

Business Insurance

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

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PBGC may eliminate its list of the 50 worst-funded plans

WASHINGTON—The Pension Benefit Guaranty Corp. may eliminate its controversial annual list of the 50 worst-funded corporate pension plans.

A PBGC spokeswoman confirmed the agency is evaluating the future of the list and that a decision is expected next month.

The list first was published in 1990—with 1988 information—as a publicity and informational vehicle to encourage employers to improve pension plan funding. PBGC officials said the fear of adverse publicity
See Updates on next page

Dow Chemical faces implant trial

Jury finds company should remain in case

By JOANNE WOJCIK

NEW ORLEANS—The third jury verdict against Dow Chemical Co. in a silicone gel breast implant case illustrates that parent companies need to keep close tabs on the liabilities of their sub-

sidaries, legal experts say.

After five months of trial, a Louisiana state court jury found there is sufficient cause for Dow Chemical Co. to remain a defendant in the nation's first class-action implant case to go to trial.

This is the third time that plaintiffs have effectively pierced the corporate veil that otherwise shields Dow Chemical from thousands of injury claims that have been filed against its subsidiary, Dow Corning Corp.

Based on internal confidential company documents, test results, correspondence and actual testimony of former employees to prove Dow Chemical's negligence, the jury found last week that Dow Chemical suppressed or concealed information about the dangers of using silicone in the body.

"This shows an American jury can't be fooled," lead plaintiffs' counsel John O'Quinn, a partner with O'Quinn & Laminack in Houston, said in a statement released after the verdict.

Mr. O'Quinn added, "Dow Chem-
See Dow on page 4

Silicone breast implant litigation

Trials for 1984-1997¹



¹ As of Aug. 20, 1997. Trials with multiple claimants are counted as multiple outcomes; settlements and mistrials are not shown. Source: Dow Chemical Co.

Plans dodge danger after UPS gives in

By JERRY GEISEL

ATLANTA—The biggest winners of a tentative settlement of the International Brotherhood of Teamsters' strike against United Parcel Service of America Inc. may be the nation's multiemployer pension plans and the companies that contribute to those plans.

After going toe to toe against the Teamsters, Atlanta-based UPS last week backed off from its demand to withdraw from the 31 multiemployer pension plans to which it contributes (*BI*, Aug. 18; Aug. 11).

Dropping the demand, said UPS Chairman James P. Kelly, was Atlanta-based UPS' biggest concession.

With great fanfare, UPS had said it wanted to leave the multiemployer plans, pay an estimated \$700 million in withdrawal liability charges to underfunded plans and establish its own

pension program.

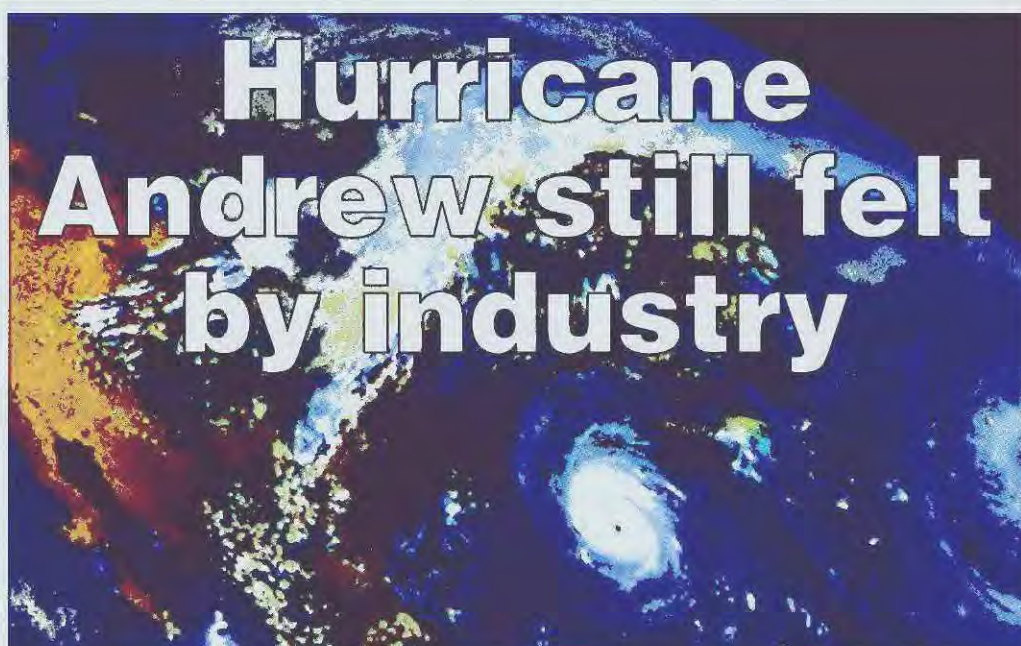
Union negotiators called the UPS demand to leave the multiemployer plans a deal breaker. Teamster officials said it was UPS that approached them early last week and suggested that the company was willing to drop the demand to leave the plans.

Had UPS prevailed in its demand to leave the plans, it would have delivered a devastating financial blow to some of the Teamster multiemployer plans to which UPS contributes. In all, UPS contributes more than \$1 billion a year to the plans, and those funds represent roughly 15% to 18% of all contributions to the plans.

Withdrawing from the multiemployer plans "clearly would have had a long-term serious impact on the plans," said Bob Walter, a principal and benefit consultant at Buck Con-

See UPS on page 25

Some employers facing additional workloads as a result of a labor strike may face higher workers comp exposures.....page 25



Hurricane Andrew still felt by industry

Setting a new standard

Andrew exposed vulnerability to big catastrophe

By MARK A. HOFMANN

Property insurers continue to ponder the lessons of Hurricane Andrew five years after the United States suffered its costliest catastrophe.

The hurricane caused an estimated \$16.5 billion in insured property damage in late August 1992 as it ripped across South Florida, barely missing Miami before it blew across the Gulf of Mexico and threatened New Orleans. In its wake, property insurers discovered many things.

For example, insurers found that commercial structures built to windstorm standards set by Factory Mutual Research Corp. and other recognized loss-prevention entities tended

to fare well in the hurricane. But they also discovered that some structures supposedly built to Factory Mutual standards weren't and that it was far from easy to determine before a disaster whether corners had indeed been cut in construction. They also found that certain types of roofing performed better than others and were reminded that windows and other openings presented critical weak points in structures that needed to be shored up. And, of course, they learned yet again the importance of adequate loss control communications.

But the biggest lesson Hurricane Andrew taught insurers was that a storm of its power indeed can happen, said Dennis Anderson, vp and director of engineering for Protection
See Lessons on page 10

Storm proved the value of pre-disaster planning

By BRUCE KELLY

Officials of American Bankers Insurance Group of Miami had scheduled an Aug. 27, 1992, meeting for key employees to discuss the comprehensive disaster recovery plan the company had spent 18 months developing.

That meeting never happened. Hurricane Andrew had blown through southwest Dade County three days earlier, gutting American Bankers' six-story, 350,000-square-foot building. All told, the storm that swept through South Florida Aug. 23-24 before moving on to coastal Mississippi and Louisiana caused about \$16.5 billion in insured losses.

Fortunately for American Bankers, while its plan had not even been put in binders yet, it was complete enough to put into action.

- Andrew spawns Bermuda cat market ... page 14**
- Computer modeling more common page 14**
- Strong El Nino returns page 15**

American Bankers' plan assigned groups of key personnel to implement various safety precautions involving the credit insurer's building and employees and called for moving the business into a temporary headquarters.

See Planning on page 11

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1997 Ward's Results

Ward's 50 property/casualty and life/health insurers

Page 3

Updates

PBGC may drop underfunded list

Continued from previous page

that would result from being on the list would prompt companies to boost plan funding to get off the list.

But employer benefit lobbying groups and consultants repeatedly blasted the list. They said it unnecessarily alarmed plan participants about the safety of their pension benefits.

A PBGC spokeswoman said the decision would be made based on the list's current usefulness in light of legislation Congress passed in 1994. That legislation, among other things, requires employers with underfunded plans to accelerate contributions to those plans and requires firms to disclose underfunding to participants.

Since the list was first published, the PBGC's financial position has improved significantly. Its single-employer pension insurance program in 1996 enjoyed a surplus of \$869 million, compared with a deficit of \$1.5 billion in 1988.

The agency's financial health has improved because of fewer terminations of big underfunded pension plans, high investment earnings on assets the agency holds and increases in premiums it charges employers with underfunded plans.

Hudson looks at claim in recall

ROGERS, Ark.—Hudson Foods Inc. may file a claim with its general liability insurer seeking coverage for the costs of its record recall of 25 million pounds of frozen hamburger patties.

The recall, enlarged from an initial amount of 20,000 pounds, is the largest made in cooperation with the U.S. Department of Agriculture, a USDA spokesman said.

Hudson has faced problems with recalls of its meat products in the past few years. In March 1995, Hudson recalled 3.1 million pounds of ground turkey because some meat contained small particles of bone, a USDA spokesman said.

Colorado health officials last month found Hudson beef patties tainted with the dangerous E. coli bacteria, and 17 illnesses have been linked to the bacteria's DNA fingerprint, they report (BI, Aug. 18).

Last Thursday, Hudson shut down its Columbus, Neb., plant, which produces about 2 million pounds of frozen raw beef each week. Hamburger patties tainted with E. coli could have gone to supermarkets and fast-food outlets in 33 states.

Hudson has a retention of \$150,000 for general liability coverage.

Hudson's director of risk management, Kent Doss, said Hudson was "in the process of gathering information" that would lead to a claim and that he did not know exactly on what basis a claim would be filed.

Mr. Doss also said Hudson could not yet estimate its total losses from the recall and plant shutdown.

The USDA spokesman pointed to Hudson's poor recordkeeping in its Nebraska plant as one reason for the recall expansion. "It's a very unusual situation for a large company not to know how much meat it's producing," the spokesman said. The USDA also is investigating Hudson's suppliers, the spokesman said.

Insurers sue over lab billing

HARTFORD, Conn.—The clinical laboratory division of SmithKline Beecham P.L.C. is facing a lawsuit charging the labs defrauded dozens of insurers through overbilling.

In the suit filed last week in U.S. District Court in Hartford, Conn., many of the largest U.S. health insurers accused SmithKline of illegal practices that included billing for tests that weren't performed and double billing. Plaintiffs include Humana Inc., Prudential Insurance Co. of America, Aetna Life Insurance Co. and a number of Blue Cross & Blue Shield plans.

The suit alleges violations of the federal Racketeer Influenced and Corrupt Organizations Act, which would permit treble damages.

SmithKline Beecham, headquartered in London with U.S. operations based in Philadelphia, said in a statement the claims are "grossly exaggerated" and denied "defrauding any insurance companies."

The company said the issues in the suit are similar to those raised in a U.S. government case settled for \$325 million earlier this year. However, "the legal standards are vastly different," the company stated.

SmithKline made changes to its testing and administrative processes in settling the government charges that it improperly billed Medicare and other government programs.

N.Y. surcharge deadline near

ALBANY, N.Y.—Employers that missed three previous deadlines to comply with New York's medical surcharge program have yet another chance to avoid stiff penalties.

Group health care plans that elect by Sept. 1 to pay the surcharges directly to a state health care pool administrator are not liable for additional surcharges that can total more than 50% of a medical bill. The state set three previous deadlines—Dec. 2, 1996, March 3 and June 2—for plans to make the election.

Under a 1996 New York law, a basic 8.18% surcharge is added to hospital bills for health care plans that agree to directly pay the surcharge to a state health care pool administrator. Employers with employees living in New York are liable for an additional surcharge based on where in New York their employees live.

Employers that failed to elect to pay the surcharge directly to the pool administrator by the earlier deadlines have been liable for surcharges of up to 57.27% of hospital and laboratory bills their employees incur in New York. The next filing deadline is Sept. 1 and would apply for bills incurred on or after Oct. 1. The higher surcharges would apply on bills incurred before then.

More than 29,000 employers, insurers and other health care plan payers have filed applications to pay the surcharges directly, according to the New York Department of Health.

See Updates on page 30

Equisure won't fight ouster Reinsurer to withdraw from stock exchange

By DOUGLAS McLEOD

NEW YORK—Troubled reinsurance holding company Equisure Inc. plans to withdraw from the American Stock Exchange rather than fight an exchange inquiry into its accounting practices and possible manipulation of its stock by insiders.

Peter d'Orleans-Clarke, Equisure's recently appointed chief executive officer, said the company

has agreed with the American Exchange to withdraw. An exchange spokeswoman confirmed the agreement was under discussion.

Meanwhile, Equisure last week settled an explosive civil fraud lawsuit that charges it with concealing the identity of its chief financial officer, a man who allegedly has been jailed in a separate criminal inquiry.

RISC International, an Austin-based reinsurance producer, sued

Equisure, its Belgian reinsurance subsidiary Equihot Herverzekerings N.V. and several Equihot officials in June, charging that they breached a management contract and fraudulently misrepresented Equihot's business.

The charges escalated this month when RISC alleged in new filings that Equihot had failed to pay claims and that Equisure's CFO, identified in financial re-

See Equisure on page 30

BHCAG goes to market

Minneapolis coalition to seek bids on services contract

By SALLY ROBERTS

MINNEAPOLIS—In an effort to measure the market, the Buyers Health Care Action Group is putting its administrative services out to bid.

The Twin Cities coalition of about 25 employers will issue requests for proposal for the 2000 plan year during the first quarter of 1998. BHCAG is in the fifth year of a seven-year contract with HealthPartners and expects the

health maintenance organization to make a strong bid to keep the business.

BHCAG members and executives say the move has been on the back burner for some time and in no way reflects any dissatisfaction with the Minneapolis-based HealthPartners, which has been providing administrative services to the group since 1993.

"Given how aggressive we are with pursuing value on the provider side of the equation, we

want to be just as aggressive with the value of our administrative service dollars," said Steve Wetzel, executive director-public policy and public affairs for the BHCAG. "We feel the best way to do that is to test the market."

"We have no problem with HealthPartners," Mr. Wetzel added. "We've renewed with them four times. They've obviously done a good job for us."

BHCAG's decision to test the

See BHCAG on page 22

Using captives for benefits still faces many hurdles

By RODD ZOLKOS

BURLINGTON, Vt.—Funding corporate employee benefit risks through a captive may be an appealing option for employers, but significant obstacles still prevent that idea from becoming reality.

And, before many companies ever will be able to succeed in moving employee benefits into their captives, they must find ways to bridge the gaps between the property/casualty risk management and benefits sides of their organizations.



Michael Maglaras, president of Stamford, Conn.-based risk management consultant Michael Maglaras & Co., made reference to Samuel Beckett's play "Waiting for Godot" during a panel discussion on employee benefits in captives at the Vermont Captive In-

urance Assn.'s annual conference earlier this month.

In the play, characters wait both in fear and eager anticipation of the title character's arrival, much as many in the captive community have waited to fund employee benefits through captives, suggested Mr. Maglaras, who moderated the panel.

"The question for us is 'Are we waiting for Godot?' Is Godot already here in employee benefits and captives and we don't know it, or is Godot never going to

See Benefits on page 26

How long will good times roll?

P/C insurers' first-half results stable, but future in question

By JUDY GREENWALD

Commercial property/casualty insurers have benefited so far this year from relatively low catastrophe losses, but as the hurricane season continues, they cannot expect their luck to hold out indefinitely.

Price competition is continuing to put pressure on margins, which will inevitably be reflected in insurers' earnings reports.



1st Half

experience coupled with stable profit margins," creating good earnings trends, said Weston M. Hicks, an analyst with Sanford Bernstein &

"The first half of 1997 we would characterize as fortuitous, with fairly light catastrophe experience

Co. in New York. "But it was luck rather than skill," he added.

Furthermore, while the industry has enjoyed a slowdown in claims cost growth, particularly in workers compensation and liability lines, "we believe that the good news from that trend is largely out," said Mr. Hicks.

There also will be more intense competition, he predicted, with

See Results on page 29

Inside

• Managed care must do a better job of publicizing information that supports the industry's practices, this week's editorial says. **PAGE 8**

• Fewer than 10,000 tax-favored medical savings accounts had been established as of the end of April, an IRS report shows. **PAGE 22**

• Australia is seeing more class-action suits, but a risk manager says he does not expect product liability rates to rise. **PAGE 23**

Departments

Advertiser Index 28
Benefit Beat 6

Classifieds 26
For the Record 31
Global Briefs 23
Insider Trading 28
Insurance Services Guide 24
International 23
Letters 8
Opinions 8

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Ward's 50 set best practices benchmarks

By DAVE LENCKUS

Many of the property/casualty insurers that best balance financial performance with solvency do not equally balance their loss control and underwriting efforts among all policyholders, according to insurer management consultant Ward Financial Group.

Instead, those insurers distribute their loss control and underwriting resources in an "80-20" fashion, which Ward Financial has determined is a "best practice" approach. Those insurers are focusing a majority of their efforts on their largest and most complex accounts, even though they typically represent a minority of their overall policies.

That may not be the most equitable system, but a comparison of loss ratios between the best-practice companies and other insurers show it is more successful at holding down losses, according to John L. Ward, chairman of Cincinnati-based Ward Financial.

Insurers with the best practices also have more effective agents, because the insurers base agent commissions on overall premium volume and the long-term profitability of the business they produce, according to Ward Financial.

In addition, the best-practice insurers have more up-to-date information technology links with producers, according to Ward Financial.

Those are some of the results of a benchmarking study involving some of the insurers that Ward Financial has identified as the best in balancing solvency and financial performance, as well as other insurers.

Based on numerous solvency and income data that insurers have provided to state regulators over a five-year period, Ward Financial annually identifies the 50 property/casualty and 50 life/health insurers that have done the best job of consistently balancing financial safety and profitability.

When either safety or profitability is measured in isolation, a Ward's 50 company may not rank among the 50 strongest in its industry segment. It is the combination of sustained solvency and profitability that vaults an insurer onto the Ward's 50 list (see story, page 19).

Ward Financial develops various aggregate solvency and earnings measures for each of those groups. Then in two separate, voluminous reports, it compares them with the measures for individual property/casualty and life/health companies.

The reports also evaluate how insurers have performed in relation to others in their peer groups. For property/casualty insurers, Ward Financial identifies 40 peer groups, based on product mix, premium level, location and ownership. For life/health insurers, there are 27 peer groups, based on product mix, premium volume, location, asset size and ownership.

A few financial measurements cannot tell the whole story about

the balance of safety and profitability an insurer achieves, but they do provide a clear indication of how the two Ward's 50 groups stand out from the rest of the industry.

From 1992 through 1996, the Ward's 50 property/casualty insurers together posted a 101.9% combined ratio, compared with the overall industry's weaker 106% ratio.

Over the same five-year period, the Ward's 50 posted a 247.2% risk-based capital ratio, or the ratio of an insurer's capital and surplus to the amount it should have based on the risk profile of its business. The risk-based capital ratio for the industry over the same period was significantly weaker, though still a respectable 189.9%.

In addition, the percentage of assets attributable to surplus for the Ward's 50 was 36%, a safer percentage than the 28.6% for the industry during that five-year period.

Over the past five years, the Ward's 50 also reported a nearly 54% higher return on average equity—18.3%—than the industry's 11.9%.

Some results from a separate benchmarking project that Ward Financial has facilitated for property/casualty insurers since 1991 provide insight into the best practices that underpin the consistent-

ly strong solvency and profitability at many Ward's 50 insurers. Twenty of the Ward's 50 property/casualty insurers and 55 other property/casualty insurers participated in the most recent benchmarking project.

The project also included 25 life/health insurers, including six from the Ward's 50 life/health group. Life/health insurers have participated in the project since 1992 (see story, page 20).

Ward Financial has calculated 3,000 performance measurements of those companies and has analyzed the practices that drove some of those calculations.

A significantly greater percentage of the Ward's 50 participants, which were the top performers in the benchmarking group, employed the best practices compared with the remaining insurers in the benchmarking group, which were the average performers.

Overall, the benchmarking project shows that property/casualty insurers are becoming more efficient, according to Mr. Ward.

Among the top performers in the project, the total number of employees per \$100 million of written premium has dropped 2.7% on average each year from 1992 through 1996.

The average annual decrease in head count for average performers has been even more significant: 3.5%.

Even so, employee productivity among the top performers continues to outpace productivity at other insurers. In 1996, the top performers on average had 246.9 employees per \$100 million of written premium. The other insurers on average had nearly 273.3 employees.

Information technology investment could explain the difference. The top performers increased their information systems expense in relation to premiums written an average of 6.6% annually over the five-year period. At the other insurers, the expense as a percentage of premiums was flat.

When the expense of information technology is stated as a ratio to the number of employees, it jumped to 11% annually on average at the top performers and 3.7% annually on average for the other insurers.

In ascertaining the best practices in various insurer functions, Ward Financial found what Mr. Ward called a misleading figure—or benchmarking metric—in the crucial loss control area. The consultant found that the top performing property/casualty insurers have nine loss control employees for every \$100 million of written premiums. Average performers in that area had 22% more employees, or 11 for every \$100 million of written premiums.

"The ratio of loss control professionals can give you the impression that a lower number is a goal" or a best practice, Mr. Ward said. "But, that's not the point at all," he emphasized.

"It's only the result" for insurers that have learned how best to deliver loss control services to

See Ward's on page 19

How Ward Financial Group selects the companies that comprise the annual Ward's 50 Benchmark Groups
Page 19

Expense control, market research and organizational structure distinguish Ward's 50 life/health insurers
Page 20

Insurers are outsourcing virtually every function, though some tasks are better left in-house, Ward's finds
Page 20

Ward's 50 property/casualty

Alfa Insurance Group	Medical Protective Co.
ALLIED Mutual Insurance Group	Motors Insurance Corp.
American Family Insurance Group	National Indemnity Co.
American International Group Inc.	New York Marine & General Group
Amica Mutual Insurance Co.	NORCAL Mutual Insurance Co.
Auto-Owners Insurance Group	Northland Insurance Group
W.R. Berkley Corp.	Ohio Casualty Insurance Co.
California State Auto Assn.	Pekin Insurance Group
Canal Insurance Group	Progressive Casualty Group
Chrysler Insurance Co.	RLI Insurance Group
Chubb Insurance Group	SAFECO Insurance Group
Cincinnati Insurance Group	Southern Farm Bureau Casualty Insurance Co.
Colonial Penn Group	St. Paul Cos.
Empire Fire & Marine Group	Tennessee Farmers Mutual Insurance Co.
Erie Insurance Group	Trinity Universal Insurance Group
Foremost Insurance Co.	Underwriters Reinsurance Group
Frankenmuth Mutual Insurance Co.	United Fire & Casualty Group
GEICO	United National Insurance Group
General Accident Group	Universal Underwriters Insurance Group
General Reinsurance Group	USAA Group
GRE Insurance Group	Virginia Surety Co.
Gulf Insurance Co.	West Bend Mutual
Horace Mann Insurance Group	Western World Group
Insurance Company of the West	Westfield Cos.
Interinsurance Exchange, Automobile Club of Southern California	
Kentucky Farm Bureau Mutual Insurance Co.	

Ward's 50 life/health

AFLAC	Liberty National Life Insurance Co.
Alfa Life Insurance Corp.	Life Reassurance Corp. of America
American General Life & Accident Insurance Co.	Lincoln National Life Insurance Co.
American Life Insurance Co.	Midland National Life Insurance Co.
American National Insurance Co.	Minnesota Mutual Life Insurance Co.
American United Life Insurance Co.	Mutual of Omaha Insurance Co.
Ameritas Life Insurance Corp.	New York Life Insurance Co.
Beneficial Life Insurance Co.	Northwestern Mutual Life Insurance Co.
Cincinnati Life Insurance Co.	Ohio National Life Insurance Co.
Employers Health Insurance Co.	Pacific Mutual Life Insurance Co.
Equitable Life Insurance Co. of Iowa	Physicians Mutual Insurance Co.
Farm Bureau Life Insurance Co.	Primerica Life Insurance Co.
Farm Bureau Life Insurance of Michigan	Principal Mutual Life Insurance Co.
Farmers New World Life Insurance Co.	Provident Mutual Life Insurance Co.
Federated Life Insurance Co.	ReliaStar Life Insurance Co.
First Colony Life Insurance	SAFECO Life Insurance Co.
General American Life Insurance Co.	Sentry Life Insurance Co.
Golden Rule Insurance Co.	Southern Farm Bureau Life Insurance Co.
Great American Life Insurance Co.	Teachers Insurance & Annuity Assn. of America
Great Southern Life Insurance Co.	Transamerica Occidental Life Insurance Co.
Guardian Life Insurance Co. of America	Trustmark Insurance Co.
Horace Mann Life Insurance Co.	United Insurance Co. of America
Jackson National Life Insurance Co.	UNUM Life Insurance Co. of America
Jefferson-Pilot Life Insurance Co.	USAA Life Insurance Co.
Kansas City Life Insurance Co.	Western & Southern Life Insurance Co.

Dow

Continued from page 1

ical can't just throw their baby company into bankruptcy and walk away."

Plaintiffs lawyers also predict the verdict will open the door for compensation for potentially hundreds of thousands more women, as almost all breast implants, though made by several manufacturers, contain silicone gel tested by Dow Chemical and so on by Dow Corning.

If that should happen, Dow Chemical has virtually unlimited coverage under its general liability insurance program to defend those claims, according to Greg Smith, one of Dow Chemical's in-house lawyers.

