

# State regulation of benefits under attack

By GREG DAVID

CHICAGO—State regulation of employe benefit programs is under increasing attack from employers, union welfare plans and the federal Civil Service Commission.

The outcome of a series of cases now winding through the courts and of a lobbying effort in Congress could affect every employe benefit program in the country.

Employers, union plans and the federal commission argue that diverse state regulations, especially those requiring specific benefits, cost millions of dollars each year.

They contend the Employee Retirement Income Security Act (ERISA) preempts all state regulation of employe benefit programs, even if the state acts under its authority to control group insurance contracts.

But state insurance officials and other ERISA experts warn that a dangerous vacuum could develop since the pension reform law provides few standards for employe welfare plans. Some have suggested new federal legislation to extend tough pension rules to the welfare plan area.

Among the federal court cases involved in the effort are:

- A challenge to a New Hampshire law requiring coverage for mental and nervous conditions brought by a New England carpenters' union fund. A district court ruled ERISA does not prevent the state from mandating benefits, but the union is appealing the case.

The ERISA Industry Committee (ERIC), representing 80 of the largest corporations in the nation employing seven million persons, has filed a brief supporting the union and arguing for complete preemption of state laws.

- Challenges to the California

Knox-Keene law regulating all medical service organizations not covered by the insurance code and the Hawaii Prepaid Health Care Act mandating minimum benefits for most employes.

A district court agreed with three major California corporations that ERISA supersedes the Knox-Keene act, but the state has appealed the case. A challenge to the Hawaii law by Standard Oil Co. of California is now before a district court in San Francisco.

- A challenge to the New York court decision requiring disability pay for pregnant women under the state's human rights law. A

group of airlines is challenging the decision on a number of grounds including preemption. However, New York has now amended its disability law to include pregnancy benefits and ERISA specifically exempts state disability laws from its provisions.

In Congress the effort includes:

- A bill pending in the House introduced at the request of the federal Civil Service Commission to exempt federal benefit plans from all state regulations. The commission claims varying regulations cost \$125 million a year.

- A position paper arguing for

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## Complex D&O case

# Lawsuit pits Mattel against its broker

By JOANNE GAMLIN

LOS ANGELES—Pretrial motions have begun in a complex lawsuit aimed at deciding who owes Mattel Inc. money.

The case in Los Angeles Superior Court pits Mattel Inc. against its former broker for directors and officers liability insurance, Marsh & McLennan, and two M&M employes, senior vp Tom Tily and vp John A. Fox.

Also involved are Unigard Mutual Insurance Co. of Seattle and International Surplus Lines Insurance Co. (ISLIC) of Chicago, Mattel's excess underwriters.

In addition to the main lawsuit, Marsh & McLennan is suing the two insurance companies and the insurers are suing M&M.

The key question is whether the broker provided the two excess underwriters with adequate information about a shareholder class action suit filed against Mattel. At that time the two companies were about to provide the

toymaker with D&O coverage.

Mattel eventually settled five shareholder class action suits for \$30 million in 1975. A Securities & Exchange Commission report released at the time said the company was so intent on inflating the price of its stock in 1971 and 1972 that it falsified its books.

The current litigation stems from a 1975 agreement between Mattel and its D&O insurers. The carriers agreed to pay \$13.8 million toward the \$30 settlement, the highest D&O insurance payout on record. However, Mattel also agreed to sue Marsh & McLennan to recover the money paid by the insurance companies.

The coverage involved in the \$13.8 million payout covered the period from March 1970 to June 1973. Between March 1970 and March 1973, Mattel had a D&O liability policy with a \$5 million annual aggregate underwritten by Lloyd's and London companies.

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## The inside story

### Benefit chiefs back Carter

Employe benefit managers believe hospital expansion and capital spending are key reasons for soaring health care costs. And they back Carter's hospital cost plan. **Page 4.**

### Sue the bastards

One year ago, a popular *Business Insurance* editorial discussed "Sue the bastards—a social malaise." Today we look back at what's happened the past 12 months. **Page 6.**

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- GROUP AUTO insurance may get a big boost from a Senate proposal. **Benefit Beat, Page 3.**
- N.Y. MERCHANTS complain insurers are balking at paying riot claims. **Page 10.**
- BLUE CROSS moves into prepaid legal insurance—cautiously. **Page 11.**
- AN INSURANCE program for New England loggers has been cancelled. **Page 15.**
- A LID on work comp rates for small firms is eyed in Pennsylvania. **Around the States, Page 17.**

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page 30

Week of August 8, 1977

# business insurance

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

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## PRODUCT LIABILITY

# Tort reform moves ahead...

By JERRY GEISEL

WASHINGTON—The drive to deal with the product liability crisis through tort reform has moved another step forward with Oregon becoming the third state to pass a reform measure this year.

Across the country, more than 200 bills have been introduced in state legislatures since the tort reform battle moved into high gear last year. In addition to Oregon, comprehensive measures have been enacted in Utah and Colorado.

While many of the measures have languished in house and senate committees or suffered stinging defeats on the legislative floor, reform leaders for the first time are brimming with a heady optimism.

They say their confidence is based on an increased awareness among the public and legislators that something must be done to restore balance in the legal system and the increased effectiveness of the newly formed product liability task forces that have sprung up around the country to

get legislation passed. Task forces have been established in 24 states, with a dozen more being set up.

Still, business and trade association officials acknowledge that the path to tort reform is mined with explosives. Opposition from trial lawyers has intensified, derailing legislative packages in a score of states. Internal rivalries among reformers have resulted in setbacks elsewhere.

In Oregon, though, these and other obstacles were cleared. Legislators were flooded with mail by

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## ... MAP offers a way out

By REBECCA FANNIN

NEW YORK—The Market Assistance Program (MAP) is offering an alternative to agents and manufacturers faced with high-priced and unavailable product liability coverage.

The program has placed approximately 300 difficult risks at a reasonable cost throughout 12 states. And its use is spreading to six other states in the process of implementing programs.

Insurance industry representatives from Connecticut voluntarily formed the first program late last year to assist agents who were having trouble finding product liability markets for their commercial customers. The program joins specialized agents, brokers, underwriters and state insurance departments to obtain coverage from insurers on a voluntary basis.

"MAP is solving a definite need in the marketplace in a cooperative and voluntary way," said

Waldo Disanto of the Connecticut insurance department.

Although no one is saying that MAP is a long term cure for product liability ills, insurance representatives recognize its short term benefits.

In states with highly developed MAP programs, the number of complaints about product liability coverage are decreasing and agents are learning more about how to place this type of risk. Competition among insurance companies has also increased because MAP has been able to find

alternative markets.

"Many insurance companies are reevaluating their positions and are deciding to renew coverage when they didn't before," said Frank Whaland, insurance commissioner of New Hampshire. He explained that the insurance companies know that if the voluntary approach doesn't work the government will legislate changes, such as implementing an assigned risk pool.

MAP's effectiveness, however, has been strained by insurance

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## Tort reform update

Beginning in our next issue, *Business Insurance* will periodically update the status of tort reform legislation around the nation in a convenient, easy-to-use chart. Watch for it in our Aug. 22 issue.

# State regulation . . .

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broad preemption sent to the House pension task force by the Council on Employee Benefits. The council, representing 160 companies with 6 million U.S. employees, estimates varying regulations could cost its members over \$200 million

a year.

• A bill to limit preemption introduced by Sen. Daniel Inouye (D-Hawaii). The Inouye bill would exempt health insurance laws from preemption in an effort to preserve Hawaii's health act. The growing tendency of state

legislatures to mandate benefits is spurring resistance of state regulations. "It's part of the growing trend to use the insurance mechanism to provide social benefits," observed David Brummond, counsel for the National Assn. of Insurance Commissioners.

Employers point to laws in Connecticut, Rhode Island and Minnesota which require employers to extend coverage to terminated employees, although all have different conditions. The federal Civil Service Commission complained it must provide chiropractic services in some states but not others.

"The most important aspect of the problem is that companies that operate across state lines are subject to different regulations in different states," explained George J. Pantos, a Washington, D.C., lawyer representing ERIC in the New Hampshire case.

A corporation has to "provide different benefits in different states at a substantial cost," he said.

### Insurers unhappy

Insurance companies are also unhappy with the trend. "We have a hard time and employers have a hard time with the trend toward mandated benefits," said John Meyerholz of the American Council of Life Insurance.

Insurance companies must hire additional staff to keep up with the laws. Employers resent being told by insurers that premiums must be increased to provide unwanted benefits, Mr. Meyerholz continued, and some smaller companies drop their programs rather than add mandated benefits.

The council's members have traditionally supported state regulation, but haven't taken a position on the preemption question.

"How can we deal with a situation where a state can mandate any coverage in response to the demands of a pressure group?" asks James M. Dawson, administrator of the New England carpenters' fund that brought the New Hampshire case.

The NAIC's counsel sees it differently. "The problem of varying benefits is a tough question," Mr. Brummond said. "But it's the price you pay for having local people decide what benefits they want in their areas."

### Costs disputed

Mr. Brummond also disputes the cost estimate of the Council on Employee Benefits. "I think there are costs. But I don't know what they are and I don't think they know. I don't think the costs are prohibitive."

But the Northern New England Carpenters Fund, including carpenters in New Hampshire, Vermont and Maine, found the costs troublesome. The fund was in financial trouble from high unemployment when New Hampshire "decided to inflict—and I use that word advisedly—a requirement for mental coverage," said Mr. Dawson.

The trustees eliminated dental and vision coverage for everyone in the union to provide mental coverage for New Hampshire members and deal with declining contributions. The fund cannot afford mental benefits for all its members, Mr. Dawson said, and should not be forced to provide the benefit only to New Hampshire members.

### Experts disagree

Experts disagree both on the scope of preemption and what should be done.

"I think the intent to have broad preemption is pretty clear," said James D. Hutchinson, former administrator of pension and welfare plans for the U.S. Labor Department.

"I don't believe the states can impose mandated benefits," asserted Claude Dorais, a Beverly Hills attorney who represents self-funded multiple employer trusts.

But David Brummond at the NAIC argues ERISA probably only preempts laws directly regulating pension and welfare plans and self-insured programs. He thinks there is less likelihood of preemption for insurance carriers, prepaid medical, dental or legal plans and medical organizations.

William Chadwick, another former pension and welfare plans administrator, generally agrees with Mr. Brummond. But "mandated benefits are the toughest question," he observed.

State insurance officials warn that employees could be hurt if a regulatory vacuum develops. "Employees operate under the assumption they can turn to state insurance commissioners to protect them," said Mr. Brummond.

"It's one thing to preempt state regulation when you have a system of regulation ready to take its place," Mr. Hutchinson said. "It's another thing if there will be no effective regulation."

Broad preemption of state insurance laws would leave a complete void in the area of minimum standards, agrees Mr. Chadwick.

"Based on ERISA you could probably develop minimum standards in the financial area, but it's pretty clear you couldn't do a lot more than that," he said.

"What the federal people need to do is develop nationwide standards," suggested Angele Khachadour, the respected legal chief of the California insurance department. "The states would be better off by accepting preemption and going to Congress to argue the result is something we don't like."

"Maybe we should try and develop a comprehensive scheme for federal regulation of welfare plans like we have in the pension area," Mr. Chadwick said. "Of course, the problem is that as diverse as the pension universe is, it pales by comparison with the welfare plan universe."

### Federal standards

Mr. Hutchinson believes a wide ranging federal enforcement effort may not be necessary. "The private remedies in ERISA for individuals to bring lawsuits is as effective a scheme for regulation as one can imagine," he argued.

Mr. Dawson, the union fund administrator, said he could support federal standards for benefits. But Mr. Pantos opposes federal benefit requirements. "Under our system we have the flexibility of the company and the employees, through collective bargaining, to agree on their employee benefit plans," he said.

Preemption is also at issue in a series of court cases involving self-funded multiple employer trusts. One federal district court in Indiana has ruled broadly for preemption in a case now on appeal. But many believe this question may be decided on whether the trusts are employee benefit plans and not on preemption.

Mr. Pantos said the most pressing issue on preemption involves self-funded multiple employer trusts. Then the issue of maternity benefits must be decided, he observed, since employees are anticipating benefits. ■

|               |                |               |             |
|---------------|----------------|---------------|-------------|
| Aberdeen      | Adelaide       | Antwerp       | Auckland    |
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| Brisbane      | Bristol        | Bulawayo      | Bundaberg   |
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| Durban        | Edinburgh      | Glasgow       | Grenoble    |
| Grimsby       | Hamilton       | Hobart        | Hong Kong   |
| Hull          | Inverness      | Ipoh          | Ipswich     |
| Johannesburg  | Kota Kinabalu  | Kuala Lumpur  |             |
| Kuching       | Lae            | Leeds         | Leicester   |
| Liverpool     |                |               |             |
| London        | Lyon           | Malawi        | Manchester  |
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| Middlesbrough | Newcastle      | Newcastle     |             |
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| Potters Bar   | Preston        | Reading       | Rockhampton |
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## the benefit beat

# Senator urges tax break for group auto plans

**GROUP AUTO INSURANCE** may receive a big boost from a bill introduced in the Senate last month by Sen. Harrison Williams (D-N.J.). The measure (S1850) would amend the Internal Revenue Service code to permit employer and workers to make contributions to a trust fund established for group auto insurance. Currently, the Taft-Hartley Act prohibits employer payments to employee representatives except for life, health and accident insurance as well as prepaid legal services. Sen. Williams said "substantial cost savings" could be achieved if automobile insurance became part of a group package. The high selling costs factored into individual insurance premiums—about 15% of the total cost—would be avoided, reducing overall policy costs to employees, he said. Hearings on the measure by the Senate Finance Committee are not expected to begin before the fall.

**SEARS, ROEBUCK & CO.** of Chicago signed on with Damm & Associates of Cleveland for an initial benefit claims study in five to eight cities around the country where Sears wants to know more about what benefits it's paying. Joe Reddington, Sears' national director of personnel policies and employee benefits, said the Damm & Associates study is costing Sears \$15,000 for the initial phase. The retail chain now internally processes 500,000 claims a year manually, paying over \$100 million in benefits for employees under a plan that's partially self-insured and partially insured with Allstate Insurance Co. The Damm & Associates utilization study will help Sears plan for the automation of its claims processing system sometime in the future and will also help to document the reasons for regional cost differences.

**FEDERAL PENSION REFORM** legislation hasn't had any impact or has had only a minimal impact on corporate retirement policies, said 59% of the executives from 400 corporations responding to a William M. Mercer Inc. survey on retirement policies. ERISA has made retirement programs more costly to administer, said 10% of the group; pension reform created more paper/administrative work, said 13%; the law has brought about earlier vesting covering people at a younger age, said 11%. For only 5% of the companies, ERISA caused unspecified changes in retirement policy. Another 6% said the law caused confusion and problems. Increased benefits resulted from ERISA for 3%. Mercer found that a surprising 38% of the companies have pre-retirement counseling programs and those firms were pretty evenly split on their plans to expand the programs or keep them at their present level (45% vs. 44%). For 30% of the firms with counseling plans, benefits are reviewed with the person about to retire.

**CONTROL DATA CORP.** and subsidiary employees in Minneapolis-St. Paul, Los Angeles, Houston and Washington, D.C., can now enroll in a health maintenance organization. In all, 10 HMOs are being offered to more than 13,000 employees at payroll deductions of anywhere from \$6 to \$35 more than indemnity plans cost them.

In the Twin Cities, 11,000 em-

ployes have a choice of four HMOs: Group Health, Share, Medcenter Health Plan or Nicollet Eitel Family Health Plan. Control Data pays the full bill for indemnity coverage for employees. Under an HMO plan the employee would pay anywhere from \$6.48 a month with Nicollet Eitel to \$14.36 a month with Group Health. To also cover their dependents, employees making less than \$10,000 annually pay \$12 a month for indemnity insurance. The HMO costs for dependent coverage range from \$15.66 a month with Share to \$24.11 with Nicollet Eitel. Employees earning more than \$10,000 annually pay an additional \$3 under any one of the health care plans.

In Los Angeles, 1,000 employees will be offered two HMOs, Maxi-Care and Ross-Loos Health Maintenance Organization. In Houston, Prudential's HMO Prucare is being offered to 240 employees. In Washington, D.C., 1,600 employees can choose a high or basic plan with Group Health Assn. Inc. or join the Georgetown University Community Health Plan.

