

Court, Labor Dept. boost state efforts

By GREG DAVID

CHICAGO—Efforts by state insurance officials to regulate self-funded multiple employer trusts received two crucial boosts this month.

A federal judge in Arizona ruled that VIP Insurance Trust was not a legitimate employee welfare plan under the Employee Retirement Income Security Act (ERISA), but was created merely to evade state regulation. The decision is the first direct court ruling on whether a trust is to be regulated under ERISA or state insurance laws.

And the U.S. Labor Department filed a friend of the court brief in a Kansas court case, arguing that Employee Security Benefit Assn. is not an employee welfare plan under ERISA. Although more limited than the Arizona decision, the brief marks the first time the department has taken action against a self-funded multiple employer trust.

"The Arizona case is the starting point for settling the multiple employer trust issue," said David Brummond, counsel for the National Assn. of Insurance Com-

missioners (NAIC). "Now we can use the VIP situation as our focal point to draw analogies from that case to other cases."

The Labor Department action "is intended to strengthen the hand of state authorities in protecting the interests of their citizens who have purchased health benefits from insurance type organizations which are not regulated under the pension reform act," said Carin A. Clauss, solicitor of labor.

The future of self-funded multiple employer trusts could be jeopardized if the two developments forecast a trend. The trusts will be declared unauthorized insurers if they fail to win the protection of ERISA's preemption of state insurance laws. Most state officials say they will act to terminate the trusts and arrange coverage for the participants if their authority is upheld.

The trusts provide medical and death benefits and file with the Labor Department as employee welfare plans under ERISA. But the Labor Department has not accepted jurisdiction and no reg-

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business insurance

the national newsmagazine of loss prevention, risk financing and employe benefit management

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Trade groups intensify work to find insurance

By JERRY GEISEL

WASHINGTON—Trade associations are expanding their efforts to meet their members' urgent needs for insurance at an affordable price by establishing captives or sponsoring group insurance programs.

"I really don't know of an association in Washington that isn't in the process of setting up a captive or conducting a survey to test the feasibility of a group program," said Edwin Wheeler, president of the Fertilizer Institute.

Consultants such as William Hare, president of Risk Administrative Services in Greenwich, Conn., report a flurry of inquiries from association chiefs who believe a captive or other group routes can mean better and cheaper insurance protection for members.

The National Machine Tool Builders Assn., the Fertilizer Institute, the National Swimming Pool Institute, the Independent Bakers Assn., the Roller Skating Rink Operators Assn. and the National Tire Dealers & Retreaders Assn. Inc. are among the dozens of trade associations that have explored setting up new group programs.

In addition to captives, many associations are trying to arrange master policies to provide their members with insurance.

Brokers generally agree that the burgeoning interest in association group programs stems from members' problems in obtaining liability policies, particularly in layers just above primary coverage.

Experts disagree, however, on

whether the expansion of trade association group programs portends a major shift in insurance buying practices.

An association's success in establishing an insurance program in one area is bound to stimulate demand from members that more programs be created, contends Mr. Wheeler of the Fertilizer Institute.

If a trade association, for example, runs a successful captive offering product liability insur-

ance, members will ask: "Why can't you take my workers' comp, motor vehicle, business interruption, theft and so on?" said Mr. Wheeler.

But others, such as George Corde, corporate senior vp at Frank B. Hall, believe association insurance activities will be limited to specific areas where association members share common affordability problems.

"You don't see industry cap-

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Airline premiums up 20% in wake of crash

By REBECCA A. FANNIN

NEW YORK—Premium increases for three major airlines have not been as large as early predictions suggested following the worst disaster in aviation history in the Canary Islands last March.

Increases have been less than 20% for the three airlines who have renewed coverage since the crash, according to one account executive familiar with the renewals. Increases were first projected at 20% and up to 40% to 60% for airlines with "less attractive" loss records, he said.

U.S. airlines have been watching the first renewals to determine what impact the Canary Islands crash might have on their own insurance rates. Judging from the three airlines who have renewed their hull and liability insurance, Delta Airlines, Eastern Airlines and Northwest Airlines,

the aviation insurance markets may not be as critical as expected.

Delta Airlines, who has "one of the best loss records," experienced a "slight" increase in premiums, according to Johnson & Higgins which handled the account through the Atlanta office.

Eastern Airlines is "very pleased" with the premium rate it received, said insurance director William Ott. The account was handled by Joseph Hamill, vp at Alexander & Alexander Inc., who declined comment.

Specifics on the Northwest account couldn't be obtained from either Northwest's broker or insurance director. But presumably the premium increase was less than the 20% increase overall reported for the three airline renewals.

The three airlines are insured by the London market and by the two largest aviation pools in this

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The inside story

Tort reform

Are you having difficulty keeping up with tort reform legislation in the various states? To help, we've compiled a score card on legislative action. Our first chart, which will run periodically, appears on Page 25.

Air bags

Securing product liability coverage shouldn't be a major problem for air bag manufacturers. But some companies are worried about the cost of litigation. Page 15.

Elsewhere:

- AT&T revamps its pregnancy benefits program as part of its new contract. Page 4.
- BLUE CROSS wins a \$120 million group insurance pact but Aetna cries foul. Page 12.
- END TO FORCED retirement may reduce benefit costs at Connecticut General. Page 16.
- CLOROX CLAIM form preserves privacy, helps to hold down costs. Page 17.
- COMPETITION from HMOs can hold down costs. Two HMOs eye the New York market. Page 21, 22.
- BRITISH DOCTORS reject a new medical malpractice scheme. Page 34.

Court ruling ices trail for ski area operators

By KATHRYN McINTYRE ROBERTS

BURLINGTON — Vermont ski area operators will watch the state supreme court as well as the sky this winter to read their business prospects.

A recent decision here finding a ski area negligent in the maintenance of a trail is heading for

appeal. The supreme court ruling could have as much effect on Vermont's downhill skiing business as each season's snowfall.

At issue are a \$1.5 million award to an injured skier and the long standing doctrine of assumption of risk as applied to skiing accidents in Vermont.

At stake are the cost and avail-

ability of liability insurance for ski areas which generate \$110 million of business annually in Vermont. One major underwriter says it may have to withdraw from the ski area market if the verdict is upheld.

The suit that has ski area operators and underwriters more skittish than a skier on the season's first run was brought by James Sunday against Stratton Mountain Corp. While skiing at Stratton Mountain in 1974, Mr. Sunday fell, striking his head on a rock. The accident left him a quadriplegic at 21.

Mr. Sunday charged he fell when his ski tip caught some underbrush in the trail. Testimony conflicted during the trial earlier

"If this is upheld, whenever a skier is injured he'll be able to collect."

—Dennis Busti, American Home

this summer on whether there was any brush on the trail.

Stratton Mountain's defense attorney moved for a directed verdict at the end of testimony based on the doctrine of assumption of risk, a defense that has stood in Vermont since a 1951 federal court decision there.

Assumption of risk, said lawyer and ski writer I. William Berry, "means what it sounds: That anyone who knowingly participates in a hazardous activity like skiing accepts the risks that normally run with it."

But the superior court judge

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The people column page 42

Number of deaths uncertain

Oxygen line switched in emergency room

By KATHRYN McINTYRE ROBERTS

NORRISTOWN, Pa.—Oxygen and anesthetic gas lines in a hospital emergency room here were switched for nearly seven months so that patients prescribed oxygen actually received nitrous oxide.

The president of the hospital's primary insurer said widespread reports that possibly 35 deaths at Suburban General Hospital were related to the mistake were inaccurate.

Three hundred persons were administered the anesthetic instead of oxygen between the opening of the emergency room on Dec. 15 and July 6.

On July 6, a doctor administered a drowning victim what he thought was oxygen. But the patient's condition worsened. After successfully treating the patient with oxygen from a portable unit, the doctor tested the gas lines feeding the emergency room cubicles and discovered the oxygen/nitrous oxide switch.

It's unknown how many of the 300 emergency room patients administered nitrous oxide instead of oxygen were adversely affected. Experts say nitrous oxide is a very safe anesthetic and small concentrations should not hurt most emergency room patients even if

administered inadvertently.

A dangerous situation could develop, they say, if a person in desperate need of oxygen is instead administered nitrous oxide, especially if the anesthetic is given in a high concentration. The substitution of oxygen for nitrous oxide, however, does not present any danger since oxygen is routinely administered with the anesthetic, the experts say.

"Inflammatory and prejudicial statements" regarding the gas line mix-up at the suburban Philadelphia hospital have been reported in the press, charged the president of the hospital's general and professional liability insurance company.

Donald G. Steffes of the Pennsylvania Hospital Insurance Co. (PHICO) said that of the 37 deaths in the emergency room during the period the lines were switched, 24 were dead on arrival. There "may have been a causal connection" to the switched gas lines in five of the deaths, Mr. Steffes said, instead of 35 as had been reported.

PHICO is the captive capital stock company of the Hospital Assn. of Pennsylvania, chartered in January 1976. It provides professional and general liability insurance to 178 hospitals and 3,500

physicians.

PHICO picked up the coverage Jan. 13 on Suburban General from Chubb & Son Inc. Chubb & Son, however, would not discuss its involvement, saying, "The hospital has asked us not to comment on the insurance coverage."

The PHICO malpractice policy is on a claims made form to the state-mandated limits of \$100,000/\$1 million for the hospital and \$100,000/\$300,000 for physicians. Above that primary, the state's Medical Professional Liability Catastrophe Loss Fund provides the first \$1 million/\$3 million of coverage.

The catastrophe loss fund was established in Pennsylvania by the Health Care Services Malpractice Act of 1975. A 10% surcharge applied to primary medical malpractice insurance written in the state finances the catastrophe loss fund. The fund's current assets exceed \$12 million.

In addition to establishing the catastrophe loss fund—as well as mandating the primary malpractice insurance coverage and providing a joint underwriting association to those who cannot find insurance in the commercial market—the malpractice law established a mandatory arbitration procedure to settle medical malpractice claims.

That procedure was recently declared constitutional by the Philadelphia common appeals court in a challenge from alleged victims of malpractice who argued they had a right to a jury trial. The judge ruled a trial could be requested only after the arbitration procedure had been completed.

PHICO president Steffes said his company will make "every effort" to settle directly with the claimants any legitimate claims arising out of the gas line mix-up at Suburban General.

Who should have tested for switched gas lines at the hospital is an issue of fact yet to be determined.

"The contractor failed to follow specifications and inadvertently wrong connections were made in the hospital's medical gas pipeline system affecting certain outpatient areas including the emergency room," the hospital administrator said in a press release. He admitted the hospital had not tested the lines, asserting that such a test was the contractors' responsibility.

An attorney for the subcontractor who installed the lines has said his client was required to perform only a pressure test on the lines and that the gases were introduced to the lines after the pressure test was completed.

In a similar incident in a new hospital in Texas in 1971, a woman died in childbirth when she was administered nitrous oxide instead of oxygen due to switched lines. Her family was awarded \$2 million in damages after a jury found the hospital guilty of gross negligence. The contractors were excused from liability. ■

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Negotiations lag

Mattel D&O lawsuit moves toward trial

By JOANNE GAMLIN

LOS ANGELES—Efforts to work out an out-of-court settlement between Mattel Inc. and Marsh & McLennan in a complex directors and officers insurance lawsuit are not making progress, attorneys say.

The case will probably go to a jury trial sometime this year.

The litigation stems from a 1975 agreement between Mattel and its three directors and officers insurers. The insurers—the London market, Unigard Mutual Insurance Co. of Seattle and International Surplus Lines Insurance Co. (ISLIC) of Chicago—agreed to pay \$13.8 million toward a \$30 million settlement of five class action suits.

In return, Mattel agreed to sue Marsh & McLennan, charging the broker failed to notify the excess underwriters of a lawsuit pending against Mattel's officers and directors.

During a mid-August hearing on motions to suppress evidence, both Mattel attorney Greg Smith and Marsh & McLennan counsel Maurice C. Inman said a jury trial appears likely.

Mr. Inman said that he had asked the California appellate court to review a decision made in July by Judge Arthur Marshall to dismiss Marsh & McLennan's cross complaint against Mattel.

He said he will know by the end of August whether or not the higher court will review the decision. If it does, a jury trial will be postponed for several months, he added.

However, if the appellate court does not accept the case, the jury trial could begin in September, he said.

In the motions in mid-August, attorneys for Mattel argued that a 300-page report issued in 1975 by a special counsel be excluded from evidence during a jury trial. The report, required by a consent decree between the toy maker and the Securities & Exchange Commission, pictured Mattel as a concern that was so anxious to push up the value of its stock that it falsified its books during 1971 and 1972 fiscal years.

Mr. Smith said the report should not be presented to a jury because it is essentially hearsay. Counsel for Marsh & McLennan countered that the report should be brought into evidence. They said it is bound up with the settlement agreement which they described as "improper as evidence of damages" on grounds that it includes payment of D&O claims for conduct which under California law cannot be insured. California law forbids the payment of D&O claims for felonious conduct.

"Since the claims were not insured claims, they could not give rise to a claim by Mattel against Marsh & McLennan," said an M&M attorney.

Judge Arthur Marshall, who is presiding over the case, will rule on the motions later this month. ■

Chances of dying

Your chance of staying alive in the summer is better than during any other season. That's the word from the American Council of Life Insurance, which points out that traditionally the nation's death rate is substantially lower during July, August and September. Fewer deaths from respiratory disease is the major reason.

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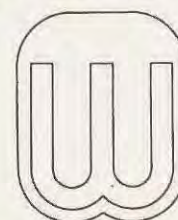
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the benefit beat

N.Y. law clarifies disability pay for pregnancy

DISABILITY BENEFITS for pregnancy are now required in New York under the state workers' compensation law. The legislation signed early this month limits benefits for a normal pregnancy to eight weeks; a pregnancy with complications will result in benefits for 26 weeks. Since the beginning of 1977, pregnancy disability benefits have been required in New York under a court ruling based on the state's human rights law. The new legislation appears to move supervision of the benefits from the state human rights commission to the workers' compensation board.

However, 15 airlines have filed suit in federal court in New York City to overturn pregnancy benefits. The suit contends that the Employee Retirement Income Security Act (ERISA) preempts any state requirement for specific benefits, that pregnancy benefits result in increased compensation for women employees and are thus illegal under the 1964 Civil Rights Act and that state regulation of airline benefit packages is preempted by the federal Railway Labor Act.

ERISA does not preempt state regulation of disability plans, but the attorney for the airlines, Dean Booth, says the issue of benefits for the period between the court ruling and the new law keeps the issue alive. The suit is one element in a broad campaign to restrict state regulation of employee benefit programs.

CONNECTICUT GENERAL INSURANCE CORP. in Hartford has improved its dental benefits and changed its medical care plan for its 11,900 employees and retirees. Preventive dental services will be provided without a deductible up to 80% of the total cost. Connecticut General has increased its contribution for periodontic expenses from 60% to 80%. In addition, the company has changed its cost-sharing principle for medical care benefits. When this cost sharing was initiated in 1974, the employees shared 17% of the cost, but this portion has drifted to 13%. Under the new principle, adjustments will be made each year to keep the employee's contribution at 15%.

DOW JONES & CO. Inc. reached a tentative agreement for a one-year contract to improve medical and dental benefits. The company will pay the full dollar cost of all current health insurance premiums and will make this payment retroactive to Feb. 1, 1977. Hospitalization coverage for mental and nervous disorders will be raised to 60 days from 30 days. The company's contribution for radiotherapy treatments will rise to a maximum of \$500 from \$250. Payments for in-hospital doctor visits will be raised to \$15 a visit to a maximum of 120 days. Previously, the company contributed \$15 the first day of hospitalization, \$10 the second day, \$6 for three to 14 days and \$5 for 15 to 120 days. In addition, the dental insurance deductible has changed to \$50 per family per year or a maximum of \$25 per individual per year from a maximum of \$25 for two individuals per year. The allowance for diagnostic x-ray and lab exams will be raised to \$125 from \$75. The changes will increase Dow Jones' monthly contribution for family plans by \$10.61.

Javits, one of the law's major authors. The New York Republican urges adopting a five instead of 10-year schedule for full vesting, establishing cost of living increases in pensions, expanding requirements for providing pension benefits to surviving spouses and creating limited individual retirement accounts for employees in plans with low employer contributions.

Sen. Javits also recommends a single, SEC type agency take over enforcement of ERISA in 1980, with dual jurisdiction of the Labor Department and Internal Revenue Service to continue until then. He would also delay by one year the date multiemployer pension plans would be eligible for termination insur-

ance. Sen. Javits fears a large number of multiemployer plans are planning to terminate on Jan. 1, greatly increasing PBGC liabilities.

Sen. Javits also said that Congress did not intend sweeping preemption by ERISA of state regulation of employee benefit plans. Either Congress should allow for additional state regulation or new federal standards should be enacted for employee welfare plans, he added.

TOSCO CORP. in Los Angeles instituted a contributory dental program this summer. The plan is underwritten by the Prudential Life Insurance Co., the company's medical and life insurance carrier. The plan pays 70% the first

year, 80% the second, 90% the third and 100% thereafter. "A covered employee has to go to a dentist once a year or he will drop back to the first status," explained Joe Osborne, corporate manager of insurance. Approximately 1,500 salaried and hourly employees are covered by the plan.

BOISE CASCADE Corp. has made five key improvements in benefits for 9,000 salaried workers. The Boise, Idaho, company boosted the maximum on its major medical program to \$500,000 from \$50,000, raised the maximum under its long term disability program to \$3,600 a month from \$1,500 a month, upped maternity expense for normal delivery to \$1,000 and placed com-

plications for pregnancy under the hospitalization plan rather than a set schedule. The company added an optional, contributory life benefit for dependents. The company pension formula was also upgraded to 1.25% from 1% of years of service multiplied by average monthly compensation for the highest five of the last 10 years.

A PREMIUM INCREASE for the termination insurance provided by the Pension Benefit Guaranty Corp. seems likely. The agency said it will ask Congress to increase premiums to \$2.25 a year per employee from \$1 per employee. The PBGC said the increase is necessary since pension plans

Continued on page 4

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Benefit beat . . .

Continued from page 3

have been terminating at a much higher rate than was anticipated. According to the PBGC's annual report released earlier this month, the single employer termination fund had a deficit of \$41 million.

HUNT-WESSON FOODS Inc. is taking a large step toward self-insuring its group health and dental plans. The Fullerton, Calif., company went to a minimum premium arrangement for its medical insurance program July 1, according to Mrs. Eugenie M. Bodenhoff, director of benefit planning and development. The company had been on a conventional premium set-up. "Our goal is to be completely self-insured for medical coverage by July 1, 1978," she said. The com-

pany became completely self-insured for its three-year-old dental plan on July 1. The long term disability plan is expected to be self-insured by Oct. 1.

THE PBGC has proposed rules for allocating assets of a terminating defined benefit plan that was created by a merger. The proposal ensures that funding of participants' benefits will not be reduced because of a merger. The proposal would permit merging plans to use a special Internal Revenue Service schedule for allocating assets if they subsequently terminate. Benefits funded prior to the merger are paid before plan assets are used to pay other benefits not previously funded, said PBGC acting executive director Matthew M. Lind. Public comments on the

proposal are requested by Sept. 16. They should be sent to the PBGC, 2020 K St., NW, Washington, D.C. 20006.

Benefit Beat keeps insurance and employe benefit managers up-to-date on what other companies are doing and informed of current developments in the employe benefit field. We'd like to know if you've made any changes or know of any significant developments. Write Benefit Beat, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call (312) 649-5279.

Harnett post

Thomas A. Harnett, former New York state superintendent of insurance, has joined The Travelers Insurance Co. as senior vp and counsel. Mr. Harnett will be responsible for property and casualty claim litigation.

Other improvements

AT&T pact revamps pregnancy benefits

By JERRY GEISEL

WASHINGTON—Major boosts in medical and dental benefits and a completely revamped pregnancy disability program highlight the new three-year contract between American Telephone & Telegraph Co. and its three big unions representing 700,000 workers.

While the \$3.3 billion pact will lift AT&T's health insurance costs 4.2%, according to the Communications Workers of America (CWA), the agreement takes aim at rising health care costs by mandating that a worker seek a second medical opinion before un-

dergoing major surgery. AT&T will foot the bill for the second opinion.

For the first time, AT&T, the country's largest private employer, agreed to treat pregnancy like any other disability. Sick leave benefits will be extended for up to six weeks after delivery.

If a woman is unable to work because of a pregnancy-related complication she will receive disability benefits until she can return to her job. This key provision complies with legislation pending on the U.S. Senate floor requiring employers to treat pregnancy on the same basis as any other disability in terms of receipt of fringe benefits.

Survivors of deceased union employees will be allowed to continue the basic medical plan coverage by paying premiums at the regular group rate.

In addition, all Bell System companies will provide coverage for treatment of alcoholism, pap smears and chemotherapy treatments. The 270-day waiting period to qualify for pregnancy care also has been eliminated.

The telephone company's dental plan has been broadened to cover employees who retire after Aug. 6, 1977, the day the agreement was reached.

Beginning next January, payments to all employees for diagnostic and preventative dental work can be made twice in any calendar year; the old limit was once every six months. A year later, the dental plan will be expanded once again to cover orthodontic and preorthodontic work for each dependent child under 19.

