slants

The Internal Revenue Service has developed master and prototype plans that can be easily adapted without the expense of tailor-making one's own plan. And the annual reports to the three government agencies has been simplified into one form that serves them all. Smaller plans with less than 100 participants now have a simplified, one-page annual report sheet (compared with several pages required for larger plans).

Inasmuch as setting up a pension plan and administering it can be expensive in calling upon outside expert help, a good many small companies work out their pensions through an insurance company. Insurance companies have the actuarial expertise to set up a qualified benefit plan and they have the administrative and investing know-how to keep any kind of retirement benefit plan running smoothly.

One of the least expensive ways to get into a pension plan is through an insurance company group program. The design of the plan has already been approved by IRS and all the programming work has been done to provide the necessary figures for annual reports.

Congress is working on legislation which would cut pension plan start-up and administrative costs and provide an even bigger tax incentive to encourage more pension plan contributions. One proposal would set up a simplified, national pension plan design which banks, insurance companies and consulting firms could offer to individual employers. This would cut costs considerably.

The other proposal would provide a bigger deduction or special tax credit for employer and employe contributions to retirement benefit plans. ■

london line

Underwriters scrutinize U.S. oil insurers,

By JOHN H. MILLER

LONDON—Efforts by U.S. insurers to penetrate the offshore oil market are being carefully studied in London where underwriters are producing keen competition for large-scale risks.

Reports of the U.S. capacity situation, which now reaches $164.5 million among the four leading syndicates (*BI*, July 24), have created interest in many quarters.

Leslie R. Sewell, managing director of Stewart Wrightson's energy resources division, agrees from the brokers' point of view that there have been important moves in a competitive direction.

Making his own analysis of the situation in the London market, where the master rig slip has now raised its capacity from $400 to $500 million, he told *Business Insurance:*

"In recent months U.S. insurers have been pursuing a very aggressive marketing policy both offshore in the North Sea and on drilling rig business generally.

"This undoubtedly has caused the Lloyd's market some discomfort. But there have been signs lately that underwriters at Lloyd's have sharpened their pencils and in the last six months have become increasingly competitive," he said.

"For some insureds this competition has in the short term created savings in insurance costs which have been welcomed by owners of mobile drilling rigs, who have been suffering as a result of the oversupply of certain types of units and the consequent downward pressure on daily hire rates.

"It is, however, arguable that those oil companies in the massive North Sea structures could suffer as a result of the U.S. market's attack on the bread-and-butter business of the traditional Lloyd's rig market," he contended.

"While there is adequate capacity in world markets for mobile drilling rigs of all descriptions, the entire market capacity has to be mobilized to afford protection if giant North Sea fixed platforms valued at up to $1.25 billion are to be adequately covered.

"At the present time, the London master drilling rig contract has a limit of $500 million and there is currently a shortfall in the worldwide capacity available on the total amounts at risk.

Lloyd's results

Prospects that Lloyd's will show a record worldwide profit of more than $250 million when its global figures are shortly released for the three-year account period 1975-77 are being studied by insurance sources in London.

But a Lloyd's spokesman emphasized: "The final returns for this period from the various syndicates involved are still being analyzed, so that it is impossible to give any definite figure for some time yet."

Profits from its global operations totaled more than $200 million in 1973, but dropped back to $140 million for 1974. The new returns will cover final results for 1975 under its three-year run off accounting system, together with preliminary figures for 1976 and 1977.

Quoting financial experts for the profit forecast, the London Daily Telegraph suggested that the steep fall in the value of U.K. sterling currency had helped the 1975 returns, but that subsequent years might not be so good, especially since the U.K. market now faces capacity problems on an increasing scale.

Legal malpractice

Lawyers' malpractice coverage in the U.K. will rise by 75% this fall after representatives of 20,000 attorneys were advised by indemnity insurers that they were suffering heavy losses after misjudging claims experience.

The loss results for 1976-77 are likely to be between $3 million and $7 million, on a premium income of $12.5 million.

Even higher figures may face the underwriters, made up of a consortium of selected Lloyd's syndicates and U.K. companies, when the claims for the present year are finally met as well.

Lawyers have agreed to accept the new rates, as they are unable by law to practice without full indemnity coverage.

Richard K. Denby, president of their organization, the Law Society, stated: "Underwriters have been making substantial losses ever since the overall scheme began three years ago and they cannot be expected to continue doing so." ■

Limit on 'fees'

Calif. legislation targets teachers' health plans

By JOANNE GAMLIN

SACRAMENTO—Legislation to regulate the relationship between the California Teachers Assn. and companies providing its members with insurance benefits may limit the group's ability to win "Cadillac" health coverage.

New legislation prohibits the renewal of any contract with an insurer if an administrative employe of a school district or an employe organization has a financial interest in the sale of the benefit program.

Representatives of the California Teachers Assn., which represents both teaching and non-teaching employes, said the organization receives administrative fees from the health and benefit insurers that provide its members with coverage.