Control Data had been activated by federally qualified Share, Maxi-Care, Georgetown U. and Prucare. The company decided to also offer other HMOs because "they all weren't strategically located for our employees," explained Dick Petrowski, manager of health benefits and group insurance. The company has pre-

pared information packages for employees on HMOs, pointing out advantages and disadvantages. The HMOs are presenting their plans to employees on company time.

**METROPOLITAN BOSTON** will get a new HMO Oct. 1. Bay State Health Care Foundation, an independent not-for-profit physicians' foundation, is shooting for an initial enrollment of 32,000 and 50,000 by the end of a year. Already 1,500 physicians, dentists and osteopaths have agreed to participate in the open-panel HMO. Another 500 should be added by start-up. Frank B. Hall is marketing the plan, first approaching employers with 100 to 500 employees. Individual coverage in the HMO will cost

\$36.50 a month compared to \$43 for Blue Cross/Blue Shield's master medical plan. Family coverage will cost \$108 a month, \$15 less than the Blues' basic rate of \$123. Bay State HCF official Frank Sullivan says the HMO's coverage will be 15% more comprehensive than the Blues'. Bay State HCF had negotiated with the Blues for three years on marketing and managing the plan, but became dismayed with the insurers. They have different computer operations which would have complicated claims handling for the HMO. In addition, Massachusetts physicians are feuding with The Blues over fee schedules—to the point of lawsuits—and the HMO feared less physician participation if the Blues were involved.

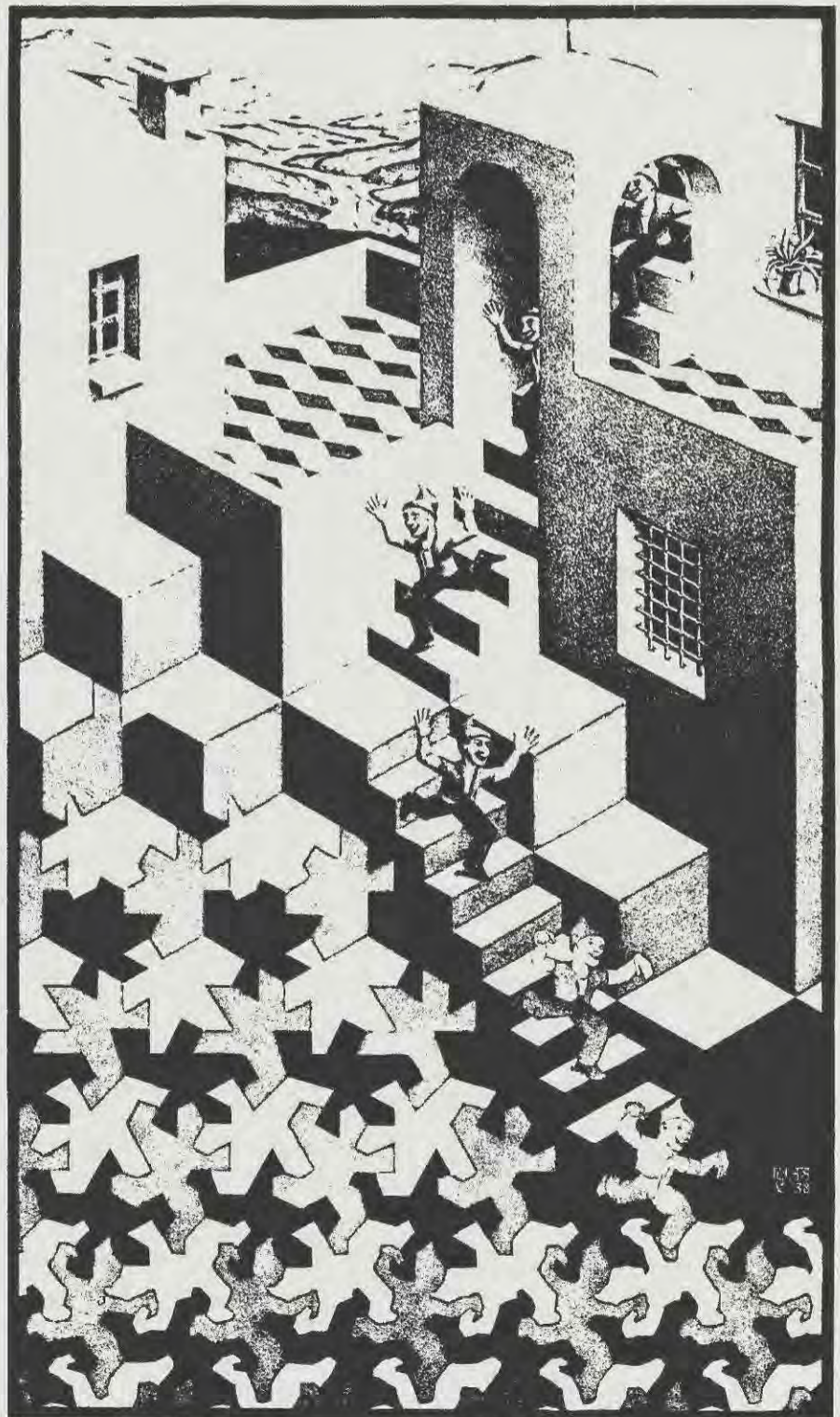
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## Business Insurance panel

## Benefit managers back Carter hospital plan

By SUSAN ALT

CHICAGO—Corporate employee benefit managers overwhelmingly believe that hospital expansion and capital spending for high-technology equipment are two of the most important reasons for soaring costs in health care delivery.

This belief is translated, moreover, into broad-based support for President Jimmy Carter's proposals to trim hospital cost inflation by slapping controls on hospital spending for new facilities and equipment and by placing a lid on hospital revenue gains in each year.

*Business Insurance's* Employee Benefit Board of 74 corporate employee benefit executives around

the country also revealed that they see hospital overcapacity—simply too many available beds—as a major problem adding to unnecessary treatment and to hospital costs.

A whopping 95% of the panelists responding to the latest benefit survey said they'd be willing to consider shutting down some hospital facilities entirely. Specifically, 52% of the group said they would like to see some hospital facilities shut down, while another 43% say this may be a solution if it were done selectively and systematically.

The five most obvious and important reasons for a high rate of inflation in the health care delivery field, said the corporate managers, are:

- Duplication of facilities and

costly equipment (33 responses).

- Too much third-party payment of hospitalization costs (26).

- Defensive medicine which leads to excessive treatment and/or testing (18).

- Hospital overcapacity—a surplus of available hospital beds (16).

- Lack of incentives for hospitals to control costs (16).

Half of the benefit managers (32) would control these problems by giving more authority to tough local or state hospital planning boards or HSAs which would coordinate the construction of hospital facilities, preventing overexpansion and duplication of equipment.

Many corporate benefit manag-

ers, in fact, strongly advocate the regional hospital approach to delivering health care, having a central facility which is fully equipped with the latest machines, such as CAT scanners, flanked by satellite hospitals having only limited bed space and equipment.

Beyond better planning and community control for hospitals, corporate benefit officials favor several kinds of nonhospital health care. Some called for more use of health maintenance organizations, (15), others urged generally more emphasis on preventive care facilities (15) and still others would like to see more individuals using outpatient surgical-centers and other outpatient treatment facilities (4).

The third most popular solution to the problem of health care in-

flation is more patient co-payment of medical bills (12), departing from the first-dollar medical benefit coverage that is now prevalent in both private and government medical programs.

President Carter's proposals, while not universally liked, have fairly broad support among corporate benefit managers struggling to keep their own companies' benefit payments under control. President Carter has said he wants to limit hospital revenue increases to 9% per year, which 46% of the panelists think is a good idea. Thirty-eight percent respond negatively to this suggestion, while 16% are neutral, not knowing whether this would be practical or workable.

However, a larger group of corporate benefit officials sees that this 9% cap on hospital revenues would be beneficial to corporations paying hospital benefits for their employees. The cap on hospitals would definitely help to hold corporate expenditures for hospitalization to more manageable levels, said 53%. Another 23% said this wouldn't help hold corporate benefit costs down, while 24% said they don't know if it would help or not.

Over three out of every four benefit managers participating in this survey believe that the President's proposed limits on hospitals' capital expenditures is a good idea.

Even some of those who don't support the idea of limitations on capital spending by hospitals agree that the control would be effective in controlling inflation in the health care sector. Nearly nine out of every 10 panelists surveyed said the lid on hospital spending would help check rising health care costs.

Four out of every five panelists think hospital expansion and spending for expensive equipment are major reasons for the accelerating expense of receiving hospital treatment.

Unable to give any simple answers to the health care inflation questions, corporate benefit managers named an average of three reasons for the rising cost of health care.

Similarly, corporate benefit managers see the solution to the problem of more unaffordable health care involving several steps rather than in just one easy cure. The panelists cited 148 different answers for how they would control health care inflation, an average of two answers per participant.

Some panelists were only reluctant supporters of Carter's proposals, noting that they don't basically like any kind of price controls. Some said the plan might provide stop-gap relief but does not address the fundamental economic issue.

The benefit manager for a large forest products concern criticized the hospital revenue limit idea by citing the absurdity of trying to control revenues and prices without doing anything to hold down hospital costs which continue to rise.

The surplus in the number of hospital beds is "only a minor problem," said the benefit official for a diversified machinery manufacturing firm. Thus, hospital shutdowns wouldn't help the inflation resulting from the "smoke screen" of overcapacity.

Another benefit manager, however, said the inefficient and old hospitals that would require complete renovation should be shut down. ■

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**Employers Insurance of Wausau**

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## editorial opinions

# 'Sue the bastards!'—one year later

**T**WELVE MONTHS have passed since *Business Insurance* asserted recommendations for reform of the legal system to reduce the rate at which liability awards were spiraling upwards.

One year later, our predilection as a nation to 'Sue the bastards!' when we're wronged in any way is unmitigated. More of us are suing each other and the country's businesses than ever before. A growing problem remains unsolved.

One year later, legislative efforts to introduce sanity and efficiency into an overworked tort liability system are straggling. Only a few states have enacted laws shortening the statute of limitations on personal injury cases, along with several other weak attempts to limit litigation to only the most meritorious of cases. Oregon, Colorado and Utah are the only states to have enacted laws reforming product liability obligations.

The general understanding of the public at large remains limited when it comes to recognizing who pays the bills for more expensive insurance to cover ever-rising damage awards.

- Judges and juries alike appear to have ignored in large part the long term impact of million-dollar payments.

Little progress has been made in limiting the size of the large contingency fees lawyers earn, making many of them into instant millionaires along with their clients and providing incentive for more legal actions.

Payments for the nebulous hardship known as "pain and suffering" continue to mount, leaving little hope that courts will soon reverse their trend toward rewarding the litigious and discouraging the honest wage-earner who doesn't sue everybody in sight.

Not all is gloom and doom, however. The past 12 months have seen several promising developments which might help tilt the scales of justice back toward equilibrium and sanity.

- Lawyers, always hungry for business, are becoming less loath to sue each other. Clients, too, are more prone to seek redress against a lawyer who's given bad advice or has acted unprofessionally. Thus, those who have added to the legal liability problem in this country are themselves feeling the sting of heavier personal and professional responsibilities.

Those who've borne the brunt of frivolous or malicious lawsuits have begun to defend their own rights by countersuing plaintiffs and their attorneys for unwarranted use of the courts. Doctors first adopted this offensive approach to defending their rights and reputations from the onslaught of nuisance medical malpractice actions. And they're winning.

Hopefully, these responses, coupled with tough defense postures adopted by businesses that are sued, will serve to stem the tide of suits by people aiming to make a quick buck off the system.

With the lessening of the liability insurance crisis has come a lessening of concern about the long term effects of escalating liabilities and their economic costs, we fear. Now

that doctors and hospitals are insuring themselves for malpractice or are going bare, less thought is being given to vital reform of the legal system.

- Notwithstanding the slow progress of tort reform bills in the states, several organizations are energetically lending their assistance to such efforts. The National Assn. of Manufacturers and the National Assn. of Wholesaler-Distributors are operating as clearing houses for information about the 200 bills that have been proposed in various states.

Even some individual RIMS members have worked tirelessly as witnesses giving testimony on the liability problem, although as an organization RIMS has had some trouble getting itself together.

Despite the best of intentions, boosters of tort reform at the state level have generally been clobbered by the trial lawyers. State bar associations use their influence very successfully to avoid any reform that might lessen the liability litigation business that's available for lawyers.

Internal bickering, too, has hindered tort reform. If the courts are clogged with too many liability suits, state legislatures are sometimes clogged with too many bills. Take Texas, for example, where 13 different bills complicated the tort reform horizon so badly that no resolution or compromise was possible. Not a single reform bill survived the battle.

- Among the measures we advocated a year ago and recommend again are several that would speed justified cases through the system and result in fairer recompense for injured parties. Moreover, we've called for several changes that would once again restore our judicial system to its proper role as a last resort for resolving disputes.

Most important, however, several of the reforms we've advocated would discourage people from thinking they're entitled to get rich at somebody else's expense and using the courts to do it.

It's imperative that managers of corporations and institutions, as well as the entire insurance industry, continue to push for changes at their local and state levels. We urge concerted efforts to reform the system in the following areas:

- Limitation of contingency fees paid to lawyers.
- Creation of arbitration boards and arbitration appeals boards outside the judicial system to resolve disputes.
- Elimination of jury recommendations and jury determination of court awards.
- Establishment of compensation boards within the judicial system, headed by trial judges, to determine compensatory awards.
- Limitations on payments made for non-economic losses such as those for pain and suffering.
- Responsibility of the plaintiff for all costs incurred by the defendant if the jury rules in favor of the defendant.
- Payment of all punitive damage awards into state rehabilitation funds, taking those penalties out of the hands of plaintiffs.

## letters

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

### Insurers' profit

To the Editor: Marie Krakowiecki sure runs into some interesting people. Imploding eyeballs...one issue (you never told us how it happened), Fishbait Miller the next. But you're right, none of that is half as interesting as trying to figure how the insurance industry is going to bury and/or explain away its slightly bloated earnings (riskWatch, June 11).

But what are we going to do about it? Suffer the slings and arrows of outrageous fortune? I am inclined to think we will. Hamlet's alternative was to take arms against a sea of troubles and end them. Obviously he had not spent too many hours arguing and pleading with underwriters, to be told at the last minute they had to submit his proposal to home office.

I am sure many risk managers and brokers have had vengeful thoughts after being led down the garden path by careless underwriters. I have extolled the merits of long term relationships with insurers—they'll stand by you if things get tough—it isn't good business to switch around from company to company. But if we ever get out of this mess we'll still do business at the same old stand. Unless in your travels you run into someone who has an answer.

Stanley C. Brock

President, The Lukes-Brock Co., Milwaukee, Wisc.

### An omission

To the Editor: Because we didn't receive the proper questionnaire this year, our firm didn't appear in the sixth annual Agent/Broker Profiles Issue. To bring the record up to date, the following facts would have been submitted:

Wright & Co. is located at 1001 Connecticut Ave. NW, Washington, D.C. 20006; 202-331-1550. We have a new branch office in London, England, as of June 1, 1977. Our principal officers are Frank L. Wright, president; Michael R. Ward, vp; Robert M. Beckman, secretary; Betty R. Wright, vp and treasurer.

We had 16 employees at the end of 1976, one more than we had at

Continued on page 8

## business insurance

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SINCE 1967

**letters***Continued from page 6*

yearend 1975. Gross revenues rose in 1976 to \$800,000, up from \$600,000 in 1975. For 1976, 98% of our business came from commercial accounts, compared with 99% in 1975. Compensation is based on commissions and fees.

Our new London office is located in the City, headed by Brian Self and will be producing business not only in the U.K. but also throughout the European Economic Community and other areas around the world. Last winter, we did a thorough survey of the U.K. market and found there was a great opportunity to provide employe benefit programs which are not being filled.

We also feel there is a need for commercial mass merchandising programs. Imagination used to set up such programs is much easier

in the U.K. market which does not have the rigid and fragmented regulations existing here in the 50 states. Also having a London office to service U.S. accounts where they have U.K. or to other international locations is most helpful.