The verdict may have a detrimental effect on Dow Chemical's attempt to obtain insurance coverage for defense and indemnification of these claims, some lawyers say.

"If they knew this stuff was bad and they failed to disclose that information to Dow Corning, then that raises the possibility that insurers may use the 'expected or intended' defense" to deny coverage, said Jim Otto, a partner at Los Angeles-based Cummins & White who regularly represents insurers in coverage suits.

Mark F. Rosenberg, a partner at Sullivan & Cromwell in New York, agreed.

"The insurers are going to have significant expected or intended exclusion arguments based on the language of this jury's findings," he said.

But attorneys for Dow Chemical characterized the latest verdict in *Spitzfaden vs. Dow Chemical* as merely the first step in a long, multi-phase legal process and not an indictment of Dow Chemical or the large body of medical research supporting the safety of silicone breast implants.

"All this decision really means is that the jurors believe Dow Chemi-

cal's conduct warranted moving to Phase II of the litigation," said John Scriven, Dow Chemical's general counsel.

The next phase of the trial, before the same jury, will determine whether the tested implants caused the plaintiffs' injuries.

"Nothing in this finding speaks to whether Dow Chemical or silicone breast implants caused the illnesses claimed by the women," Mr. Scriven said. He also asserted that the decision is not supported by the facts or the evidence in the case and will be reversed on appeal.

Midland, Mich.-based Dow Chemical has repeatedly asserted in court that it should not be held liable for the actions of Dow Corning because it only has a 50% stake in the now-bankrupt manufacturer of silicone breast implants. Corning, N.Y.-based Corning Inc. holds the other 50% share.

Dow Chemical has been dismissed

from some 4,000 other silicone breast implant cases. Corning Inc., also named in thousands of implant claims, has been dismissed from most cases, though some state cases in which it is a co-defendant are pending.

However, Dow Chemical has increasingly become a litigation target since Dow Corning filed for bankruptcy protection in 1994.

In two other trials, a Houston judge threw out a jury finding against Dow Chemical, and a \$14 million verdict against the company in Reno, Nev., is on appeal to the Nevada Supreme Court.

Plaintiffs in those cases were successful in proving Dow Chemical shared liability because it tested the silicone used and sold by Dow Corning between 1962 and 1967.

Besides the personal injury suits, Dow Corning and its parents also face cross-claims filed by other implant manufacturers facing similar litigation.

Dow Corning and Dow Chemical both have sued their general and product liability insurers seeking coverage to defend against these claims (*BI*, July 12, 1993).

While many of these coverage lawsuits have been settled, a significant portion of litigation is continuing, and both companies are in settlement negotiations with their insurers.

While Dow Corning has settled most of its coverage lawsuits, Dow Chemical is still in litigation with its insurers in U.S. District Court in Michigan, according to Mr. Smith, who is heading Dow Chemical's insurance coverage case.

Meanwhile, Dow Chemical in January 1996 agreed to drop its objections to Dow Corning's insurance settlement negotiations under the condition that those recoveries be held in an escrow account until the underlying product liability litigation is resolved, he added.

Dow Corning and Dow Chemical also reached a settlement with Hoechst Marion Roussel, the successor company to former Dow Corning unit Marion Merrill Dow, which also objected to the company's insurance settlements. As part of that settlement, HMR will receive 2% of all insurance settlements Dow Corning had reached by January 1996 and 2.5% of all settlements reached afterwards.

In all of the settlements with its subsidiaries, Dow Chemical has reserved its right to pursue insurance coverage from the policies on which it is also named as a policyholder, according to Mr. Smith.

Some legal experts say last week's victory for breast implant plaintiffs may provide encouragement to plaintiffs' lawyers who have lost more cases than they've won against Dow Corning and Dow Chemical.

"I think it will in fact give greater incentives to the plaintiffs bar to pursue Dow Chemical," said Matthew L. Jacobs, a partner with Kirkpatrick & Lockhart in Washington. He is not involved in the implant litigation.

However, Mr. Jacobs said the defendants should feel stronger as they enter the next phase of the litigation because, so far, science is on their side.

Major studies at Harvard University, the Mayo Clinic and several other institutions have found that women with silicone breast implants were no more likely to suffer from immune system, connective tissue or other diseases than women without such implants.

Mr. Jacobs also pointed out that the case shows that parent companies must be diligent in following developments in litigation involving their subsidiaries, no matter how far removed they believe themselves to be.

"Even if you're a parent, you should put your carriers on notice right away, or you'll be denied coverage based on late notice," he warned.

The verdict should send a message to other parent companies to keep at arm's length from their subsidiaries, other lawyers say.

"If they're going to provide research, testing or other assistance, they are taking a risk that they can be held liable," said Mr. Otto.

The second phase of the *Spitzfaden* trial will begin Sept. 29 before the same jury to determine whether the tested silicone implants caused the injuries suffered by the eight women representing the class of 1,800.

The two remaining phases—one to notify other members of the class and another to adjudicate those claims—have been eliminated since the silicone breast implant litigation was consolidated in U.S. District Court in the Eastern District of Michigan. Dow Corning's bankruptcy proceedings also are pending in Michigan.

Spitzfaden vs. Dow Chemical Co., Louisiana District Court, No. 92-2589, Aug. 18, 1997.

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Study finds short maternity stays not harmful

By DEBORAH
SHALOWITZ COWANS

Short hospital stays after births are not inherently harmful to women and newborns, a recent study concludes.

One-day hospital stays after vaginal births and two-day hospital stays after Caesarean section births do not cause higher readmission rates for either mothers or babies than longer hospital stays, according to the study by Seattle-based consulting firm Milliman & Robertson Inc.

Milliman & Robertson reached this conclusion by examining data provided by HCIA Inc., a Baltimore-based health care information company, covering hospital discharges for 590,000 women and 1.4 million newborns during 1993.

The information was compiled from several databases.

The study's findings run counter to a widespread public backlash against short maternity stays imposed by managed care plans. State legislators in recent years have passed laws mandating minimum inpatient stays after birth, typically 48 hours after vaginal deliveries and 96 hours after Caesarean-section births.

In its health care management guidelines, Milliman & Robertson recommends a 24-hour post-delivery hospital stay for normal vaginal births and a 48-hour post-operative stay for Caesarean-section births.

"This outcomes study supports our continued contention that our suggested hospital stays for both normal vaginal delivery and Cae-

Benefit Beat

sarean section represent quality health care treatment," said Dr. Frederick W. Spong, a health care consultant and one of the authors of the study. "In fact, the readmission rate for patients who spend only one day in the hospital is marginally less for both mother and child than for those who stay longer after a normal vaginal delivery.

"Because one out of seven hospital admissions is for maternity, the cost implications of lengthier hospital stays are profound," Dr. Spong said.

Maternity hospital stays vary widely across the country, according to the study, which was re-

leased last month.

For example, though nationally an average of 34% of women with normal vaginal births stayed in the hospital only one day in 1993, some 72% of women with normal vaginal births stayed in the hospital one day in the West. In the South, 38% of women stayed in the hospital one day after a vaginal delivery that year and 31% of women stayed in the hospital one day in the Midwest. Only 9% of women with normal vaginal births stayed in the hospital only one day afterward in the Northeast, the study found.

Free copies of the report, "Inpatient Care for Mothers and Newborns," are available from Deanna Ashley, Milliman & Robertson Inc., 8910 University Center Lane, Suite 425, San Diego, Calif. 92122; 619-558-8400.

Pension change

PITTSBURGH—An agreement between members of the United Steelworkers of America and Wheeling-Pittsburgh Corp. will resolve a pension dispute that has kept union workers on strike since late 1996.

Wheeling-Pittsburgh and union members earlier this month agreed to a new contract under which the steel maker will convert its 12-year-old defined contribution plan to a defined benefit plan.

Workers will receive a \$2,000 bonus for signing the contract.

Under the new contract, the defined benefit pension plan will give retirees monthly payments amounting to \$40 for each year of service, increasing to \$44 per year of service on June 1, 2003. The contract also calls for a wage increase of \$1.50 an hour.

Union workers last year balked at the employer's proposal to enhance defined contribution plan benefits, calling for a defined benefit pension plan instead. The workers had been on strike since Oct. 1, 1996 (BI, Oct. 21, 1996).

Since 1985, when Wheeling-Pittsburgh declared bankruptcy, workers have had a defined contribution pension plan, according to a union spokesman. Before the bankruptcy proceeding, workers had a different defined benefit pension plan, he said. Wheeling-Pittsburgh reorganized about five years ago, the spokesman said.

Wheeling-Pittsburgh also is offering about 850 workers incentives to retire early. These workers may retire early and receive either a \$25,000 lump-sum payment or a \$400 per month pension supplement until age 62, in addition to their regular pension benefits.

Wheeling-Pittsburgh agreed to establish a \$2 million fund to reimburse workers or pay for some covered medical expenses during the 10-month strike, excluding insurance costs. Details on this fund and what it will cover have not been finalized, the spokesman said.

Partner benefits

ENGLEWOOD, Colo.—US WEST Inc. will offer full health care benefits to the same-sex domestic partners of all employees as well as their eligible dependents.

Extending medical, dental and vision benefits will help the \$13 billion communications company attract and retain qualified employees in today's diverse workforce, said Toni Ozeroff, vp-law and corporate human resources for the Englewood, Colo.-based telecommunications company.

Yet, US WEST anticipates that the expanded coverage, which takes effect Jan. 1, will have only a "minimal" impact on the cost and effort of providing benefits to the eligible domestic partners and dependents of its 69,000 employees, she said. More specific cost estimates are not available, a company spokesman said.

US WEST's employees will have the opportunity to sign up same-sex domestic partners and eligible dependents for full benefits during the company's annual open enrollment period, Oct. 1 to Oct. 31. Enrollment in the new program requires employees to complete an affidavit confirming that their relationship is long-term, "essentially the equivalent of marriage," the company said in a statement.

Health care benefits will not be extended to unmarried opposite-sex partners of US WEST employees because they have the option of becoming eligible through legal marriage, the company said in a statement. **BI**

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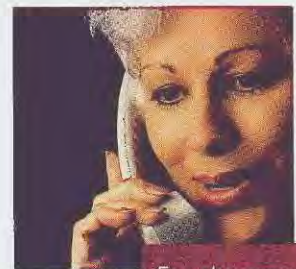
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Opinions

Speak up, managed care

TIMING IS EVERYTHING.

That aphorism is clearly illustrated by the recent release of a study on whether the duration of maternity stays in the hospital after delivery affects the health of mothers and their babies.

The study by Milliman & Robertson Inc. attempts to shed light on the alleged problem of managed care plans imposing medically dangerous limits on the amount of time mothers and newborns can spend in the hospital after deliveries.

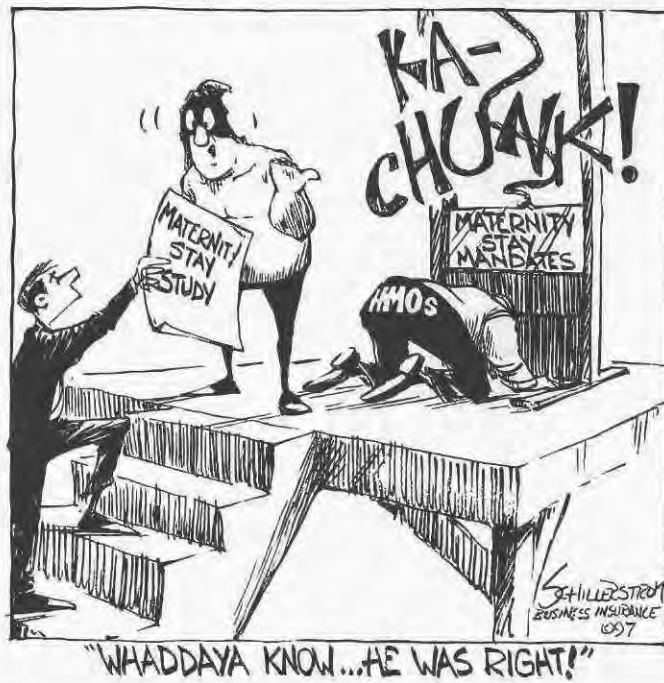
For the managed care industry and employers, though, the research comes about two years too late. Anecdotal evidence of "drive-through deliveries" sparked the imaginations and ire of politicians and led to a surge of state and later federal legislative proposals mandating health care plans to provide coverage for longer maternity stays. Indeed, next year federal legislation will go into effect requiring health care plans to offer 48 hours of inpatient coverage after vaginal deliveries and 96 hours of coverage after Caesarean sections.

However, the M&R study, released last month, found that one-day hospital stays after vaginal births and two-day hospital stays after Caesarean section births do not cause higher readmission rates for either mothers or babies than longer hospital stays. In fact, after studying roughly 2 million medical records, M&R found the readmission rate for those who spend only one day in the hospital after a normal vaginal delivery is marginally less for both mother and child than for those who stay longer.

As a result of its findings M&R, which is a leading source of practice guidelines for health care companies, recommends a 24-hour post-delivery stay for mothers who have vaginal deliveries and 48 hours those who have Caesarean sections.

Despite those findings, the odds of either state or federal lawmakers revisiting this issue and scrapping or modifying their earlier approved mandates are remote.

The timing of the research demonstrates the failings of the managed care industry to effectively respond to anecdotal charges of poor practices that have besieged it in recent years.



"WHADDAYA KNOW...HE WAS RIGHT!"

As we have said of most anecdotes regarding alleged managed care abuses—from outrageously short stays for deliveries and mastectomy care to muzzles on doctors discussing uncovered treatment options—there are undoubtedly some cases of improper care, but to paint the entire managed care industry with such a broad brush is unfair.

The managed care industry needs more research like the M&R study to answer its critics and must deliver it before the lawmakers uncap their pens and pass more benefit mandates.

If managed care plans don't make a better case for their practices and demonstrate that cost-saving procedures don't compromise quality, then employers better take up the charge. For ultimately, it is the employers whose workers will grow increasingly leery of managed care options and employers whose premiums will grow as medical treatment is defined by legislators.

Before the next anecdotal assault is made, we hope the managed care industry learns that timing is everything.

Letters

Successes deserve more attention

To the editor: During the early 1980s, when headlines of medical costs spiraling out of control confronted consumers, employers, medical professionals and policymakers, legislation was created that brought competition into the health care market.

As intended, that effort succeeded in controlling health care costs, transforming the face of health care in the United States.

Health care has undergone considerable consolidation, eliminating excess administrative costs. Networks and integrated systems have linked up to increase efficiency and gain market appeal through broader geographic distribution and comprehensive services. Many physicians have joined efforts to find new and better ways to provide high-quality, cost-effective care.

In regions of the United States where

the shift from individual physicians and small medical groups toward large provider groups has occurred, and where health maintenance organizations have a strong presence, the cost of health care is demonstrably lower.

This shift has helped to drive waste out of a system where costs were growing at levels that could not be sustained by employer-paid insurance, taxpayer-financed programs and contributions from individuals and families.

Clearly, some of the changes associated with managed care have been controversial. Yet these changes make sense and, in time, patients and health care professionals will adapt.

Take, for example, the routine chest X-ray. In past decades, it was a common practice to order chest X-rays for all middle-aged patients.

The assumption was that routine X-

rays would detect lung cancer early enough to allow for surgical removal and elimination of the disease.

But, after years of following this practice, statistics showed that routine chest X-rays did not achieve measurable results. The enormous cost of this routine procedure was certainly making those confirmed free of lung cancer feel better, but it was not providing any meaningful benefit for those patients who had cancer.

The public needs to understand that too much care can be as bad—or worse than—too little.

It also is important to recognize that the decision already has been made: The economy cannot sustain an upward cost spiral, and a return to the past is not an option. The only reasonable solution is for all to work together to ensure both

See Letters on page 28

Letters to the Editor

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Lessons

Continued from page 1

Mutual Insurance Co. of Park Ridge, Ill.

"Everybody's worst nightmare is a Category 4 or 5 hurricane goes into Miami and continues on to New Orleans, and that's almost what Andrew did," he said.

Hurricane Andrew taught insurers five lessons, said Stephen W. Lilienthal, executive vp and chief underwriting officer for United States Fidelity & Guaranty Corp. in Baltimore.

The catastrophe showed that insurers should clearly establish how much they are willing to lose on a single event; underscored the need for more sophisticated disaster modeling; showed a tremendous need for improving the quality of the data used in modeling; demonstrated that some insurers needed better disaster plans of their own in terms of getting enough claims adjusters and construction specialists into an affected area; and taught the entire industry not to let wishful thinking and growth pressures either dictate or be confused with strategy, he said. "Underwriting against nature is dicey at best," said Mr. Lilienthal.

There were surprises, pleasant and otherwise, as engineers and adjusters analyzed the impact of Andrew. In one of the less pleasant surprises, "we found that the building codes were not enforced uniformly," said Mark A. Tschiegg, vp-loss prevention field services for Industrial Risk Insurers in Hartford, Conn.

"The building codes that applied really didn't address the maximum sustainable winds that occurred. They also didn't address the flying debris and breaking windows, which subsequently over-pressurized buildings," he said.

As a result of Andrew, officials in South Florida tightened their building codes, said Peter J. Gore Willse, research consultant for IRI.

"I think there was an increased

pressure to meet code requirements, and they upgraded the codes dramatically after the hurricane," said USF&G's Mr. Lilienthal. He emphasized, however, that the upgraded codes apply only to new construction, not existing buildings. Like other experts, he also noted that enforcement of building codes varied widely.

"We found that a lot of buildings that were built to Factory Mutual standards came through with flying colors," said Frank Suppe, vp-engineering for Arkwright Mutual Insurance Co. in Waltham, Mass.

But engineers found that some buildings thought to be built to Factory Mutual standards actually weren't, said Mr. Suppe. Instead, engineers found that the construction methods had been compromised. For example, metal deck had not been welded to steel structures the way they were supposed to be. Roofing materials had not been installed the right way.

"There was a tremendous amount of that that led to bigger industrial losses," said Mr. Suppe. "If you do it right, you can survive devastating natural weather events," he added.

In response, Arkwright "really looked at how can we better determine if buildings specified to FM standards had not been built that way," he said. Engineers tackled such questions as how to determine if flashing had been attached properly.

Another surprise was that one roof type didn't hold up as well as expected, said Protection Mutual's Mr. Anderson. Many industrial buildings use a lightweight concrete roof on top of a metal deck. In some cases, these roofs literally came apart, he said.

Also, "we reconfirmed that flashing ought to be attached firmly. Perimeters and corners ought to be firmly secured," he said.

It's easy to see that such measures are taken in new construction, but in older buildings, "a lot of things are concealed," he said. This includes such corner-cutting as using fasten-

ers with one-inch heads rather than recommended three-inch heads, said Mr. Anderson.

"The weakest link is going to give," he said.

"The storm reminded us that you have to be extra cautious in assessing the risk. Our engineers since then have been much better prepared to identify construction weakness," said Arkwright's Mr. Suppe.

The hurricane also pinpointed another aspect of construction—windows—as a critical consideration in

'If you do it right, you can survive devastating natural weather events,' says Arkwright's Frank Suppe.

loss prevention.

"The biggest lesson was protection of openings of exterior walls in general," said Richard Davis, manager-construction section for Factory Mutual in Norwood, Mass.

"We all realized that we needed to do more to protect these openings on exterior walls from flying debris."

"When debris in the yard breaks the window, you end up having all the air going inside a closed building" and popping the roof off or knocking walls down, said IRI's Mr. Willse.

Factory Mutual Research's Mr. Davis said missile-resistant windows slowly are becoming more popular in hurricane-prone areas such as South Florida.

He pointed out that windows are tested for their resistance to two types of missiles. To test for large missiles, engineers shoot a two-by-four out of an air cannon and then test it to see how the material performed. The small missile test follows the same process except that steel balls strike the window to simulate roof gravel.

Large missiles are more likely to strike lower-story windows because the type of unsecured material that would do large-missile damage, such as tree limbs, furniture and equipment in industrial plant yards, isn't usually going to reach the upper stories. Conversely, the small missile material generally pounds higher points because of the pea gravel on roofs, he said.

The tests usually involve glass laminated with plastic film, said Mr. Davis, adding that windows and openings can also be protected by storm shutters and other materials. But shutters aren't always practical, he said. For example, a resort hotel with hundreds of rooms probably isn't going to have the manpower to secure all the shutters as a hurricane approaches, he said. Maintaining enough storage space for what could be literally thousands of shutters could also be a problem.

"Glass is still a bit of a wild card. We're trying to improve the quality of glazing systems, but that's got farther to go. That's an area where I think a lot more work will be done and we'll get a lot smarter," said Protection Mutual's Mr. Anderson.

Concrete and clay tiles have been troublesome in all hurricanes, said Factory Mutual's Mr. Davis. Making the matter worse is that the tiles often weren't installed correctly, he added.

"I've seen a lot of installations where they have two or three nail holes per tile and they used only one nail. The loss is terrible," he said.

The loss is not simply from the tiles tearing away and having to be replaced, either, Mr. Davis pointed out. Once airborne, the heavy tiles can smash windows and leave the contents of damaged structures vulnerable to wind-driven rain, he said.

In addition to the engineering lessons, insurers generally say Hurricane Andrew raised consciousness of the hurricane peril, a raised consciousness that in general remains.

"I can't say I've seen any evidence that they've become blasé. We've had

quite a strong hurricane season in the past few years, and people need to be prepared for this," said IRI's Mr. Tschiegg. "I think there's a heightened awareness just because of the superior weather monitoring there is," such as cable television's Weather Channel and CNN, as well as Internet sources.

"I think the awareness level is certainly better," agreed Protection Mutual's Mr. Anderson. "All of us have done a lot more to notify our customers."

"I think there has been more of an appetite for hurricane planning," he added, citing such examples as a greater willingness to heed warnings about roof flashing and other property loss control recommendations.

Once a storm has passed through, IRI works with customers "to see how effective their emergency planning was and what changes they should make," said Mr. Tschiegg.

In part as a result of Hurricane Andrew, Arkwright launched its "Nat Cat" electronic early warning system for customers. The program, which began in the spring of 1995, involves having Arkwright engineers track a severe-weather event, define by ZIP code the locations likely to be hit, run the ZIP codes against a customer list and automatically fax an alert to any customers in the ZIP codes where the storm might hit. The alert contains storm information and a loss control checklist.

"We know if customers were able to take action, and they had advice at the last minute, they would have significantly less damage," said Mr. Suppe.

Arkwright took the warning system a step further last week to mark Andrew's fifth anniversary, noted Mr. Suppe.

The insurer announced last Thursday that it will spend more than \$1.2 million to equip at least 10,000 customer facilities with special radios that will give them advance warning of hurricanes, tornadoes and other disasters. The radios will allow customers to tap into the National Oceanic and Atmospheric Administration's Weather Radio Network, which broadcasts up-to-the-minute local reports 24 hours a day.

Mr. Davis of Factory Mutual said branch offices "will contact plant people 24 to 48 hours before it's expected to hit and remind contacts of certain precautions to take to limit damage. This will include things like taking any kind of storage or equipment that's in the yard that could become a missile and taking it indoors or securing it within practical reason."

"We recommend that they have an emergency plan in effect prior to hurricane season," he said. This includes having pieces of plywood on hand cut to size, and a method of securing them arranged so they can install it quickly. The holes for fastening the plywood to the openings should be pre-drilled long before the storm. Bolts for securing the materials should be readily available. The materials also should be inspected once a year to make sure they are readily available and intact.

"Twenty-four hours before the storm, everybody is scrambling around looking for plywood. They run out of materials. They run out of time," he said.

"Most customers asked: 'What did we learn? What can we do to make sure I don't see the type of damage that was done in Andrew?'" said Arkwright's Mr. Suppe.

But, said Mr. Suppe, there is still a concern that five years after the fact, people aren't paying enough attention, feeling the likelihood of a recurrence is minimal.

Complacency remains an issue, warned USF&G's Mr. Lilienthal.

"Memories are fading as we speak," he said. **BI**

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Planning

Continued from page 1

The plan had been completed and approved; the meeting was scheduled to formally announce it. Instead, it took effect.

In the wake of Andrew, American Bankers kept writing business, even closing two major accounts that week, said Jim O'Boyle, director of property/casualty underwriting and part of the committee that worked on the plan.

How did it do it?

Claims were rerouted to its Atlanta office, and workers in another Miami location sent data queries to an International Business Machines Corp. mainframe computer in Denver contracted as part of the disaster recovery plan, Mr. O'Boyle said. Computer printouts generated in response to data requests were picked up at an IBM in Boca Raton, Fla., and then trucked south to Miami. All these and more operational steps had been spelled out in the planning.

The only thing employees forgot to do was clean their desks. That has since been added to the plan.

After Andrew, American Bankers officials met with the builder of the gutted building; fences were put up around the site. The company also contracted with a moving company to box up any useable materials and ship them to the temporary office in Miami. The company reassured everyone that they would keep their jobs and started trying to find workers who didn't show up for work.

The key to the success of American Bankers' plan—as well as any good disaster recovery plan—is communication, Mr. O'Boyle said. "Everybody needs to know what the plan is and what their piece of the plan is."

Corporate risk managers and contingency planners often echo Mr. O'Boyle's thoughts on the lessons learned from Hurricane Andrew.

