

SAFETY TIMETABLE: Railroads struggle to meet control systems requirements - PAGE 4

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CEO
Adam Potter

PUBLISHER
Peter Oxner
(Chicago)
poxner@businessinsurance.com

EDITOR
Gavin Souter
(Chicago)
gsouter@businessinsurance.com

DEPUTY EDITOR
Gloria Gonzalez
(Washington)
ggonzalez@businessinsurance.com

SENIOR REPORTER
Judy Greenwald
(San Jose)
jgreenwald@businessinsurance.com

REPORTER
Louise Esola
(New Orleans)
lesola@businessinsurance.com

REPORTER
Joyce Famakinwa
(Chicago)
jfamakinwa@businessinsurance.com

REPORTER
Rob Lenihan
(New York)
rlenihan@businessinsurance.com

REPORTER
Matthew Lerner
(New York)
mlerner@businessinsurance.com

COPY CHIEF
Katherine Downing
(Chicago)
kdowning@businessinsurance.com

COPY EDITOR
Brian Gaynor
(Portland)
bgaynor@businessinsurance.com

ART DIRECTOR
Jeremy Werling
(Cincinnati)
jwerling@businessinsurance.com

DIRECTOR OF RESEARCH,
PLANNING AND INSIGHTS
Andy Toh
(Chicago)
atoh@businessinsurance.com

MAJOR ACCOUNTS DIRECTOR -
MIDWEST & WESTERN U.S.
Keith Kenner
(Chicago)
kkenner@businessinsurance.com

MAJOR ACCOUNTS DIRECTOR -
NORTHEASTERN U.S. & INTERNATIONAL
Ron Kolgraf
(Boston)
rkolgraf@businessinsurance.com

HEAD OF SALES - EVENTS &
WORKERS COMPENSATION MAGAZINE
Jeremy Campbell
(Cincinnati)
jcampbell@businessinsurance.com

HEAD OF EVENT PROGRAMMING
Joanne Wojcik
(Denver)
jwojck@businessinsurance.com

DIGITAL OPERATIONS MANAGER
Kate Lichnerska
(Chicago)
klichnerska@businessinsurance.com

MARKETING MANAGER
Katie Kett
(Portland)
kkett@businessinsurance.com

REPRINT SALES MANAGER
Lauren Melesio
(New York)
lmelesio@businessinsurance.com

SUBSCRIPTIONS & SINGLE COPY SALES
membership@businessinsurance.com
954-449-0736

Business Insurance is published by
Business Insurance Holdings.



COVER STORY

Bullying in the workplace is getting more attention with the heightened awareness of the effects of intimidating behavior. With the number of bullying incidents running into the millions, employers could face increasing legal liability and workers compensation costs if they don't address bullying behaviors. **PAGE 22**

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Opioids are poised to affect the insurance sector in various ways; cryptocurrencies bring a new wealth of exposures; drones soar in the aviation market; solar storms pose electrifying risks; data and information on emerging risks. **PAGE 26**

INAUGURAL U.S. INSURANCE AWARDS

Business Insurance profiles the winners of its 2018 U.S. Insurance Awards, which recognize teams of industry professionals in 14 categories. Maurice R. Greenberg is also featured as this year's Crain Lifetime Achievement Award honoree. **PAGE 32**

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Freight railroads are better prepared than commuter lines for the Dec. 31 positive train control deadline. **PAGE 4**

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The growth in telemedicine in treating injured workers is outpacing legislation. **PAGE 10**

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Chile is the richest country in South America and an attractive emerging market for insurers. **PAGE 16**

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PERSPECTIVES

Lowenstein Sandler L.L.P. attorney Michael Barrese discusses the EU's looming General Data Protection Regulation. **PAGE 41**



VIEW FROM THE TOP

GEORGE STRATTS

George Stratts, who was named CEO of Lexington Insurance Co., the excess and surplus lines unit of American International Group Inc., in November, discusses the changes at Lexington and what brokers and policyholders should expect from the insurer going forward as AIG repositions it to be a stand-alone entity. **PAGE 20**



OFF BEAT

A California woman is suing to be believed about her sasquatch sighting while on a hike. **PAGE 44**



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Train safety may be off track

BY JUDY GREENWALD

jgreenwald@businessinsurance.com

Freight railroads are largely prepared for the Dec. 31 deadline to introduce positive train control, the remote-controlled safety technology designed to stop train collisions and other accidents, but there are concerns about commuter railroads' readiness.

Observers also describe the insurance markets for railroad risks as robust.

Major railroad lines are required to install PTC systems by year-end December 2018, with possible extensions to Dec. 31, 2020.

But in testimony before a U.S. House of Representatives subcommittee in February, Robert L. Sumwalt, chairman of the National Transportation Safety Board, said his agency "is gravely concerned that the majority of the nation's railroads required to install PTC will not have fully operational PTC systems" by the year-end deadline. "For each day that goes by without PTC, we are at continued risk of another tragic accident," he said.

Mr. Sumwalt pointed to accidents including the derailment of a passenger train on Dec. 18, 2017, in DuPont, Washington, that apparently failed to slow down as it traversed a curve, killing three passengers and injuring 82 passengers and crew members.

Jim Beardsley, Washington-based chairman of Marsh L.L.C.'s global rail practice, said the freight railroads most affected by the PTC mandate have "been working hard and they're



REUTERS

An Amtrak passenger train derailment in DuPont, Washington, last year killed three and injured 82 passengers and crew. Commuter trains face a tight deadline to comply with new safety rules.

in pretty good shape" with regard to fulfilling the mandate by year-end. "Where we see some of the challenges are in the commuter realm," because of either "late starts or challenges with capital funding and the like," he said.

A March report issued by the U.S. Government Accountability Office said seven to 19 of the 29 commuter railroads may not complete required PTC milestones before the 2018 deadline or qualify for an extension.

Nikki Burgess, Seattle-based senior regulatory specialist with Labelmaster, a hazardous materials transporter unit of American Labelmark Co., said the often financially strapped commuter railroads generally operate on tracks owned by freight trains, and so the issue insofar as their PTC compliance is concerned involves training and installing equipment on their trains, rather than track work.

"I'm not a fan of the delays," said former Federal Railroad Administration official George Gavalla, president of Norwich, Connecticut-based Triad Railroad Consulting L.L.C. The law requiring PTC was passed in 2008. "They've had seven years" to install the systems, and now may be given until the end of 2020, he said.

"The railroads are still slow-walking this," said Fred Millar, an Arlington, Virginia-based independent transportation consultant.

The FRA is apparently understaffed, and the material its staff must review is "quite onerous, and the question is, do they have the resources to review these plans?" Mr. Beardsley said.

Risks faced by railroads include derailment or collisions, including the possible release of toxic chemicals by freight trains.

Mr. Beardsley said although the risks of a passenger railroad collision or derailment are "far, far higher" than a toxic gas spill, the latter is a "real scenario that could happen" and potentially kill hundreds of thousands of people if it occurs in a major city. He cited a

2005 accident in Graniteville, South Carolina, in which a train carrying highly toxic chlorine and hydroxide, a strong corrosive, collided with a stationary train, emitting a lethal gas cloud that killed nine people.

However, Bill Anderson, president of Rail Services Inc., a railroad safety and claims consultant in Boise, Idaho, said: "They've been transporting hazardous commodities for decades pretty darn safely. Once in a while, you have a big, spectacular, front-page grabbing accident, but compared to trucks, particularly, there's fewer accidents."

By the typical measures of safety, "railroads continue to become more safe with each year," said Dan Bancroft, New York-based transportation practice leader for Willis Towers Watson P.L.C.

There is a \$295 million-per-cap occurrence on railroads' liability for accidents involving commuter trains, which does not apply to nonpassengers or property damages. There are no tort caps on freight rail transportation.

David Adamczyk, New York-based executive vice president of U.S. railroad for Aspen Insurance, said positive train control's implementation "could only be positive" in terms of insurance coverage. While "it's not going to solve everything," it "will go a long way towards resolving human error," he said.

"I think the market is good for the industry right now," Mr. Adamczyk said. "There's plenty of capacity, both domestic and international," but being 100% compliant with positive train control "can only help the railroads in terms of bringing costs of insurance down."

Mr. Bancroft said: "The market for passenger liability insurance is robust, with more than \$2 billion of total capacity or limits available. The strength of that market really comes" from the Lloyd's of London marketplace, London-based insurers and the Bermuda market, which provides high excess capacity.

CRASH DRIVES REGULATION

Congress mandated positive train control systems, which are designed to prevent collisions, speed derailments and other accidents, in the aftermath of a 2008 train collision in Chatsworth, California, that killed 25 people and injured 201 others, said Robert L. Sumwalt, chairman of the National Transportation Safety Board, during congressional testimony in February.

Positive control systems — of which there are several different types in use in the United States — can automatically control train speeds and movements if a train operator fails to take appropriate action for the conditions at hand, according to the Federal Railroad Administration website.

Since enactment of the Rail Safety Improvement Act of 2008, the NTSB has investigated 22 accidents that resulted in 23 deaths, more than 314 injuries and over \$126 million in property damage, which could have been prevented by the technology, Mr. Sumwalt said in testimony before the House subcommittee on Railroads, Pipelines and Hazardous Materials.

Under the original legislation, Class I railroad main lines handling poisonous-inhalation hazard materials and any railroad main lines with regularly scheduled intercity and commuter rail passenger service were required to fully implement PTC systems by 2015. Class I railroads are those with annual operating revenues of at least \$447.6 million.

Late that year, Congress extended the deadline to Dec. 31, 2018, with the possibility of an extension to Dec. 31, 2020, if a railroad completed certain statutory requirements, according to the FRA.

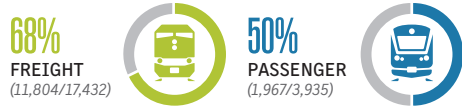
However, Nikki Burgess, Seattle-based senior regulatory specialist with Labelmaster, a hazardous materials transporter unit of American Labelmark Co., said political pressure stemming from recent commuter train accidents may lead the FRA to reject any railroad's efforts to extend the compliance deadline.

Judy Greenwald

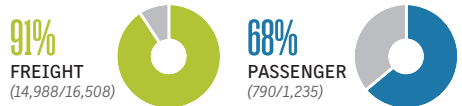
PTC IMPLEMENTATION STATUS

Q3 Jul. 1–Sept. 30, 2017

LOCOMOTIVES EQUIPPED & PTC OPERABLE



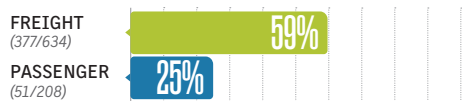
RADIO TOWERS INSTALLED



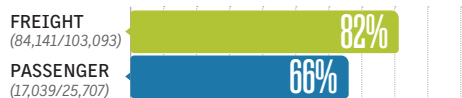
ROUTE MILES IN PTC OPERATION



TRACK SEGMENTS COMPLETED



TRAINING COMPLETED



Source: U.S. Dept. of Transportation Federal Railroad Administration

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Insurance sector faces climate pressures

BY GLORIA GONZALEZ

ggonzalez@businessinsurance.com

Insurers and reinsurers are facing escalating pressure to boost their sustainability efforts, including improving their disclosure of climate risks and divesting their investments in fossil fuels.

Climate change risks outweigh opportunities for property/casualty insurers and reinsurers, according to a recent Moody's Investors Service Inc. report, but advocates of climate action encourage them to identify, disclose and pursue such opportunities.

"Insurers, and even more so reinsurers, need to take a long-term perspective," said Peter Bosshard, San Francisco-based Unfriend Coal Campaign coordinator and director of the finance program at The Sunrise Project, which advocates for a quick transition from fossil fuels to renewable energy. "We know they are aware that climate change is not just a huge risk



and threat for society at large, but to their business model. Already, insurers are losing part of their market to climate change. Coastal areas are becoming uninsurable."

The property/casualty sector is facing climate risks such as negative credit impact and uncertainty related to the modeling of climate risks, which "could lead to companies underpricing what their actual exposures are," said James Eck, New York-based vice president and senior credit officer with Moody's. In addition, climate change litigation filed against oil companies and utilities that can affect liability insurance policies "still feels like a remote risk, but certainly there is a lot of exposure," he said.

Recognizing climate change opportunities will be critical for property/casualty insurers, according to Moody's.

"If the climate trends that we've observed over the past few decades continue to result in increased frequency and severity of weather-related (catastrophe) events, we think that could really be positive for demand for insurance and reinsurance as a way for entities to implement risk adaptation strategies against these type of events," Mr. Eck said.

While many European insurers and reinsurers are voluntarily taking climate actions such as divesting from coal operations or refusing to continue to insure such assets, their U.S. counterparts generally fall behind in those areas — something that nonprofit organizations hope to change as they apply pressure to take sustainable action across the pond.

In 2015, the first large insurers began divesting from coal, led by Paris-based Axa S.A. and then Munich-based Allianz S.E. The Unfriend Coal Campaign says at least 16 insurers have pledged to divest from coal, with commitments valued at about \$22 billion.

In 2017, the campaign began lobbying insurers and reinsurers to stop underwriting coal, with Axa again being the first to pledge to do so and continuing to incorporate "very strong policies both on divestment and underwriting," Mr. Bosshard said.

Other European insurance sector entities can take stronger action, advocates say. Lloyd's of London has implemented a coal exclusion policy as part of its responsible investment strategy for its Central Fund, which will affect 75% of the fund's assets

and is scheduled to take effect April 1. But this represents just 2.5% of assets in the £77.5 billion (\$107.32 billion) market that Lloyd's oversees, environmental law organization ClientEarth said in a Feb. 19 letter to Lloyd's CEO Inga Beale.

The Central Fund policy would not affect Lloyd's syndicates, but the corporation can influence their conduct, said Stephanie Morton, London-based insurance lawyer with ClientEarth.

"They have authority to make bylaws and also issue regulations ... and they can require those syndicates to take certain risks into account and report on certain risks and to consider, identify and manage those risks when those syndicates are coming up with their own investment policies," she said.

The United States has generally lagged on both climate disclosure and divestment, but California Insurance Commissioner Dave Jones launched the Climate Risk Carbon Initiative in January 2016 to require insurers with \$100 million in annual premiums doing business in California to disclose investments in fossil fuels. He also asked all insurers operating in the state to divest investments in thermal coal out of concern that they would become stranded assets and adversely affect insurers' abilities to pay claims. The initiative identified about \$10 billion in insurance industry investments in thermal coal assets — a fraction of the \$5.5 trillion in total investments — but insurers have agreed to divest about \$5 billion worth of these assets.

European insurers and reinsurers and their domestic affiliates responded favorably to his initiative — in stark contrast to U.S. insurers, Mr. Jones said.

"I think there are some segments of the U.S. insurance industry that would prefer not to be asked these questions, which I think is a big mistake," he said, adding the only "rational explanation" is political. "There is a contingent of politicians and industries who benefit economically from the status quo and don't care about what's happening to the planet."

SUSTAINABLE PROGRESS

The insurance sector's commitment to sustainability has improved to some extent but lags other industries in critical areas.

- About **38%** of insurers and brokers designated senior accountability for sustainability performance in 2017, up from **17%** of insurance sector companies in a 2014 report.
- **No** insurance companies provide financial incentives to their executives for sustainability performance in 2017, compared with **24%** of surveyed companies that do so.
- The insurance sector outperformed the average in terms of discussing climate risks in their financial disclosures in 2017, with **72%** of the analyzed companies in this sector making such disclosures compared with **51%** overall.
- But the insurance industry is underperforming in terms of directly engaging shareholders via annual meetings, analyst calls, investor days and other forums on sustainability strategy and performance, with only **28%** of companies in the sector in 2017 engaging in this manner compared with **43%** overall.

Source: Turning Point: Corporate Progress on the Ceres Roadmap for Sustainability

MORE ACTION NEEDED ON CLIMATE RISKS, OPPORTUNITIES

Insurers and brokers must make greater strides in evaluating, disclosing and incorporating climate risks and opportunities into their operations, says a report.

The insurance industry lags behind other sectors in holding their senior executives accountable for sustainability performance and offering financial compensation for meeting targets, according to Turning Point: Corporate Progress on the Ceres Roadmap for Sustainability report published in February by Boston-based investor co-

alition and sustainability advocacy group Ceres. No companies in the insurance sector are linking executive compensation to sustainability performance metrics, said Kristen Lang, Ceres' company network director and co-author of the report.

The insurance sector outperforms the average in discussing climate risks in financial disclosures, but most disclosures "have yet to become really decision-useful for investors," Ms. Lang said.

Hartford Financial Services Group Inc. is

one of the few U.S. insurers making strong progress on identifying and implementing sustainability goals, according to Ceres.

The insurer has used Global Reporting Initiative standards to report on its "robust" public climate and sustainability commitments since 2011 even though only 22% of the insurance sector uses the standards.

The insurer also has about \$500 million invested directly in U.S. utility-grade solar, wind and hydroelectric projects. In 2016, it launched its Environmental Opportunities

Fund to invest in companies promoting environmental sustainability, according to its latest corporate sustainability report.

"The investment team is very much aware of the increased attention being given to investment portfolios and pursuing an articulation of our investment strategy that will align with our commitment to sustainability," said Diane Cantello, Hartford, Connecticut-based head of corporate sustainability for the insurer.

Gloria Gonzalez

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1918 – 2018

Megaships test capacity of ports, insurers

BY ROB LENIHAN

rlenihan@businessinsurance.com

As ever-more-massive container ships are launched onto the world's oceans, experts say the risks associated with the vessels could test the capacity of ports and insurers to cope with them.

The rise of so-called megaships has been welcomed by shipping companies but is raising concerns in the insurance sector about the potential for major losses in the event of an accident.

Shipowners and operators, meanwhile, maintain the vessels are safe, economical and environmentally sound.

What exactly constitutes a megaship is open to some discussion as the vessels continue to increase in size.

Stephen Harris, senior vice president of Marsh Ltd.'s global marine practice in Norwich, England, said that over a decade ago, when Copenhagen-based A.P. Moller-Maersk Group took delivery of its first E-class of container ship, which could carry about 15,000 boxes, "we thought that's it, they're not going to get any bigger." E-class is terminology used specifically by Maersk to grade its vessels.

"How wrong we were," Mr. Harris said. "It became a contest, it seemed, between the major lines almost on a weekly basis as to who was going to order even bigger container ships. When we use the term 'mega containership', we take that to mean the ones that started at 18,000 TEU (twenty-foot equivalent unit) — the first of which being the Maersk Mc-Kinney Moller that was delivered in 2013 — and of course they've just grown and grown from then."

Last year, according to published reports, CMA CGM S.A., based in Marseille, France, ordered nine 22,000 TEU container ships, followed a short time later by Geneva-based MSC Mediterranean Shipping Co. S.A., which ordered 11 22,000 TEU container ships.



Megaship CMA CGM Benjamin Franklin docked at the Port of Oakland, April 2016. The biggest ship to ever dock at an American port at the time, it can hold up to 18,000 20-foot containers.

"It's a moving target," said Andrew Kinsey, New York-based senior marine risk consultant for Allianz Global Corporate & Specialty S.E. "The exponential growth of container vessels is really shocking."

Mr. Kinsey said some ports are conducting dredging projects to accommodate the megaships as the vessels exceed the capacity of ports' infrastructure.

Mr. Kinsey said insurers have been responding cautiously to the larger vessels.

"When you talk about so many containers on one vessel, the exposure from an insurance point of view, it can literally be a scenario when all their eggs are in one basket," he said. "What we try to tell insurers is keep it diversified. Just because it's the new shiny penny doesn't mean you have to use it ... Is it worth the risk? Is the benefit worth the exposure?"

"A worst-case scenario for the insurance market would be to have one of these vessels sinking, taking a very large amount of high-value cargo with it," which would hit marine hull and cargo insurers, Mr. Harris said.

In addition, an accident involving a megaship could cause significant pollution which, if released into the environment after an accident, could see the operator

incur liabilities that could impact the vessel's protection and indemnity insurer or club, he said.

"When one considers that the value of a new mega containership can be in excess of \$150 million and once the potential value of all the cargo being carried in those thousands of boxes on board is added, which could be much more than the value of the ship, plus all the potential liabilities that could be incurred following a loss or accident are taken into account, there are very few insurance marketplaces in around the world that could cope with that sort of loss on their own," Mr. Harris said.

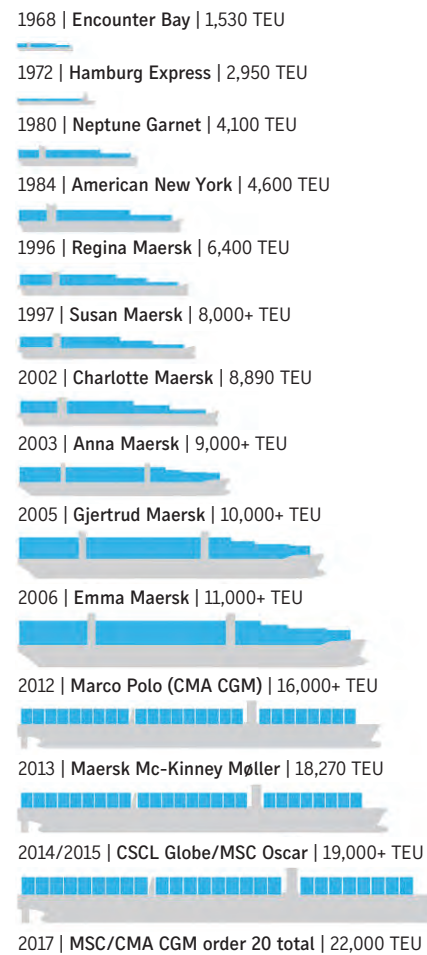
As the world economy grows over the next 20 years, "we may see vessels much, much bigger than what we're talking about now," he added.