We are also considering a joint operation in the Middle East in the belief that insurance service is needed in this rapidly developing area.

**Frank L. Wright,**

President, Wright & Co., Washington, D.C.

**Cost controls**

To the Editor: For a long time, Blue Cross and other health industry insurance carriers have been giving lip service to the question of cost controls on health insurance. The economic factors of maintaining the premium flow, the work force and working relationships with both the health industry and the patient and his physician has caused the Blues and the private health carriers generally to pay third-party claims as submitted and send the bill to the employer.

The growth of ASO contracts will reduce the premium flow and enable the insurance companies to concentrate on some of the cost control aspects by charging fees for these services.

It would be good to see the health insurance industry review the hospital and other health care costs on a state wide basis to develop current statistical data concerning the standard of care as well as the level of costs. For example, if the standard of care for certain surgical procedures in New York State were developed statistically, the practice of defensive medicine could be reduced and the adherence to the standard of care could be used as defense against malpractice claims.

**Ezra Lifshitz**

President, Risk Management Consultants Inc., New York, N.Y.

**errors & omissions**

The following profiles were submitted too late for inclusion in the July 25 Agent/Broker profiles issue.

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|-------------------------|--------------|--------------|
| Premium vol. . . . .    | \$ 3,575,930 | \$ 3,452,986 |
| Gross rev. . . . .      | \$ 513,361   | \$ 486,828   |
| Employees . . . . .     | 33           | 37           |
| Commercial bus. . . . . | 95.6%        | 95%          |

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|                         | 1976         | 1975       |
|-------------------------|--------------|------------|
| Premium vol. . . . .    | NA           | NA         |
| Gross rev. . . . .      | \$ 1,425,000 | \$ 998,000 |
| Employees . . . . .     | 52           | 35         |
| Commercial bus. . . . . | 85%          | 75%        |

Principal officers: Raymond H. Laub, president; George Stevoff, executive vp; Robert A. Stewart, administrative vp.

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# N.Y. merchants complain insurers balk at claims; others disagree

NEW YORK—Claims from the blackout that caused \$30 million in insured losses are still being processed, but already merchants and several New York congressional representatives have complained that insurance companies are balking at paying claims.

The complaints were sparked when some insurance agents told merchants that looting damage would not be covered unless the looting was officially declared a riot.

Most merchants had looting coverage under the extended coverage portion of their fire insurance policies. This coverage only applies during riots or civil commotions.

But, according to W.J. Perry, assistant vp of the American Insurance Assn., "It doesn't make a darn bit of difference whether officials call it a riot."

Insurance companies will determine if a store's looting occurred during a riot or in a riot area as they inspect each claim individually.

"There's no way you can issue a blanket and say all claims will be paid," Mr. Perry said. "They want to pay the legitimate claims, but if they pay too many claims, the insurance department will be down their necks and the public will be yelling about higher premiums."

While some merchants will not be covered for looting damages, Al Haggerty, vp of the Insurance Information Institute, said, "There is no question that the bulk of the claims will be paid. The insurance companies certainly intend to pay every claim that is covered in the merchant's policies."

Despite these assurances, however, deputy superintendent of insurance John Lennon declared that "insurers must abide by all terms of their insurance contracts." He also instructed the department's general counsel to review the policy language, claims practices and prior court determinations regard-

ing extended coverage attached to fire insurance policies.

Mr. Lennon made the declaration after congressmen Fred Richmond (D-Brooklyn), Ted Weiss (D-Manhattan) and Elizabeth Holtzman (D-Brooklyn) met with him to discuss their concerns about insurers balking at paying claims.

Robert Hunter, deputy federal insurance administrator, also expressed concern about rumors that

insurers were not going to pay.

"I was approached by merchants when I toured the looted areas who said agents had advised that looting wouldn't be covered under extended coverage," he said. "But as far as I know, no insurance company is balking at paying claims."

The Federal Crime Insurance Agency and the N.Y. FAIR plan, the major insurers for the store-owners' damages, said they are

judging their cases on an individual basis.

Approximately 800 claims have been filed to the Federal Crime Insurance Agency, which is bracing for 1,250 claims and more than 600 claims have been sent to the FAIR plan.

The Federal Crime Insurance Agency intends to make a "liberal interpretation" when determining whether looting occurred during the time period of a riot or in a riot location, according to Mr. Hunter.

"If looting destroyed stores that were concentrated in a six-block area, and one block over another store was destroyed, then we intend to pay the claim," he said.

But he added that if a store was looted in an area that was distant from the concentrated looting, the claim wouldn't be paid.

Merchants will also be barred from collecting damages if the looting of their store occurred several days after the blackout.

According to Richard Breuckner, president of the FAIR plan, his company will "be waiting for people to prove their cases. We have to interpret facts within the individual contracts." He added that the FAIR plan expects its claims to total \$20 million.

No estimates on the total number of claims from business interruption were available from the American Insurance Assn. ■

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## Checker reserves

KALAMAZOO—Checker Motors Corp. carries on its books \$831,546 in reserves for personal injury and property damage claims, according to its annual report for 1976. These reserves are up from \$673,580 at yearend 1975.

In its working capital statement, Checker reported to shareholders that the increase in these reserves provided \$157,966 in funds during 1976 versus \$35,801 in funds during 1975.

Checker also said it decreased its equity in Calumet Mutual Insurance Co., a partially owned division of Checker, providing \$59,707 in working capital during 1976 compared with \$44,738 in working capital provided in 1975. This increase in funds resulted from a decrease in policyholders' surplus.

A Checker subsidiary, Yellow Cab Co., places all of its insurance coverage for personal injury and property damage with Calumet Mutual and is virtually the only policyholder. Insurance premiums paid to Calumet Mutual totaled \$2,672,120 in 1976 versus \$2,110,170 in 1975, Checker Motors said.

Calumet Mutual has reserves for losses, claims, and loss adjustment totaling \$2,223,601, up from \$1,898,714 in 1975. ■

Pittsburgh plan is most aggressive

# Blue Cross moves into prepaid legal—cautiously

By FRANK MARKOWITZ

NEW YORK—Blue Cross, the nation's largest health insurer, is now moving into prepaid legal insurance. Although caution characterizes most efforts, at least one plan has the ambitious goal of enrolling 60,000 persons by 1979.

Minnesota and New Mexico Blue Cross units are experimenting with small, controlled projects. Indiana's Blues will possibly be-

gin a plan this fall. Blue Cross plans in Greater New York, New Jersey and Maine have shown serious interest, but have run into state legislative restrictions.

However, Western Pennsylvania Blue Cross is by far the most ambitious. The Pittsburgh-area unit hopes to enroll 60,000 subscribers and dependents by 1979 and tap a growing market in the 1980s, according to vp Robert Schuler.

With premiums averaging \$84

to \$96 a year for individual and family coverage, Western Pennsylvania projects prepaid legal revenues of seven figures by 1979.

Initially, the insurance will be offered only to employer and association groups as an employee benefit by a special Blue Cross subsidiary. If enough interest develops, Mr. Schuler said, his unit might then extend the plan to individuals.

Blue Cross spokesmen through-

out the nation believe legal insurance is gaining support among unions, although a number said strong interest is still sometime off in their areas. Boosters point to the United Auto Workers plan to provide legal coverage for 150,000 Chrysler employees as a bellwether for other unions.

One obstacle to immediate expansion in this field is antagonism toward rising health insurance costs, according to a number of

Blue Cross spokesmen.

"We spend enough time just trying to tell people why their health care costs are going up without telling them, 'Hey, we've got a nifty new benefit.' That's the way to get thrown right out the door," said one Blue Cross representative.

Whether local interest in legal insurance currently equals Mr. Schuler's expectations is an open question. Most Pittsburgh employers and unions contacted by *Business Insurance* showed only mild interest in the prospective offering and had little knowledge of it.

Employe benefit managers at Alcoa (Aluminum Co. of America), Westinghouse Electric Corp. and Pittsburgh National Bank said they don't see much immediate employe pressure for the coverage. Spokesmen for the United Steel Workers and the Service Employees International Union ranked legal insurance behind other benefits.

Mr. Schuler believes there is strong and growing national interest, largely resulting from a recent change in the tax laws making prepaid legal insurance coverage deductible for both employer and employe. A 1972 revision of the Taft-Hartley Act, making legal insurance a negotiable demand, may have opened the door, according to Mr. Schuler and others.

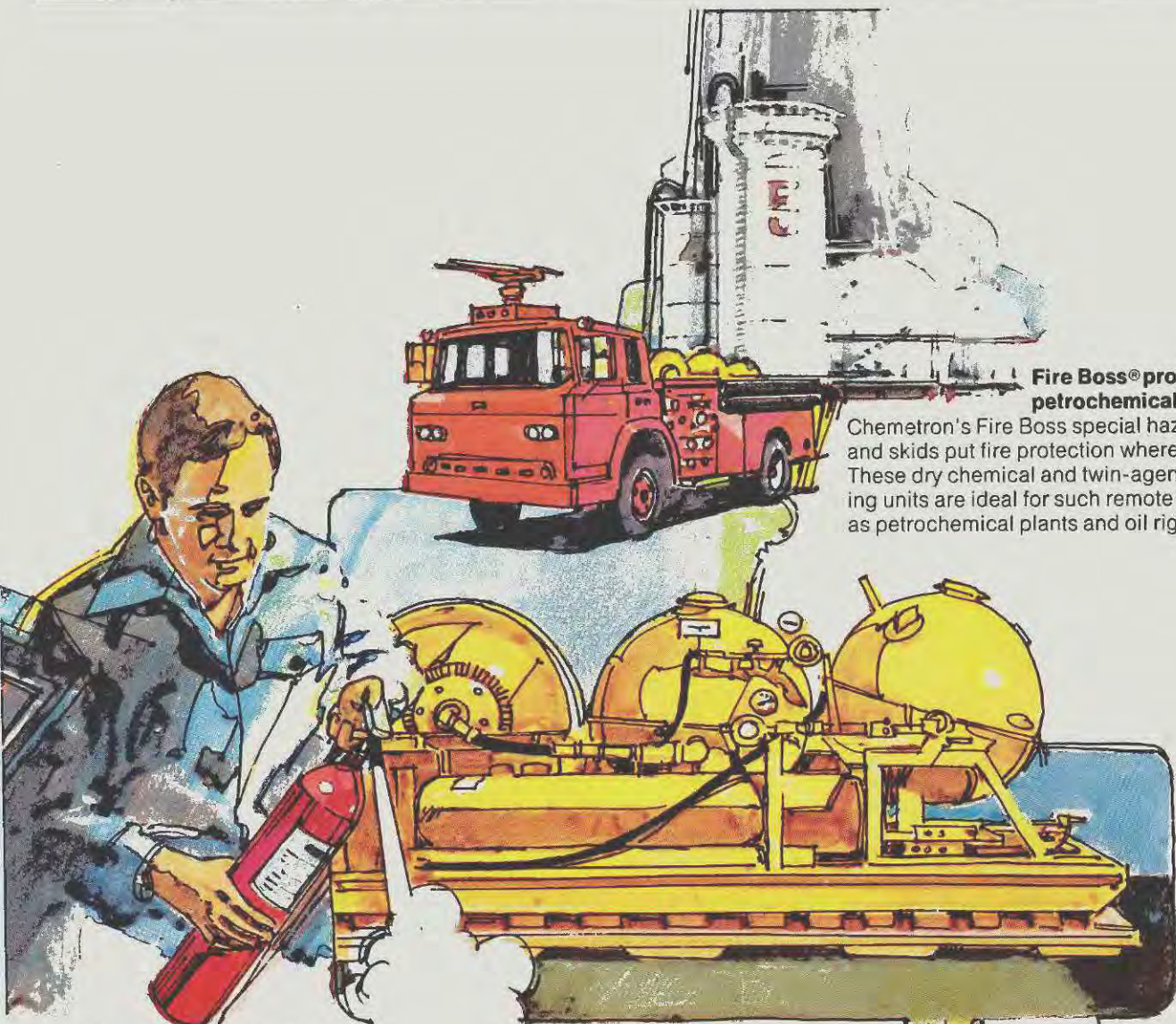
The Western Pennsylvania plan is a modified open panel model, contracting with independent lawyers throughout the region. Blue Cross initiated it after getting favorable results from a 1972 market survey in the Pittsburgh area.

An open panel allows a subscriber to choose an attorney of his choice; a closed panel plan limits the choice to attorneys agreed to by the program.

"Legal insurance was given a very high rating by people who responded to our survey. We found that we'd be meeting a social need by making this service more readily available and affordable to the public," Mr. Schuler said.

The Western Pennsylvania unit will offer a three-step plan. The basic policy will cover consultation and legal services, such as document preparation, up to a maximum of about 30 hours annually. Premiums will run \$36 to \$48 annually for individual coverage and \$60 to \$72 for families.

Continued on page 12

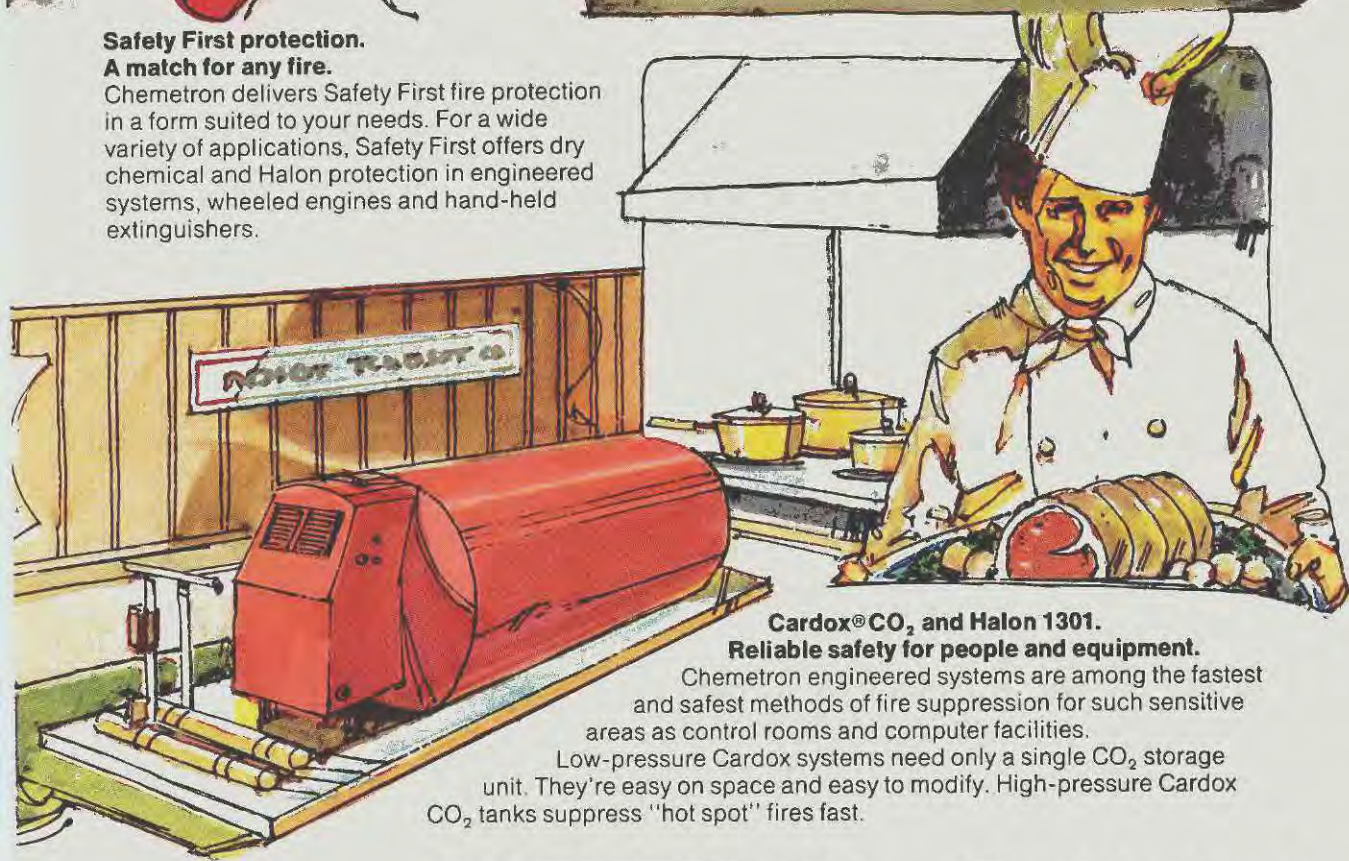


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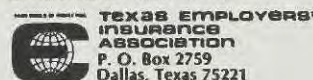
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# Legal . . .