Sponsors of the legislation said the fees by the insurers strengthened the ability of the CTA to win extensive medical benefits. For example, CTA members covered by Blue Cross of Northern California receive 365 days of hospitalization paid in full and full reimbursement for the services of surgeons, assistant surgeons, consulting physicians and other professionals.

Since the passage of the bill, CTA consultant Steve Harris said that the organization has been working to establish a Taft-Hartley type jointly administered trust that would administer employe benefits for the labor group in much the same manner that the CTA did in the past.

Mr. Harris told *Business Insurance* that he believes that trust concept will attract the support of school employer groups such as the California School Board Assn. and the Assn. of California Administrators that supported the legislation. He explained that the trust concept should be able to attract support because it will be governed by a board of 12 trustees, six of whom will represent employes and six of whom will speak for employers.

The trust, of course, will not be a true Taft-Hartley vehicle since the CTA is composed of public employes.

During the debate on the new law, the state insurance department began an investigation of payments totaling $838,000 to the CTA in a time of financial difficulty by two of the labor group's sponsored insurers. Still under scrutiny are Occidental Life Insurance Co. for a so-called advance payment of $658,000 and a broker, James G. Freeman & Associates of Burlingame, Calif., for a payment of $180,000. Mr. Freeman said he would not comment.

However, W. J. Adams, assistant general counsel for Occidental Life, strongly defended the $658,000 payment to CTA as a sum "representing 10 months of administrative fees that were advanced because CTA had cash flow problems."

Mr. Adams said that fees have been paid by Occidental to the CTA for years for its work in soliciting policyholders. "It is a legitimate expense which we have been making for years," he asserted.

Mr. Adams added that he regards the new law as "silly" because if CTA members would suffer harassment if they had to put up with salesmen from every company that wanted to supply the membership with employe benefits.

Mr. Harris said that for the year ending Aug. 31, his organization received administrative fees of $650,000 or 0.3% of the total premiums of the $204 million paid to the CTA's four major providers. The four are Blue Cross of Southern California, Blue Cross of Northern California, California Dental Service and California Vision Service. Mr. Harris reiterated that the administrative fees compensate the labor group for the cost of selling and servicing the programs and helping to assemble packages to present to districts at the collective bargaining table.

He argued that the practice of collecting administrative fees is considerably less costly to taxpayers than would be a system in which school districts bid out their employe benefit coverage. He said that the CTA estimates that if school districts all bid out their employe benefit business through brokers at the cost to the taxpayer would be between $10 million and $12 million.

A broker who counts about 200 school districts as clients, he also said that when a school district adopts a health plan not endorsed by the labor group it will retaliate by filing grievances. ■

Merging mutuals . . .

Continued from page 1

mised Allendale chairman William Goodall when confronted with Mr. Rich's apprehension about the merger. The 5,100 policyholders of the two companies will be considered on an equal basis when the new mutual is formed Jan. 1, he stressed, with their continued good standing hinged on good experience.

Both Arkwright-Boston president Robert L. Johnson and Mr. Goodall insisted there aren't any significant differences in their basic philosophies during a joint interview with *Business Insurance*. But Mr. Goodall conceded that in isolated instances there have been "differences of opinion on underwriting and these will have to be resolved. They almost certainly will be resolved in favor of the policyholder."

The executives also intend to maintain the relationships that policyholders have with company representatives. "Where relationships are good with engineers, fieldmen and underwriters, we will try to preserve them as much as possible," said Mr. Goodall.

As FM companies enjoy the same pool of rating, engineering and claims experts, Allendale and Arkwright-Boston should meld easily and quickly, one broker remarked.

Indeed, the two executives repeatedly stressed a theme of business-as-usual, only with better service, when discussing the implications of the merger. The new mutual will use the Allendale name "only because we happen to have the oldest charter," said Mr. Goodall, who will be chairman of the new Allendale.

Johnson's role

Mr. Johnson, who will be chairman of the executive committee of the new board of directors, said the desires to reduce overhead expenses and to benefit from the skills of the two companies prompted the merger. As executives of companies owned by their policyholders, Mr. Johnson noted, "the test we have to apply is, 'Is this in their best interest?' Clearly, this is the case."

Since the Factory Mutual companies also share the risks they underwrite individually through reinsurance arrangements, "really, we're just pooling talents," said Mr. Goodall. He admitted there will be confusion in the beginning, but the chairman maintained that the new company will produce "economies of scale, improved responsiveness and even improved quality, which we think is good now."

Brokers look forward to improved responsiveness, though they also lament the loss of another property market, as limited as the competition was between the two mutuals. "They competed with each other on one-tenth of 1% of the business," estimated Johnson & Higgins senior vp Thomas E. Barton.

Alexander & Alexander vp Fred Gelderman observed, "There's always a disadvantage in losing another market, but hopefully it will be balanced by the increased strength of Allendale."

After merging with a company half its size, Allendale will control 75% instead of 50% of the Factory Mutual System with Protection Mutual and Philadelphia Manufacturers Mutual in minority positions. Admitted assets of the two merging companies at the end of 1977 totaled $1.36 billion and policyholders' surplus was $417 million.