Other highlights of the plan, which covers workers in the Communications Workers of America, the International Brotherhood of Electrical Workers and the Telecommunications International Union, include:

- Pension increase totaling 28% by the end of the contract. A minimum pension for an employee with 40 years of service will rise from \$200 a month to \$275 a month.
 - A savings stock plan with employees allowed to contribute \$5 to \$20 a week, 50% of which Bell will match, in AT&T stock.
 - A supplemental pension paying as much as \$250 a month for up to four years for workers laid off or downgraded because of automation or technological change.
 - A pay protection plan for employees demoted to lower paying jobs in cutbacks. A worker with 15 years of service would continue to earn his previous higher salary for 56 weeks.
 - Extending disability payments for as long as a worker cannot work. The old limit was 52 weeks.
- Ratification of the pact is expected by the end of month, a spokesman for AT&T said. ■

German measles

The danger of a pregnant woman contracting German measles (rubella) is rising. The Health Insurance Institute says the disease can seriously harm unborn babies, especially if the infection occurs during the early months of pregnancy. Government figures show an alarming increase of 69% in the number of German measles cases reported for the first third of this year.

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The better the plan, the better the work. Here, Homer J. Olsen, right, and project manager, Stan Summers, confer on the site of a recent Bay area job.

Construction begins in the mind. And insurance is part of the planning.

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A while back, Olsen won a bid to modify the San Francisco International Airport parking structure. Upgraded earthquake standards were among the reasons to alter the basic design of the partly completed facility.

Numerous cracks had already developed in the original structure. These were documented and made

known to the project management. Employers Insurance was involved in this alert, to protect our policyholder from claims that may have stemmed from pre-existing conditions.

Armed with seismic measurements and other scientific data, the Olsen firm proposed an unorthodox, but effective solution. Instead of beginning at ground level, they took their equipment to the top floor and made openings through the lower elevations to allow pile driving from the top of the building. And during all of this work the facility was able to accommodate the parking of up to 3,000 cars per day.

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Insurance cancelled for Kent State gym

By FRANK MARKOWITZ

KENT, Ohio—Insurance coverage on construction of a \$6 million Kent State University gymnasium has been cancelled due to fears of vandalism by demonstrators.

The site is near a hill where National Guardsmen killed four students and wounded nine others in a May 1970 antiwar demonstration. More than 200 persons have been arrested recently for occupying the area which they believe should be preserved as a memorial.

No vandalism has yet occurred

and the supervising state architect said he cannot recall another cancellation for such a reason in 20 years.

The Cleveland office of Fireman's Fund American Insurance Co. notified the Ohio Department of Administration Services that it was cancelling the contractor's building risk policies effective Aug. 15.

Fireman's Fund did offer by letter to insure all risks "excluding the perils of riots, riots attending a strike, civil commotion, vandalism and malicious mischief and any loss or damage thereof."

The contractor, Bucky Arnes Inc. of Stow, Ohio, carried two policies underwritten by Fireman's Fund. The first covered the site itself for \$190,000, with a \$500 deductible. The second, on construction, carried a \$3.8 million limit and \$500 deductible, according to Carl Bentz, the state architect.

After receiving 30 days notice, the contractor contacted a number of other insurance companies. Six have declined to insure the vandalism coverage, despite offers to increase security, install lights and erect a cyclone fence, Mr. Bentz said.

If the contractor is unable to find coverage, Mr. Bentz added, the state will probably agree to insure the risk.

"That's the impression I got," said Gordon Arnes, president of Bucky Arnes. "We furnished a policy. That's all they (the state) can expect from us. The cancellation is due to problems we have no control over."

Mr. Arnes said he didn't think "it's even remotely possible" that the site will be moved to a location more agreeable to the demonstrators.

Such a move reportedly, would cost at least \$1.7 million.

However, it was reported that the president of the university, Dr. Brage Golding, met with the trustees in mid-August to consider moving the site.

Because of court delays initiated by attorneys for the protest group, construction had proceeded for only one day by the Aug. 15, cancellation date. Protestors, assembled from numerous colleges and political groups, argued that their right to petition the Department of Interior to declare the site a historic landmark would be violated by construction.

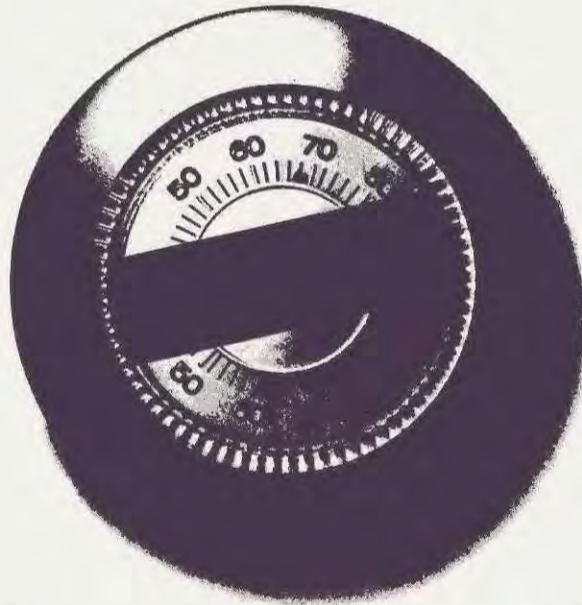
The state architect said a request for "review and comment" on the cancellation had been filed with the state attorney general. An investigator for the Ohio insurance department said, however, that the cancellation had been legal and reasonable.

Unlike the case with automobile insurance, he explained, there are no statutes regulating commercial policy cancellations. Since Fireman's Fund observed the cancellation clause in its contract, he could see no room for complaint.

Employment

The number of people employed by insurance companies in the U.S. has nearly tripled since 1945. In 1945, according to the American Council of Life Insurance, the insurance business employed some 600,000 people. By the beginning of last year, insurers employed 1.7 million people.

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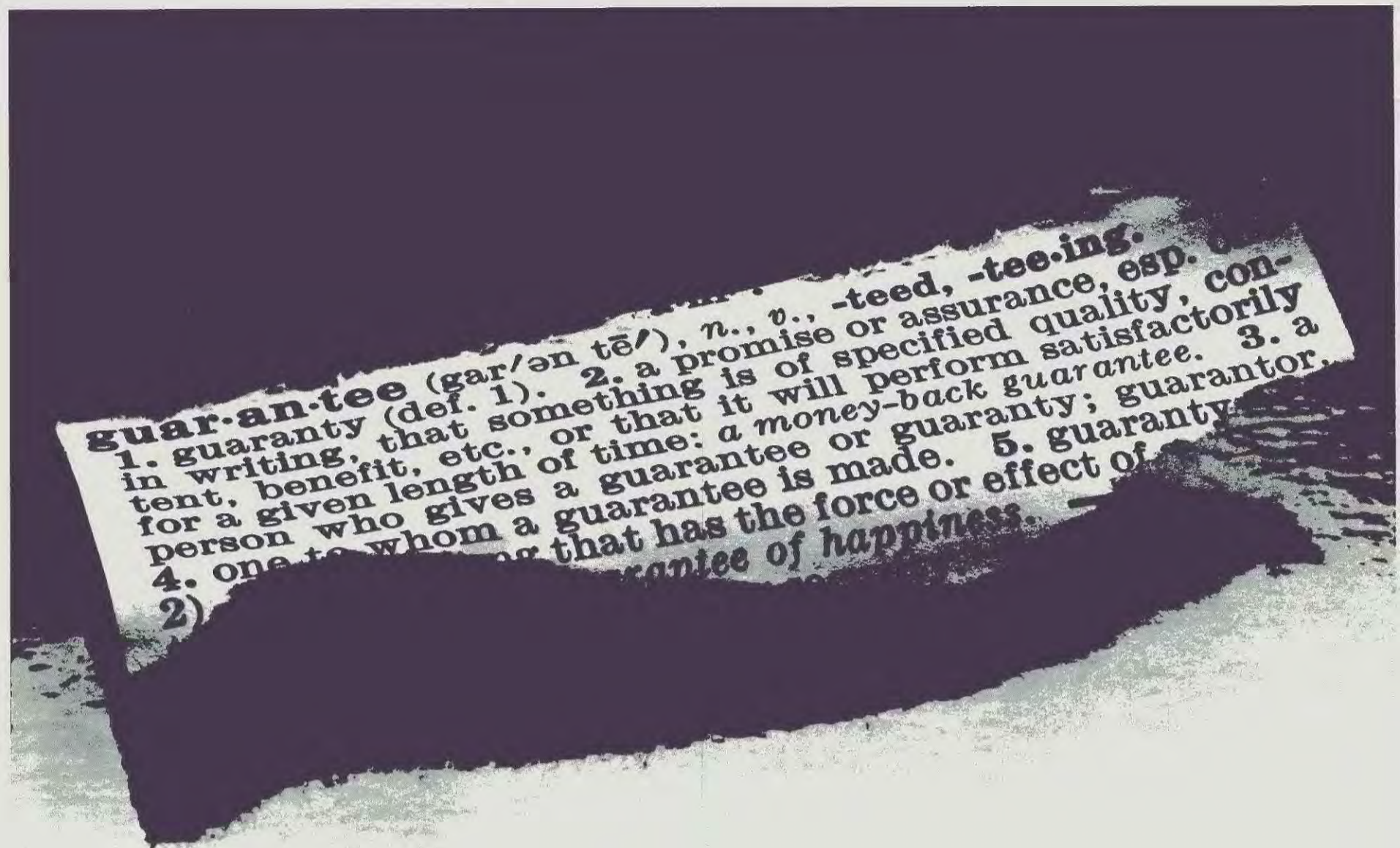
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editorial opinions

Why has OIL capped the information flow?

OIL IS SLIPPERY these days. Not the stuff in the can, but Oil Insurance Ltd. (OIL), the petroleum industry's mutual insurance company based in Bermuda.

A *Business Insurance* editor set out several weeks ago to do an update story on the six-year-old captive in light of Aminoil's re-entry and some reports we'd heard that members were disgruntled about big premium hikes following a couple of years of heavy losses.

Since OIL's founding in 1971, we've watched to see if the company would indeed become *the* insurance company of the international petroleum industry, as it was touted to be at its inception. We also try to check out the grapevine reports. If we've heard them, others have too and we wanted to set the records straight.

But OIL, after years of promoting itself and having favorable stories in these pages, won't cooperate.

One explanation is that the oil industry in general is touchy these days about publicity in the wake of OPEC's oil embargo, the ensuing energy crunch, subsequent record-breaking profits and news of questionable payments by oil companies around the world. Some OIL members, we're told, are afraid the general press would get hold of any story about OIL and misconstrue it, leading to a feared headline on the order of "Oil industry shuffles dollars in Bermuda."

Another reason OIL no longer wants to give out any figures to *BI* for stories, we heard, is because it no longer wants or needs new members from among the U.S. petroleum industry. Instead, OIL now seeks "international" members, a source said, assuring us that an American oil company wouldn't be turned away but wouldn't find a welcome mat.

We're left wondering if we weren't "used" by OIL. We've done periodic updates on OIL with its members' cooperation until after we did a story about Gulf Oil Co.'s announced pullout from OIL in 1975. Then the cold war began, with OIL turning down our queries. If anything, we've been advocates of captives over the years, helping OIL along the way, only to get the cold shoulder when we wrote about some OIL

members choosing to go their own way.

Nonetheless, we've tried to check out the latest reports and can pass along the information that OIL is apparently doing well, thank you. Although the last two years reportedly have seen heavier losses, the first three were so remarkably good that the last two are being viewed as "what you could expect."

Standard premiums reportedly have risen as much as 20% because of the losses.

Moreover, Aminoil is back in OIL as of last January, just six months after it had withdrawn from the mutual when it was purchased from Burmah Oil. This leads us to believe the captive is competing well with other markets. According to a list published for members earlier this year, OIL now has 34 members. Members include:

Amerada Hess Corp.
Aminoil USA Inc.
Ashland Oil Inc.
Atlantic Richfield Co.
Champlin Petroleum Co.
City Service Co.
Louisiana Land & Exploration Co.
Marathon Oil Co.
Murphy Oil Corp.
N. I. Ltd.
Omnium Insurance & Reinsurance Ltd.*
Padana Assicurazioni
Coastal Offshore Insurance Ltd.*
Consolidated Natural Gas Co.
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Sun Oil Co.
Superior Oil Co.
Tenneco Inc.
Union Oil Co. of California
Vickers Energy Corp.

We'll keep you up-to-date on tort reform

MUDDYING THE WATERS of tort reform is the confusion caused by the many different legislative proposals winding their way through state lawmaking bodies. Although many of the reform measures aim to change, for example, the statute of limitations prevailing in a particular state, the bills contain many variations on that theme, making it difficult to keep track of what kinds of altered statutes are being proposed.

It's enough to make you want a score card, in fact. So that's what we're giving you, starting in this issue of *Business Insurance*. We want you to be able to quickly ascertain the status of bills proposed in each state and the provisions for tort reform in each bill.

We want you to be able to get involved in supporting or opposing the bills pending in states where you do business.

To those ends, we've devised the score card of tort reform measures that appears on page 25. The chart will reappear regularly so you can clip it out, tack it to the bulletin board next to your desk and keep a running tally of what bills are going where.

If you have information that should be contained in our next score card, or that updates what we've got, please give us a call or jot us a note. If you have a question about the particular provisions of a bill introduced in a state legislature, feel free to give a call to Jerry Geisel, our Washington editor and expert on pending product liability legislation. Jerry's compiling the charts for us, with the help of several trade associations. Call him at 202-638-5300 or write him at *Business Insurance*, 1253 National Press Building, Washington, D.C. 20004.

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.

Biorhythm

To the Editor: I would like James A. Knight III, the author of "Biorhythm is a tool to reduce accidents" (June 27) to identify any scientifically valid studies that would confirm his supposition that "... people are three to four times more accident-prone on (their biorhythmically) critical days."

Further, I would be interested in any response that Mr. Knight would care to make to the charge that the basic tenets of Wilhelm Fliess's 23 and 28 day biorhythm cycles are numerical pseudoscience and Teutonic crackpottery.

Barry B. Schweig, Ph.D.
CPCU, CLU

Visiting Assistant Professor of Finance, the University of Nebraska-Lincoln, Lincoln, Nebraska

Mr. Knight replies: The statement that people are three to four times more accident-prone on critical days is based upon the results of various studies cited by George Thommen in his book, "Is This our Day?", as well as the findings of my own studies. I cannot comment on the scientific validity of the studies reported on by Mr. Thommen. However, I can substantiate the results of my studies.

I have run biorhythm correlations on the employe-drivers who were involved in 189 automobile accidents and on the employes injured in 294 work accidents. Work injuries arising from auto accidents were counted only once, as auto accidents.

Of the 483 total accidents studied, 204 (42.2%) occurred on employes' critical days. Critical days occur only 19.2% of the time, so the number of accidents actually occurring on critical days was 2.2 times the number expected. The results would have been even higher had information been available to run biorhythm correlations on the drivers of other vehicles involved in the auto accidents and on co-workers whose actions may have been the cause of many employes' work injuries.

As for your charge that biorhythm theory is merely "numerological pseudoscience and Teutonic crackpottery," my response is that I have used statistics.

Continued on page 10

business insurance

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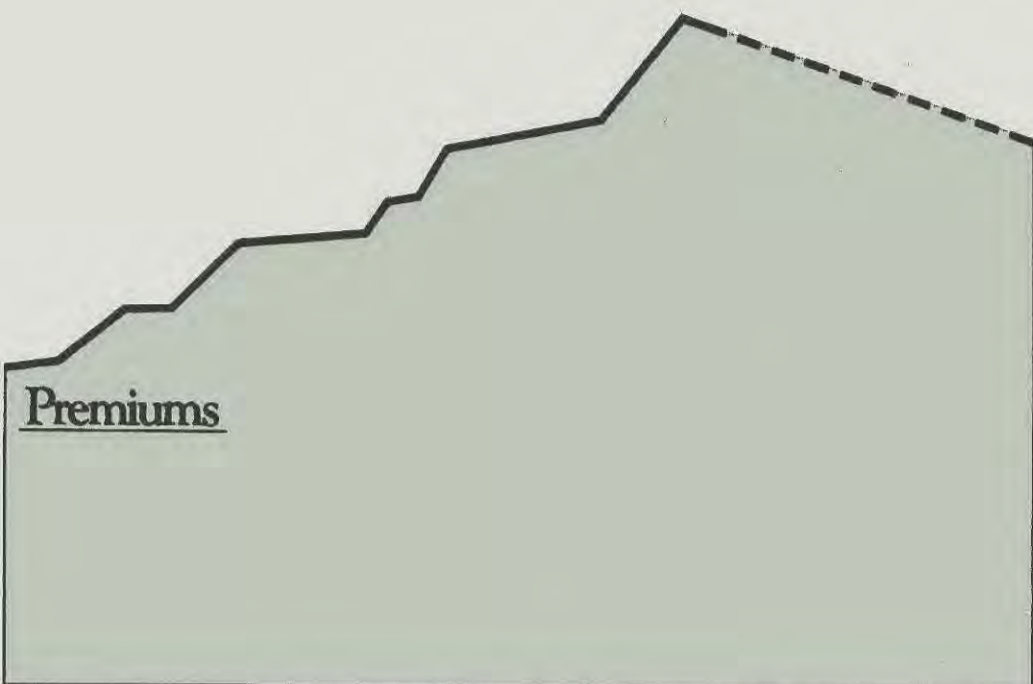
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letters

Continued from page 8
tics, a branch of the science of numbers (mathematics), to test the biorhythm theory; and, to my knowledge, I have no Germanic heritage!

Diabetes

To the Editor: As an insurance executive who suffers from diabetes and takes two shots of insulin daily, I am appalled by James Bosarge's contribution to your May 2 issue. This is quite the most "cock-eyed" article on diabetes that I have ever read (please excuse my English jargon).

I consider myself to be one of the fittest employes in my firm. My health has greatly improved since diabetes was diagnosed 13 years ago following the usual

symptoms of extreme thirst. I look after myself sensibly, eat a balanced diet, travel to the U.S. on business and commute in crowded London trains during winter epidemics etc.

Despite all this I have only had five days sickness off work in 13 years (and none of this was directly attributable to diabetes). In terms of extra expense, I have cost my company absolutely nothing.

R. C. Taylor

Associate director, Wright Deen & Co. Ltd., London

errors & omissions

• A July 25 story about brokers' policies on expense accounts and gifts quoted a broker saying hypothetically, "If you handle the risk of a U.S. Steel or a Continental Can in which you get \$100,000 in commissions you might be able to afford to send their insurance manager to Hawaii . . ." U.S. Steel and Continental Can were mentioned by the broker as examples of huge companies that conceivably could generate large commissions. *Business Insurance* did not mean to imply that any trips had ever been given to the managers of those organizations and apologizes if anyone came away with that impression.

• John L. Wortham & Son Inc. has a total of 203 employes who generated revenues per person last year of \$44,581. Both of these figures are significantly changed from the 164 employes Wortham supplied for the July 25 Agent/Broker Profiles issue. Wortham was shown to have by far the highest productivity per employe at \$55,183. However, Wortham said that 30 partners and nine life agents were omitted inadvertently from the employment figure. Wortham still ranks first in productivity, although by a narrower margin, followed by Frank B. Hall with revenues per employe of \$44,107.

• The reinsurance functions of a discontinued Alexander & Alexander subsidiary, Tower Treaty Corp., have been assumed by Blicaroeeder, Bing & Co. Inc., not Bafco Inc. as reported in the Agent/Broker Profile issue July 25.

Foltz to head RIMS chapter

MINNEAPOLIS—Brian L. Foltz of the Green Giant Co. has been elected president of the Minnesota chapter of the Risk & Insurance Management Society. Barry R. Glaser of McQuay Perfex Inc. has been named vp while Myrna Fallon of the Toro Co. is the new secretary/treasurer.

New directors are Mike J. Dempsey of General Mills Inc., Roger B. Oster of Investors Diversified Service and Russell J. Pisek of Northern States Power Co. ■

Beneficiaries

Women are the prime beneficiaries of life insurance, reports the American Council of Life Insurance. Women were the beneficiaries of 67% of ordinary life insurance policies while men were the beneficiaries in 20% of the policies. Both sexes shared designation as beneficiaries in 5% of the policies, while in 8% of the policies other beneficiaries were named, such as colleges, hospitals, churches and other institutions.

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Blue Cross wins \$120 million contract, but Aetna cries foul

By GREG DAVID

BOSTON—Blue Cross/Blue Shield of Massachusetts won a \$120 million contract to provide health insurance for 78,000 state employees, sparking charges that Blue Cross deliberately underestimated claims.

Aetna Life & Casualty, which previously held the contract but lost in the bidding this time, claimed Blue Cross will face a \$7 million deficit as a result of underestimating claims. Blue Cross denied the charge.

The Blue Cross bid was \$26 million lower than the \$147 million proposal from Aetna, even though Aetna's retention of \$2.4 million was considerably less than the

Blue Cross retention of \$4.4 million, according to William Burke, director of the state group insurance commission.

Blue Cross maintains that the cost of claims will be substantially less than estimated by Aetna and the two other bidders, Prudential and Metropolitan. But an independent estimate by the Martin E. Segal actuarial firm supported the Aetna estimate.

Experts say the cost of claims should be roughly equal no matter who provides coverage.

"In my 11 years in the group insurance business, I have never seen a disparity like this on a large account," said F. X. McClellan, Aetna's director of group opera-

tions.

The guarantee covers the 21-month period from Oct. 1, 1977 to June 30, 1979, although the contract runs until June 30, 1981.