Alan Jervis, president of Jervis Marine Insurance Experts International in Toronto, said finding insurance capacity to insure megaships is always going to be an issue.

"So far, the insurance capacity is there," he said, "but the bigger the vessels become, the more difficult it's going to be to have the insurance capacity or reinsurance capacity to insure them, and the greater risk of a catastrophic loss, particularly if two megavessels are involved in a collision."

50 YEARS OF GROWTH

Container-carrying capacity has increased by approximately 1,200% since 1968.



Sources: AGCS; Journal of Commerce

Lars Henneberg, head of insurance and risk management at Maersk, said in a statement that the company is "aware of the concerns expressed by some parties in this ongoing debate."

"In recent years, we have had constructive dialogues with ship insurers regarding our new buildings and have in each instance not seen restrictions in availability of insurance," Mr. Henneberg said.

OLDER INFRASTRUCTURE POSES BARRIERS TO GETTING MONSTER SHIPS TO PORT

The Bayonne Bridge has stood high over the Kill van Kull strait between New Jersey and New York's Staten Island since 1931, but not high enough to accommodate the new megaships.

The Port of Authority of New York and New Jersey said on its website that while the bridge "remains a marvel of 20th century engineering ... the original roadway, 151 feet above mean high water, prevents the new generation of 21st century container ships ... from passing under the

bridge to reach our marine terminals."

The agency said its "Raise the Roadway" project replaced the original roadway with one that is 215 feet above the Kill van Kull.

The elevated roadway opened to traffic on Feb. 20, 2017, and the Port Authority said that "newer, larger vessels, with cleaner and more efficient engines calling on our port ultimately will displace the need for multiple smaller vessel calls, and that will mean cleaner air for our neighbors."

Proponents of megaships often cite

economic and environmental benefits as reasons for deploying the massive vessels. But insurance experts express concern about the strain these vessels can put on ports.

"We're looking at ports now having to dredge for the drag," said Andrew Kinsey, New York-based senior marine risk consultant for Allianz Global Corporate & Specialty S.E. "We're seeing the Bayonne Bridge having to be raised. We're seeing ports having to do dredging on their berths, they have to get new cranes, yet we still

have to land these ships in the same container yard."

A spokesman for Geneva-based MSC Mediterranean Shipping Co. S.A. said in an email that MSC, which has investments in 53 port terminals, is continuing to upgrade its fleet in terms of vessel size and environmental performance and "expects port operators to keep pace with this trend in order to guarantee that we will continue to use their facilities."

Rob Lenihan

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Telemedicine rules lag implementation

BY JANET LAVELLE

The use of telemedicine continues to grow as the medical community, the public and insurers see the potential benefits of virtual medical visits to speed treatment, control costs and simplify follow-up care, but legislation and regulation facilitating its use to treat injured workers has been slow to emerge.

The trend toward telemedicine has led state and federal lawmakers to introduce more laws to encourage and regulate telemedicine used in Medicare, Medicaid and through private payers, but only a handful of proposals would amend workers compensation regulations to expand telemedicine.

While states may define covered telemedicine differently, the technology includes live video-audio medical visits, asynchronous “store-and-forward” images and data, and patient monitoring devices. Workers compensation programs typically limit services to an initial live audio-video consultation with a doctor to decide what care might be needed.

None of the 62 telehealth bills passed by state legislatures in 2017 were related to workers compensation, according to a roundup by the nonprofit Center for Connected Health Policy based in Sacramento, California.

“There have been a lot of federal and state telehealth bills introduced in the last couple of years and I think that’s been gaining momentum,” said Mei Kwong, executive director of the Center for Connected Health Policy. “Most of them have not been about workers compensation, however.”

But in recent months, Colorado, Tennessee, Texas, New York and Washington have proposed either new administrative rules or laws, mostly to expand telemedicine for injured workers



beyond rural areas or to provide payment parity with other insurance.

A state-by-state breakdown shows where some of the latest regulatory proposals stand:

Colorado: The state amended its Workers Compensation Rules of Procedure with Treatment Guidelines to specifically include telemedicine in its fee schedule. The rule was approved in 2017 and updated this year.

The change was made administratively, said Christy Culklin, medical services manager, Colorado Division of Workers Compensation based in Denver.

“Colorado passed H.B. 1029 in 2015

that mandated telemedicine across all health care agencies, but it excluded government agencies, which meant it excluded Medicaid and workers compensation,” she said. “We felt like it was a good idea to adopt it for workers compensation even though it wasn’t mandated, so we wrote it into our fee schedule.”

The schedule reimburses telemedicine at the same rate as an in-office visit, plus \$5.

Tennessee: The Tennessee Division of Workers Compensation amended its Rules for Medical Payments to add specific language on telehealth, effective Feb. 25.

The amendment states that payments for telehealth will be based on Medicare

guidelines.

“The rule addressing telehealth was part of an overall update of our medical payments rule that included several changes other than telehealth to bring the rule up to date,” said Abbie Hudgens, administrator for the Tennessee Bureau of Workers Compensation in Nashville, Tennessee.

Texas: The Texas Division of Workers Compensation has proposed changing its regulations to expand telemedicine services beyond rural areas. Health care providers follow Medicare policies and billing provisions for workers compensation services. Under the proposal, however, Medicare limitations on geographic

THIRD-PARTY ADMINISTRATORS OFFERING TELEMEDICINE IN COMP PROGRAMS

Whether separate legislation is needed for telemedicine in workers compensation seems to be open to debate.

No state has ever prohibited the use of telemedicine and all state medical boards have now approved its use, according to the Center for Connected Health Policy in Sacramento, California.

That has encouraged many third-party administrators to offer telemedicine in workers compensation programs.

Teresa Bartlett, senior vice president and senior medical officer for third-party administrator Sedgwick Claims Management Services Inc., said she sits on a state-level workers compensation committee in Michigan studying whether specific language is needed on telemedicine.

“There are Medicare guidelines related to telemedicine, and states are trying to decide if that language is sufficient,” she said. “At this point, it seems (the Michigan committee) is not seeing the need to develop separate language for workers compensation. I am sure many states are evaluating this and finding similar results. Only time will tell what approach they will ultimately take.”

“One consideration may be fee schedule pricing of telemedicine,” Dr. Bartlett added. “If there is any legislation, it may focus on cost.”

Memphis, Tennessee-based Sedgwick has offered a 24/7 nurse triage phone center for injured workers since 2008 and began offering telemedicine services in summer 2017.

David Lupinsky, vice president of medical review

services for Irvine, California-based third-party administrator CorVel Corp., said the company launched a workers compensation telemedicine program in 2015 and has had 3,000 virtual medical visits since then.

“The number of visits per month seems to be on an exponential growth rate,” he said.

Mr. Lupinsky would like legislation that creates a “gold standard” for telemedicine practices, but payment parity laws may be less important, he said.

“I always look at reimbursement. Even if it’s not handled legislatively, the market will set the rate,” he said. “But if states are going to have fee schedules (for telemedicine), they should have it for workers compensation, too.”

Janet Lavelle

area would not apply.

New York: A.B. 1419 and a related S.B. 3951 would amend the workers compensation law to require telehealth services as covered expenses. First introduced in January 2017, both bills are now in committee.

S.B. 833 would establish a task force to study the use of telehealth within the workers compensation system. That bill passed the state Senate in June 2017, but the Assembly sent it back and it now sits in a Senate committee.

Assemblywoman Addie Jenne sponsored A.B. 1419 and said she wants the bill to be voted on before the session ends in June.

"I've become involved in this arena because I live in a rural area with a physician shortage" where residents have to travel an hour or more to see a specialist, she said. Her district lies along the St. Lawrence River.

"People who are hurt at work also experience that same kind of access problem," she said.

Lawmakers passed a bill a few years ago to achieve some parity between telemedicine and other medical services, Ms. Jenne said.

"We've been going back and addressing the small pockets that were missing, and workers compensation was one of those," she said.

Ms. Jenne called S.B. 833 a "fallback" if her bill does not pass.

"I think it will end up being a question of cost," she said.

Washington: Workers compensation is handled either by the Washington Department of Labor and Industries or by self-insured employers, with medical second opinions done by an independent medical examiner.

"If you're an injured worker in Yakima and you have to go to Spokane three hours away for an independent medical exam, that can be time-consuming and costly. If that can be handled through telemedicine, it could provide a tremendous savings."

Steve Conway, Washington state senator

S.B. 6226 introduced this year would require self-insured employers to provide independent medical examiners with electronic health records before the patient's appointment. It would also require the

director of the Department of Labor and Industries to provide access to telemedicine for independent medical exams and require a state-sponsored collaborative to develop policies for telemedicine exams and a training program for physicians.

The Washington State Telehealth Collaborative, hosted by the University of Washington, was created in 2016 and includes legislators, health care providers and insurers who research telemedicine initiatives.

S.B. 6226 passed the Senate in February, but stalled in the House until the legislature adjourned in March.

Telemedicine is especially valuable in rural eastern Washington, said State Sen. Steve Conway, whose provision to require the director or a designee to join the collaborative passed via amendment to another bill.

"If you're an injured worker in Yakima and you have to go to Spokane three hours away for an independent medical exam, that can be time-consuming and costly," he said. "If that can be handled through telemedicine, it could provide a tremendous savings."

The collaborative will need to address questions of reimbursement and appropriate uses of telemedicine, Mr. Conway said. "These are the kinds of questions that need to be resolved," he said.



TELEMEDICINE TRAJECTORY

Telemedicine has advanced in the past few years, with hospitals, specialty clinics and other health care organizations overcoming past hesitations and embracing its potential to provide quality services and generate revenue regardless of geography, according to a 2017 study.

- **76%** of more than 100 survey respondents said they offer or plan to offer telemedicine services — a reversal from a 2014 study that showed **87%** of respondents did not expect most of their patients to be using telemedicine services by 2017.
- **53%** of those offering such services said their programs are growing or expanding, while **14%** said their programs are under consideration or in development. By contrast, **34%** of respondents in the 2014 survey said their programs were in the early stages.
- Third-party reimbursement for telemedicine services was identified as the biggest challenge to implementation at **59%**, followed by state licensing requirements at **44%**.

Source: Foley & Lardner L.L.P.

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States ramp up safety prosecutions

BY LOUISE ESOLA

lesola@businessinsurance.com

In the absence of stiff criminal penalties for workplace safety violations at the federal level, local prosecutors in the United States are showing signs that they are willing to go after employers who willfully violate standards when violations result in employee fatalities.

David Michaels, who until January 2017 had been the longest-serving assistant secretary of labor for occupational safety and health, recently urged federal legislators to move forward with an effort to stiffen penalties for willful violations of workplace safety standards that result in worker fatalities. The current criminal sanctions in the Occupational Safety and Health Act are “virtually meaningless” because the maximum penalty for willful violations in cases of workplace fatalities is a misdemeanor, and company employees responsible for maintaining worker safety rarely see jail time, he said.

In the absence of federal action, states have begun to ramp up their efforts to hold employers criminally and civilly responsible for fatal workplace safety accidents.

In January, for example, Washington state’s King County Prosecuting Attorney’s Office filed criminal manslaughter charges against the owner of a Seattle-based construction firm — the first time a Washington employer has faced felony charges for a workplace fatality.

The owner of Alki Construction was charged with second-degree manslaughter after a 2016 incident in which a worker was killed when the dirt walls of the trench he was working in collapsed and buried him, the Washington State Department of Labor & Industries said.

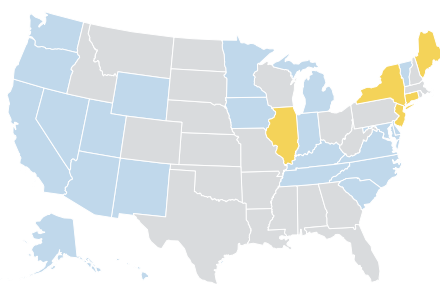
That same year, the state cited and fined the company for multiple workplace safety violations, including “willful” violations, according to the department.

“Whenever you have a serious injury or a fatality, there will always be a question about whether this was an accident or was this something that people know about and should this be investigated criminal-



TALLY OF STATE WORKPLACE SAFETY PLANS

Twenty-six states have U.S. Occupational Safety and Health Administration-approved state plans.



- Twenty-one states cover both private and state and local government workplaces.
- The remaining five plans cover state and local government workers only.

Source: OSHA

ly,” said Lily Chinn, San Francisco-based managing partner with Katten Muchin Rosenman L.L.P. “It’s something that is serious and still being focused on.”

Civil litigation is also on the horizon as a recent California Supreme Court ruling sent the message to employers in the state to pay more attention to workplace safety citations, as the federal government’s position on civil suits following violations won’t protect a company from steeper civil penalties assessed by state officials.

A high court ruling in favor of civil litigation following a workplace safety violation is a first for workers compensation nationwide, legal experts say.

“No other state in the country has this,” said Mike Taylor, McLean, Virginia-based shareholder with firm Greenberg Traurig L.L.P. “It means other states could follow.”

Essentially, California’s highest court on Feb. 8 set the record: a company can face civil penalties despite the fact the federal Occupational Safety and Health Act does not allow for such penalties against employers. The court ruled that the state’s own Occupational Safety and Health law, adopted three years after the federal OSH Act, overrides that federal standard.

“(This) can dramatically increase fines associated with these types of OSHA violations,” said Mandana Massoumi, a Costa Mesa, California-based partner with Manatt, Phelps & Phillips L.L.P., referring to the case that turned heads statewide: *Solus Industrial Innovations L.L.C. et al. v. The Superior Court of Orange County*.

Solus, a Rancho Santa Margarita, California-based manufacturer of plastics, in 2007 installed an electric water heater that was designed for residential use at one of its facilities, according to court documents that detailed the deaths of two workers in 2009 when that water heater exploded.

The Oakland, California-based California Division of Occupational Safety and Health investigated the incident and “determined the explosion had been caused by a failed safety valve and the lack of ‘any other suitable safety features on the heater’ due to ‘manipulation and misuse,’” court documents state.

While two plant supervisors are facing criminal prosecution, it’s the civil penalties that gained attention, because Solus faces charges that it misled its workers into thinking the company took workplace safety seriously, according to documents.

Because two employees died — and there was evidence of further violations — Cal/OSHA referred the case to the local district attorney’s office, which agreed that Solus’s practices were “egregious” and proceeded with civil litigation, said Deputy District Attorney Kelly Ernby in Santa Ana, California. Her office sought up to \$2,500 per day, per employee, from Nov. 29, 2007, to March 19, 2009.

Legal experts say such costs can add up quickly. “The first practical consequence is this can make violations significantly more costly,” said Mr. Massoumi.

Solus argued that the federal OSH Act pre-empted the state’s take on the civil penalties. The California Supreme Court ruling overturned an earlier decision made by an appellate court and revives an earlier prosecution filed by the District Attorney’s Office, which says it will proceed with its case. Solus officials could not be reached for comment.

The ruling calls for “more scrutiny of citations,” said Mr. Taylor. “Whereas employers in the past have paid the fine and moved on, a prudent employer will have to take a good, hard look at what civil penalties they could face before accepting the citation as written.”

Yet, risk of penalties is “controllable,” said Carla J. Gunnin, Atlanta-based partner with Jackson Lewis P.C. The Solus case had “bad facts” and “two managers who willfully ignored safety issues,” she said.

“If you are an employer who is doing the best, your risk at being caught in something like this is fairly low,” she said.

STATE WORKER PROTECTIONS CAN SUPERSEDE FEDERAL RULES

A recent California Supreme Court ruling underscored the principle that states can adopt stronger workplace safety protections than those offered by the federal government, according to legal experts.

The goal of the federal Occupational and Safety Health Act in 1970 was to address the problem of “uneven and inadequate state protection of employee health and safety

by creating a minimum level of protection throughout the country,” according to a California Supreme Court judge’s comments on *Solus Industrial Innovations L.L.C. et al. v. The Superior Court of Orange County*.

In 1973, California was among the first states to take the protections further by creating its California Occupational Safety and Health Act, which the court found to

be approved by the federal government.

“Federal OSH Act allowed states to opt out and have their own plan (and) California’s is a more robust plan,” said Carla J. Gunnin, an Atlanta-based partner with Jackson Lewis P.C. “Plans have to be at least as effective as the federal plan; (the federal OSH Act) doesn’t say it can’t be more effective.”

“This decision (against Solus) supports this type of state program,” said Mandana Massoumi, a Costa Mesa, California-based partner with Manatt, Phelps & Phillips L.L.P. “If you have these state regulations that are in line with the same interests as the federal regulations, then you can potentially not be pre-empted by federal law.”

Louise Esola

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Certified physician shortage strains system

BY JOYCE FAMAKINWA

jfamakinwa@businessinsurance.com

A significant drop in the number of qualified medical evaluators in California has experts concerned about the potential effect on injured workers and their employers and urging state regulators to staff up.

Qualified medical evaluators are physicians certified by the California Division of Workers Compensation Medical Unit to examine injured workers to evaluate disability and write medical-legal reports used to determine an injured worker's eligibility for workers compensation benefits, according to the division.

In California's workers comp system, the medical-legal process includes a panel, or list of three qualified medical evaluators, issued to an injured worker when a question arises about whether an injury is work-related or if there is a medical dispute that has not been resolved by the treating physician's report, according to the division.

The number of qualified medical evaluators declined 20% from January 2012 to September 2017, according to a recently released California Workers Compensation Institute study. The study compared data from the list of physicians certified in California as QMEs in 2012 with the certified QME list from September 2017 to analyze changes in the QME population.

"There has been some anecdotal word of mouth that there are access problems with individuals being able to schedule an appointment with QMEs," said Stacy L. Jones, senior research associate at the Oakland-based California Workers Compensation Institute. "We wanted to get an idea of how many QMEs were actually in the pool and some of the demographic information about where they are located in relation to where injured workers are and what the pool consists of in terms of specialty."



Getting high-quality medical legal evaluations in a timely and accurate manner has always been a concern in workers comp, according to experts.

"If you look at the average age of the people who do most of the medical legal evaluations, they are a lot of the baby boomers," said William Zachry, San Francisco-based senior fellow at the Sedgwick Institute. "Baby boomers are retiring or leaving the industry for various reasons as they get older. In California, there has always been a problem with getting good medical legal evaluations in the rural area ... that is one of the challenges that has been problematic for as long as there has been comp in California."

Despite the drop, available QMEs are taking on more evaluations, said Mr. Zachry.

"The question becomes quality and timeliness: Are the injured workers having to wait a long time to get an evaluation?" he said. "And my understanding is that after the initial kerfuffle with getting it up and running, generally speaking, the panels have been put out with the three

QME AND MEDICAL-LEGAL TRENDS IN CALIFORNIA

- The total number of QME providers decreased by 20% from January 2012 to September 2017.
- Of 3,239 physicians, 1,244 discontinued their QME certification voluntarily or involuntarily from 2012 to 2017.
- In 2017, orthopedic surgeons, spine specialists, chiropractors and mental health specialists together accounted for nearly 70% of all medical-legal services.

Source: California Workers Compensation Institute, 2018

positions to be selected pretty quickly."

Finding out how long the injured workers are waiting is a "piece of the puzzle" that would determine whether there is a problem, he said.

Other experts say that the QME drop will have a definite effect.

"The 20% fall in the number of QMEs in a little over five years, per the CWCI report, is alarming and has a significant impact on the ability to find a QME on a panel list who can evaluate a worker within the required timeframe of 60 to

90 days, much less issue a report within 30 days of that evaluation," Diane Worley, San Francisco-based director of policy implementation at the California Applicants' Attorneys Association, said in an emailed statement. "It doesn't matter whether they have one, two or five offices, less QMEs means longer wait time for appointments and for reports."

Nicholas Roxborough, a Los Angeles-based partner at Roxborough, Pomerance, Nye & Adreani L.L.P., has been working to get QMEs reinstated and reappointed, but hearings have been delayed throughout the process. These delays have a connection with the 20% fall, according to Mr. Roxborough.

"We represent about a dozen QMEs," he said. "We had over a dozen more QMEs call us up and say, 'I'm not even going to bother reapplying, it's not worth the hassle.'"

"What happened was you had a lot of highly qualified medical professionals who either didn't want to spend their money fighting to get back their QME license...or you had QMEs who were scared of being reported to the medical licensing board," he said.

The State of California's Department of Industrial Relations, Division of Workers Compensation did not comment despite multiple requests.

The division should be actively recruiting QMEs in the specialties of urology, pulmonary, gastrointestinal and oncology as well as increasing the overall numbers. Not doing so would increase frictional costs for employers, according to Ms. Worley.

"Many who have to navigate the current QME system, whether they are on the applicant's or defense side, say they would gladly go back to the old system where both sides get their own QME without going through this restrictive panel QME selection process," she said. "Less friction and more timely evaluations and reports."

DOCTORS FACE BARRIERS TO REAPPOINTMENT BY CALIFORNIA

A case involving two qualified medical evaluators who lost their QME licenses despite never having any billing issues with California officials highlights one of the contributing factors to the state's QME shortage.