Jim Dineen, director-risk management for Jacksonville, Fla.-based Barnett Banks Inc., which has close to 100 of its 620 branches in Dade and Broward counties, said the company's insurance program hasn't changed much since Andrew, but the contingency planning has become more formalized. At the time of Hurricane Andrew, Barnett had only contingency plans for storing and protecting its computers and computer files. It lacked such formal planning for other functions, such as informing workers whether the branches were open after a hurricane.

After Andrew, Barnett added a separate department, a seven-member Department of Business Continuity, for contingency planning.

Risk managers also emphasize that quality of planning is irrelevant if the execution fails.

"We found there was a difference in response by two different managers," said Steven Sachs, corporate risk manager for the Columbia, Md.-based Rouse Co., which owns and manages shopping malls, two of which are in Dade County.

"We told people to get supplies two days before the storm, plywood, nails, generators and generator fuel," he said. One manager followed directions; one didn't.

Mr. Sachs said he thinks an effort to save a few dollars was the motive behind the employee's failure to follow directions. "There was a perception of budget," he said.

The chain of command has since changed in Rouse's plan. Now a person on a quick response team is responsible for stockpiling supplies. "It's no longer a decision," Mr. Sachs said, and a person from senior management is in charge.

Now, at the beginning of each hurricane season, Mr. Sachs has a conference call that includes Rouse's vp of construction, director of maintenance

operations and regional managers. The calls act as a reminder for each Rouse property to review its plans and perform a drill, he said.

In addition to disaster planning, some risk managers have changed their insurance policies due to Hurricane Andrew, increasing coverage limits and adding business interruption coverage, said William Bailey, special counsel for the Insurance Information Institute of New York.

"Risk managers are probably looking at changes in windstorm coverage," Mr. Bailey said. He added that major corporations also are looking at new ways to finance retentions.

Dade County, which has felt the bite of premium hikes since Andrew, is assessing its properties to determine whether its insurance program is as effective as possible, said Barbara Dunlop, risk management analyst for Metropolitan Dade County. The county is examining coverage for its six airports and its shipping ports.

Since Andrew, the county's deductible for full coverage on all properties has doubled to \$1 million, and its premium shot up to between \$9 million and \$10 million in 1996 from \$2 million in 1992. The county's premium dipped to \$8 million this year, she said, because of an improved loss record, helped by less catastrophic hurricane seasons, among other things. Dade County has \$5.5 billion in total insured properties, Ms. Dunlop said.

The county lost its flood insurance with Fireman's Fund in 1993 and is trying to put together a new flood insurance package, said Ms. Dunlop. The county applied this year to the National Flood Insurance Program.

Five years after Hurricane Andrew, however, Dade County building and emergency management officials worry that its history of weak enforcement of building codes could result in disastrous losses in the public and private sectors if another storm

the size of Andrew hits.

When it ripped the roofs from homes and businesses not built to code, Andrew's winds also blew the lid off poor building code enforcement in Dade County, said Orlando Blanco, code writer in Dade County's Office of Building Code Compliance. When Andrew hit, Mr. Blanco said, it was a few months prior to the findings of a grand jury investigating contractors' non-compliance with Dade's strict building code.

The jury found that builders in Miami routinely failed to anchor beams and roofs with hurricane strapping and anchoring truss systems, Mr. Blanco said. Windows were not attached properly, and connections of the first and second stories of buildings were not secure.

No charges were brought; instead, the grand jury recommended that Mr. Blanco's office separate from the building and zoning department.

That recommendation was imple-

mented, and Dade County has since toughened its codes.

Dade County also now conducts its own tests of products such as doors and windows and stamps them with the Dade County seal of approval, Mr. Blanco said.

"We're the only county that makes companies show them the testing," he said. "A two-by-four is shot out of an air cannon at 34 mph, and the glass or shutter cannot break."

Potentially lower premiums often are the best incentive for code compliance, said Kate Hale, an independent risk management consultant who was director of Dade County Emergency Management in August 1992.

"People do things to lower rates," she said.

Adherence to codes, she said, is essential to the everyone's safety during a storm.

"If you're next to a building that's destroyed," she asked, "guess what's vulnerable?"

BI

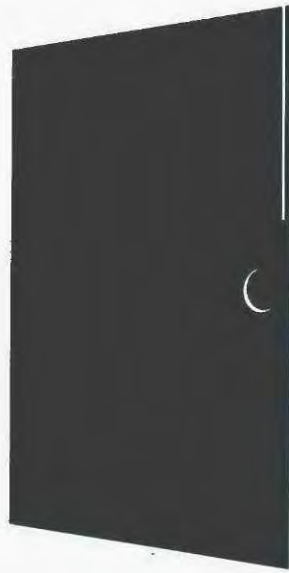
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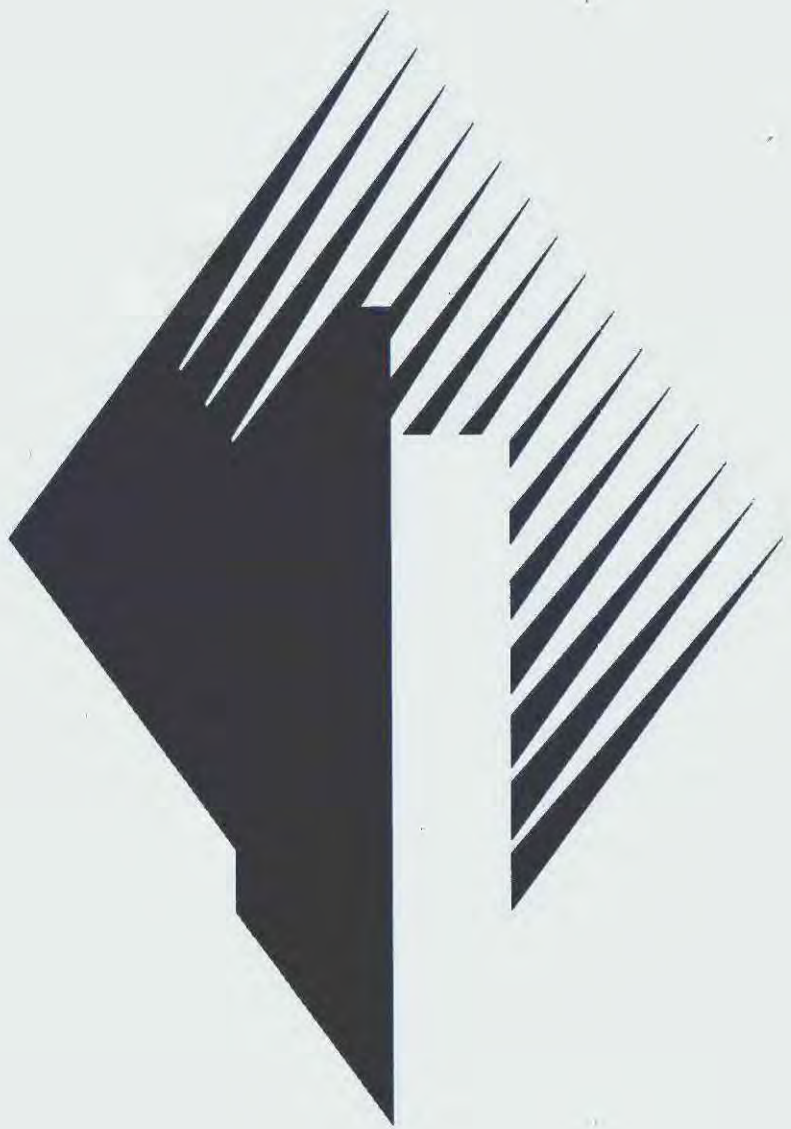
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Andrew sparks growth of Bermuda cat market

Disaster fuels demand for reinsurance as insurers reassess their exposure to catastrophic claims

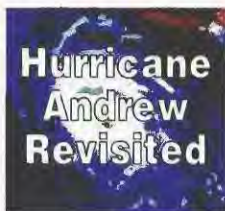
Destruction is often the catalyst for creation, and that's certainly the role that Hurricane Andrew played in the creation of the Bermuda catastrophe reinsurance market.

Hurricane Andrew "largely created the market because the losses were so unexpectedly high," said Don Kramer, president of Tempest Reinsurance Co. Ltd. and vice chairman of ACE Ltd. in Hamilton, Bermuda.

The reason there wasn't a significant catastrophe reinsurance market before Andrew was simple, according to Sean Mooney, senior vp and economist at the Insurance Information Institute in New York.

"Prior to 1989, there never had been a \$1 billion insured cat loss anywhere in the United States. Since 1989, we've had nine of them, so the whole perception of the potential

size of catastrophes has changed. That of course, changed the demand for reinsurance, particularly the amount of cat reinsurance that would be needed," he said.



"Hurricane Andrew, reinforced by the losses stemming from the January 1994 earthquake that devastated the Northridge section of Los Angeles, changed perceptions on the potential size of megacatastrophes," said Mr. Mooney.

Charles Hays, executive vp and chief financial and administrative officer of Hamilton, Bermuda-based Mid Ocean Reinsurance Co. Ltd., launched in mid-1992 the first of the

Bermuda catastrophe reinsurers. He noted that "Mid Ocean was actually conceived and people were raising money before Hurricane Andrew happened."

But, he added, "clearly Andrew was of such magnitude that it was the catalyst that really changed the market."

Tempest Re's Mr. Kramer said that insurers had been lulled into complacency by years of relatively low catastrophe losses. He said they approached their reinsurance needs in "almost as amateurish" a way as homeowners who never update their homeowners policies to reflect the increased value of their house and contents and then discover they are woefully underinsured when disaster strikes.

"So a storm hit and they were hit with huge losses," he said. Because

state insurance regulators would not let them make up their losses through massive rate increases, they had to seek another solution, said Mr. Kramer.

"I think the industry wanted to see a private solution rather than a government solution," he added.

Russell Smith, vp-underwriting for Renaissance Reinsurance Ltd. in Hamilton, Bermuda, said that as a result of Andrew, "risk management entered a new level for a lot of insurance companies" as they attempted to understand the full extent of their exposures.

For reinsurers, "it was a great opportunity to do reinsurance in a more professional and more analytic way." That has meant greater use of ever-more sophisticated computer modeling, he said (see story, page 14). Mr. Smith noted that Renais-

sance Re is a "very model-driven operation."

As the catastrophe reinsurance market has matured, capacity has grown.

Mr. Smith said that putting together a hurricane catastrophe reinsurance program of \$800 million, while not easy, is probably doable in the current market.

John Cashin, executive vp of Willis Faber North America Inc. in New York, agreed that putting together a program of such a size by tapping worldwide rather than simply Bermuda markets is doable. A Willis Faber report issued last month noted that catastrophe reinsurance buyers with good loss records enjoyed significant rate reductions on both April 1 and July 1 renewals.

—By Mark A. Hofmann

Computer models offer insurers more data on risk

By ROBERTO CENICEROS

If a monster storm struck today, insurers might not be caught off guard as badly as they were in August 1992 when Hurricane Andrew swept through Florida, causing about \$16 billion in insured losses.

Andrew grabbed many in insurance by the lapels, helping shake them to a realization that greater losses than previously expected are possible. That realization in turn spawned interest in the development of catastrophe models. The models are computer programs now widely used to help insurers and reinsurers understand catastrophe risks, including critical factors such as the concentration and locations of their business in an at-risk area.

The models have affected commercial policyholders as underwriters have used them to dictate coverage

variables such as capacity and attachment points (BI, April 10, 1995).

"Everyone involved, from the insurer, to the insured to the reinsurer, understands risk better now than they have in the past," said Carl Hedde, vp of technical operations for American



Re-Insurance Co. in Princeton, N.J. Because of the models, "we are able to make better decisions concerning risk," he said.

Before the models, rate makers relied on 30 years' worth of loss estimates, said John Kollar, vp of actuarial services and research for the Insurance Services Office Inc. in New York. That narrow view skewed expectations of hurricane losses down-

ward prior to Andrew and Hurricane Hugo in 1989, because there were few destructive hurricanes during the 1960s and 1970s.

"A 30-year average seems like a long time, but it isn't when you talk about events that take place every 50 years or every 100 years," Mr. Kollar said. The models can evaluate 150 years' worth of historical data and simulate possible occurrences for many years into the future, he said. The models also evaluate relevant factors that were not weighed before, such as building codes.

Yet it still is virtually impossible to say just how precise the models are in determining potential losses. Insurance actuaries have been known to use competing models to evaluate the same portfolios, only to arrive at vastly different loss estimates.

"I would take the liberty to say that on an absolute basis, no one knows if

the numbers are right or wrong," said Jayant Khadilkar, vp in modeling for Renaissance Reinsurance Ltd. in Hamilton, Bermuda. "They may be in the right ballpark, but no one knows for sure."

Yet the models are superior to the old methods or anything else available, Mr. Khadilkar and other users said. From a reinsurer's perspective, they are excellent at distinguishing a good book of business from a bad one, Mr. Khadilkar added.

"They are not perfect, no two ways about it," added ISO's Mr. Kollar. "But I think they have helped a great deal, and I think they will advance further and further, and perhaps they will converge and come up with similar results."

Just exactly how good the models are is tough to determine, in part because the companies that license them have been reluctant to share information, such as the assumptions used in the models, several observers said.

Extensive independent evaluation of the models would require amassing resources similar to those the model companies have assembled. That could include a staff of meteorologists, structural engineers and computer engineers.

Many insurers use the models but have very little understanding of them or interest in how they work, said an actuary for one U.S. reinsurer who asked not to be identified. They merely use the models to satisfy rating companies that demand extensive information on how a 100-year or 250-year event might hit an insurer.

"As long as they get an answer they can present to (the rating companies), most of them don't care too much about the details," the actuary said. "Some of the more sophisticated ones do, but for the most part, most of them don't. They just want something to show."

But more clients are getting sophisticated about the models, their uses and how they work, pointed out Mark T. Broido, director of corporate marketing for Risk Management Solutions in Menlo Park, Calif. RMS licenses its software, known as IRAS.

Consequently, RMS has stepped up efforts to share with its clients information on how it arrives at IRAS data, Mr. Broido said. RMS recently released a new version of IRAS that incorporates information such as data on sea-surface temperatures and their effect on hurricane intensity. Customers say it is greatly improved.

Information generated by the new version has prompted Mr. Broido to claim that existing models have greatly overstated hurricane strike risks in certain coastline areas such as

the mid-Atlantic and the Northeast. At the same time, catastrophe models have understated risks in the Houston and Galveston areas of Texas, he said.

RMS' competitors say such broad categorizations of the modeling industry are unfair. They suspect RMS has merely corrected for shortcomings in its own model and is touting the release of a new version.

San Francisco-based EQE International upgraded its software, USWIND Version 4.0, about two months ago to reflect greater storm potential and severity in Texas, said Bob Healy, vp of sales and marketing for EQE. The company also lowered its risk assessment for the Northeast.

Boston-based Applied Insurance Research prides itself in the stability of its products, said Karen Clark, president. AIR continues to fine-tune its products as new information about storms and other data becomes available. The company has not made major changes in hurricane strike probability, she said.

AIR products already accounted for higher storm risk in Texas than did RMS, Ms. Clark said. She points out that just hours after Hurricane Andrew struck, AIR used its wind model to estimate that storm damages would total \$13 billion in insured losses.

Even though that estimate was about \$3 billion below the final count, it drew criticism then from skeptics who couldn't believe losses would be so severe, Ms. Clark said.

"People said, 'No way; you're crazy,'" Ms. Clark recalled. "The thing is there was no other source of information for at least two months after Andrew that was more accurate than our model."

Yet the models are not at their strongest in predicting losses for a single event, observers said.

"They are generally best when used for large numbers of assets and for large numbers of possible events," said John Schneider, a senior manager for Aon Risk Technologies. Aon is developing its own catastrophe model software, which is expected to be available by year's end.

"Whenever you start narrowing down for a single event or a single site, you are typically overwhelmed by the uncertainty," Mr. Schneider said.

One thing the models have been good at is making insurers more fearful of their potential losses.

"It's a little bit of a paradox," the reinsurance actuary said. "The companies are probably in a stronger position than they were, but they probably think they are in less of a strong position because they have more information." **BI**

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El Nino spurs new predictions

Unsettled weather in the Pacific might have a calming effect on Atlantic hurricane exposures this year.

That weather pattern—known as El Nino—is a particularly strong warming over parts of the eastern Pacific off the coast of Peru and along the equator. El Nino typically causes strong upper tropospheric winds to blow into the tropical Atlantic. Those winds often cut off developing hurricanes.

In fact, the unusually strong 1997 El Nino has led William Gray, professor of atmospheric science at Colorado State University in Fort Collins, Colo., to re-vise his much-watched hurricane forecast. Earlier this month, Mr. Gray predicted that there would be six Atlantic hurricanes—two of them “intense” hurricanes packing winds of at least 111 mph—this year. He had previously predicted seven hurricanes, three of which would be intense, for 1997 (*BI*, June 16).

Two relatively weak hurricanes already had formed before Mr. Gray's Aug. 6 revised prediction.

Mr. Gray noted, however, that the strength of El Nino could move hurricanes and tropical storms further north than usual, forming off Florida, the Bahamas and the northern Gulf of Mexico rather than in the tropics, thus presenting a greater threat to the United States. He also noted that even with El Nino, his newer prediction still calls for a slightly higher than average amount of hurricane activity this year.

Mike Davey, a scientist with the climate research division of the U.K. Meteorological Office at the Hadley Centre, England, said El Nino is “certainly going to have an impact on rain and windfall patterns.” Scientists this year are seeing a more rapid and earlier warming of the tropical Pacific waters than for many years, he said.

Although El Nino happens every few years, the changes already witnessed this year are greater than the previous strong El Nino in 1982-83, he noted. That El Nino caused a major climate change, with droughts in Indonesia and Australia and flooding in Ecuador, Peru and California, Mr. Davey noted.

This year's El Nino has already been associated with localized flooding in central Chile and central Argentina, Uruguay and southern Brazil, according to the Washington-based National Oceanic and Atmospheric Administration.

“El Nino is a short-term weather impact,” and it is difficult to extrapolate the event to make accurate loss predictions, said Matthias Weber, deputy head of the catastrophe perils research department of Swiss Reinsurance Co. in Zurich.

West Coast risk managers need to be aware of El Nino but also realize that the condition itself is not the peril, said Peter J. Gore Willse, a research consultant with Industrial Risk Insurers in Hartford, Conn. Instead, it can magnify existing perils, he said.

For example, El Nino can mean heavier-than-normal rains and snowfalls in the West, he said. It can also aggravate Santa Ana winds that bring in hot air and promote forest and brush fires in California, he said.

“Whether the El Nino is there or not, the risk manager needs to be prepared for all those events,” said Mark A. Tschiegg, IRI's vp-loss prevention services.

“It doesn't matter which disaster you're planning for; the main thing is that risk managers should understand what their exposure is,” said Stephen W. Lilienthal, executive vp/chief underwriting officer for United States Fidelity & Guaranty Corp. in Baltimore.

“Don't deny, don't underestimate and have a formal plan,” he said. Mr. Lilienthal said the success of the planning depends on having “buy-ins” throughout the organization, all the way to the chief executive officer. If companies don't have buy-ins to disaster planning through the organization, they're doomed, he said.

—By Mark A. Hofmann and Carolyn Aldred

Hurricane Andrew Revisited

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Risk managers, loss prevention and safety managers, workers compensation administrators and analysts, employee benefit executives, plus insurers, brokers, consultants, representatives from HMOs and PPOs, state and local government representatives, association members, attorneys and providers from a broad range of companies and institutions.

PROGRAM AGENDA

MONDAY, OCTOBER 27

9:30 AM
GOLF TOURNAMENT:
Hosted by
Deloitte & Touche LLP and SAC3

3:00 PM
EARLY REGISTRATION

4:30 - 5:30 PM
EMPLOYERS PRIVATE ROUNDTABLE

Moderator:
Kathryn J. McIntyre
Business Insurance

5:30 - 6:30 PM
COCKTAIL RECEPTION:
Hosted by Liberty Mutual Group

TUESDAY, OCTOBER 28

7:45 - 9:00 AM
**REGISTRATION
CONTINENTAL BREAKFAST:**
Hosted by
Kemper Insurance Companies

9:00 AM
OPENING REMARKS
Alexandra Scott
International Business Forum

9:05 AM
**KEYNOTE SPEAKER
THE CASE FOR INTEGRATION:
SORTING OUT THE MYTHS AND
REALITIES OF DISABILITY
INTEGRATION MANAGEMENT**

Dwight E. Davis
Wausau Insurance Companies

9:45 AM
**ERGONOMICS: EFFECTIVE
WORKPLACE PRACTICES
AND PROGRAMS**

Moderator:
Wayne S. Maynard
Liberty Mutual Group
Michael Lichtenberger
BOC Gases
Russell C. Opferkuch
Bankers Trust Company
Cynthia R. Parks
Turner Broadcasting System, Inc.

Michelle Robertson
Herman Miller, Inc.
Neal J. Taslitz
National Repetitive Strain Injury Foundation

10:45 AM
**TABLE-TOP EXHIBITS
REFRESHMENTS:**
Hosted by Commonwealth Risk

11:15 AM
**DEVELOPING A SUCCESSFUL
ANTI-FRAUD PROGRAM**

Moderator:
Peter C. Madeja
GENEX Services Inc.
Donald Elisburg, Esq.
Department of Labor Fraud Commission

William Kizorek
InPhoto Surveillance

Christopher E. Mandel
PepsiCo Restaurant Services Group

Philip J. Polazzo
Olsten Corporation

12:15
LUNCHEON:
Hosted by Intracorp

1:15
LUNCHEON SPEAKER
Adam W. Potter
Continental Airlines Inc.

**SOARING TOWARD THE
YEAR 2000**

1:45 PM
BREAK

2:00 PM
**INTEGRATING OCCUPATIONAL
WORKERS COMP WITH NON-
OCCUPATIONAL SHORT-TERM
AND LONG-TERM DISABILITY
PLANS**

Moderator:
Kathryn J. McIntyre
Business Insurance
Elizabeth M. Lindner
Kemper Insurance Companies

Ruth D. Theule
Steelcase North America

Jenny Parker Emery
Towers Perrin

Charles A. Amis
Provident Companies Inc.

3:00 PM
**TABLE-TOP EXHIBITS
AND REFRESHMENTS**

3:30 PM
CONCURRENT SESSIONS
Concurrent Session A:
**RETURNING EMPLOYEES
TO WORK**

Moderator:

Rebecca S. Bruce
Aon Management Institute

Daniel L. King
Host Marriott Services Corporation

Larry Kurtz
The Achievement Institute

Rosemary Osman
University of Pennsylvania Health System

Concurrent Session B:

WORKERS COMPENSATION TRENDS IN CALIFORNIA TODAY: WHERE IS REFORM GOING?

Moderator:

John G. Pasqualetto
American Home Assurance Company

Rachel Kaganoff Stern
RAND

Edward C. Woodward
California Workers Compensation Institute

4:30 PM

CONCURRENT SESSIONS

Concurrent Session A:

IDENTIFYING FACTORS THAT DRIVE WORKERS COMPENSATION COSTS: CASE STUDY OF AN INNOVATIVE APPROACH

Introduction by:

Christopher Mandel
PepsiCo Restaurant Services Group

Christopher A. Duncan
Frito-Lay

I. Jeff Turshen
The MEDSTAT Group

Concurrent Session B:

CREATIVE INCENTIVES AND PAY-FOR-PERFORMANCE METHODOLOGIES

Michael Gibney
Rollins, Inc.

Lizbeth Mackenzie
Coors Ceramics Company

5:30 PM

COCKTAIL RECEPTION

WEDNESDAY, OCTOBER 29

7:45 - 9:00 AM

CONTINENTAL BREAKFAST:
Hosted by GENEX Services Inc.

9:00 AM

OPENING REMARKS FROM THE CHAIR

9:05 AM

OUTCOMES MEASUREMENT—MANAGED CARE VS. MANAGED COSTS

Moderator:

Maddy E. Bowling
Intracorp

Mary Furnanz
Levi Strauss & Company

Brenda Olsen
J & H Marsh & McLennan, Inc.

Richard A. Victor
Workers' Comp Research Institute

10:00 AM

TABLE-TOP EXHIBITS REFRESHMENTS:

Hosted by
Wausau Insurance Companies

10:30 AM

ALTERNATIVE RISK FINANCING

John Kessock, Jr.
Commonwealth Risk

Art Engel
Southwest Marine, Inc.

Keith Terrano
Labor Ready, Inc.

11:30 AM

CONCURRENT SESSIONS

Concurrent Session A:

NEW MEDICAL APPROACHES TO OLD PROBLEMS

Moderator:

Mary Stoik Dymond
ACX Technologies Inc.

Peter G. Hanson, M.D.
Hanson Peak Performance Clinic

Robert S. Ivker, D.O.
American Holistic Medical Association

Concurrent Session B:

RISK MANAGEMENT INFORMATION SYSTEMS

Moderator:

David P. Duden
Deloitte & Touche LLP

Michelle DeLizio
CompReview

Tim East
The Walt Disney Company

Scott Lund
SAC3

12:30

LUNCHEON:

Hosted by
American International Group, Inc.

1:30

LUNCHEON ADDRESS

Sandra M. Jensen
CNA Insurance Companies

INNOVATIVE PRINCIPLES FOR REDUCING WORKERS COMPENSATION CLAIM COSTS

2:00 PM

BREAK

2:15 PM

CONCURRENT SESSIONS

Concurrent Session A:

SCREENING OUT YOUR PROBLEMS—HOW FAR CAN YOU GO?