"There is no conclusive evidence that Blue Cross/Blue Shield is wrong," said Mr. Burke, who recommended the commission accept the Blue Cross bid.

"The charges by Aetna are entirely unjust," said Richard Lyons, director of marketing for Blue Cross/Blue Shield. "We could not go into this even thinking that we would lose money. We are a non-profit organization and the deficit would have to fall on our other subscribers."

Mr. McClellan said he suspects that Blue Cross, after failing to

win the contract for several years, went after it at any cost.

"Our bid is based on more recent and more accurate data" countered Mr. Lyons. Blue Cross also contended that its contracts with hospitals result in lower charges for patients with its coverage and that contributed to the lower bid.

But Mr. McClellan said the discount in Massachusetts averages only 3.5%. Since hospitalization is only one element in the package, Mr. McClellan reasoned, the discount could account for only 1% of the \$26 million difference in the bids.

Mr. McClellan predicted the \$7 million deficit would force Blue Cross to ask for a major rate increase in 1979, setting off another round of competitive bidding. Aetna will be in a good position to recapture the contract, leaving other Blue Cross subscribers to pickup the tab, he speculated. ■

Oil firm can't cover its directors

By REBECCA A. FANNIN

NEW YORK—Unidentified directors of Commonwealth Oil Refining Co. have decided against serving on the company's board because Commonwealth hasn't been able to renew or obtain coverage for its directors "despite its best efforts."

Recently, however, the oil refining firm has had "some sort of offer" for coverage. But Commonwealth is continuing to seek renewal with its current insurer or obtain coverage through nine or 10 insurance brokers, a spokesman said.

The firm is seeking coverage from London and U.S. companies. Coverage with the existing insurer, which the spokesman declined to name, expires Aug. 28.

The chances that the existing insurer will renew are 50-50, the spokesman said. Commonwealth's insurer has been hesitant to renew, even with increased premiums, because Commonwealth has had financial difficulties, he said.

Considering these problems, he added, the insurance company's "hesitancy is not unusual."

Presumably insurers would be more favorable toward providing liability coverage if a proposed financing plan is finalized. Ashland Oil Inc. is considering a \$50 million investment in new Commonwealth convertible preferred stock, which would ease Commonwealth's credit problems and give Ashland effective control of Commonwealth's \$1 billion operations.

Ashland backing would also assure Commonwealth of willing directors. Under the financing proposal, Ashland would have the right to designate up to two-thirds of Commonwealth's 14 directors. Ashland has until Sept. 1 to decide whether to purchase the two million shares.

Commonwealth was bailed out by Ashland earlier this spring when it agreed to help Commonwealth obtain raw materials on a short term basis.

Commonwealth "would likely be required to seek judicial protection in a proceeding under the bankruptcy laws," if Ashland decides against the financial agreement, according to a Commonwealth proxy statement.

At the annual meeting of Commonwealth's shareholders, Commonwealth chairman Norman C. Keith said that "in light of the circumstances I can only say that I understand perfectly well the reluctance of some of our directors to place themselves in a position in which they might be subject to substantial personal liability in further service to their company."

Commonwealth's directors are facing several multimillion dollar suits. In one case shareholders said they had been denied crucial information about the company and deliberately misled by certain directors and officers. They said mismanagement had left the company practically bankrupt and demanded damages in excess of "\$100 million."

Another class action alleges that shareholders were induced to buy stock by the "misleading statements" and "material omissions" of the company's managers between April 22, 1975, and April 1, 1977. The suit seeks damages which could run into the millions of dollars. ■

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But companies fear excessive suits

Insurance shouldn't puncture air bag plan

By FRANK MARKOWITZ

NEW YORK—Problems in obtaining product liability coverage shouldn't be a serious barrier to automakers installing passive restraints, say insurers.

Actually the most serious risk may not be the safety of air bags, which insurers rate as very high, but the cost of defending suits brought on by widespread misunderstanding of what the devices are intended to do.

One major air bag manufacturer has been haggling with Ford Motor Co. over splitting anticipated legal fees. The manufacturer is worried that it might be hit with a flood of suits from drivers injured in crashes where the air bag can't afford protection. The devices are only supposed to protect front seat occupants from head-on crashes.

Transportation Secretary Brock Adams, who ordered passive restraints installed in all new autos by 1984, raised the issue when automakers complained that the devices might prove a serious

product liability problem.

The American Insurance Assn. responded that automakers shouldn't have a problem since they commonly self-insure such liability and minimize their risk through hold harmless agreements from their suppliers.

Component manufacturers shouldn't encounter serious difficulties either, according to the AIA. In fact, the association added, two component suppliers, Thiokol and Allied Chemical Corp., had been assured of continued product liability coverage by Aetna Life & Casualty and The Travelers insurance companies.

But some component manufacturers, including Allied Chemical, told *Business Insurance* they are uncertain about obtaining coverage and about the extent of liability they'll be required to assume.

Some cautioned that it's too early to tell what will be available for the 1982-model year, when automakers will be required to phase in passive restraints—unless Congress overturns Secretary Adams' order by mid-October.

Component makers and insurers, however, expressed confidence in air bag safety. Allied Chemical, for example, said it hasn't incurred a single product liability claim since 1972 while producing about 10,000 air bags annually.

But at least one manufacturer, Eaton Corp., is afraid the story may change when air bags are installed on every auto.

"We feel the risk is going to be the amount of litigation, which we feel we can successfully defend, but it's going to be at great cost," explained Dave Otto, corporate insurance manager for Eaton.

"The air bag is very misunderstood. If someone hits you from the rear or side, it's not supposed to protect you. I believe I heard that it's only effective for a head-on crash or up to 30 degrees off to the side."

Mr. Otto said he also fears suits from crash victims, "really lucky to be alive," who receive a minor injury despite successful deployment of the air bag.

If the brakes or other operating system fails, a car crashes and the occupants are injured despite the air bag, who is liable? Mr. Otto said this is being negotiated with Ford now.

Another issue of concern to the risk managers is the extent of hold harmless agreements, in which suppliers agree to indemnify automakers for damages caused by their product.

They have good reason for concern. Aetna refused to insure one supplier if it agreed to a hold harmless clause the insurer considered too broad, according to Oliver Patrell, vp of the commercial lines department.

Eaton is also wrangling with Ford over this issue. Mr. Otto said his firm has so far refused to sign any hold harmless clauses other than a standard declaration of liability on its sales forms.

Talley Industries, manufacturer of inflator units for air bags, is objecting to a requirement by General Motors that it obtain product recall coverage in addition to the usual product liability insurance.

Chuck Lorenz, corporate insurance manager, said the inflator units for test models were insured in the past by CNA as part of a package policy.

Mr. Lorenz said he couldn't yet tell what coverage would be available in the future, but that "with any large company I don't really see that will be a problem."

Smaller component makers may have problems in obtaining coverage, said Kevin Teisman, secretary of Rocket Research Corp., which supplies the propellant cartridge for the air bag.

"My greatest concern is the fact that our company is small relative

to the others in the field, and the cost of product liability could be a very extreme expense for our company to incur to get into the business."

Mr. Teisman said that his broker quoted an "extremely high" estimate for insurance and warned that premiums are climbing rapidly.

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Program is attacked

WASHINGTON—One of the biggest questions in the air bag controversy is whether Congress will even allow the order to stand.

Congress has until mid-October to overturn Transportation Secretary Brock Adams' requirement that automakers phase in passive restraints on their 1982 to 1984 models.

Rep. Bud Shuster has been leading an energetic campaign to overturn the order. His resolution to do so has 156 co-sponsors in the House.

The Pennsylvania Republican also questions the insurance discounts promised drivers of air bag-equipped autos and the safety of air bags themselves.

Rep. Shuster claims the addition of air bags reduces auto insurance rates by less than 1%. He based his statement on quotes from 50 Middle Atlantic region agents on a 1974 Oldsmobile Delta 88, with and without air bags.

According to Rep. Shuster, Allstate Insurance Co. agents offered an average 1.2% discount, Nationwide Mutual Insurance Co. a 0.5% discount and GEICO a 0.75% discount. The largest dollar reduction was an average \$3.44 by Allstate.

A spokesman for Nationwide replied, "The figures that Shuster gave are grossly understated when you look instead at the average figures for all people and not just for a given example. That to me is just unfair."

He noted that discounting insurers had promised 30% off the first person bodily injury premiums only. He claimed this would average \$9 off in Maryland and Pennsylvania and \$3.20 in Washington D.C.

He added that once experience with air bags is gained, they should eventually reduce total auto premiums, including liability, by \$2 billion annually. The value to the average driver would be \$33 in lower yearly premiums, he said.

Rep. Shuster also charged later that the chemical compound used to inflate many air bags, sodium azide, "presents a serious danger if the canister is opened, broken or leaks," especially in abandoned cars.

The National Highway Traffic Safety Administration quickly answered that the usual steel canister containing the compound provides adequate protection; that Allied Chemical Corp. had developed an inflator system which operates without sodium azide and that gasoline tanks and battery acid provided a "far more serious problem" in abandoned cars.

Relief in sight on OSHA forms

WASHINGTON — Employers burdened by a mountain of government forms to fill out will soon find their load a bit lighter.

The Occupational Safety and Health Administration (OSHA) announced last month a new streamlined recordkeeping system that reduces in half the number of accident and injury forms businesses must file with the Labor Department.

Labor Secretary Ray Marshall said accident report forms 102 and 103 will be scrapped and will be replaced with the new easy-to-fill-

out form 201.

The complicated format of forms 102 and 103 were frequently criticized by employers. By contrast, the new form 201, requires employers merely to use a simple check-off procedure for reporting injuries and illnesses.

While the old forms required employers to answer 80 questions, the new format only has 19 entries to be answered, a 75% reduction.

In addition, OSHA also announced a significant decrease in the number of firms required to

participate in the Bureau of Labor Statistics annual survey studying occupational illnesses and injuries.

About 85,000 businesses have been lopped off BLS's annual survey rolls. That brings the sample size to 332,000, a 50% reduction from the first survey conducted in 1972.

In a related development, OSHA said small businesses with 10 or fewer employees will be exempted from all recordkeeping requirements unless they are selected for the BLS's annual survey.

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At Connecticut General

Forced retirement ban may cut benefit costs

By REBECCA A. FANNIN

NEW YORK — Forced retirement at age 65 has been eliminated at Connecticut General Insurance Corp., a move that is expected to reduce the company's expenses for employee benefits by approximately 9% to 10%.

Reduced pension payouts account for the decrease, said Donald D. Illig, director of compensation and benefits.

Pensions will start whenever the employee retires. This will lower the company's pension expense since presumably some employees will elect to work past age 65. Out

of the 11,900 employees at Connecticut General and its Aetna insurance subsidiary, 52 will be affected by the retirement change this year and 400 over the next five years.

The cost of disability plans, however, may increase since older employees who elect to continue working may require more care. But Mr. Illig said this was not the case for Connecticut General since the company has a cap on disability plans. Disabled employees earn 100% of salary until a cap of three months is reached.

The Hartford company's cost for medical care, dental benefits and life insurance generally will not be affected by the end of mandatory retirement because these benefits accrue regardless of whether an employee retires.

The age of the employee, however, is taken into account by the life insurance plan, which reduces by 10% for employees aged 65 until it reaches a floor of 25%.

The decision to end mandatory retirement at Connecticut General comes at a time when Congress is considering a plan to push back the mandatory retirement age to 70 for private companies and eliminate it altogether for federal employees.

The recent changes are an addition to the company's "career choices" program, an effort begun in 1972 that allows employees to retire at age 55.

Last year, employees' choices concerning retirement were made even more flexible by a change in pension plans. Pensions, which were formerly tied to an employee staying on the job until age 65, were revised so that an employee's benefits became fully vested after 10 years service and automatically at age 55.

The flexible retirement plan at Connecticut General will be keyed to an employee's performance rather than the employee's age. Officers and managers in field offices, however, will still be required to retire at age 65.

Employees who earn more than \$12,500 a year will have their performance compared to the company's business plan for the next year. If an employee produces a substandard performance, he is asked to leave, no matter what his age.

Connecticut General said the changes will allow the company to retain the "experience and knowledge" of older employees while still assuring enough mobility for younger employees.

Group to study hazards at work

WASHINGTON—A top level interagency task force is being established to reduce safety and health hazards in workplaces, the White House announced this month.

Labor Secretary Ray Marshall and Office of Management Budget chief Bert Lance will head the task force which is supposed to report with its first recommendations to President Carter by April 30, 1978.

According to a White House aide, the task force will be looking into several possible incentives to supplement workplace safety regulations. These might include tax incentives as well as changes in workers' compensation and liability laws.

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Claim form preserves privacy, contains costs

By MARGARET LeROUX

OAKLAND, Calif.—During a time when privacy legislation and the rights of individuals are being debated nationwide, the Clorox Co.'s do-it-yourself claim filing system for its group health plan is answering employees' needs for confidentiality and the employe benefits department's need to contain costs.

The claim form is actually two forms in one—the physician and employe statements are perforated so they can be torn apart and mailed separately. The form folds into a pre-addressed mailing piece.

Each employe covered under the plan for Clorox salaried and nonunion employes is supplied with the forms, courtesy of the benefits department. That's the last the employe benefits department sees of the forms unless there's a problem with a claim. They are mailed directly to the Travelers Insurance Co., underwriter for Clorox group insurance for more than 30 years.

"The confidentiality is a big plus for the do-it-yourself forms," Maria M. McNally, retirement plans manager and head of the employe benefit plans department, said in an interview.

"The claims are the employe's personal business; there's no need for anyone in our office to know what's contained in them."

The exception being, of course, cost reports. "We continue to receive cost reports—but with no name attached," Mrs. McNally explained. She said that the direct mail system hasn't adversely affected cost control efforts.

Instead, not having to administer claims has meant a savings of one clerical position in the benefits department and improved efficiency in paying the claims.

"We have turnaround time of about seven days for claims sent to the Walnut Creek office of Travelers," Mrs. McNally said. The majority of Clorox employes are in Oakland and surrounding suburbs included in the Walnut Creek area. Some 4,000 employes are covered under the group health plan for salaried and nonunion employes. Five other group plans cover 1,800 hourly employes of the company and its subsidiaries in the U.S., Canada, Great Britain and Puerto Rico.

The do-it-yourself claims filing system is part of a redesigned plan combining medical and dental benefits put into effect in January 1976.

The new plan replaced a base-plus major medical plan that had a larger deductible and smaller lifetime maximum. Under the

new plan the lifetime maximum is \$250,000.

The redesigned plan of combined medical and dental benefits has an annual deductible of \$75 for any combination of expenses. The plan pays 100% hospitalization for unlimited days, including 100% hospital expenses; 90% surgeons' fees with no deductible, and 80% of reasonable and customary medical expenses after the deductible has been satisfied.

Dental coverage includes 80% of reasonable and customary expenses such as fillings, x-rays, extractions and root canal therapy and 50% of prosthodontic charges including inlays, crowns, gold fillings and dentures.

Maternity coverage includes 80% of hospital and physician charges with a \$100 deductible.

'The claims are the employe's personal business; there's no need for anyone in our office to know what's contained in them.'

—Clorox benefit chief

For mental or nervous treatment, the plan pays 50% of the charges while not hospitalized to a maximum of \$1,000 per year when referred by a physician.

The plan is noncontributory for employes; dependents can be included for \$8.50 per month.

Although the redesigned plan increased premiums by 30% of

the previous cost-plus major medical plan to \$1.7 million for 1976, the additional benefits are worth the expense in good employe relations, Mrs. McNally said.

Johnson & Higgins has been the broker for the group health plan since its introduction; before that there had been no broker on the

account.

"I find I need the professional help they provide," Mrs. McNally said. "They can track trends; they know what other companies are doing." In addition, Clorox seeks assistance from consultants and actuaries.

"We can't afford the luxury of being able to do everything ourselves," the retirement plans director continued. She pointed out that Travelers' extensive network of local offices is a big advantage for claims filing under the group health plan.

Clorox was founded in 1913 and until 1969 sold only bleach. Since that time when Proctor & Gamble divested themselves of the company, Clorox has acquired subsidiaries engaged in the manufacture of a variety of retail products.



Photo: Frederick Kent Truslow

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Airlines ground pregnant women

RICHMOND—Airlines can refuse to allow a pregnant stewardess to fly on the basis that she could jeopardize the safety of an aircraft's passengers, a federal appeals court ruled.

The case involved a United Airlines stewardess who filed a class action suit, challenging United's policy of requiring all stewardesses to stop flying as soon as they discover they are pregnant. The suit contended that each stewardess should be allowed to continue to work as long as she could safely perform her duties.

The Fourth Circuit Court of Appeals, however, disagreed, ruling that United's maternity leave policy was a bona fide occupational qualification under the 1964 Civil Rights Act.

dates for buyers

Sept. 6-9: Security in Third Century America, American Society for Industrial Security's 23rd annual seminar and exhibits program in Orlando, Fla. Workshop topics are terrorism, retail security, health care protection, physical security, white collar crime and more. Over 100 security equipment and service companies will exhibit their wares including alarm systems, locks, safes and access and ID communication systems. Cost is \$125 for members and \$160 for nonmembers for admission to all panels and exhibits. Single day admission is \$40 for members and \$65 for nonmembers. Contact: ASIS, Education and Meetings Department, 2000 K. St. N.W., Washington, D.C. 20006; phone (202) 331-7887.

Sept. 7: Fundamentals of Workers' Compensation, a day-long course examining the need for workers' compensation, the mechanics of the system, new laws, the appeals board and costs, in Burbank, Calif. Sponsored by the Training Institute, Greater Los Angeles Chapter National Safety Council, cost is \$75. Contact: Training Institute, 3388 W. 8th St., Los Angeles, Calif. 90005; phone

(213) 385-6461.

Sept. 8: Product Liability Crisis Seminar, sponsored by the Greater Los Angeles Chapter National Safety Council, in Los Angeles. In cooperation with the U.S. Consumer Product Safety Commission and the U.S. Small Business Administration, the seminar is intended to acquaint manufacturers, distributors and retailers with the problems of rising liability claims, increasing insurance costs and the need for legislative reform. S. John Byington, chairman of the product safety commission, will speak. Cost is \$50. Contact: Greater Los Angeles Chapter National Safety Council, 3338 W. 8th St., Los Angeles, Calif. 90005; phone (213) 385-6461.

Sept. 8: Managing Health and Safety in the Chemical Industry, a workshop sponsored by the Manufacturing Chemists Assn. in New Orleans. Topics include women in the workplace, new developments in OSHA and the common tie between health and accident prevention. Cost is \$20. Contact: Milton Frelfeld, Manufacturing Chemists Assn.,

1825 Connecticut Ave., N.W., Washington, D.C. 20009; phone (202) 483-6126.

Sept. 8-9: Health Care Cost Containment Conference sponsored by Charles D. Spencer & Associates Inc. in Chicago. Program is designed for employe benefit managers and will cover company, carrier/provider and community approaches to containing health care costs. Cost is \$185. Contact: Charles D. Spencer & Associates Inc., 222 West Adams Street, Chicago, Ill. 60606; phone (312) 236-2615.

Nov. 7-8: Employe Benefit Communications Workshop, sponsored by Business Insurance magazine, Chicago. A dozen different corporate benefit communications productions will be screened and discussed, focusing on the elements of a prize-winning program; ERISA rules for benefit communication, choosing a consultant, budgeting for benefit communications and the employe and employer view of benefit communications are among the topics to be addressed. Cost for early registration, including meals, is \$285 before Oct. 26 with a 10% discount for additional registrants from the same company. After Oct. 26, registration is \$320 and the 10% discount for additional registrants from the same company applies. Contact: Mary Ann Engelhardt, Crain Education Division, 740 N. Rush St., Chicago, Ill. 60611; phone (312) 649-5241.

INA drops group auto; Travelers adds plans

PHILADELPHIA—INA is getting out of mass marketed group auto insurance. But The Travelers Insurance Co. has picked up some of the slack.

Pacific Employers Insurance Co., an INA subsidiary, has mass marketed group auto insurance along with homeowners and tenants insurance for nine years. But it has "not been profitable" for the last six years that the company has maintained separate records on the line, an INA spokeswoman said.

The underwriter plans to phase out the line, which accounts for 7% to 8% of Pacific Employers' business, by April 1978.

In a mass marketed group auto insurance program, employes are

offered individual insurance policies, generally at a cut-rate due to a lower commission, payable through payroll deductions. The underwriter pays for processing the deductions.

INA, however, is apparently more interested in a true group auto insurance line which it is marketing through its Allied Insurance Co. subsidiary. In true group, one auto insurance policy is written, instead of individual ones as in mass marketed group, and the employer pays at least part of the premium.

So far Allied has fewer than 20 true group auto programs. The INA spokeswoman suggested the benefit is still a novelty and its development has been hampered by a slower economy and the rising cost of other employe benefits.

Employer-paid auto premiums, though, are taxable income. That complication may also be retarding the growth of group auto as an employe benefit. But legislation has been introduced in the Senate to extend to group auto the same tax-free status health insurance enjoys.

The INA spokeswoman stressed the company has not "terminated anyone." Those in mass marketed programs are being offered a policy on a regular billing basis.

INA is assisting groups that want to stay with a mass marketed program in finding a new underwriter, the spokeswoman said. For instance, the underwriter assisted Control Data Corp. of Minneapolis in placing the business with The Travelers.