In September, Timothy C. Howard and Benjamin Simon sought a writ of mandate asking the California Department of Industrial Relations, California Division of Workers Compensation to cease and desist from enforcing improperly adopted regulations and to reappoint them as

QMEs, according to a case called *Dr. Timothy C. Howard, et al. v. California Department of Industrial Relations, et al.*

Neither Mr. Howard, an orthopedist who was first appointed a QME in 2005, nor Mr. Simon, a practicing cardiologist appointed as a QME in 2015, had ever received billing complaints from the DWC, according to court documents.

QMEs are appointed for two-year terms in specialties

required for the evaluation of medical issues. The DWC is obligated to reappoint QMEs who meet all the educational and other standards set forth by California

Labor Code section 139.2 and who have not violated certain regulations after a due process hearing, according to case documents.

But Mr. Simon was denied QME

reappointment without a due process hearing, according to a Superior Court of the State of California County of Los Angeles ruling dated Feb. 20.

Meanwhile, Mr. Howard is currently in settlement negotiations with the DWC, according to his attorney Nicholas Roxborough, a Los Angeles-based partner at Roxborough, Pomerance, Nye & Adreani L.L.P. Mr. Roxborough has other writs of mandamus pending on behalf of other QMEs similarly denied reappointment.

Joyce Famakinwa





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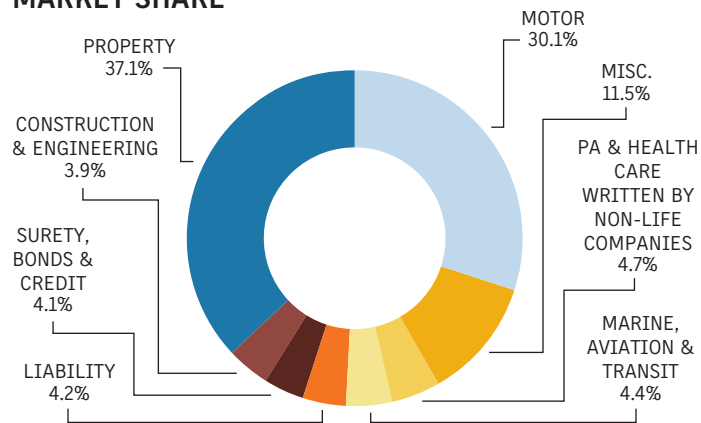
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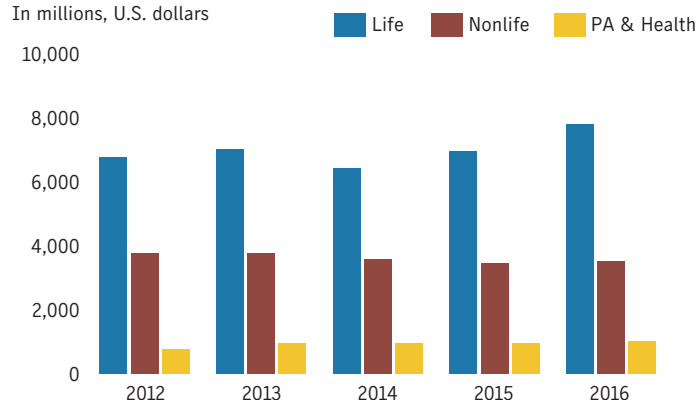
Chile is the richest country in South America, based on GDP per capita, and it is also endowed with mineral resources near its coastline. The country is the world's No. 1 producer of copper, molybdenum and iodine, though it remains vulnerable to varying external demand offset somewhat by an extensive free trade agreement network. The Chilean property/casualty insurance sector remains a stable, deregulated, emerging market that is generally seen as offering attractive potential for growth and profitability. Various foreign players are said to view it as a convenient entry point to develop operations in Latin America generally, and there has been considerable evidence of this in recent years. Competition continues to be strong, both in insurance and among reinsurers of the Chilean market.

MARKET SHARE



MARKET GROWTH

In millions, U.S. dollars



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

COMPULSORY INSURANCE

- Aviation liability for commercial aircraft and drones weighing two kilograms or more
- Bond, insurance or other guarantee for civil servants handling public funds
- Personal accident insurance for motor vehicles circulating in Chile
- Shipowners liability for marine oil pollution
- Various insurances and/or guarantees for insurance and reinsurance brokers
- Workers compensation (state plan, which includes students)

NONADMITTED

Unauthorized insurers cannot carry on insurance activity in Chile, with the exception of insurers selling cover related to international marine transport, international commercial aviation, merchandise in international transit, and satellites and the cargo transported by them. They may, however, issue all types of policies to consumers in Chile, with the exception of obligatory insurances, if approached by a buyer.

INTERMEDIARIES

Intermediaries must be authorized to handle insurance business. The Insurance Law makes an exception for individual and corporate brokers established in other countries relative to international marine transport insurances, international commercial aviation risks and merchandise in international transit, in accordance with the provisions of any applicable international treaty that Chile has signed with these countries. The law is silent on whether intermediaries may place business with nonadmitted insurers.

MARKET PRACTICE

No case is known of an unauthorized insurer writing business in Chile, and brokers are said to respect the prohibition on placing business directly overseas. Only a small volume of business is placed in this way, but there is considerable recourse to fronting.

MARKET DEVELOPMENTS

Updated January 2018

- Law 21.000 published on Feb. 23, 2017, provided for replacement of the Superintendency of Securities and Insurance with a new Financial Market Commission. By the end of 2017, the basic structures for the new regulator were in place and the SVS announced that the CMF Council would begin to operate starting Dec. 14. The SVS ceased to exist, replaced by the CMF, on Jan. 15, 2018. Further movement toward a robust risk-based capital regime for the insurance sector is expected under the new regulator.
- In October 2016, AIG announced the sale of several of its Latin American operations to Canada's Fairfax Financial Holdings group, including AIG Chile, which ranked 10th in the Chilean property/casualty market that year. The transaction was completed by the end of July 2017, and in October the company name changed to Southbridge Compania de Seguros Generales S.A.
- In June 2017, the management team of QBE Chile, ranked 18th in the country's property/casualty market in 2016, acquired the company and renamed it Unnio Seguros Generales S.A. An affiliate of reinsurance broker Capsicum Re reportedly provided capital support to the local management, with the broker also advising on reinsurance matters.
- Although there were some large individual Chilean losses during 2016 and 2017, they were not of a magnitude to reverse the trend of several years of a softening property and engineering insurance market. In the fourth quarter of 2017 there were, however, signs that such a reversal might arise from events outside Chile affecting international reinsurers, particularly the active Atlantic hurricane season of that year and a major earthquake in Mexico.
- Legislation and regulations on reinsurance are relatively sparse. NCG No. 421 of 30 November 2017 established principles of management of reinsurance and information on reinsurance programs to be sent to the regulator, with the first submissions to be made by July 31, 2018, relating to the closing date of Dec. 31, 2017.

AREA

287,079

square miles

POPULATION

18.2

million

MARKET CONCENTRATION


53.7%

market share of top five insurers

2018 GDP CHANGE (PROJECTED)

2.9%

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A portrait of Ryan Collier, Chief Digital Officer, wearing glasses, a blue suit, a plaid shirt, and a patterned tie. He is smiling and looking towards the camera.

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Title VII covers sexual orientation: Appeals court

■ The 2nd U.S. Circuit Court of Appeals in New York held in an en banc ruling that Title VII of the Civil Rights Act of 1964 prohibits discrimination based on sexual orientation.

“Sexual orientation discrimination constitutes a form of discrimination ‘because of sex,’ in violation of Title VII” and overturns previous 2nd Circuit rulings, said the majority opinion in the 10-3 ruling in *Melissa Zarda et al. v. Altitude Express* overturning a lower court ruling and remanding the case for further proceedings.

The case involves Donald Zarda, a gay skydiver, who sued his former employer, Calverton, New York-based Altitude Express Inc., alleging he was fired from his job as a skydiving instructor because of his sexual orientation. Mr. Zarda later died in a skydiving accident, but his estate’s executors have been substituted as plaintiffs in the case.

A three-judge panel of the 2nd Circuit appeals court said last April it did not have the authority to overturn circuit court precedent on the issue, but the court agreed in May to hear the case en banc.

In its ruling, the majority opinion said based on precedent, there is no justification for a categorical rule excluding sexual orientation claims under Title VII.

“Title VII’s prohibition in sex discrimination applies to any practice in which sex is a motivating factor,” concludes the ruling. It is a “subset of sex discrimination because sexual orientation is defined by one’s sex in relation to the sex of those to whom one is attracted, making it impossible for an employer to discriminate on the basis of sexual orientation without taking sex into account,” the ruling stated.

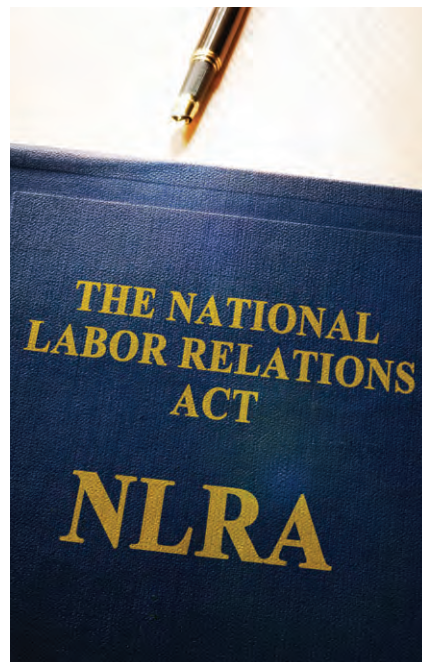
Board restores Obama-era ruling on joint employer

■ An Obama-era National Labor Relations Board ruling on the issue of joint employer liability was restored following a determination that an NLRB board member should have recused himself from another ruling that overturned it.

In 2015, a Democrat-controlled NLRB overturned a standard that had been in place since 1984 and held in its *Browning-Ferris* ruling that a company need only have indirect control of a worker and not even exercise that control to be considered a joint employer. But with a newly appointed Republican majority in place, the NLRB in December overturned the 2015 ruling on a 3-2 vote and returned to

the pre-*Browning-Ferris* standard.

However, after an objection was raised against NLRB board member William J. Emanuel’s participation in the vote, NLRB Inspector General David P. Berry said in a Feb. 9 report that he had determined there is a “serious and flagrant problem” with it, referring to Mr. Emanuel’s representation of a related party in the *Browning-Ferris* case — Hy-Brand Industrial Controls Ltd. — in his previous role as a shareholder in Littler Mendelson L.L.P.



In response, three NLRB board members issued the order vacating the Hy-Brand ruling, which in effect restored the *Browning-Ferris* ruling.

Suit against former Aon Bolivia CEO can proceed

■ The U.S. District Court in Chicago has denied a request by the former CEO of Aon Corp.’s Bolivian subsidiary to throw out a lawsuit the company had filed against him for allegedly misappropriating funds.

U.S. District Judge Andrea R. Wood in Chicago tossed out a motion to dismiss by Jose Luis Contreras Cabezas, former CEO, general manager and board chairman of subsidiaries Aon Bolivia and Aon Re Bolivia, in *Aon Corp. v. Jose Luis Contreras Cabezas*.

Mr. Contreras had claimed his case should be litigated in Bolivia, that the Chicago court lacked personal jurisdiction over him and that Aon lacked prudential standing, and thus any claims should come from the subsidiaries.

Aon sued Mr. Contreras in June 2015, charging he sent Aon funds to a shell company, Grupcor S.R.L. He allegedly misappropriated funds to purchase a building in La Paz, Bolivia, and offices

and parking spaces in Santa Cruz de La Sierra, Bolivia, in the name of Grupcor. He also allegedly misappropriated funds to make rental payments to Grupcor for the La Paz building and to enter into a lease and make lease payments to Grupcor for the Santa Cruz properties.

Aon is seeking more than \$20 million in compensation for its losses. Aon also said it lost its ability to conduct reinsurance brokerage business locally in Bolivia because Bolivian regulators permanently revoked Aon Re Bolivia’s brokerage license.

“The public interest factors favor retaining the case in this forum,” Judge Wood wrote in her decision.

Insurer, not captive, primary for medical malpractice cover

■ Admiral Insurance Co. is the primary insurer for a physician’s medical malpractice coverage, and a clinic’s captive is neither obligated to contribute to a \$420,000 settlement nor pay \$183,000 in attorneys fees and costs, said the 9th U.S. Circuit Court of Appeals in San Francisco in affirming two lower court rulings.

Dr. Anthony Schwartz, who worked at the Bullhead City Clinic in Bullhead, Arizona, operated by Franklin, Tennessee-based Community Health Systems Inc., was sued for medical negligence in 2010, according to court papers in *Admiral Insurance Co. v. Community Insurance Group SPC Ltd.* Also sued in the litigation was Community Health’s captive, Community Insurance Group.

Mount Laurel Township, New Jersey-based Admiral, which had issued Dr. Schwartz a primary professional liability policy, settled the underlying litigation against him for \$425,000 in 2012, while Community Insurance settled the underlying litigation against the clinic in a confidential settlement agreement.

Admiral filed suit against Community Insurance in U.S. District Court in Phoenix, seeking an equitable contribution for the payments it made on Dr. Schwartz’s behalf on the basis that Community Insurance was a primary insurer. Community Insurance argued it was not. The District Court ruled against Admiral in November 2016. The Community Insurance policy’s “‘other insurance’ clause makes clear that the policy is excess when there is other insurance for a claim,” said the ruling.

In a separate ruling in February 2017, the court held that Admiral, which had received a \$250,000 premium from the clinic for Dr. Schwartz’s coverage, must pay \$183,000 in attorneys fees plus \$30,000 in expenses.

“The district court correctly held that Admiral’s policy is primary,” said the unanimous ruling by the 9th Circuit panel.

DOCKET



911 DISPATCHER’S PTSD CLAIM COMPENSABLE

A 911 dispatcher in Oregon claiming post-traumatic stress disorder related to a 1996 incident where she sent officers to a scene where a suspect had been shot is eligible for workers compensation, the state Court of Appeals in Salem, Oregon, ruled in *Sheila L. Minor v. SAIF Corp. and Coos County*. It reversed an earlier Workers Compensation Board decision that upheld the original denial of her occupational disease claim for a mental injury, which was documented by a psychiatrist. “We conclude that the board’s order lacks substantial reason to support its finding that the psychiatrist’s opinion was unreliable,” the court ruled.

FAMILY DOLLAR GENDER BIAS SETTLEMENT OK’D

The U.S. District Court in Asheville, North Carolina, approved a \$45 million class action settlement of a gender discrimination case filed by female store managers of Family Dollar. According to the original complaint in *Luanna Scott et al. v. Family Dollar Store Inc.*, filed in October 2008, female store managers were paid less than male store managers for performing the same jobs in violation of Title VII of the Civil Rights Act of 1964 and the Equal Pay Act. The settlement creates a \$45 million fund for individual settlement payments to female store managers who worked from July 2002 to November 2017.

GRAPHIC ARTIST FOUND GUILTY OF COMP FRAUD

A former Ohio man injured on the job in 1991 pleaded guilty to workers comp fraud in March. Investigators found John W. Bezusko, 50, working from his home in Grand Junction, Colorado, while collecting injured workers benefits from the Ohio Bureau of Workers Compensation, the bureau said in a statement. He must pay \$19,530 in restitution and serve five years’ probation, according to his sentence in Franklin County, Ohio.

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George Stratts was named CEO of Lexington Insurance Co., the excess and surplus lines unit of American International Group Inc., in November 2017. The appointment came a few days after AIG President and CEO Brian Duperreault signaled that Lexington would be repositioned as a stand-alone entity, as it had been for much of its history, part of what Mr. Duperreault said would be AIG's investment in specialist areas. Before heading Lexington, which is the largest surplus lines insurer, Mr. Stratts, who has been with AIG for 19 years, was global president of AIG's property and special risks division and, prior to that, executive vice president of Lexington. He recently spoke with *Business Insurance* Editor Gavin Souter about the changes at Lexington and what brokers and policyholders should expect from the insurer going forward. Edited excerpts follow.

George Stratts

LEXINGTON INSURANCE

Q What changes can we expect from Lexington?

A First, Lexington is highly specialized in handling the most challenging risks and doing so in a way that meets the needs of clients and brokers in terms of precision and speed. Having that dimension of risk expertise and specialization together with precision and speed, that's going to be the hallmark of Lexington going forward.

To help drive those changes, there are a few things we are undertaking. Capability and functionality within Lexington, in our recent past, was shared across AIG. So things like claims and operations, finance, actuarial and legal, all of those areas were ones that were shared across the broader AIG organization. When you think about Lexington, it plays solely in the excess and surplus lines marketplace, and that marketplace demands a view that is focused and dedicated to that line of business and not necessarily shared. So the first thing is standing up those components to help provide Lexington with end-to-end capabilities.

The second piece is making sure that we have the right product leadership. So bringing in that excess and surplus lines expertise to complement our existing capabilities will be an important component to building out and starting up the Lexington company as we go forward.

The third piece, and it really is a hallmark of excess and surplus lines underwriting, is how do we foster a culture of creativity and innovation? We need to do this at the deal or individual account level without compromising the underwriting direction and the underwriting integrity that the company requires. So having that deal creativity and innovation will then create a stronger foundation from which we can build product innovation and service innovation.

Q Are you on a recruitment drive at the moment?

A We are actively looking to recruit. We're looking internally and we're looking externally. We want the best talent available to position Lexington for the next chapter in its history.

Q What will brokers and Lexington policyholders see that's different?

A With a dedicated unit that fully reflects Lexington and our complete commitment to the excess and surplus lines space, the first difference will be ensuring we have a more responsive platform that reflects the way the excess and surplus lines market behaves and operates. The excess and surplus lines market space requires us to be different and to be quicker, so that speed to answer, speed of decision is what we want to build on.

In addition, the specialized underwriter should be and needs to be far more empowered, and we need to make them accountable for that decision but at the same time we need to support them in a way that enables them to make good decisions — to make that call using the



full technical tools they have available to them, but also using their expertise and judgment in helping with that call.

Our policyholders and our broker partners should also see more of a willingness from Lexington to provide tailored, creative solutions. We'll develop them in a way that allows our clients to move forward but also make sure that we're making the right underwriting calls.

Finally, with the end-to-end unit that I mentioned where you have operations, claims, actuarial and finance all aligned to support Lexington, policyholders and brokers should feel that speed of service — whether it's policy issuance, claims response or claims expertise — to match the underwriting expertise in this most challenging space in the marketplace.

Q Where are you seeing opportunities for growth?

A The starting point is being a better partner to our brokers. If we're aligned on how we help them solve their problems and not necessarily having them solve our problems, that's a good starting point for us. And if we shift the view of our underwriters to be orientated that way, then that's an important first step.

We need to be more responsive to the market. Excess and surplus lines is highly specialized but is also quick, and that speed of decision-making will foster growth. One of the ways that we're thinking about supporting that is through our technology platform and our process organization. We're piloting a program with some of our key wholesale broker partners that allows us to be responsive in a 24-hour or shorter time frame.

Also, we need to be responsive to the changing nature of our marketplace. In some of the areas that we see developing in the E&S marketplace — whether it's sharing economy, the influence of robotics in manufacturing or needs for integrating coverages — we need to be ahead so that we're able to respond. Having that forward view is important.

And if rates are improving, that will drive growth, and there is a need for rate improvement across the industry.

Q Are you expecting rate increases?

A We're seeing rate improvement now, and our expectation is that segments of the business need it. It's on a continuum, and some risks are handled very differently than others. If you look at the excess and surplus property marketplace, if you are exposed and you've experienced a loss, which a big portion of the market segment did, we are in need of rate correction and rate improvement. If risks have performed well and their rate levels haven't changed significantly over the past five years, they should have a differentiated deal. Others have seen substantive rate reductions and experienced real losses, and they may see different responses.

Q Are you seeing increases on the casualty side, too?

A Around auto liability and some other challenging areas within the casualty classes. So some more than others, but we are seeing some positive rate movement on the casualty portfolio overall.

"The excess and surplus lines market space requires us to be different and to be quicker, so that speed to answer, speed of decision is what we want to build on."

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Employers who tolerate tormenting behavior by high performers risk litigation, costly comp claims



BY JOYCE FAMAKINWA

jfamakinwa@businessinsurance.com

Heightened concern over intimidating behavior by powerful executives is shining a light on more widespread ill-treatment of employees caused by bullying behavior in the workplace.

With estimates of incidents of workplace bullying running into the tens of millions, employers that ignore the issue could face increased litigation stemming from the bullying behavior, legal experts say.

In addition, bullying can decrease productivity and has ramifications for workers compensation claims, they say.

To address the issue, employers must publish a clear policy against bullying in the workplace, treat bullying complaints seriously and take immediate action to address incidents of bullying.

“We are speaking about the issue more because people are more inclined to speak up about it. I think this focus on #MeToo and #Time’sUp’ is going to further accelerate the focus on any kind of interpersonal behavior at work that is abusive or inappropriate,” said Teresa Daniel, Louisville, Kentucky-based dean of human resource leadership at Sullivan University. Ms. Daniel has studied and written about workplace bullying in the U.S. and is co-author of the book “Stop Bullying at Work: Strategies and Tools for HR, Legal, & Risk Management Professionals.”

In 2017, the Workplace Bullying Institute, a Bellingham, Washington-based research and training organization, called workplace bullying an epidemic. An estimated 30 million American workers have been or are currently being bullied at work, according to the institute. Many have also witnessed bullying in the workplace and the incidents can have a significant effect on companies that don’t address the problem, according to the institute.

The distractions caused by bullying can have “a huge impact on American productivity and profitability,” Ms. Daniel said.