Moderator:

Jeffrey W. Pettegrew
Western Staff Services

Chris Berka
Psychomedics Corporation

Brent A. Winans
Avert, Inc.

Concurrent Session B:

BUILDING A LABOR/MANAGEMENT TEAM TO WORK TOGETHER IN REDUCING WORKERS COMPENSATION COSTS

William C. Bruce, Esq.
Mayo, Gilligan & Zito

Catherine M. Hopkins
The New York Times

3:00 PM

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Ward's

Continued from page 3

policyholders. "What those nine are doing is a lot more effective than what the 11 are doing," Mr. Ward said. The most effective service does not require as many employees, and boosting employees in this area will not by itself help reduce losses significantly, according to Mr. Ward.

That is reflected in the lower loss ratio of 62.5% for the 20 Ward's 50 companies involved in the benchmarking study, compared with the 66% loss ratio for the other property/casualty insurers in the study. Moreover, the loss ratio for the Ward's 50 participants in the benchmarking study has dropped by 0.8% on average in each of the past five years, according to Mr. Ward. The loss ratio for the other participants has increased 0.2% on average each year.

The difference in those ratios underscores the fact that "there are a lot of commercial accounts that haven't welcomed loss control representatives with open arms," Mr. Ward said.

That likely is occurring because "there still tends to be an inspection/audit flavor taken by loss control professionals," he explained. "That tends to give the account a feeling that someone is coming out to look for mistakes they've made or something that they should have done differently."

Under that approach, a policyholder and an insurer's loss control professional are not working together as a team. The result of such a "we vs. them scenario" often is that a policyholder's goal takes on the short-sighted focus of passing a loss control inspection rather than implementing measures to reduce losses over the long term, Mr. Ward said.

"The goal is when the policyholder comes to the table with real good insights of his own on how to reduce accidents and where the real exposures are in his operation," he said. "In an audit or inspection environment, you don't get that free flow of ideas, where you get sustained improvements over time."

The more positive environment typically is fostered when an insurer offers its policyholder incentives and

credits to initiate significant loss control measures.

The benchmarking study points out that such a program is one of three best practices in the loss control area that differentiate the top-performing companies from the rest of the benchmarking group. Somewhat more than half of the best performers offered such a program, while only some of the average performers offered it, the study showed.

Though insurers with such practices continue to conduct loss control inspections, those insurers assume more of a consulting role with policyholders and generate more policyholder input on how loss frequency can be reduced, Mr. Ward explained.

For insurers that establish that best practice, such an exchange of ideas with policyholders occurs more regularly than at an annual loss control inspection, Mr. Ward said.

The benchmarking study also found that the top-performing companies virtually always concentrate their loss control efforts on only their largest and riskiest accounts. Those insurers understand that the bulk of their losses are attributable to the relatively small percentage of their total number of accounts that have either the largest or most complex risks, Mr. Ward said.

Less than half of the average performers take that approach, the study found. They more often opt for a "cookie cutter" approach that spreads their loss control efforts evenly among all of their accounts, Mr. Ward said.

The study also found that virtually all of the top performers incorporate training and educational programs into their loss control efforts. But those training programs take on more importance with the insurers' smaller and less complex accounts because so much of the insurers' other loss control efforts are directed toward the most complex risks.

Somewhat more than half of the average performers offered training programs, again equally emphasizing their importance with all of their accounts.

The underwriting process is another area in which average performers can improve their efficiency by implementing the best practices used by the

Property/casualty benchmarks

1992-1996

Benchmark category	Ward's 50 benchmark	Total industry
Combined ratio	101.9%	108.0%
Return on average equity	18.3	11.9
Risk-based capital ratio	247.2	189.9
Surplus/assets	35.0	28.6
Loss ratio	65.9	69.2
LAE ratio	12.4	12.9
Underwriting expense ratio	23.6	25.9
Commercial multiple peril loss and LAE ratio	71.6	78.0
Other liability loss and LAE ratio	74.5	97.4

Source: Ward's Results, 1997 Property-Casualty edition

Ward's 50 participants in the benchmarking study, according to Mr. Ward.

As in the loss control area, a benchmarking metric in the underwriting area could give insurers the wrong idea about how to improve underwriting effectiveness, Mr. Ward said.

The study showed that commercial lines underwriters earned \$51,300 annually on average at the top-performing companies, or 12% more than the \$45,800 their counterparts earned at the other insurers that participated in the study.

However, each underwriter at the top performers wrote \$2.7 million of premiums annually on average, 17.2% more than the \$2.3 million of premiums that each underwriter at the other insurers wrote annually on average.

The story was similar among underwriters at personal lines insurers.

Insurers should not conclude that higher pay automatically will translate into more effective underwriting, Mr. Ward said.

Instead, moving more underwriters out from their desks and into the field, waiting to renew policies closer to the date they expire and beefing up automation are the best practices that improve underwriting effectiveness,

Mr. Ward said.

Among commercial lines insurers, an important underwriting best practice is getting underwriters into the field more often for a more in-depth study of risks rather than relying on underwriters' own phone interviews with policyholders, on information agents provide or on reports from other third-party inspection companies, Mr. Ward said.

More than half of the top performers take this approach, while only some of the average performers in the benchmarking study do so.

"It's the quality of underwriting that emerges as the important thing. The key thing there is effectiveness, not the quantity" of premiums written, Mr. Ward said.

The trade-off for greater underwriting effectiveness is lower cost efficiency, which is not something too many insurers are willing to accept in a soft marketplace, Mr. Ward noted.

That is why insurers should not use the approach for every risk. Instead, it should be used with an insurer's most complicated and largest risks, he said. "It would not be a best practice to inspect every kind of risk," he said.

Another underwriting best practice is renewing an account no earlier than 45 days before its renewal date. That

helps an insurer avoid locking into policy periods, which increasingly are expanding to multiple years, based on outdated underwriting information.

More than half of the Ward's 50 companies in the benchmarking project have implemented such an approach, while only some of the other benchmarking participants have.

Of course, even that best practice will not always generate for insurers the most up-to-date underwriting information on renewal accounts. For example, the insurers that write aviation coverage for Federal Express Corp. could not adjust the terms and conditions of the delivery service's renewal coverage after a Fed Ex plane flipped and burned July 31 just after landing at Newark (N.J.) International Airport. The crash occurred on the last day of Fed Ex's expiring coverage. The delivery service's aviation insurers had completed negotiations on the renewal coverage only about a month earlier (BI, Aug. 4).

The best-practice personal lines insurers have improved their underwriting efficiency by investing in automated systems. Those systems "allow more premium to be underwritten without as many people involved in the process," Mr. Ward said.

The systems are more efficient substitutes for lower-level underwriters.

Virtually all of the top performers have invested in such systems, while only somewhat more than half of the other insurers in the study have made a similar investment.

The benchmarking study also shows that top performers more effectively handle the policy processing stage prior to underwriting.

Top performers need fewer policy processors per \$100 million of written premium.

On the commercial lines side, the top performers have 22.4 processors, while average performers have 24.1.

More than half of the top performing commercial insurers have only one rating and quoting computer system to support all of their products, while only some of the average performers take this approach.

That kind of set up prevents a "fragmented and less productive" policy processing environment, because an insurer then does not need multiple sets of processors running multiple systems.

That kind of set up also costs less. So, why don't all insurers implement a system that is both more efficient and costs less?

"It's easy to have different systems pop up to support different products. They're not thinking about the most efficient way to do something," explained Mr. Ward, referring to many insurers.

In addition, "it sometimes does take extra work for a current rating and quoting system to accommodate a new product," he said.

For smaller and less complex commercial accounts, virtually all of the top performers provide their agents automated rating and quoting tools. Because these agents are able to turn

See Ward's on next page

Balancing profitability, solvency key

Ward's uses data over five years to determine benchmark groups

The property/casualty and life/health insurers that comprise the 1997 Ward's 50 Benchmark Groups have been the best insurers over the past five years at consistently balancing profitability and solvency.

When either measure for a Ward's 50 insurer is analyzed in isolation, it may not rank among the industry's 50 best. The combination of sustained solvency and performance over five years sets a Ward's 50 insurer apart from other insurers.

Each year, Ward Financial Group, a Cincinnati-based management consulting firm, identifies the benchmark groups and develops numerous aggregate financial measures for each group. Risk and employee benefit managers then can compare their insurers to the benchmark groups using the two statistics-packed Ward's Results volumes that the consulting firm produces annually.

Ward Financial's evaluation is based solely on data that insurers provide in statutory financial results filed with state insurance regulators. Rating agencies, by comparison, develop rates by also fac-

toring in qualitative assessments of insurers' top management.

In the latest editions of Ward's Results, 2,679 property/casualty and 1,569 life/health insurers licensed in the United States are analyzed in full. The reports also provide limited analysis on 1,453 additional property/casualty insurers that reported less than \$10 million of earned premium in 1996 and 417 additional life/health insurers with less than \$5 million of assets last year.

Each Ward's 50 insurer has survived a battery of tests that measure the safety and the consistency of its financial performance. Failing one of those tests eliminates the company from further consideration as one of the 50. To pass this phase, insurers must:

- Have been in operation for at least the past five years.
- Have written at least \$50 million of net premiums annually on average over that period and have at least \$50 million of surplus.
- Have reported net income in four of the past five years. A lone annual loss may not have exceeded 10% of surplus.

But, Ward Financial adjusts the

net income figures it uses to reflect some operational items that normally are recorded directly to surplus. Those items more truly reflect operating performance, explained Chairman John L. Ward.

For example, for all insurers, Ward Financial figures into net income unrealized capital gains or losses, changes in non-admitted assets and changes in provisions or liabilities for reinsurance they have purchased.

For mutual life/health insurers, up to 1% of surplus is apportioned to net income, though no adjustment exceeds an actual policyholder dividend. Without that adjustment, life/health stock companies would have an unfair advantage over mutual insurers in this part of the analysis, Mr. Ward explained. That's because under standard accounting practices, 100% of a mutual insurer's dividend is treated as an income-reducing expense, whereas stock companies' dividends reduce their surplus.

Ward Financial uses the 1% figure because that is the typical portion of a stock insurer's dividend that represents a return of capital, Mr. Ward said.

The same adjustment is not made to net income for mutual property/casualty insurers, because they rarely pay dividends.

• Have achieved a minimum risk-based capital ratio, which Ward Financial derives by using a formula similar to the one regulators use. The minimum is 100% for property/casualty insurers and 150% for life/health insurers. The difference in the ratios makes a comparable number of insurers in each industry segment eligible for the analysis.

• Not have a fluctuation in net written premiums exceeding either a 40% compound annual increase or a 10% annual compound decrease.

Insurers that survive those tests then are analyzed for returns on average equity, average assets and total revenue. The top 50 insurers in each market segment comprise the Ward's 50 Benchmark Groups.

Ward Financial does not rank how each Ward's 50 insurer fared against others in its group. Instead, the results of all 50 insurers in each group are used as benchmarks for the remainder of insurers in that group's industry segment.

Not every insurer in the two Ward's 50 groups is identified by its full legal name. That is because in some cases, the listed insurance entity consists of two or more affiliated companies that form a group within a larger insurance holding company.

—By Dave Lenckus

How to obtain copies of Ward's Results

The property/casualty and life/health editions of Ward's Results are available from Ward Financial Group for \$525 each. The reports can be obtained together or individually by contacting Ward Financial in writing at 8805 Governor's Hill Drive, Suite 410, Cincinnati, Ohio 45249-3312; by phone at 513-791-0303; by fax at 513-985-3442; or on the Internet at <http://www.wardinc.com>.

Ward's

Continued from page 19

around quotes more quickly, they tend to win the business more often, Mr. Ward said.

Only some of the average performers provide their agents this service.

The variance in the number of policy processors is far more significant among personal lines insurers: 19.7 processors per \$100 million of written premiums at top-performing companies, compared with 31.3 processors at the average performers.

Virtually all the top-performing personal lines insurers have implemented computer systems that provide agents automated quoting and rating guidance. The insurers' systems also allow agents to upload their rating and quoting information electronically directly to the insurers, which eliminates the need for those insurers to rekey all of that information into their systems.

Only some of the average performers

have installed such systems.

Top performers also impose some stricter compensation and management constraints on their agents. The result: Those insurers see \$625,000 of written premiums per agency on average, compared with the \$354,000 in written premiums per agency on average that the average performers see.

Virtually all of the top performers use contingent commissions to compensate their agents. Contingent commissions represent 2.5% of those insurers' written premiums. Among the average performers, which only sometimes use contingent commissions, the commissions represent 1% of written premiums.

Virtually all of the top performers base the commission on both the volume and the multiyear profitability of business their agents produce. Only some of the average performers that use contingent commissions base them on both volume and profitability.

In addition, virtually all of the top performers have:

- A strong market position with their agencies, ideally ranking among their agents' top three writers. Insurers can attain that kind of market dominance in their agencies only over time by forging long-term relationships with their agents, Mr. Ward said.

- A strong critical mass in terms of written premiums with their agents. That is especially important with large agencies, where a leading market still may write only a fraction of the business produced by an agent that uses numerous markets.

Insurers that have such a critical mass of premiums usually are treated more like a partner by their agents. That typically means agents will be sending their better risks to those insurers.

- A system for frequently evaluating their agents' performance and severing ties with problem agencies. Many insurers are "unwilling to make the tough call on an agency because the insurers are managing their top lines rather than their bottom lines" during the soft market, Mr. Ward said. **BI**

Controlling expenses, research help put life/health insurers on list

By DAVE LENCKUS

Disciplined expense control and marketing research efforts as well as prudent evaluations of organizational structure are best practices found at some of the life/health insurers that lead the industry in consistently balancing solvency and financial performance, a benchmarking study shows.

Some of the best practices, such as trying to knock down expenses to levels even lower than those projected under pricing assumptions, would seem intuitive, said John L. Ward, chairman of Ward Financial Group, the Cincinnati-based insurer management consulting firm that

the benchmarking study: 25 life/health insurers, including six from Ward's 50 group for that industry segment, and 75 property/casualty insurers, including 20 from the Ward's 50 group from that industry segment.

The insurers hope the benchmarking study's findings will help them identify and understand the business practices that underpin the financial measures that have earned companies a place on one of the Ward's 50 lists.

As was the case with the property/casualty segment, all of the life/health insurers in the benchmarking study are becoming more efficient.

topic, Mr. Ward said.

The prices of many products that life insurers sell do not change over the years that customers keep the products. The pricing assumptions for those products include an expense component that many insurers only try to meet.

However, virtually all of the top performers try to drive down those expenses to a level below their original projections, Mr. Ward said.

Most of the average performers do not try to beat their original expense projections. "That's like saying, 'What would you rather do: meet budget or beat budget?' I'd take beat budget every day," Mr. Ward said.

Insurers may be concerned about earning excessive profits on a product, he said.

However, "that doesn't work," he said. Insurers eventually will find they missed the mark on at least a few of the various elements that comprised their original pricing assumptions, so insurers should try to be as efficient as they can where they can, Mr. Ward said.

The top performers do not necessarily meet or beat the expense projections included in their pricing assumption, he said. However, by trying to beat those projections, they do a better job of controlling expenses than if they tried to only meet those projections, he said.

"They're focused on meeting their full potential," he said. As a result, if their original pricing assumptions took into account the expense of some inefficient departments within the company, the top performers try to reduce their expenses by making those departments more efficient, he said.

The top performers also take more care in analyzing whether they should be organized in strategic business units. An SBU is 100% dedicated to a single customer group or a marketplace initiative. It requires specialized or dedicated support systems separate from others at the company. As a result, those units are costly to establish.

However, if an insurer sets up a unit under the right circumstances, the resulting customer focus should help the insurer maximize its market share potential within its targeted customer segment.

If an insurer sets up a unit when
See Life/health on page 22

Outsourcing more common

Property/casualty and life/health insurers consider nearly every one of their core and non-core operations—from loss control to employee fitness facilities—a candidate for outsourcing, according to Ward Financial Group.

Over the past six years, insurers gradually have been increasing the number of functions they outsource, said John L. Ward, chairman of Ward Financial, a Cincinnati-based insurer management consulting firm.

Outsourcing, though, is not always the best practice for insurers, he advised.

A benchmarking study involving a total of 100 property/casualty and life/health insurers shows that insurers are "outsourcing everything," Mr. Ward said.

"The traditional functions that companies considered outsourcing tended to be data processing oriented," he said.

"This study points out the full breadth of that trend" in recent years, he said. "Virtually every function in a company today can be outsourced."

But, the degree to which insurers farm out their various operations to vendors varies substantially from one function to another.

For example, nearly all study participants—97%—outsource their disaster recovery programs, while only 2% entrust their internal auditing function to outside vendors.

Among the insurers' core operations, loss control is outsourced by slightly less than half—47%—of property/casualty insurers participating in the benchmarking study.

Just over one-fourth of the property/casualty insurers outsource their claims adjusting operations.

A substantially larger percentage of the life/health insurers—46%—

outsource their actuarial functions than do property/casualty insurers—13%.

Only 3% of the study's participants outsource their entire information systems function.

The study showed that the level of outsourcing of some non-core business functions varies considerably as well.

For example, between two-thirds and three-fourths of the study's participants outsource their security, janitorial and cafeteria functions.

But, only one-fifth of the participants outsource their print shops, one-third outsource their building maintenance and just under half outsource their employee fitness facility operations.

Ward Financial has not completed its analysis of which functions are most suitable for outsourcing, but it has determined that some insurers are making wiser outsourcing decisions than others.

For example, 86% of the study's participants outsource their employee benefits administration function. Ward Financial considers that move a best practice because the function is not part of many insurers' core business.

However, Mr. Ward said that outsourcing the loss control function is not a best practice.

Farming out that function may minimize its cost, he acknowledged. But, insurers that outsource likely will find that giving up control over that function will hurt its effectiveness.

The benchmarking study involved a total of 75 property/casualty insurers, including 20 from the Ward's 50 group, and 25 life/health insurers, including six from the Ward's 50 group.

—By Dave Lenckus

Life/health benchmarks

1992-1996

Benchmark Category	Ward's 50 benchmark	Total Industry
Return on average equity	16.7	13.2
Return on average assets	1.7	1.4
Risk-based capital ratio	248.7	238.0
Mortgage loans and real estate as a percent of invested assets	16.8	16.7
Non-investment grade bonds as a percent of invested assets	4.1	3.9
Total high-risk assets as a percent of invested assets	6.2	6.6
Net interest spread on life products	4.3	4.2
Group annuity premiums as a percent of total premium income	21.2	23.6

Source: Ward's Results 1997 Life/health edition

facilitated the benchmarking study. But not all life/health insurer executives agree, he said.

Ward Financial every year identifies the 50 insurers in the life/health industry and the 50 insurers in the property/casualty industry that do the best job of consistently balancing solvency with financial performance. Those insurers comprise the Ward's 50 group for each industry segment.

Many of the insurers in the two Ward's 50 groups participate in a separate benchmarking project that involves dozens of other insurers from both industry segments. A total of 100 insurers participated in

From 1992 through 1996, there was a 14.7% annual decrease on average in the number of employees per \$100 million of assets for the Ward's 50 study participants—the top performers in the group. The average annual decrease among the average performers during the same period was not as sharp, but it still was a significant 12.3%. (see chart, page 19).

Even so, the benchmarking study suggests the industry at large can learn a few things from the top performers in the study.

The best practice that Ward Financial has identified in the expense control area is a controversial

Outsourcing trends

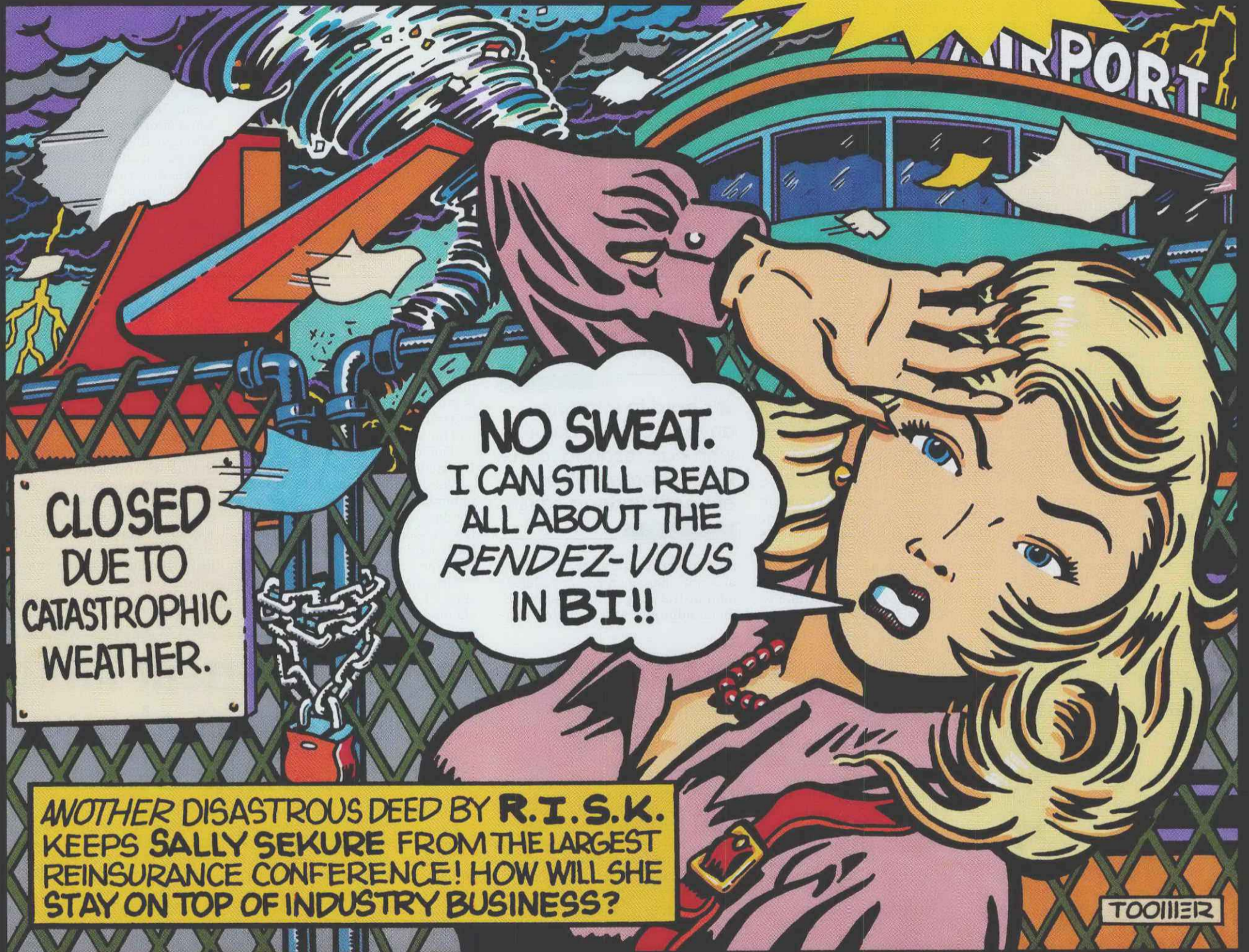
1992-1996

Business process	Percent of overall universe outsourcing
Disaster recovery	97%
Employee benefits administration	86
Property/casualty claims litigation defense	83
Cafeteria support	74
Janitorial and housekeeping	73
Security	66
Payroll processing	58
Premium audit	50
Loss control	47
Fitness facilities	46
Life/health actuarial	46
Personnel systems support	45
Premium collections via bank lockbox	38
Investment portfolio management	35
Building maintenance	33
Property/casualty claims adjusting	26
Print shop	20
Assigned risk processing	19
Selected aspects of information systems (i.e., help desk, communications, etc.)	15
Property/casualty actuarial	13
Entire information systems function	3
Internal audit	2

Source: Ward Financial Group

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Life/health

Continued from page 20

there is no marketplace need to do so, then it will incur the associated costs without reaping any of the benefits.

The benchmarking study found that more than half of the top performers that have established SBUs did so only after determining there were true marketplace mandates for such units.

Only some of the average performers properly analyzed the market before deciding whether to establish SBUs, the study found.

Establishing an SBU is not a prudent move if an insurer separately tries to market other products to that unit's target customer base.

If an insurer is targeting one customer group for multiple products, the insurer would be better off foregoing any SBUs and instead setting up different product

departments. Because those departments would be targeting the same consumers, they would not have to have their own dedicated systems, which would hold down the insurer's costs, Mr. Ward explained.

Even with a marketplace mandate, an SBU is not a good idea if the unit's management does not have substantial control over at least 50% of the cost of operating the unit and is not held directly responsible for the unit's financial performance, Mr. Ward said.

Beyond considering how the company should be structured to maximize market share, virtually all of the top-performing insurers focus on maximizing product synergies among affiliated entities, the benchmarking study found. Only some of the average performers do so.

Some insurers either do not see the connection between the different products their affiliates offer, or they are unwilling to take advantage of their potential product

synergies, Mr. Ward said.

For example, an insurer with life/health and property/casualty subsidiaries likely would have that kind of opportunity when the property/casualty unit agrees to pay a claim under a structured

Virtually all the top-performing insurers have plans to analyze market demand before launching new products.

settlement, Mr. Ward said.