Control Data also switched brokers on the program from Johnson & Higgins to Marsh & McLennan in Minneapolis.

The Travelers picked up Delta Airlines and Disney Productions, two other INA mass marketed group auto accounts. "We envision we'll be able to make a profit on it," a Travelers spokeswoman said, characterizing it as "good underwriting" since it's handled on an individual basis.

So far The Travelers has 300 mass marketed group auto accounts.

The Kemper Insurance Cos. and Fireman's Fund Insurance Co. were mentioned as underwriters of mass marketed group auto insurance. But Kemper said it is only a "very small volume and we are not aggressively seeking new business." Fireman's Fund is "not a big force in the market," its spokesman said, and is "containing" that line of business to the groups it has now. ■

Oil spill bill clears committee

WASHINGTON — Legislation that enables a "superfund" to pay for oil spill cleanups and imposes tougher liability standards for oil terminal operators has cleared a Senate committee.

The bill would set up a \$200 million fund to compensate victims for damages where the oil spiller cannot be identified.

The liability of oil tanker operators and owners for oil spill damages would be increased to \$300 per gross ton. The current limit is \$150 per gross ton.

Ship terminal operators could be liable for up to \$50 million in damages, though the secretary of commerce would have the authority to set a lower limit for operators of smaller facilities. ■

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SIS business up

Self-insurance firm eyes product liability

CHICAGO—Self-Insurers Service Inc. is considering adding administrative services for self-insurers of product liability exposures to its repertoire.

The 20-year-old firm now offers a package of administrative services for workers' compensation programs and group health plans.

Although Self-Insurers Service is privately held and doesn't disclose revenues, president Ray Muller said business increased by more than 30% last year as companies accelerated their shift to self-insurance as a result of tight markets.

SIS employs 125 people in five offices, up 30% from last year. Offices in Los Angeles, Phoenix, Chicago, Toledo and Washington, D.C., are soon to be supplemented by new offices in Miami and San Francisco, said Mr. Muller.

In seven years, SIS's business has grown 1,500% by adding new clients and expansion of services to existing clients. Among the 36 corporate clients on SIS's roster are very small companies alongside some of the largest Fortune 500 firms, including 29 companies purchasing employee benefit administrative services, a field SIS entered with its first group health client only five years ago.

About 13 SIS clients receive both group health and workers' compensation services from the firm. About eight of the employee benefit service users have self-insured dental plans administered by SIS along with self-funded group health plans.

The firm's largest workers' compensation administration account is a company with about 24 plants in 11 states, about 14,000 employees and with annual sales of over \$1 billion. This company pays an annual fee to SIS of about \$200,000 a year, not including the cost of stop-loss insurance.

SIS's smallest work comp administration account is a heavy manufacturer with only 200 to 300 employees, a single location and sales of about \$10 million a year. This firm pays SIS an annual fee of about \$3,000, not including the premium for stop-loss insurance.

Administration of group benefit programs range from a client with 25,000 employees to one with only 250 employees. The largest client has 130 locations and annual sales over \$1 billion, paying SIS \$600,000 for claims processing. This client is large enough so that no stop-loss coverage is purchased.

The smallest employee benefit client is a pump manufacturer with a single location and sales in the \$5 million a year area, paying \$3,000 a year to SIS for administrative services and another \$1,000

a year for stop-loss coverage.

Stop-loss coverage, said Mr. Muller, is usually obtained from the insurance carrier handling the client's life coverage.

SIS's fees generally average \$1.50 to \$1.75 per employe for servicing employe benefit and group programs. This is a departure from the fees charged by some firms which are tied to a percentage of claims paid. SIS guarantees the fee for employe benefit clients under a three-year contract, with a 12% escalator at the end of the contract. Workers' compensation administrative fees are based on a percentage of payroll. ■



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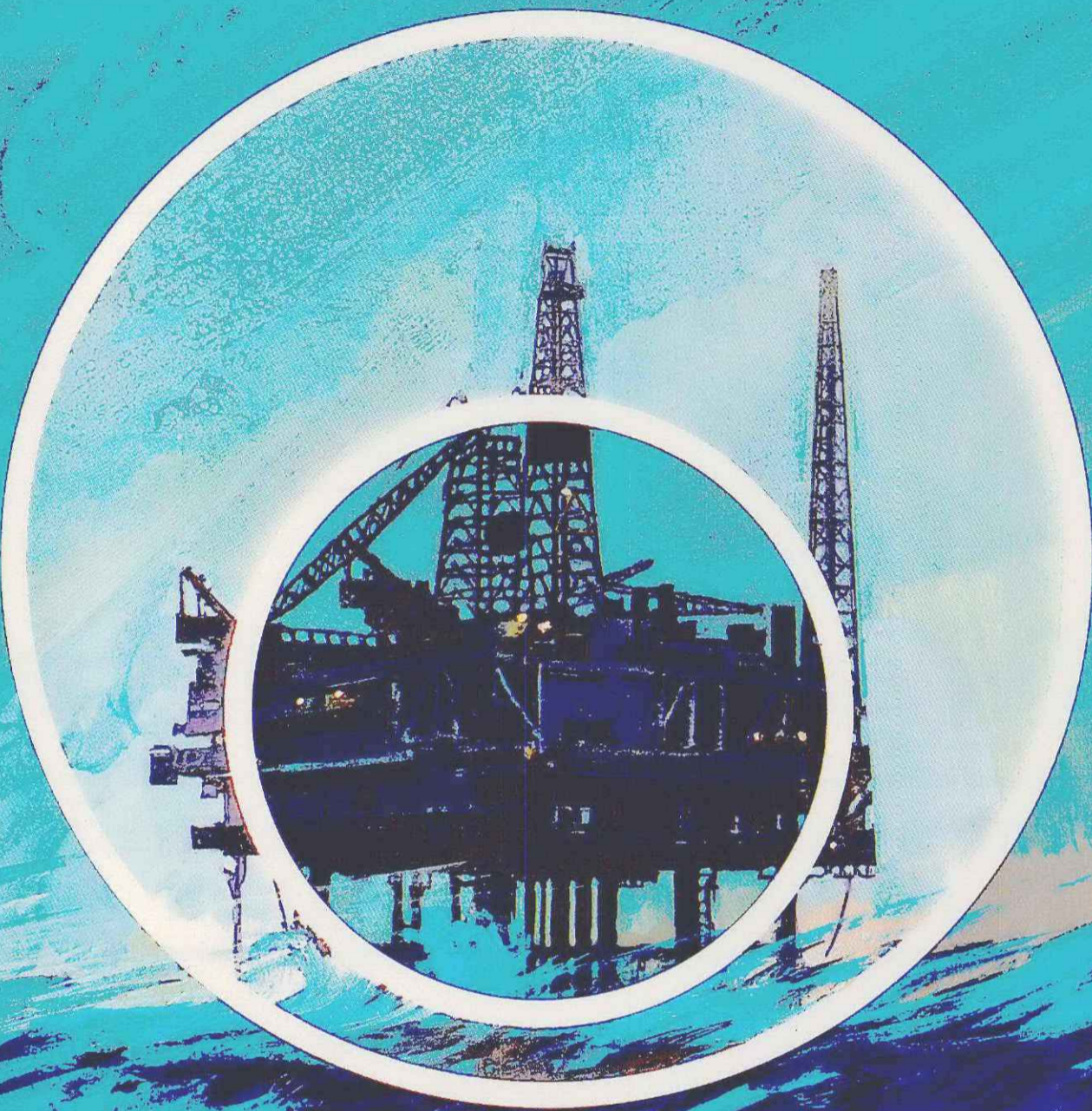
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Alexander chief named to board

NEW YORK—William L. Carter Jr., chief executive officer at Alexander & Alexander, has been elected to the board of directors of the American Institute for Property & Liability Underwriters and the Insurance Institute of America.

Mr. Carter was president of Harris-Moore & Associates Inc. of Dallas when that firm merged with A&A in 1970. He was named president and chief operating officer in 1972 and moved to his present position last April. ■



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Workshop on telling it as you ought to

CHICAGO—All aspects of employe benefit communications will be probed Nov. 7 and 8 here as part of a *Business Insurance* Employe Benefit Communications Workshop.

Headline speakers will include nine of the foremost corporate benefit managers around the country. They will reveal their secrets for award-winning communications programs.

Those attending the two-day workshop at the Continental Plaza will also be asked to put themselves in the judge's shoes during three 90 minute sessions led by Herbert Zeltner, president of Herbert Zeltner Marketing & Communications Inc. Mr. Zeltner will moderate the screening and critique of a series of audio-visual corporate benefit communications programs.

Several workshop sessions will focus on federal pension legislation and the problems of complying with rules requiring summary reports for employes. Barbara Philbeck and Richard Cromer, both communications consultants with Hewitt Associates of Deerfield, Ill., will deal with ERISA headache number one: coping with the new rules.

Ron Weakley, the Labor Department's specialist on benefit communications in the office of welfare and benefit programs, will share some thoughts on what the federal regulators expect.

The evolution of benefit communications and the resulting efforts to humanize messages about employe benefits are subjects to be discussed by a panel of four expert communicators including a film producer, two consultants and an award-winning benefit manager.

Setting criteria for choosing a communications consultant will be tackled by two corporate benefit managers, both of whom have used several-consultants. They are Robert Sjogren, manager of benefit development for Xerox Corp., and John M. Shores, director of personnel and purchasing for Birmingham News Co.

Registration is \$285 before Oct. 26; after that date the fee is \$320. For registration and hotel information, contact Mary Anne Engelhardt, Crain Education Division, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5241. ■

Fremont is 6th on Calif. list

LOS ANGELES — Fremont Indemnity Co. has become the sixth largest writer of workers' compensation premiums in California, a rapid move from the 13th place position it held in 1975.

Fremont Indemnity is the largest subsidiary of Fremont General Corp., a Los Angeles-based insurance holding company.

In the five-year period from 1972 to 1976, Fremont increased its writing of workers' compensation premiums to \$58.7 million from \$13.6 million. The ranking was based on the latest Best's executive data service rankings. ■

New office

Marsh & McLennan Inc. has opened a new office in Baltimore. Based in the city's World Trade Center, the office will continue to use many of the support services of M&M's Philadelphia office.

DHAP

riskWatch

By RAYMOND M. LANE

Reading insurance policies finds our columnist groping for aspirin

Raymond M. Lane, doing a stint in our New York bureau, spent the weekend reading insurance policies. This is his report.

The language of insurance is bewildering. It has a grammar, vocabulary and logic all its own and it shares no particular similarity with the English we understand and use. Having spent the weekend reading primary general liability and professional policies—and almost destroying an insurance dictionary in the process—I am inexorably drawn to this conclusion. The average insurance policy boasts the artful complexity and linguistic excesses equal to anything found in modern literary writing. The books of James Joyce and Samuel Beckett are peanuts by comparison.

Those who don't share this view are invited to spend a few hours at the files reading his or her policies. If your eyes don't grow heavy and if the modifying clauses, dangling participles and creeping gerunds don't paralyze you with anxiety and confusion, then I raise my hat and pronounce you "risk manager extraordinaire." A free cup of coffee comes with the title, which you can collect here at my desk.

■ But for the rest of us this means that to understand an insurance policy, or James Joyce for that matter, one must either be a genius or a hard worker who spends years acquiring education and practical experience. For risk managers the real consequence is that an attorney must translate a policy into standard American English. And even then, misinterpretations and multiple understandings of the same sentence or word are common occurrences. Lawyers say the long march through the courts starts as easily with a flabby compound verb as with a bank holdup.

A simplified and more readable policy would benefit insurance buyers and sellers, says Herb Denenberg, former insurance commissioner of Pennsylvania. Denenberg, now a television consumer affairs reporter in Philadelphia, thinks "most policies aren't even written in English. Judges have a hard time understanding them, to say nothing of the seller, the reinsurer or even the president of the insurance company."

In 1971, then-commissioner Denenberg began rejecting consumer policies in Pennsylvania until the insurance companies began rewriting in a simpler language.

Today, of course, there is a strong national trend among state insurance commissioners to make some policies more readable. The National Association of Insurance Commissioners endorsed in June a readability standard that requires auto and home policies to be written so that an eighth grader can understand them.

■ But, the NAIC said no requirements are being considered for commercial policies. "You guys are knowledgeable insurance buyers," an NAIC official said, "and it would only make matters more difficult for you to have us mandate language." Besides, "You businessmen should know how to buy insurance," he added.

Perhaps the NAIC is right but changes are in the wind. The Insurance Services Office is studying the readability issue. A special ad hoc committee of the ISO meets regularly, trying to create easier uniform language that would satisfy commercial insurance buyers and sellers. The new readability standards, committee sources indicate, will cover all general liability insurance with the exception of professional coverage. Some of the new language will become available within a year, one committee member said, while the bulk is expected to take up to two years.

The readability issue may have its lighter side but it is an important one for risk managers. Insurance is a contract, after all, that must stand up in court proceedings. Insiders favor the precision of the old legal language because much of it has stood up to court battles in the past. Many of the older underwriters simply snort, "Hell, it's always been done that way," and violently oppose any change.

But the facts are that changes will occur in the risk management business. The industry can acquiesce to the regulators, or the industry can grasp the issue itself.

The readability problem is like much else in life. It's like a knife that either serves us or cuts us, as we take it by the blade or the handle.



Lane

Competition from HMOs helps hold down costs, says FTC report

WASHINGTON—Health maintenance organizations have aroused new competition in the health care field, encouraging doctors and hospitals to hold down costs.

That is the key conclusion of a massive Federal Trade Commission (FTC) staff study examining the relationship between traditional fee-for-service health programs and HMOs.

The study, which was prepared by the federal agency's Bureau of Economics, offers clear evidence that HMOs can produce cost-cutting incentives in the conventional health delivery field.

In areas where HMOs have captured an important share of the health care market, Blue Cross, the largest health insurance group in the country, maintains its lowest bed utilization rates—the number of hospital days per thousand members.

In addition, Blue Cross benefit packages are more generous in areas where competition from HMOs is the sharpest, said the authors of the study, FTC economists Warren Greenberg and Lawrence G. Goldberg.

While the report did not provide any specific illustrations of competitive price-cutting, it noted that health insurance companies exert pressure on doctors and hospitals to hold the lid on costs to prevent subscribers from being lured to the more cost-efficient HMOs.

Moreover, HMO competition has stimulated medical insurance groups to establish their own prepaid medical care organizations to compete for subscribers.

The report found that the bitter and at times ugly opposition to HMOs from doctors has abated markedly, but state regulations, particularly in the South, still

hamper HMO development and expansion.

According to the FTC study, which examined health care delivery systems in nine geographic areas, the reason HMOs can provide care at less expense is that they have a powerful incentive to do so.

In an HMO, doctors are paid a salary regardless of services performed. As a result, "there is a reduced incentive to provide unnecessary services. Moreover, the HMO is at risk for costs which exceed income and generally has an incentive to minimize hospital admissions and to limit the length of hospital stays."

By contrast, in the traditional

fee-for-service system, "there are incentives for physicians to see patients, to order tests and to hospitalize patients in order to increase income," the report said.

There are now 175 HMOs in 36 states with six million members. The greatest concentration of HMOs is in Northern California where 20% of the insured population is enrolled in HMO plans.

Free copies of the report, "The Health Maintenance Organization and Its Effects on Competition," can be obtained by writing the Federal Trade Commission, Room 130, 6th and Pennsylvania Ave. NW, Washington D.C. 20580. ■

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Huge New York market attracts two HMOs; both blast U.S. rules

By FRANK MARKOWITZ

NEW YORK—The vast benefits market for health maintenance organizations in the New York metropolitan area has attracted two health plan giants.

But spokesmen for both HMOs—one now offered by Blue Cross of Greater New York and the other planned for next year by Health Insurance Plan (HIP)—have harsh criticism of federal qualification standards.

Neither HMO will seek federal qualification. Instead the two programs will depend on New York State's own certification process and its requirement that employers of 25 or more must offer a state-certified HMO when approached by one.

Blue Cross is testing the waters with a small prepaid plan serving 14,000 suburban employes and dependents. The program, which received state certification in July, has existed for four years as the Community Health Program of Queens-Nassau.

The plan is expected to double its enrollment shortly under its new HMO label, said Bill Gold,

Panel OKs hospital cost plan

WASHINGTON—After weeks of stormy debate a Senate panel approved the Carter Administration's proposal to place tough controls on increases in hospital revenues.

The measure, which was cleared by the Human Resources Committee earlier this month in a 9-3 vote, still must be acted on by the Senate Finance Committee and the House Ways and Means and Commerce committees.

Under the bill (S. 1391), most hospitals would be limited to a 9% increase in revenues during the first year the legislation went into effect. Increases after that would depend on several factors including the size of the hospital and its location.

The controls would not apply to hospitals that have had an average of less than 2,000 annual admissions over the last three years. A hospital that is the sole provider of medical services to a community and has between 2,000 and 4,000 annual admissions would be exempt from the controls. This exemption would affect primarily hospitals in rural areas.

Hospitals would be allowed to increase their revenues by more than 9% if agreements with non-supervisory, low-paid employes call for higher wage boosts.

The measure also would prevent physicians from purchasing equipment worth more than \$150,000 for their offices unless they received approval from a state health planning agency.

In the closing moments, the Human Resources committee adopted an amendment that would force hospitals to make annual financial statements available to the public.

The administration had hoped originally that the bill would receive congressional approval by summer, allowing the cost controls to go into effect by Oct. 1. Now health subcommittee staffers are saying the controls could not be implemented before Jan. 1. ■

head of the alternate systems delivery department at Blue Cross.

The Blue Cross unit, which has nearly nine million health insurance subscribers, is seriously contemplating expansion throughout the entire metropolitan region if the plan works well.

"This is an investment," Mr. Gold said. "We'd never have gone into this if we didn't expect to expand eventually."

Meanwhile, HIP is almost certain to seek state certification for its own HMO and expects to achieve it by next January.

Originally initiated 30 years ago to benefit municipal workers, HIP now provides prepaid physician services to 730,000 New Yorkers. Most are still city workers.

By adding hospitalization and such benefits as mental health care, HIP hopes to move strongly into the commercial benefits market, a spokesman said.

HIP received a federal grant to explore federal qualification, but rejected the idea when New York City indicated it would refuse to pay the projected premiums, said Elliot Rosengarten, HMO coordinator for HIP.

HIP spokesmen criticized federal requirements as "enriched," and said state certification provides greater flexibility and lower premiums.

According to officials in the state health department, federal requirements are much more explicit and mandate a few addition-

all benefits. Federal standards raise costs and probably increase the risk of failure for the HMO, said Laura Winters, ambulatory care coordinator for the state.

Blue Cross had other reasons for passing up federal qualification. "We didn't have a problem meeting the federal benefits level. Corporate structure is the main issue. Under the federal requirements we would have had to create a subsidiary," said Mr. Gold.

"Also there was no financial advantage for us to go federal. We couldn't get grant money and we didn't really need loans."

The Blue Cross HMO, a closed-panel model, offers full physician and laboratory services, maternity care, hospitalization and physical therapy to residents of Queens and Nassau Counties.

Premiums run \$38.10 monthly for individuals and \$85.70 for families. The HMO is self-funded and should break even by July 1978,

said Mr. Gold.

HIP declined to give premium projections for its prospective HMO, but Mr. Rosengarten predicted it would be cheaper than standard health insurance.

HIP currently contracts with 28 independent medical groups to provide physician services, including surgery and therapy, throughout New York City and Long Island.

HIP is counting on its extensive service area to increase its commercial members. Only 11% of its current members are non-government employees.

"I don't think any other (HMOs) will be as attractive to employers as HIP because we blanket the area," said Mr. Rosengarten.

If HIP and Blue Cross are successful in their expansion plans, they should join Manhattan Health Plan to give most New York employers a choice of three HMOs in 1978. ■

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\$8.65 million with little risk

Swine flu gives insurers' profits a shot: GAO

By KATHRYN McINTYRE ROBERTS

WASHINGTON—The insurance industry, which pleaded its case against insuring the swine flu program so well that the federal government took the job, now stands to make nearly \$8.65 million off the limited liability risk it did eventually underwrite.

The federal government, hoping to recoup some of its imminent losses by retaining the right to sue negligent manufacturers, won't really recover a penny unless it wins more than \$18.65 million in judgments against the manufacturers.

And proving negligence by the manufacturers could be difficult since the federal government rig-

orously inspected and approved every batch of vaccine distributed to the public.

This knotted web of liability insurance costs and problems was laid out by the General Accounting Office—the watchdog agency of Congress—in a 92-page report examining all phases of last year's swine flu immunization campaign.

Under the National Swine Flu Immunization Program of 1976, the government agreed to accept all liability for the program in the first instance and to seek recovery only for negligence or breach of contract by program participants. (*Business Insurance*, April 18.)

To protect themselves against this exposure, the four manufacturers of the vaccine established

"If the estimate . . . is accurate, nearly the entire premium will be profit."

—GAO report

a \$10 million self-insurance fund and bought another \$220 million of coverage from more than 60 domestic and foreign insurance companies.

The \$10 million in the self-insurance fund and the \$8.65 million premium on the excess insurance were considered production costs and passed on to the government, a usual procedure. But GAO emphasized that any recoveries from

the manufacturers by the government up to \$18.65 million will really be a recovery of federal funds.

GAO even questions the government's case for recovery of claims' costs from manufacturers on the basis of negligent action since the government "performed tests for safety, potency and sterility on every lot of vaccine" released to the public.