Continued from page 11

A first endorsement will include courtroom defense and negotiation up to \$1,000 a year and \$500 a case. Premiums for plans with this endorsement will rise to \$60 up to \$85 for individuals and \$95 to \$120 for families.

The second endorsement is comparable to major medical coverage, Mr. Schuler said. It will cover 80% of legal costs up to \$5,000 annually, with a \$100 to \$200 deductible. Premiums for this extensive coverage will be approximately \$85 to \$110 for individuals and \$130 to \$165 for families.

The basic policy contains strict limits on specific legal services, Mr. Schuler noted. For example, a policyholder is entitled to a maximum of four hours work on an adoption.

This is a precautionary measure, Mr. Schuler said. "We don't

know what the average usage is going to be. This is a new field and there has to be some way in which a carrier can limit his liabilities, or a policy could be showing \$3 to \$4 for individuals and \$5 to \$6 family (in monthly premiums) and it could be costing you \$10 or \$20."

**While coverage** for plaintiff actions will not be offered at first, Mr. Schuler said Blue Cross may eventually include this benefit with safeguards against abuse by suit-happy policyholders.

"I can see down the line developing it in some policy where there's a good coinsurance feature, perhaps a 50-50 sharing so the plaintiff has some stake in the action. But we've got to get experience first."

That cautious attitude is reflected by the other Blue Cross units testing this new market.

Buyer interest in legal coverage seems to vary widely, depend-

ing on the geographical area, the type of industry involved and local union pressure.

Minnesota Blue Cross has a subsidiary in its second year of administering limited legal coverage for 400 teachers.

"The teachers' program has been quite successful," a project worker said. The 400 teachers used about \$13,000 worth of benefits in the first year and 30% to 35% filed claims for advice and office services, according to researcher Barbara Johnson.

The program was jointly initiated and funded by the Minnesota Bar Assn. the Minnesota Educators Assn. and Blue Cross.

A Minnesota Blue Cross spokesman doesn't foresee expanding the program in the near future. He believes any growth in the field will come from pressure by very strong unions, like the UAW, which already have extensive employee benefits in traditional categories.

By contrast, an Indiana Blue Cross representative believes his heavily-industrialized state is an excellent market for prepaid legal insurance.

**Like other Blue Cross** legal programs, the Indiana proposal would have a strict schedule of indemnity limits. Blue Cross is not allowing participating attorneys to set "usual, customary and reasonable fees" because of concern over price fixing.

"We're not going to let the lawyers rape us like doctors sometimes have," said an Indiana spokesman.

The Indiana open panel pilot program is aiming for a fall start and hopes to serve 2,000 to 3,000 members the first year.

Premiums will be about \$72 annually for a \$265 limit for office services, \$1,500 for courtroom defense, \$500 for administrative actions such as real estate closings and \$500 for marital actions. ■

# Flood loss estimated at \$42 million

By FRANK MARKOWITZ

**NEW YORK**—Federal flood insurance should cover the vast majority of claims resulting from the recent Johnstown flood, which caused \$100 to \$200 million in damages as it roared through eight Pennsylvania counties.

The 14,000 federally subsidized policies in the area will cover 30% to 50% of total losses, predicted Sam Wiese, general manager of the National Flood Insurance Assn. He said that the NFIA, a partnership between 132 insurance companies and the federal government, is practically the only carrier insuring against flood loss in Pennsylvania.

Insured losses totaled \$42.5 million, the American Insurance Assn. announced, with only 10% of that in commercial policies. The AIA also said that NFIA is the only significant commercial underwriter affected, except for \$1.5 million in anticipated inland marine merchandise-in-transit payments.

Following a nine-inch downpour on the night of July 19, the Conemaugh River overflowed its concrete-reinforced banks and raced through a large valley not far from Pittsburgh. The waters killed at least 62 people, displaced thousands and left many buildings in rubble.

**Commerce in the area** is largely limited to retailers, restaurants and small manufacturers. The major exceptions, mines and steel plants employing over 12,000 workers, were severely damaged by water. But spokesmen for Bethlehem Steel Corp. and United States Steel Corp. said their facilities are self-insured. They declined to estimate the damage.

Claims processing is being handled as fast as possible Mr. Wiese said. In those frequent cases where damage is obviously greater than the value of the policy, the claim will be paid before a full adjuster's report.

A large percentage of those covered by NFIA bought policies just this winter after Governor Milton Shapp urged the purchase of such insurance. Fear of flooding from ice-swollen rivers during the severe winter also prompted NFIA to start a major marketing effort.

One NFIA official estimated that 85,000 policies were added in the state in about one month.

**Mr. Wiese said** that if the flood had occurred several years ago only 10% of losses would have been covered, compared to the 30% to 50% estimate this time. At the end of 1975, NFIA had 400,000 policies; today the figure is close to 1.5 million.

The federal flood insurance program will not be the only source of aid to the area.

The Small Business Administration opened up shared field offices in the Johnstown area and is prepared to write up to \$100 million in loans for the region, according to J.B. Alexander, chief of disaster operations for the SBA. Commercial loans, available up to \$500,000, carry interest of 6%.

Johnstown is no stranger to flood disaster. Eighty-eight years ago 2,300 persons died when a Conemaugh dam collapsed, and that catastrophe went into legend as the "Great Johnstown Flood." After a smaller flood in 1936, the U.S. Army Corps of Engineers spent some \$7 million on flood control projects, apparently to no avail in the recent disaster. ■

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## Carter backs later age on retirement

WASHINGTON — The Carter administration has backed federal legislation calling for the end of mandatory retirement at age 65.

Labor Secretary Ray Marshall said the administration supports legislation that would forbid private employers from forcing workers to retire before age 70.

A bill (HR 5383) introduced by Rep. Paul Findley (R-Ill.) would do just that as well as eliminate mandatory retirement for federal employees.

Mr. Findley's proposal cleared the House Education and Labor Committee in July by a sweeping 33-0 vote, an indication of the massive congressional support behind the measure. The Illinois congressman told *Business Insurance* that he expects the full House to act on the bill in September.

Over in the Senate, Sen. Jacob Javits' (R-N.Y.) proposal (S. 1173) would gradually raise the age of retirement so that by 1985 involuntary retirement would be eliminated completely.

A bill (S. 1784) with a more limited scope, introduced by Sen. Harrison Williams (D-N.J.), would raise the retirement age to 70 in three steps over a two-year period following passage. Hearings on those proposals have not been scheduled yet.

On the judicial level, the Supreme Court will hear arguments next term on whether companies can force employees to retire before age 65.

At issue is whether a United Airlines pension plan that requires retirement before age 65 violates the 1967 Age Discrimination in Employment Act.

The outcome of the Supreme Court decision and the bills in Congress will have a major impact on thousands of pension plans across the country. A recent Labor Department study found that about 40% of all pension plans require mandatory retirement usually at age 65.

Meanwhile, a study of top executives at 400 companies showed that 65% favored mandatory retirement at age 65, 32% were opposed and 3% didn't know.

The need to "create job openings and advancement opportunities for younger people" was the biggest reason executives favored mandatory retirement, according to William H. Mercer Inc., an employee benefits consulting concern.

Plans to allow employers to retire in their early fifties, however, were favored by 49% of the executives. These executives reasoned that early retirement allows companies to rid themselves of poor performers and lets employees pursue personal interests at an earlier age. Of the executives polled, 32% opposed early retirement programs, saying the program is expensive and deprives companies of valuable employees. Some 19% didn't know whether they favored or opposed early retirement. ■


### New post

William V. King has been elected president of the Los Angeles chapter of the Insurance Accounting and Statistical Assn. He is vp and treasurer of National American Insurance Co. of California in Lakewood, Calif.



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## London line

# U.S. business improves for U.K. insurers

By JOHN H. MILLER

LONDON—Business in the U.S. showed a marked improvement last year for many U.K. insurance companies as their total underwriting losses fell to \$122 million in the fire, casualty and auto sections compared with \$198 million in 1975.

This was on the basis of premium income which rose to \$2 billion from \$1.5 billion in 1975. The loss ratio was cut from 13% in 1975 to 5.9%.

But it was mainly in the auto section that they benefited, largely through the effect of selective underwriting combined with rate increases in some areas it is reported.

These returns relate to companies in the British Insurance Assn. which operate in the U.S. The global results for Lloyd's will be issued separately in September.

World premium income of the 300 companies in its membership rose to \$10 billion, but underwriting losses fell to \$250 million, a loss ratio of 2.7%.

Unfavorable trading conditions were reported from many countries in Western Europe, particularly in Belgium and the Netherlands.

Now the British Insurance Assn. is planning a \$1 million campaign to fight a Labor Party scheme to nationalize seven leading U.K. insurance companies.

The Labor-controlled U.K. Government under Prime Minister James Callaghan has not yet accepted this scheme for legislative process and there will be strong opposition from the opposing Tory Party to any political moves which might affect the future of the nation's insurers. Lloyd's will in any case be excluded from any potential state ownership.

### Shipping casualties

Shipping casualties in the first six months of 1977 may cost insurers more than \$200 million, according to sources at Lloyd's intelligence department.

There have already been 23 agreed settlements so far this year and many more serious casualties are under examination with a view to losses being accepted.

But gross tonnage lost has fallen to 321,399 tons compared with 495,571 tons in the first half 1976.

### C.U. pullout

The effects of Commercial Union's decision to pull out of direct business in West Germany and Austria are now being studied in London where it is felt its U.S. operations may benefit through greater capacity.

But Jack Emms, newly promoted chief executive of Commercial Union, told *Business Insurance*: "We're not sure yet where we will use the money from the sale of our business interests in these two countries."

### Benefit payments

Benefit payments by U.S. life insurance companies totaled \$24.6 billion during 1976, an increase of 9.2% over 1975, according to the American Council of Life Insurance. Payments to policyholders and annuitants totaled \$15 billion last year, an increase of 12.5%. Payments to beneficiaries totaled \$9.6 billion, a 4.4% increase.

"We will consider in the course of our planning exercises for 1978 which territories can make best use of the money that will become available."

The decision to sell its two local subsidiaries to Allianz Versicherungs, a big German group, was made by C.U. because it felt the proceeds could be used more profitably to support its other overseas operations.

This will amount to about \$25 million, representing less than 4% of its assets and will free the company from operations which have not been notably successful.

The group's German subsidiary, Deutsche Elementar Versi-

cherungs, made a small loss in its last financial year on premium income of \$14 million. The Austrian subsidiary, Anglo-Elementar Versicherungs, moved into a small profit on premium income of \$63 million.

Foreign operations of Commercial Union are being reviewed in the normal way following the departure of its former chief executive Gordon Dunlop, who was in charge when major cuts were made in its U.S. business.

But Mr. Emms emphasized: "There is no present intent to dispose of shareholdings in any other subsidiary companies. We'll continue to cover international

risks in both Germany and Austria and will maintain our agency connections. We're only making the change because we believe the two companies will have better opportunities for local expansion and profitability under Allianz."

### Lloyd's man

Douglas Greenall, head of information and publicity at Lloyd's of London, is to retire in October after 42 years' service with the Corporation of Lloyd's. He will be succeeded by C. Leonard Kirby, currently chief press officer, whose vacancy will be filled by

David Larner, also of Lloyd's information department.

### Marine safety

Marine insurers are welcoming new moves to improve ship safety which have been supported by Britain and other North European countries.

They are expected to form part of an international convention which will legalize minimum standards for all aspects of marine operations as soon as it is brought into force.

It was drafted initially last year and it can become effective as soon as 10 countries representing 25% of world tonnage agree to comply.

Britain is expected to ratify by end-1978, supported by other European countries as well as Japan, but the position of the U.S. is felt in London to be problematical as it is considering domestic action on merchant shipping. ■

## Announcing Honeywell's Alpha 1000.

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For fire protection, you can start with a basic fire detection and alarm system, then add "event commands" to provide control of fire doors, elevator capture and smoke control. Guard tour

## Association, Zurich-American at odds

## Loggers' program cancelled, group uninsured

By MARIE KRAKOWIECKI

NEW YORK—Loggers in New England have been uninsured since August 1 when Zurich-American Insurance Co. cancelled the safety dividend program it agreed to write for the wood harvesters and processors back in 1974.

The insurance company says it was losing money on the account and that the 1,000 members of the Northeastern Loggers Assn. (NELA) refused to cooperate in implementing the safety programs which Zurich-American developed.

But the insurance agency whose two co-owners originated the program is bitter about the cancella-

tion and claims that Zurich-American shortchanged the loggers on loss control engineering, was sloppy in its record-keeping of loss ratios and held budget meetings which excluded the NELA program from being considered even while it promised that the program would be reviewed.

"One of our biggest complaints aside from the way we have been handled is that Zurich-American never spent anywhere near the monies allocated, approximately 10% of premium, for loss control services. In fact, we question whether any loss control services were performed for this group after September of 1976," said Ernest E. Poore, one of the agents.

Mr. Poore and his partner Les Young own and run ForPac, the Norwich, Conn., forest products agency company that created the loggers' plan which provided workers' compensation and property/casualty coverages for NELA members in six New England states. Zurich-American agreed to write the program after ForPac had been turned down by 15 other companies.

The basic part of the program was the workers' compensation coverage, which became effective in April 1974. But Zurich-American also wrote optional coverages various property/casualty lines such as general and automobile fleet liability and equipment

floaters for large machinery, covering damage due to fire and other perils.

By the end of 1975, NELA members had paid Zurich-American about \$1 million in premiums for the program and received an oral statement from the Chicago-based insurer that it would remain committed to underwriting it on a long term basis.

Less than four months later, a Zurich-American product manager working on the program sent ForPac a letter saying the insurance company wouldn't renew the coverage. ForPac appealed to R.M. Jamieson, Zurich-American's president, asking him to intervene to keep the program going.

According to ForPac, on April

11, 1976, Zurich-American agreed to stay on the program for one more year, but that it would add no additional business after Sept. 1, 1976.

ForPac claims that once Zurich-American made this decision, it made drastic cutbacks in the loss control services it provided for the account even though it had been paid to perform them.

It further claims that Zurich-American's loss run figures for the account had gross errors of \$300,000 which adversely affected the NELA loss ratio.

The insurer, according to ForPac, had said it would review the program based on loss figures and would give serious reconsideration to staying on the risk. But when ForPac met with company representatives in March 1977, they told the agency the NELA program could not be entertained regardless of the figures because the company had not budgeted to service the account at its budget meeting in January.

ForPac called its interactions with Zurich-American between January to the end of March an "exercise in futility." ForPac said it had been told in the beginning of January that Zurich-American

Continued on page 16

monitoring, voice messages to instruct building occupants, and fire department intercommunications can also be added.

Other Alpha capabilities include the monitoring of fire sprinklers and water supply valves as well as temperature and humidity in critical locations. Even total building environmental controls can be added. Whatever your needs, Alpha can grow and change with you, easily and economically.



### How Alpha's comprehensive protection works.

Complete, centralized control is the key to Alpha's effectiveness. When a fire or intrusion occurs, the system detects it early, reports it promptly, and automatically directs a series of planned responses. Your Alpha control center becomes an emergency command post, providing up-to-the-minute status

reports, pinpointing trouble spots, recording all events as they happen, controlling all building mechanical systems.

Important options include a television tube (CRT) display which reports alarm locations and an automatic printer which records all messages in full English language. Two-way voice communication can also be provided, along with standby battery power to operate protective systems should primary power fail.

In short, Alpha can deliver the highest level of fire and security protection you need.

### Solid cost-savings are built-in.

Alpha 1000 makes dollar sense, too. Honeywell design know-how helps keep both upfront and operating costs down.

The system's "brain" is a highly versatile, but relatively inexpensive microcomputer. It's human-engineered for easy operation. There's no computer language to learn, no need for special training. Basic systems transmissions are multi-plexed; that is, all messages travel over one low cost pair of wires. And the use of thrifty, leased telephone lines makes it practical to link a number of buildings with one Alpha control center.