In its product mix, the life/health unit may have a structured settlement annuity that its property/casualty affiliate could purchase. But, for a couple of reasons, property/casualty affiliates often do not purchase annuities from their life/health affiliates.

In some cases, the affiliated op-

erations do not communicate effectively, so they do not know what the other operation is doing or wants to do, Mr. Ward said.

In other cases, the affiliates purposely do not do business with each other as a matter of policy to avoid any potential conflicts of interest.

Mr. Ward suggested that the better approach for the insurers would be to inform all parties involved in the settlement about the relationship between the two insurers and allow the parties involved in the settlement to decide whether the connection troubles them.

The problem of not adequately analyzing the implications of setting up an SBU is mirrored in many insurers' product development approach, the benchmarking study found.

Only some of the average performers have disciplined product development plans that force the insurers to analyze market demand before launching a new

product. Virtually all of the top performing insurers have such plans.

Noting that incurring the expense of designing and introducing a new product without first gauging marketplace demand is poor business, Mr. Ward said: "This sounds so logical, but it's not always practiced that way. It is tempting to hear or think about a new product and then go right to market with it without going through the exercise of determining cost and demand."

Just as there is a cost in taking a new product to market, there is a cost to keeping a product on the market.

Similarly, virtually all of the top performers have a disciplined process of evaluating whether current products should be continued or terminated.

"Most products have a life cycle, with a beginning, a middle and end," Mr. Ward observed. "Most companies fail to recognize an end." **BI**

BHCAG

Continued from page 2

market comes eight months after the coalition's new "care systems" model became effective for its approximately 250,000 employees and dependents. The BHCAG approach is considered novel and is being closely watched by the health care community.

Under the new model, 15 care systems—groups of physicians and hospitals approved by the coalition to compete for patients based on coverage offered and rates—replace managed care plans. HMOs under this system function strictly as administrative service contractors, and

that role primarily has been fulfilled by HealthPartners and its subcontractors (BI, Dec. 23/30, 1996).

"We always had it in the back of our mind that we would eventually go out to bid," concurred Fred Hamacher, vp-compensation and benefits for Dayton Hudson Corp. in Minneapolis, one of BHCAG's founding employer members. "We weren't ready to do that earlier."

"We originally thought about going out to bid a couple of years ago... but we were evolving into a new model and HealthPartners was helpful in getting it all together," Mr. Hamacher said.

The group also decided to wait until 2000 to give vendors time to look at the BHCAG's business and

respond to what it is seeking, he explained.

BHCAG will issue RFPs during the first quarter of 1998 for various

'It's hard to imagine anyone other than us who can respond to the RFP,' George Halvorson of HealthPartners says.

administrative services, including account management, enrollment administration, provider reimbursement administration, claims pro-

cessing, risk adjustment, pharmacy management and coverage determinations.

While HealthPartners and its subcontractors currently provide the majority of these services, BHCAG is willing to look at both bundled and unbundled proposals from local and national vendors.

"Our minds are wide open," Mr. Hamacher said.

Whether the group ends up with unbundled services from a variety of vendors or bundled services from a few vendors depends on the value that vendors bring and at what price, he explained.

Also, the group will be looking for state-of-the-art technology in claims adjudication and a high level

of quality service, Mr. Wetzell added.

Messrs. Wetzell and Hamacher do expect the group's current administrator to be a tough competitor for other vendors.

George Halvorson, president and chief executive officer of HealthPartners, agrees.

"It's hard to imagine anyone other than us who can respond to the RFP. This is probably the single most complex administrative task in the country. We're basically administering 20 separate HMOs simultaneously... It took a year and a half just to build the infrastructure to accomplish this."

"I'm comfortable with our prospects." **BI**

Clock may begin sooner

Knowledge of toxins may trigger statute of limitations: Court

By GAVIN SOUTER

AUSTIN, Texas—Knowledge of the presence of a toxic compound may be enough to trigger statutes of limitations in toxic tort cases when direct injury is alleged, the Texas Supreme Court has ruled.

A party does not need to be aware that contamination actually exceeds regulatory guidelines to start the clock in such cases, the court said.

That ruling also confirms that in toxic torts, the discovery rule exception to the statute of limitations only applies if the injury is "inherently undiscoverable" and the evidence of the injury is "objectively verifiable."

The July decision "follows decisions in other areas, but it is precedent-setting in a toxics and environmental scenario," said Katharine R. Latimer, a partner at Spriggs & Hollingsworth in Washington. Ms. Latimer represented a pesticide manufacturer in the case, Velsicol Chemical Corp. in Chicago.

The case concerns an action for damage that arose after several Houston apartment complexes were sprayed with the pesticide chlordane in April 1987. The action provoked significant media attention, and later in the month the apartments were investigated by the Texas Department of Agriculture.

"TDA found chlordane present on the exterior of the apartments and ordered its remediation. However, because the chlordane levels discovered inside individual apartments did not amount to contami-

nation, TDA did not order remediation of the interior," court papers say.

In June 1987, several tenants filed the first of several lawsuits against Judwin Properties Inc., which managed the apartments. The tenants later added Velsicol, the pesticide manufacturer, as a co-defendant, and Judwin cross-claimed against Velsicol for contribution and indemnity for any settlement.

In May 1991, the city of Houston ordered a new investigation into levels of contamination after renewed media attention.

"Samples collected and analyzed by an environmental consulting firm revealed for the first time that the interior level of chlordane exceeded the 'contamination' guidelines," the Texas Supreme Court wrote in its opinion.

Judwin then amended its claims against Velsicol, suing for property damage and injury to a business.

Velsicol sought a summary judgment, arguing that Texas' two-year statute of limitations barred the suit. The trial court granted the summary judgment, but its decision was overturned on appeal.

The appeals court agreed with Judwin that the "discovery rule" allows the apartment manager to date any statute of limitations from the time that the contamination was found to exceed regulatory guidelines in 1991.

Texas' Supreme Court, however, disagreed.

"The discovery rule represents an attempt to balance society's interest to have disputes either settled or

barred within a reasonable time in situations in which it is difficult for the injured party to learn of the negligent act," the court wrote.

It is only applicable if the injury is inherently undiscoverable and the evidence of the injury is objectively verifiable, court papers say.

"In 1987, Judwin knew that chlordane residues in the interior of the apartments were responsible for adverse press coverage and several tenant lawsuits," the court said.

The damage arose in April 1987 as a result of the presence of the chlordane, irrespective of the concentrations of the pesticide, the court papers say.

"Accordingly, we hold the injuries of which Judwin complains were not inherently undiscoverable and thus the discovery rule does not save those claims from limitations," the high court said.

The judgment eases the burden on defendants in toxic tort cases in Texas, Ms. Latimer said.

Plaintiffs must either seek to recover losses after contamination levels exceed regulatory standards or they must sue within two years of the original contamination that allegedly led to the property damage, she said.

"The court is saying that you can't have it both ways. It's one or the other," Ms. Latimer said.

Velsicol Chemical Corp. and Columbia Management Services Inc. dba CMS Exterminating Service vs. Judith Winograd et al., Supreme Court of Texas; No. 96-0861.

MSAs not near limits, IRS report shows

Interest expected to rise in May, June

WASHINGTON—The growth of tax-favored medical savings accounts is, as expected, very slow.

Through April 30, just under 10,000 MSAs had been set up, according to an Internal Revenue Service census.

Those MSAs are authorized under a four-year pilot program Congress approved last year as part of a broader health care portability law.

The law allows those who are self-employed and employees working at companies with two to 50 employees to set up tax-favored MSAs.

The relatively small number of MSAs being set up is no surprise to insurers, agents, banks and others promoting MSAs.

They say it has been difficult explaining to the public how MSAs work.

However, insurers and others say interest in MSAs began to pick up in May and June, especially from well-paid, self-employed professionals, such as law firm partners, who have grasped the tax advantages associated with MSAs (BI, May 12).

As a result, MSA enrollment should be considerably higher by the next IRS census, which will be published in early October and will include MSA enrollment through the end of June.

Still, it is unlikely that the number of MSAs established through May or even through the end of the year will approach the limits

set by Congress.

Under the 1996 law, up to 750,000 MSAs can be established through Dec. 31, 2000.

At that point, Congress will decide whether or not to continue the MSA program. If legislators do end the program, though, existing MSAs will be allowed to continue.

The law also set a 375,000 MSA cap by April 30, 1997; 525,000 by June 30, 1997 and a 600,000 limit by June 30, 1998.

Some MSA advocates had predicted that interest in MSAs would be so great that the congressionally set caps would be quickly reached.

Those predictions, as evidenced by the IRS census, have been off the mark.

Under a tax-favored MSA, which must be linked to a high-deductible indemnity plan, contributions earn tax-deferred interest.

Money in an MSA can be withdrawn tax-free to pay for uncovered health care expenses. Amounts withdrawn for other purposes are taxed as an ordinary income with a 15% surcharge tacked on.

The 15% surcharge, though, is not assessed on funds withdrawn by people after they turn 65 years old.

Of the 9,720 MSAs that have been established, 1,787 were for individuals previously uninsured, the IRS said. **BI**

INTERNATIONAL

Global Briefs

Paul G. Philo, director and chief underwriting officer of **Sphere Drake Holdings Ltd.**, has left the company after 20 years of service. The decision to cut the senior position reflects the reduction in Sphere Drake's lines of business over the past year, a spokesman for the company said. Mr. Philo was the last of the senior executives at Sphere Drake who had been with the company since it was owned by Alexander & Alexander Services Inc. in the 1980s. Ian Dean, the former chief executive officer resigned abruptly in December 1995 (*BI*, Jan. 1). . . . U.K. insurance companies that take charge of and fund a policyholder's legal defense to protect their own interests risk being forced to pay the plaintiffs' costs over and above any policy limit if the policyholder loses the case. An appellate court has ruled that **Sun Alliance Insurance Group P.L.C.**, now part of Royal & Sun Alliance Insurance Group P.L.C., must pay legal costs of more than £250,000 (\$398,375) on top of its £1 million (\$1.6 million) policy limit on a household contents policy after the policyholder's son caused a fire at a factory where he was a temporary worker. Sun Alliance plans to petition the House of Lords to overturn the ruling. . . . Lloyd's of London broker and financial services group **Swire Blanch Ltd.** has opened an office in Dallas to market products in the United States, specializing initially in bloodstock and contingency. Swire Blanch is jointly owned by E.W. Blanch Holdings Inc., a Minneapolis-based reinsurer and wholesale intermediary, and the diversified Swire Group of Hong Kong. . . . Credit rating agency Standard & Poor's Corp. has raised its counterparty credit and claims-paying ability ratings of **General Accident Fire & Life Assurance Corp. P.L.C.** to AA from AA-. S&P also assigned its AA counterparty credit and claims-paying ability ratings to the other core entities of the General Accident group of companies, including General Accident Insurance Co. of America. . . . S&P has also assigned its AA-claims-paying ability rating to **SPS Reassurance S.A.**, a newly re-established unit of France's largest insurance group, AXA-UAP. The rating reflects explicit support from its immediate parent, AXA Re S.A., in respect of SPS Re's policyholder obligations and that fact that AXA Re is "a well-managed, technically competent and leading force" in international reinsurance. . . . The **U.K. Health and Safety Executive** says preliminary railway safety statistics for the year to March 31, 1997, show that the 25 fatalities for the period were down three compared with the previous year and the lowest on record. The two fatalities of railway employees also marked a record low. The main statistic used to measure railway safety, "significant" train accidents, was 105, compared with 104 the previous year and 151 two years ago. . . . **Tony Nunn**, one of the best-known figures in the London marine insurance market for almost 50 years, retired on Aug. 15 as governmental and international affairs adviser to the Institute of London Underwriters. Mr. Nunn held this post since 1992, when he retired from active underwriting. . . . **Robert Kiln**, founder of Lloyd's of London underwriting agency R.J. Kiln & Co. Ltd., died Aug. 16. He was 77. He had been an underwriter on Lloyd's syndicates 510 and a member of the Committee of Lloyd's from 1971 to 1981.

Class actions up in Australia

Excess capacity will prevent product liability rates from rising: Risk manager

By YVETTE HIGGINS and KATE TILLEY

SYDNEY, Australia—Australian companies are facing a rash of class-action lawsuits over claims of illness from contaminated food products, though it is not expected to harden product liability rates.

Class actions in general are becoming more frequent in Australia since the Trade Practices Act was amended five years ago. The amendments were introduced to give Australian plaintiffs a litigation option available in other developed countries.

Lawyers are divided, however, on whether there will be an explosion of class-action litigation. Some attorneys do not expect a large increase of this type of litigation, but others predict a rise in class actions as Australians recognize them as a more cost-effective way to sue companies and as plaintiffs attorneys become more familiar with the amendments.

In the past five years, 30 product liability class actions have been filed, the majority of which have been settled before a final court determination.

Many cases have centered on tainted food products, though a case that attracted at-

tention earlier this year involved chemical manufacturer ICI Australia Operations Pty. Ltd.

A group of cattle farmers sued ICI, alleging an ICI pesticide tainted herds. The chemical manufacturer was found guilty of

'Companies know their responsibilities, but there will be more drive for companies to deliver better-quality, safer products,' says Les Burke.

negligence (*BI*, July 7).

Despite the increase in class actions, rates for product liability coverage are unlikely to increase across the board, said Les Burke, risk manager for Melbourne, Australia-based Foster's Brewing Group Ltd.

Rates will not increase until excess capacity in the liability market is absorbed, added Mr. Burke, who is also a director of the Assn. of Risk & Insurance Managers of Australasia.

In light of the litigation, however, Brian Crews, president of ARIMA and insurance officer for Sydney-based Unilever Australia Ltd., said companies must ensure they have sound claims procedures and strong risk management programs in place to minimize their liability exposure.

Said Mr. Burke: "Manufacturers try very hard to ensure delivery of quality products to customers. Companies know their responsibilities, but there will be more drive for companies to deliver better-quality, safer products."

Several Australian food manufacturers or food outlets are facing class-action claims related to tainted products.

In the highest-profile case, Kraft Foods Ltd. and General Foods Pty. Ltd., both Melbourne-based subsidiaries of U.S. food manufacturer Kraft General Foods Inc., currently are negotiating a settlement of a class-action suit filed over tainted peanut butter products. The companies were sued last year after about 550 Australian consumers became ill after eating salmonella-tainted peanut butter (*BI*, Sept. 2, 1996).

The claimants sought damages for lost wages, medical expenses and pain and suffering. See *Australia on next page*

U.K. to recommend more EPL cover

By EDWIN UNSWORTH

LONDON—The British government is expected to publish soon a document on employers liability in which the government will recommend raising employers' mandatory minimum amount of employers liability coverage.

A spokeswoman for the newly created Department of Environment, Transport and the Regions, which is preparing the consultative document, said it will be issued soon, though no date has yet been fixed.

Currently, U.K. employers

are required to have at least £2 million (\$3.2 million) of employers liability insurance.

Insurers generally anticipate that the government will recommend that the minimum employers liability insurance requirement be increased to £5 million (\$7.9 million), according to Mark Hunt, a liability underwriter for Bankside Syndicates Ltd.

Insurers and reinsurers could easily provide this much coverage given the general overcapacity in insurance markets. In early 1995, insurers placed a limit on U.K. employers liability policies of

£10 million (\$15.9 million) per occurrence as a result of a rising level of claims, Mr. Hunt noted.

However, Mr. Hunt said that from the insurers' perspective the key point will be if the government proposes any increase in liability for employers in the offshore oil and gas industry.

Insurers' market practice for that industry has been to restrict cover to £2 million, and, while additional coverage is available, many employers have been content to buy only £2 million of protection.

If the minimum required limit were to increase, capacity is available and it would mean welcomed extra business for marine insurers, said Mr. Hunt.

Commenting on the anticipated consultation document, the Assn. of British Insurers said it is still assessing its position and examining what kinds of limits insurers would find acceptable.

The government produced an employers liability consultation paper in 1995, but nothing came of it because of a subsequent shift in various government departments.

Few claims expected after typhoon

By YVETTE HIGGINS and KATE TILLEY

TAIPEI, Taiwan—Taiwanese risk managers do not expect to file many insurance claims from last week's Typhoon Winnie, which swept across northern Taiwan, killing at least 32 people and damaging homes and villages.

The medium-strength typhoon crossed Taiwan from the Pacific Ocean on Aug. 18 and then moved onto the Chinese mainland, where it caused extensive damage, mostly to homes.

Chan-fa Chiu, junior vp, risk management division with Evergreen International Corp., a Taiwanese diversified shipping company, said most of the damage in Taiwan was done to homes and resulted from flood waters.

"In terms of insured damage, it is not substantial, and a lot of the structures are residential houses, which are not insured against typhoon or flood," Mr. Chiu said.

"We have an idea on the

rough damage from media reports, but no information on the insured losses," he said. "It is very difficult to calculate the loss to residents."

The typhoon was not strong enough in Taiwan to cause much structural damage, Mr. Chiu said.

Evergreen is based in Taoyuan Hsien, just outside Taipei, and its interests include hotels and shipping fleets.

Michael Goerke, Melbourne, Australia-based national manager-insurance industry group for Deloitte Touche Tohmatsu, said he did not expect reinsurers to increase catastrophe reinsurance premiums as a result of the typhoon.

"The only way there will be a hardening of rates is if there is a dramatic increase in the number of catastrophes occurring," he said.

Taiwan's Central Disaster Rescue Center reported 32 fatalities and 78 reported injured. More than 37 homes have been destroyed.

Eleven of the at least 32 people killed in Taiwan were in a landslide that toppled four buildings at the Lincoln Big County Community, in Hsichih.

The weather delayed Taiwan's Mass Rapid Transport system and flights into Taipei.

Taiwan's weather bureau said the torrential rain from the storm equaled one quarter

of Taiwan's regular annual rainfall.

Details of damage in China were unavailable late last week, but the storm's high winds and torrential rains were being blamed for more than 75 deaths there.

The typhoon also wreaked havoc in the Philippines, causing floods that killed at least 12.



PHOTO: AFP

Rescue workers search for survivors after a landslide last week in a residential area of Taipei County in Taiwan.

INTERNATIONAL

Australia

Continued from page 23

fering. The Kraft subsidiaries also incurred the costs of recalling 10 brands of peanut butter, among other products.

Kraft Foods and General Foods are covered by liability policies issued by Sydney-based Zurich Australian Insurance Pty. Ltd.

The insurer is helping negotiate the settlement package with the claimants' lawyers, Melbourne-based law firm Slater & Gordon. A settlement is expected later this year.

Federal Court Judge Raymond Northrop approved a proposed settlement June 19, and the claimants had until Aug. 19 to opt to participate in the class if they wished to receive compensation under the deal.

Nick Styant-Browne, a partner at Slater & Gordon, said at least 2,200 people had filed claims by mid-August.

gust.

Kraft and General Foods face claims of between \$1,000 Australian and \$10,000 Australian (\$739 to \$7,390) per person, Mr. Styant-Browne said.

"In addition, Kraft will have to pay successful claimants' court costs and legal costs of the class action," he added.

Under the proposed settlement, claimants need only provide a sworn affidavit that they ate the contaminated peanut products and suffered illness or injury, said Mr. Styant-Browne. They are not required to have seen a doctor, though their settlement amount would be lower than claimants who received medical attention, he said.

Overall, the claims could total "several million dollars," he said.

According to Mr. Styant-Browne, the companies are considering bringing their own lawsuit against the peanut growers' cooperative that allegedly supplied the tainted nuts.

Kraft Foods, General Foods and Zurich would not comment on the settlement or the possibility of separate legal action.

In addition to the Kraft action, several other class actions are in progress or are expected to be filed over contaminated food.

In federal court in Sydney, a class action is pending against the Great Lakes Council, a municipal authority in New South Wales, and oyster growers and wholesalers from Wallis Lake.

The claimants contracted Hepatitis A between Nov. 1, 1996, and March 13, 1997, as a result of eating contaminated oysters.

Brisbane-based Creedon Lawyers is representing 15 Queensland claimants, while Slater & Gordon is representing claimants in New South Wales and Victoria. The total number of claimants has not been determined, though it is expected to be in the hundreds.

Mark Creedon, a partner with Creedon Lawyers, contends the Great Lakes Council negligently discharged untreated waste into the lake, knowing it would pollute the waters and oyster beds.

The claimants also charge that oyster farmers failed to take a duty of care to ensure their products remained safe for consumption, he said.

Gerry McDonough, acting general manager for the Great Lakes Council, rebutted the claimants' allegations, saying the council was not negligent and therefore not liable for the claimants' illnesses.

He said the council's defense is being handled by Sydney-based Naughton Smith & Co. Sydney-based broker Jardine Australian Insurance Brokers Pty. Ltd., which administers local government liability pools for councils in New South Wales, is also taking part in negotiations on behalf of the council.

In the federal court in Brisbane, two other class actions are pending against a hotel and a hospital on behalf of people who got sick after eating allegedly contaminated food.

Toowoomba law firm Shine Roche McGowan is representing claimants in both cases.

Last November, attendees at three separate functions at Brisbane's Carlton Crest Hotel, including people at a high school dance, contracted food poisoning.

Plaintiff attorney Judy Teitzel of Shine Roche McGowan said some of the 60 people attending a corporate function and some of the 148 people who attended the high school formal became ill and required hospitalization, as did people attending a Queensland Justice Department function. She said the hotel would not disclose the number of attendees at the Justice Department function. It was not clear what foods were to blame or the exact nature of the illnesses.

The hotel, part of an international chain, has denied liability but a spokesman for the Carlton Crest Hotel's lawyers would not comment on the case or insurance coverage.

The other class includes 27 patients and visitors who are suing Brisbane's Mater Hospital. They contracted salmonella after eating allegedly contaminated curried egg sandwiches at the hospital last December.

Ms. Teitzel said the case against the Carlton Crest Hotel is scheduled to be heard in the federal court in Brisbane in October.

Simon Morrison, an attorney with Shine Roche McGowan who represents the Mater Hospital claimants, said he has been negotiating with

She predicted that the number of class actions in federal courts would increase as more people recognize that class actions provide "a cost-effective way to seek compensation."

She said the hospital and hotel actions offer strong evidence that class actions are "an effective vehicle" for plaintiffs with small claims individually. By grouping small claims together, a class of plaintiffs can spread the burden of high legal costs and win a substantial settlement.

"As more lawyers succeed in class actions, more will be prepared to use the legislation," she added.

But not all attorneys expect a dramatic jump in the number of product liability class actions.

"I think people have got overexcited about a handful of claims," said Slater & Gordon's Mr. Styant-Browne. "While there are claims in courts, the number is not going to be explosive."

In addition to the Kraft Foods action, Slater & Gordon represents 30 claimants who are suing Melbourne-based Lago Pty. Ltd., which makes processed meat products.

The claimants became ill with salmonella after eating allegedly contaminated corned beef and harr.

Lago's insurer, Sydney-based Royal & Sun Alliance Insurance Australia Holdings Ltd., declined to comment.

Mr. Styant-Browne said court action has been postponed while a settlement of the case is being negotiated.

Meanwhile, in Adelaide, South Australia, the state government's director of public prosecutions, Paul Rofe, has withdrawn manslaughter charges against the directors of a specialty meatpacking company whose contaminated meat products killed a 4-year-old child and injured more than 30 other people (BI, Oct. 16, 1995).

The company, Garibaldi Smallgoods Pty. Ltd., went into liquidation after a nationwide product recall and adverse publicity over the deaths.

In July, Mr. Rofe dropped manslaughter charges against former Garibaldi directors Luciano and Philip Marchi, in exchange for guilty pleas to a lesser offense of creating risk of harm. The pair pleaded guilty in an Adelaide court in late July, but penalties have not yet been imposed.

Garibaldi's insurer, Sydney-based QBE Insurance Group Ltd., agreed in 1995 to pay \$10 million Australian (\$7.39 million), the full limits of the company's policy, to food poisoning victims. **BI**

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Insurer outbids bank on takeover

Great-West to buy Canadian insurer

WINNIPEG, Manitoba—Great-West Lifeco Inc. last week outbid Royal Bank of Canada in its quest to take over London Insurance Group.

Winnipeg, Manitoba-based Great-West, which writes group and individual life and health insurance, offered \$2.9 billion Canadian (\$2.08 billion) in cash and securities for all outstanding common shares of London Insurance, based in London, Ontario. London Insurance also writes individual, group life and health insurance.

That bid competed with a June 27 offer by Toronto-based Royal Bank to purchase London Insurance for \$2.4 billion Canadian (\$1.72 billion). After Royal Bank's offer, London Insurance entered into a support agreement with Royal, agreeing not to solicit or encourage competing bids.

Also, London's majority shareholder, Trilon Financial

Corp., entered into a lockup agreement with Royal Bank. Trilon agreed to tender its 57% common share interest in London to Royal.

The support and lockup agreements permitted unsolicited competing bids. The agreements left Royal with three days to match Great-West's offer, which it declined to do.

The London Life Insurance Co., which comprises London Insurance Group's life business, reported 1996 premiums volume of \$4 billion Canadian (\$2.87 billion). It reported net income of \$150 million Canadian (\$107.5 million).

Great-West Life Assurance Co., a unit of insurance holding company Great-West Lifeco Inc., reported 1995 premium volume of \$1.54 billion Canadian (\$1.13 billion). Its 1995 net income was \$277.4 million Canadian (\$203.3 million).

