

Everyone denies liability in N.Y. chemical disaster

By ELLIS SIMON

NIAGARA FALLS, N.Y.—A chemical waste disaster here could result in one of the most expensive and intricate liability cases of all time, with anticipated lawsuits totaling \$2.65 billion. And it's conceivable that insurance will not pay a nickel of any awards.

Since August, 237 homes in the Love Canal section of Niagara Falls have been vacated, boarded up and surrounded by a half-mile of chain link fence as the result of toxic industrial chemicals leakage

from an old landfill.

The landfill was used as a dumping ground by Hooker Chemical and Plastics Corp. from 1947 until 1952 when it was donated to the city as a site for a school.

No lawsuits have been filed yet, but the Hartford Insurance Co., liability underwriter for the city and school district, has gone to court seeking to absolve itself of any responsibility in the case.

In addition, Hooker has disclaimed any responsibility, citing a clause in the land transfer contract freeing it from responsibility for

damage resulting from pollution. However, Hooker has offered to contribute \$1.25 million toward the anticipated \$40 million cleanup bill.

Hooker's parent company, Occidental Petroleum Corp., has been accused of understating Hooker's potential liability in the disaster. Mead Corp., which is seeking to prevent a takeover bid by Occidental, made the charge in a brief filed in federal court in Dayton, Ohio.

Mead's law firm claims that Hooker is not insured against any lawsuits arising out of the Love Ca-



Photo: Buffalo Evening News

Love Canal residents protest in fear their homes will be excluded from a state emergency assistance program for areas contaminated by leakage from an old Hooker chemical waste graveyard.

nal disaster because state insurance law prohibits coverage for damages resulting from waste disposal or release of pollutants unless it is sudden or accidental, ac-

cording to the Niagara Gazette, a local newspaper.

A spokesman for Hooker declined to comment on the firm's involvement. *Continued on page 25*

Number one concern

Workers comp hurts risk budget the most

By JOANNE GAMLIN

LOS ANGELES—Move over product liability crisis—workers compensation is now the insurance buyers' number one concern.

It's the most expensive item on the property and casualty insurance list at 19 of 30 major companies around the nation contacted in a telephone survey by *Business Insurance*. Giants such as Lockheed Aircraft Corp., The Carborundum Co. and American Standard Inc. name workers compensation their highest single insurance bill.

Richard Hackenburg, assistant treasurer for Allegheny Ludlum Industries Inc. in Pittsburgh, no doubt spoke for many when he told the Machine & Allied Products Institute (MAPI) that workers compensation is not only the largest of property and casualty insurance costs, but it also should be regarded as a more serious problem than product liability.

More liberal benefits, a larger number of claims that also cost more and a generous attitude on the part of judges awarding benefits were all blamed for the higher costs by those interviewed. Risk managers' solutions to the problem range from the ideal of maintaining effective loss control to adopting federal standards for benefits. Interestingly, alternative funding methods such as captives and self-insurance don't seem to be



Bill Cain holds Dayton-Hudson's workers compensation costs to .11% of sales through safety programs.

holding down costs, they say.

How long workers compensation has occupied the top spot in corporate insurance costs, disregarding employee benefits, differs dramatically from company to company depending on the industry it represents.

The growing number of companies that identify themselves as service industries, with their heavy dependence on labor rather than machinery, have regarded workers compensation as the leading cost of insurance for many years. In the *BI* survey, they include: Times Mirror Corp., leading publishing

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business insurance

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Week of December 25, 1978

Price cutting runs rampant in new competitive market

By REBECCA A. FANNIN

NEW YORK—Insurers are cutting premiums by 15% on the average and in isolated cases as much as 40%, competing to keep their most lucrative accounts.

The industry may preach that it won't indulge in the same kind of price-cutting as the early 1970s saw, but some concerned brokers and underwriters see the old scenario being played out all over again, spurred by the onset of a new competitive spirit.

Moreover, the names and faces are all the same, with Hartford Insurance Co. and CNA Insurance said to be leading the pack in their race to cut prices and win business.

Medium-sized accounts are likely to see larger premium reductions of probably 15% to 20%, while larger accounts will see their insurance rates decline by 10% to 15%, said Myra L. Tobin, vp and a national service officer for casualty lines at Marsh & McLennan Inc.

Because of the accelerating competition, she explained, the medium-sized accounts will have more alternatives in choosing underwriters who can give them premium reductions.

"In 1976-77, there were so many constraints in the market that you could hardly get an underwriter to discuss a risk. Now eight to 10 will," Ms. Tobin added.

Excess insurance rates are being cut in some cases by up to 40%, noted John A. Bogardus, chief executive officer for Alexander & Alexander Services Inc. Worried that the price reductions are too extreme, Mr. Bogardus said, "We're not where we were four years ago, but we're heading in that direction. My hope is that it will be a shorter

cycle."

Explaining the cyclical nature of the insurance industry, one source said insurers are so greedy that they behave like a bunch of sheep, following those who use poor judgment in cutting prices because they feel that they can't afford to lose business to the price-cutters.