Enviable record

Allendale is particularly anxious to benefit from Arkwright-Boston's enviable underwriting experience when compared to its own over the last few years. In 1977, for example, Arkwright-Boston's 1,800 accounts generated $135.7 million in premiums and only $88.8 million in losses for a loss ratio of 65.4%. During the same period, Allendale's 3,300 accounts generated $257.7 million in premiums and $204.8 million in losses for a loss ratio of 79.5%.

Considering net income as a percentage of earned premiums, Arkwright-Boston produced a hefty 10.2% compared to Allendale's only better than breakeven 0.03% result.

Whether Allendale's less favorable performance is "due to mistakes or a combination of mistakes and bad luck, it's not been the kind of underwriting earnings we want or need for capacity for future accounts," Mr. Goodall said. Allendale was especially hard hit in 1977 by the destruction of a Ford plant in Germany and the December explosion at the Farmers Export elevator. During the severe winter storms early this year, Allendale seemed to have "more roofs in the wrong place at the wrong time," lamented Mr. Goodall.

Arkwright-Boston suffered a loss at an electric utility, shared in the Ford loss in Germany and in the grain elevator loss, but still came out ahead in 1977.

Buyer perceptions

While one might think Arkwright-Boston would want to hold on to its good experience on its own, Mr. Johnson countered, "Don't forget the buyer perceives the FM System as a group. The companies are inextricably woven together as a factor in the marketplace. I think the merger is a better way of integrating them to be more responsive to the policyholder."

The new Allendale's strength will not only be bolstered by combining financial assets, which the executives agreed will give the new company the same capacity as the sum of the two independently; but it will also be enhanced by the union of differing specialties, the executives stressed.

Arkwright-Boston is known for its expertise in boiler and machinery insurance while Allendale is respected for its experience in fire and extended coverage as well as multi-peril coverage. On specific risks, Arkwright-Boston knows utilities while Allendale knows computers, it was noted.

Differences

Maintaining that the companies are not apart on their insuring philosophies, Mr. Goodall suggested, "What we're talking about are differences without distinction in mechanics." Those include how the two mutuals have provided policyholders with insurance to supplement the basic FM property protection for highly protected risks.

Allendale created subsidiaries to underwrite such insurance as difference in conditions and to front for captive insurance companies while Arkwright-Boston did more of this business on its own paper and brokered some supplementary coverage to other insurers through its substantial agency network, Hobbs Brook Agency Inc.

These differing business methods will be assessed and the most effective ones adopted by the new Allendale, the two executives agreed. But the mesh will certainly produce broader services, Mr. Goodall stressed. "There will not be any retrenchment."

Since Allendale's Johnston, R.I., headquarters aren't large enough to accommodate all 2,900 employes of both companies, home office work will be divided between Johnston and Arkwright-Boston's Waltham, Mass., office. There will be consolidation of field offices, but new regional offices will also be opened to expand the network to 10 from Allendale's seven regions.

Policyholders of the two companies will be asked to approve the merger, either in person or through proxies, at separate policyholder meetings in October. Allendale must receive the approval of two-thirds of its policyholders represented at the Oct. 4 meeting and Arkwright-Boston needs the approval of a majority of its policyholders represented at a meeting planned for Oct. 11.

Okay assured

There's no concern about securing the approval, especially since neither executive could recall policyholders rejecting any of the mergers that consolidated 40 FM companies into today's four.

Now that the New England mutuals are to form one company, observers wonder if ultimately there will be one FM company. Mr. Goodall and Mr. Johnson dismissed the question as "only pure speculation."

Philadelphia Manufacturers Mutual president Donald H. Moore said, "I wouldn't say there will never be a day when there will be one company, but it's no intention of mine nor our board of directors' to merge."

Protection Mutual chairman Paul E. Ray said, "I just don't have any idea," when asked if he thought there would one day be one FM company. "I wouldn't rule it out and I wouldn't say it is going to happen," he added.

Though the announcement Aug. 3 of the Allendale/Arkwright-Boston merger caught everyone by surprise, the chief executives of the two companies consider it excellent timing. Several executive officers are nearing retirement, "including me," said 62-year-old Mr. Goodall. "I'm not far behind," added 61-year-old Mr. Johnson. ■

A well kept secret

"It was the best kept secret I've seen in the insurance industry in 35 years," said one observer about the merger negotiations between Allendale and Arkwright-Boston.

"Arrangements like this are complex to work out," said Arkwright-Boston president Robert L. Johnson, "and it seems the success ratio is higher if only those people who must know are involved."

Because they run mutual companies and are not subject to the disclosure rules of the Securities & Exchange Commission, only Mr. Johnson and Allendale chairman William Goodall hammered out the merger agreement.

They never met in one another's office or in public. Instead, the merger discussions were conducted in a private club in Boston and in Mr. Goodall's home in Providence.

"The major reason we tried to keep this secret," Mr. Goodall explained, "is because we wanted our respective machines to be as productive as possible without being disrupted by rumors. "Apparently, we did a better than average job of it," he beamed.

Fireman leaps for safety as supermarket roof collapses in worst disaster involving NYC firemen in 12 years.