Most importantly, Alpha can reduce your risk and the cost of insuring yourself against it. Along with increased protection comes lower security manpower costs. Adding environmental

controls can add energy savings, too. The more ways you use your Alpha 1000, the more cost-effective it becomes.

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With every Alpha 1000 system comes the unique combination of experience and technological skill that has made Honeywell a world leader in building control systems. You can depend on high reliability and advanced state-of-the-art components. Honeywell's on-site backup also aids installation,



system checkout and training. What's more, our nationwide service network can provide both ongoing maintenance and emergency repair service.

There's a lot more to Alpha 1000 than this ad can tell you. Please write Honeywell Commercial Division, Dept. X408, Honeywell Plaza, Minneapolis, MN 55408. Let us show you why and how Alpha protection makes common sense for you.



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The Asset Management Professionals

# Loggers' program . . .

Continued from page 15

would review the loggers' program but could not meet with ForPac until sometime in February because of the budget meetings.

ForPac was upset. Historically, loggers have been considered a poor risk by most insurance companies, and as an insurance specialist in the forest products industry, ForPac knew it wouldn't be easy to get another insurance company to take over the program. It says that most loggers and sawmill people wind up in assigned risk pools and are charged an additional 8% over prevailing premium rate.

It asked Zurich-American to consider some individual logger's accounts, but the company said it would not last June. The month earlier, ForPac wrote to Connecticut Democratic Congressman Christopher J. Dodd. As a result of his intervention one major insurance company said it would look at individual logger's risks, but so far ForPac hasn't had any response.

In fact, since Zurich-American announced its plans to cancel the loggers' program, ForPac said it has been turned down by at least 15 to 20 insurance companies. Les Young said the number might be even higher than that, because he and Ernie Poore tried to work through brokerage wholesalers as well and had no idea how many insurers the wholesalers had contacted on the loggers' behalf.

Zurich-American maintains that the reluctance of other insurance companies to get involved with the loggers' program is a pretty good indication that the risk is poor one.

William K. Keenan, vp in charge of Zurich-American's Eastern zone said that through March 1977, the earned premiums on the loggers' business were \$2,084,647, but incurred losses were \$2,092,232, statistics which indicate better than a 100% loss ratio, aside from expenses.

Zurich-American admits having provided the wrong loss control figures to ForPac on the account, however. It says the mistakes were due to obtaining figures

from the Boston division only.

The company said there was a misunderstanding because one of its own employees made a statement that the company did not budget for the account. "What he meant" a Zurich spokesman said, was that after August 1976, written premium projections did not include monies for loss control services. The employee mistook a projection of written premium for an expense item and loss control is an expense and would not normally be included on such a projection, the company said.

Zurich-American said that since August 1976, its records show that it made 30 loss control visits to accounts serviced by ForPac, but that like many of the visits it had made before, failed to get

adequate cooperation.

ForPac stands by its assertion that Zurich-American did not provide adequate loss control engineering, however.

Les Young says that despite Zurich-American's claim to making 20 visits for loss control after August of 1976 that ForPac did not receive a single loss control report on any account from the insurance company during that time period.

"To me that would mean either that there were no inspections made during that period or that we've got superior risks that wouldn't require any recommendation," Mr. Young said drily.

ForPac expects most of the employers to wind up back in assigned risk pools with an 8% surcharge and few loss control services. The end result, they say, would force small employers out of business or outside the law by providing no workers' compensation coverage. ■



Loggers have historically been considered poor risks by most insurance companies. Cancellation of the Zurich-American program may force small employers out of business.

## MEMO FROM MARSH & MCLENNAN



## Isn't that doll in the middle worth the price of a smoke alarm?

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## around the states

# Pennsylvania eyes lid on work comp rates

HARRISBURG—Legislation has been offered in the Pennsylvania house that would prevent boosts in workers' compensation rates for small firms with good safety records.

The measure provides that premiums of less than \$1,000 on policies against which no claims have been filed shall be permanent unless the insured's experience rating changes.

## Malpractice law killed

FRANKFORT, Ky.—The Kentucky Supreme Court has upheld a lower court ruling that overturned most of the state's 1976 medical malpractice insurance law.

In a unanimous decision, the high court struck down sections of that law that created a patient's compensation fund, financed by assessments on doctors and hospitals, to pay for malpractice settlements over \$110,000 and required that all physicians and hospitals carry malpractice insurance.

State insurance commissioner Harold McGuffey said that the decision "destroys the meat of the malpractice law."

## Attorney fees

MADISON, Wis.—The Wisconsin assembly has approved and sent the senate a bill allowing courts to award court costs and

attorney fees to the successful parties in lawsuits if the judges deemed that the lawsuits were frivolous. Sponsors said the bill was intended to discourage the filing of suits that have little chance of success and merely clog up the judicial system.

## Illinois work comp

CHICAGO—The state manufacturers association says the recent legislation amending the state's liberal workers' compensation law is "merely cosmetic." The group says a study done by the National Council on Compensation Insurance shows the changes will result in only a 2.6% decrease in rates.

## Work comp increase

BOSTON—State insurance commissioner James M. Stone announced approval of a 6.8% increase in rates for workers' compensation insurance. The boost will add \$15 million a year to employers' premiums. Stone said the increase was designed to reflect changes in benefit levels passed by the legislature last year that became effective this year.

## Kentucky commission

FRANKFORT—Gov. Julian Carroll of Kentucky has named a seven-member insurance regulatory commission to share the re-

sponsibility of rate setting with the state insurance commissioner. The governor said the new agency would function similar to a public utility commission and would have a strong lay membership.

## New option

AUGUSTA—Gov. James B. Longley of Maine has signed into law legislation requiring health insurers to offer as an option to their subscribers home health care coverage. The insurance would cover the cost of nurses or therapists in the home when their service is prescribed by a doctor and is in lieu of hospitalization.

## Immunity upheld

FRANKFORT, Ky.—The Kentucky Court of Appeals has reaffirmed the doctrine of sovereign immunity, which prevents citizens from suing the state for damages.

"It is incumbent upon (someone) attempting to sue a state agency to seek legislative permission."

The three-judge decision said sovereign immunity blocks recovery against the Knott County School Board because it is an agent of state government.

The appellate court reversed a decision by the Knott Circuit Court.

The lower court has awarded \$20,000 to Stephen John Mullins, a child struck by an automobile on April 10, 1974, while on the Hindman Elementary School grounds. The boy's father sued Tammy Combs and Vernon Combs, who then sued the school board as a third party.

## Work comp panel

ATLANTA—Georgia insurance commissioner Johnnie L. Caldwell has formed an ad hoc committee to study workers' compensation rates. The committee was formed after insurance companies requested a 26.6% increase in Georgia rates. The rate increase was the third filed in the past year. Increases totalling 16.8% have already been implemented.

## Malpractice rate hike

HARRISBURG—The Argonaut Insurance Co. has received approval to increase medical malpractice insurance rates by an average 23.6%. The \$2.6 million hike is one-third of the company's original request.

## Brokers survey legal systems

PALMA, Majorca—Insurance brokers from 14 European countries have been examining new legal systems which may affect their worldwide status.

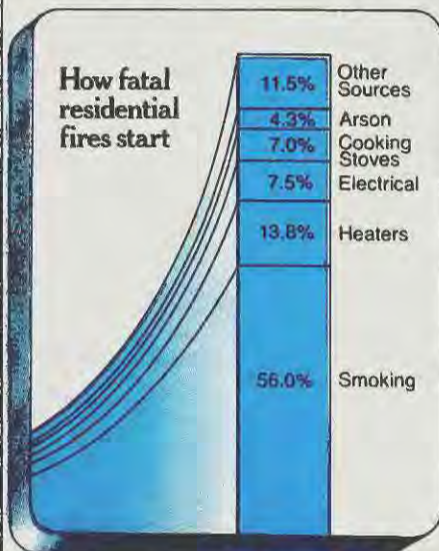
They resolved that buyers of insurance ought to retain the right of freedom of choice for their agents or intermediaries and regretted moves in some countries to restrict this principle.

Moves for self-regulation of brokers have been started in Britain and may be adopted in other European countries, delegates were told.

European directives on Common Market intermediaries were discussed at the conference, which was organized by BIPAR (Bureau International des Producteurs d'Assurances and de Reassurances).

either case, when the detector is activated, the unit sends out a piercing signal to alert you that danger exists.

Detection at this time can often



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mean the difference between life and death. The sooner your family is warned, the more chance they have to escape. The sooner help arrives, the more likely it is that family possessions, frequently irreplaceable, will be saved.

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es than it is to try to rectify the results of a catastrophe.

Well-managed businesses have long recognized this need on a strictly practical basis: a little planned effort can lead to substantially less time lost through accidents, and far fewer claims. Not surprisingly, good hazard control programs can also lead to lower insurance rates.

Unfortunately, what is so commonplace in business is too often neglected at home. It could be a fatal mistake, which we urge you to correct—today if possible. Your family deserves it. Consider it simply an extension of the security you strive to provide in so many other ways.

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the future. For our part, if this "Memo from Marsh & McLennan" saves a single life, it makes it all worthwhile.

Loss control and prevention is a specialized field that has been recognized as such by Marsh & McLennan for many years, and in our organization functions as a separate division. Our goal—and we think it should be yours—is to take positive action in advance so that losses, and all the consequent complications, are far less likely to occur.

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## info for buyers

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

• **Hospital Supervisors Safety Guide Book**, published by Lovell Safety Management Co. Inc., is a 51-page booklet on how to reduce workers' compensation insurance costs through improved accident prevention techniques. Originally designed for the supervisory personnel of the 25 hospitals it represents, Lovell is offering a limited supply to other hospital and health providers. Cost is \$5 per

copy. Write Stephen J. Lovell, Lovell Safety Management Co. Inc., 161 William St., New York, N.Y. 10038.

• **A Guide to the Work-Relatedness of Disease**, a new 115-page publication from OSHA, details factors in the relationship between disease and occupation. Methods for collecting, organizing and appraising evidence for de-

termining the probable work-relatedness of a given disease are discussed. Cost is \$1.90 per copy. Write Publications, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

• Two updated booklets—one summarizing laws and regulations affecting auto insurance, the other summarizing laws affecting property insurance and miscellaneous lines—have been updated by the American Insurance Association. The new edition of **Summary of Selected State Laws and Regulations Relating to Automobile Insurance** is available for \$10. The nine-page **Cancellation and Non-renewal, Property and Miscellaneous Lines** replaces a one-page chart and costs \$3. Write Publications Department, American Insurance Association, 85 John St., New York, N.Y. 10038.

• **Pennsylvania Insurance Forum**

is a recently released newsletter (6 pages) aimed at both the supplier and consumer of insurance in Pennsylvania. Various viewpoints are presented on current insurance issues as a result of independent research. For a free copy write Communications Advisory Institute, 3 Gateway Center, Pittsburgh, Pa. 15222.

• Hay Huggins has produced the 17th booklet in its series **Social Security as Amended to Date**. It covers changes in the law effective June 1977 and January 1978. The first 10 copies are free; over that, it's 75 cents per copy. Write Nancy Matthews, Hay Huggins Inc., 1401 Walnut St., Philadelphia, Pa. 19102.

• **Unisex Tables and Private Pension Plans**, a six-page newsletter from Kwasha Lipton, uses a hypothetical case history to set pension problems in perspective. For free copies write Dept. M, Kwasha

Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• **Insuring Complex Risks: Some Professional Considerations** is a promotional brochure from INA. For a free copy write the company at Dept. R, 1600 Arch St., Philadelphia, Pa. 19101.

• The services and history of **The Mutual Fire, Marine and Inland Insurance Co.** are outlined in its promotional booklet. For a free copy write the company at 3 Parkway, Philadelphia, Pa. 19103.

• Equifax Services' promotional brochure, **Claims: A Comprehensive Program**, explains how it handles claims to help insurers and self-insureds save time and money. For a free copy write the company at PO Box 4033, Atlanta, Ga. 30302.

• Business managers who need to plan and maintain an effective product safety program are the target audience of **Control of Product Liability . . . a Management Approach**, a promotional booklet from Kemper. For a free copy write Public Relations Department, D-1, Kemper Insurance Cos., Long Grove, Ill. 60049.

• American Bankers Association's **Don't Be Swindled** is geared to alert financial institutions to the nine ways banks are commonly conned. For a free copy of this eight-page folder write Order Processing Department, American Bankers Association, 1120 Connecticut Ave., N.W., Washington, D.C. 20036.

• The dangers of a non-negotiated insurance policy and a review of exposures, coverages and property valuations before a loss are all explained in **After the Damage is Done**. For a free copy of this promotional pamphlet write RIMCO, Suite 180, 10300 North Central Expressway, Dallas, Tex. 75231.

• **A World Trade Center Directory of Insurance** lists all the insurance companies, agencies and brokers housed in the center, as well as specifying all types of insurances. This promotional directory is free to the public as of Aug. 1. Write World Insurance Group, 1 World Trade Center-63N, New York, N.Y. 10048.

• A booklet to help management set up its own product safety and loss prevention program is available from the National Safety Council. **Company Product Safety and Product Loss Prevention Program: Guidelines for Management** is designed for medium and large manufacturers. Cost is \$4.50 a copy. Write the National Safety Council, Membership Dept., 444 N. Michigan Ave., Chicago, Ill. 60611.

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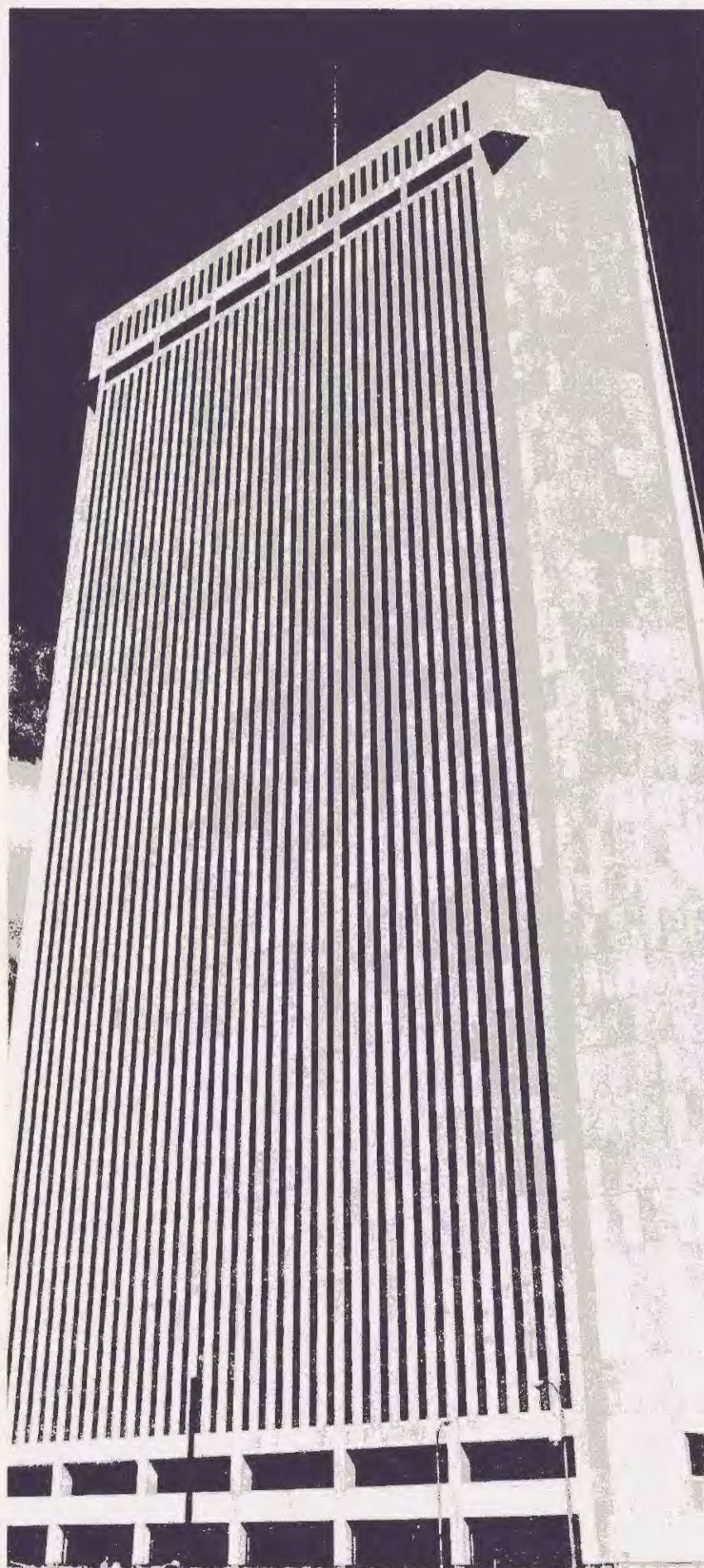
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## dates for buyers

Aug. 28-30: **Workers' Compensation: Appraising the Alternatives**, a symposium sponsored by The National Council of Self-Insurers in Kansas City, Mo. Topics include hiring the handicapped, the Ohio experience in reforming workers' compensation, group self-insurance and guidelines for occupational disease. Cost is \$40. Contact: The National Council of Self-Insurers, 420 Lexington Ave., Suite 2910, New York, N.Y. 10017, Attn: S. Moskowitz; phone (212) 367-9200.