"Although the drug manufacturers are not relieved of their product liability, HEW's approval of every lot may significantly reduce the likelihood that the government could recover for damages awarded or paid based on manufacturers' negligence," the report says.

Meanwhile, the underwriters probably will pocket as profit nearly the entire \$8.65 million premium on the manufacturers' insurance, the report predicts. Though the insurance companies will defend the manufacturers in suits initiated by the government, all defense and claims costs will be charged against the \$10 million self-insurance fund. Not until costs have exceeded \$10 million will the insurance companies have to pay anything.

And that prospect appears unlikely, the GAO says. Even considering possible negligence on the part of any program participants, the Congressional Budget Office predicted the federal government will recover only \$2.58 million in liability payments and litigation costs from third-party program participants.

Although GAO admits "it is too soon to determine how much of the \$8.65 million premium the insurance companies will realize as profit," it suggests "if the Congressional Budget Office estimate is accurate, nearly the entire premium will be profit."

The federal government, at least, will receive any unused balance in the manufacturers' self-insurance fund. But the total cost of the swine flu program "may far exceed the \$135 million appropriated," the report says.

Neil Peterson, the justice department official in charge of handling swine flu claims, hadn't read the GAO report when contacted by *Business Insurance*. The chances of the federal government recovering anything from the manufacturers of the vaccine, however, appears to be an academic question. Mr. Peterson said, "I don't think I've seen any cases yet that I'd sue a manufacturer for."

He reiterated, though, "In so far as there is or may be negligence, we will sue the manufacturer or any program participant."

The federal government has received 617 personal injury claims totaling \$265.5 million. Fifty-three wrongful death claims have been filed seeking damages totaling \$1.2 billion; one claim though is for \$1 billion.

No claims have been paid yet, but the first batch of claims have been reviewed and are now in the Department of Health, Education and Welfare for a decision. Claims review includes determining whether the injury was outside the scope of the warning, was reasonably related to the vaccine and whether there is liability under the laws of the particular state.

The GAO reports suggests, however, that the warning issued with the vaccine may have been inadequate for some potential injuries and that in some cases persons were vaccinated without having signed the informed consent form. These failings "may result in excessive costs to the government for litigation, defense and settlement of claims," the report says.

The report predicts that liability will continue to be a problem for future government-run or sponsored programs because the swine flu program provided only limited experience.

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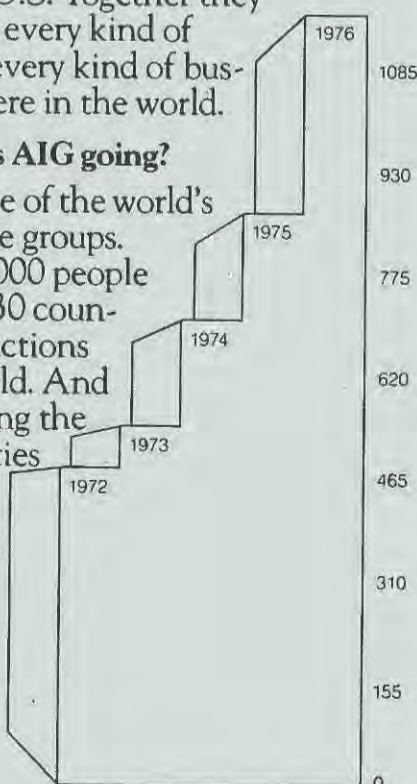
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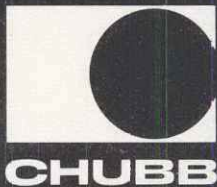
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PERSPECTIVE

Product Liability Score Card

State	Statute in effect	Bill pending	Cleared house	Cleared senate	Dead for 1977	S/L ¹	State of the art	Failure to warn	Standards ²	Alteration	Remarks
Calif.*	No	X		X		X					Other more comprehensive bills still are in committee.
Colo.*	Yes ³		X	X		X	X		X		Bill went into effect July 1 1977.
Conn.*	Yes		X		X	X					Bill gutted in house. Died on senate calendar.
Fla.*	Yes			X	X	X					Measure cleared senate, but died in house committee.
Ga.**	Yes	X			X	X	X	X	X	X	Four bills in house committee. No action until 1978.
Hawaii	No				X						Bills introduced next year.
Idaho	No				X						Bills killed or withdrawn in committee.
Ill.**	No	X				X	X	X	X	X	Hearings this summer. Action in 1978.
Iowa**	No				X	X	X	X	X	X	Comprehensive bills carry over to 1978.
Ind.*	No		X		X	X					Bill killed in senate. No action until 1978.
Kan.**	Yes	X			X	X	X	X	X	X	No action until study committee completes report.
Mass.**	No	X			X	X	X	X	X	X	No action expected until 1978 session.
Mich.**	No	X				X	X	X	X	X	Public hearings held in July and August.
Minn.*	Yes	X	X		X	X					Bill watered down from original
Miss.**	Yes				X	X		X	X		Late opening date of legislature doomed bills.
Mo.**	No				X	X	X	X	X	X	No action until interim committee completes report.
Neb.*	No	X			X	X	X		X	X	Bill on general file. No action until 1978.
N.H.*	No		X		X	X	X				Bill died in senate on 8-8 deadlock.
N.Y.*	No			X	X	X					Weak bill passed by senate but not taken up by house.
N.D.**	No				X	X					Bill crushed by house No action until 1979.
Ohio*	No	X	X			X			X	X	Next state where action is expected.
Okla.	No				X						Bills expected to be introduced by senate.
Ore.*	Yes ³		X	X		X				X	Third state to pass p/l legislation; 8-year s/l.
Penn.**	No	X				X	X	X	X	X	No action expected until 1978.
Tenn.											Interim study committee.
Tex.**	No				X	X	X	X	X	X	All 13 bills died without clearing committee.
Utah	Yes ³		X	X		X	X	X	X	X	First bill to pass during current tort reform movement.
Vt.	?	X			X						Establishes an interim study committee.
Va.	No	X									Establishes an interim study committee.
Wash.**	No		X		X	X				X	Bill died on legislative calendar.
Wis.**	No	X			X	X	X	X	X	X	23 bills introduced, no action until next year.

Notes:
 *Bills as amended in committee or on floor
 **Bills as introduced.
 1 Statute of limitations
 2 Compliance with standards
 3 Bold face Yes indicates bill enacted in 1977

Speaking Out

Press distorts, exaggerates oil pollution problem

By Peter Downes

Manager of insurance
 American Trading & Production Co.
 Baltimore

FIRST OF ALL I must declare my interest. I am the risk manager for a corporation which owns oil and gas wells dotted here and there across the U.S. and Canada, as well as a fleet of oil tankers. It hardly needs saying that I am very concerned about questions of pollution. What concerns me as much, however, are the half-baked comments that are made about it.

I was playing in the neighborhood bridge game and was feeling a little irritable to start with on account of my partner having gone two down in an ice cold slam. Thereupon, an opponent, making small talk in a desperate effort to drown out threats of divorce lawyers and the like, remarked:

"Did you hear about the Liberian tanker the Coast Guard has taken over? It is carrying 4 million tons of oil and is leaking all over the lot."

"That's nonsense!" I retorted.

"No, it's not, I heard it on TV."

"Don't believe everything you hear on the news. Doubtless somebody was given bum information to start with."

"Look, there is such a tanker."

"I don't doubt it. It is the 4 million tons which is nonsense. They may have

meant 4 million gallons and probably multiplied it three or four times to make it sound dramatic."

"But that's what they said."

"I know, I heard it myself. But a 4-million-ton cargo would require a ship greater than the largest ship ever built or contemplated for any purpose whatever."

"I am not sure I want to believe that. The news was pretty definite on the point and we all know that the oceans are being polluted to death with oil. You, of course, are connected with the oil industry and will defend it, but do you or does anybody know the amount of oil leaked into the oceans each year?"

"Yes, as a matter of fact I do. On the average 6,100,000 tons of which approximately 300,000 tons comes from oil tanker casualties."

"What idiot told you that?" he snapped.

"An idiot at the National Academy of Sciences," I barked.

By this time everybody began getting into the act, beginning with one dear lady who asked:

"But surely, this amount of pollution year after year will increase the total volume of pollutants in the ocean."

"Apparently not. The oil is degradable and the total volume at the present time remains fairly stable around 6 million tons. This could increase, however, following the greater use of oil and oil products."



The Argo Merchant flounders off Massachusetts coast.

"Is that a lot?" asked another.

"I figure it this way. I've read somewhere that about two-thirds of the earth's surface is covered with water. Assuming an average depth of one mile, that's about 5 billion cubic miles of water to the nearest billion. Even if this is a gross exaggeration I am not overly concerned be-

cause 6 million tons is going to fill only a fraction of one cubic mile."

"Pete," said somebody else, "I've seen figures which say that oil pollution from ships is much greater than 300,000 tons."

"Perfectly correct. The total figure is about 2 million tons but 85% of this is

Continued on following page

PERSPECTIVE

Here's a step-by-step guide to plant fire protection

By Joe W. Heward

Safety coordinator
Western Electric Co.
Niles, Mich.

FIRE IS THE MOST COMMON and the most costly emergency faced by industry today. The National Commission on Fire Prevention and Control conservatively estimates destructive fires in the U.S. cost at least \$11.4 billion a year.

If these figures aren't enough to forewarn the industrialist, the survival statistics of businesses that have burned should cause considerable concern. Forty-three percent of the companies which have suffered fires never resumed operations. Another 28% failed within three years after fire had struck. Of course some businesses do survive fires, but despite what insurance companies claim, only 23% ever fully recover.



HEWARD

Those responsible for fire safety, must become aware of the threat of fire and its tremendous potential. What can private industry do? If the survival rate of burned businesses is so poor, even with the expertise and technology possessed by local fire departments, what hope is there?

The fact is businesses can do much to increase their chances of surviving a fire. All big fires were once small fires. What happens during the first few minutes after a fire has been discovered usually determines the extent and severity of damage. A company's most valuable defense, during those first few minutes of a fire, is a well-trained and disciplined fire brigade.

The sole purpose of a fire brigade is to provide safe, continuous and uniform procedures to protect the company's employees and property. In the event of fire, the brigade takes reasonable preventive action. Once the alarm sounds, the brigade quickly responds and attacks the fire with all available resources. Most often it is able to strike out the fire while it is relatively small or contain its spread until the public fire department arrives.

It is true that with today's modern and efficient fire fighting weapons a building may be saved, but the interruption and internal loss may kill the business. The ability to properly attack and extinguish a fire, before the sprinklers activate, is

imperative.

Establishment and maintenance of a company personnel-operated fire brigade does cost time and money, but is a good investment. When establishing a fire brigade there are eight major steps or phases to consider. A company must determine the need; analyze the physical layout; assess available water resources; arrange a mutual aid pact if possible; assess manpower and equipment requirements; conduct initial training; conduct announced and unannounced tests, and maintain fire brigade skills through a continued program of in-service training.

DETERMINE THE NEED: The size and location of the installation are both important factors. However, lives, business interruption and contents (merchandise, equipment, machinery, etc.) must take precedence. First consideration must be given to lives. All personnel should be trained in the safest and most efficient evacuation procedure possible. Fire or water damage that cripples data processing, critical materials, processes, or vital machinery can create tremendous economic handicaps. A competitor can move in, fill the gap and become a satisfactory replacement. Each of these factors must be weighed in its own light. It is important that this analysis, and others that follow, be documented for later study and evaluation.

ANALYZE THE PHYSICAL LAYOUT: Is the installation constructed of fireproof material and design? Is it single- or multi-story? Is the building sprinklered? Are the exits sufficient, well marked, and accesses clear? Is the alarm system effective and audible in all areas? Each of these factors is vital because they affect the capability of the fire brigade in action. Consider the various types of commodities or materials that are used or stored. They may very well determine the severity and types of fires that may occur.

ASSESS AVAILABLE WATER RESOURCES: A plentiful supply of water is mandatory with an independent source of auxiliary power. Water sources such as a nearby pond, river, creek, or lake should be included in the plans. If you are located in a rural area but within reasonable distance of city water, determine the feasibility of hooking into that system either as a reserve or booster supply. Last of all, a ready reserve tank (at least 300,000 gallons) should be acquired as necessary.

ARRANGE A MUTUAL AID PACT: If you are located in a rural or suburban area, several nearby village, township, or city fire departments can provide a very effective back-up force. Invite the chiefs in for a "get acquainted meeting." Take them on a tour of your facility and tell



The most important consideration in any fire protection program is to save lives.

them about your plans to train and implement a fire brigade. Their suggestions and experience will be invaluable.

ASSESS MANPOWER AND EQUIPMENT: Depending on the size and physical layout of the installation, your manpower and equipment will vary. A small one-story structure might do very well with a four-man brigade on each shift. A chief would be responsible for overall operations and a subordinate could command the various shifts. If the structure is large and contains valuable commodities and equipment, zoning should be instituted with portions of the brigade responsible for each area.

There must be adequate portable extinguishers suitable to various fire classifications likely to be encountered. Hose drops are essential in large installations. If circumstances justify additional equipment, then consideration should be given to acquiring a suitable fire truck.

CONDUCT INITIAL TRAINING: This is the key to the entire program. Unless your fire brigade is properly trained, its effect could be minimal at best and possibly even a handicap to a responding public fire department.

Training a fire brigade is much like training a new employe on the job. You determine the amount of skill you need, get people interested, break down the areas of instruction according to the time available, teach one step at a time, test proficiency and follow up on trainee performance. Use the best possible training aids available in comfortable surroundings.

Keep classroom sessions to a minimum

and concentrate on practicing skills. Include one or more of your area's public fire departments. Their contacts, equipment and experience is invaluable.

CONDUCT ANNOUNCED AND UNANNOUNCED TESTS: Now that your brigade has completed basic training, have a fire drill. Use a mock-up situation and have monitors record and evaluate performance. Ask the following questions about the brigade's performance. Was the fire alarm adequate? Did the brigade respond with proper equipment? Did the auxiliary power and booster pump function properly? Critique this planned test and document the strength and weakness of the operator.

Make necessary corrections and follow with an unannounced drill within a week or two. Invite area fire chiefs to monitor and evaluate this test. Have a meeting immediately following the drill with the monitors and brigade.

MAINTAIN FIRE BRIGADE'S SKILLS: It is essential that you maintain a training program that allows a minimum of two hours of instruction every three months. Don't hesitate to bring in outside speakers from area fire departments or your state's fire marshal's office.

Always remember that lives are the number one reason for fire prevention and protection.

Another cardinal rule is to impress upon all personnel in your organization that whenever a fire is discovered, regardless of size, they should sound the alarm and then attack the fire. They should not wait to see whether or not they can cope with it.

Oil spill problem . . .

Continued from preceding page
from normal operations such as tank cleaning, bilge pumping and so on."

"That still leaves around 4 million tons. Where does that come from?"

"About 1.2 million tons comes from natural seeps of oil still in the ground, and from rainfall. This leaves about 2.8 million tons. Of this about 1.3 million tons comes from industry of various kinds leaving 1.5 million tons to account for."

"Where does that come from?"

"Gas stations, service shops and things of that kind—mainly from crankcase oil flushed down sewers."

"I find this hard to believe. You are telling us that there is five times as much pollution from gas stations as there is from tanker casualties."

"That's right, but the difference is that pollution from gas stations is in pints and quarts at a time whereas a tanker casualty may release millions of gallons."

"But even if the pollution from tanker casualties is not as great as generally feared, the long term effects of oil production are still damaging, are they not?"

What would you say is the major problem which results from this?"

"Well, the major problem so far as anyone can tell at the moment is that kids roam over polluted beaches, ruining their clothes and then come home and track oil all over the carpet. It gives Mom a fit."

"Aw, come on!"

"I'm not joking. I am just repeating what Charles Dates, the Coast Guard's chief scientist, has said. Again, the Environmental Protection Agency says that while they do not claim to know the full effect of oil pollution, after years of research they have been unable to come up with anything. Likewise, James N. Butler, a chemistry professor at Harvard, says that he has been doing research for six years without result, and these people are not alone."

"You make it sound as though pollution has no particular effect. What about incidents like those of the Torrey Canyon and the Argo Merchant?"

"I am surprised you remember the names. According to a British outfit, Plymouth Laboratory, the greater part of the

damage in the Torrey Canyon case came from the detergent used in an attempt to clean up the oil spill. As for the Argo Merchant, if Coast Guard Admiral Fugaro is to be believed, its cargo was just swept out to sea without damaging anything."

"That sounds like no more than good fortune. It may have well been swept ashore if the conditions had been right. However, are you saying that it is unnecessary to do anything about oil pollution from rust-bucket tankers?"

"Not at all. While the main long term problem from oil pollution is a cosmetic one, the short term effects of an offshore spill can be very damaging. Birds die by the thousands and doubtless other forms of land life as well. Marine life on the other hand is not affected nearly as much, and indeed, hardly at all. For example, early in 1976 a barge sank at the mouth of the Potomac and according to reports about 250,000 gallons of fuel oil was spilled. This fouled beaches and marshes, birds died in multitudes and the Virginia authorities predicted dire consequences to the small fish industry in the area. Actually it did take a six-week clean-up job to rid the beaches of the oil, whereupon the marsh grass and other vegetation grew back in thicker profusion than be-

fore. At the same time, the Virginia Institute of Marine Science conducted an eight-month investigation and said that it could find no effect whatever on mussels or oysters. In fact, in ecological terms one has a sneaking suspicion that an oil spill may even be beneficial in some respects and certainly not nearly as damaging as people would have us believe."

"You certainly make it sound as though there is a lot of fuss about nothing."

"I don't want to do that. I am saying that any damage to the ecology is comparatively slight, although not to be ignored. I, for one, do not wish to see wildlife killed off even though it will soon replace itself. On the other hand, the damage to the economy may be disastrous in any given location. Apart from all the carpet cleaning to be paid for, a polluted beach in a resort area, for example, such as those at Miami Beach or Ocean City, could kill off trade for months at a time."

"Well, let's get back to bridge. One last question, if it were up to you, what would you do?"

"Me . . . they are already going after the tankers, so I think I would go after those gas stations. We could cut oil pollution by as much as 25% if they stepped up."

around the states

Nebraska court OKs malpractice limits

LINCOLN—The Nebraska supreme court in late July upheld a law passed in 1976 that limits medical malpractice awards to \$500,000 and establishes a medical review panel to screen all malpractice claims.

Nebraskans may choose not to consent to the ceiling on awards and also may bring suit against health care providers if they disagree with the review panel's findings. In any case, however, the panel report can be used as expert witness testimony if a suit is filed, the law provides.

Several of the state's seven supreme court judges dissented, noting that a person might be refused care if he chose not to comply with the recovery ceiling under the law.

Tort reform

SALEM—Gov. Robert Straub signed a product liability bill into law last month, making Oregon the third state this year to enact a comprehensive tort reform measure. The bill (H.B. 3039) offers an eight-year statute of limitations from the time a product was first purchased for use or consumption. In addition, alteration or modification of a product is a defense against liability. The act goes into effect Jan. 1, 1978, and applies to injuries occurring after Dec. 31.

Rate hike nixed

TOPEKA — Kansas insurance commissioner Fletcher Bell rejected a rate increase for workers' compensation that would have raised premiums in the state by \$13 million. Mr. Bell said the increase was \$4.6 million higher than justified, although he would approve a 11.3% increase amounting to \$8.4 million.

The increase would include a 4.4% increase due to past loss experience and a 9.3% increase to pay for increased benefits enacted by the legislature.

Product liability

LINCOLN—An industry committee to help place product liability risks has been formed in Nebraska at the request of the state insurance commissioner. The committee is composed of agents and insurance company representatives.

JUA rate hike

HARRISBURG—The Pennsylvania insurance department has approved a 3.9% rate hike for the Joint Underwriting Assn. The increase was effective Aug. 15, affected 1,700 physicians and is expected to raise \$170,000 in additional premiums. The association had requested a 75.2% increase, but the department wanted to bring the JUA's rates into line with Argonaut Insurance Co. to eliminate adverse selection.

Ohio HMO

CINCINNATI—Health Maintenance Plan/Cincinnati (HMP), southwest Ohio's only health maintenance organization, has received certification under Ohio's new HMO law.

The law, which went into effect in April 1976, requires all HMOs in Ohio to achieve certification by the end of 1977 to continue oper-

ating. HMP is a program of Hospital Care Corp., the Cincinnati-based Blue Cross plan.

Insurer suspended

HARRISBURG—Old Heritage Mutual Insurance Co. of Bala-Cynwyd, Pa., has been suspended from issuing or renewing policies, transferring property or paying out money without the prior approval of Pennsylvania Insurance Commissioner William J. Sheppard.

The company writes accident and health insurance.

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benefit tax slants

Here's how to meet lump sum tax rules

By JOSEPH S. ROBINSON
Attorney-at-Law

In order to apply the lump-sum-distribution tax treatment to amounts received from a qualified plan, several conditions must be met. (I.R.C. Sec. 402(e).

These requirements are:

1. The distribution must be made within one tax year of the recipient's termination.

2. The distribution must include the balance to the credit of the employee in all plans of the same type, i.e., pension, profit-sharing, stock bonus.

3. The employee must have been a participant in the plan (or

plans) for at least five or more tax years prior to the year in which the distribution is made.