“A lot of people will discount instances when bullying is happening and call it a personality conflict, or they look at it as ‘grow up and deal with this issue,’ so they don’t take it seriously,” she said.

Workplace bullying is a pattern and practice of persistent torment. The distinction between a bully in the workplace and a tough boss is that a bully is not working in the best interest of the organization and is instead focused on personal vendettas. Confusing a bully with an employee who is results-driven can present problems for employers, according to experts.

“Organizations are really ripe for bullying because we want people to get results,” Ms. Daniel said. And companies sometimes tolerate bullying behavior from high-performers who generate profitable business, she said.

“What happens is that people who get results sometimes get guarded and often have an executive sponsor, someone who will protect them within the organization. What I say to senior management teams when they tell me this person is too valuable for us to lose, my response is that this person is too dangerous,” said Ms. Daniel, who spoke with many organizations for her book.

Federal law does not prohibit bullying in the workplace, but bullying can give rise to legal claims under state laws, according to legal experts.

“Many states have laws that prohibit what is called intentional infliction of emotional distress or negligent infliction of emotional distress ... so if an officer of the company, manager, supervisor — essentially an agent — if it’s determined that they have engaged in this type of conduct, it could at a minimum be alleged and potentially proved they have been in violation of some of those

WORKPLACE BULLYING

Workplace bullying can lead to lawsuits alleging discrimination based on gender, race and other protected classes. In 2017, the Workplace Bullying Institute conducted a survey of workers in the U.S. that looked at workplace bullying in the United States.

RACE/ETHNICITY

- 25% of Hispanics have been the target of bullying
- 21% of African-Americans have been the target of bullying
- 7% of Asian people have been the target of bullying.

GENDER

- Workplace bullies were more likely to be men, at 70%, than women, at 30%.
- Both men and women were more likely to target women. Men bullied women in 65% of cases. Women bullied women in 67% of cases.
- Women were targets in 66% of cases overall.

Source: The Workplace Bullying Institute and Zogby Analytics, 2017

state laws,” said David J. Pryzbylski, an Indianapolis-based partner at Barnes & Thornburg L.L.P.

Most states have a doctrine — respondeat superior — that can make the organizations vicariously liable for the actions of managers, supervisors and officers, he said.

“Generally speaking, employers will usually have at least some level of liability and responsibility for the acts of their employees, particularly the acts of their managers,” said Michael J. Willemin, a New York-based partner at Wigdor L.L.P.

Workplace bullying can sometimes be based on race, gender, age or other factors, and those violations of discrimination law can broaden liability for employers, according to experts.

“Where it gets sticky potentially is (Title VII of the Civil Rights Act of 1964) or any other federal or state discrimination statutes. For example, if a supervisor is only bullying people of a certain race or gender, a claim could be made that the bullying is creating a hostile work environment based on the fact that the supervisor was targeting people of a specific race or gender,” said Mr. Pryzbylski.

Workplace bullying can also result in allegations of sexual harassment.

“What starts as bullying that may or may not rise to the level of illegal behavior under the law could easily turn into illegal sexual harassment. If the bullying becomes pervasive and the victim can show ... that it satisfies those prongs in the analysis under anti-harassment laws, you now have illegal behavior in the workplace,” said Terese Connolly, a Chicago-based partner at Culhane Meadows P.L.L.C.

In addition, workplace bullying can affect workers compensation claims, experts say.

For example, co-workers may take a negative view of injured workers who return to work on light duty, said Sherri Bryant, Kansas City, Missouri-based team lead for integrated advocacy solutions at Lockton Cos. L.L.C.

“Organizations are really ripe for bullying because we want people to get results. When they tell me this person is too valuable for us to lose, my response is that this person is too dangerous.”

Teresa Daniel, Sullivan University

“When they return to work in that capacity, sometimes their co-workers feel that they aren’t pulling their weight. They may antagonize them,” she said.

In addition, supervisors may poorly treat workers returning to work after an injury, Ms. Bryant said.

“Their supervisor is now dealing with an injured employee who can’t produce as much. Now that supervisor is responsible for finding someone else to pull their weight, so sometimes when we have a supervisor who is

See **BULLYING** next page

CASES HIGHLIGHT EMPLOYER LIABILITY FOR WORKPLACE BULLYING COMPLAINTS

Several workplace bullying-related cases have resulted in lawsuits and judgments:

Microsoft

In 2014, Microsoft Corp. was ordered to pay \$2 million in damages in a defamation, sexual harassment and racial discrimination lawsuit in *Michael Mercieca v. Microsoft Corp.* A Texas judge found the technology company guilty of creating a hostile work environment. Mr. Mercieca was a former sales person who accused employees and supervisors at the company of undermining his work, falsely accusing him of sexual harassment, falsely accusing him of expense account fraud and blocking his promotions. Mr. Mercieca is Japanese-American and experienced racism from managers, according to the suit. Mr. Mercieca alleged in the lawsuit that he had been “subjected to a lot of harassment, bullying, and retaliation.” In 2016, the Texas Court of Appeals, 14th District in Houston overturned this decision, siding with Microsoft.

Caltrans

In 2017, the California Department of Transportation was ordered by the California Superior Court in *John R. Barrie v. State of California* to pay \$3 million to Mr. Barrie in a disability accommodation lawsuit. Mr. Barrie, a staff services analyst at Caltrans, claimed that his supervisors intentionally triggered his allergies by exposing him to chemicals including cleaning solutions and perfumes. In 2005, when Mr. Barrie began working at the department, his allergies were accommodated by his then-supervisor. But when a new supervisor took over in 2010, the accommodations did not continue, and after filing an internal complaint he was asked to perform a job that he viewed as a demotion. The department’s human resources representative found that perfumes and cleaning chemicals had been sprayed in Mr. Barrie’s office.

Tesla

In 2017, Tesla Inc. was subject to a class action lawsuit claiming that the auto manufacturer created an intimidating, hostile and offensive work environment for African-American employees that included a routine use of racial slurs. *Vaughn v. Tesla Inc.* was filed in California Superior Court in Oakland on behalf of a class of African-American employees at the company’s Fremont, California factory. The case is pending.

California Department of Corrections and Rehabilitation

In 2016, Onalis Giunta, a supervising dental assistant at Folsom State Prison, was awarded \$1.1 million in *Onalis Giunta v. State of California, Department of Corrections and Rehabilitation*. Ms. Giunta claimed that when she was promoted, a former co-worker did not respect her authority and was coddled by two male supervisors. After disciplinary action, the employee threatened to bring a gun to work. He received no punishment for these threats. Ms. Giunta said that she was told she needed to return to work with the employee or resign after returning to work due to stress-related time off. She eventually transferred to another facility, taking a demotion. Corrections officials claimed that Ms. Giunta was not unsafe at Folsom. A Sacramento jury disagreed.

Joyce Famakinwa

BULLYING

Continued from previous page

not very tactful — or quite simply a jerk — they can compound that employee’s recovery time by being hard on them when they return to work,” she said.

Employers can often spot workplace bullying via workers comp claims as well.

“What ends up happening is that you have someone come in and they report a claim, usually not anything extraordinary — it may come in as sprain or strain type of claim — then when you get into the claim you start encountering an individual that seems to malingering ... or have complaints about pain, needing medical care that doesn’t seem to go along with the injury,” said Kendra Schropp, Irving, Texas-based director of risk management and safety at On the Border Mexican Grill & Cantina.

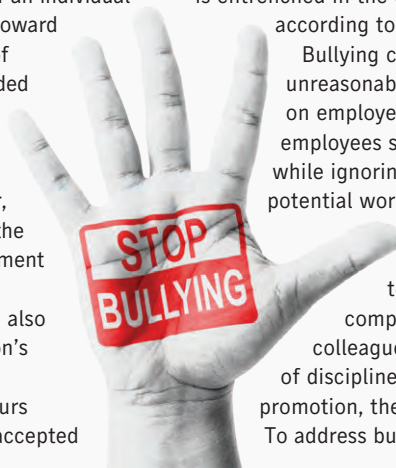
In other instances, injured workers may seem in a hurry to return to work when they have legitimate injuries, she said.

If a claims manager notices a cluster of workers acting in these ways at particular locations, “you may be able to start to put together some signs of bullying behavior

Workplace bullying involves the repeated actions of an individual or group directed toward an employee or a group of employees that are intended to intimidate, degrade, humiliate or undermine, and often involves an abuse or misuse of power, according to a report by the Washington State Department of Labor & Industries.

Workplace bullying can also arise from an organization’s culture: Corporate or institutional bullying occurs when bullying becomes accepted

WHAT IS WORKPLACE BULLYING?



as part of the workplace culture and is entrenched in the organization, according to the report.

Bullying can include placing unreasonable expectations on employees, dismissing employees suffering from stress while ignoring or denying the potential work-related causes, and encouraging employees to fabricate complaints about colleagues with threats of discipline or promises of promotion, the report says. To address bullying, employers

should create a “zero tolerance” anti-bullying policy that has the support of top management, according to the report.

When workers report bullying, employers should investigate promptly, management should be actively involved with their staff and not be far removed, and employers should establish an independent contact for employees, according to the report.

In addition, employers should create a code of conduct that defines professional behaviors and unacceptable behaviors and employees should sign a statement of commitment to abide by the code of conduct, the department said.

Joyce Famakinwa

that may be going on,” Ms. Schropp said.

Damaged corporate reputation, increases in staff turnover, absenteeism, reduced employee engagement and lower productivity can all result from workplace bullying.

“Then suddenly you may not be that place that people want to come and work. People are so review-driven now that they may take to a different platform and read

about this on places like Glassdoor to find out people’s experiences,” said Ms. Schropp.

Employers should have detailed, recurring prevention plans in place to address workplace bullying, according to experts. If employers already have an anti-bullying policy in place they should review it and make sure it is being upheld.

“The template that we utilize and share ... clearly states that there is zero tolerance for acts of bullying, intimidation, harassment, and threats of physical violence. That is the main fundamental starting points that we encourage in this area,” said Nicholas Smith, New York-based practice leader for security risk consulting at Willis Towers Watson P.L.C.



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- The Evolving Role of Social Media in Investigating and Defending Workers Compensation Fraud
- Engineering an Effective Workers Compensation Program
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EMERGING & SPECIALTY RISKS

Opioid litigation sets stage for coverage fights

INSIDE

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BY JUDY GREENWALD

judygreenwald@businessinsurance.com

The devastating opioid crisis will eventually have an impact on the insurance market for pharmaceutical manufacturers, distributors and pharmacies in what is already considered a challenging sector to insure, but it is not expected to affect the overall market.

Products liability and directors and officers liability are the lines cited most often as likely to be affected, but others, including errors and omissions, commercial general liability and advertising injury, are mentioned as well.

A total of 42,249 people died from overdosing on opioids in 2016, according to the U.S. Department of Health & Human Services, at a rate of 116 a day.

In March, South Dakota became the 19th state to sue opioid manufacturers among the hundreds of lawsuits that have been filed in

various jurisdictions, including counties.

Meanwhile, the judge overseeing the multidistrict litigation filed in Ohio has said he plans to expedite the litigation, although observers say the case has some significant differences with the Big Tobacco litigation settled in 1998 (see related story).

"I think there will probably be at some point in time some discussion between policyholders and our lawyers about where coverage lies, or doesn't lie, based on particular suits, allegations and theories," said

JUDGE ATTEMPTS TO REIN IN OPIOID LITIGATION

U.S. District Judge Dan Polster in Cleveland, who is handling the opioid multidistrict litigation proceedings, is encouraging the parties to reach a settlement and has set a settlement conference for May 10.

"It's very clear that the judge is not going to allow this to become a multiyear, long-drawn-out legal process," said John Connolly, Radnor, Pennsylvania-based life sciences practice leader for Willis Towers Watson P.L.C.

The opioid litigation has been sometimes compared to the \$206 billion Master Settlement Agreement of 1998 between 46 state attorneys general, among others, and tobacco companies.

But observers point out some significant differences.

John Denton, New York-based coverage and claims leader with Marsh L.L.C.'s U.S. casualty practice, said the tobacco litigation involved a relatively small number of defendants, all of whom were in the same category of tobacco products manufacturers.

"In this case, we have a very large number of defendants and they are in very different situations," said Mr. Denton.

The three basic segments facing litigation in this area are the manufacturers, the distributors and the pharmaceutical



companies.

Tobacco is also not regulated to the same extent as opioids, which are controlled substances, he said.

Cindy Koehler, Boston-based global practice leader for casualty claims at XL Group Ltd., which does business as XL Catlin, said opioid manufacturers do not have "nearly as much money" as do the tobacco companies, and a comparable set-

tlement could bankrupt them.

"These are pharmaceutical manufacturers, so there may not be a public interest in their bankruptcy," she said.

Unlike the case with tobacco, opioids "still remain, in many cases, the best way" to relieve patients with chronic or post-operative pain "and maintain quality of life," Mr. Connolly said.

Judy Greenwald

Cindy Koehler, Boston-based global practice leader for casualty claims at XL Group Ltd., which does business as XL Catlin.

John Denton, New York-based coverage and claims leader with Marsh L.L.C.'s U.S. casualty practice, said: "The insureds are tendering those claims under both current and historical policies, and the carriers are responding to those claims largely by reserving their rights. Ultimately, there may be coverage litigation to resolve whether or not, and to what extent, those policies respond."

The manufacturers will "stick together" and try to persuade the courts otherwise when insurers say there were exclusions in past policies that preclude coverage, said Walker Taylor IV, Wilmington, North Carolina-based senior managing director of Arthur J. Gallagher & Co.'s life sciences practice.

The insurers will say, "You pushed this onto the public, you advertised them, and you knew it was addictive," while policyholders will say, "Hey, this is why we bought product liability coverage," Mr. Taylor said.

Mr. Denton said the two coverage issues that have arisen so far are whether product liability insurance provides coverage for damages because of bodily injury arising out of the insureds' products, and whether the harm caused was "expected or intended."

But because state laws differ, "You may have 50 different interpretations of whether and how the policies respond to these opioid complaints," Mr. Denton said.

On policies now being written, insurers "are either excluding opioids outright completely,

or imposing exclusions for actions by government entities, for instance," said James Walters, Philadelphia-based leader of Aon P.L.C.'s pharmaceutical practice.

"That doesn't mean they can ignore or get out of the coverage that they have provided in the past ... but they are all generally saying, 'We're not covering anything from this point forward,'" Mr. Walter said.

"What a D&O policy is designed to cover on a public company form is exactly this: a management type of risk arising out of what the company does, and part of what these companies do" is manufacture or become involved in the distribution of opioids.

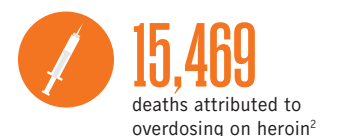
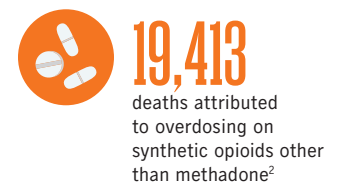
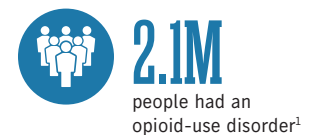
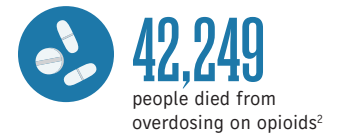
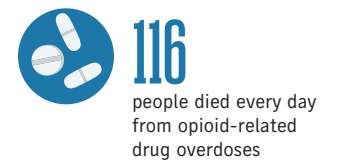
Carrie O'Neil,
JLT Specialty USA

D&O insurance may be affected through derivative as well as class actions, say observers.

"The D&O policies aren't going to provide coverage for the suits that have been filed by states, counties and municipalities" and others, "but there may be follow-on suits by shareholders against the directors and offi-

OPIOID EPIDEMIC BY THE NUMBERS

In 2016 ...



¹2016 National Survey on Drug Use and Health. ²Mortality in the United States, 2016 NCHS Data Brief No. 293, December 2017. ³CEA Report: The underestimated cost of the opioid crisis, 2017.

Source: U.S. Department of Health and Human Services. Updated January 2018.

Fidelity insurers adapt to crypto risks

BY MATTHEW LERNER

mlerner@businessinsurance.com

Digital ledger technology and cryptocurrencies pose emerging risks that are only now beginning to be understood and addressed as insurers learn more about these new and evolving tools and technologies.

But even as the technology proliferates, risk managers are struggling to keep up.

“Any innovation has inherent risks,” said Paul Meeusen, head of distributed ledger technology at Swiss Re Ltd. in Zurich.

“Cryptocurrency is a very novel technology, and it may have a very bright future, yet there’s certainly a good amount of risk associated with it,” said Patrick Schmid, vice president of The Institutes RiskBlock Alliance, the digital ledger technology consortium started by The Institutes, the insurance industry education and research organization in Malvern, Pennsylvania.

There are some 1,500 cryptocurrencies in existence with a cumulative market value of half a trillion dollars, Mr. Schmid said.

But the rapidly expanding crypto sector has caught many in the risk profession and community off guard.

“I don’t find, when speaking to professional risk managers and insurance brokers, that people necessarily fully understand the risk at this point. It’s really new technology,” said Stephen D. Palley, of counsel with Anderson Kill P.C. in Washington.

“Cyber is really new and completely intangible, and no one’s really good at understanding what that means yet,” said Joe Calandro, managing director with PwC in New York.

Using digital ledger technology in regular activities may not create new or substantial risk management challenges.

“If you are simply using the technology and the technology is part of the professional services provided, generally speaking that should be something that is covered or coverable within a traditional insurance program,” said Jackie Quintal, financial institutions practice leader for Aon Risk



Solutions in New York.

The technology could even become a risk mitigation tool. “Blockchain, the technology behind cryptocurrencies, may help reduce risk through its decentralized nature,” Mr. Schmid said.

Digital ledger technology “could be seen as a tool to improve process efficiency, as well as a risk mitigation tool, meaning it’s a much more secure environment than what exists today,” Mr. Calandro said.

But risks associated with cryptocurrency may require closer attention when it comes to insurance.

“Once you venture past the technology into the cryptocurrency space, the conversation changes,” Ms. Quintal said. “What exactly are you doing, how is it secured, what does the technology look like? Some of those things are not immediately picked up by traditional language from a fidelity (policy) perspective and would warrant a more specific and focused conversation.”

Small changes to policy language may be needed, she said.

“It’s mostly a mechanical change because most insurance policies — if you think of the traditional terms and conditions of a fidelity policy — are based around legacy systems and processes within banks,” Ms.

Quintal said. “So you are looking at something which covers theft of money and securities defined in a narrow enough way that cryptocurrency is neither. It requires a change to policy language such that you are picking up coverage for cryptocurrencies in addition to traditional fiat currency.”

Such changes in language, however, meet with varying responses from the insurance marketplace, Ms. Quintal said. “Some insurers are more comfortable than others with making such changes. In general, the more an insurer knows, the more comfortable they tend to be.”

Insurers seem to have differing levels of understanding of and appetite for the exposures, she said.

“There are some insurers which have taken the time and learned to ask better questions and are willing to make changes,” Ms. Quintal said. “Others have said, ‘We don’t quite understand it, and we’re not sure we’re going to understand it fast enough, so we’re just not going to do it.’”

“We recognized back in 2014 if we did have a fidelity claim with cryptocurrency there were holes in the policy and it could be interpreted in a variety of ways,” said Frank Scheckton, president of the fidelity and crime division for Great American

CRYPTO HACK FACTS



COINCHECK — The Japanese cryptocurrency exchange announced March 12 that it **refunded approximately \$435 million** to investors who lost 523 million NEM tokens, a type of cryptocurrency, in a January breach of the exchange. Coincheck refunded customers at a rate of 88.549 yen (\$0.82) for each token held at 23:59:59 JST on Jan. 26, 2018. The exchange also announced March 12 that it had resumed limited trading of cryptocurrency while acknowledging it had received a warning from Japanese regulators.

“Coincheck Inc. has received an order to improve business operations on 03/08/2018 based on the Payment Services Act defined in Article 63-16 from the Financial Services Agency in response to the illicit transfer of the cryptocurrency NEM from our platform,” the exchange said in its statement. “We earnestly accept the terms of the order and vow to rebuild our internal management controls and management structures from the ground up while simultaneously working to improve management strategies to focus on customer care.”



MT. GOX — Began trading in 2010 and filed for bankruptcy in March 2014 after admitting that it had **lost roughly \$460 million** over several years as its security was breached and bitcoin was stolen.

Insurance Co. in Windsor, Connecticut. “We really felt the need to define just what we thought it was so that our customers were covered.”

Great American began offering crime coverage for bitcoin in June 2014 and has most recently begun exploring the insuring of cold storage of bitcoin, which moves accounts off an exchange and stores them offline on a hardware wallet, on a case-by-case basis. “We have people approaching us to look at cold storage and we are saying yes or no,” Mr. Scheckton said. The cold storage coverage covers theft by any individual, employee or third party, he said.

FINANCIAL INSTITUTIONS ADJUST TO CRYPTOCURRENCY WAVE

Banks and financial institutions are beginning to acknowledge digital ledger technology and cryptocurrency as risks in recent filings.

“Many established financial institutions are utilizing the underlying technology in some way or another, and almost all of those are talking about what implications this has from a risk perspective,” said Jackie Quintal, financial institutions practice leader for Aon Risk Solutions in Chicago.