—By Roberto Cenicerros

Labor strikes can deliver greater workers comp risks

Shippers may face comp claims from rush to keep moving

By RODD ZOLKOS

The nation's package delivery system is on the road to normalcy with the resolution of the Teamsters' strike against United Parcel Service of America Inc., but the strike could result in a noticeable uptick in workers compensation claims.

UPS managers performing tasks they were unused to as the Atlanta-based company sought to continue some package delivery service, other shipping companies' employees who worked longer hours to handle an increased workload and employees of companies that were forced to lug packages to the local post office might be among the new workers comp claimants, according to consultants.

In a strike situation, "you have management personnel conducting activities they're not trained for or they haven't done for a long time, things that are highly physical activities that they're not used to performing," said Beth Voorhees, director of casualty claims and risk management consulting at Coopers & Lybrand L.L.P. in Chicago.

"In addition to that, working a lot of hours, people get tired and make mistakes, and that causes injuries as well," Ms. Voorhees said.

"I think we could expect a small increase from the norm," said Rebecca S. Bruce, president and chief executive officer of workers comp consultant the Aon Management Institute in Glastonbury, Conn.

Managers pressed into service moving packages "have no gradual buildup to the activities," Ms. Bruce said. "They don't have the gradual conditioning that's needed for these jobs."

"My first job was at UPS unloading trucks," she recalled. "I lasted two days."

In addition, Ms. Bruce said, "Anytime you have anybody who's unfamiliar with the job and unfamiliar with the routes, you're certainly subject to some additional injuries."

United Parcel Service officials would not comment on any of the workers comp issues related to the strike.

A strong awareness of safety issues among United Parcel Service managers may mitigate some of the strike's impact on workers comp claims, however.

While United Parcel Service is not one of Ms. Bruce's corporate clients, she said, "My understanding is they have a very extensive safety program."

Indeed, United Parcel Service is known to have a strong safety culture and is considered to be one of the safest package delivery companies worldwide.

Another possible source of a strike-related increase in workers comp claims is the potential for injuries to workers as a result of retaliation by strikers, Ms. Voorhees said.

Another is the possibility of employers using the workers com-

pensation system for a little "financial planning" in advance of taking to the picket line.

"There is very often a trend toward workers who see a strike coming using the workers comp system to report injuries that purportedly happened before the strike deadline and use that as an alternative source of income during the strike," according to Ms. Voorhees.

"The other potential area is that you have the other companies who are making up the slack, their drivers working longer hours," Ms. Bruce said.

Many drivers and other employees may find themselves working a second shift to deal with the

The only way that a company can minimize the risk of a sudden workload increase is to have a strategy in place before an emergency situation arises, Mr. Martin explained.

One key way of trying to manage exposures created by the increased workload is to adhere strictly to hiring standards while recruiting additional staff, Mr. Martin said.

Rushed to add drivers to handle the increased workload, there is a tendency to ease up on hiring criteria, he said.

"You just try to fight that as hard as you can. You just have to be more cautious to avoid failing in your selection process in hiring drivers," according to Mr. Martin.

"I think all of the contractors and all of the postal service workers have been putting in a lot more hours in the last few weeks to meet the de-

For shippers that served as alternatives to UPS, the strike 'may mean more business, but whether it's profitable business is yet to be known,' says Herb Martin.

workload. "People who aren't accustomed to that are subject to fatigue and more injuries," Ms. Bruce said.

Herb Martin, risk/quality manager for Pat Salmon & Sons Inc., a Little Rock, Ark.-based shipping contractor for the U.S. Postal Service, said the United Parcel Service strike produced considerably more work for his company, along with some potential risk management concerns.

For the shippers that served as alternatives to United Parcel Service, the strike "may mean more business, but whether it's profitable business is yet to be known," Mr. Martin said, acknowledging the increased risk exposure that comes with the greater volume.

While the company is eager to please its customers, "at the same time, you want it to be a safe place to work," he said.

"You've got everybody in our organization all over operating at max," Mr. Martin said.

"Our concern is we don't want to put too much pressure on our risk management system," Mr. Martin said.

mand and it's still out there," Mr. Martin said.

Even though the Teamsters' strike against United Parcel Service has been resolved, it will still be a few weeks before the nation's package delivery system returns to normal, Mr. Martin pointed out.

At UPS and the other delivery systems, "work ethic" might be a factor that could minimize injuries even as employees worked longer hours or performed different tasks.

"You're not dealing with people who don't want to work," Ms. Bruce said.

And, in the longer term, managers' role on the company's front lines during the strike could pay a dividend for UPS' workers compensation program, Ms. Bruce suggested.

"The manager might have a greater understanding of what their drivers do on a regular basis," she said.

"On a practical basis, our managers are more appreciative of what we do on a daily basis if they have to walk a mile in our shoes," she said.

UPS

Continued from page 1

sultants Inc. in Secaucus, N.J.

If UPS had pulled out, the contribution base of some of the multiemployer plans would have taken a big hit. And that would have put pressure on plan trustees to increase contributions on the remaining employers in those plans. With contributions rising and with UPS as an example, more employers likely would have considered pulling out.

"Unions would have faced a lot more pressure from employers to get out of the plans," said Bill Ecklund, an attorney who represents multiemployer plans and also is president of the law firm of Felhaber, Larson, Fenlon & Vogt in Minneapolis.

"This could have opened the floodgates for other employers" to try to withdraw, concurred Tom Brand, a principal in the Chicago office of William M. Mercer Inc.

And that could have started what some benefit experts call a "death spiral" for the plans, in which the withdrawal of one employer triggers the withdrawal of more and more employers from the plan until there remains an insufficient number to support the plan.

The fear of such a scenario developing explains why the Teamsters labeled the multiemployer plan proposal a deal breaker and would not budge from that position.

"The possibility of long-term serious damage to the plans was something the Teamsters could not tolerate. I'm not at all surprised that the Teamsters stuck to their position given its absolute importance," Buck's Mr. Walter said.

With UPS unsuccessful in its attempt to get out, the threat to the plans' contribution base is eased.

"That result is good for multiemployer plans and the employers who contribute to those plans," said Robert Krinsky, chairman of The Segal Co., a New York-based benefit consultant.

While UPS' capitulation on the pension issue eases threats to the destabilization of the Teamsters' plans and perhaps other multiemployer pension plans, staying in the plans will mean higher pension costs for the package delivery giant.

though by how much the company isn't specifying.

As part of the settlement, retirement benefits provided by the multiemployer plans to UPS participants will be rising sharply.

For example, under the Teamsters' largest fund—the Rosemont, Ill.-based Central States, Southeast and Southwest Areas Pension Fund—a UPS worker will be able to retire after 30 years of service with a monthly benefit of \$3,000, a 50% increase compared with the current monthly benefit.

The tentative pact does not call, though, for any substantive health care plan changes, a Teamsters' spokesman said.

If the settlement eases any immediate destabilization threat to multiemployer plans, it does not address long-term problems facing the plans.

The number of employees covered by multiemployer plans has fallen sharply, while the proportion of retirees has increased substantially.

In 1993, the last year for which information is available, the number of employees covered by the nation's roughly 2,000 multiemployer pension plans fell to 4.5 million, down from 7.1 million in 1975, according to the Department of Labor. Total enrollment in the plans, though, remained fairly steady during the same period, declining to 8.1 million from 8.5 million, an indication of how the proportion of retirees has increased (BI, Aug. 18).

That sharp fall in the number of active employees covered by the plans is a reflection of the decline in the percentage of workers enrolled in unions, which now is about 14% of the workforce, down from about 20% in 1983.

The trucking industry has also seen a change in its demographics. Deregulation of the industry has led to the bankruptcy of many large carriers that had organized workforces, and the startup of smaller companies that typically are non-union.

The result of these trends is that a smaller number of employers will have to make contributions to multiemployer plans for a growing number of retirees. And that development—especially if the runup in the stock market ends—bodes for higher employer contributions to the plans.



PHOTO: AFP
Members of Teamsters Local 705 in Hodgkins, Ill., wait in line to pick up their union checks after reaching a tentative agreement last week with United Parcel Service. Teamsters union members across the country had been on strike over pensions and other issues.

Benefits

Continued from page 2
arrive?" he asked.

Funding benefit programs through captives clearly could greatly increase captives' premium volume. "My estimate is we would treble the amount of written premium in Vermont overnight, possibly quadruple it," Mr. Maglaras said.

To underscore the potential premiums involved, he cited a variety of statistics compiled by the U.S. Chamber of Commerce. Among them was that benefits, including items such as paid vacations, represented 42% of total U.S. payroll costs in 1996, up from 40.7% in 1994. The average cost of employee benefits per full-time employee was \$14,659 (BI, Dec. 16).

The cost of medical insurance premiums had decreased to \$2,486 in 1996 from \$2,579 in 1995, and 96% of companies contributed to the cost of employee medical plans in 1996.

As a percentage of total benefits dollars spent, medical and medical-related benefits represent 25.1%.

"There's a great deal of opportunity in the medical area that really represents that same sort of risk day in, day out, that we've been insuring in captives since their creation," said Richard Hamilton, president and general manager of CSX Insurance Co., a Vermont-domiciled captive.

Still, there are significant obstacles to funding employee benefit programs through captives, chiefly opposition from the U.S. Department of Labor, which regulates group benefit programs. In 1993, CSX Corp., the parent of CSX Insurance Co., sought Labor Department permission to reinsure its

group term life insurance program through its Vermont captive, but the department later rejected CSX's application because too much CSX-related business would have flowed through the captive.

Indeed, a 1979 Labor Department ruling sets tough restrictions on employers' ability to fund benefits through their captives. Among other things, the captive must be licensed in a domestic state, and no more than 50% of the captive's business can be generated by its parent. That latter restriction effectively rules out the use of most captives to fund employee benefits.

Another problem with moving employee benefits into captives may be that those involved in the captive operation typically come from a property/casualty focus and might not have a full understanding of how benefits systems work, Mr. Maglaras suggested.

Derick White, Vermont's assistant director of captive insurance, noted that when Vermont regulators meet with someone to discuss a captive employee benefit program, they're usually talking to a property/casualty person who then says he or she will have to go back to the employee benefits specialist to get more information.

The entire issue of the property/casualty risk manager becoming more involved in the benefits system is an issue in itself at many companies, raising the prospect of turf battles between the risk management and employee benefits operations.

Another potential stumbling block could be the different positions the risk manager and the top employee benefits manager often occupy in the hierarchy of organizations.

For example, as vp for human resources at the New Haven,

Conn.-based Hospital of Saint Raphael, panelist Michael Dimenstein said he reports directly to his organization's CEO.

"Mike reports to a higher level in his organization than his counterpart (in risk management) would," Mr. Maglaras said. "Might that have something to do with it? These are things we need to be asking ourselves."

Meanwhile, people on the human resources side might be aware the company has a captive but beyond that know little about it.

To advance the possibility of placing employee benefits in captives, organizations must find "points of commonality" between old-fashioned risk management and human resources, Mr. Maglaras said.

Despite these obstacles, funding benefits through a captive shouldn't be ruled out. For example, CSX's Mr. Hamilton said he thinks the Department of Labor might be willing to grant approval to a captive benefit plan under the right circumstances, but he did not elaborate on those circumstances. In addition, employers do not need Labor Department permission to fund certain employee benefit programs, such as benefit plans for employees working outside the United States, through their captives.

Ultimately, Mr. Maglaras suggested, the property/casualty risk manager has "a lot of convincing" to do to the company's human resources people of the advantages to be gained by using the company's captive in its benefits program.

George Chaffee, president of Skandia International Risk Management (Vermont) Inc. in Burlington, coordinated the conference session. **BI**

Captives can help get hedges in a row

Integrated risk programs combine balance sheet, hazard exposures

By **RODD ZOLKOS**

BURLINGTON, Vt.—Although many companies today have numerous hedging activities taking place across the organization, rel-

In addition to that risk management commitment, the companies best suited for an integrated program also typically are sensitive to volatility in profits, favoring stability in earnings and shareholder value over spectacular growth one year and stagnation the next.

They also have a strong liaison between the treasury and insurance functions and are ready to challenge traditional thinking about their insurance programs and look at a multiyear, multiline approach.

Ideal candidates should be seeking a long-term commitment of a financially strong provider of re capacity behind the company's captive or alongside the key fronting insurer, should be able to retain considerable risk on a basket approach capturing the expected frequency losses and should have comprehensive and significant loss experience.

Finally, the ideal company for an integrated program must involve its accounting and tax people in the process.

Companies meeting those conditions can craft programs bringing a number of exposures both insurable and financial together in a single basket aggregate, said Ms. Helbling.

She added, "These programs become tremendously efficient of course because you are re-

See **Financial** on next page



atively few have taken steps to integrate those efforts.

An organization-wide commitment to a risk management approach that combines financial and hazard risks is a key attribute of the ideal candidate for a financially integrated risk program, said Carolyn P. Helbling, senior manager of Swiss Re New Markets, a unit of Swiss Reinsurance Co. in New York. However, she noted, "Amazingly, this is not the case even in many of the major Fortune 500 companies."

Moderating and coordinating a session on integrated risk programs at the Vermont Captive Insurance Assn.'s annual conference in Burlington, Vt., Aug. 13, Ms. Helbling discussed the advantages that such approaches can offer, as well as setting out other qualities of companies that are most likely to benefit from them.

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Financial

Continued from previous page
ducing the overall amount of coverage you're buying."

While such programs can't be put together overnight, ultimately they can provide various other benefits in addition to lower costs, including stabilizing coverage terms and conditions, simplifying administrative procedures, optimizing the use of the company's captive, capping the company's total cost of risk, allowing for a flexible program design and allowing the company to secure net capacity from top-rated providers.

That has been the case

at Mountain View, Calif.-based Sun Microsystems Inc., where such a program, among other things, has allowed the company to pare a program with approximately 50 different insurance policies down to a program with a single aggregate policy and two directors and officers policies, according to Carol Harrington, the company's director of risk management.

The three-year program combines property/casualty and financial exposures in a single policy with \$600 million in aggregate coverage above an initial layer of coverage provided by Sun's captive.

"The reason Sun Microsystems went forward with this exciting new enterprise is we felt that the

very traditional way of handling our insurance program separately from the treasury operation and buying off-the-shelf products was not the way to go in the future," Ms. Harrington said.

Ms. Harrington noted that the boundaries of such programs "are whatever you make them."

She presented a long-term "year-five" captive plan that involves bringing harder-to-insure risks—such as earthquake and flood perils, environmental liability, product recall, benefits-related

tion strategy, gathering exposure and underwriting data and conducting actuarial studies and developing loss projections before actually going to the market to obtain quotes.

Another panelist, Arlene Corsetti, managing director at J&H Marsh & McLennan Inc. in San Francisco, stressed the importance of conducting a strategic risk assessment as part of developing an integrated risk program.

Such an assessment is a quantitative financial and qualitative analysis of risk across all operations, Ms. Corsetti said.

The analysis can be assembled in stages. "You can start very simply and put more and more risk into the process in your evaluation," she said.

The process is important because of the need to know how to set limits in multiple risk scenarios and the fact that integrated programs increase the focus on a total cost of risk, she said.

Essentially the analysis involves creating a matrix incorporating the organization's categories at risk, the hazards faced and the potential consequences of those hazards occurring.

Once the high-risk scenarios are identified and quantified, the analysis moves toward determining the probability of occurrence and the probability of liability or responsibility. "The fact that a risk occurs doesn't mean that you're really going to have to pay out," Ms. Corsetti said. **BI**

Capturing unusual and unique risks

By RODD ZOLKOS

BURLINGTON, Vt.—In today's highly entrepreneurial and budget-driven style of management, a captive insurance company can be an important tool by providing a flexible vehicle for bearing an organization's risks.

Beyond traditional insurance



risks, a captive with the flexibility to underwrite the "unusual and the unique" can provide a way of covering such risks as foreign currency exposures, commodity exposures, interest rate variations, weather variations, warranty and patent and copyright infringement risks.

"People have been talking about this for a very long time," said Scott M. Sanderson, a vp at J&H Marsh & McLennan Inc. in Minneapolis, who spoke on a panel during the Vermont Captive Insurance Assn.'s annual conference in Burlington, Vt., Aug. 13.

"Say you're an airline," Mr. Sanderson said. "I would say the price of jet fuel is much more important to you than the cost of workers comp claims."

"Really anything that's calcula-

ble is the subject of potential coverage in a captive insurance company," he said. "And 'calculable' is important."

If those exposures can be calculated they can be included in an integrated risk financing program, Mr. Sanderson said. Multi-year, integrated coverage would sit between annual aggregate retentions and annual towers of excess property and casualty coverage, he explained, labeling such a program a "RiskFusion Structure."

Using a captive to assume the annual aggregate retentions offers a company several advantages, among them allowing the captive to allocate premium to the parent company's various operating units. "If we want each of these operating companies to be very entrepreneurial this is the way to do it," Mr. Sanderson said.

The sorts of risks that could be retained by the captive as part of that aggregate retention are limited only by imagination and the ability to understand the risk, Mr. Sanderson said.

"Just throwing in the risk isn't enough," he cautioned. "You need to understand what it is and how it reacts."

Mathematical simulations and studying joint probability and correlation impact are key steps in determining what risks are appropriate candidates for placing in the captive, Mr. Sanderson.

See Risk on next page

'The captive insurance "year-five" strategy is what I really needed to sell to these partners that we are going forward with,' says Carol Harrington.

risks and commercial risks like product warranty, credit and interest rate risk—into the program.

"The captive insurance year-five strategy is what I really needed to sell to these partners that we are going forward with," she said.

"You need to push the model and say, 'This is not a per line, per risk coverage' and the capacity will increase overall," Ms. Harrington said. "It's phenomenal what the excess carriers are willing to blend into the program."

Ms. Harrington said the process of crafting an integrated program can take six months to a year and involves such steps as broker selection, discussions with top management, assessing the company's risk tolerance, developing a reten-

Top risk managers analyze three decades of captives

Insights provided regarding the captive's multiple roles amid an evolving insurance market

By RODD ZOLKOS

BURLINGTON, Vt.—As the commercial insurance market has changed over the past three decades, the way captive insurance company



sponsors use their captives has changed, too.

And, though more than once through the years various events were expected to spell the end of captive insurance, the continued growth of captive insurance as a risk financing tool has betrayed those prophecies of doom.

Offering insights on captive use going back into the mid-1970s, an elite panel of risk managers—all *Business Insurance* Risk Managers of the Year—offered their views on "Three Decades of Captives" Aug. 13 at the Vermont Captive Insurance Assn.'s annual conference in Burlington.

Kathryn J. McIntyre, publisher and editorial director of *Business Insurance* in Chicago and the session's moderator, recalled that in the 1970s captive sponsors all seemed to be large multinational corporations and that the articles in the magazine about captives all seemed to revolve around tax decisions expected to sound the death knell of captive insurance.

In the 1980s, many predicted that insolvencies in Bermuda would prompt captives' demise, Ms. McIntyre noted. But the hard market later in the decade prompted captive growth that continues today, despite an extended soft market.

Richard C. Heydinger, director of risk management at Kansas City, Mo.-based Hallmark Cards Inc., noted that Hallmark's captive formation followed examinations of hard market strategies in 1983 and 1984.

Formed in Vermont in 1984, Hallmark's captive proved to be "a very valuable tool" when the hard market hit, Mr. Heydinger said. Mr. Heydinger noted that Hallmark was very sensitive to liability risk, carrying "hundreds of millions" in limits in the 1980s. But when the market hardened, the company could find only a fraction of that coverage available, and that at rates several times higher than what it had been paying for the much larger limits.

Hallmark's captive provided needed capacity, direct access to reinsurers, helped plug coverage gaps and kept Hallmark's coverage form broad, the risk manager noted.

Obviously, however, today's market isn't the same as the one Hallmark and many other companies faced when they first formed their captives.

"Today's HPR rates, if it's not at the bottom, I don't know where the bottom is," Mr. Heydinger said. While the captive played a big role in Hallmark's highly protected risk program for five years, now the HPR program is back in a more traditional insurance structure.

But, he said, Hallmark has used the captive as a "market counterbalance" and a loss-control vehicle and, while the company could accomplish many of the same things by self-insuring, Hallmark likes the financial discipline the captive provides.

With a recently enacted Vermont law allowing captives domiciled there to write related unaffiliated business, Hallmark also is using its captive to reduce the insurance costs of business

partners.

John A. O'Connell, past executive director and risk manager of Holy Cross Shared Services Inc. in South Bend, Ind., noted that when Holy Cross formed its first captive in Colorado in 1976 it was out of necessity—at the time insurance carriers were coming to it with 300% to 400% premium increases for medical malpractice and professional liability coverage.

"I would like to sit up here and think that our move into a captive was

'I'm hoping that we can get Colorado to be a little more interested in captives,' says Lucille A. "Lucky" Gallagher.

a brilliant financial decision on my part," Mr. O'Connell said. "It wasn't. We were at the point of no return. We had nowhere else to go."

But, at a time when the hospital system's loss-control efforts were "very poor," according to the former risk manager, the coverage the captive provided was structured in a very loss-sensitive way.

"We also established at that time an extensive loss-control program to supplement the fact that we were going to go in and charge you on a very loss-sensitive basis," he said. The captive's role in promoting that loss-control focus continues to pay dividends.

"One of the important parts of having the captive is that it gives you this loss information," Mr. O'Connell said, noting that that information plays a key role in helping to control expo-

sures.

The hard market of the 1980s also prompted Con Agra Red Meat Co., Monfort Inc., to form its Colorado-domiciled captive in 1986 to write umbrella liability and directors and officers coverage. The captive also helped the company control claims, said Lucille A. "Lucky" Gallagher, former vp-risk management for the company.

Judy Lindenmayer, vp-Fidelity insurance and risk management at FMR Corp. in Boston, noted that as her company experienced rapid growth in the 1970s, one of the most expensive areas of its insurance program was errors and omissions and directors and officers coverage.

But because the company, better known as Fidelity Investments, had never had a claim, "every year we were sending quite a bit of money away," she said. The company's response was to form a Bermuda-domiciled captive.

"For us it hasn't been about loss control, and it hasn't been about taxes, but it has been about keeping the money at home and broadening the coverages and making sure the units have the appropriate limits for the risks that they have," Ms. Lindenmayer said.

And Fidelity recently has started doing third-party business in its captive through a pooling arrangement called Green Island Reinsurance Pool, which took effect Jan. 1 and already represents more than 50% of the premium brought into the captive. "It's a new arrangement," Ms. Lindenmayer said. "I can't give you a critique on it."

Responding to questions about the attractions of various captive domiciles and whether there was room in the captive insurance universe for more domiciles, Ms. Gallagher, now

CEO of Human Resource Risk Management L.L.C. in Greeley, Colo., said she believes companies should be able to locate captives where their headquarters are.

That's the case with her former company's Colorado-domiciled captive, and she hopes the state will become more serious about its role as a captive domicile in the future.

"I'm hoping that we can get Colorado to be a little more interested in captives," Ms. Gallagher said. "Part of the problem is getting the Legislature to understand the need for people in the Insurance Department to make this work, and that's one of the things that Vermont has done quite well."

What turned Hallmark off to Colorado as a domicile was that state's "inconsistency" in its attitude toward captives, Mr. Heydinger said. But he's glad other domiciles, such as Colorado and Hawaii, are there to push Vermont along.

"What I've seen in Vermont is they benchmark themselves against Bermuda primarily and the Caymans and other domiciles out there," he said. "That's what I like about the competition, the constant benchmarking that goes on that drives everybody to be as good as they can be."

The panelists agreed that having captives has made them better risk managers in a variety of ways, forcing them to develop ways to better analyze losses, reserves and the performance of third-party administrators.

"It certainly has given us an appreciation for the kinds of information that underwriters really need to have, compared to some of the information that underwriters continually ask you for," Ms. Lindenmayer said.

Patrick T. Driscoll, vp at Zurich-American Insurance Co. in Schaumburg, Ill., coordinated the session. **BI**

Risk

Continued from previous page

John P. Yonkunas, an actuary with Tillinghast-Towers Perrin in Westogue, Conn., noted that within many organizations today there might be several risk strategies and risk appetites, and offering a way to connect them in the captive is another way for a risk manager to increase his or her value to the organization.

In the middle of the risk management process, he noted, are the corporation's strategic objectives, with that risk management process

including risk identification and risk assessment and risk financing.

"The assessment of risk is a very key cog in underwriting unique and unusual risks," said Mr. Yonkunas.

The strategic objectives that can help determine the shape of the risk management decisions, meanwhile, could include such things as the financial integrity of the organization, public relations or shareholder value.

Mr. Yonkunas set out a "risk exposure mapping profile" as one way of evaluating risks and how to address them. With severity graphed along one axis and fre-

quency along the other, risks of low severity and frequency might

'The assessment of risk is a very key cog in underwriting unique and unusual risks,' says John Yonkunas.

be paid as routine expenses, while those of high severity and low frequency might be subject to hedging techniques.

VHA risk retention group to provide liability coverage

BERWYN, Pa.—VHA Inc. has formed a risk retention group in Vermont to provide professional and general liability coverage to its member hospitals and their affiliates.

Irving, Texas-based VHA is a national network of 1,525 non-profit hospitals.

Even though the market for such coverage still is soft, VHA had other reasons for forming the risk retention group, according to Don Caccia, senior vp-systems operations and new business development, who is based in Berwyn, Pa.

First, the risk retention group can serve as a fronting company for VHA members with captives, he explained.