Regardless, insurers are hopeful that they won't repeat the mistakes of the previous price-cutting cycle when underwriting losses were so high that insurers needed to raise premiums dramatically and select risks cautiously to rebuild surplus and recoup losses.

"I hope we learned a lesson from that period," said C.J. Clarke, vp of *Continued on page 28*



Medium-sized accounts can look for premium reductions of 15% to 20%, says Myra L. Tobin of broker M&M.

Wage board limits view of benefits in wage cap

By JERRY GEISEL

WASHINGTON—A relieved business community applauds the Council on Wage and Price Stability's decision to liberalize the treatment of benefit cost increases, but its approval falls far short of complete endorsement.

"I'm very pleased with what the Council has done," said Gene McGarrah, corporate benefit manager at Texas Instruments. "We are pretty satisfied with the way things are now."

"The Council went pretty far in meeting my objections," added Nathan Smith, assistant vp and director of employee benefits for American Home Products Corp. in

New York. "I feel much relieved because it was my feeling right at the beginning that they were showing a lack of understanding on benefit issues."

The revised guidelines issued this month represent a significant departure from the Council's initial proposals designed to curb the nation's inflationary spiral. Significantly, the revised guidelines call for far more flexible treatment of benefit costs increases against the 7% wage ceiling. These changes include:

- Employers will not have to charge against the 7% wage ceiling any added costs of maintaining current pension benefits if the in-

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The inside story

Firm picks Calif. for captive

National Medical Enterprises insurance vp Ray Hodges wants to start a California-based captive insurer to help slash the hospital chain's insurance bill. **Page 15.**

Product liability score card

The year-end status of product liability tort reform efforts in each state appears in the chart compiled by Washington associate editor Jerry Geisel. **Page 22.**

The people column
page 30

Wall St. investment interest highlights Exchange confab

By ELLIS SIMON

NEW YORK—Shearson Hayden Stone Inc., an investment brokerage firm, "anticipates playing an active role in raising capital" for the New York Insurance Exchange, it was disclosed at public hearings on the proposed constitution and bylaws for the new insurance syndicate marketplace.

The announcement, included in a letter to New York superintendent of insurance Albert B. Lewis from Shearson executive vp W. James Toser Jr., highlighted the relatively quiet hearings held here Dec. 15 and 18. Few criticisms of the draft document were offered during the first two days of hearings, the first of which ended after 90 minutes and the second after 30 minutes.

Shearson Hayden Stone's statement marks the first public announcement by a Wall Street securities firm of interest in participating in the new exchange. However, other investment houses are expected to play a role in capitalizing and managing investments for the new exchange.

John Cox, president of Insurance Co. of North America, noted that his company's plans for forming syndicates on the Insurance Exchange will have to take into consideration the plans of Blyth Eastman Dillon & Co., which is another subsidiary of INA Corp., a financial holding company.

During the first two days of hearings, only one trade group, the newly formed New York State Excess and Surplus Lines Assn., offered a formal critique of the document and two other groups, the National Assn. of Insurance Brokers and its affiliate, the Insurance Brokers Assn. of New York, warmly endorsed the document and complemented its drafters.

Gerard J. Nolan, president of the excess and surplus brokers group, called for elimination of the associate broker membership class. An associate broker would be permitted to place business on the exchange floor on behalf of its own clients only and would not have voting rights. Associate brokers would be required only to pay \$1,000 annual dues.

Noting that no such membership class exists at Lloyd's of London, Mr. Nolan pointed out that the two broker classes could result in inefficient operation and administration. A greater number of brokers on the trading floor would diminish service to the ultimate buyer, the insured, he added.

"Funneling of business through the brokering specialist (broker member) would minimize the amount of business and the number of people a given underwriter might have to see in a business day," Mr. Nolan said. The 'brokering specialist' would know exactly which underwriter or underwriters to approach on a specific class of business; whereas, the small or medium broker, not having a normal run or large volume of unique and unusual business in his

Lloyd's probes old rules

LONDON—Lloyd's has established a major inquiry team to probe its traditional disciplinary powers following criticism of its activities in 1978.

Official sources told *Business Insurance*, "The inquiry team will be headed by a leading U.K. public figure whose name will be announced shortly. It will consist of a working party of people from both inside and outside Lloyd's."

It will look into its self-regulatory rules and see if they match current insurance requirements."

The decision was announced after complaints of a reputed "broker Mafia" and other internal problems in recent months, although a Lloyd's source said that the move was not directly related to these incidents.

Informed sources emphasized there won't be any change in the normal insurance facilities or capacity of Lloyd's. The probe will only involve its own powers for regulating members' activities. Its basic constitution built over the years will remain untouched. More details are expected in January.

office, may not have an exact awareness of which syndicate to approach or what underwriting information to gather for a proper presentation."

Aaron Lebow, a principal in the brokerage firm of Diamond, Lebow, Wojnilower & Co., questioned whether the associate broker would be discriminated against because broker members, controlling a larger block of business, would get a better rate.