In a Feb. 26 regulatory filing, New York-based Goldman Sachs Group Inc. said: “We may be, or may become, exposed to risks related to distributed ledger technology through our facilitation of clients’ activities involving financial products linked to distributed ledger technology, such as blockchain or cryptocurrencies, our investments in companies that seek to develop platforms based on distributed ledger technology, and the use of distributed ledger

technology by third-party vendors, clients, counterparties, clearinghouses and other financial intermediaries.”

Similarly, Charlotte, North Carolina-based Bank of America Corp. also said cryptocurrencies pose a “material risk” to its business in its annual filing, claiming the new technology could hamper anti-money laundering efforts because it makes it more difficult to track funds.

“You’re starting to see more institutional organizations get involved, so it’s very

interesting to see the developments in the banking space,” said Patrick Schmid, vice president of The Institutes RiskBlock Alliance, the digital ledger technology consortium started by The Institutes, the insurance industry education and research organization in Malvern, Pennsylvania.

“Cryptocurrency doesn’t appear to be going away, and for that reason financial services are going to have to adjust,” Mr. Schmid said.

Matthew Lerner

Drones' soaring popularity drives insurance market innovations

BY GLORIA GONZALEZ

ggonzalez@businessinsurance.com

From firefighters using drones to scan burning buildings and forests, to media flying drones to cover breaking news, to insurers utilizing drones to survey damage caused by catastrophic hurricanes and wildfires, unmanned aerial vehicles are quickly becoming a critical safety tool, experts say.

With their rising popularity comes increased demand for insurance products to cover drone risks, which the aviation market can currently handle, according to experts. But as the laws and regulations governing drone use continue to evolve, there are lingering concerns about privacy violations that could result in claims.

The potential for drone usage is "endless," said Dean Anderson, Atlanta-based senior vice president and aviation national practice leader for USI Insurance Services L.L.C. For example, drone use in the emergency response sector is rapidly increasing for both safety and cost savings reasons, he said.

"You can get a drone into the air in seconds versus getting a helicopter fired up and getting it to where it needs to be," he said. "It's not going to totally replace the human, but ... it makes a big difference."

And the increasing need for drone coverage is welcomed by the aviation insurance industry, said Richard Nocella, vice president with Marsh USA Inc.'s aviation practice in New York.

"We haven't had a new sector to build upon for decades," he said. "This allowed underwriters to find a new source of revenue to continue to build their books of business."

In June 2016, the Federal Aviation Administration issued a rule commonly referred to as Part 107 to allow for routine civil operation of small unmanned aircraft systems, otherwise known as drones, weighing less than 55 pounds. But the rule has specific requirements for operators to keep the drones within their line of sight while in use and a ban on flying drones over people not directly participating in the operation that have limited expansion of the use of drones.

Beyond visual line of sight will allow for the commercial operation of drones on a much larger scale, said Chris Proudlove, senior vice president and underwriting executive for product development and UAS at Global Aerospace Inc. in Parsippany, New Jersey.

"Beyond visual line of sight is really the holy grail for a lot of companies," he said. "I think it's going to be a little while before the FAA is in a position to provide a suitable regulatory framework for those operations. But in the meantime, I do think there is sufficient regulation to allow for the immediate growth of the commercial drone industry."

Competition in the aviation market for



drone risks has escalated as insurers have warmed up to covering drones over the past three to four years, with buyers able to secure substantial limits for relatively small premiums, according to brokers. For example, a policy with a \$1 million limit can be purchased for \$600 to \$1,000, while a \$5 million limit can be had for \$3,500 to \$5,000, brokers say.

"That will change once a larger claim does happen," said Bryan Holmgren, vice president with Aon P.L.C.'s aviation practice in Chicago. "Hopefully it never does."

AVIATION RATE GLIDE PATH

The aviation market experienced continued premium reductions in 2017, albeit at a slightly less steep rate than in previous years, according to a report published in February by Valhalla, New York-based broker USI Insurance Services L.L.C. With 2016 being the second-safest year in aviation history, underwriters were unable to hold to threats of increases or even flat renewals in some cases.

- Aviation market rate changes generally seen in a range from **down 5% to up 5%**
- Premium reductions of **5% to 6%** from policy expiration often seen on business with low loss levels, strong management and an established safety culture

Source: 2018 USI Insurance Market Outlook

Drone-related losses paid out by Allianz Global Corporate & Specialty S.E. and Global Aerospace to date have been on first-party physical damage claims.

"So far, nothing has been catastrophic, but it's only a matter of time before an accident happens that does cause serious bodily injury or that creates a serious liability situation," Mr. Proudlove said.

In addition, AGCS and Global Aerospace are willing to write extremely high limits if needed, up to \$150 million to \$500 million, although purchases in that range are relatively rare at this point, according to experts.

Insurers operating in this space cover

numerous risks related to drone operations, but demand for coverage generally centers on certain key exposures, namely physical damage coverage to the drone or attached cameras and other equipment, and liability coverage in case of an accident or injury and invasion of privacy coverage.

"The mere overflight over somebody's premises or property would not be enough to trigger coverage, but if the camera is running and a video or series of pictures were uploaded to the internet and published in any way, then that would be the trigger for coverage to apply," Mr. Proudlove said.

"Most states have pretty firm privacy laws, and there's nothing that would make the drone space immune from the current privacy laws and precedents that exist in those states," said James Van Meter, Atlanta-based aviation practice leader for AGCS.

But current privacy laws do not provide for a protected right to privacy from aerial surveillance by ordinary aircraft because they do not contemplate aircraft that can fly as low and as close to people and property as drones can, said Gregory McNeal, professor of law and public policy with Pepperdine University in Malibu, California, and co-founder of drone software company AirMap Inc.

"There are many who think privacy laws are going to need to change for those very low-altitude flights below 200 feet above property," Mr. McNeal said. "Similarly, existing law has also said that overflight of aircraft doesn't interfere with your use of property or your enjoyment of property. When you're standing in your backyard and you see a helicopter at 1,000 feet or an airliner at tens of thousands of feet, of course it doesn't interfere with your property. But a drone just above fence height while you're having a barbecue or 100 feet above your property — there are many legal scholars, myself included, who believe the facts there will be so different as to cause a different way of looking at it."

AVIATORS FEAR THE 'BIG ONE'

There have been multiple close calls and minor collisions between manned and unmanned aircraft, but the nightmare scenario involves a drone colliding with a commercial aircraft, resulting in catastrophic damage and loss of life.

The Federal Aviation Administration is concerned about the potential for conflicts between manned and unmanned aircraft, as pilots of manned aircraft reported 1,800 drone sightings in 2016, a sharp increase from the 1,200 reported the previous year, according to the agency.

"The potential for a collision between a manned and an unmanned aircraft absolutely poses the greatest risk in drone operation," said James Van Meter, aviation practice leader, Allianz Global Corporate & Specialty S.E. in Atlanta. "Having an unmanned aircraft sucked into the engine of an airliner could cause millions of dollars of damage."

Even drones operating legally several hundred feet above the ground are concerning because they can fly into areas where helicopters and agricultural aircraft typically operate, Mr. Van Meter said.

"That potential for collision at low altitude is particularly risky," he said.

In December, the National Transportation Safety Board determined that the operator of a drone that collided with a U.S. Army helicopter in September failed to see and avoid the helicopter because he was intentionally flying the drone out of visual range and did not have adequate knowledge of regulations and safe operating practices. The drone operator was unaware of the collision until an NTSB investigator contacted him. He was also unaware of temporary flight restrictions in place at the time, was flying recreationally and did not hold an FAA remote pilot certificate.

A drone also collided with a Beechcraft King Air A100 aircraft en route to Québec City Jean Lesage International Airport in October with two pilots and six passengers on board, forcing the crew to make an emergency landing, according to a February report by the Transportation Safety Board of Canada.

"The pilot had no time to take evasive action," the report stated. "The impact was unavoidable, and the drone disintegrated."

Gloria Gonzalez

Solar flares pose catastrophic threat

BY ROB LENIHAN

rlenihan@businessinsurance.com

Solar flares and storms may be a sight to see, but the rare events could do significant damage to the world's power grids, causing blackouts and triggering heavy business interruption losses.

Solar flares are brief eruptions of intense high-energy radiation from the sun's surface. They are associated with sunspots and cause electromagnetic disturbances on Earth that can disrupt radio frequency communications and power line transmissions.

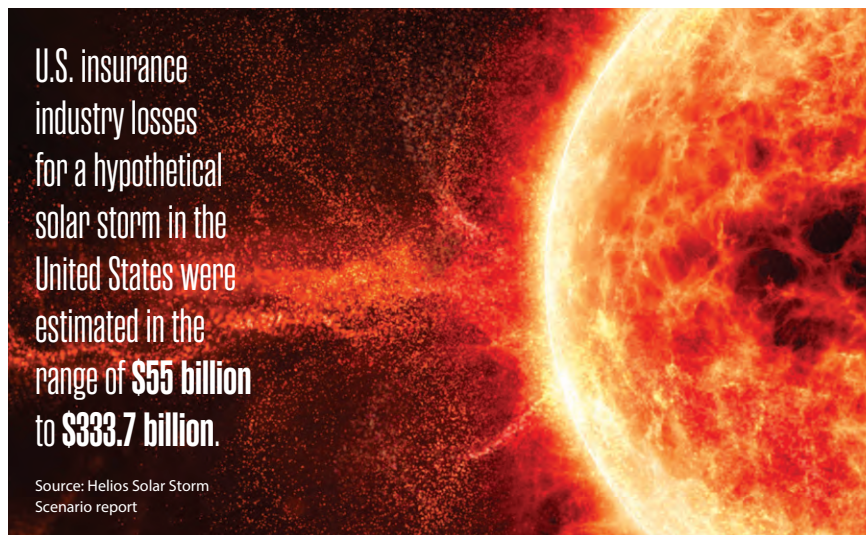
David Wade, space underwriter at Atrium Space Insurance Consortium in London, said there is a constant stream of particles coming off the sun known as the solar wind. During particularly active times, the sun may produce a coronal mass ejection that can interact with the earth's atmosphere and cause problems with the power grid, he said.

"We're getting ever more reliant on technology — digital electronics, the internet, navigation services — and a really severe space weather event could disrupt all of those things," Mr. Wade said. "I think one of the big questions is how are people taking this because we see these problems so infrequently."

A solar storm that occurred in 1859, often referred as the Carrington Event, is largely regarded as the most extreme space weather event on record. It was powerful enough to knock out the telegraph network in North America, Europe, and parts of Australia and Asia for two days.

Geoffrey Saville, London-based senior research manager at Willis Research Network, the research arm of Willis Towers Watson P.L.C., said it is only a matter of time before another large solar storm strikes the earth.

"Risk managers within companies need to understand what their contingency plans are, what kind of equipment is most vulnerable, what will be damaged, what won't be damaged," he said. "These are



the kinds of questions every company with exposure to these kinds of events should be asking themselves."

Since the Carrington event, the world has become much more dependent on electricity, and a similar solar event could wreak havoc on the electrical grid.

"The biggest concern of our modern society is that if a similar event were to occur this time it could have an impact on our power supply," said Michael Bruch, Munich-based head of emerging trends/environmental, social, governance business services for Allianz Global Corporate & Specialty S.E. "When we are talking about such a big event that goes way beyond what insurance can indemnify because that economic figure might go up to the billions and trillions of economic losses."

A 2013 report by Lloyd's of London and Atmospheric Environmental Research Inc., a Verisk Analytics company, called Solar Storm Risk to the North American Power Grid said a solar storm of the same magnitude of the Carrington Event is "almost inevitable," as historical records indicate that extreme storms of that magnitude occur every 150 years.

The total economic cost of such an event is estimated at \$600 billion to \$2.6 trillion,

according to the report. "If businesses, public services and households are without power for sustained periods of time, insurers could be exposed to significant business interruption claims, particularly as backup supplies are only likely to last for a limited period," the report said.

A major space weather event could disrupt supply chains, which might trigger business interruption coverages, according to the report. Disruption to the power network would likely lead to widespread cancellation of events, which could affect insurers offering this type of cover, it said.

The electric grid can be hardened against the flow of geomagnetically induced currents in regions with the highest risk of outage, the report said. Current blocking capacitors and geomagnetically induced current monitors can be installed to protect transformers and regulate the power flow.

"The biggest potential impact is to the electrical grid, and there have been studies that said if we had a Carrington level event it could cause major transformers to be damaged and we could be looking at weeks or months of blackouts," said Richard Quinn, vice president of the space weather division at AER in Superior, Colorado. "It's possible. Different people have

come up with different estimates, but it's a one in a 50- or 100-year type event."

A 2016 study by the Cambridge Centre for Risk Studies at the University of Cambridge Judge Business School in the United Kingdom for American International Group Inc. called the Helios Solar Storm Scenario estimated U.S. insurance industry losses for a hypothetical solar storm in the United States in the range of \$55 billion to \$333.7 billion. Slightly over 90% of this loss would be from service interruption within property insurance policies for those that lose power, while only 1% would relate to direct physical property damage, the report said.

Edward Oughton, research associate at the Cambridge Judge Business School, said the risks associated with solar storms can be mitigated by having adequate space weather forecasting capabilities, such as satellites that monitor solar activity.

"We need to ensure we have robust space weather forecasts to provide early warning to critical infrastructure operators," Mr. Oughton said. "Currently, a number of the satellites used for this purpose are coming to the end of their life. Yet, without adequate early warning, power grid and satellite operators are unable to put operational mitigation plans into place, making us considerably more vulnerable."

"In a perfect world, in the next three to five years, we will have built in more robustness into the (warning) system and we will build in more awareness, so the chance of a major catastrophic failure continues to get lower and lower," said Rodney Viereck, head of the research section at the National Weather Service's Space Weather Prediction Center in Boulder, Colorado.

"But on the other hand, we don't know how big a storm could be. We've only been looking at space weather for the last 40 years, and so we don't have a longtime history and there are indications that these storms were quite large back in the 1800s. But it's hard to tell. There's a lot of uncertainty and unknown," he said.

PAST SOLAR STORMS SHOW POTENTIAL FOR DISRUPTION

Shortly before noon on Sept. 1, 1859, British astronomer Richard Carrington reported seeing "two patches of intensely bright and white light" emerging from some sunspots he was observing.

The storm disrupted telegraph service all over Europe and North America, although some telegraph operators could continue to send and receive messages despite having disconnected their power supplies, according to a 2016 report by the Catholic University of America in Washington.

Auroras could be seen around the world and those over the Rocky Mountains were so bright that the glow woke up gold miners who mistakenly thought it was time for breakfast, according to New York-based Scientific American magazine.

A 2013 report by Lloyd's of London and Lexington, Massachusetts-based Atmospheric Environmental Research Inc., a Verisk Analytics company, called the Solar Storm Risk to the North American Power Grid said that "a major space weather event on the

scale of the Carrington Event could lead to power loss for a period of weeks or more."

More recently, a solar storm was blamed for an incident on May 15, 1921, The New York Times said, where the entire signal and switching system of the New York Central Railroad below 125th street was put out of operation and a fire erupted in the control tower at 57th Street and Park Avenue.

A severe geomagnetic storm struck Earth on March 13, 1989, and caused a nine-hour outage of Hydro-Québec's electricity

transmission system, according to NASA's website, and caused blackouts in some parts of the United States as well. In August 1989, another storm halted all trading on Toronto's stock market, according an article in London-based New Scientist magazine.

In October 2003, solar storms caused minor grid disturbances in North America, a brief blackout in Sweden and damage to 12 transformers in South Africa that had to be removed from service, Lloyd's report said.

Rob Lenihan

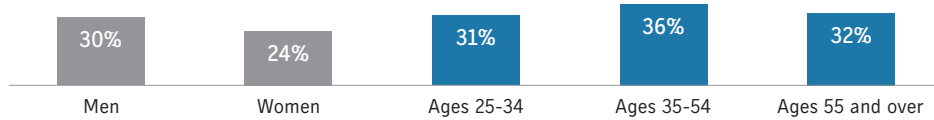
EMERGING & SPECIALTY RISKS DATA



THE OPIOID CRISIS

Opioid overdoses increased from July 2016 through September 2017 for both adult men and women.

PERCENT INCREASE

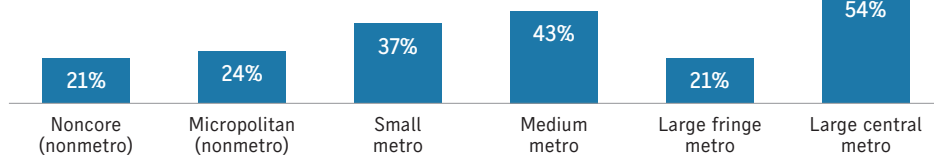


Source: CDC's National Syndromic Surveillance Program, 52 jurisdictions in 45 states reporting

OPIOIDS IN CITIES AND TOWNS

Opioid overdoses continued to increase in cities and towns of all types.

PERCENT INCREASE

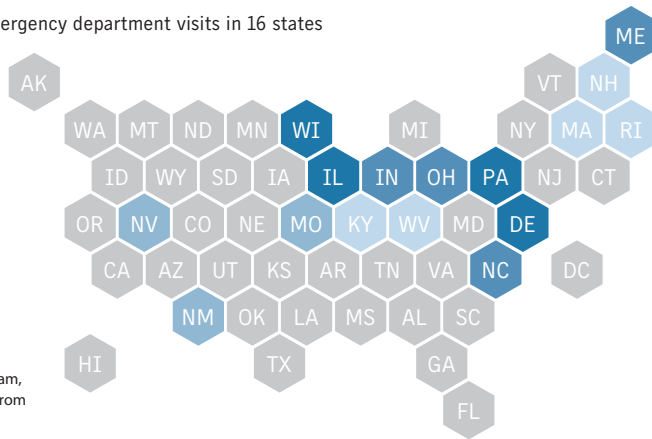


Source: CDC's Enhanced State Opioid Overdose Surveillance Program, 16 states

OPIOID TRENDS BY STATE

Trends in opioid overdose emergency department visits in 16 states

- Increase 50% or more
- Increase 25% to 49%
- Increase 1% to 24%
- Decrease
- No data



Source: CDC's Enhanced State Opioid Overdose Surveillance (ESOOS) Program, 16 states reporting percent changes from July 2016 through September 2017.

HOW MUCH DOES OPIOID TREATMENT COST?

Although the price for opioid treatment may vary based on a number of factors, cost estimates from the U.S. Department of Defense for treatment in a certified opioid treatment program, or OTP, provide a reasonable basis for comparison:



- **\$126 per week or \$6,552 per year** for methadone treatment, including medication, and integrated psychosocial and medical support services (assumes daily visits)
- **\$115 per week or \$5,980 per year** for buprenorphine for a stable patient provided in a certified OTP including medication and twice-weekly visits
- **\$1,176.50 per month or \$14,112 per year** for naltrexone provided in an OTP, including drug, drug administration, and related services

To put these costs into context, the annual expenditures for individuals who received health care are \$3,560 for those with diabetes mellitus and \$5,624 for kidney disease, according to the Agency for Healthcare Research and Quality.

Source: National Institute on Drug Abuse quoting from U.S. Department of Defense, Office of the Secretary; Tricare; Mental Health and Substance Use Disorder Treatment. Federal Register

COSTS OF SUBSTANCE ABUSE

Abuse of tobacco, alcohol and illicit drugs is costly, exacting more than \$740 billion annually in costs related to crime, lost work productivity and health care.

	Health care	Overall	Year estimate based on
Tobacco ^{1,2}	\$168 billion	\$300 billion	2010
Alcohol ³	\$27 billion	\$249 billion	2010
Illicit drugs ^{4,5}	\$11 billion	\$193 billion	2007
Prescription opioids ⁶	\$26 billion	\$78.5 billion	2013

*Note: The overall cost of illicit drugs includes the misuse of prescription drugs.

¹ U.S. Department of Health and Human Services. ² American Journal of Preventive Medicine 2014;48(3):326-33.

³ Centers for Disease Control and Prevention. ⁴ National Drug Intelligence Center. ⁵ Pain Medicine 2011; 12: 657-667.

⁶ Medical Care. Vol. 54, No. 10, October 2016.

Source: National Institute on Drug Abuse



CRYPTOCURRENCY MARKET CAPITALIZATION

Cryptocurrency market capitalization as of March 20, 2018. Bitcoin, the world's largest cryptocurrency by market capitalization, hit an all-time high of \$19,783.06 in December 2017.

No.	Name	Market cap	Price	Circulating supply
1	BTC Bitcoin	\$145,886,842,868	\$8,617.99	16,928,175 BTC
2	ETH Ethereum	\$53,990,008,768	\$549.32	98,285,705 ETH
3	XRP Ripple	\$26,954,324,914	\$0.69	39,091,716,516 XRP*
4	BCH Bitcoin Cash	\$16,741,496,345	\$983.27	17,026,313 BCH
5	LTC Litecoin	\$8,960,527,521	\$160.88	55,697,656 LTC
6	ADA Cardano	\$4,597,232,585	\$0.18	25,927,070,538 ADA*
7	NEO NEO	\$4,472,188,500	\$68.80	65,000,000 NEO*
8	XLM Stellar	\$4,391,347,201	\$0.24	18,498,684,431 XLM*
9	EOS EOS	\$3,934,229,971	\$5.33	738,047,753 EOS*
10	MIOTA IOTA	\$3,580,479,729	\$1.29	2,779,530,283 MIOTA*

*Not mineable
Source: CoinMarketCap.com



THE DRONE MARKET

Production of drones for personal and commercial use is growing rapidly, with global market revenue expected to increase 34% to reach more than \$6 billion in 2017 and grow to more than \$11.2 billion by 2020, according to Gartner Inc. Almost 3 million drones were expected to be produced in 2017, 39% more than in 2016.