The second reason is "for future positioning," he said. "It's certainly not 'cheap' insurance,

but should the market turn hard, we'll be ready."

The captive also will provide bundled and unbundled risk management and claims administration services to VHA members.

Seven members of VHA contributed \$500,000 in cash and letters of credit to become the first member-owners of VHA Risk Retention Group Inc., according to Mr. Caccia.

In addition, VHA itself put up another \$500,000 to bring the captive's initial capitalization to \$1 million.

First-year premiums, which will be based on members' individual loss experience, are projected to total \$5.5 million. The Philadelphia office of Tillinghast will provide actuarial service.

The coverage limits provided

by VHA RRG will vary based on members' needs. The captive, managed by J&H Marsh & McLennan, will retain \$10,000 per occurrence and \$100,000 annual aggregate.

Depending on the situation, the RRG will purchase reinsurance from Bermuda-based Casatt Insurance Ltd. or use other reinsurance arrangements.

For example, if the RRG is used to replace a fronting program used by a VHA member that already owns a captive, that captive may provide the reinsurance, Mr. Caccia explained.

Cassatt, managed by Mutual Risk Management, was formed in 1995 to provide reinsurance to eight Philadelphia-area health care organizations.

—By Joanne Wojcik

Insider Trading

American International Group Inc.: Ernest Edward Stempel, officer, exercised an option for 137,403 shares of common between \$17.37 and \$62.17 each on July 31, 1997, and sold 46,300 shares between \$106.00 and \$106.44 each on July 31, 1997, and now holds directly and indirectly 15,695,859 common.

AIG stock closed at \$95.63 a share on Aug. 15.

NAC Re Corp.: Robert A. Belfer, director, indirectly sold 6,000 shares of common at \$48.31 each on July 31, 1997, and now directly and indirectly holds 1,058,832 common.

NAC Re stock closed at \$48.13 a share on Aug. 15.

Transamerica Corp.: Richard A. Finn, vp, exercised an option for 46,700 shares of common between \$33.19 and \$39.75 each from July 22 to July 23, 1997. To cover expenses of the transaction, Mr. Finn turned in 28,684 of them for \$92.97 each from July 22 to July 23, 1997, and now sold 18,016 shares in the open market at \$93.00 each from July 22 to July 23, 1997. He now directly and indirectly holds 64,824 common.

Sam L. Ginn, director, exercised an option for 1,000 shares of common at \$48.25 each on July 28, 1997. To cover expenses of the transaction, Mr. Ginn turned in 492 of them for \$98.06 each on July 28, 1997, and now directly and indirectly holds 4,255 common.

Transamerica stock closed at \$96.38 a share on Aug. 18.

Insider Trading, compiled by Invest/Net Trading Group Inc. of Fort Lauderdale, Fla., from reports filed with the Securities and Exchange Commission, tracks stock sales and purchases by insurance industry directors and officers. The column is distributed by Tribune Media Services Inc.

Train crash claims may fall under Amtrak retention

KINGMAN, Ariz.—Claims for property damage and liability are expected to fall within Amtrak's retention for the derailment of a train earlier this month in Arizona.

The train, Southwest Chief, was traveling to Chicago from Los Angeles with 294 passengers and 16 crew aboard its 16 cars and four locomotives. Traveling at 88 mph, the train derailed while crossing a small bridge near Kingman, Ariz., about 100 miles southeast of Las Vegas. About 150 people were treated for injuries, 17 of whom were admitted to the hospital.

An investigation revealed that the ground supporting the bridge had washed away, possibly from a severe rainstorm, a National Transportation Safety Board spokesman said. The bridge, built in 1922, then collapsed, probably before the train arrived, he said. Further tests will be conducted to determine exactly why the ground support was washed away.

An Amtrak spokesman said it was too early to estimate the damage to the train or the medical expenses of the injured, but he said it would not exceed the company's retention.

Amtrak's liability insurance of \$100 million has a \$10 million self-insured retention. Attaching at \$10 million is a \$15 million coverage layer underwritten by Lexington Insurance Co. in Boston and syndicates at Lloyd's of London.

Above that sits \$25 million excess of \$25 million underwritten by Transportation & Railroads Assurance Co. Ltd., a Bermuda mutual insurer. X.L. Insurance Co. in Bermuda underwrites a \$50 million in excess of \$50 million layer.

Amtrak has \$150 million in property insurance with a \$10 million deductible for derailments. Arkwright Mutual Insurance Co. in Waltham, Mass., underwrites the insurance.

—By Michael Prince

Those of low severity and high frequency might lend themselves best to efforts to manage the exposures, he suggested, while those of high frequency and high severity might call for all-out risk avoidance efforts, according to Mr. Yonkunas.

Depending on the nature of the "unusual and unique" exposures covered through the captive and the relationship between the captive and the insured entity, there are various financial reporting considerations, noted Dave Tatlock, senior manager with Johnson Lambert & Co. in Burlington.

Such issues as risk transfer are

key to determining when insurance or reinsurance accounting is applicable vs. deposit accounting.

"In order to use reinsurance accounting you actually have to jump through a couple of hoops," Mr. Tatlock said.

Among other things, it must be reasonably possible that the reinsurer may realize a significant loss from the transaction and the insurance risk must include the transfer of both underwriting and timing risk.

Charlotte Manca-Wells, vp of Adventist Risk Management Inc. in Silver Spring, Md., was moderator and coordinator of the session. **BI**

Vermont captive meeting draws 800 attendees

BURLINGTON, Vt.—The Vermont Captive Insurance Assn.'s 1997 conference drew more than 800 attendees to the annual gathering Aug. 12-15 at the Sheraton Burlington Hotel and Conference Center.

In addition to the educational



sessions and association meetings, this year's conference included the presentation of two new awards honoring VCIA members.

The VCIA staff presented the "Captive Crusader Award" to Richard Hamilton, president and general manager of CSX Insurance Co. in Burlington, for his service to the association, contributions to special projects and his ready availability to the VCIA staff as a resource.

H. Lincoln Miller Jr., chairman of Vermont Insurance Management Inc./USA Risk Group, was awarded the new VCIA Award for Industry Service for his contributions to the captive industry and his role in promoting Vermont's formation of a captive domicile.

For information on next year's conference, contact the VCIA at 802-253-2263.

Letters

Continued from page 8

high quality and lower costs are attained.

The move to managed health care since the early 1980s has had—and, frankly, will continue to have—a few bumps in the road. Many of the cases covered in the news are heart-wrenching and often draw substantial media attention.

Although every effort must be made to make further improvements to our health care systems, the improvements should be driven by concerned and educated patients and health care professionals, not headline-grabbing politicians and aggrieved interest groups.

Much of the health care reform legislation being debated in California this summer, for example, falls into the latter category.

Various special-interest groups have introduced legislation in the California Legislature this year that would limit the ability of managed care providers to continue to increase efficiency and quality and further reduce costs. These bills would make it difficult or impossible for provider groups and health plans to discontinue contracts with physicians who refuse to cooperate in developing new health care processes, mandate additional mental health care coverage in areas where no lasting value can be demonstrated, prescribe expensive drugs when an inexpensive one will work as well, increase medical bureaucracy and the cost of medical malpractice litigation.

Unfortunately, what generates far less media attention and no political interest are the hundreds of thousands of Californians and their families who now enjoy excellent health care coverage that once was in serious jeopardy dur-

ing the days of unmanaged care and annual double-digit medical inflation.

Thoughtful leaders realize that these untold success stories carry much greater weight than the few regrettable stories that seem to capture people's attention. One hopes that legislators will keep this in mind when they are considering costly legislation that would destroy a system that serves the public very well.

Dr. Brian Ely
Rancho Cordova, Calif.

Kuntz mourned

To the editor: Robert E. Kuntz passed away on Aug. 5.

Mr. Kuntz, who was 53, began his career with a brief stay at the Hartford Insurance Co. in Chicago.

He then moved to broker Fred S. James in Chicago, now part of Sedgwick Inc. After nine years, Mr. Kuntz transferred to the firm's Orange County, Calif., office, where he remained until his death.

He was active in the Insurance School of Chicago and the CPCU Society. And, after moving to California, he continued teaching Associate in Risk Management courses within Sedgwick.

Robert E. Kuntz was best known in the industry for his expertise in alternative risk financing techniques and his wealth of technical knowledge.

He will be greatly missed by friends and colleagues.

Laura M. Brugger
Assistant Vp
Andreini & Co.
Irvine, Calif.

ADVERTISER INDEX

Issue of August 25

ADVERTISER	PAGE #
Burnham Systems	24
Business Insurance	16-17, 18, 21, 25
Carvill America, Inc.	14
Chiroview	24
Core Insurance Holdings	10
Employers Reinsurance Corp.	6
General Reinsurance	9
Gulf Insurance Company	15
Health Alliance Plan	18R
Insurance Overload Systems	11
Legalgard	4
Liberty Mutual	18R
Liberty Mutual	32
Re Advisory Services inc.	15
Technical Insurance Services	24
United Healthcare/Optum	7
USF&G	12-13
Wausau Insurance Company	5

Results

Continued from page 2

prices continuing to fall as the weather enters "its most volatile period."

"Right now, I don't see anything necessarily changing dramatically," said Gloria Vogel, senior vp with Advest Inc. in New York. "But I'm a bit concerned because we're going into hurricane season and there's a sense of complacency out there, and everybody seems to have reported so many good numbers."

"I don't know how much better things can get, because pricing is eroding, so we know there's some underlying deterioration going on," Ms. Vogel said.

Eric Simpson, senior vp with A.M. Best Co. in Oldwick, N.J., pointed to reserves. "We are extremely concerned with the low reserve levels being established by companies, and we believe that these unusually favorable results will unravel quickly, whether it be in the fourth quarter, where companies typically true up their reserves, or certainly going into 1998. These great results cannot be sustained and are incompatible with the current marketplace conditions."

The 24 major property/casualty insurers surveyed by *Business Insurance* posted a 42.7% increase in net income, to \$6.6 billion from \$4.63 billion for the comparable period in 1996, when companies were more severely impacted by both catastrophes and environmental reserve increases (*BI*, Aug. 26, 1996).

"The obvious driver behind this year's improvement is the absence of catastrophes, so I think it's fair to say there's a better probability of deterioration on that account going forward than there is of improvement," said Michael Smith, an analyst with Salomon Bros. in New York.

Craig Elkind, a director at Standard & Poor's Corp. in New York, said he is concerned about insurers' reliance on catastrophe modeling. "A lot of companies today are getting very dependent on catastrophe modeling, and though they've done a better job of getting in all the information on their risks, so they have full information going into the model, I think the jury is still out, and time has not proven the models are accurate or close to accurate."

These models are based on historical events, and while they may be accurate over the long term, they could be "significantly off" in

the bottom line, said Mr. Thiele.

"Nothing's changed," said Robert M. Steinberg, chairman and CEO of the Reliance Insurance Group in New York. "Competition is fierce and business is all under pressure. I say it's going to continue for the foreseeable future. I see nothing on the horizon that would make this change."

Mr. Steinberg added, "The industry wasn't designed" to write business at premium to policyholder surplus ratios of 1.1-to-1 or 1.2-to-1. "It's got to be 1.5-to-1 to 2-to-1 to make the kind of returns on capital that shareholders will respect," and until it does, insurer

nomics in Atlanta. "There is no reason to expect them to even hold." At the same time, she noted, the emergence of capital market approaches to spreading risk is adding even more capacity to the business.

Among other *BI* survey results:

- With continuing price competition, net premiums written for the 24 insurers surveyed increased 7.4% to \$48.91 billion from \$45.52 billion. This is a decline from the 9.6% increase reported for the first quarter and the 9.9% increase reported for year-end 1996 (*BI*, May 26; March 24).

- Investment income increased 26.1% to \$8.87 billion from \$7.04 billion. The year-to-year comparison reflects two special dividends totaling \$1.15 billion paid to Nationwide Mutual Insurance Co. from Nationwide Corp., its downstream holding company. This led to a 264.4% increase in Nationwide's investment income, to \$1.62 billion from \$445.5 million.

- Underwriting losses for the companies surveyed improved by 61.6% to \$1.34 billion from \$3.49 billion. This compares with a 44% improvement in the first quarter. In 1996, underwriting losses widened by 57.4%.

- Helped by the lower catastrophe losses, the combined ratio improved to 102%, compared with 107.5% for the comparable period a year ago. This compares with the 102.2% combined ratio posted for the first quarter and 106.1% ratio for all of 1996.

- Policyholder surplus increased 11.9% to \$62.39 billion from \$52.41 billion for the 22 insurers reporting this data. For the first quarter, the 19 insurers reporting this data for 1997 and 1996 posted a 19.7% increase.

One factor that has helped results is insurers' reduction of redundant reserves, though this factor can be difficult to measure, some observers say.

"I look at that as something that

has to happen rather than something that is done by companies to mislead people," said Sanford Bernstein's Mr. Hicks. If claims costs decline and reserves prove to be redundant, they have to be released, he said. "There's nothing sinister about it."

"I can't quantify it," said Salomon's Mr. Smith. "I think there's a general assumption that insurance companies have been finding reserve redundancies, which is the outcome of a decade of much lower inflation than had been reserved for 10 and 15 years ago. How much longer the industry can do this remains to be seen."

Advest's Ms. Vogel said: "I get the sense reserve cushions aren't as strong as they have been historically. I don't think we're seeing companies put as much away as they have in the past."

Over the past couple of years, there have been some "fairly large takedowns" for recent accident years, said S&P's Mr. Elkind. He noted that while some of these reserves have been added to prior-year reserves, they also have been used to help earnings.

Some of these takedowns may have been justified, but to the extent they were related to lower paid-loss or inflation trends over the last few years, "I don't think companies can count on those things to continue over the longer term," said Mr. Elkind. "They could be kidding themselves, but you won't know if they are for several years."

"The industry has not only in all likelihood exhausted the prior-year redundancies, but it's skimping on current year reserves," said A.M. Best's Mr. Simpson.

"It's a very volatile industry," he warned. "Unforeseen losses crop up. There could be another wave of mass tort liabilities. The industry should prudently be setting aside some (incurred-but-not-reported) reserves, a cushion for such surprises." **BI**

'Unforeseen losses crop up. There could be another wave of mass tort liabilities,' says Eric Simpson. The industry should prudently be setting aside... a cushion for such surprises.'

their applicability to any one event or series of events, said Mr. Elkind.

Meanwhile, observers point to continued price competition.

"It sounds like a broken record," but price competition is "as virulent as we've seen it in the last two years," said Patrick A. Thiele, president and chief executive officer of the worldwide insurance operation of St. Paul Fire & Marine Insurance Co. While the competition has not necessarily accelerated, "it has stayed at a very high level."

At the same time, there are indications of an increase in paid and incurred losses, despite the relative paucity of catastrophes in 1997 compared with 1996, he said. "Obviously, if you have paid losses going up and prices going down, cash flow is squeezed," which longer-term will lead to slower investment income growth and hurt

stocks will continue to sell at price-to-earnings ratios lower than that of American industry overall, he said.

Companies are complaining they have not seen the current market conditions in the commercial property/casualty insurance market since the mid-1980s, said Michael Lewis, senior insurance analyst with Dillon Read & Co. in New York.

"That trend shows no signs of easing, and I guess you've got to start seeing these inadequate rates showing up in underwriting results, which has not been the case to date," Mr. Lewis said.

"There's really nothing I've seen that would indicate there's going to be any change," said George Yonker, vp-finance for SAFECO Corp. in Seattle.

"If anything, I would expect prices to continue to fall," said Barbara Stewart of Stewart Eco-

Summary of major property/casualty insurers' first-half 1997 results

Ranked by change in net income. All amounts in thousands of dollars.

Corporate

Property/casualty operations

Rank 1997	Corporate			Property/casualty operations										
	Net income 1997	increase (decline) 1997	Percent Consolidated revenues 1996-1997	Combined ratio 1997	Combined ratio 1996	Net premiums written 1997	Percent increase (decrease) 1996-1997	Pretax underwriting income (loss) 1997	Percent increase (decline) 1996-1997	Pretax investment income 1997	Percent increase (decrease) 1996-1997	Policyholders surplus 1997	Percent increase (decrease) 1996-1997	
1	TIG Holdings	75,000	2,400.0	864,000	102.1	106.9	769,000	(2.3)	(13,000)	73.5	148,000	3.5	1,011,000	6.8
2	Travelers P/C Corp.	549,100	564.6	4,862,200	102.3 ²	131.8 ²	3,998,900	51.1	(193,000)	77.1	1,005,000	50.8	5,773,600	9.2
3	Reliance Ins. Co. and subs.	67,948	369.8	1,621,507	100.9	116.8	1,019,797	11.4	(13,769)	90.9	129,151	2.2	1,236,578	10.7
4	Ohio Casualty Corp.	66,820	363.5	720,976	103.6 ²	115.5 ²	626,003 ²	1.4	(23,884)	75.6	86,467	(0.6)	1,093,164	20.4
5	Hartford Fin'l Services Group	778,000	225.5	6,260,000	102.4	105.9	3,702,000	4.9	(98,000)	58.1	436,000	9.8	5,006,000	34.2
6	Old Republic Int'l	153,566	44.9	954,492	97.8	100.7	431,311	1.1	1,659	111.2	98,167	2.4	1,441,649	5.6
7	Berkshire Hathaway Group	418,300	44.7	2,656,300	92.7	96.0	2,596,900	19.2	163,600	110.0	413,200	29.6	N/A	N/A
8	Royal & Sun Alliance USA ²	156,100	41.8	955,100	102.4	112.1	695,300	(13.3)	(1,100)	98.8	178,300	1.7	2,470,100	16.0
9	American States Fin'l Corp.	98,300	28.2	1,012,200	102.9 ²	108.7 ²	854,200 ²	3.6	(27,800) ²	59.4	119,000	(0.2)	1,092,900	24.9
10	Chubb Corp.	380,800	16.9	3,086,500	95.8	98.8	2,788,500	17.0	83,500	882.4	348,200	10.4	2,636,300	9.7
11	The St. Paul Cos. Inc.	355,073	37.2	3,177,914	106.6 ²	105.3 ²	2,215,505 ²	10.1	(107,638) ²	(32.6)	434,790	13.6	3,188,715	16.8
12	American International Group	1,607,430	15.2	14,947,357	96.1	96.4	6,856,889	5.6	253,293	18.0	902,951	9.6	N/A	N/A
13	Fremont General Corp.	44,241	13.4	287,304	91.5 ²	96.7 ²	250,058	3.0	20,908	152.3	52,344	(2.9)	451,702	28.6
14	CIGNA Corp.	530,000	12.5	9,364,000	100.0	103.0	1,622,000	(6.5)	—	—	185,000	(5.1)	1,980,000	(0.5)
15	Hartford Steam Boiler	32,200	5.9	355,400	90.9	95.1	239,400	6.0	21,400	118.4	16,700	5.0	292,900	6.9
16	Sentry Insurance Cos. ²	42,567	5.8	770,077	107.4	107.1	586,527	(6.6)	(45,883)	5.2	100,389	(0.1)	1,370,826	13.9
17	SAFECO Corp.	228,737	5.6	2,114,501	97.4	99.1	1,213,459	6.0	30,872	376.3	139,477	(3.0)	2,431,056	22.4
18	Argonaut Insurance Co.	37,248	5.1	104,663	108.9	125.3	57,977	(17.6)	(4,613)	46.1	39,247	(1.9)	547,468	(11.8)
19	General Re/Cologne Re Group	477,000	3.4	4,141,600	100.7	100.6	2,813,600	0.9	(20,300)	(22.7)	533,200	8.9	5,973,900	19.8
20	CNA Financial Corp.	412,000	(22.4)	8,380,000	110.0	108.4	5,510,000	4.6	(660,000)	(32.0)	872,000	(3.4)	6,350,000	8.7
21	USF&G Corp.	92,400	(25.2)	1,777,400	103.2	105.6	1,284,400	(3.3)	(56,600)	24.9	222,500	2.2	1,471,100	5.1
—	Nationwide Mutual Ins. Co. ²	N/A	N/A	N/A	103.8	110.6	4,069,686	1.0	(167,759)	61.7	1,623,546	264.4	8,454,976	52.8
—	Kemper Insurance Cos.	N/A	N/A	2,016,217	107.1 ²	137.5 ²	1,773,172 ²	(3.7)	(155,149) ²	76.9	220,681 ²	0.9	1,933,727	10.8
—	Liberty Mutual Ins. Co. ²	N/A	N/A	N/A	110.3	114.3	2,928,339	13.0	(326,711)	12.7	515,170	(0.5)	6,127,638	23.8
	Cumulative	6,602,830	42.7	70,369,708	102.0	107.5	48,907,923	7.4	(1,340,974)	61.6	8,869,480	26.1	62,385,299	11.9

²After dividends. ³Statutory. N/A=Company did not provide data.

Equisure

Continued from page 2

ports as a South African national named David Sachman, is actually Paul Yorke-Wade.

Mr. Yorke-Wade, a former associate of late insurance swindler Alan Teale, was arrested earlier this year in connection with a Belgian police investigation of the defunct Dai Ichi Kyoto Reinsurance Co. S.A.

Ronald C. Bridle, named in the RISC suit as an Equihot executive and himself the subject of a Belgian arrest warrant, denied RISC's charges and denied that Mr. Sachman and Mr. Yorke-Wade are the same person.

Mr. Bridle also responded angrily to charges against himself, including RISC's allegation that he helped conceal Mr. Yorke-Wade's identity.

"I'm getting tired of reading about myself when I have not committed any crime against humanity," he said. "At least Pol Pot had a trial. I have not had a trial."

Mr. Clarke sounded equivocal on the question of Mr. Sachman's identity, though.

"The company is investigating that allegation. It's a hard one to investigate," Mr. Clarke said.

Asked why it is hard to investigate, he responded: "Because I just don't know where he is. That's not to say he doesn't exist."

He added that the question may now be irrelevant: "From the company's point of view, so what? Sachman is the former CFO, Paul Yorke-Wade is under detention in a completely unrelated matter, so who cares?"

"This stuff gets Fellini-esque," Mr. Clarke commented.

Equisure settled the RISC lawsuit last week, agreeing to pay the Austin, Texas, company \$650,000, court filings indicate.

Meanwhile, an American Exchange spokeswoman confirmed the exchange is discussing a voluntary withdrawal by Equisure. The exchange halted trading in the company's shares Aug. 4 and later announced that it has begun proceedings to delist it (*BI*, Aug. 11).

The exchange had charged possible manipulation of Equisure stock by insiders and accused Equisure of having "virtually no money, no business and no offices except for a one-man executive suite" in Minneapolis, Equisure confirmed earlier this month.

The company rejected these charges as "patently absurd."

Belgium-based Equihot's appearance as an international reinsurer is relatively recent.

Until last year, Equihot Herverzekering was a unit of Equihot Delfstoffen N.V., which was formed in Belgium in 1994 and describes itself as a metals trading firm with \$1.4 billion in 1995 revenues.

Equihot Delfstoffen last year took over a dormant Minneapolis-based cosmetics company, Aloe Vera Naturel Inc., in exchange for all of the stock of Equihot Herverzekering. Aloe Vera then changed its name to

Equisure and became the reinsurance company's new parent.

Soon afterward, Equihot Delfstoffen sold the majority of Equisure's outstanding stock to an investor group that included Equisure management, retaining a 22% stake in the Minneapolis company.

The company has other affiliates, *Business Insurance* has learned. One of these is Equihot Finance Ltd., an Irish corporation formerly known as Krediet Financien Ltd. Its directors are four reported South African nationals who give their address in Irish corporate filings as Equihot's Antwerp, Belgium, office. The Irish company's corporate secretary is another company, Hunter LaRoche Ltd., which gives its address as 20 Upper Merrion St. in Dublin.

Coincidentally, this is the same address that housed a management company headed by Mr. Yorke-Wade.

Mr. Bridle said that Equihot Finance provided lease financing for Equihot Delfstoffen metals operations and that he is not aware of any involvement by Mr. Yorke-Wade with Equihot.

Equisure stock, originally traded over the counter, moved to the American Exchange last year and quickly became one of the market's fastest-rising stocks. Listed last December at \$6.25, the stock closed at \$15 when trading was halted.

Equisure, which reported \$12.9 million in 1996 written premiums, has assumed a variety of property/casualty reinsurance risks in the United States and London.

In one U.S. deal, Intercargo Insurance Co. of Schaumburg, Ill., agreed to front for Equihot on a book of construction liability business produced by a Dallas broker. Intercargo has ceased writing new business on this program pending the outcome of investigations of Equisure, an Intercargo officer said last week.

In another deal, Equisure announced in January that it had entered a multiyear contract with RISC International, a reinsurance underwriting manager whose clients were said to include ceding insurers and brokers in Central and South America and Pacific Rim countries.

The contract was to give RISC binding authority for reinsurance business that was to include aviation and accident and health risks, court filings say.

Equisure canceled the agreement earlier this summer, though, and in June RISC filed a breach of contract and fraud suit in federal court in Austin naming Equisure and Equihot; Mr. Bridle, who also uses the name Charles Bridel; Barrie Harding, then-CEO of Equisure; and Mr. Sachman.

The suit alleged that Equihot officials gave RISC false assurances about a number of things, including that Equisure:

- Was close to completing the purchase of a U.S.-domiciled A.M. Best Co.-rated insurer to front for Equihot.
- Would loan RISC \$150,000 and enter an arrangement to share staff

and offices in Austin.