Firemen's families get benefits from 3 plans

By RICHARD MARINI

NEW YORK—Families of six firemen, killed in this city's worst fire department accident in 12 years, will receive benefits from the federal government, city government and firefighters union.

The six firefighters identified as Charles S. Boutan, Harold Hastings, James T. McManus, William O'Conner, George Rice and James E. Cutillo, were on the roof of a supermarket attempting to cut a hole allowing trapped heat to escape when the roof collapsed. Other firemen, also on the roof at the time, managed to scramble to the ledge, where they were soon rescued.

All of the firemen were married with at least two children—one had six—and their survivors will receive salary-based Social Security benefits. The families will also receive a year's salary in one lump sum from the city and $50,000 from the government under a federal program for firefighters killed in the line of duty.

Each widow will receive half-pay pension which will continue until her death or remarriage. In addition, two separate funds have been established for private contributions. These will be divided equally to the six families. (In 1966, when 12 firemen were killed fighting a blaze, a total of $700,000 was raised.)

The Uniformed Firefighters Assn., the firefighter's union, also insures each of its members for $7,500.

Surety bond facility set

VALLEY STREAM, N.Y.—Two attorneys have joined forces to form a risk sharing facility they hope will enable small contractors to obtain surety bonding.

Lherrisson-Rose Plan Inc. will assume 10% of the risk from companies on bonds that it places for clients, explained vp and director Michael Rose, who runs the plan with president and director Dr. Evelyn Lherrisson.

This participation should induce surety underwriters to accept business from small contractors, many of whom have been rejected in the past because their assets were too small, he said.

For its services, Lherrisson-Rose Plan would receive a fee equal to between 2½% and 5% of a contract's value, depending upon the job involved.

In addition, participants in the plan would have to join a consortium of similar firms in their area that would monitor work performance and take over a job where a contractor could not live up to its obligations, Mr. Rose said. One such consortium has been organized already in Westchester County, N.Y., he added.

Mr. Rose noted that implementation of the plan, which is expected to cover 20 states by 1979, could help small contractors obtain public and private contracts that they had previously been denied because they could not meet bonding requirements. Such assistance would be a particular boon to minority contractors, he added. ■

RIMS officers

Ronald J. Lamb, corporate insurance manager for Digital Equipment Corp. in Maynard, Mass., has been elected president of the Massachusetts chapter of the Risk & Insurance Management Society. Other officers include Lawrence J. Babbitt of the Stop & Shop Cos., Thomas P. Welgoss of The Gillette Co. and Linda L. Ruthardt of the Barry Wright Corp.

riskWatch

By ELLIS SIMON

The corporate ERISA specialist: A growing field for many lawyers

Cynics have said that ERISA has done nothing if not create jobs for lawyers, accountants and actuaries. If that be the case, what kind of lawyers has it created jobs for?

If you answered ERISA lawyers, pat yourself on the back and accept my congratulations for having a keen sense of the obvious. The ERISA attorney is a specialist for which there is greater demand than supply in a profession normally considered overcrowded, according to Meyer Haberman, president of Interquest Inc., a New York firm specializing in recruiting corporate attorneys.

Ellis Simon

Attorneys who spend all their working time on ERISA issues number no more than a few hundred, according to Mr. Haberman. However, a great many more get involved with ERISA issues at one time or another since "almost everything done today has something to do with ERISA," he said.

In the three years that his firm has been in business, Mr. Haberman has placed between 12 and 15 fulltime ERISA attorneys in corporate positions. That represents between 5% and 10% of the firm's placements.

■ Specializing in ERISA can be lucrative. In New York, an attorney with five years experience who becomes an ERISA specialist can expect to make $40,000 a year, Mr. Haberman said. For someone with a few years ERISA experience plus prior work in such specialties as taxes, finance or labor, compensation could be as much as $80,000 a year, he added.

Despite such financial incentives, good ERISA attorneys are in short supply, said Mr. Haberman. Part of the reason is the relative newness of the law (4½ years) and the limited time that attorneys have had to gain expertise. However, he added that most attorneys do not consider ERISA work to be "exciting" and therefore it is not always a sought-after area.

As Mr. Haberman sees it, the ERISA attorney's function is one of tying the company's pension program together. His purpose is "to come up with a legal plan and an effective plan" and to insure that the plan is properly funded and managed, Mr. Haberman said.

In the past, much of the ERISA attorney's time was devoted to bringing pension plans into compliance, but now that role has shifted more toward keeping companies up to date. Mr. Haberman added that much of the maintenance function could be done by paralegals.

Yet, he added that as radical as ERISA was, there probably will be further changes in pension law over the next five years. The original law said what should and shouldn't be, but its impact has been "wishy-washy" as a result of extensions, he said. Now the government will try to coordinate what exists and consolidate it.

■ ERISA attorneys sometimes work directly under the auspices of a firm's employe benefits and pension departments, but it is more common for these professionals to be under the control of the corporate legal department, Mr. Haberman said.