DRONE MARKET GROWTH

Personal and commercial drones revenue and units, 2016-17

	REVENUE (in thousands of dollars)		UNITS (in thousands of units)	
	2016	2017	2016	2017
Personal	\$1,705,845	\$2,362,228	2,042	2,817
Commercial	\$2,799,272	\$3,687,128	110	174
Total revenue/units	\$4,505,117	\$6,049,356	2,152	2,991
Total revenue/units growth	35.5%	34.3%	60.3%	39.0%

Source: Gartner Inc., February 2017

PROJECTED DRONE MARKET

Projected global drone market in 2020, by area of application (in billions of dollars)

Market	Market size
Military	\$11.6 billion
Commercial	\$6.4 billion
Hobby	\$4.4 billion

Source: Statista



BUSINESS INSURANCE

U.S. INSURANCE AWARDS

Celebrating Today.
Creating Tomorrow.

Business Insurance recognized achievements by outstanding executives and teams of professionals working in the field of risk management and commercial insurance at its inaugural U.S. Insurance Awards presentation in New York on March 8.

Maurice R. Greenberg, chairman and CEO of C.V. Starr & Co. Inc., received the 2018 Crain Lifetime Achievement Award at the event, which also raises money for a new scholarship fund.

The award recognizes individuals who have made an outstanding contribution to the risk management and insurance sector over the course of their careers. It is named in honor of the Crain family, which founded *Business Insurance* in 1967. *Business Insurance* was bought in 2016 by Moxie Holdings, which is led by Adam Potter, founder of the Claims and Litigation Management Alliance.

Mr. Greenberg and Patrick G. Ryan, chairman and CEO of Ryan Specialty Group L.L.C. and the 2017 Crain Lifetime Achievement Award winner, were also announced as the first inductees into the *Business*

Insurance Hall of Fame. Winners of the Crain Lifetime Achievement Award are automatically inducted into the Hall of Fame.

Recognizing that major achievements are seldom the work of individuals working in isolation, the U.S. Insurance Awards also honor teams of professionals working on specific projects in the commercial insurance and risk management sector.

Finalists in 14 categories were selected by senior *Business Insurance* staff from more than 170 nominations. The winners were selected by a panel of 80 risk management professionals who independently assessed each of the nominated finalists.

The awards were created to help address the insurance industry's talent crisis, and the event raised more than \$100,000 for the *Business Insurance* Scholarship Endowment, which will open new opportunities to provide scholarships, grants and programming at universities without risk management degree programs, including historically black colleges and universities.

Profiles of the USIA winners follow.

Gavin Souter, editor

THE WINNERS

Broker Team of the Year
(firms with less than \$500 million in U.S. revenue)
Risk Transfer Insurance Agency L.L.C.
Page 34

Broker Team of the Year
(firms with more than \$500 million in U.S. revenue)
Aon P.L.C.
Page 34

Community Outreach Project of the Year – Pro bono
Keenan & Associates, a unit of AssuredPartners Inc.
Page 34

Community Outreach Project of the Year – Volunteer & Donations
Philadelphia Insurance Cos.,
a unit of Tokio Marine & Nichido Fire Insurance Co. Ltd.
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Insurance Consulting Team of the Year
American International Group Inc.
Page 35

Insurance Underwriting Team of the Year
(all property/casualty)
American International Group Inc.
Page 35

Insurance Underwriting Team of the Year
(management liability/professional liability/cyber liability)
EmergIn Risk, a unit of Ryan Specialty Group L.L.C.
Page 36

Insurtech Initiative of the Year
Risk Placement Services Inc.
Page 36

Legal Team of the Year
Anderson Kill P.C.
Page 36

Managed Care Provider Team of the Year
Keenan & Associates, a unit of AssuredPartners Inc.
Page 37

Reinsurance Team of the Year
TigerRisk Partners L.L.C.
Page 37

Risk Management Team of the Year
AES Corp./American International Group Inc./Marsh L.L.C.
Page 37

TPA Team of the Year
Helmsman Management Services L.L.C.,
a unit of Liberty Mutual Insurance Co.
Page 38

Wholesale Brokerage Team of the Year (tie)
Breckenridge Insurance Group
R-T Specialty L.L.C.
Page 38



CRAIN LIFETIME ACHIEVEMENT AWARD

MAURICE R. GREENBERG

BY GAVIN SOUTER

gsouter@businessinsurance.com

Nearly 50 years after he took American International Group Inc. public, Maurice R. Greenberg remains an iconic figure in the insurance industry.

Famed for building a hugely successful global corporation, Mr. Greenberg's influence in the insurance business and elsewhere continues through his work leading C.V. Starr & Co. Inc., the company he built after leaving AIG, the army of executives throughout the industry who learned their trade at the insurer, and the numerous coverage innovations developed under his auspices.

In recognition of all his achievements in the insurance sector, Mr. Greenberg received the 2018 Crain Lifetime Achievement Award at the *Business Insurance* U.S. Insurance Awards last month in New York.

Widely known as "Hank" after the 1930s Detroit Tigers slugger, Mr. Greenberg was born in New York City and raised in the small summer resort town of Swan Lake in upstate New York.

He played football in high school, but games were suspended after the outbreak of World War II due to gasoline shortages. "So, I got bored and I joined the Army," he said.

After attending the Army Signal School in Monmouth, New Jersey, he was stationed in England before taking part in the Allied invasion of France in June 1944.

Returning from the war, "I had to finish high school, which was the hardest thing I ever had to do. I came to New York to the Rhodes School and got a room for about \$5 a week on the west side. I didn't know anybody in New York. It was a very tough period," Mr. Greenberg said.

After attending college followed by law school, he was recalled during the Korean War, rising to the rank of captain.

Returning to New York in 1952, he looked for a job to support his young family and visited some fellow law school graduates in Manhattan, but "they were all struggling." Leaving their office, "I just walked down the street and walked into Continental Casualty," an insurer now part of CNA Corp.

After poor treatment from the human resources manager, Mr. Greenberg walked into the office of the company's regional vice president to tell him what he thought and left with a job.

Starting out in accident and health underwriting, he quickly made his mark, took on additional responsibilities and seven years later was named Continental Casualty's youngest vice president.

In 1960, he was recommended to Cornelius Vander Starr, who founded an insurance agency in Shanghai in 1919 that had diversified and seen rapid growth.

Lured after a couple of tries to join the Starr organization, Mr. Greenberg first was tasked with building an international accident and health business and then with turning around the struggling American Home Assurance Co., which relied on an expensive agency network to sell insurance.

"It had horrible results, so I turned it around and built



Maurice R. Greenberg

a brokerage business, not an agency business, and got out of simple classes and got into more difficult commercial classes," Mr. Greenberg said. He performed similar turnarounds at National Union Fire Insurance Co. of Pittsburgh, Pa. and New Hampshire Insurance Co., which, along with a life insurance company, became the foundation of AIG.

Succeeding Mr. Starr, who died in 1968, Mr. Greenberg reorganized the various companies and a year later took AIG public with a market value of \$300 million. The company embarked on an era of extraordinary global growth, and when he left 36 years later, it had a market value of \$180 billion and did business in 137 countries.

With a firm grip on expenses — AIG consistently had an expense ratio significantly lower than its competitors — and focused on making an underwriting profit, Mr. Greenberg saw opportunities in insuring hard-to-place risks that traditionally had been covered in London. He began what became a long tradition at AIG of developing new products to cover tough and emerging liabilities.

"I hired some very good people, and it's much easier doing business in the United States than going to London, so a lot of the brokers supported us and we did quite well," he said.

A few years later, in 1975, Mr. Greenberg made the first of many trips to China to build contacts and learn more about the potentially huge market. After about 20 years of visits, AIG became the first foreign insurer to win a license for a wholly owned Chinese insurance company.

He also built operations in Eastern Europe, before the Iron Curtain came down, and throughout the rest of the world.

Mr. Greenberg built a culture that demanded commitment and results from both himself and his team.

"You have a culture that attracts certain kinds of people

... it cleanses itself," he said. "We never had a problem getting people."

Mr. Greenberg's leadership qualities are unique, said Kevin Kelley, vice chairman of global risk solutions at Liberty Mutual Group Inc., who worked at AIG for more than 30 years, rising to run its excess and surplus lines unit, Lexington Insurance Co.

"He has a clear, sharp and brilliant strategic mind, and he couples that with uncanny operating instincts, and generally the two of those don't go together in individuals," he said. "When you left his office, you always knew what the next move was, there was never any doubt or hesitation, and that's the mark of a great leader," he said.

In addition, "He created a culture at AIG that was a winning culture, and his passion spread to all of us. You either thrived in the culture or you didn't, but if you did, it was fun."

He also inspired loyalty because he was loyal to his staff, particularly on a personal level in instances when staff members suffered serious medical issues. Mr. Greenberg would use his extensive connections in the medical world to secure treatments, Mr. Kelley said.

After the extended period of success, AIG and Mr. Greenberg came under fire when former New York Attorney General Eliot Spitzer began investigating the finite risk market in the early 2000s using powers available under New York's controversial Martin Act, which allows for

prosecution without having to prove intent. Mr. Spitzer alleged AIG had used finite reinsurance deals to inflate loss reserves and pressured the board to make changes.

Mr. Greenberg resigned from the company in 2005, a few months before he had planned to retire as CEO, but fought the allegations, eventually settling the whit-tled-down charges for comparatively moderate amounts and without admitting wrongdoing. Mr. Greenberg sued Mr. Spitzer for allegedly defamatory remarks he made during the investigation, and the suit is ongoing.

On leaving AIG, which later under its new management nearly collapsed during the financial crisis, Mr. Greenberg maintained his position as head of C.V. Starr and built it into a multinational insurance and investment company. Starting with a small staff and about \$3 billion in capital, the company now has about 3,000 staff and \$9 billion in capital, he said.

Looking to the future, Mr. Greenberg sees huge changes ahead, but also opportunities. "There's no question that technology will change our industry ... It's going to have profound effects, not just on the insurance industry, and I'm all for it."

ABOUT THE AWARD

The Crain Lifetime Achievement award, named after the family that founded *Business Insurance*, recognizes an individual whose outstanding contributions have had a lasting impact on the insurance and risk management sector. The 2018 honoree of *Business Insurance's* most prestigious award is Maurice R. Greenberg, chairman and CEO of C.V. Starr & Co. Inc. Mr. Greenberg and the 2017 honoree, Patrick G. Ryan, chairman and CEO of Ryan Specialty Group L.L.C., are also the first inductees into the *Business Insurance* Hall of Fame. Both executives received their honors at the U.S. Insurance Awards presentation in New York on March 8.

Broker Team of the Year (firms with less than \$500 million in U.S. revenue)

Risk Transfer Insurance Agency L.L.C.

Risk Transfer Insurance Agency L.L.C., which specializes in providing insurance and risk management programs to professional employer organizations and temporary staffing companies, has won the Broker Team of the Year award for firms with less than \$500 million in U.S. revenue.

The award came during *Business Insurance's* inaugural U.S. Insurance Awards program in New York.

"We're this boutique agency out of Orlando that probably nobody has ever heard of," said RTIA partner Bradley Isaacs. "For us to win, it was like the new guy at the Academy Awards winning their first year up."

PEOs and temporary staffing companies don't always have a lot of insurance options, according to Mr. Isaacs, who joined RTIA

in 2001. In general, he said, a lot of insurers simply don't understand the nuances that come with those types of businesses.

Among its efforts to better serve clients and insurer partners, Orlando, Florida-based RTIA in 2010 developed a proprietary data and analytics platform called i3 Analytics — an e-trade platform that aggregates data from losses, premiums and payroll to provide business intelligence and manage profitability in real time.

"We think of a PEO or staffing company as a mutual fund and each

individual client company as a stock, with some performing better and others performing worse," Mr. Isaacs said. "What we've been able to do is sort of create that

e-trade dashboard that helps understand exactly how each client company is performing."

Since launching in 2000, RTIA has created six workers compensation programs for PEOs and temporary staffing companies. It plans to introduce additional programs later this year, Mr. Isaacs said.

RTIA generates close to \$65 million in annual premiums and has main-



Bradley Isaacs

"There aren't a lot of brokers out there that specialize in what we do."

Bradley Isaacs, RTIA

tained a five-year developed loss ratio that has consistently performed better than the overall industry, according to the company.

"There aren't a lot of brokers out there that specialize in what we do," said Mr. Isaacs, who leads a team of about 10 employees. "We're faster and more nimble."

Robert Holly

Finalists:

- Higginbotham Insurance Group Inc.
- The Horton Group Inc.
- The IMA Financial Group Inc.
- Integro Group Holdings L.P.

Broker Team of the Year (firms with more than \$500 million in U.S. revenue)

Aon P.L.C.

Aon P.L.C.'s professional risk solutions team saw the need for cyber coverage beyond the health care, financial institutions and retail sectors that have suffered from data breaches, according to Christian Hoffman, the brokerage's New York-based professional risk solutions practice leader.

Senior management and boards of directors for manufacturers, transportation firms and other industries recognized they had a cyber issue but didn't "see a fit with the current coverage in the marketplace," said Mr. Hoffman.



Christian Hoffman

There was a need for coverage for business interruption, property damage, bodily injury, products liability and environmental risk "all as it relates to cyber," he said.

Ramping up the need for this coverage were the events of the summer of 2017, including the WannaCry and NotPetya viruses, he said. Companies were hurt by the business interruption and extra expense issues and had to disclose these major cyber events' effects on their earnings calls and in their U.S. Securities and Exchange Commission filings, Mr. Hoffman said.

The result of this was the development by Aon's 60-person professional risk solutions team, which is based in the United States, London and Bermuda, of Aon Cyber Enterprise Solutions, which provides program capacity of \$500 million provided by 70 insurers and reinsurers.

"We keep working with the marketplace to extend that further" and provide even greater capacity, said Mr. Hoffman.

Mr. Hoffman said the program has three components: education around the product with respect to enterprise risk; claims related to the WannaCry and NotPetya viruses; and the change and evolution in the more traditional property/casualty market and clients' need "to have clarity and consistency around a cyber insurance product."

"There was a need for coverage for business interruption and more 'all as it relates to cyber.'"

Christian Hoffman, Aon P.L.C.

Aon was voted Brokerage Team of the Year (firms with more than \$500 million in revenue) at the U.S. Insurance Awards.

"What is of peak interest" is the business interruption component as well as supply chain and contingent business interruption coverage, Mr. Hoffman said.

Judy Greenwald

Finalists:

- Arthur J. Gallagher & Co.
- Marsh L.L.C. (two teams)
- Willis Towers Watson P.L.C.

Community Outreach Project of the Year — Pro bono

Keenan & Associates

When California enacted a law in 2015 to expand efforts to protect school children from abuse and neglect, Keenan & Associates, a unit of Assured-Partners Inc., responded by developing a training program that can be used by school districts and the public statewide.

"This matters because we believe one child abused is one child too many."

Kathy Espinoza, Keenan & Associates

"Keenan decided that this issue was bigger and more important than just our clients," said Kathy Espinoza, Keenan assistant vice president of ergonomics and safety, and project manager for the Keenan SafeSchools online training pro-

gram. "This matters because we believe one child abused is one child too many."

Based in Torrance, California, Keenan won the Community Outreach Project of the Year - Pro Bono at the U.S. Insurance Awards.

A.B. 1432 requires California school districts, charter schools and county offices of education to train employees each year in identifying child abuse and neglect and knowing their legal obligation to report that abuse and neglect.

Keenan responded by creating the Keenan School Safety Center, a

free online program that provides the training required by A.B. 1432, plus other school safety courses for clients and nonclients.



Kathy Espinoza

The state-mandated training program is open to nonclients including parents, school volunteers, substitute teachers and others who come into contact with children.

Eight other courses also are offered free to the public, while 249 courses are available to clients, Ms. Espinoza said.

More than 500,000 client employees have completed the Keenan

SafeSchools Mandated Reporter course at least once, along with more than 56,000 nonclient completions, she said.

The company estimates its pro bono service has saved California schools \$19 million in training expenses.

"We want to protect kids. That's first and foremost," Ms. Espinoza said. "But we also started seeing claims coming through with students being abused within the school community, so we wanted to help our clients because this is a huge liability issue for districts."

Janet Lavelle

Finalists:

- American International Group Inc.
- Aon P.L.C.
- XL Group Ltd.
- Zurich North America

Community Outreach Project of the Year – Volunteer & Donations Philadelphia Insurance Cos.

The transition from a smaller, tight-knit elementary school to a bustling middle school can be overwhelming for any student.

That jump can feel even more daunting for students with intellectual and developmental disabilities.

Looking to bolster its community outreach goals focused on children and education, Philadelphia Insurance Cos., a unit of Tokio Marine & Nichido Fire Insurance Co. Ltd., partnered with Best Buddies in September 2015, providing grant funding to help the international nonprofit expand throughout Pennsylvania middle schools.

As part of its mission, Miami-based Best Buddies forges friendships between individuals with and without intellectual and development disabilities, promoting critical

social skills. Only two middle school Best Buddies chapters existed in the Greater Philadelphia region prior to its partnership with Philadelphia Insurance Cos.; there are now more than a dozen. With the insurer's support, it plans to launch a total of 24 new chapters by the end of 2018.

"It was a really natural fit for us and our employees," said Thea Valero, the insurer's corporate social responsibility manager. "It's been really inspiring."

The company's work with Best Buddies was recognized during *Business Insurance's* inaugural U.S. Insurance Awards. Based in Bala Cynwyd, Pennsylvania, Philadelphia Insurance Cos. won top honors for Community Outreach Project of the Year in the volunteer and donations category.

The relationship the insurer has taken on



with Best Buddies doesn't stop at financial support, Ms. Valero said.

In February 2017, the company hosted a Best Buddies ambassadors' training event, where Philadelphia Insurance Cos. volunteers taught writing and public speaking skills to students. A month later, company employees doled out punch and worked coat check during the prom-style Buddy

Ball Dance.

In fact, the insurer has been so involved with Best Buddies that two of its employees were nominated for Best Buddies Champion of the Year, Ms. Valero said.

"We work with a lot of different organizations, and the work we do is impactful, but we don't always have the opportunity to work directly with the audience that's benefiting from our services," she said. "The way our employees immediately engaged with (Best Buddies students) shows their dedications."

Robert Holly

Finalists:

- Hylant Group Inc.
- Pennsylvania Lumbermens Mutual Insurance Co.
- Texas Mutual Insurance Co.
- Tokio Marine America

Insurance Consulting Team of the Year American International Group Inc.

American International Group Inc.'s Client Risk Solutions was established by AIG to meet customers' changing needs for risk management services and products that go beyond traditional insurance options.

CRS was recognized by *Business Insurance's* inaugural U.S. Insurance Awards program as Insurance Consulting Team of the Year.

The team consists of risk consulting and risk engineering experts, AIG said, as well as specialists in areas including client analytics, catastrophe modeling, cyber risk and emerging technologies like wearables and immersive virtual reality training.

"We're doing a lot in the innovation area," said Bob Klepper, head of AIG's

client risk solutions business in Charlotte, North Carolina. "We realized the opportunity for CRS and have invested quite a bit in the past three or four years. We've gone from a couple of hundred consultants to over 700 now. So it's been a big commitment. We're very fortunate."

CRS works with predictive and preventive methods of risk assessment and professional skills to reduce a client's total cost of risk including SMARTblastSM, a loss modeling tool that brings advanced blast modeling



Bob Klepper

techniques to evaluate the impact of explosions and fires on clients' property and casualty exposures; and CyberMaticsSM, a patent-pending security approach that works with cyber security firms to verify security inputs from a client's cyber security tools.

"We really try to listen to our clients and then we get the feedback," Mr. Klepper said. "AIG

is pretty uniquely positioned. We cover a lot of geography, a lot of product lines, so we're just trying to make sure that we maintain the relationships and the

insights."

Mr. Klepper said AIG will continue to do the traditional things it has always done for clients, "but CRS is also providing expertise that allows us to do much more in-depth assessments of other risk."

"Once you understand the risks," he said, "you can incubate products. And you can incubate risk transfer capacity based on a deeper knowledge of some of the more complex risks our industry faces."

Rob Lenihan

Finalists:

- Aon P.L.C.
- KCIC L.L.C.
- Marsh Berry & Co. Inc.
- Tailored Solutions & Consulting Inc., which does business as TSC Advantage

Insurance Underwriting Team of the Year (all property/casualty) American International Group Inc.

The honor of the Insurance Underwriting Team of the Year (all property/casualty) category of *Business Insurance's* 2018 U.S. Insurance Awards goes to American International Group Inc. for its work with Standard Chartered Bank P.L.C. and International Business Machines Corp. using blockchain, or digital ledger technology, to create a "smart contract," an insurance policy that uses technology to execute specific functions and automate processes.

The emerging technology had piqued AIG's interest.

Blockchain technology "was something we had heard about and were looking at," said Carol Barton, New York-based president of AIG Multinational. "We decided to see if we could work with a

client which was interested."

Blockchain can generally be thought of as a public ledger, such as what underpins bitcoin, while digital ledger technology is more broadly inclusive of proprietary/private peer-to-peer ledgers.

The bank, an existing insurance client, was also interested in blockchain/digital ledger technology.

"Standard Chartered Bank was very motivated, having already started exploring this from a banking perspective," Ms. Barton said.