Aug. 28-30: **Self-Insurance—Its Place in Your Financial Planning**, a seminar sponsored by the Society of Chartered Property and Casualty Underwriters in Boston, Mass. Topics will include a case study on how retentions are determined and layers of reinsurance are established, pros and cons of captives, control of self-insurance costs, medical malpractice and development of an investment policy for self-insurance funds. Registration cost is \$147.50. Contact: Robert M. Flinn, Society of CPUC, Kahler Hall, Providence Road, (CB279), Malvern, Pa. 19355; phone (215) 648-0040.



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Communications seminar Nov. 7-8

# Audio-visual screenings highlight workshop

CHICAGO—Three audio-visual screenings of more than one hour each followed by working critique sessions will form the core of *Business Insurance's* Employee Benefit Communications Workshop, scheduled for November 7 and 8 here.

Herbert Zeltner, president of Herbert Zeltner Marketing & Communications of New York will lead the critique sessions in which a dozen different corporate benefit communications productions will be viewed and discussed. Although the audio-visual communications programs haven't been chosen, they will be selected from among the hundreds of entries submitted over the last four years for the annual employee benefit communications competition sponsored by *Business Insurance*.

Rounding out the program will be presentations and discussion sessions led by 18 other speakers, including a key government official, a noted labor leader, corporate employee benefit executives from across the country and independent benefit consultants.

The two-day workshop to be held at Chicago's Continental Plaza Hotel, in the heart of the North Michigan Avenue Gold Coast, will give corporate communicators, personnel specialists and benefit managers an opportunity to hear and discuss the elements of prize-winning benefit communication programs.

Eight corporate managers who have taken awards for having the best benefit communications over the last three years will disclose the secrets of their efforts, as well as the thorny side of implementing a corporate program.

Pension reform legislation focused a spotlight on benefit communications which will not soon dim. If anything, ERISA has been the catalyst for a good deal of worry about the information that employees now must legally be supplied with about programs.

Discussing how the federal government views benefit communications will be Ian Lanoff, administrator of the pension and welfare benefit programs for the U.S. Department of Labor. Mr. Lanoff will address the subject of what the Labor Department expects from employers.

William W. Wimpisinger newly

## Fake disability claims targeted

WASHINGTON—Federal employees who fake being disabled are the target of legislation introduced recently that would require an independent physical examination for civil servants claiming compensation for work-related injuries.

Sen. Dewey Bartlett's (D-Okla.) bill (S. 1867) is aimed at curbing the skyrocketing claims of federal workers allegedly injured on the job, qualifying them for 75% of their salary tax-free.

Sen. Bartlett's proposal would close a gap in the 1974 amendments to the Federal Employees Compensation Act that allows federal workers to choose any private physician to certify a job-related injury without an independent second opinion.

The legislation would close that gap by requiring the employee claiming the disability to be examined by either a U.S. medical officer or a physician designated by the secretary of labor. ■

ected president of the International Assn. of Machinists, will represent the employees' views about whether corporate employers do an effective job of communicating the benefits they provide for workers. Joining Mr. Wimpisinger is James H. Mayes, director of communications for Standard Oil of Indiana, who also has some outspoken views about what employers can do to make themselves understood when they're commu-

nicating benefits to employees.

Choosing a benefit communications consultant is the subject to be addressed by John M. Shores, director of personnel and purchasing for Birmingham News Co. in Birmingham, Ala., and Robert Sjogren, manager of benefit development for Xerox Corp., both of whom have a lot of experience with consultants.

Budgeting for benefit communications is the specialty of Eugenie

Bodenhoff, director of benefit planning for Hunt-Wesson Foods Inc., Fullerton, Calif., who knows all the tricks of keeping her costs in line.

Early registrants for the Employee Benefit Communications Workshop can qualify for a rate of \$285 for the two-day event, including meals. Additional registrants from the same company, also signing up early, qualify for a 10% discount, or a rate of

\$256.50. Lower rates are available to those who register before October 26.

The registration fee after October 26 is \$320, with additional registrants from the same company qualifying for the 10% discounted rate of \$288 per person.

For registration and hotel information, contact Mary Anne Engelhardt, Crain Education Division, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5241. ■



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# PERSPECTIVE

## A guide to warehouseman's liability, a difficult risk for firms to manage

By William H. Rodda, CPCU  
President  
Marine Insurance Handbook Inc.  
Chicago

THE WAREHOUSEMAN can lose a fortune if property in his custody is lost or destroyed under circumstances that make him liable. Warehousemen's legal liability insurance has been difficult to secure in many cases. Insurance manual rates and inflexible rules have made it difficult for insurance companies to adjust coverage to a policyholder's needs and to control the insurance company's exposure to loss.

A new development should improve flexibility. The National Assn. of Insurance Commissioners has recommended that the states adopt important revisions in an insurance regulation which is known as the nationwide marine definition. These revisions will permit marine insurers to cover all property in the custody of a bailee without the red tape which has been in effect.

What is the liability of a warehouseman as a bailee? The operator of a warehouse—be it household furniture storage or a general storage warehouse—is a bailee in relation to property in his custody. The bailee must provide reasonable care and must not be negligent. That sounds simple but there are complications.

Negligence of a bailee's employe generally is considered to be negligence of the employer. An employe may carelessly drop a cigarette or lighted match into trash and start a fire which destroys the property of

customers. The employe's act probably would be construed by a court as negligence of the employer-bailee, making him liable to the owner for loss or damage to the property.

### Prima facie problem

The *prima facie* evidence rule is another nasty complication. The bailee is presumed to be guilty of negligence unless he can prove otherwise. The bailee or his employes usually are the only persons around when loss or damage occurs. The property owner would have little chance of proving negligence because he wasn't there. So, the courts have said to the bailee, "You have the best knowledge of what happened to the property. You must reveal your knowledge. In the absence of proof to the contrary, you are liable for the loss."

This *prima facie* rule does permit rebuttal by the bailee. This makes it essential for the warehouseman to keep detailed records of all occurrences that might result in loss or damage. He must be able to prove by evidence that the loss did not result from his negligence if he is to avoid liability.

What is reasonable care? It is roughly that degree of care that a prudent person would give to property of his own under like circumstances. A greater degree of care is required for valuable articles, such as antiques, for example, than for ordinary furniture. This is especially true if the warehouseman holds out to customers the facility for storing such valuables.

The bailee may deliberately or unintentionally

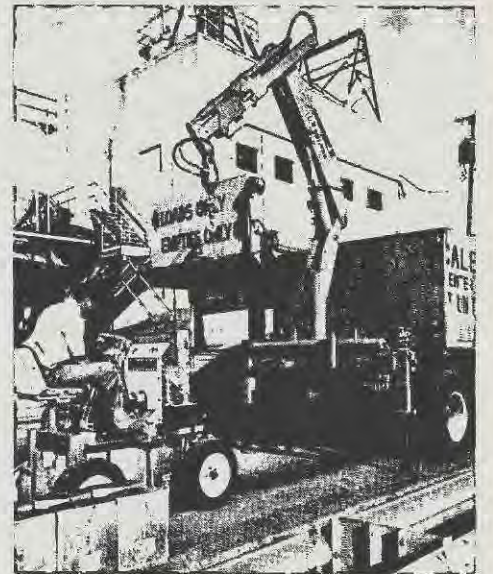
extend his liability beyond the negligence liability which is imposed by law. An advertisement specifying "fireproof storage" or to the effect that "all goods are fully protected" may be interpreted by a court as implying a contract which guarantees reimbursement to the owner for loss or damage. A statement or agreement by an employe to provide some service may extend the bailee's liability.

A bailee may also extend his liability by breaching the bailment contract. A furniture mover picked up goods in Cleveland for a move to Buffalo and agreed to place the property in a fireproof warehouse. The goods were not stored in a fireproof warehouse as agreed but were stored in a non-fireproof warehouse. It burned. There was no evidence of negligence on the part of the bailee in connection with the fire.

However, a court held the bailee-warehouseman liable for the loss. Said the court, "The rule is that where a warehouseman, without authority, changes the place of storage to a less safe place he is held responsible for all subsequent loss or damage to the goods. The unauthorized change of place of storage is a breach of contract and technically a conversion."

### Limiting liability

Can the warehouseman restrict or eliminate his liability? Courts have generally held that it is against public policy to permit a bailee to abrogate liability completely. However, a bailee usually can limit the dollar amount of liability by specifying limits in the bailment contract. Such agree-



Warehouseman may be held liable for damage even when they have provided excellent care and good procedures.

ments are likely to be upheld where the charge for storage differs between full liability and limited liability.

Thus we see that the warehouseman may be held liable for loss or damage to property despite excellent care and good procedures. What insurance is justified to protect against damaging liabilities?

Several perils may cause catastrophic loss. Fire is one of the more obvious. A total or near-total fire loss is possible even with automatic sprinklers and other protective devices. Failures do occur.

The chances of a catastrophic wind loss can be measured by the location and construction of the warehouse. A one-story general warehouse may be subject to major destruction from a tornado or hurricane.

*Continued on following page*

## Consultants Corner

### Decentralized company consolidates risk management

By Richard S. Betterley  
D. A. Betterley Risk Consultants  
Worcester, Mass.

RECENTLY, we were requested to do a risk management review for a medium-sized conglomerate. Although management was primarily concerned with our analysis of the risk management program for the company, they were specifically interested in captive possibilities, risk management of products liability and a capabilities review of the current risk management structure.

The conglomerate was primarily created through the additions of entrepreneurial manufacturing companies. For the most part, the entrepreneur was retained as the president of the company after it became a division of the conglomerate. The management philosophy behind this, of course, was that the entrepreneur had been successful previously and would be better motivated by continuing under loose rein from corporate headquarters.

This presented significant problems to the risk management staff. Each division retained its insurance program for the most part and little muscle was available from corporate headquarters in terms of loss prevention. Results were that coverage costs were too high, the coverage itself was riddled with gaps and an insurance-buying as opposed to a risk management approach was being followed in each division, while corporate headquarters was trying to pursue the risk management philosophy.

Although top corporate management did believe in the concept of centralized risk management, and the risk manager had been trying to centralize the corporate function, it was also believed that the entrepreneurial instincts of each division would prohibit the tighter con-

trols called for by risk management. However, during our risk analysis visits to the various divisions and plants, we discovered that division presidents and other financial managers were much more amenable and enthusiastic about more assistance from corporate headquarters in terms of safety, loss prevention and risk management duties in general.

Thus, as a result of our study, it was relatively easy for the risk manager and us to convince top corporate management to install a full-scale risk management system and to provide it with adequate and enthusiastic support.

To assist the risk manager and other financial staff in installing the full risk management system:

- A risk identification committee was created to involve a member of each division in the total risk management function. This was used not only to identify risks, but to insert a risk management 'convert' in each operating division.

- Thus, a person who had knowledge of the philosophy of the profession was available to help sell the division management on the risk management concept. Also, he or she was able to function as a resource person in-house while corporate risk management was installing their own risk management systems at division headquarters.

- The risk identification committee and our consulting work allowed the corporate risk management to quickly get up to date on the various risks facing the conglomerate.

Although the company did have a good risk manager prior to our engagement, adequate support was not provided to allow the risk management department to actually identify and analyze the risks in the field. With the risk identification committee and our work, the company was up to date on the risks

facing it.

In line with the analysis of current risks facing the conglomerate, we found that a new acquisition of the company was involved in producing aircraft components. Because the division was new to the conglomerate and because of the loose control that management had, this risk had not been adequately minimized. After discovering the risk, corporate risk management and we were able to effectively reduce the risk.

Products liability coverage had previously been carried for \$25 million, which had been adequate for other operations of the company. However, aircraft products liability coverage to \$100 million was necessary. Fortunately, the risk appeared to have been discovered in time.

An additional undiscovered risk facing the conglomerate was a contingent risk exposure threatening \$3 million production values in a particular division. Our analysis revealed that the supplier was the only U. S. provider of a certain component of a division's end product. Subsequent investigation revealed that two Canadian suppliers were available to produce the identical component.

The contingent exposure risk was eliminated by two methods: The creation of lines of access to the two Canadian suppliers and the decision to purchase and protect a two months' quantity of the component. Needless to say, the risk management solution was preferable to the insurance solution.

Workers' compensation had been fully insured throughout the conglomerate. With the new-found support for the risk management department by top management, and the enthusiastic agreement of most of the operating divisions, it was decided to begin self-insuring the major portion of workers' compensation.

Initially, administration, loss prevention and claims had to be purchased, re-

sulting in a cash flow advantage of approximately \$50,000 annually. However, as the risk management department adds additional professional expertise and frees-up enough time to self-administer workers' compensation, annual savings are expected to be \$150,000 to \$250,000.

However, it was our recommendation that such internal administration be postponed while risk management worked on the more productive goal of establishing a truly risk management oriented function.

Our engagement included a captive feasibility study at the request of the conglomerate's top management. However, we recommended at that time that the establishment of a captive be postponed until the risk management department could fully apply the benefits of risk management to the current situation. It was felt that a captive was a long-term goal.

Subsequently, this decision has proved to be correct, allowing the risk manager to focus his resources on truly managing the risk. Despite the atrocious market conditions of the past two years, the risk manager has been able to negotiate the greatly expanded coverages recommended in our report and to install the more efficient risk management practices which we recommended.

We are presently conducting a captive feasibility study which appears to offer the prospect of substantial annual savings with coverages and services tailored for the conglomerate.

Consultants Corner will be a regular feature of the Perspective Section. Risk management, insurance and employe benefit consultants are invited to submit problem-solving studies of 600 words. For further information contact Susan Alt, editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or phone (312) 649-5278.

# MAP . . .

Continued from page 23  
companies which "drag their feet" when deciding whether to underwrite a risk, according to Harry Ashmore, president of G-A Insurance Agency & Real Estate, whose Connecticut agency has used the program.

Coverage through MAP has been "delayed and fumbled" because insurance companies are reluctant to write product liability coverage without tort reform, he said. "MAP's format is excellent," Mr. Ashmore said, "but the program is not performing fast enough. A firm can't be expected to wait three to five months for coverage when it should take three to five weeks."

Insurable risks are eventually placed but only after the insurance commissioner asks who will take the risk, according to John Riffe, president of Insurance &

Financial Services Inc., a Connecticut agency which has also sought MAP's help. The commissioner uses a tactic known as "friendly persuasion" to get an insurance company to insure the risk, Mr. Riffe said.

The insurance commissioner's authority is strong because he has the power to set up an assigned risk pool if the risks are not taken voluntarily, Mr. Riffe explained.

### Most follow Conn.

The sophistication of market assistance programs in different states varies according to the seriousness of product liability problems.

Ohio uses a referral approach by directing troubled manufacturers to three or four agents who have experience in handling a specific type of product liability risk.

But most states have used the Connecticut format as a model.

Connecticut uses a committee of agents and brokers who accept an application from an agent or broker unable to place a product liability exposure. The three to four page application details the manufacturer's loss frequency and potential losses and outlines the agent's efforts to place the risk.

Agents are charged a \$150 fee for the service in order to sustain the program and make sure that agents do their homework before applying.

If the agent and broker committee can't market the risk, it is passed on to a committee of underwriters, who reinspect the risk and reevaluate the application to determine whether the risk is insurable and at what price.