Such departments have bloomed not only as a result of ERISA but the growing impact of governmental regulation upon business and the litigious nature of American society, Mr. Haberman noted, for instance, corporations are adding product liability specialists to their legal staffs.

In fact, with the exception of major litigation, corporations are using their in-house staffs to handle all legal needs, Mr. Haberman observed. Such a trend runs counter to the long-standing view that lawyers should be brought in only as a last resort.

Lawyers have a reputation for complicating matters and confusing issues, but a good corporate legal department could be a clearinghouse where management can seek advice on the challenges it faces prior to making decisions.

A lawyer's background and logical training enable a staff attorney to see things from a different perspective and head off legal problems that a non-attorney might not see, noted Mr. Haberman. And complex laws such as ERISA create situations where such problems could arise.

As corporations recognize this, and according to Mr. Haberman they are, they are putting into practice an adage that is at the heart of sound risk management: "An ounce of prevention is worth a pound of cure."

OSHA warrants . . .

Continued from page 1

tistics, disagrees. Mr. Mead pointed out that statistics kept by OSHA show that while the figures have leveled off within the last two years, they steadily declined since first kept in 1972.

Although most corporate officials hesitate to say that they "fear" reprisals, it does appear that concern about punitive inspections is a major worry.

Walter Pfeiffer, corporate safety director of Coca-Cola Bottling of Los Angeles, said, "You might as well let the inspector in, because he can get a warrant without any degree of difficulty. We have never denied access to an investigator, it's the best thing for everybody. And if you do force him to get a warrant, there's always the possibility he might come back wearing his 'nasty glasses.' "

"The Barlow decision has not changed a thing with us," said Roy Johnson, corporate director of safety and health with the General Tire & Rubber Co. of Akron, Ohio. "We allow inspectors into our plants without warrants, and we have a good relationship with OSHA."

But, Mr. Johnson said, reprisals are a "real possibility" if an investigator is delayed.

A spokesman for a southern textile manufacturer who said the company does not worry about reprisals as much because of its size, added he could see "problems" for smaller corporations.

Another spokesman for a large, Michigan-based corporation stated that his company's reaction to OSHA depends on how it is approached for investigation. As long as the inspector doesn't go on any "witch-hunts," he said, there usually aren't any problems. He recalled only two cases where inspectors were denied access.

This corporation dispatched a written policy to its plants. No warrant is required for the first inspection at any plant within one year, or for an inspection sparked by an employe complaint if inspectors agree to confine their probe to the complaint. But the firm requires a warrant if the location has been inspected within 12 months or if the inspectors refuse to confine their probe.

Chicago-based International Harvester has adopted a policy similar to that of many other large companies. "We aren't requiring our plant managers to ask for a warrant, but we do reserve the right to insist on one if we feel we're being harassed," explained R. J. Black, manager of employe environmental health and safety for International Harvester.

The initial reaction among many to the Supreme Court decision was that the ruling did not mean very much. Although the inspectors now have to get a warrant when asked, there are no guidelines as to what has to be proven before one can be issued.

This inconsistency might all change as a result of a recent decision by a Wisconsin federal court, however. The court ruled that a warrant issued to an OSHA inspector to investigate a Weyerhaeuser plant was invalid under the Fourth Amendment because there was no "probable cause" for the search.

In a "Stop OSHA" press release, Rep. George Hansen (R-Idaho), chairman of "Stop OSHA," said the ruling confirmed " . . . that a businessman doesn't have to settle for anything less than a warrant based on probable and reasonable cause."

Traditional factors used to determine need for an OSHA inspection of a plant, such as a high industry-wide accident rate, have long been attacked by "Stop OSHA." ■

Bias insurance . . .

Continued from page 1

market is to continue to look at discrimination coverage with a very jaundiced eye," observed Felix Kloman, president of Risk Planning Group of Darien, Conn.

Since the number of discrimination in employment suits resulting in claims have been infrequent, but amounts of the claims astronomical, insurers have found it difficult to price such coverage, Mr. Kloman said. As a result, "discrimination is a risk that will continue to be borne in large measure by corporations on a self-insured basis."

The case involved a seven-year legal battle between Union Camp Corp. and CNA. In 1971, Union Camp was the target of a class action suit by black employes who charged the company with discrimination in employment practices.

Union Camp turned to CNA for defense since it believed discrimination was a covered risk under two excess umbrella policies it had purchased from the big Chicago-based insurer.

Under the terms of a 1969 umbrella policy, CNA covered discrimination "except that committed by, at the direction of the insured."

CNA refused to honor its policy. Similarly, in 1975 when Union Camp settled the class action suit by voluntarily paying the plaintiffs $800,000, CNA refused to pay the claim or pay Union Camp's legal costs to settle the case. Union Camp then sued CNA to recover the $800,000 as well as attorneys' fees.

CNA, however, moved to dismiss Union Camp's complaint. Stuart Ross, a Washington attorney who defended CNA, said CNA denied coverage since it felt that coverage against discrimination in employment was against public policy and therefore illegal.

CNA argued that if discrimination suits were covered by insurance, employers would lack an incentive to treat all persons equally in employment practices as required by various civil rights acts.