AIG also looked to an

existing relationship in choosing a technology partner.

"We had done various work with IBM in the past from a technology standpoint, so they seemed to be a logical partner," Ms. Barton said. "We have a strong relationship, and they are leading the way in working with hyperledger fabric."

Hyperledger Fabric is a blockchain framework implementation and one of the Hyperledger projects hosted by The Linux Foundation.

The partners sought to address some of what they saw as key problems,

such as eliminating silos of information and improving efficiency, particularly in regard to highly complex cross-border transactions that meet regulatory requirements in each jurisdiction.

AIG sees promise in the results of the project and potential further applications.

"I think the project illustrated that we can reduce friction, saving time and manual effort and producing fewer errors," Ms. Barton said. "I think the goal is to operationalize it and then look at other areas where it would be beneficial."

Matthew Lerner

Finalists:

- FM Global
- Victor O. Schinnerer & Co. Inc.
- XL Group Ltd.
- Zurich North America



Carol Barton

PHOTO BY BARBIE SCHWARTZ

Insurance Underwriting Team of the Year (management liability/professional liability/cyber liability)

EmergIn Risk

The people at EmergIn Risk, a unit of Ryan Specialty Group L.L.C., like to think they look at risk just a little bit differently than the big players in the market.

EmergIn Risk has been named by *Business Insurance* as the U.S. Insurance Awards' Insurance Underwriting Team of the Year (management liability/professional liability/cyber liability).

The EmergIn Risk team customizes first- and third-party cyber insurance coverage across several industries and locations, working with such sectors

as health care, hospitality, manufacturing, utilities and energy, financial institutions, retail and transportation.

This industry-specific underwriting strategy has allowed the EmergIn Risk team to create solutions for clients across different industry classes.

"We take the time to understand the needs of clients based on their industry, based on their geography," said London-based CEO Jamie Bouloux, "and blend that together to be able to talk to a company a little differently than maybe one

of the large cyber players might."

For example, more airlines are purchasing cyber insurance in light of significant cyber losses. In response, EmergIn Risk created a methodology that allows airlines to execute an application process that links the use of technology with information around their customer profile and fleet operations to help create a scenario-based loss model.

"It's a different way of talking to clients," Mr. Bouloux said. "It's not about over-complicating it by throwing lots of technical terms. It's more theoretical while offering scenarios and talking practically about what would happen."

The team currently has four members and a fifth is expected to come on board in May, which, Mr. Bouloux said, allows EmergIn Risk to be more nimble.



Jamie Bouloux

"I'm lucky enough to have the support of a phenomenal team."

Jamie Bouloux, EmergIn Risk

"I'm lucky enough to have the support of a phenomenal team that agrees and helps shape how we're looking at risk," Mr. Bouloux said. "Each to their own can speak to different elements of cyber risk and take it upon themselves to really get on board with how we're analyzing risk."

Rob Lenihan

Finalists:

- American International Group Inc.
- Burns & Wilcox
- Liberty Mutual Insurance Co.
- XL Group Ltd.

Insurtech Initiative of the Year

Risk Placement Services Inc.

Finding the right insurance can be an onerous task for a small business and is a big reason why many avoid cyber liability insurance.

With the traditional process, a small business might first go to its insurance broker, which, in turn, asks the business to fill out a lengthy application with dozens of questions. Completing that application is time-consuming for the broker, too, and it could take days or even weeks to come up with a quote.

The process can be even more drawn-out when the expertise of a wholesale broker is needed.

Risk Placement Services — headquartered in Rolling Meadows, Illinois, and one of the largest managing general agents in the United States — is digitalizing that

old-school process with an online platform for its flagship cyber insurance product that has slashed the time to convert an initial quote to an issued policy to mere minutes from the standard 60 days.

RPS's efforts earned it the Insurtech Initiative of the Year award during the inaugural *Business Insurance* U.S. Insurance Awards, held in New York.

Since that launch, RPS has expanded the platform, RPSSmall-Business.com, to include additional offerings, such as executive liability, professional liability and crisis resilience products.



Ryan Collier

"The insurance industry has made it a very confusing, obfuscated process for the end user to procure insurance through archaic applications and bundles of information they have to attach," said RPS Chief Digital Officer Ryan Collier. "My goal was to simplify the process, making it literally two minutes rather than two months."

RPS currently offers 13 online products, though

new products are added every month.

To date, more than 25,000 policies have been bound on the platform, most in less than two minutes, according to

"My goal was to simplify the process, making it literally two minutes."

Ryan Collier, Risk Placement Services Inc.

the company.

"The fastest we've ever had from a quote-bind-issue is 97 seconds," said Mr. Collier, who has been with RPS for about 18 years. "We're helping to make retail brokers stay relevant and viable by giving their customers, essentially, instant gratification."

Robert Holly

Finalists:

- Corax Cyber Security Inc.
- Crawford & Co.
- Pegasystems Inc.
- The Institutes

Legal Team of the Year

Anderson Kill P.C.

A singular focus on policyholder rights continues to drive the lawyers at Anderson Kill P.C., winner of the Legal Team of the Year award, part of *Business Insurance's* inaugural U.S. Insurance Awards.

For example, the New York-based firm has represented California in lengthy litigation involving the state's efforts to recover the costs of cleaning up a hazardous waste site from various insurers — litigation pending since 1993 that has been to the California Supreme Court twice, according to *State of California v. Continen-*



Robert Horkovich

tal Insurance Co. et al. In the latest twist, a California appellate court in September affirmed the state was entitled to mandatory prejudgment interest for a total award of \$13.9 million.

"Our legal team is a good legal team ... but it is so sad that we have to overcome that (insurer) mindset: that we're going to hold on to the policyholder's money until the policyholder forces us to give it up," said Robert Horkovich, a partner with Anderson Kill. "Policyholders need to understand that their contract rights are valuable and

they need to keep pursuing them — not to give up when the insurance industry tells them to give up, not to give up when the broker gives them 100 excuses to give up."

In December, Anderson Kill scored another victory when a New York judge ruled that an American International Group Inc. unit must defend the Port Authority of New York and New Jersey and several contractors against scores of asbestos claims brought by construction workers on the original World Trade Center, according to *American Home Assurance Co. v. The Port Authority of New York and New Jersey et al.*

"Asbestos and environmental liabilities have plagued policyholders for far longer than expected," Mr. Horkovich said. "We have defeated the insurance industry on

"Policyholders need to understand that their contract rights are valuable."

Robert Horkovich, Anderson Kill P.C.

the major defenses to asbestos, so I see the insurance companies now going back to a slice and dice defense where they're trying to limit the amount of exposure they have. And that really makes a mockery of the promise of the commercial general liability policy."

Gloria Gonzalez

Finalists:

- Mayer Brown L.L.P.
- Squire Patton Boggs
- Wiley Rein L.L.P.
- Zurich North America

Managed Care Provider Team of the Year Keenan & Associates

Overuse of opiates has reached a crisis point in the United States, so Keenan & Associates' PRIME Managed Care Services created a Saving the Opiate Patient pharmacy intervention program that helps injured workers avoid opiate addiction and resume work sooner, while enabling employers to control prescription drug costs.

A Torrance, California-based unit of AssuredPartners Inc., Keenan won the Managed Care Provider Team of the Year in the 2018 U.S. Insurance Awards.

Before STOP began in 2013, pharmacy spending for PRIME Managed Care's clients was about \$8 million; spending is expected to be about \$2.8 million by the end of fiscal 2017-18, said Ron Nassif, vice president of PRIME Managed Care and

STOP founder.

Narcotic use dropped by 21% between fiscal 2015-16 and 2016-17, he said.

"Each patient is individualized, and that's key," Mr. Nassif said. "Each person has different psychosocial dynamics occurring in their life at the same time as the injury and recovery. Each patient has their own comorbidities ... A treatment plan must be established based on that particular patient."

Once the local physician creates a care plan, PRIME performs a nurse review to ensure the most

effective treatment plan, using research by a STOP team of pharmacists, physicians and pain management specialists.

A utilization review identifies any overuse of narcotics or whether the patient is getting narcotics from different physicians.

"We would have some patients chewing up 360 opiate tablets a month combined with a sleeping pill, muscle relaxer and anti-depressant," Mr. Nassif said. "Some of these folks were so impaired they couldn't return to work, compounding the problem."

Appropriate prescription



Ron Nassif

"Each patient is individualized, and that's key."

Ron Nassif, Keenan & Associates

drug use may be part of pain treatment, but alternatives such as counseling or acupuncture might also be recommended, he said.

Ultimately, STOP aims to help the patient resume a productive life.

"The goal is for them to be able to function at their pre-injury level," Mr. Nassif said.

Janet Lavelle

Finalists:

- Liberty Mutual Insurance Co. (two entries)
- Sedgwick Claims Management Services Inc. (two entries)

Reinsurance Team of the Year TigerRisk Partners L.L.C.

In 2014, a team at TigerRisk Partners L.L.C. sat down to figure out what the "Insurer of the Future" would be looking for from their reinsurance intermediaries.

One thing that seemed clear was that most insurers would not want to be laden with large, long-tail liability exposures, said Rod Fox, CEO of the Stamford, Connecticut-based reinsurance brokerage.

"We don't think that the insurer of the future is going to stack up decades of long-tail liabilities on their balance sheets," he said.



Rod Fox

Insurers will want to find alternative ways to deal with the exposure for various reasons, Mr. Fox said, including freeing up capital, reducing volatility in reserves and accessing specialty claims expertise.

To offer insurers options for dealing with the issue, TigerRisk created a specialized broking team to advise clients and offer solutions on loss portfolio transfers and adverse development coverage. In short order, TigerRisk acted as a broker on a series of liability shedding deals ranging from \$6 billion to \$50 billion over

"We don't think that the insurer of the future is going to stack up decades of long-tail liabilities on their balance sheets."

Rod Fox, TigerRisk Partners L.L.C.

the next three years, Mr. Fox said.

Typically, the engagements begin with establishing an insurer's objectives and overlaying reinsurers' appetite for the business and then considering variables such as capital charges, quality of reserves, duration of reserves, lines of business and investment parameters. TigerRisk then

uses proprietary models and their expertise to craft solutions, Mr. Fox said.

"These are not easy to put together, but we've executed on some very significant, market-leading transactions and we understand the process," he said.

For its efforts in securing long-tail liability solutions for its clients, the TigerRisk loss portfolio transfer/adverse development coverage team was voted the Reinsurance Team of the Year Award in *Business Insurance's* 2018 U.S. Insurance Awards.

Gavin Souter

Finalists:

- Aon P.L.C.
- Axis Re, the reinsurance unit of Axis Capital Holdings Ltd.
- J. Allan Hall & Associates Inc.

Risk Management Team of the Year

AES Corp./American International Group Inc./Marsh L.L.C.

The honor for 2018 Risk Management Team of the Year went to global electrical power company AES Corp., American International Group Inc. and Marsh L.L.C. for their innovative approach of embedding terrorism and resultant damage cyber coverage within AES' existing global captive property program, eliminating potential gaps between policies, providing additional limits and expanding cover to all AES insured assets.

"This was a particular need in the market given the increased frequency of and discussion around cyber attacks," said Andrew Baillie, program director of global insurance for AES in Arlington, Virginia. "There was also board pressure from our company as well, who wanted to know what the situation was regarding the cyber

coverage and could we confirm to the board we had affirmative coverage."

This solution provides substantial limits for AES' traditional property perils, in addition to terrorism coverage for all of AES subject to a per-occurrence and aggregate limit, including coverage for certified and noncertified acts of terrorism; and affirmative coverage for physical damage losses resulting from cyber terrorism events, subject to occurrence and aggregate limits, with AES accepting a substantial aggregate retention into the captive on a primary basis.

The novel structure was a ground-up undertaking.

"I think the problem was that no one had done it before, so there were a lot of different parts we had to bring

together, from the issue of local policies all the way through to the reinsurance, so that everything was actually lined up and we had concurrent coverage," Mr. Baillie said.

"Our greatest challenge was moving the market to think beyond the status quo and support a customized solution designed to meet the client's risk transfer needs,"



Andrew Baillie

Donna Thomas, Baltimore-based senior vice president in Marsh's U.S. power and utilities practice, said in an email.

Fortunately, the partners had been working together for a decade or more.

"We've been running this program together for about 10 years," Mr. Baillie said.

Marsh was appointed in 2007 and AIG in 2003, "so we do have long-standing relationships with them."

Matthew Lerner

Finalists:

- Compass Group North America, a unit of Compass Group P.L.C.
- Districts Mutual Insurance and Risk Management Services
- Henry Schein Inc.
- JLT Specialty USA/Barclays P.L.C.

TPA Team of the Year Helmsman Management Services L.L.C.

The team at Helmsman Management Services L.L.C., the third-party administrator unit of Liberty Mutual Insurance Co., stepped up when they were needed the most after the storms that hit the Atlantic during the 2017 hurricane season.

But according to Boston-based Helmsman President Dave Dwortz, it was an effort that involved coordinating with their clients.

Many of Helmsman's clients' injured workers faced a lack of access to health care, medications, equipment and weekly benefit checks after hurricanes Harvey, Irma and Maria.

Helmsman provided logistical support and relief to over 1,500 injured workers, including expediting the electronic funds

transfer process so that injured workers would continue receiving benefits, working with their pharmacy benefits manager to lift early refill restrictions and identifying workers with injuries that impaired mobility, necessitated home health care or placed them at increased risk, said Tracy Ryan, Boston-based executive vice president and chief claims officer at Liberty Mutual Insurance.

The Helmsman team were voted 2018 TPA Team of the Year for their efforts.

"We have a very intimate consumer service model where every client relationship has gone a little differently. We co-develop the approach with the client," Mr. Dwortz said.

"In the cases where we knew we had several hurricanes coming, we worked very



Dave Dwortz

Tracy Ryan

closely with our customers. None of the things we did were done in a vacuum or just by the Helmsman team doing all the heavy lifting," he added.

The Helmsman team, in coordination with its clients, prepared by looking at which areas would be hit the hardest by the

storms and put together a plan, according to Mr. Dwortz.

The desire to ensure that workers with injuries are taken care of is an organic part of the organization, according to Ms. Ryan. "Certainly, the storms and catastrophes last year brought to light a lot of the work that our team did during these tragic events, but when we tap them on the shoulder and recognize them, they really didn't see this work as all that different from their desire to help injured workers every single day," said Ms. Ryan.

Joyce Famakinwa

Finalists:

- CorVel Corp.
- Crawford & Co.
- Gallagher Bassett Services Inc.
- Sedgwick Claims Management Services Inc.

Wholesale Brokerage Team of the Year (tie) Breckenridge Insurance Group

Breckenridge Insurance Group doesn't aspire to be the largest wholesale provider of workers compensation coverage. Instead, its team aims to provide the best customer service, even if it means stepping outside of one's job description.

"We aren't trying to be bogged down with too many individuals or become a large bureaucracy; we are quite streamlined, and I make sure anyone on our team doesn't see themselves above doing service work," said Shawn Hall, the Kennesaw, Georgia-based



Shawn Hall

company's senior vice president and director of business development. "Everybody should be comfortable getting their hands dirty, helping their agents."

Breckenridge writes primary or excess coverage for self-insureds as well as structuring large-deductible plans throughout the United States. The company boasts work in 23 markets, primarily large deductible and excess markets with more than 500 classes, including heavy manufacturing, property management, roofing and health care.

Mr. Hall, who leads

a team of three from his home office in Lemont, Illinois, tells of the time he wrote a safety program — a task not in line with producing.

"We had a large construction file, and they did not have a proper workplace safety program, and so I wrote a safety and ergonomic program, and the carrier signed off on it," he said. "We are just more hands-on in our partnership equation."

"As brokers, we want to do everything we can ... If I can't help a client, I make sure I find the person who can help the client."

Shawn Hall, Breckenridge Insurance Group

"As brokers, we want to do everything we can ... If I can't help a client, I make sure I find the person who can help the client," Mr. Hall said.

In a dead heat, Breckenridge tied for Wholesale Brokerage Team of the Year in the 2018 U.S. Insurance Awards.

"We just really care about our partners, and we are going to go to bat for them," he said. "We really, really care about our loss ratios with carriers and making sure these clients are performing. If not, we comb through loss reports to get to the bottom."

Louise Esola

Finalists:

- Brown & Riding Insurance Services Inc.
- Burns & Wilcox Brokerage
- R-T Specialty L.L.C., a unit of Ryan Specialty Group L.L.C. (two teams)

Wholesale Brokerage Team of the Year (tie) R-T Specialty L.L.C.

The philosophy of the wholesale brokerage team of R-T Specialty L.L.C., a unit of Ryan Specialty Group L.L.C., is to "work tirelessly for our clients until they have absolutely the best program and what they're looking for," said Terry McCann, R-T Specialty's Chicago's president and managing director. "We don't stop until we get them what we need."

"We want to be excellent partners to our markets by advocating for the risk and looking for a fair deal from the insurance marketplace."

Terry McCann, R-T Specialty L.L.C.

R-T's seven-person construction team handles its client's toughest placements, "usually on a short fuse," Mr. McCann said.

"We want to be excellent partners to our markets by advocating for the risk and looking for a fair deal from the insurance marketplace," Mr. McCann said. The team has grown from its inception in 2010 to more than \$200 million in 2017 premium.

In a dead heat, R-T Specialty tied for Wholesale Brokerage Team of the Year in the 2018 U.S. Insurance Awards.

An example of this work is a large real



Terry McCann

estate owner and manager with an in-house general contracting firm that came to the team looking for a solution for a pipeline of 47 projects beginning in 24 months, with a total construction value of more than \$4.8 billion. Each project had an average \$100 million in construction costs, and the site locations were all over the United States.

The client needed a multi-year policy consistent with market-leading teams and conditions, dedicated limits of \$50 million to \$100 million for each project and added flexibility to account for

when an outside general contractor would be used.

The team created a program that provided a turnkey approach for its client that included dedicated limits, agreed rates and consistent terms, and permitted a swift closing that eliminated any insurance-related construction delays, Mr. McCann said.

"Having a team was essential, because no one person can handle a risk this hard on their own," said Mr. McCann.

Judy Greenwald

Finalists:

- Breckenridge Insurance Group Inc.
- Brown & Riding Insurance Services Inc.
- Burns & Wilcox Brokerage
- R-T Specialty L.L.C., a unit of Ryan Specialty Group L.L.C. (two teams)

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COMMENTARY

Broad plan needed to tackle opioids

The opioid crisis in the United States appears to be getting worse, and a multipronged approach will surely be necessary to reduce the nation's dependency on the powerful painkillers.

Clearly, there's no easy solution to the problem — both in the specific world of workers compensation and the wider sphere of addiction to legal and illegal drugs — and there are going to be successes and failures when good-faith efforts are made to reduce dependency.

But looking at the latest figures from the Centers for Disease Control and Prevention, action needs to be taken quickly. Tracking emergency department visits, the CDC found suspected opioid overdoses increased 30% in the United States over 15 months from July 2016. While the data varied from state to state, the study presents a picture of a national epidemic affecting all types of communities.



Gavin Souter
EDITOR

Many working in the workers comp and risk management field have known for years from their own data and experience managing claims that the opioid crisis and related drug problems are real and difficult to manage.

The introduction of formularies, intervention programs, alternative pain management therapies and other efforts have all contributed to

some degree to taming aspects of the problem in the workplace. But the prevalence of opioid-related drug abuse outside of work shows that the comp and safety efforts are just a minor part of wider efforts that are needed to tackle the problem.

Which is why it was encouraging last month to see that the Trump administration is moving to make some concrete efforts to address the opioid crisis.

The attention-grabbing element of the plan was, of course, the call for the death penalty for drug traffickers. Like most debates involving the death penalty, arguments over whether the fear of execution will deter drug traffickers from their lucrative business could rage for years without being resolved, so we must hope that this part of the plan does not derail other more positive elements.

Included among those elements is a proposal to launch a nationwide campaign to raise public awareness about the dangers of opioid use, a commitment to develop more therapies to prevent addiction and cut the use of opioids in pain management, and setting targets for reducing opioid prescriptions.

As has been seen in successful campaigns to reduce tobacco use, education can be an effective but frustratingly slow process for changing behavior, but it must be the starting point.

Developing alternative therapies could produce relatively quicker results, and setting targets to better manage opioid prescriptions provides realistic goals to aim for.

Not all of the elements of the policies will be successful, but given the extent of the problem a well-funded, long-term effort to reduce opioid addiction is clearly needed. Let's hope distractions over what punishment is meted out to criminals helping to prolong the crisis don't get in the way of possible solutions.

SCHILLERSTROM



VIEW FROM WASHINGTON

Budget bill boosts safety

President Donald Trump relishes his role as a disruptor.

But the president caused unnecessary panic last month when he threatened to veto a \$1.3 trillion spending bill despite the bill passing both the U.S. Senate and House of Representatives by solid margins. The president tweeted that he was considering a veto of the omnibus spending bill because it did not address the immigration status of more than 800,000 individuals brought into the United States as minors nor fully fund the president's border wall. He ultimately signed the bill less than five hours later.

Was the bill perfect? Not by a long shot. But it was the closest Republicans and Democrats have come to achieving a decent compromise in years, sparing critical federal agencies from President Trump's budget ax.