4. The distribution must be made from a plan that qualifies under I.R.C. Section 401(a).

5. The distribution must be made on account of the employee's death, disability, separation from service with the employer, or attainment of age 59½.

Because of the potential tax savings afforded individuals whose distributions meet these rules, qualification for this tax treatment is often a cause of dispute between the taxpayer and IRS.

Recent rulings have shed more

light with respect to lump-sum distributions from qualified plans. In one case, the Tax Court said that, because of the change occurring in the company as a result of the sale of its assets to another corporation, the employment relationship had changed so substantially as to constitute a separation from service with that employer (Enright, T.C. Memo 1976-393).

In another case, the Tax Court rejected the employee's contention that he was in constructive receipt of the entire amount payable to him from the qualified plan in one tax year even though his benefit was distributed over

a two-year period. (Blyler, 67 T.C. No. 71). Finally, an IRS letter ruling concerning the distributions to employees after age 59½ who continue working for their employer, says that such payouts will qualify for the lump-sum-distribution election if the employee has also attained the normal retirement age under the plan.

Merger regulations

The Treasury has issued proposed regulations relating to mergers and consolidations of retirement plans and transfer of plan assets or liabilities. These

proposals conform to tax law changes made by ERISA and would apply to all participants in a retirement plan that's involved in a merger, consolidation or transfer.

ERISA provides that if a plan merges or consolidates with another plan or if there is a transfer of assets from one plan to another, each employee must wind up with a benefit equal to or greater than the benefit he would have had if the plan had ended immediately before the merger, consolidation or transfer. Otherwise the plan will be disqualified. I.R.C. Sec. 414(1).

The proposed regs deal with the effect of this rule in the case of various types of plans and transactions.

Term life taxes

Group term life insurance coverage of up to \$50,000 for each employee qualifies as a tax-free fringe benefit. The employer can even direct the insurance carrier to pay the employee's beneficiary in equal installments over a fixed period without losing its tax break. (Rev. Rul. 77-163).

Final regs on withholding for group term life insurance have been released. Since the cost of such insurance on the life of an employee is not considered wages, it is therefore ruled not subject to withholding. Treas. Regs. Sec. 31.3401(a) (14)-1(a).

Deferred compensation

Deferred compensation payouts to the widow of stockholder-employee were held nondeductible under the following circumstances:

Two brothers, Morris and Jack, each owned 50% of the shares of stock of their corporation. They were both actively employed as executives of the business, paying themselves modest salaries and distributing reasonable dividends out of corporate earnings. Concerned about financial protection for their wives if they should predecease them, the brothers drew up deferred compensation agreements with the corporation, each providing for a continuation of salary payments to the shareholder-employee's widow. Each agreement stated that the payments were in consideration of the employee's past services to the corporation and his promise not to compete with the business for five years upon separation.

When one of the brothers died, the corporation made payments to his widow in compliance with the agreement. IRS denied a business expense deduction, asserting that the payments were in fact dividends. The U.S. District Court in Ohio agreed. While "the agreements . . . on their face, appeared to be the type of deferred compensation agreements which the parties might have formed had they negotiated at arm's length," the court said, if the intention motivating the agreements was to insure the financial security of the widows, and "no concern was given to conferring a business benefit" for the corporation, the corporation will not be entitled to a business expense deduction. (M.S.D. Inc., Dist. Ct. Ohio 3/25/77).

State appointee

Richard Anderson has been named manager of the self-insurance plans division of the department of industrial relations in Sacramento, Calif. He replaces Edward D. Struck, who resigned to accept a position as general manager of the workers' compensation division for U.S. Administrators of Beverly Hills, Calif. Mr. Anderson formerly assisted Mr. Struck.

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Benefit certification course locations set

BROOKFIELD, Wis.—Two courses in the certified employe benefit specialist program of the International Foundation of Employe Benefits will be offered concurrently this fall.

Course I provides an introduction into the American legal system and basic rights and responsibilities. Course II focuses on pension plans.

Below is a list of colleges and universities currently offering one or both courses.

UCLA, Los Angeles, Charles Coleman, (213) 825-7031 ext. 226, Course I, Wed., Sept. 28-Dec. 14, 6:30-9:30 p.m.; Course II, Thurs., Sept. 29-Dec. 15, 6:30-9:30 p.m.

University of California Extension, San Diego, Registration Office, (714) 452-3400, Course I, Thurs., Sept. 29-Dec. 15, 7-10:15 p.m.

University of California Extension, San Francisco, Margaret Gonzales, (415) 642-6935, Course I, Thurs., Sept. 8-Dec. 15, 6:30-8:30 p.m.; Course II, Tues., Sept. 6-Dec. 13, 6:30-8:30 p.m.

University of Bridgeport, Bridgeport, Conn., Keith W. Bird, (203) 576-4143/4146, Course I, Tues., Sept. 6-Dec. 27, 7:30-9:30 p.m.

University of Connecticut, Hartford, Dean William Fisher, (203) 527-2149, Courses I and II.

Florida International University, Miami and Tampa, John Remington, (305) 552-2371, Courses I and II.

Georgia State University, Atlanta, Irene Cook, (404) 658-2725, Course I, Mon., Sept. 19-Jan. 9, 5:30-7:30 p.m.; Course II, Wed., Sept. 21-Jan. 11, 5:30-7:30 p.m.

Loyola University, Chicago, Dr. Stephen M. Panko, (312) 670-3014, Course II, beginning week of Oct. 3 and concluding the week of Dec. 12, 6:30-9:30 p.m.

University of Evansville, Evansville, Ind., Richard Hansen, (812) 479-2472, Courses I and II.

Northeastern University, Boston, Edward Czarnowski, (617) 437-2506, Course I, Wed., Sept. 14-Jan. 11, 6-8 p.m.; Course II, Tues., Sept. 13-Jan. 10, 6-8 p.m.

Mott Community College, Flint, Mich., Melvin Harold, (313) 762-0393, Course I, Tues., Sept. 27-Jan. 3, 5:30-8 p.m.; Course II, Wed., Sept. 28-Jan. 4, 5:30-8 p.m.

University of Detroit, William Mills, (313) 927-1025, Course I, Wed., Oct. 19-Jan. 4, 7-10 p.m.; Course II, Tues., Oct. 18-Jan. 3, 7-10 p.m.

Washington University, St. Louis, Joseph Movshin, (314) 863-0100 ext. 4261, Courses I and II.

Hofstra University, Hempstead, N.Y., Leona Seldow, (516) 560-3393/3313, Course I, Wed., Sept. 14-Jan. 11, 5:45-7:45 p.m.; Course II, Wed., Sept. 14-Jan. 11, 8-10 p.m.

New York University, New York City, Stuart Fink, (212) 598-2101, Course I, Wed., Sept. 28-Jan. 11, 6-8 p.m.; Course II, Thurs., Sept. 29-Jan. 12, 6-8 p.m.

Rockland Community College, Suffern, N.Y., Ms. L. Martinez, (914) 356-4650, Courses I and II, early October.

Community College of Allegheny, Pittsburgh, Pa., Dan Batenburg, (412) 366-7000 ext. 58, Course I, Mon., Aug. 29-Dec. 19, 6:30-9:30 p.m.; Course II, Wed., Sept. 7-Dec. 28, 6:30-9:30 p.m.

University of Pennsylvania, Philadelphia, Donna Shelton, (215) 243-4560, Course I, Tuesdays, beginning Sept. 20, 4:30-6:15 p.m.; Course II, Wednesdays, beginning Sept. 21, 5-6:45 p.m.

University of Scranton, Scranton, Pa.,

Victor DeSantis, (717) 961-7582; Course II, Tues., Sept. 13-Dec. 13, 7:15-9:30 p.m.

University of South Carolina, Howard Mead, (803) 777-2231, Course I, Thursday afternoons and all day Friday, beginning Thurs., Oct. 20-Jan. 6; Course II, Thursday afternoons and all day Friday, beginning Thurs., Nov. 3-Jan. 14.

Memphis State University, Memphis, Tenn., Carolyn Hannan, (901) 454-2381, Course I, Mon., Sept. 12-Jan. 9, 7-9 p.m.

University of Tennessee, Chattanooga, Robert Lanza, (615) 755-4344, Courses I and II.

Weber State College, Ogden, Utah, Dianne Thomas, (801) 394-2702, Course II, Tues., Sept. 27-Nov. 29, 7-10 p.m.

Marquette University, Milwaukee, Wis., Ermon Clough, (414) 224-7118, Course I, Tues., Sept. 6-Dec. 20, 6:45-8:45 p.m.; Course II, Thurs., Sept. 8-Dec. 22, 6:45-8:45 p.m.

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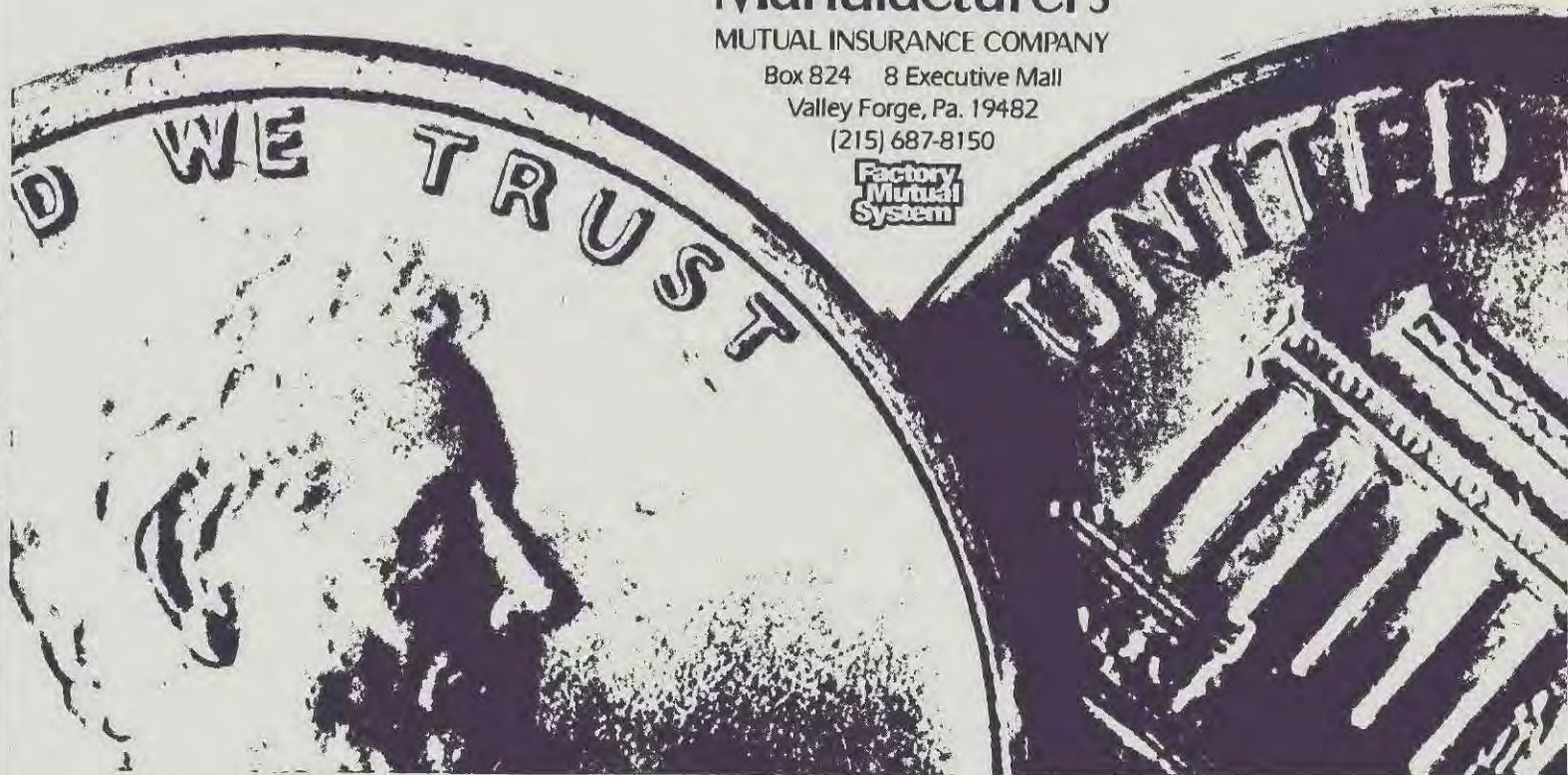
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Lawyer castigates insurance firms

WASHINGTON—Instead of proposing legislation that takes away consumer rights, more efforts should be devoted to controlling the power of insurance companies, the outgoing president of the Assn. of Trial Lawyers of America (ATLA) said.

Speaking at the ATLA's annual convention here, former association president Robert G. Begam said: "The question of which rights should be curtailed should never arise in a free democratic society; rather we should be asking how we can control the casualty insurance industry..."



info for buyers

To receive materials listed in Info for Buyers, write to the name and address accompanying each item, mentioning that you saw it offered in *Business Insurance*. Readers are invited to submit educational and promotional material for possible inclusion in the column. All items that are free and of interest to our readers are eligible; those available at a modest cost will be considered. Send a sample to Info for Buyers, *Business Insurance*, 740 Rush St., Chicago, Ill. 60611.

- **Control of Product Liability . . . A Management Approach**, is a 12-page booklet from Kemper Insurance Cos. designed to put the responsibility for product safety in its proper perspective. A brief overview of the product liability situation and the basic elements of a corporate product safety program are included. For a free copy write Public Relations Dept., D-1, Kemper Insurance Cos., Long Grove, Ill 60049.
- The Federal Tax Reform Act of 1976 has changed the way your estate will be taxed. The Insurance Co. of North America's 12-page booklet, **Reducing Estate Taxes: Some Professional Considerations**, explains the changes and how they affect a family's

security. For a free copy write INA, Dept. R, 1600 Arch St., Philadelphia, Pa. 19101.

- **GAB Business Services Inc.** is offering its new 1977/78 directory of services and personnel. Addresses and telephone numbers of GAB's 650 offices located throughout the U.S., Canada, the Caribbean and Europe are included. For a free copy write J. W. Weatherstone, Marketing and Products Division, GAB, 123 William St., New York, N.Y. 10038.

- **Privacy Journal** is a monthly newsletter reporting on new legislation, technology and trends affecting privacy of personal data in insurance, credit, health and other fields. For a sample copy write Privacy Journal, P.O. Box 8844, Washington, D.C. 20003.

- **Self-Insurance**: the modern answer to escalating cost and administrative workloads of group health

and accident programs is a promotional pamphlet from National Health Care Corp. It outlines the advantages of self-funding the programs and describes the company's direct claims system. For a free copy write National Health Care Corp., 45 Bromfield St., Boston, Mass. 02108.

- **I.N.S.I.D.E.**, a promotional brochure from AIG Risk Management Inc., describes the company's services for self-insurers. For a free copy write Product Information, Corporate Communications, American International Group, 102 Maiden Lane, New York, N.Y. 10005.

- **Pension Funds at Metropolitan** describes that company's investment operations, fixed and equity investments, group pension contracts, investment philosophy and resources. For a free copy write A. D. Sileo, senior consultant, Group Insurance & Pensions Mar-

keting, Metropolitan Life, 1 Madison Ave., New York, N.Y. 10010.

- **When You're Not Sure if Your Construction Site Will Be in a Friendly Territory**, Johnson & Higgins says it can help. The pamphlet outlines the complexities facing U.S. contractors with overseas commitments and describes the company's "all risk" and political risk insurance. For a free copy write Judith L. Cromwell, Production & Coordination Dept., Johnson & Higgins, 95 Wall St., New York, N.Y. 10005.

- **What to Do About Employees With a Drinking Problem** is the title of a 16-page booklet by Kenneth Rouse distributed by Kemper Insurance Cos. The pamphlet can aid a business interested in reducing costs and retaining valued employees with its outline of procedures and policies to deal with alcoholism. Up to 50 copies may be obtained without cost. Write Communications & Public Affairs, Kemper Insurance Cos., Long Grove, Ill. 60049.

- **Underwriters Laboratories Inc.** offers its standards for **Fire Tests of Building Construction and Materials** (UL 263) which describes the fire tests and methods for measuring results for floors, roofs, walls, partitions and building assemblies. Copies are \$3.00. Send orders and prepayment to Underwriters Laboratories Inc., Attn.: Publication Stock Dept., 333 Pfingsten Road, Northbrook, Ill. 60062.

- The American Institute of Marine Underwriters has prepared a **Guide to Cargo Insurance**. The 16-page pamphlet costs 50 cents a copy. Write Robert A. Herbst, American Institute of Marine Underwriters, 14 Wall St., New York, N.Y. 10005.

- **Collective Merchandising of Automobile Insurance**—The Employers' View, a 49-page study by Bernard L. Webb, investigates the status and future of group merchandising of private passenger automobile insurance. Price is \$5. Write Publishing Services Division, School of Business Administration, Georgia State University, University Plaza, Atlanta, Ga. 30303.

- Harlan Employee Benefit Consultants offers **International Benefit Planning in the Petroleum Industry**. The brochure is a general discussion of multinational benefit planning in oil and related industries. For a free copy write Ronald A. Jakelis, Harlan Employee Benefit Consultants, 601 Jefferson St., Houston, Tex. 77002.

- **International Insurance**, a booklet from Arkwright-Boston Insurance, was prepared for risk managers of multinational corporations. The booklet describes international services such as loss prevention engineering and loss control seminars, as well as available coverages including blanket, contingent and GAP. For a free copy write Advertising Manager, Arkwright-Boston Insurance, 225 Wyman St., Waltham, Mass. 02154.

- Could a fire interrupt your business forever? That is the question asked in a Kemper Insurance brochure on **Business Interruption Protection** insurance. It explains how business interruption insurance can help safeguard earnings and pay overhead expenses when fire or other major losses occur. A worksheet is included for determining the coverage needed. For a free copy write Communications & Public Affairs, Kemper Insurance Cos., Long Grove, Ill. 60049.

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London line

British doctors reject malpractice scheme

By JOHN H. MILLER

LONDON—Doctors in Britain have turned down a proposed scheme for medical malpractice insurance because they feel it conflicts with their professional status.

They prefer to use the services of their own medical pools which have been in existence for more than a hundred years.

But the commercial insurance scheme which was drawn up for doctors in the U.K. market will be looked at again in a year if doc-

tors fail to reach agreement on the future operation of the pool system.

Authorities in the trade department which acts as the U.K.'s government watchdog on insurance practice are also looking at the funding methods of the medical defense societies to see if they need closer regulating.

Valuable statistical information on medical liability claims in various countries was obtained by the C.T. Bowring brokering group while drafting its tentative plan for the medical profession.

Dam coverage

Insurers at Lloyd's have made it clear that they can still insure U.S. dams in spite of the Teton River, Idaho, disaster last year.

But their policies will be based on ratings that take account of suitable catastrophe risks and other exposures.

The capacity problem was raised after suggestions were reported from a New York conference of water agencies that many authorities were finding it hard to get coverage for thousands of the dams they control.

However, Lloyd's sources in London point out that they cover all aspects of water agency risks ranging from flooding to earthquakes and that usually they are in the form of package deals in which dam collapses are only a related part.

"It may be our renewal rates have gone higher after looking at the Teton River affair, but the

terms are still there if the water agencies want to accept them," one Lloyd's underwriter said.

John P. Germond, a Commercial Union engineering risk consultant said, "Risks arising from diversion-flow closure and reservoir filling carry the greatest potential for large unforeseen losses as has been forcibly demonstrated by recent events at the Teton and other dams.

"A study of dam failures suggests an average failure rate of high dams of about two per year. Nearly half of these occurred during the first reservoir filling. On the basis of three hundred dam completions a year over the past few decades, the rate of first-filling failures is in the one in 300 range. Damage varies considerably from 25% of total costs to virtual total loss.

"Risks after the first filling lead to about one failure per year out of more than 10,000 high dams in existence. But growing concern

over dam failures can be balanced by closer collaboration with engineers so that insurers are made more aware of the major improvements in dam building in recent years."

Cargo containers

Marine insurers are concerned over the effect of containers on cargo claims, according to Edgar Mann, chairman of the Institute of London Underwriters.

There will have to be a distinct improvement in the loss record internationally before premiums can be dropped, he warned, for many types of claims from this form of transit are still problems.

Inquiries by the International Union of Marine Insurers show that losses such as breakage and denting, theft and pilferage and freshwater damage represents a fairly sizable proportion of container risks.

Freight forwarders provide greater risks than shipowners when it comes to reviewing the extent of container losses. The hope that the introduction of containers on many routes would cut insurance claims has not yet been fully realized.

U.K. regulations

Supervisory agencies for U.K. insurance companies are enforcing new government rules over their assets to insure they keep solvent.

The rules will insure there is a wide spread of reserve capital funds in case of stock market fluctuations.

The scheme means that the solvency of a company will not be vulnerable to the failure of one or two individual investments.

Trade department officials intervened last year on 38 occasions compared with 31 in 1975. ■

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Alcoa puts some liability in captive

NEW YORK—The Aluminum Co. of America has established a Bermuda captive subsidiary to underwrite the foreign property and marine liability insurance.

The Alcoa captive, known as Bermrisk Ltd., was licensed June 21 with an initial capitalization totaling \$120,000. No surplus has been reported to date.

The managers for Bermrisk are James International Ltd., a Bermuda-based subsidiary of Fred S. James & Co. of Chicago, and International Risk Management Ltd., the Bermuda branch of American Risk Managers Inc., the Englewood Cliffs, N.J., captive insurance manager.