But Judge Lawrence said CNA's assumption that the availability of insurance would encourage violations of anti-discrimination laws was "speculative and erroneous . . . The (CNA) argument assumes that employers would deliberately violate the law because their actions are covered by insurance," Judge Lawrence said.

Judge Lawrence said insurance policies, such as the CNA umbrella, do not cover intentional acts of discrimination. Corporate knowledge that deliberate acts of discrimination lack an insurance shield is a sufficient deterrent for companies not to engage in discriminatory employment practices, the judge said.

Two weeks after judge Lawrence handed down his decision, Union Camp and CNA settled the suit. Attorneys for CNA and Union Camp said they were not permitted to discuss the details.

Thaddeus Holt, an attorney who represented Union Camp, said the case isn't binding on any other federal district court. But he added: "The fact that a court has decided an issue in a certain way always is a powerful precedent."

Judge Lawrence's decision is likely to be read word for word by attorneys representing Dan River, the South Carolina textiler and Commercial Union Insurance Co.

In a case almost identical to the controversy that embroiled CNA and Union Camp, Dan River is suing Commercial Union for failing to honor a policy that allegedly protects Dan River from discrimination in employment claims.

The passage of the Civil Rights Act of 1964, which outlawed racial and sexual discrimination in employment practices, has resulted in a plethora of suits, charging corporate policies kept blacks and women in low-paying jobs.

While company's liability to discrimination suits has increased, insurance protection has become more elusive. Five or six years ago, many underwriters came to exclude from umbrella policies coverage for discrimination on the basis of age, race and sex, said Mr. Kloman.

For example, when Mr. Kloman assisted a major state university in remarketing its liability program two years ago, the school sought in its specifications request coverage for broad personal injury, including discrimination.

However, potential insurers gave the university the cold shoulder. "The insurance companies that we dealt with almost uniformly said: 'No, we can provide everything but discrimination,' " he explained. ■

Blues . . .

Continued from page 1

vision and hearing coverage, for example. While cost sharing will be offered as an option, "we would not replace our service benefit," Mr. Ryan emphasized. "We will always maintain that as our major thrust."

The new master contract should be ready for marketing by mid-1979, Mr. Ryan said, to provide "organized and consistent" coverage.

In addition, BC & BS Assns. intends to expand its market research capabilities. "It's been done ad hoc," Mr. Ryan admitted. "We need to know what they're buying, why, what management thinks and what labor thinks." Already the association knows it wants to "improve market support in the association staff to coordinate national accounts with local plans."

The association also knows it has to justify its retentions to buyers since "the competition today is at a much lower retention," Mr. Ryan said. "But we have to explain what we do with retentions—maintaining our relationships with providers and our commitment to subscribers and our cost containment efforts."

Various financing methods, to be offered the increasingly sophisticated buyer, are being considered also.

These initiatives are the product of a year's work by a task force of BC & BS executives appointed last year to study the nation's health services buying environment and how BC & BS products fit in that environment.

"But we were thinking about the need for this study before membership fell," Mr. Ryan maintained. "It's not totally a result of membership dropping."

Between year-end 1977 and year-end 1976, membership in Blue Shield plans dropped 1.8 million to 70.8 million from 72.6 million. During the same period, enrollment in Blue Cross plans dropped almost half a million to 83.45 million from 83.9 million.

The lost membership reflected the movement of national accounts to insurance companies rather than to self-insured programs, Mr. Ryan said. BC & BS lost the business, he admitted, on price, product flexibility and "sometimes performance." ■

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• **Federal Taxation & Regulation of Health Insurance Plans** is a guide with charts from Unionmutual. The 44-page publication presents general information based on rulings and regulations in effect as of Jan. 1, 1977. Discussions center on buy-sell plans, chances of recovery, corporations, ERISA, individual plans, medical reimbursement plans, partnership, probability of death and disability, sole proprietorship and wage continuation plans. For a free copy write Unionmutual Life Insurance Co., Portland, Maine.

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• Kemper Insurance Cos. policy and procedures for dealing with alcoholism are explained in **Management Guide on Alcoholism.** The 12-page booklet is not designed as a model program but as a resource for companies considering the adoption of alcohol, drug abuse and emotional problem programs. Up to 50 copies may be obtained without charge. Write Communications & Public Affairs, Kemper Insurance Cos., Long Grove, Ill. 60049.

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• Did you know that 30 new laws protecting the confidentiality of personal information have been passed in the last year? The **1978-79 Compilation of State and Federal Privacy Laws** describes and cites more than 400 such state and federal laws that regulate recordkeeping about individuals—criminal information, financial and tax records, school records, government data banks, Social Security numbers and medical files. The 166-page book also lists laws on wiretapping and polygraphing. The book is available for $14.50. Write Privacy Journal, PO Box 8844, Washington, D.C. 20003.