Legislators showed an admirable commitment to workplace safety by preserving funding for programs that the president wanted to eliminate, rejecting his request to defund the U.S. Occupational Safety and Health Administration's Susan Harwood Training grants. The program provides training and education resources, much of which specifically target vulnerable groups such as workers with limited English-language skills or those engaged in hazardous occupations such as construction or in dangerous areas such as highway work zones. OSHA supporters also managed to block a House rider that would have prohibited funding for the agency's controversial electronic record-keeping rule, which requires certain employers to report injuries and illnesses electronically to OSHA and bars employers from retaliating against employees who report injuries and illnesses.

Congress also preserved \$11 million in funding for the Chemical Safety Board, a critical indepen-

dent agency, which has investigated incidents such as the West, Texas, fertilizer explosion that killed 15 people in April 2013 and the BP Deepwater Horizon oil spill in which 11 perished in April 2010. These types of safety incidents remain all too common, with a fatal chemical explosion and fire in November 2017 at a New Windsor, New York, cosmetic factory prompting OSHA, the Department of Homeland Security and the Environmental Protection Agency to pledge to adopt new protocols for communicating and training with local governments and first responders, especially when companies in their areas receive serious citations for workplace safety violations.



Gloria Gonzalez
DEPUTY EDITOR

The omnibus spending bill also avoided another expiration for the National Flood Insurance Program, but for reasons that remain unclear, legislators decided to decouple its expiration to July 31 rather than Sept. 30, meaning risk managers could find themselves under threat of another expiration in a few months. Or perhaps the earlier deadline is a

sign that legislators plan to finally tackle that comprehensive NFIP overhaul they have promised for more than a year.

Given that this is an election year, I don't see a lot of potential for the tremendous level of compromise that would be required to pass a workable NFIP reform bill. But stranger things have happened — like a president threatening to veto a bill he claims to hate only to sign it a few hours later.

Disruption indeed.

GDPR fines: How can you be sure you're insured?



Michael Barrese is an attorney in Lowenstein Sandler L.L.P.'s insurance recovery practice in Roseland, New Jersey. He can be reached at 973-597-6182 and mbarrese@lowenstein.com.

On May 25, 2018, members of the European Economic Area will begin to enforce the General Data Protection Regulation, which governs the collection and processing of personal information regarding EEA residents.

Under the GDPR, EEA members can enforce the regulation against any person or entity anywhere in the world. Even a company with no physical presence in Europe is subject to the regulation if the company collects or accesses data concerning EEA residents. As a result, companies in the United States are scrambling to determine whether their insurance programs will provide coverage for GDPR fines.

While the costs of compliance with the GDPR are high, the cost of violating it is even higher. The GDPR breaks fines into two categories: lower-tier offenses, which can result in fines of up to €10 million (\$12.24 million), or 2% percent of “total worldwide annual turnover”; and upper-tier offenses, which can result in fines of up to €20 million, or 4% of “total worldwide annual turnover.” Given the nature of the GDPR, most companies will look to stand-alone cyber risk policies for coverage. Because the GDPR is a foreign regulation, it is imperative that a cyber risk policy issued to an entity in the United States have broad enough terms to cover the costs of a GDPR violation.

“Companies in the United States are scrambling to determine whether their insurance programs will provide coverage for GDPR fines. While the costs of compliance with the GDPR are high, the cost of violating it is even higher (lower-tier offenses can result in fines of up to \$12.24 million).”

Unlike commercial general liability policies, there is no “standard” cyber risk policy. While the basic coverage options of cyber risk policies are similar — i.e., coverage for first-party losses arising out of a data breach, coverage for third-party costs associated with claims against the insured arising out of the failure to pro-

tect personally identifiable information, and coverage for regulatory investigations arising out of the failure to protect PII — each insurer has its own unique terms to define the scope of these coverages.

The first step in evaluating whether coverage is available for GDPR fines is to ensure that the cyber risk policy provides coverage for regulatory investigations and actions. While it is common for cyber risk policies to afford this coverage, there are several policy forms that limit coverage to other risks, such as responding to a data breach, media liability or technology errors and omissions. As a result, the insured must carefully evaluate policy options to ensure that regulatory investigations and actions are part of the coverage purchased.

After ensuring that regulatory investigations and actions are included in the scope of coverage, coverage for regulatory fines and penalties can be evaluated. Typically, cyber risk policies will either exclude coverage for fines and penalties or limit coverage to where fines and penalties are insurable under the applicable law and apply a sublimit to cap payouts. Because the GDPR is not in effect, no court has had the opportunity to evaluate whether GDPR fines are insurable. While many speculate that GDPR fines are not intended to be punitive, and thus will be insurable, this speculation will be of little consolation when insurers inevitably challenge coverage for GDPR fines.

When dealing with insurability of fines or penalties, the policy's choice of law provision can play a significant role because some jurisdictions permit coverage for fines and penalties while others do not. As a result, eliminating the choice of law provision is generally recommended. While some insurers may push back at this change, eliminating the choice of law provision allows policyholders to evaluate which potentially applicable law is most favorable to coverage and pursue its claim for coverage under such law.

To the extent that eliminating the choice of law provision is not possible, selecting the appropriate jurisdiction is imperative. Policyholders should evaluate the law of each jurisdiction to which it has ties and push for the jurisdiction with the most favorable law to be selected. For example, consider a policyholder incorporated in Delaware and headquartered in New York. This policyholder can broaden coverage by changing the jurisdiction selected in the choice of law provision from New York to Delaware because, in general, Delaware law recognizes punitive damages as insurable. As a result, regardless of whether GDPR

fines are viewed as punitive, Delaware courts are more likely to find that they are insurable.

Another important consideration is whether definitions in the policy conflict with the choice of law provision. For example, the definition of fines/penalties often provides that insurability will be determined “by the law of the jurisdiction that most favors coverage.” Where the policy contains a choice of law provision that designates a jurisdiction that does

“Some companies may benefit from going abroad for policies, as there are some countries, such as Bermuda, that broadly permit fines and penalties to be insured. The downside to a foreign market such as Bermuda is that the premiums for policies can be higher than those of domestic insurers and the capacity to insure is lower.”

not favor coverage for fines and penalties and the policyholder has a connection to a jurisdiction that does, these terms conflict and an ambiguity is created. While ambiguities are interpreted in favor of the insured, the fact that the ambiguity exists portends a costly coverage dispute that could be avoided by modifying the choice of law provision to be consistent with the definition of fines/penalties.

Finally, some companies may benefit from going abroad for policies, as there are some countries, such as Bermuda, that broadly permit fines and penalties to be insured. The downside to a foreign market such as Bermuda is that the premiums for policies can be higher than those of domestic insurers and the capacity to insure is lower.

Given the uncertainty over the interpretation of GDPR fines and the manuscript nature of cyber risk policies, coverage counsel can provide invaluable advice regarding potential gaps in coverage, recommend modifications to policy language that increase coverage for GDPR fines, and avoid common pitfalls that lead to costly claim denials and coverage litigation.

Marine engineering service agreement inked

■ RSG Underwriting Managers L.L.C., the managing general underwriting division of Ryan Specialty Group L.L.C., said its Smooth Waters L.L.C. unit and National Cargo Bureau Inc. have entered into an engineering service agreement.

As part of the agreement, NCB, a nonprofit marine surveying organization based in New York, will support Smooth Waters with marine loss prevention and claims services for clients of the RSGUM marine practice group, including SafeWaters Underwriting Managers and Trident Marine Managers Inc., Chicago-based RSGUM said in a statement.

Smooth Waters is the marine claim adjusting affiliate of SafeWaters, a series of RSGUM and its Trident Marine Managers Inc. subsidiary.

MarketScout launches social services program

■ Electronic insurance exchange MarketScout has launched Social Support, a facility for social service providers underwritten on behalf of Lloyd's of London.

Dallas-based MarketScout said Social Support will provide professional liability, general liability, property, cyber and limited auto coverage for social services companies ranging from day schools to drug rehabilitation and group homes.

"We believe we've provided a well-rounded policymaking it easy for these businesses to get essential coverages in one policy form," Laura McCormick, MarketScout's professional lines practice leader, said in the statement.

XL introduces Brexit continuity clause

■ XL Group Ltd., which does business as XL Catlin, has introduced a contract continuity clause to address the risk that contracts written by its London-based entities prior to Brexit may become impermissible if passporting rights are lost due to the United Kingdom leaving the European Union.

The clause will be included in insurance policies written by Catlin Insurance Co. (U.K.) Ltd. and XL Catlin's syndicate 2003 at Lloyd's of London. The two entities will remain in the U.K. after XL Insurance Co. S.E. — the main insurer platform for XL Group within Europe and Asia — moves to Dublin, the Hamilton, Bermuda-based insurer said in a statement.

Among other things, the clause makes XLICSE, a Societas Europaea, an additional party to the policy from inception as a contingent insurer with the aim of



XL Catlin offers online platform for marine claims

■ XL Group Ltd., which does business as XL Catlin, has adopted an online claims reporting tool to help policyholders in North America submit notification of their marine insurance claims.

The marine loss reporting tool streamlines the notification of loss process, XL Catlin said in a statement, letting policyholders immediately share details and visual information about an incident to start the claims management process. Photos, estimates, contracts, videos and other documents needed to support a loss can be submitted through the platform.

Nottingham, England-based RightIndem Ltd. provides the platform.

"Receiving this information quickly will help our marine claims team assess the claim straightaway to bring us closer to resolution quickly," Conor J. Murray, Exton, Pennsylvania-based head of marine claims for North America, said in the statement.

providing continuity of cover for clients.

If, post-Brexit, a policy's performance becomes impermissible and cannot be amended to enable CICLUK or syndicate 2003 to perform it permissibly, XLICSE will automatically be contractually obliged to perform it or any part of it. If XLICSE cannot perform the policy, it will be automatically canceled with a pro-rata return of premium, subject to no claims having been notified.

Ironshore, Oil Casualty expand partnership

■ Oil Casualty Insurance Ltd. has expanded its partnership with Iron-Starr Excess Agency Ltd. to underwrite property lines, according to New York-based Ironshore Inc., a unit of Liberty Mutual Insurance Co., one of the insurers on whose behalf Hamilton, Bermuda-based Iron-Starr writes.

The broadened relationship with Hamilton, Bermuda-based OCIL will enable Iron-Starr to deliver an increase in syndicated capacity for commercial property risks, including natural catastrophe perils, within the Bermuda market, Ironshore said in a statement.

OCIL's expanded relationship with Iron-Starr will focus on further building its presence in the direct and facultative property insurance sector. Iron-Starr is authorized to underwrite this insurance with limits separate and distinct from coverage offered directly by OCIL's property team, according to the statement.

Validus unveils D&O cover for private firms

■ Validus Specialty Underwriting Services Inc. introduced admitted directors and officers liability coverage for private companies.

Validus Specialty, a unit of Hamilton, Bermuda-based Validus Holdings Ltd., said the customizable coverage can provide D&O, employment practices liability, fiduciary liability and commercial crime and cyber liability on a combined or stand-alone basis.

Julianne McAdams, who will be based in Atlanta, has joined Validus Specialty as senior underwriter of commercial D&O liability. She will focus on complex risks across mid- to upper-middle-market clients, according to the statement.

QBE North America offers cyber response tool

■ QBE North America, a unit of Australia's QBE Insurance Group Ltd., will include Breach Plan Connect, an online interactive cyber breach response planning tool, with QBE's cyber risk policy.

The tool, provided by NetDiligence, will provide guidance for policyholders including response best practices and the ability for risk managers to customize solutions, the insurer said in a statement.

"Embedding this product in our cyber policies will ensure that our policyholders will have the tools they need when they are at their most vulnerable moments," Steven Anderson, vice president of underwriting for QBE North America, said in the statement.

DEALS & MOVES

Workers comp provider buys Oklahoma insurer

Service Insurance Holdings Inc., Austin, Texas-based parent of Service Lloyds Insurance Co., is acquiring Oklahoma City-based American Healthcare Indemnity Co. Terms of the deal were not disclosed.

The acquisition will result in a planned pooling and reinsurance agreement under Service Insurance and allow Service American Indemnity Co. to write workers compensation insurance in up to 48 states. The new entity will be rebranded as Service American Indemnity Co., Service Insurance said in a statement.

Gallagher acquires Canadian broker

Arthur J. Gallagher & Co. acquired Palmer Atlantic Insurance Ltd., a New Brunswick, Canada-based retail property/casualty broker.

Terms of the deal were not disclosed. Palmer Atlantic specializes in the transportation and logistics sector, Gallagher said in a statement. A Gallagher spokeswoman said Palmer Atlantic has about a dozen employees.

Alliant buys broker for vehicle dealer cover

Alliant Insurance Services Inc. acquired brokerage Hecht & Hecht Insurance Agency Inc.

Terms of the transaction were not disclosed.

Portland, Oregon-based Hecht & Hecht specializes in vehicle dealer insurance and bonds, Newport Beach, California-based Alliant said in a statement.

Alliant had acquired Hecht's employee benefits arm in 2016, according to the statement.

JLT acquires broker for trade credit, political risk

Jardine Lloyd Thompson Group P.L.C. acquired specialist trade credit and political risk brokerage International Risk Consultants.

Terms of the deal were not disclosed. Based in Columbus, Ohio, and operating across the U.S., Brazil, China and Hong Kong, IRC already works with JLT clients and provides trade credit, single- and multibuyer, and political risk insurance, London-based JLT said in a statement.

IRC has more than 200 staff members, a JLT spokeswoman said. IRC companies have been rebranded as JLT Specialty USA CPS, JLT Asia CPS and JLT Brazil CPS practices.



“The primary challenge for the insurance industry is attracting new talent into our industry and innovating ways to remain relevant in this ever-changing world that we live in.”

UP CLOSE

Darren Benson

NEW JOB TITLE: Johnston, Rhode Island-based senior vice president, manager of claims at FM Global

PREVIOUS POSITION: Norwood, Massachusetts-based vice president and manager of chemical operations at FM Global

GOALS FOR NEW POSITION: Internally promote the FM Global claims experience as mutually beneficial for the individual and the organization; make sure we are leveraging our innovation efforts for efficacy gains and to learn from losses more effectively; and lastly, I want to make sure our claims department is positioned to support FM Global’s expansion in Asia-Pacific.

ON LEADERSHIP: Having a high level of integrity.

CHALLENGES FACING INDUSTRY: The primary challenge for the insurance industry is attracting new talent into our industry and innovating ways to remain relevant in this ever-changing world that we live in.

FIRST INDUSTRY JOB: Field engineer at FM Global

WHAT SURPRISED ME: The varied opportunities available in the industry and the stability.

ADVICE: Put the clients first, work hard and be open to the ideas of others.

FAVORITE QUOTE: “I hate golf.”

HOBBIES: Golfing, skiing and anything sports-related, especially outdoors.

THING MOST PEOPLE DON’T KNOW ABOUT ME: That I come from a family of timber professionals — loggers, if you will — and I’m pretty dang handy with a chainsaw.

DON’T LEAVE THE HOUSE WITHOUT: Your sense of humor

BIGGEST OBSTACLE FOR WORK-LIFE BALANCE: The travel demands that come with some jobs, especially for young parents.

PET PEEVES: Pessimism and inattentive drivers

WHEN I RETIRE: I will play golf, do some fly fishing, dote on my grandchildren if I have some, and learn to play the piano.

FAVORITE MEAL: Everyone’s favorite meal — a cheeseburger and a craft beer.

FAVORITE BOOK: I don’t have a favorite, but I just ordered “A Brief History of Time” by Stephen Hawking.

ON MUSIC: I don’t have a favorite, but the genres I listen to most are classic rock and country western.

BEST CITY: London, Paris, Boston and Seattle

ON A SATURDAY AFTERNOON: You can find me playing a round of golf or taking a nap.

MONDAYS: Make a list of things to do on Friday and get busy on Monday.



Aon P.L.C. appointed **Dominic Christian** global chairman of Aon Benfield, while **Julie Page** has been promoted to CEO of Aon UK Ltd. Mr. Christian was most recently CEO of Aon UK Ltd. and executive chairman of Aon Benfield International. Ms. Page will be responsible for the management and governance oversight of the Aon UK Ltd.



business and will continue in her current position as CEO of Aon Risk Solutions UK.



New Paradigm Underwriters L.L.C. named New York-based **Evan D. Bull** executive vice president, effective immediately. Previously, he was managing director at Beecher

Carlson Insurance Services L.L.C.



Jessica Altman was confirmed as Pennsylvania’s insurance commissioner after serving as acting insurance commissioner since Aug. 19. She previously served as chief of staff for

the department and as top aide to former Insurance Commissioner Teresa Miller.



Peter Mullen has been named CEO-elect of Arthur J. Gallagher & Co.’s captive unit, Artex Risk Solutions Inc. He succeeds David McManus, who will become its chairman.

Based in Bermuda, Mr. Mullen previously was Aon P.L.C.’s captive CEO.



Willis Towers Watson P.L.C. made two senior appointments within its corporate risk and broking unit to bolster its health care platform.

Sue Chmielecki, based in Hartford, Connecticut, was named health care industry leader for North America, CRB, replacing Mary Botkin; previously, she was president for the North America health care division of Allied



World Assurance Co. **Kirsten Beasley**, based in Hamilton, Bermuda, was appointed head of health care broking, North America, CRB; previously, she was a senior vice president in the brokerage’s Bermuda office.

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Visit www.businessinsurance.com/ComingsandGoings for a full list of this month’s personnel moves and promotions. Check our website daily for additional postings and sign up for the weekly email. *Business Insurance* would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to editorial@businessinsurance.com.



Trolley attack drives comp fraud charges

A Boston trolley driver allegedly paid someone to attack him at work and is now facing criminal fraud charges for collecting workers compensation for his injuries, the Boston Globe reported.

Thomas Lucey, a Massachusetts Bay Transportation Authority driver, who pleaded not guilty, is accused of paying a friend \$2,000 to beat him up around midnight on Oct. 30, 2016, while the trolley was at a stop, according to the Globe.

His assailant was spotted on video running from the station. Police discovered his fingerprint on a plastic pumpkin he left behind and brought him in. "He made statements to Transit Police that Lucey had paid him \$2,000 to take part in the planned 'attack,' which was corroborated by bank records and phone records that showed communication between the two before and after the assault," Suffolk District Attorney Daniel F. Conley's office said in a statement.

Office rudeness contagious: Study

Hand sanitizer and flu shots? How about "please" and "thank you"? There's a new ailment in the over-extended workplace: rudeness, according to a recent study in the Journal of Applied Psychology that found such behaviors as condescending talk and being snappy in the workplace to be contagious.

Researchers sent three emails a day to 70 employees over two weeks, questioning the behaviors of those around them as well as their own, finding that the more rudeness an employee endured during the day, the more likely he or she was to act rudely to others.

The study found that, over time, these negative repetitive behaviors wore employees down. This can drain a person's "internal resources for dealing with their own behavior," wrote syndicated psychology newspaper columnist Linda Arnold of the study.



CALIFORNIA DREAMIN'? WOMAN SUES STATE OVER ALLEGED BIGFOOT SIGHTING



One might have to see the legal paperwork to believe it: A California woman said she spotted a sasquatch in the central mountains and has filed a lawsuit against the state and the California Department of Fish and Wildlife to make her case, Los Angeles' ABC News 7 reported recently.

"If they wanted to hurt us that day, they could have," Claudia Ackley told a reporter upon filing her suit. "We were right there."

Ms. Ackley said she was hiking with her two daughters in March 2017 and her daughters noticed it first.

"They're standing right there frozen, looking at something," Ms. Ackley told the news station of the sighting. "He looked like a Neanderthal man with a lot of hair... About 800 pounds. I was trying to tell it to please not hurt us, and that's when he just stared at me."

She said there were two other sasquatches nearby.

"All I'm thinking is, please don't get near us because I have my children," she told a reporter, adding that she phoned 911 but the dispatcher didn't believe her, telling her that they probably were bears.

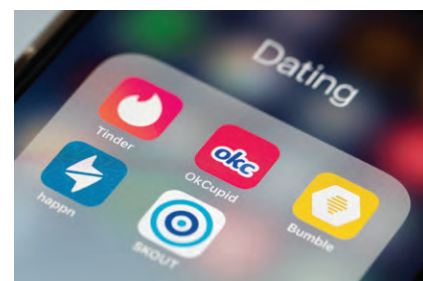
But wait, there's more: a refund!

Not only are savvy infomercial consumers warmer on the couch and less inconvenienced by a blanket with sleeves, they are richer in their wallets after the Federal Trade Commission approved refunds for

such as-seen-on-TV products as Snugglies. The FTC is mailing 218,254 refund checks totaling more than \$7.2

million to people who bought products deceptively marketed as "buy-one-get-one-free," including Snugglies, the Magic Mesh Door and other as-seen-on-TV products, the FTC said in March. Consumers who bought products marketed by Allstar Marketing Group L.L.C. will receive an average of \$33.14.

In March 2015, the FTC alleged that since at least 1999, Allstar has used direct marketing TV commercials to sell its products with a "buy-one-get-one-free" offer that did not disclose all costs. As the ordering process was confusing, some consumers were also charged for more products than they wanted, according to federal regulators.



Tinder? Bumble? It's complicated

There's no love between similar matchmaking apps Tinder and Bumble, as the former is now suing the latter over patent infringement, Fortune magazine reported.

Match Group, the company that owns Tinder, filed a lawsuit in a district court in Texas, alleging that Bumble Trading Inc. infringed on two Tinder patents: "matching process system and method," and "display screen or portion thereof with a graphical user interface of a mobile device," the magazine reported.

Two of Bumble's co-creators previously worked at Tinder and allegedly stole confidential information, which they used to create the rival app, the magazine reported.

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