An Alcoa spokesman said the captive was created specifically to insure overseas property and marine risk and would seek no outside business. The coverage provided by Bermrisk is specific to Alcoa's needs, he continued, and is expected to eventually reduce risk insurance costs.

Alcoa declined to identify its previous insurer and its premium.

Alcoa is the world's leading producer of aluminum, with sales totaling \$2.9 billion last year. ■

An expansion

American Special Lines Insurance Agency, an Oklahoma City managing general agency specializing in trucking and property insurance, has expanded into four states. In addition to Oklahoma, ASL is now serving Kansas, Nebraska, Iowa and New Mexico.

Aviation renewals . . .

Continued from page 1

country, Associated Aviation Underwriters and U.S. Aircraft Insurance Group.

Although another broker admitted "nothing's a cakewalk after a Tenerife," where the crash occurred, he said the markets were "generally fair." He added that the markets have been "fair" in both primary insurance and in excess coverage.

Excess market

Excess underwriters were said to be heavily hit by Tenerife. Sources familiar with the industry had predicted that the biggest

University begins using its captive

MINNEAPOLIS—The University of Minnesota has placed the first \$3 million of its liability insurance in its newly created Bermuda captive.

The Insurance Co. of North America is fronting for Ruminco Ltd., providing claims handling and lending credibility for access to the excess market. INA had underwritten the university's primary liability insurance last year.

The University of Minnesota is the first public university to establish an offshore captive, possible through its standing as a constitutional corporation (*Business Insurance*, June 27). Harvard University and the University of Pittsburgh, both private, established captive insurance companies last year.

Though the university lost its sovereign immunity only last August, financial officers quickly saw possible savings through a captive compared with covering the university's exposures at the primary level in the commercial market.

Although the financial details were not available, a university official said an amount approximating the commercial cost of \$3 million of primary liability insurance will be paid to the captive.

The university's liability exposures, insured to \$25 million in the excess market, include a teaching hospital. Although the captive will be covering medical malpractice claims, university officials said they did not encounter any problems establishing the captive in Bermuda. (The intended name of Regents Insurance Ltd. was ultimately rejected.)

University officials and staff physicians are still working out a definition of "scope of employment" to determine the physicians' coverage under the university's insurance program. ■

Stephenson to J&H in Bermuda

NEW YORK—Patrick J. T. Stephenson has been named president of J. & H. Ltd. of Bermuda, the captive management subsidiary of Johnson & Higgins.

Mr. Stephenson had been chairman of Johnson & Higgins Faber Ltd. of Canada.

Headquartered in New York, Johnson & Higgins has 26 offices in the U.S., seven in Canada and 32 offices abroad as well as correspondent brokers.

J&H chairman Richard I. Purnell said the move would strengthen the operations of J&H Ltd. of Bermuda. ■

problems in aviation renewals would come not in primary insurance, but in reinsurance and excess coverage.

But the greatest problem airlines face is the possibility of another crash. While the Tenerife crash may not have drastically changed the markets, another such disaster would have a tremendous impact, according to insurance industry sources.

Meanwhile, at least 19 insurance companies are facing payments for the aircraft hulls. The claims total \$43 million for the KLM 747; the Pan Am 747 was insured for \$23 million.

In addition liability claims have been estimated at \$115 million or \$200,000 per victim by Lee S. Kreindler, a New York lawyer specializing in aviation law.

Insurers thus far have paid

\$1.75 million in funeral expenses and transportation to bring the victims back to the U.S. Another \$350,000 has been paid for medical expenses and \$250,000 has been paid in cash advances to needy families.

Both airlines were fully insured for the hulls of the aircraft. A substantial portion of the KLM hull coverage, \$15 million, was written in the London market. Lloyd's of London and insurance companies in the London market had 45% of the coverage and La Concorde, a French group, had 15%. U.S. Associated Aviation Underwriters and U.S. Aircraft Insurance Group each had a 20% share.

Number of suits

Pan Am faces approximately 28 suits and KLM faces 40 suits, but an equal number of the total claims have been settled, according to Robert Alpert, claims at-

torney for U.S. Aviation Underwriters. About 150 settlement offers are currently being negotiated, he said. The suits are for personal injury and wrongful death.

Mr. Alpert said his company responded to the crash in a way that "diminished the great financial hardships of the victims and still protected the interests of the insured."

U.S. Aviation Underwriters recommended that the next of kin detail their financial losses to the company instead of obtaining an attorney on a contingency fee basis. The company recommended that the next of kin then take the company's offer to an attorney who is paid on a hourly basis.

"This approach will save the insurance companies money and will expedite the payment of legitimate claims to next of kin," Mr. Alpert said. "The ultimate net recovery to the next of kin is larger if a settlement is reached within two to three months than

if a lawyer is hired by the plaintiff on a contingency fee basis."

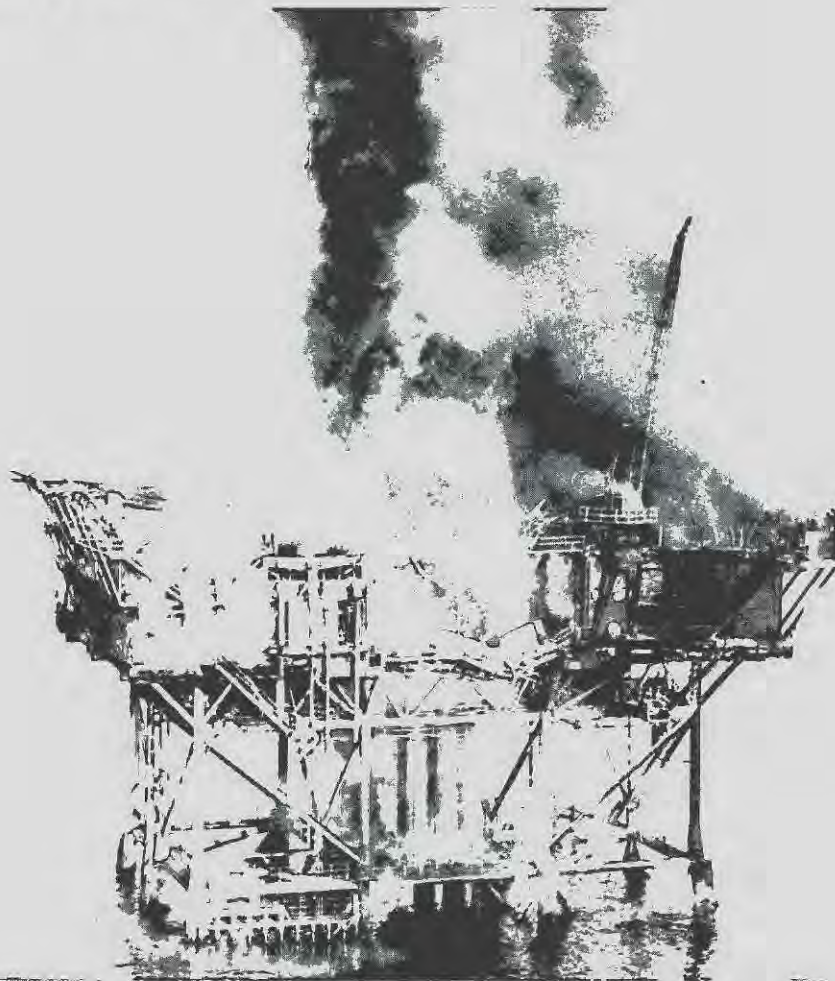
Settlements

The company also offered to issue blank checks for medical expenses and financial losses, a move designed to benefit both the insured and insurer. This offer was made despite the fact that legal liability of the airline to its own passengers was limited to \$75,000.

"By doing this," Mr. Alpert said, "the medical expenses of the insurance companies were reduced because no attorney was involved. This approach also helped those who suffered obtain payments rapidly."

The offer to issue blank checks was made in a letter to next of kin just eight days after the crash. The letter also explained what happened in the crash and identified the procedures for funeral arrangements, medical expenses and recovery of personal property. ■

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To accomplish this, benefit managers must become professional managers of communication. New skills must be developed and fine-tuned to make summary plan descriptions and annual summary reports easily understood and inviting to the eye. New communications approaches and tools must be developed.

That's why this Conference puts you in the professional communicator's seat. You see how company after company across the nation has developed effective benefit communications programs...

- You view dramatic visuals detailing all aspects of corporate benefit programs
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- You participate in exciting give and take sessions where you match your judgment with a professional communicator
- You gain insight into how budgets are allocated among various communications media
- You learn how to select and work with a consultant
- You discover what future demands are likely to be made on your benefit communications program
- You get feedback on what employes think of benefit communications
- You're told what the government expects of your program
- And you get a glimpse of what your future as a communicator will be like.

Right now, many companies are investing more in employe benefits than they are earning in profits. That fact, coupled with increasing demands from society and government, is why effective employe benefit communications are so vital, and growing in importance each day.

So read the following program closely. Then send in your registration quickly (all registrations are accepted on a first-come, first-served basis only). To register, fill out the coupon or phone (312) 649-5242 collect.

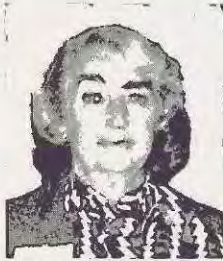
You Be The Judge!

Now for the first time anywhere you can see how company after company solved its benefit communications problems—the approach, media utilized, insights into budget and the program itself. These mind-expanding audio-visual presentations are interspersed throughout the Conference. Each was an entry in the 1977 Business Insurance Employe Benefits Communications Contest. Herb Zeltner, a professional marketing

communicator, moderates and provides fascinating background information. He asks you to rate each program's communications effectiveness, then presents his opinion. Watch how your expertise in judging effective communications grows throughout the Conference and compare your ratings with the expert's.



Susan Alt



Eugenie Bodenhoff



Lee A. Carlson



Richard Cromer



Joseph W. Duva



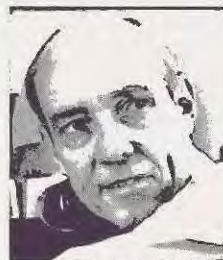
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John Mackenzie



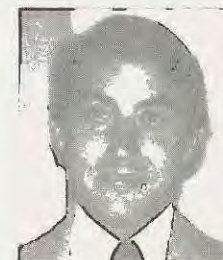
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EMPLOYEE BENEFIT COMMUNICATIONS CONFERENCE

November 7-8, 1977
Continental Plaza Hotel,
Chicago

Monday, November 7

8:00 am-9:00 am—Registration.

Pick up your Conference materials and get ready for two days of fast-paced, information-filled, stimulating conference sessions. Each day's eye-opening sessions begin promptly at 9:00 am.

9:00 am—Welcome. Alfred Malecki, Publisher, Business Insurance and Susan Alt, Editor, outline the purpose behind this first-of-its-kind Conference and tell you what you can expect over the next two days.

9:10 am—Good Communications = Personnel Profit. Lee A. Carlson, Manager, Salaried Benefits and Policies, The Bendix Corp., tells why good benefit communications is good business; the many ways employers gain from having a good communications posture; and the dangers of undercommunicating. Is there such a thing as overkill?

10:00 am—ERISA Headache #1: How To Cope. Barbara Philbeck, Communications Consultant and Richard Cromer, Partner and Consultant, Hewitt Associates, show you how many companies are meeting and exceeding ERISA's requirements for summary plan descriptions and summary annual reports. Sparkling visuals and incisive comments give you insight into effective ways of meeting your communications obligations.

11:00 am—You Be The Judge: I. Herb Zeltner, President, Herbert Zeltner Marketing & Communications, shows you several corporate audio-visual benefit communications programs,

analyzing how they meet basic requirements, and asking you to rate their communications effectiveness. He gives you his ratings based on their effectiveness in meeting professional communications criteria. Match wits with the expert.

12:30 pm—Luncheon.

2:00 pm—Overview: Outstanding Communications Programs. A panel of corporate employe benefits managers highlights all elements of their own programs—the media utilized, how changes and updates are made, and how they apportion their funds. Each has been a winner or a judge in the Business Insurance Employe Benefits Communications Contest.

Panel members are: Susan E. Forster, Manager, Welfare Plans, Mead Corp.; Joseph W. Duva, Director, Employe Benefits and Compensation, SCM Corp.; Judith Starkey, Personnel Specialist, Chemetron Corp.; and Dennis A. Kairis, Director, Employe Benefits, Borden Inc.

3:20 pm—Flipside: What Employes Think. William W. Wimpisinger, International President, International Association of Machinists, and James H. Mayes, Director of Publications, Standard Oil of Indiana, tell you what employes really think of benefit communications—what employers do right, what they do wrong and how, in the employes' view, benefit communications could be made clearer and more effective.

4:00 pm—You Be The Judge: II. Herb Zeltner puts you on the judge's bench once more as together you review and evaluate several corporate audio-visual benefit communications programs. See

how close you come this time to matching the expert's ratings.

5:30 pm—Reception. Take a well-earned break to chat informally with your fellow Conference participants.

6:30 pm—Dinner.

7:30 pm—Aftermath: Moving Beyond

Legal Requirements. Larry Ewing, Partner and Consultant, Hewitt

Associates, discusses how we move on now that the legal requirements have been taken care of—how to meet the demands created by employes' new awareness; how to better organize materials; areas which are the communication specialist's rather than the lawyer's, and how to put more emphasis on what people *want* to know rather than on what they *have* to know.

Tuesday, November 8

9:00 am—Big Brother: Friend Or

Foe? Ron Weakley, Director of Communications and Public Service, Pension & Welfare Benefit Programs, U.S. Department of Labor, tells you what the government expects of benefit communications programs. Here is your chance to see how the regulator is doing to meet the objectives he sets for you—ask the "hot" questions you want answered.

10:00 am—Choosing a Consultant: A

Marriage Made In Heaven Or... This expert panel moderated by Joseph W. Duva, Director, Employe Benefits and Compensation, SCM Corp., examines the many ingredients needed to arrive at choosing the right consultant—whether you need a small firm or a

large one, and how to evaluate whether they can transport you to the heights of communications effectiveness they claim. Panel members are: John M. Shores, Jr., Director of Personnel and Purchasing, Birmingham News Co. and Robert Sjogren, Manager, Benefits Development, Xerox Corp.

11:00 am—Doing The Job Without

Breaking The Bank. Eugenie Bodenhoff, Director, Benefit Planning, Hunt-Wesson Foods, Inc., shows you how to set a benefit communications budget, outlining typical ways funds can be allocated to achieve maximum effectiveness at minimum cost. You get many money-saving, time saving ideas.

12:00 noon—Luncheon.

1:15 pm—Evolution: Humanizing

Your Communications. A panel of communications professionals discusses ways you can relate on a personal level with your employes' needs and desires for straightforward benefit information and communication understanding. Panel members are: John Mackenzie, President, Internal Communications Corp.; John Kearney, Jr., Vice President, Employe Communications, Kwasha Lipton Inc.; Paul Sanchez, Consultant, Towers, Perrin, Forster & Crosby Inc.; and Donald Ward, Director, Employe Benefits, Medtronic Inc.

2:15 pm—You Be The Judge: III. Herb Zeltner gives you your last opportunity to match your benefit communications judgment against his. See how you've sharpened your perception of effective communications as your review these last several examples of corporate audio-visual programs.

4:00 pm—Adjournment.

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Please enroll me in the Business Insurance Employe Benefit Communications Conference. I understand that the Conference fee is \$285 if received by October 26, 1977; the fee increases to \$320 after that date. (Additional registrants from the same company earn a 10% discount off these rates.)

Registration fee includes admittance to all scheduled Conference sessions and functions, resource materials including a workbook, planned meals and cocktail reception. (Hotel accommodations and travel

arrangements are not included and must be made separately. Registrants automatically receive hotel reservation forms with their conference confirmation.)

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Ski area liability . . .

Continued from page 1

presiding over the case ruled, "The ski area operator can no longer, under all circumstances hide behind the doctrine of volenti non fit injuria. One who partakes in the sport of skiing accepts the dangers that inhere only so far as they are obvious and necessary."

The judge's ruling in this case parallels what has befallen manufacturers in product liability cases—even the wording of the ruling is familiar.

In rejecting the doctrine of assumption of risk, Judge Wynne Underwood said, "The ski industry has changed dramatically since 1951. . . . New equipment is available to the ski area operator to cut and build trails. The novice ski trail of today is a far cry from the stump and rock strewn slashes on the sides of mountains in 1951."

Novice skiers

The judge also focused on what he considers the ski industry's responsibility to novice skiers such as Mr. Sunday. "The beginner or novice skier relies upon trail maps, the classification of the trails and the advertising in brochures. . . ." which he said represent trails as "perfectly smooth."

He concluded, "The capacity of ski areas to improve trail and snow conditions on the trails and the skiers' increasing reliance on these improvements, makes the issue of duty of care of a ski area operator a question for the jury, and every skier should not be barred from recovery as a matter of law simply because there are some risks inherent in the sport."

The jury decided Stratton Moun-

tain was 100% negligent and awarded Mr. Sunday \$1.5 million in damages though he asked for only \$1.25 million.

Stratton Mountain's attorney, Donald Hackel of Rutland, Vt., observed "The jury was ruled by its heart rather than its head." But "had it not been for the judge's ruling, assumption of risk would have been an absolute bar to recovery."

The overturning of assumption of risk, not just the size of the award, has motivated Stratton Mountain and its underwriter, American Home Assurance Co., to prepare an appeal.

"This case sets a dangerous precedent," said American Home commercial casualty vp Dennis Busti. "If this is upheld, whenever a skier is injured he'll be able to collect," he predicted.

Though Mr. Busti agreed an insurer expects to pay claims arising from gross negligence of a ski area—such as leaving a huge boulder sitting in the middle of a trail—he said American Home does not believe ski areas should be found negligent for accidents on trails that are "basically sound."

If the verdict and broadened liability are upheld, Mr. Busti said, "more likely than not we'd withdraw from the program."

American Home

American Home insures 20 ski areas in Vermont and 280 others in the National Ski Areas Assn. Insurance Plan through Kendall Insurance Inc. in Rochester, N.H. Lloyd's of London, the only other major insurer of ski areas, reportedly is also "concerned" over the



Ski areas already pay about 10% of their revenues for insurance, up from the old norm of 2.5% to 3%.

Sunday case.

Barring withdrawal from the market, Mr. Busti said a "no-fault situation" as suggested by this case would necessitate "raising rates to such an extent I question if ski areas will be able to pass them on to the consumer."

Joe Parkinson, executive director of the Vermont Ski Areas Assn., said ski areas already pay about 10% of their gross revenues for insurance, up substantially from the old norm of 2.5% to 3%.

If this decision is upheld, the resulting increased insurance costs could tack another \$4 to \$5 onto the price of today's \$12 to \$14 lift ticket, Mr. Parkinson said. Coupled with inflation, skiers would be faced with a \$20 lift ticket at major ski areas, he projected.

"With that price we could see a 25% reduction in business," he speculated. "Our costs don't change. We'd have to charge the

remaining skiers more—maybe up to \$22," he said.

If upheld, the decision's impact on insurance costs would initially be isolated to Vermont. Mr. Parkinson said. "But eventually other ski areas will share that cost—that's what insurance is all about."

Other effects

The legal ramifications of a Vermont supreme court finding for the trial court are untold. Although in western states cases are seldom dismissed on the doctrine of assumption of risk, plaintiffs' attorneys around the country would have a precedent to bolster their cases.

Mr. Parkinson wonders if such a decision would just affect the multi-million dollar sport of skiing, and not "any participatory sport."

Although the "what if's" have

been discussed, Vermont ski area operators and their insurers say they are operating "business as usual" for the coming season. "There's a fair amount of expansion going on and nobody has said they won't build a new lift because of this," said Mr. Parkinson.

"We're not pulling out," said American Home's Mr. Busti. Interestingly, American Home's parent, American International Group, has more than a claim concern in the case. AIG owns a major portion of the stock in Mt. Mansfield Co. Inc., the renowned Stowe, Vt., ski resort.

The Vermont Ski Areas Assn. plans to intervene in the appeal as a friend of the court. In the meantime, the association is "being a little more cautious in some areas" in preparing its new brochures, heeding the judge's reference to "advertising in brochures."

Mr. Parkinson asked, "For the novice skier, if we talk about terrifically groomed trails, does this become a guarantee?"

He noted in addition to talking about "terrifically groomed trails, we also talk about the sheer face, the excitement and the challenges." Mr. Parkinson observed that intermediate and advanced skiers, who he said make up the majority of ski area patrons, "don't want perfectly groomed trails."

But do the courts? The Supreme Court's answer isn't expected until after the first of the year. Even then, the court could simply order a new trial since there is a question on whether the jury might have been prejudiced by the judge's explanation of his ruling to the press—which some of them had read. ■

. . . and while going up

MONTPELIER—The Vermont Ski Areas Assn. hadn't been concerned about downhill liability until the decision in Sunday vs. Stratton Mountain Corp.

They had, however, been pushing a bill in the legislature relating to skier responsibility going uphill. Because the ski area operators are considered common carriers, association executive director Joe Parkinson said they want the responsibilities of skiers defined.

The bill pending in the legislature would require that skiers, for instance, use the safety bars on lifts which the operators are required to provide. Mr. Parkinson said this is important because, "if there is an emergency stop and the safety bar isn't down, the skier could fall."

In light of the recent negligence case that went against the Stratton Mountain ski area, there is some consideration being given to pushing for an amendment to the bill defining ski areas' liability in downhill skiing accidents.