• When you attended the American Bankers Assn. 1974 Risk and Insurance Management in Banking seminar did you request a guide to help you? If you did, it's ready now. The workbook contains more than 113 pages with worksheets, guidelines and procedures tested by bank risk and insurance managers. Areas include exposure, identification, risk evaluation, risk control, risk financing and insurance and risk management administration. The **Risk and Insurance Management Guide for Financial Institutions** (#212000) costs $17.50 for members and $22 for non-members. Write Order Processing, American Bankers Assn., 1120 Connecticut Ave., N.W., Washington, D.C. 20036.

• Kwasha Lipton has just published a new newsletter—The "Other" **Post-Retirement Benefits:** When Should The Cost Be Accrued? Should They Be Funded? For a free copy write Dept. M, Kwasha Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

people

Litton risk manager joins developer; D.C. sanitary district names Scott

Paul Harvey, who was formerly manager of insurance for Litton Industries in Beverly Hills, Calif., has been named risk manager for Aetna Realty Group in Irvine, Calif., a new position. Aetna Realty Group is part of Aetna Life Insurance. Mr. Harvey had been with Litton for seven years. Prior to that, he was with the insurance departments of Fluor Corp. and Richfield Oil.

* * *

Charles F. Scott, 50, has joined the Washington Suburban Sanitary Commission of Hyattsville, Md., as insurance manager. He replaces Herbert W. Jacobson, who recently resigned. Mr. Scott will manage the Commission's self-insurance, risk management and claims and benefits acquisition programs, reporting to the commission secretary William Lindung. Prior to joining the Commission, Mr. Scott was engaged in the agency and risk management business with Alton Inc. of Washington, D.C. Mr. Scott has also served as chief, insurance branch, HDQ Dept. of the Army and head, insurance and safety, Bureau of Naval Personnel.

* * *

The continued growth of Mead's insurance activities has necessitated the addition of two positions in its insurance department. **Terrence A. Reiff,** 39, has been named assistant manager of the corporate insurance department with responsibilities which include the financial protection of Mead's physical and human resources. Mr. Reiff was previously assistant insurance manager with the NCR Corp.

Mead also named **Jeffrey S. Passis,** 30, as controller of insurance services with duties that include the direct planning, accounting and management control of Mead's U.S. insurance operations. Prior to this position, Mr. Passis was assistant treasurer of INAX Underwriters Agency Inc. (previously GATX Insurance Company). Both positions report to George Kahlert, manager of risk insurance services.

* * *

The Emhart Corp. of Farmington, Conn., has announced the promotion of **Kevin P. Flatley,** 28, to the new position of manager of employe benefits. Mr. Flatley will be involved with Emhart's international benefit programs. He logged 1½ years as benefits manager with Emhart before this promotion and previously was a supervising consultant at Coopers & Lybrand in Boston. Mr. Flatley now reports to Emhart's director of employe benefits, Clifford J. Sault.

* * *

In Cincinnati, **James A. Tomaszewski,** 30, has been appointed to the newly created position of administrative assistant for risk management at The Christ Hospital. In addition to risk management and loss control, Mr. Tomaszewski's duties include administrative and management responsibility for the safety and security division, hospital accreditation by the Joint Commission on Accreditation of Hospitals and the medical education and residency programs. Mr. Tomaszewski underwent a 12-month administrative residency in preparation for this position and before that spent four years in hospital management with the U.S. Army. He reports to the administrator and chief operating officer of the hospital, Buddy L. Wiggs.

* * *

Rose Vena, 28, was named staff assistant-general services division for Container Corp. of America in Chicago, effective July 1. She reports to **James Charpie,** Container Corp.'s new manager of insurance. Ms. Vena replaces Laura Hinckley, who recently left the risk management department of Container Corp. to join Fred S. James & Co., as reported. Ms. Vena is currently attending De Paul University, and spent nine years in the accounting department of Container Corp., where she was supervisor of receivables and sales information clerical staffs.

* * *

Jordan Tolchin, 36, joined Hughes Airwest in San Mateo, Calif., in the newly created post of corporate insurance administrator. He reports to insurance manager Lorraine Bryant. Mr. Tolchin was previously regional claims administrator for 18 months with Montgomery Ward & Co. in Oakland.

* * *

James Orff is the new manager of loss control for the Metropolitan Atlanta Rapid Transit Authority, (MARTA). Previously, Mr. Orff spent 1½ years with the Slattery Co. in New York as safety engineer. He reports to the director of risk management for MARTA, Earl Novell. Mr. Orff replaces **F.D. Beard,** who has moved to Gilbert Associates Inc. in Reading, Pa., as manager of safety services. Mr. Beard reports to Thomas F. Sheehan, manager of the construction services division for Gilbert.

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The Quaker Oats Co. of Chicago has named **Thomas A. Kempa** as employe benefits administrator, replacing **Janet Notaro.** Mr. Kempa comes to Quaker Oats after two years as underwriting consultant for Blomquist, Batte & Campbell Inc. in Wheaton, Ill. He reports to Robert C. Penzover, manager of employe benefits. Ms. Notaro, staying with Quaker Oats, is now their group insurance administrator.

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Robert Aft, 28, is the new corporate safety supervisor for DeSoto Inc., of Des Plaines, Ill. Mr. Aft joins DeSoto after almost three years as plant safety supervisor with the Joslyn Manufacturing & Supply Co. of Chicago. Mr. Aft reports to William Lynch, director of corporate engineering for DeSoto.