Risks that aren't placed through these committees go to a third committee that brings agents, brokers, underwriters and the department of insurance together. Connecticut alone has placed

When Fairfield Systems Corp., a Connecticut manufacturer of household, recreational and medical equipment, increased its production of medical equipment from 25% to 75%, The Travelers Insurance Co. decided not to renew the firm's product liability coverage.

But the market assistance program was able to renew the coverage with Travelers via a premium jump of 300% for the medium-size company.

"The premium was reasonable considering the potential danger of the medical equipment," said John Riffe who handled the account.

Mr. Riffe said he negotiated with the insurer and MAP to obtain the premium of \$5 to \$6 per \$1,000 in sales, which was unavailable elsewhere. The final premium was a compromise between the \$10 MAP recommended and the \$4 Mr. Riffe suggested.

more than 200 risks since it began reviewing complaints about the unavailability of product liability coverage. Only three or four risks haven't been placed, but these risks were generally considered uninsurable.

MAP has helped place risks for firms that vary in size and that

produce everything from antique pistols to sporting goods. But it has placed the most risks for companies in the petrochemical and pharmaceutical industries.

MAP owes its success to the "highly knowledgeable and specialized" insurance representatives who are able to seek extensions of coverage or renewals, recommend alternative markets and provide information to producers on placing and pricing of business, according to Ben Prybutok, Pennsylvania insurance commissioner.

"Not all agents are experts in the product liability field but specialists in MAP are able to tap all available resources and guide the risks to these markets," Mr. Prybutok said.

Three different cases in Connecticut represent the type of experiences MAP has encountered in placing risks for firms having good claims experience.

For Desantic Burner Service, a one-man operation that repairs oil burners, MAP negotiated with the home office of one of the major insurance companies to force the local office to renew coverage.

### Competition

"They kept the premium at manual rates instead of reducing premiums, but they charged what should have been charged," said Jackson Stearns, who handled the account through his Fairfield agency, H. Jackson Stearns & Co.

MAP's assistance for another firm meant increased competition between insurance companies and lower rates.

Jayfro Corp., a sporting equipment manufacturer in Hartford, couldn't obtain any quotes on coverage after its insurance company declined to renew coverage.

When MAP was able to obtain an "affordable" price from another insurance company, Jayfro's original insurer decided to renew at a lower price than MAP obtained, according to B. S. Federman, president of B. S. Federman & Co., a New London agency.

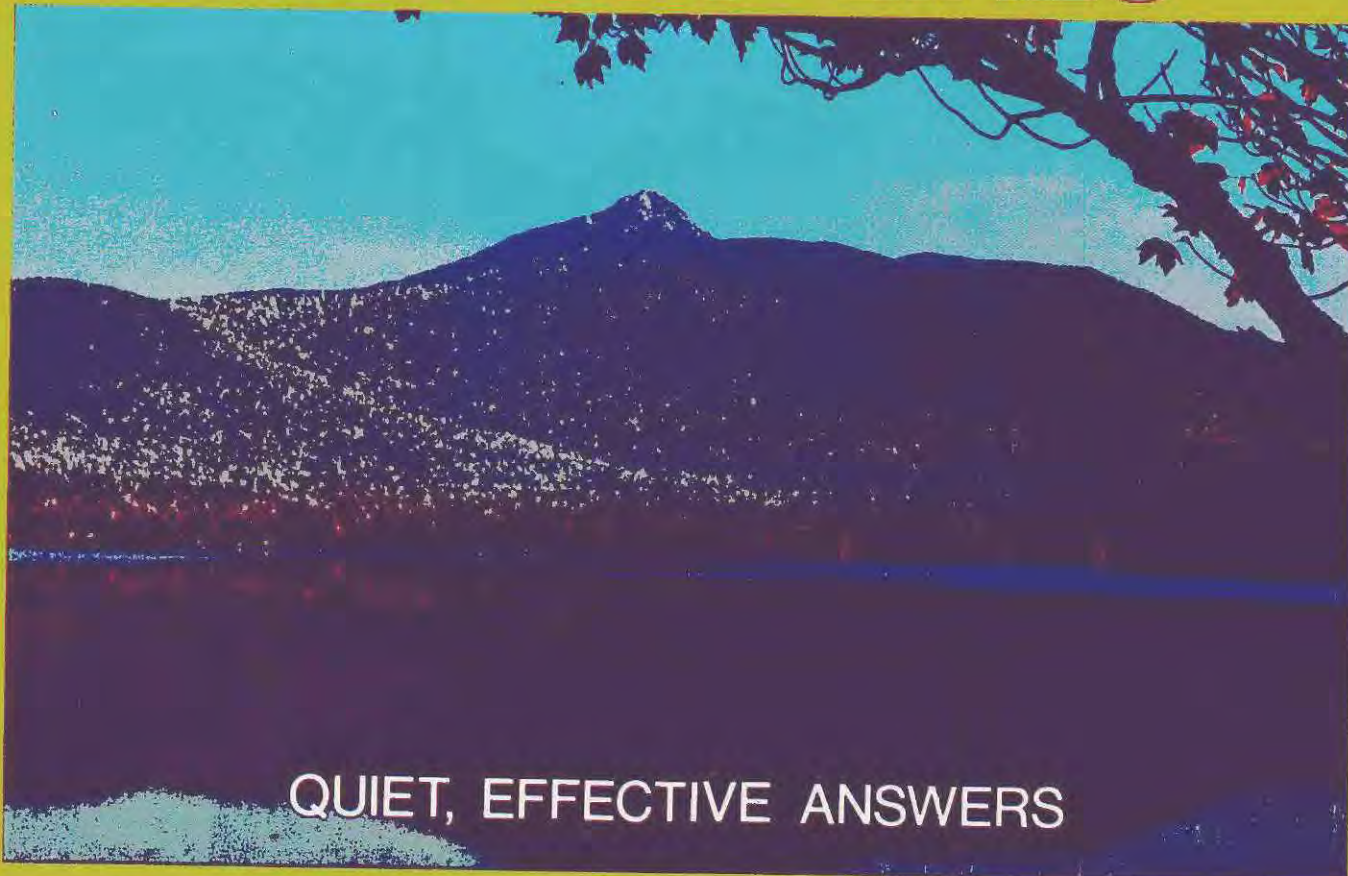
"It was a situation where whoever got the products coverage got the rest of the firm's coverage," he said, adding that quotes from MAP were "within striking distance" of Jayfro's insurer.

But MAP has not always been so successful. Although the program obtained a quote for the Commercial Treating Co. when no other quote was available, the firm's owner decided to self-insure.

"The price was fairly reasonable but the owner decided it was too rich for his blood," said G. W. Goodsell, who handled the account through his Fairfield agency, G. W. Goodsell & Son Inc.

Results from other states using MAP are difficult to measure because many have just started programs. All cases in Pennsylvania, New Jersey and Michigan, for example, are still pending. Pennsylvania is working on eight cases, New Jersey, approximately 20, and Michigan, 34 cases. ■

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## Mattel . . .

Continued from page 1

For the three months between March and June 1973, the coverage was raised to \$10 million with excess coverage provided by ISLIC and by Unigard. ISLIC had a \$3 million excess layer and Unigard had the remaining \$5 million, while London reduced its primary limit to \$2 million.

In 1975, a Mattel spokesman said the \$13.8 million insurance carrier payout broke down into two separate components:

- A \$7 million cash contribution, including \$6.7 million from the D&O insurance carriers and the rest from Mattel.

- An \$8 million promissory note from Mattel at a 10% interest rate. The notes are secured by contracts from ISLIC and Unigard, providing that they supply \$7.1 million of the principal.

According to the Mattel spokesman, \$7 million out of the \$7.1 million is to be paid on the date that the carriers provide the funds. He said that the carriers must deliver the funds no later than four years after the effective date of the settlement.

### Other provisions

The \$30 million settlement also provided that lawsuits filed by Unigard and ISLIC to rescind their D&O policies be halted. The two excess carriers had argued that they were entitled to rescind their D&O policies on various grounds, including that Marsh & McLennan had failed to furnish them with complete information about the D&O risks at Mattel. In addition, the toy company agreed to sue M&M, seeking recovery for the benefit of the two underwriters.

A prime contention in the case is that Mattel is owed certain insurance funds either by the two excess underwriters or by M&M. If it should be found to be the two carriers who should pay Mattel, the sum in question will amount to \$7,112,500. But if Marsh & McLennan is found to owe the money, the sum in question may be much more, in excess of \$10 million in the opinion of one source close to the case.

Specifically, in its lawsuit against M&M, the toy company is contending that it was blamed by the two excess carriers when the brokerage firm failed to notify them of the existence of the first of the five class action lawsuits filed against Mattel in March, 1973.

### M&M's reply

Marsh & McLennan will argue in court that it did transmit knowledge of the suit to Lloyd's before that carrier on March 13, 1973, bound its D&O coverage for Mattel. But it did not directly communicate with ISLIC or Unigard.

However, Maurice C. Inman, chief attorney for M&M, argued during pretrial motions that ISLIC had constructive notice as it had a 6% share of the primary D&O coverage.

The settlement itself is another issue. Mr. Inman said during pretrial proceedings that the \$7.1 million agreement between Mattel, ISLIC and Unigard was "done

### Death rate

Latest government statistics show the U.S. death rate is continuing to go down, according to the American Council of Life Insurance. The provisional death rate for 1976 was a record low, 8.9 deaths per 1,000 population, compared to 9.0 deaths in 1975, the council said.

at the expense of a third party, Marsh & McLennan." He characterized the agreement as "collusive."

There are unconfirmed reports that M&M's errors and omissions carriers have said they will not pay for a settlement. M&M officials in New York would not comment.

The lawsuit is presided over by Judge Arthur K. Marshall who heard pretrial motions on July 18. Two days later he dismissed all of Marsh & McLennan's cross complaints against Mattel.

Judge Marshall, at the same time, advised Marsh & McLennan attorney Maurice Inman that it would be wise to have the action immediately reviewed by the state appellate court.

Mr. Inman replied that he would apply for a writ to the higher court. If the higher court takes the writ, the jury trial will be postponed for months, according to sources close to the case. ■

## Labor Dept. to issue exemption on ERISA's 5% rule 'soon'

WASHINGTON—After a seven-month delay, the Labor Department is expected soon to issue an exemption for employers that insure employee benefits through an insurance subsidiary or captive.

Although a Labor Department spokesman could not give an exact date for when the exemption would be issued, he did say preparations were in the "very final stages."

No specific reason was given for the delay in issuing the exemption, which had been expected to be announced at the beginning of the year.

The exemption refers to section 408(b)(5) of the Employee Retirement Income Security Act (ERISA). That section says a sub-

subsidiary insurance company's premium volume from insuring the parent company's employee benefits cannot exceed 5% of the subsidiary's total premium volume.

The limitation, which has been effective since Jan. 1, 1975, has been considered a major obstacle to using captives for employee benefits.

As reported earlier, the exemption probably will be limited to insurance subsidiaries that are licensed in the U.S. Thus offshore captives probably could not qualify for the exemption.

Companies that have applied for exemptions under section 408(b)(5) include U.S. Industries, John Deere & Co., Food Fair Stores Inc., Field Enterprises Inc.

and Spring Mills Inc.

Several major insurance companies also have applied for the exemptions including: Fireman's Fund Insurance Co., Connecticut General Life Insurance Co., Mutual of Omaha Insurance Co. and Nationwide Insurance Co.

The exemption probably will be issued jointly by the Labor Department and the Internal Revenue Service, a spokesman for the Labor Department said.

### New office

Benfo, the Seattle-based benefit communications consultants, have opened a Chicago office to serve the Midwest. Benfo is a division of M&R Services Inc.

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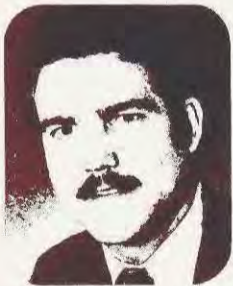
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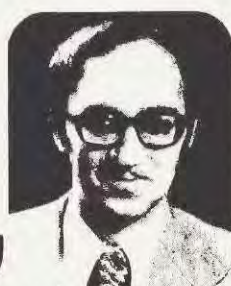
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# pensions & investments

## corporate obligation/outlook conference

### September 29-30, 1977 Hyatt Regency Downtown Chicago

#### Thursday September 29

8:00 am to 9:00 am: Registration. Pick up your Conference materials and get ready for a stimulating, thought-provoking learning experience.

9:00 am: Welcome. Steve Gilkenson, Publisher and Editor of **Pensions & Investments** outlines the Conference program and explains the value of the sessions and the importance of your participation.

9:15 am: Legislation Beyond ERISA. Senator Jacob Javits (R, N.Y.) looks at what Congress may be considering in additional retirement income security legislation; how Congress views tying in the private pension system with Social Security; the outlook for additional regulations covering corporate pensions and investments and what shape those regulations might take.

10:15 am: How To Prepare & Invest For The Future. Rodger Smith, Executive Vice President, Greenwich Research Associates, moderates a panel of three progressive corporate executives who tell how they came to grips with ERISA; how their top managements view their efforts; how they solved their most difficult pension problems; and their up-to-date approaches to investment management of funds. Panel members include John Martin, Vice President—Financial Services, Litton Industries; Henry A. Kroner Jr., Administrative Manager—Investments, Standard Oil Company of Indiana; and Harvey Masimore, Manager—Employee Benefit Funds, Caterpillar Tractor Co.

12:00 noon: Luncheon

1:15 pm: ERISA—The Latest View From The Labor Department. Ian D. Lanoff, the young Carter Administration appointee to the sensitive post of Administrator, Labor Department Pension and Welfare Benefit Programs, brings you up to date on the Administration's policies for administering and enforcing the law.

2:00 pm: Equities Investment Outlook. John Wing, President and Chief Operating Officer, Becker Securities, moderates a panel of top-flight investment experts who give you their viewpoints, philosophies and expectations for the stock market over the short term and long term. Panel members are: Hans G. Jepson, Executive Vice President, U.S. Trust Company; and Rex A. Siquefield, Vice President, American National Bank & Trust Company.

3:30 pm: Bonds Investment Outlook. David Kudish, Consultant, Hewitt Associates, moderates this expert panel who examine the short-term and long-term outlook for the nation's corporate and government bond markets to give you a greater understanding of how to properly split your assets between equities and bonds. Panel members are: Eugene C. Rainis, Manager—Fixed Income, Brown Brothers Harriman & Company; Robert E. Pruyne, Senior Vice President—Bonds, Scudder, Stevens & Clark; and William Fry, Vice President—Investments, American Fletcher National Bank.

5:00 pm: Reception

#### Friday September 30

9:00 am: Changing Capital Markets. Mike Clowes, Executive Editor, **Pensions & Investments**, moderates this panel to examine the impact of the capital markets crisis; the impact of \$40 billion in annual new pension contributions; and the likelihood of future regulations designed to provide smaller companies with adequate investment capital. Panel members are: Dr. Douglas Love, Director of Financial Counseling, George B. Buck Consulting Actuaries, Inc.; and Dr. Barr Rosenberg, Associate Professor of Business Administration, University of California at Berkeley.

10:45 am: Steps To Take To Avoid ERISA Litigation & Liability. James D. Hutchinson, Attorney, Steptoe & Johnson, and the first administrator of ERISA, gives you a practical checklist you can use to avoid costly oversights and mistakes in your

pension program—How to develop written policy guidelines; when and how often you should review your program with your investment managers; what kind of data you should request. . . Because he is well versed in the substances and intent of ERISA, you get the answers to some of your most vexing questions.

12:00 noon: Luncheon.

1:15 pm: Is A Federal Takeover Likely? Paul Merrion, Washington Editor, **Pensions & Investments**, moderates this expert panel who examine whether there is indeed another future besides a federal future; how the Social Security system can be salvaged; what the immediate problems are; and what steps are necessary to relieve the takeover pressure. Panel members are: Patrick J. Regan, Vice President, BEA Associates; and William J. Chadwick, Attorney, Paul, Hastings, Janofsky & Walker.

2:15 pm: Future Shock—1985. Dean LeBaron, President, Batterymarch Financial Management Corp., provides a wry, startling and thought provoking look at the corporate pension executive and his suppliers in 1985. What value judgments and prerogatives will be

exercised by computers? And what responsibilities will be left for the corporate manager?