Meanwhile, the New Hampshire Supreme Court has ruled that ski tramway operators cannot be sued for the death of a passenger who fell from a lift under the theories of implied warranty and strict liability in tort. Specifically, the court noted that a section of the state's passenger tramway safety act prohibits any suit against an operator except for negligent construction or maintenance of a tramway.

The court explained that the purpose of the law was to relieve passenger tramway operators of the heavy obligations that common carriers owe to the public. Thus, to find "ski area operators liable under these theories would be wholly inconsistent with the purpose" of the law. ■



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Associations . . .

Continued from page 1

tives formed to insure the benefit programs of the group," said Mr. Corde. "There are specific insurance problem areas that are being brought about right now by the insurance industry, i.e., in the excess liability areas. That is where the trade associations are focusing."

An association that begins a journey on the increasingly popular road toward captive insurance can quickly stumble into deep potholes that will throw a program out of alignment.

The problems

Inadequate member participation in sharing the risk, insufficient reinsurance and failing to adopt tough risk management techniques to prevent claims are the key factors that can cause an association insurance program to run off the road and crash into a wall of bankruptcy, several brokers said.

Effective loss prevention practices enabled the National Tire Dealers & Retreaders Assn. Inc. to win a reduction in rates from Lloyd's of London for a group product liability policy, said Jefferson Keith, executive vp.

In order to obtain coverage, tire retreaders had to pass a safety and quality control inspection conducted by Tire Retreaders Institute.

While tire retreaders two years ago faced the expensive prospect of paying more than 20 cents per tire in product liability premium costs, the recent rate reduction lowers the per tire cost to a more manageable 7.5 cents.

As an added bonus, the Lloyd's master product liability policy has acted like a magnet in attracting new members. "The program has brought in close to 300 new members in a little more than a year," Mr. Keith said.

Although tire retreader officials are satisfied with the Lloyd's policy, a dormant captive domiciled in the Cayman Islands lies in reserve. However, extreme difficulty in obtaining reinsurance makes it unlikely that the captive will be activated.

Inadequate reserves

The National Swimming Pool Institute, like many other associations, gave serious thought to establishing a captive in the general liability area. But a captive feasibility study conducted earlier this year found that the association did not have adequate reserves to fund a captive, said Donald Sutton, director of chapter and member services.

At the Fertilizer Institute, a trade association representing members of the giant \$7 billion fertilizer industry, a survey, designed by Fred S. James, is being distributed to find out what member product liability claims experience has been over the last five years.

Pending the outcome of the survey, the association's most

likely option to help their members survive the insurance crunch is writing a master policy underwritten by a U.S. carrier. If all else fails, however, a captive is a real possibility, Mr. Wheeler said.

At the Boating Industry Assn. in Chicago, a special product liability committee was established last year and formed a safety certification program to help manufacturers control claim losses.

A failure

At the same time, the committee worked with a broker to prepare a group liability policy which was to be underwritten by a major carrier, said association president Matt J. Kaufman.

The program was presented to

a giant carrier, who Mr. Kaufman declined to name, for approval. What happened next left Mr. Kaufman "unhappy" and "discouraged" with insurance companies.

"When it came down to a final vote, we were told that there were five people at the (insurance) company with a voice in the decision. Four voted in our favor. One voted no . . . and his vote outweighed the other four. Apparently, one vote was really worth five votes," Mr. Kaufman said.

To help trade associations in their search for new group insurance programs, major insurance brokers such as Marsh & McLennan, Johnson & Higgins, Alexander & Alexander, Frank B. Hall and Fred S. James all maintain departments or subsidiaries that can conduct captive feasibility studies, set up and maintain captives or help draw up a new master insurance program. ■

Crum & Forster sets new consumer unit

NEW YORK—Crum & Forster Insurance Cos. has recognized the growing need for better communication with the public and plans to fill the void with a consumer affairs unit.

The unit will be an outlet for complaints from both personal and commercial lines customers. For Crum & Forster, it will function as a forum to identify and solve customer concerns before they become problems.

Specific issues that will be dealt with haven't been identified yet since the consumer complaint program is "still feeling its way," said Richard Lydecker, senior vp. The program, however, will focus on aiding personal customers more than com-

mercial customers, he said.

"The commercial customer is more business-oriented than the personal customer so he is more aware of and understands insurance problems," Mr. Lydecker said.

Commercial buyers will only be aided if a particular problem arises. But for personal lines customers, the unit plans to recommend general improvements in personal lines handling even before a specific complaint is brought.

To help the program identify consumer problem areas, Ellen Bryant, the unit's director, will consult other insurance companies and Crum & Forster's agents and brokers. ■

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INA establishes special farm unit

PHILADELPHIA—INA Corp. has formed INA Farm Center Inc. to handle all the agricultural insurance operations of the corporation.

The unit's headquarters will be in Wilmington, Del. INA Farm Center will operate as part of INA Special Risk Facilities, an INA subsidiary specializing in complex insurance and risk management problems. ■

States get boost . . .

Continued from page 1
ulations have been issued.

At least two major trusts have failed in the regulatory vacuum, leaving thousands of persons with unpaid medical claims that may total millions of dollars.

VIP Insurance Trust was originally a multiple employer trust providing medical coverage to lumbermen, realtors and pharmacists, according to court papers. The trust was put together by Galbraith & Green, insurance brokers, and was underwritten by Old Republic Life Insurance Co.

Like many other trusts around the nation, Galbraith & Green lost its carrier in early 1976 when the Illinois department of insurance forced Old Republic out of the multiple employer trust business. Galbraith & Green then recast the trust as a self-funded trust under ERISA.

Arizona intervenes

The lawsuit was originally filed in federal court by Artie A. Hamberlin, a Phoenix realtor and a participant in the VIP Trust. Mr.

Hamberlin and his wife were victims of a severe one-car accident in October 1976. The trust paid \$100,000 in medical bills for Mr. Hamberlin, who suffered brain damage, and his wife. But in April the trust terminated, extending coverage for only 30 days.

Mr. Hamberlin died earlier this month with over \$140,000 in unpaid medical bills. Mrs. Hamberlin requires additional medical treatment which is being delayed to see who will pay the bills.

The Arizona insurance department intervened in the case to argue that VIP was not an employee welfare plan under ERISA but merely an unauthorized insurer. At the same time the department filed suit in state court to place the trust in receivership and administer the assets for the participants.

Federal Judge William P. Cobble agreed with the Arizona department. The trust was created solely to retain business Galbraith & Green might have lost when Old Republic withdrew as underwriter, the court said. Brokerage firm officials became trust-

tees of VIP, set their own compensation and received additional commissions from the life coverage.

The trust was marketed to unrelated employers and the officers of Galbraith & Green never acted as agents of the employers or in the interests of the participants, the court added. Thus, VIP Insurance Trust was merely a scheme to escape state insurance regulation, the court said.

Changes disputed

Richard Galbraith, president of Galbraith & Green, said his firm's only interest was in providing coverage for the 5,000 persons in the trust when Old Republic cancelled.

Galbraith & Green tried 100 insurance companies after Old Republic pulled out, he said, but no one would underwrite the trust. Eventually 3,500 persons were placed with insurance companies, leaving only 1,500 in the trust when it terminated.

No new business was solicited after the trust was recast, Mr. Galbraith said. Fifteen percent was set aside for commissions and administrative expenses and all claims were paid up until termination. The brokerage firm lost

over \$300,000 in covering the claims, he said.

"We did not design the trust as a vehicle for expansion," Mr. Galbraith argued. "We honestly tried to do the right thing and provide a service to these people."

Mr. Galbraith said he was opposed to self-funded multiple employer trusts and resented being linked with other trusts that have gone bankrupt leaving thousands with unpaid claims.

Frederick C. Berry Jr., Arizona deputy insurance director, said his department will cite the decision as a precedent in that state's court action against Common Market, another self-funded multiple employer trust. The NAIC will also cite the case in the Wayne Chemical case involving the bankrupt National Multiple Employers Foundation, now before a U.S. court of appeals in Chicago.

Claude Dorais, a Beverly Hills attorney representing the National Assn. of Multiple Employer Trusts, said he agreed with the Arizona ruling. Although Mr. Dorais admitted the decision could create future problems for the trusts, he said the key element was that the trust was maintained by Galbraith & Green for its own benefit.

A precedent

"You've got to have a group that is answerable to the participants and beneficiaries and acting in their interests" in order to be an employee welfare plan under ERISA, he said.

The Labor Department intervention against Employee Security Benefit Assn. is more limited. The department filed a friend of the court brief in federal court in Topeka, Kan., in support of that state's effort to have ESBA declared an unauthorized insurer subject to state law.

ESBA is a Bellevue, Wash., based trust that solicits individuals and self-employed persons as well as employers. It uses only 28% of first year premiums to pay claims with the rest going for commissions and administration. The trust markets a package which originated with a Bellevue, Wash., insurance company—Protective American Life—and is used by several other trusts.

ESBA ruling

The trust claims to be covered under the "employee beneficiary" language in ERISA, said Robert Gallagher of the Labor Department's solicitor's office. But the department believes a "commonality of interest" must exist between participants for a trust to come under ERISA.

Mr. Gallagher said the ruling

would affect trusts that market to individuals and self-employed persons. It would not affect the larger number of trusts that deal only with employers.

Nevertheless, Mr. Gallagher termed the action "a constructive step."

Lee Brooke, attorney for ESBA, said he is disturbed by the Labor Department's handling of the matter. Early in July the trust filed a request for an advisory opinion letter to clarify its status, Mr. Brooke said. Instead of complying with its own procedures, the department unexpectedly intervened in a court case, he charged.

"We have been acting in good faith in an attempt to get some type of regulation," he said.

"I don't think there is any intent in ERISA to require commonality of interest," he continued. "If Congress had wanted commonality of interest, it would have stated it in the law."

Mr. Dorais said the state insurance departments have so far, only selected cases for prosecution that put self-funded trusts in a poor light. The trusts have not been able to present their side of the situation in a court case where there have not been abuses that overshadow the regulatory issues, he added.

Chemical draws fire from OSHA

WASHINGTON—The Occupational Safety and Health Administration has warned 75 companies to take steps to protect their workers from exposure to dibromochloropropane (DBCP), a chemical soil fumigant which may cause sterility in males.

DBCP is used on a variety of crops including cotton, soybeans, fruits, nuts and vegetables. Side effects may result if the pesticide is inhaled or comes in contact with the skin.

A major producer of DBCP, Dow Chemical Co., already has closed its Magnolia, Ark., DBCP manufacturing facility, reportedly after it learned that the pesticide was causing sterility in male workers at an Occidental Chemical Co. plant in California.

OSHA officials are expected to issue detailed guidelines later this month for the safe handling of the substance.

About 25 million pounds of DBCP are manufactured annually. Major producers include Dow, Shell Chemical Co. and Occidental Chemical Co.

AMA supports end to listing damages

CHICAGO—The American Bar Assn. believes medical malpractice plaintiffs should be prohibited from mentioning a specific dollar amount in their actions against doctors.

The association's house of delegates voted at the ABA annual meeting here this month to support the elimination of named damage requests when suits are initially filed.

The ABA considered various recommendations intended to streamline and improve the process of medical malpractice litigation. Some recommendations will be considered at the ABA's mid-year 1978 meeting. Among those

are recommendations on limiting the amount recoverable in a malpractice lawsuit and the fees attorneys charge.

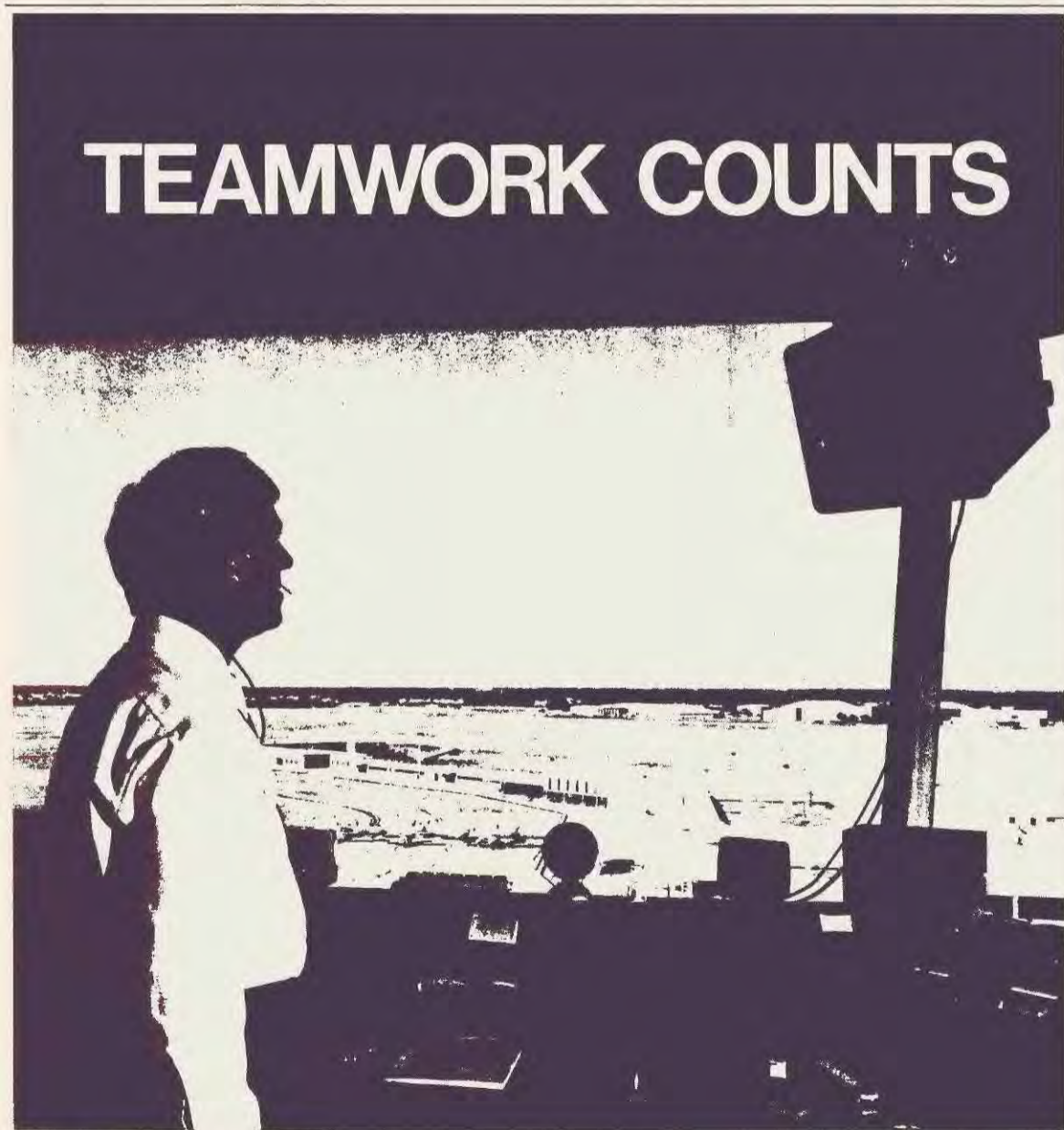
The lawyers did agree:

- Patients should be given easy access to their medical records.

- Medical societies should be encouraged to establish pools of expert witnesses for both sides in a lawsuit.

- Pretrial exchange of experts' reports should be required.

- Information showing that a health care provider made advance voluntary payments to the patient should not be admitted in court.



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people

Continued from page 42

manager, corporate insurance and one year in the company's procurement department. Prior to joining Hughes, Mr. Evans worked in the corporate insurance department of Lockheed Aircraft Corp.

Mary V. Senz, 25, has joined Anheuser-Busch Inc. in St. Louis as coordinator of benefits compliance. In the new position, Ms. Senz will handle documents for insurance and welfare plans in accordance with ERISA. She reports to Robert E. Mathieu, manager of employe benefits and services. Previously, Ms. Senz was with Diversified Industries as a member of the legal department. She received her undergraduate degree from St. Louis University and her law degree from the St. Louis University Law School.

The general insurance department at Wallace Murray Corp. in New York has been replaced by a risk management department. **Merlin F. Teed**, 45, who has been

with the company for eight years as manager of general insurance has been named director of risk management. The realignment occurred because the company is studying alternatives to insurance as the cost of insurance rises, Mr. Teed said. Loss prevention, self-insurance and captive formation are Mr. Teed's responsibilities. In addition to risk management for Wallace Murray and its subsidiaries, Mr. Teed supervises the risk management for smaller companies in the Dyson-Kissner family: Easterline Corp., Kearney National Inc., Varlen Corp., Delton Industries Inc. and Raydon Technology Corp. Mr. Teed's associate, **Stephen G. Palenscar**, 28, has been promoted to manager of risk management, also a new corporate position. Mr. Palenscar will direct risk analysis. Formerly, he was assistant manager of general insurance for two years.

Scott Rich, 30, has been pro-

moted to corporate insurance manager of Flowers Industries Inc. in Georgia, with responsibilities in the office of general counsel. Mr. Rich was previously in the company's marketing department for three years. Mr. Rich replaced **H. Daniel Hayes Jr.**, 26, who has been promoted to corporate attorney for Flowers Industries. Mr. Hayes joined the company a year ago as corporate insurance manager.

Miller Brewing Co. has hired **Bill DeGarmo**, 43, as plant safety manager for a new brewery located in North Carolina. In the new position, Mr. DeGarmo will interpret and carry out OSHA regulations and will implement and improve employe awareness programs. Previously, Mr. DeGarmo was manager of safety at Cessna Aircraft Co. in Wichita for five years.

Mike McDermott, 30, has been

named benefits analyst for G.D. Searle & Co. in Skokie, Ill. His duties include ERISA compliance, benefits administration and benefits recommendations based on statistical analysis and surveys. Mr. McDermott replaces **Bonnie Fox**, who left the company. Previously, Mr. McDermott was a personnel assistant for three years with Pullman Inc. in Chicago.

Abbott Laboratories in Chicago has reorganized its benefits department to focus on health care and has named **Donna Zeckser**, 26, to supervise its health care benefits. Ms. Zeckser oversees the processing and payment of employe health care claims and supervises a clerical claims processing staff. In her former position, Ms. Zeckser was coordinator of computer installation team training at Aetna Life & Casualty for seven months. She also worked at Aetna 3½ years as a senior claims representative in the life and

health claims department.

Juanita Renner, 26, has been named supervisor of group insurance at Koppers Co. Inc. in Pittsburgh. Effective May 1, Ms. Renner supervises claims payments made from Koppers through self-insurance programs and administers medical, dental, non-occupational and sickness programs. Previously, Ms. Renner was section supervisor of dental claims at Equitable Life Assurance Society for four years. Ms. Renner replaces **Cheryl Bakin**, who became supervisor of human resources information systems at Koppers.

Business Insurance reports on personnel changes in employe benefit and risk management departments. If your company has made any changes, just drop us a note. Write Rebecca Fanning, Business Insurance, 708 Third Ave., New York, N.Y. 10017 or call (212) 986-5050.

A-T-O sets its captive in Bermuda

WILLOUGHBY, Ohio—A-T-O Inc., a diversified manufacturer here, activated a Bermuda captive in May.

The Fortune 500 company plans to use the captive, with a licensed insurance company fronting, in its casualty/property program. Some risks are in the captive with more on the drawing board, corporate risk manager **Bruce L. Fowler** said.

The management of Waite Hill Assurance Ltd. has been arranged through James International Ltd. in Bermuda.

A-T-O established a Bermuda captive "for all the standard reasons," Mr. Fowler said, mentioning specifically "its a way of buying things cheaper than in the standard market." A-T-O stepped into a captive straight from the conventional insurance world without first self-insuring. "A captive is the preferred alternative for us to self-insurance," noted the risk manager.

"We found we can accomplish some of our corporate objectives from a financial and a flexibility standpoint better through the captive than we can in the conventional insurance market," he continued. "And we look forward to developing the flexibility of the captive as a marketable item for other potential insureds."

From a risk management point of view, Mr. Fowler said, "We feel very strongly that one of the principal benefits of a captive is better control of our claims investigation and defense."

"The captive gives us additional means for future growth and profit for our corporation," the A-T-O risk manager concluded. ■

Life insurance

The total amount of life insurance in force in the U.S. averaged \$35,400 per insured family at the end of 1976, an increase of 6.9% over yearend 1975, reports the American Council of Life Insurance. However, the Council notes, this is still below the amount recommended by management experts as adequate—protection equalling four or five years of a family's disposable income.



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people

Air filter firm selects Stolle

Ronald H. Stolle, 28, joined American Air Filter Co. Inc. in Louisville as corporate risk manager. He is responsible for the company's insurance programs on a worldwide basis, including employe benefits. Before joining American Air Filter, Mr. Stolle was corporate insurance analyst for approximately five years at

Interlake Inc. in Oak Brook, Ill. Prior to that, Mr. Stolle was associated with Rollins Burdick Hunter Co. in Chicago. He replaces Charles R. Erler, who left

the company.

Richard L. Evans has been named corporate insurance manager for The Garrett Corp. of Los Angeles, a subsidiary of The Signal Companies of Beverly Hills, Calif. Mr. Evans replaces **H. C. Twiss** who is retiring. He reports to R. A. Murtha, treasurer. He formerly worked for three years for the Hughes Aircraft Co. in Los Angeles, two years as assistant

Continued on page 41

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