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Frank P. Mesich has been named county safety officer and risk manager for the county of Sacramento Calif., replacing Vincent M. Pisani who resigned to join Gallagher Bassett Insurance Service in Sacramento.

Mr. Mesich has been a county employe for six years, working last as a supervising personnel analyst. He said he has 22 years of experience in the managerial and personnel field.

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Three new positions in the risk management department at Gold Kist Inc. in Atlanta have been filled. **Joy Cook,** 28, joined the department as workers compensation claims supervisor for the self-insured program. She had been with Chubb & Sons supervising workers compensation claims for six southeastern states. In addition, **Gregg Gill,** 21, and **Bill Ephridge,** 23, both June graduates with degrees in risk management from the University of Georgia, were hired as risk analysts. The risk management department is directed by Robert E. Rich.

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We'd like to report on staff changes in your risk management or employe benefits department. Just drop a note to Rebecca A. Fannin , Business Insurance, *708 Third Ave., New York, N.Y. 10017 or call 212-986-5050.*

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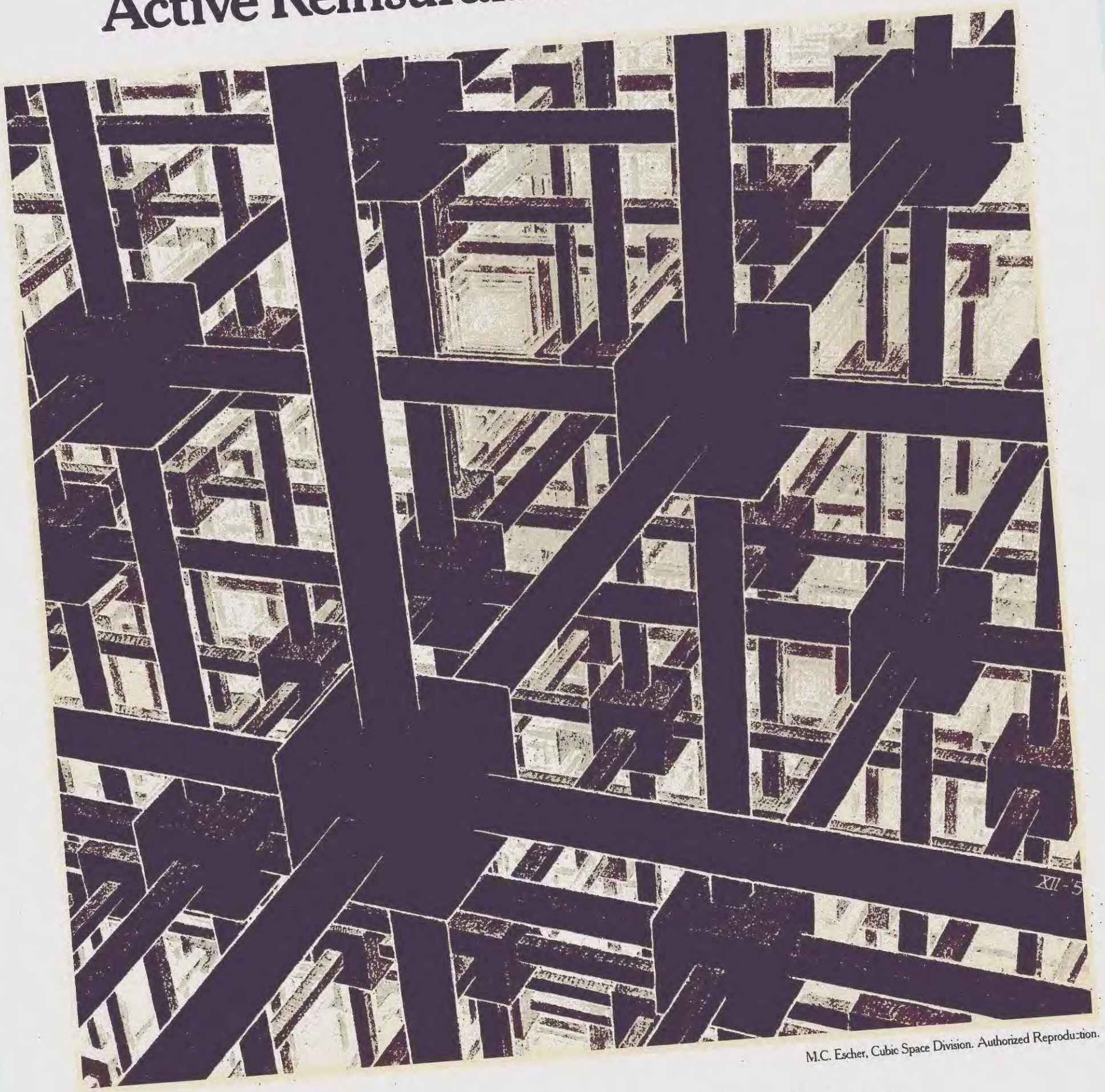

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