• Would hire two RISC officers for jobs that are not described in the suit. Mr. Bridle made these offers himself, according to the suit, which describes him as the majority shareholder and "key decision-maker" at Equisure.

In an interview, Mr. Bridle denied this and said he never had any significant contact with RISC officials.

The suit also says many of Equisure's contractual commitments were made by Mr. Sachman, who by June had "seemingly disappeared." Equisure told RISC at various times that Mr. Sachman couldn't be located, had gone to South Africa and was out of touch or was at an unknown location but would be checking in for messages, the suit says.

Two weeks ago, RISC offered a startling explanation for this alleged mystery: "David Sachman" is merely an alias for Mr. Yorke-Wade, who was arrested earlier this year in connection with a Belgian police investigation of the Dai Ichi Kyoto scandal.

Mr. Yorke-Wade—now being held in France pending extradition to Belgium—reportedly helped manage Dai Ichi Kyoto shortly before it collapsed in 1985. He also is former president of the defunct Victoria Insurance Co. of Georgia, which was the target of a 1991 U.S. Senate fraud investigation.

According to an Aug. 12 court filing, RISC officials were supposed to meet Mr. Sachman in Monaco May 11, 12 and 13, but he never showed up. Mr. Bridle and Mr. Harding offered "various excuses" for his absence, including family problems. They never disclosed, though, that Mr. Sachman was Mr. Yorke-Wade and that he was not available because he was in prison, RISC charges.

The filing, which sought a restraining order freezing Equisure's U.S. assets, also said Equihot's retrocessional protections with several London and European reinsurers had been canceled for non-payment of premium and that Equihot had failed to pay about \$120,000 in reinsurance claims submitted by RISC clients.

Mr. Clarke and Mr. Bridle said they were not familiar with Equihot's retrocessional program.

Mr. Bridle, however, insisted that Mr. Sachman "certainly does exist" and that Mr. Sachman was in London last week before returning to South Africa. He said he did not know where Mr. Sachman could be reached in that country.

Mr. Harding, who was replaced by Mr. Clarke as CEO but who continues to be in charge of Equihot underwriting, could not be reached.

Mr. Clarke described himself as an independently wealthy investment banker and legal consultant in Madrid, Spain, who became involved with Equisure only recently as a potential investor and was named "CEO by default" when the controversy erupted.

He said he plans to hire accountants and investment bankers to help restructure Equisure after a withdrawal from the American Exchange: "I believe the company will charge on," he said. **BI**

Updates

Workers comp bill vetoed

ALBANY, N.Y.—New York Gov. George E. Pataki has vetoed a controversial measure that would have changed the basis for calculating workers compensation premiums for construction companies.

In his veto message, the governor said he endorsed the concept but not the bill's particulars.

Nationally, except in Washington state, the basis for determining workers comp premiums is total payroll multiplied by the classification factor, which is based on the job hazard.

The vetoed proposal, A.B. 6543, would have amended state laws to change the basis to the number of employee "hours worked" multiplied by the classification factor for construction companies.

In endorsing the concept of a change, Gov. Pataki said the "total payroll" formula is "unacceptable" for the construction industry, which pays relatively high wages in addition to carrying a high-risk classification. As a result, high-wage paying companies end up paying higher premiums that are not warranted by a corresponding difference in loss exposure over low wage-paying employers, he said in a statement.

Nevertheless, the governor said the bill was deficient because it would have raised premiums for upstate New York contractors an average of 25% and would have forced many of them into the state's market of last resort, creating solvency problems there. The bill also called for only a six-month implementation period, which was "too short," he added.

Representatives of the New York State Builders Assn., whose members employ more than 200,000 workers, mainly in residential construction, and several insurer trade associations opposed the bill. Critics contended it would encourage employers to fraudulently underreport hours worked because that information is not readily available or verifiable.

However, the governor left the door open for future proposals, saying he plans to work with labor and business interests to develop a more workable legislative proposal.

Law limits asbestos damages

SAN FRANCISCO—Asbestos companies' liabilities for pain and suffering damages in personal injury cases are limited to their degree of fault under a 1986 ballot initiative, the California Supreme Court has ruled.

The court said the June 4, 1986, deadline—the date the so-called "deep pockets" ballot initiative took effect—applies even if the claimant can prove the disease actually began prior to that date.

The 6-1 ruling last week in *Buttram vs. Owens-Corning Fiberglas Corp.* stemmed from a lawsuit filed by a Northern California man who did not discover his cancer until 1991. But evidence showed the disease had been developing in his body at least seven years prior to that discovery. The plaintiff, James Buttram, died in 1995 at age 52. He was exposed to asbestos while serving in the Navy during the Vietnam War.

Mr. Buttram had won a \$1.5 million judgment for pain and suffering against Owens-Corning Fiberglas. The company appealed, saying that under Proposition 51, the award should be limited to \$450,000. The appellate court ruled in favor of the manufacturer, and the Supreme Court upheld the ruling.

In the lone dissenting opinion, Justice Stanley Mosk complained that the ruling will deprive victims of full compensation. In deciding whether to apply Proposition 51, which was not retroactive, the date of the injury should be the time when physiological changes leading to disease began, he wrote.

Sale of Texas fund completed

AUSTIN, Texas—The former market of last resort for workers compensation risks in Texas is running off business under new ownership by a Swiss Reinsurance Co. subsidiary.

European International Reinsurance Co. Ltd. last week completed its \$5 million purchase of the Texas Workers' Compensation Insurance Facility, which hasn't written coverage since 1993. The privatization was authorized by legislation enacted in the state this year.

The insurer was renamed The Facility Insurance Corp. and will be based in Austin, Texas.

Texas workers comp insurers are paying \$58 million in assessments to the insurer to boost its loss reserves. The insurers in turn will receive stock in the facility, which could pay a dividend in 20 years depending on how the company performs. The dividend arrangement solved a tax issue regarding the stock that threatened to derail the sale (*BI*, July 14).

The Facility Insurance Corp. will purchase \$600 million in reinsurance limits from European International Reinsurance.

Briefly noted

Attorneys representing Los Angeles-area homeowners filed a lawsuit Thursday in Los Angeles Superior Court seeking compensatory and general damages from Lansdale, Pa.-based **Central Sprinklers Inc.**, the manufacturer of Omega fire suppression sprinklers (*BI*, Aug. 18). The attorneys are seeking class-action status on behalf of all residents and commercial owners in the United States who have purchased Omega sprinklers. Some of the sprinklers have failed to operate during certain tests. . . . Gov. George E. Pataki has signed **New York's captive legislation bill**. The law allows individual companies and groups to establish captive insurance companies in New York to write most property/casualty risks (*BI*, Aug. 11). . . . Gov. Pataki also has signed a bill that will require health insurers to cover **chiropractic care**. In a written statement, the governor said the bill strikes a balance between containing costs and providing access to health care. The law covers all plans issued or renewed as of Jan. 1, 1998. . . . An Oklahoma District Court judge last week approved a 60-day extension of a grand jury investigation into the **Oklahoma State Insurance Fund**, the state's large assigned risk plan, and overseer Terry Tyree. The judge also imposed a gag order on all parties. . . . A bill California's state Senate is weighing would require all employers that provide **sick leave** to permit employees to use paid sick days to care for a child, parent or spouse. A.B. 480 was authored by Assemblyman Wally Knox, D-Los Angeles.

Market owner sues over 2000 snag

DETROIT—A small fruit and vegetable market owner is suing an Atlanta-based cash register company for allegedly providing equipment that can't recognize the year 2000.

The lawsuit filed in a state court in Michigan by Mark Yarsike of Detroit charges that TEC America cash registers shut down when customers use credit cards that expire after the Year 2000.

However, a TEC spokesman said the problem is not related to any deficiency in the TEC computer systems. Rather, the "problem" has been one of credit card

authorization methodology belonging to the credit card industry, he explained.

"Aware that credit cards would bear Year 2000 expiration dates well before the turn of the century, the credit card companies were forced to establish a format for data reception and exchange that would recognize the years 2000 and above as valid expiration dates," the company said in a statement released last week. "That was finally done in April 1997."

"TEC America helped lead the way with software that deals suc-

cessfully with this Year 2000 issue. After successful beta testing, a software update was released in May 1997 to approximately 30 sites," the statement continued. "TEC America has received no report of malfunction from any of the users of this updated software, and was quite surprised when this issue was raised in litigation."

The spokesman declined to say whether the company's liability insurance would respond to the suit and would not provide coverage details.

—By Joanne Wojcik

For the Record

Underfunded pension plan to continue after acquisition

WASHINGTON—Kerr Group Inc., a Lancaster, Pa.-based manufacturer of child-resistant caps and seals, will continue its underfunded pension plan and accelerate contributions as part of a proposed settlement with the Pension Benefit Guaranty Corp.

The settlement came in the wake of court action the PBGC took after the announcement of Kerr's pending acquisition by Fremont Partners, a San Francisco-based investment partnership. PBGC had sought court permission to terminate the Kerr plan because Fremont's acquisition of Kerr was to be financed with debt secured by Kerr assets. That would have put the PBGC behind other creditors if it later had to take over the plan.

As part of the proposed settlement, Kerr will pay \$3.5 million into the plan at the time of the close of Kerr's sale to Fremont and will pay an additional \$35.5 million to the plan through 2003. The PBGC also will hold a second security interest in substantially all Kerr assets.

The Kerr plan, which has about 5,600 participants, has \$130 million in liabilities and \$90 million in assets.

Pollution exclusion upheld for individual harm

PHILADELPHIA—The absolute pollution exclusion applies when a pollutant harms an individual, even if the substances were not released into the environment, a federal appeals court has ruled.

The case arose after Mark Moessner and Henry Drumheller, two employees of Faddis Concrete Products, sustained injuries in February 1993 from inhaling carbon monoxide vapors from a steam generator manufactured by Vapor Energy Service & Engineering Corp. The employees sued Vapor Energy; the company submitted the claims for coverage and defense to its comprehensive general liability insurer, Reliance Insurance Co.

Reliance issued a reservation of rights letter and brought a declaratory judgment action seeking a declaration that it had no duty to defend or indemnify Vapor Energy. Reliance's position was based on the absolute pollution exclusion. The trial court granted Reliance's motion based on the exclusion included in the renewal of the policy.

Mr. Moessner appealed, claiming the exclusion is ambiguous because the policy wording describes pollutants causing an environmental

catastrophe and not solely injuring an individual. The appeals court disagreed. The absolute pollution exclusion "clearly states that the exclusion applies to the escape of pollutants 'at any time,' and contains no language limiting its scope to environmental catastrophes," the 3rd U.S. Circuit Court of Appeals said.

The appeals court sent the case back to the trial court to determine whether the policyholder was aware the absolute pollution exclusion was added to the policy at renewal.

HMO serving rural area leaves CalPERS plan

SACRAMENTO, Calif.—The California Public Employees' Retirement Systems' administrative board last week approved the withdrawal of the health maintenance organization from its 1998 health program because of heavy financial losses in three sparsely populated counties.

Modesto, Calif.-based National HMO said it had lost significant revenue in three Northern California counties, Lassen, Modoc and Siskiyou, where it had about 3,000 CalPERS members, or about half its total CalPERS members in the state, according to a CalPERS spokesman.

A CalPERS spokesman said two preferred provider organizations would continue to be available to CalPERS members in those counties. In addition, the more than 1,000 employees at the state prison in Susanville in Lassen County also have access to the California Correctional Peace Officers Assn. plan, which CalPERS administers.

Meanwhile, CalPERS is exploring other options, including having another one of the HMOs with which it contracts expand into these counties, although this process is not expected to be completed by Jan. 1, when National will stop providing service, the spokesman said.

The spokesman said National's withdrawal is a "major disappointment," although National should be praised for its effort. Extending managed care into sparsely populated rural areas has been one of CalPERS' "top priorities," he said.

Drugmaker ownership of PBMs criticized

Pharmaceutical manufacturers that have bought pharmacy benefit management companies are increasingly dictating the choice of medications patients receive by pressuring physicians and pharmacists to switch prescriptions to the drugs they manufacture, a recent study charges.

The study, published by New York Public Advocate Mark Green, explores what he says are the "conflicts of interest inherent in drug maker ownership of PBMs."

The report points to Eli Lilly & Co.'s 1994 pur-

chase of PCS Health Systems Inc. as an example of the potential for abuse. Citing confidential 1994 documents obtained from PCS, the report alleges Lilly planned an aggressive marketing campaign for its anti-ulcer medication Axid and its antidepressant drug Prozac. It alleges, among other things, that "millions of messages" were sent to physicians pressuring them to switch to Lilly drugs and that a competitor's antidepressant would be downplayed in PCS formularies.

A spokesman for PCS agrees with "the concept that a patient's welfare and the appropriateness of prescription drugs should be the first consideration. And it is with PCS," he said.

He also denied that PCS "pressures" physicians and pharmacists to switch drugs. He said both patients and physicians are informed of any drug interchange and that patients always have the opportunity to say no and that doctors always have the opportunity to approve or disapprove of the drug.

Stress claim upheld for disciplined teacher

HONOLULU—Hawaii's Supreme Court recently ruled that a stress-related injury resulting from an employer's disciplinary action against an employee is compensable under the state's workers compensation law.

The case of *Regina M. Mitchell vs. the State of Hawaii Department of Education* began in 1989 when Ms. Mitchell, a sixth-grade teacher, disregarded an administrator's warning against the use of reward parties to motivate students, according to court documents.

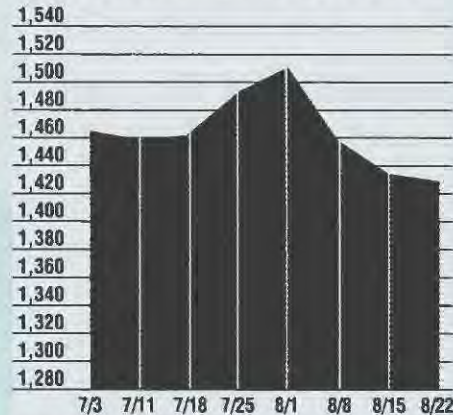
Later, Ms. Mitchell confronted a student that she accused of stealing cookies for a reward party, and the student allegedly became unruly. The student in turn accused Ms. Mitchell of striking him. The school's principal recommended that she be suspended for five days for violating a ban against corporal punishment.

After the recommendation for suspension, Ms. Mitchell became feverish, disoriented and found it difficult to work. She then filed a workers compensation claim, alleging she suffers from stress. Hawaii is one of 25 states that allow mental-mental-type stress claims and one of seven that allow them regardless of whether the stress is deemed unusual.

Hawaii's Department of Labor and Industrial Relations Appeals Board denied the claim, finding that Hawaiian workers comp law did not intend for employees to be compensated for a stress-related personal injury resulting from an employer's disciplinary action.

The high court disagreed, ruling that even if she administered punishment in violation of a work rule, she still sustained a compensable injury because she was acting within the course of her employment at the time. **BI**

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of Aug. 22		Call spread	Price bid/ask	Ca spread	Price bid/ask
Eastern September 1997					
40/60	2.0/3.4	40/60	3/1.6		
60/80	1.4/3.0	80/100	-1/3		
80/100	-2/3				
National Annual 1997					
80/100	-4/0	40/60	4/1.8		
60/80	2.2/6.0	50/70	-1/0		
Southeastern September 1997					
40/60	1.8/3.0				
60/80	1.2/2.2				
80/100	-2/0				

Total volume: 63 Total open interest: 16,826

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.
Source: Chicago Board of Trade

British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Comm Union	725	11.2	35.8	4.9	764-583
Genl Accident	935	6.5	35.4	4.7	978-631
Gdn Royal Exch	275	4.0	12.2	4.3	311-248
Independent	1025	10.9	14.2	1.7	1035-558
Royal & Sun	541	15.3	19.7	4.5	561-393

Brokers	Price	P/E	Div. pence	Yield %	52-week high-low
Bradstock	82	12.0	6.4	9.8	90-54
CE Heath	142	9.2	1.5	1.3	143-74
Lmbt Fenchurch	133	8.6	8.4	8.2	135-101
Lloyd Thompson	179	NA	NA	NA	206-163
Nelson Hurst	179	16.3	8.6	6.0	192-121
Sedgwick Grp	124	10.1	7.4	5.9	144-115
Steel Bri Jones	27	9.4	1.5	6.9	39-22
Willis Corroon	124	12.4	6.6	6.7	165-117

Note: Prices are Aug. 22 closings; other numbers from Aug. 21.
Source: Nordby International Inc.

BI Industry Stock Report AUG. 18, 1997, THROUGH AUG. 22, 1997

BROKERS							INSURERS/REINSURERS							HEALTH MAINTENANCE ORGANIZATIONS									
Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)			
Aon Corp.	NYS	51.50	-0.60	24.35	56.13	32.13	953	Everest Reinsurance	NYS	37.19	-2.62	29.35	40.38	23.75	417	SCOR	NYS	41.00	-4.09	19.27	44.50	34.00	39
E.W. Blanch Holdings Inc.	NYS	28.88	-2.12	43.48	30.63	18.00	41	Executive Risk Inc.	NYS	58.88	-2.28	59.12	61.00	33.38	45	SAFECO Corp.	NDO	46.63	2.64	23.30	49.38	32.13	1958
Gallagher Arthur J. & Co.	NYS	36.00	-0.69	16.13	37.75	29.13	77	EXEL Ltd.	NYS	56.06	2.63	48.02	58.25	31.75	661	Seibels Bruce Group	NDQ	8.06	-0.77	-2.27	11.25	5.88	87
Hibb, Regal & Hamilton	NYS	16.56	0.38	25.00	17.25	12.13	49	Fremont General Corp.	NYS	38.50	3.70	24.19	43.44	26.13	340	Selective Ins. Group	NDQ	45.25	-7.94	29.51	54.00	32.25	3
Kaye Group Inc.	NDO	7.63	-6.15	45.24	8.13	4.38	6	Frontier Insurance Group	NYS	34.31	3.98	79.41	35.13	18.13	637	Sphere Drake Holdings	NYS	6.88	1.43	0.00	10.50	8.13	71
Marsh & McLennan	NYS	72.00	1.68	38.46	78.25	45.50	1148	Gainsco Inc.	NYS	8.75	0.00	-9.09	10.88	8.13	610	TIG Holdings	NYS	31.56	0.20	-6.83	38.00	26.38	1066
Poe & Brown	NDO	36.00	-5.88	35.85	38.50	23.75	27	General RE Corp.	NYS	195.83	1.33	24.17	208.88	140.75	681	Titan Holdings, Inc.	NYS	21.63	0.87	31.06	25.00	12.75	290
Sedgwick Group PLC	NYS	10.19	-1.21	-1.81	10.88	9.38	3	Gryphon Holdings	NDO	16.00	-3.76	13.27	17.75	12.13	34	Tokio Marine & Fire	NDQ	60.88	-5.07	30.56	66.00	42.00	188
Willis Corroon Corp.	NYS	10.25	1.86	-10.87	13.50	9.38	259	Guaranty National Corp.	NYS	28.31	-0.44	69.03	28.50	13.75	32	Torchmark Corp.	NYS	35.75	0.00	41.58	40.00	20.75	1293
BROKERS AVERAGE			-1.52	23.93				Harleysville Group	NDO	38.25	0.66	25.41	39.13	24.50	63	Transatlantic Holdings	NYS	72.50	2.75	35.09	75.38	44.38	245
ACE Ltd.	NYS	84.75	5.69	40.96	87.25	46.13	377	Hartford Steam Boiler	NYS	52.94	0.00	14.15	56.00	42.75	105	Travelers Property	NYS	39.13	-6.98	10.60	43.56	26.63	283
Acceptance Insurance Cos.	NYS	22.00	0.28	11.39	24.13	17.00	83	HCC Insurance Holdings	NYS	25.19	-4.50	4.95	32.75	21.50	689	Travelers Corp.	NYS	66.81	1.42	47.25	73.63	31.63	7903
AEGON N.V.	NYS	75.00	9.59	18.58	78.88	48.50	813	IPC Holdings Ltd.	NDO	29.75	2.15	32.96	30.50	19.50	505	Trenwick Group Inc.	NDQ	35.75	-2.05	15.95	39.63	30.75	109
Aetna Life & Casualty	NYS	93.38	-2.48	16.72	118.13	60.13	4820	ITT Hartford Group	NYS	83.33	1.37	23.52	88.81	51.00	975	Unico American Corp.	NDQ	11.25	2.27	3.45	11.50	7.38	26
AFLAC Inc.	NYS	55.38	5.85	29.53	56.44	32.88	1118	LaSalle Re Ltd.	NDQ	34.25	0.37	17.09	35.00	22.38	147	Unionamerica Holdings	NYS	20.63	-0.60	16.20	22.75	14.75	14
Allied Group Inc.	NYS	45.50	-7.61	39.46	53.63	24.38	308	Life Re Corp.	NYS	51.33	-1.91	33.01	56.00	30.25	44	United Fire & Casualty	NDQ	38.25	-1.29	8.51	40.50	29.75	16
Allstate Corp.	NYS	75.75	6.69	30.89	79.94	43.50	5094	Lincoln National	NYS	68.53	-1.57	26.67	73.00	43.13	900	Unitrin	NDQ	58.50	-1.47	4.93	64.75	47.75	568
AMBAC Indemnity Corp.	NYS	83.63	6.36	25.99	85.88	53.38	331	MAIC Holdings Inc.	NYS	49.25	4.23	45.39	50.00	28.25	53	UNUM Corp.	NYS	42.25	3.84	16.96	48.44	30.50	953
American Bankers Ins.	NDO	67.56	-1.46	32.15	70.50	43.75	67	Market Corp.	NYS	143.03	5.15	58.89	147.50	83.00	14	USF&G Corp.	NYS	23.08	0.27	10.48	25.50	15.75	1583
American Financial Group	NYS	43.75	1.16	15.89	49.25	29.63	466	MBA Insurance Group	NYS	117.13	3.25	15.68	122.00	80.00	641	Vesta Insurance Co.	NYS	50.00	-0.50	59.36	54.00	24.50	91
American General	NYS	49.69	-0.13	21.56	54.75	35.75	2422	Meadowbrook Insur. Group	NYS	25.13	-0.25	19.94	29.13	15.25	41	Washington National	NYS	29.44	1.29	7.05	30.75	27.13	585
American Heritage Life Ins.	NYS	34.75	-1.07	32.38	38.75	19.00	53	Mid Ocean Ltd.	NYS	57.75	1.09	10.00	61.00	39.25	81	Zenith National Ins.	NYS	26.94	2.13	-1.60	28.38	24.63	85
American Indemnity/Fin'l	NDQ	12.63	1.00	23.17	14.00	9.50	45	MMI Cos. Inc.	NYS	25.13	-0.74	-21.90	32.75	20.75	116	Zurich Reinsurance Centr.	NYS	39.44	0.32	26.20	39.50	28.38	22
American International	NYS	98.63	3.14	36.66	106.88	62.63	4838	Mutual Risk Mgmt. Ltd.	NYS	46.25	-0.40	25.00	49.63	28.25	126	INSURERS/REINSURERS AVERAGE			0.44	22.86			
Argonaut Group	NDQ	33.75	5.88	9.76	34.13	26.75	131	NAC Re Corp.	NYS	47.63	-1.04	40.59	49.50	32.63	329	NAVIGATORS							
Baldwin & Lyons Inc.	NDQ	18.75	0.67	2.04	22.63	17.38	18	Navigators Group	NDO	19.00	-1.30	4.11	20.63	15.75	98	Nobel Insurance Ltd.	NDQ	14.50	0.00	15.42	15.38	11.25	12
Berkley W.R. Corp.	NDQ	55.00	-1.12	8.37	60.50	43.00	449	Nobel Insurance Ltd.	NYS	23.81	2.42	32.29	24.13	17.00	23	NYMagie Inc.	NYS	46.00	0.82	29.58	48.06	31.75	141
Berkshire Hathaway Inc.	NYS	43200.00	-3.14	26.69	48600.00	30000.00	1	Old Republic Int'l	NYS	35.75	-1.55	33.64	37.00	21.50	808	Oxford Health Plans	NDQ	76.88	2.16	31.27	89.00	40.38	6431
Capital RE Corporation	NYS	50.94	-1.21	9.25	56.38	36.88	41	Orion Capital Corp.	NYS	42.19	2.90	38.04	42.69										

WITH OUR POLICYHOLDERS WE ARE ENGAGED IN A GREAT MUTUAL ENTERPRISE. IT IS GREAT BECAUSE IT SEEKS TO PREVENT CRIPPLING INJURIES AND DEATH BY REMOVING THE CAUSES OF HOME, HIGHWAY AND WORK ACCIDENTS. IT IS GREAT BECAUSE IT DEALS IN THE RELIEF OF PAIN AND SORROW AND FEAR AND LOSS. IT IS GREAT BECAUSE IT WORKS TO PRESERVE AND PROTECT THE THINGS PEOPLE EARN AND BUILD AND OWN AND CHERISH. ITS TRUE GREATNESS WILL BE MEASURED BY OUR POWER TO HELP PEOPLE LIVE SAFER, MORE SECURE LIVES.

Risk manager Theresa Baer was not only impressed by how we reduced her insurance cost by 15%, but by how we gave her the courage to take another risk. A two-week vacation.



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➤ *There's more information we'd like to share. So please call John Ryan at (617) 574-5842 or visit our website at <http://www.libertymutual.com>*

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