3:00 pm: Adjournment.

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# Tort reform . . .

Continued from page 1

businessmen socked by increases in product liability coverage.

A strong grassroots organization kept business leaders aware of the dates of critical committee hearings. As a result, more than

250 businessmen and women turned out at a judiciary committee hearing where only 25 proponents were expected.

This intense pressure coupled with a willingness to compromise on several issues such as limiting

contingency fees, led to passage this summer of a bill containing an eight-year statute of limitations and an alteration of product defense against liability.

"It doesn't take dollars to get a bill passed," said Ed Ellis, chairman of the Oregon product liability task force. "It just takes a lot of hard work and being able to back up your opposition with cold, hard facts."

In Florida, however, the objections of the state's powerful personal injury lawyers killed a product liability measure in the house that earlier had cleared the state senate by a comfortable 25-10 margin.

"The reason we got stopped is that lawyers are aware of the politics that gets things done and they know what buttons to push in the legislature," said Florida product liability task force chairman Joe Stine in analyzing the bill's last-minute defeat.

## Ohio next?

In Ohio, which could become the next state to enact reform legislation, time is running out on a bill pending in the senate containing a 10-year statute of limitations, acknowledges Tom Johnson, president of the Ohio Manufacturers Assn. in Columbus.

The measure, which previously passed the house by an 86-7 vote, has aroused the ire of the president of the Ohio Academy of Trial Lawyers who called the proposal "one of the most atrocious anti-consumer, antiworker . . . bills ever offered in the Ohio general assembly."

This bitter opposition combined with the short summer legislative calendar—the senate meets only four days a month this summer—probably means tort reform won't be achieved until 1978.

In Connecticut, a severely watered down bill did clear the house, only to die later on the senate calendar. "Legislators still are not convinced that it (product liability) is a major problem," said John Anderson, assistant counsel

for the Connecticut Business and Industry Assn.

In New Hampshire, a product liability bill containing a state of the art defense, also cleared the house by a surprising 198-112 vote, but it too died in the senate on a heart-breaking 8-8 deadlock, said Peter Fielding, executive vp of the Business and Industry Assn. of New Hampshire.

Elsewhere in New England, reform measures are stalled in the Massachusetts legislature. "I don't think we're going to see much happen for the rest of the year," said Patricia Maxwell, vp of RE-TORT Inc. in Franklin, Mass.

## In the South

In the heart of Dixie—Mississippi—reform measures failed to surface out of committee. In neighboring Louisiana, bills also died in committee, but the legislature did agree to establish an interim committee to study the product liability problem.

In Texas, all 13 product liability bills failed to inch their way out of committee. Action is a long way off since the legislature doesn't return for a regular session until 1979.

In the big Midwestern farming state of Iowa, the comprehensive reform package which includes a six-year statute of limitations will be carried over to the 1978 session.

Even then, however, the chances of passage are cloudy at best said Don Hauser, vp of the Iowa Manufacturers Assn. in Des Moines. "The legislature just doesn't seem disposed to take strong steps in the area of tort reform."

"If we have tort reform in Iowa, then it will have to be jammed down the throats of the bar and that is going to be difficult to do,"

he said.

In another big farming state, Minnesota, testimony from an insurance industry official at a key committee hearing that passage of a tort reform measure would not result in an immediate reduction in premiums doomed the bill, said Steve Workman, director of government affairs for the Toro Co. in Bloomington.

Although the Nebraska legislature failed to act on a bill with an eight-year statute of limitations and state of the art defense, the measure remains on general file and won't have to be reconsidered in committee during the 1978 general session.

## The outlook

"Chances of passage are good next year," said Del Snodgrass, government affairs director for the Nebraska Assn. of Commerce and Industry.

Elsewhere, around the country, bills already have been defeated in Idaho, Indiana, North Dakota and New Mexico. Product liability bills still are pending during the current legislative session in Wisconsin, Michigan, California and Illinois. Special study committees have been established by legislatures in Tennessee and Virginia. And in other states, such as Iowa, bills introduced this year carry over to the next legislative session.

"About a year ago, all we had were problems," said Jack Pearson, executive director of the Kansas Assn. of Commerce and Industry. "Today, we are well on the way toward solutions."

Other business leaders note that the reluctance of Congress to act on pending measures makes it imperative to concentrate efforts at tort reform on the state level. ■

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## Cassettes called useful for OSHA training

CHICAGO—Cassettes are an excellent method for training far-flung employees in safety and health problems, according to the director of safety for Pitney-Bowes in Stamford, Conn.

Writing in the latest issue of Risk Management Reports, Raymond J. Holland says it is fairly easy to train large groups of employees in a central location. But organizations with employees scattered over the U.S. or the world must also train their employees in Occupational Health & Safety Administration rules.

One method Mr. Holland has used successfully are cassettes accompanied by scripts and open-book quizzes. After hearing the cassettes, a worker completes the quiz which is mailed to company headquarters to be graded.

The quiz is returned with the next lesson. Students are awarded a "diploma" when the course is completed.

One of the most difficult problems today is that young adults are "turned-off" by outdated practices, Mr. Holland says. "The supervisor is the first line of defense, but he/she may not necessarily be the best safety trainer," he writes.

Mr. Holland is also critical of many safety committees in his review of risk control techniques.

Although there are committees that work effectively, Mr. Holland says most "are a waste of good people's time." He is particularly critical of stacked committees composed of eight supervisors and two employees. He also is skeptical of committees with two supervisors and six employees, especially when the plant manager is one of the supervisors.

Instead, Mr. Holland recommends that ad hoc committees be created to solve specific problems.

The article of Risk Management Reports also reviews reporting relationships, the risk manager's involvement in safety and the need for product safety systems. ■

Subscriptions to Risk Management Reports, which is published by Business Insurance, cost \$60 a year. They may be started by writing William Strong, Risk Management Reports, 740 N. Rush St., Chicago, Ill. 60611.

## Brooke bill hearing set

WASHINGTON—Hearings on Sen. Edward Brooke's (R-Mass.) controversial bill calling for dual regulation and chartering of insurance companies will be held here Sept. 12-14.

The bill (S. 1710) would allow insurance companies to choose, much as banks currently do, to be regulated under state or federal

charter.

The Brooke bill has been revised from the measure introduced last year. It could pave the way for open rating across the nation.

Requests to testify should be sent by Aug. 20 to Florence Barr, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C. 20510. ■

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**people**

# Reeves to join hospital firm; Clayton gets Keystone position

**Robert A. Reeves, 33**, is joining Hospital Corp. of America in Nashville, Tenn., as vp-insurance effective Aug. 29. Mr. Reeves has been with Ashland Oil Inc., Ashland, Ky., for more than nine years, most recently as risk and insurance manager. In his newly created position, Mr. Reeves will report to the chairman of the executive committee of the board of directors and the vp of finance. Hospital Corp. of America, owner and manager of the nation's largest chain of hospitals, has a Colorado captive insurance company to underwrite some coverage for its 89 facilities. The captive will be part of Mr. Reeves' responsibilities, along with all other property and liability programs and group insurance purchasing. He will also handle safety, loss prevention and claims administration. Hospital Corp. formerly had an assistant vp in charge of insurance, but the position has been open since January. Although Mr. Reeves will constitute Hospital Corp.'s risk management department-of-one, he is presently seeking experienced people for the two positions of manager-loss prevention and safety as well as claims manager. Mr. Reeves is a previous president of the Captive Insurance Companies Assn.

been named corporate insurance manager of Keystone Foods Corp., Folcroft, Pa. In the newly created position, she is responsible for the property and liability program for the parent company and three subsidiaries. Previously, Ms. Clayton was risk manager for Penn Mutual Insurance Co. where she has not been replaced.

**Charyl J. Peske, 29**, has been named Milwaukee's first risk manager, where she will plan and implement the city's risk management and insurance program. She reports to James A. McCann, comptroller. Mrs. Peske was previously the assistant risk manager for the University of Wisconsin, Milwaukee campus. She held this position three years. **Kevin Houlihan, 29**, has been hired in a realignment of the department as insurance assistant. He reports to Patrick Eaker and is in charge of the general insurance and claims operation. It has not been decided if a new assistant risk manager will be hired.

**G. M. McCall** has been promoted to supervisor of employee benefits operations for Brown & Williamson Tobacco Corp. in Louisville, Ky. In his newly created position, Mr. McCall assists the employee benefits manager, J. W. Forbes, in supervising the 15-man

benefits department. His responsibilities include management of pension funds and group insurance for 10,000 employees. Previously Mr. McCall, who has been with Brown & Williamson for 16 years, served as coordinator of benefits planning.

**John R. Messinger, 37**, has joined Raymond International Inc. as insurance manager for the engineering and construction firm located in Houston. Mr. Messinger will deal with companies and brokers on all phases of corporate insurance. He was previously insurance manager at Ada Resources Inc. in Houston for approximately one year and has not been replaced. Before that, he was an assistant corporate insurance manager at International Systems and Controls Corporation, Houston, for eight years.

**David R. Evert, 34**, has been promoted to manager-administration in the risk management department of Control Data Corp. in Minneapolis. His responsibilities include domestic corporate insurance programs, claims and accounting. His promotion was part of a realignment in the risk management department. Mr. Evert, who has been with Control Data for four years, reports to corporate risk manager Robert E. Abrahamson.

**Phillip W. Hall, 35**, has been named benefit manager at Ingersoll-Rand Co. in Woodcliff Lake, N.J. His position has been created so that benefit activities of all locations can be coordinated from headquarters. Mr. Hall will recommend benefit changes, direct planning and handle employee communications. Previously, Mr. Hall was manager of employee benefits at Converse Rubber Co. in Wilmington, Mass., for four years. No plans are being made for his replacement.

**Lon R. Graves, 43**, has been named director of safety for Wometco Enterprises Inc. in Miami, where he will report to Douglas Craven, risk manager. Mr. Graves was formerly associated with Maule Industries, Miami, as director of employee relations, in charge of safety. Meanwhile at Maule, a number of changes have occurred. The labor relations department has been split into two compartments—loss control and personnel. The director of loss control is **James Boutwell, 49**, who has been promoted from manager of security. Reporting to him are **Ed Flanagan, 24** who has been promoted to safety supervisor from the security department and **Tim McAlee, 28**, who has been changed from director of labor relations to director of personnel.

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

**Constance A. Clayton, 33**, has

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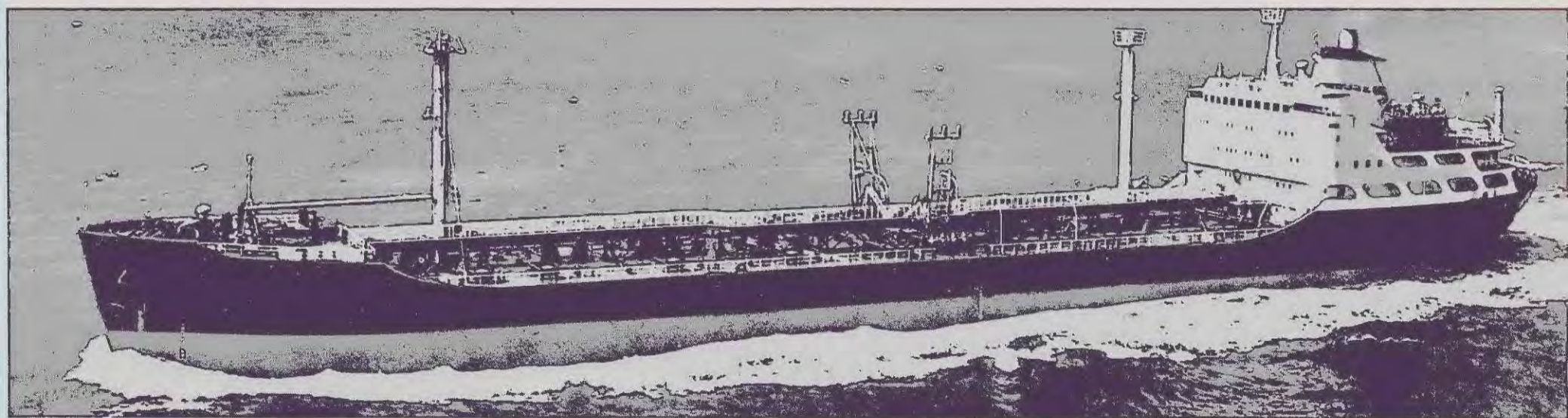
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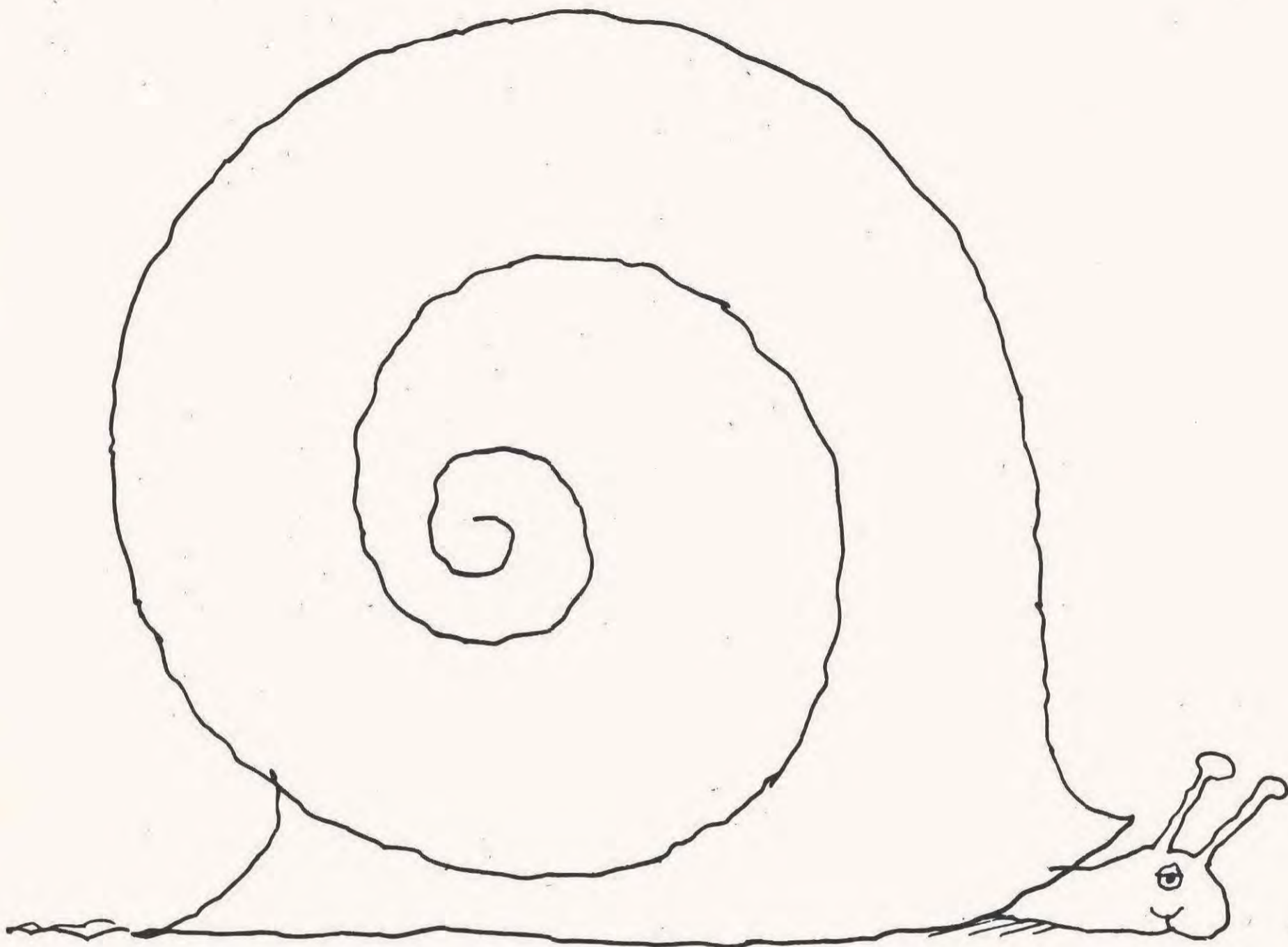
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