Insurance superintendent Albert B. Lewis, who chairs the Committee of 13 that drafted the constitution, said the associate broker designation would give small brokers an opportunity to place business on the exchange without going through a middleman.

INA president John Cox, a member of the committee, said that different rate charges for the same coverage would reflect the difference in commissions, since the price would be the same.

Superintendent Lewis added that the associate membership class was set up "so we don't have a private club like London but a truly open market."

Mr. Nolan also objected to the composition of the exchange's board of governors being weighted in favor of underwriting members of the exchange. Members of the exchange should be "judged" by their peers," he said. In addition he said members should have the opportunity for an appeal to and hearing by the insurance department.

The constitution recommends formation of a 12-member board of governors consisting of six underwriting representatives, two broker representatives and four public representatives. The National Assn. of Insurance Brokers indicated concern over this composition in its statement.

NAIB executive director R.L. Remington, who heartily endorsed the document, said: "While certain details of the draft are not exactly to our liking, in deference to the negotiated compromise it represents, I will only observe that the

exchange operation and administration must be fair and equitable to all sides of the equation."

L. Paton Kline, chairman of Marsh & McLennan and sole broker representative on the Committee of 13, said he would have preferred greater broker representation on the board of governors, but added, "It is very proper that those with responsibility to investors and those exercising underwriting judgment on the floor should have a strong say on professional matters dealing with underwriting."

The four public members will have to act as the force that will assure that "right can win out" in votes on partisan matters, he added.

INA's Mr. Cox observed that since it is not intended for the exchange to operate under New York code, if an appeal went beyond the board of governors to the insurance department, it would frustrate the exchange governing mechanism.

Attorney Anthony Lanzone pointed out that provisions in the constitution would prevent brokerage firms in operation less than three years from becoming exchange members. Committee member Jerome Kretschmer said the exclusion was meant to apply to individual brokers and the document will be clarified.

Although few persons spoke at the hearing, attended by 60 persons, insurance department officials and committee members said it did not represent a lack of interest in the document but was a testimony to its quality.

The proposed constitution and bylaws will be sent to the New York state legislature Jan. 1. Either house has 45 days in which to veto the document. If no veto bill is passed, the constitution and bylaws become effective and operations of the exchange would be permitted to start April 1. No legislative opposition is expected. ■

errors & omissions

• Pennsylvania Engineering Corp.'s captive insurance company, Essex Insurance Co. Ltd., is managed by Frank B. Hall & Co. through its Bermuda subsidiary, Parker & Co.-InterOcean Ltd. The manager was incorrectly identified in the Nov. 13 issue.

for your information

Aetna's work comp retro plans omit loss development factor

HARTFORD—Aetna Life & Casualty Insurance Co. is dropping the loss development factor in newly written retrospectively rated workers compensation insurance programs.

The company, which is one of the largest workers compensation insurers in the nation, is also offering to remove the loss development factor in current policies, effective back to the policy inception date.

Eliminating the loss development factor from retrospectively rated workers compensation programs is consistent with the company's position on other liability lines, says Lawrence K. Rand, director of the company's commercial insurance department.

The National Council on Compensation Insurance decided last summer to make use of the loss development factor in retrospectively rated workers compensation policies optional instead of mandatory when it appeared the factor made the insurance policies too expensive and put them at a disadvantage when compared by insurance buyers with self-insurance (BI, Nov. 27, 1978).

Aetna's position on the loss development factor was announced to its field offices in early November, but it was not released to *Business Insurance* until this month.

Colorado OKs captive expansion

DENVER—Colorado captive insurers will be allowed to reinsure risks unrelated to the parent company after the first of the year.

The state attorney general's office has told insurance commissioner J. Richard Barnes that captive insurers can legally assume such risks. Previously Mr. Barnes interpreted the Colorado captive law to preclude reinsurance of third-party risks. Now Mr. Barnes adds this should not be the primary business of the captive.

Captives will be allowed to reinsure the lines of business they are allowed to write for the parent company, which basically excludes only personal lines and employee benefits, the commissioner said.

Mr. Barnes' office will issue a letter to "all interested parties" concerning the changes but he is uncertain how many requests will be reviewed on a case by case basis and there may be additional capital and surplus requirements depending on the company involved, he added.

First Tennessee captive moves in

NASHVILLE—Hospital Corp. of America is moving its captive to its home state of Tennessee from its current Colorado domicile, becoming the first company to take advantage of the Tennessee captive insurance company law passed earlier this year.

The move should not be "construed as our being dissatisfied with Colorado," said Robert Reeves, vp of insurance for Hospital Corp. of America. "It just makes sense to move the company from Colorado to Tennessee—next to our principal policyholder," he said.

Parthenon will begin operations in Tennessee—pending clearance under the state licensing exam—with \$15 million in assets and capital and surplus of \$3.7 million, Mr. Reeves said. In 1979, Parthenon will underwrite comprehensive hospital liability to \$10 million per occurrence and \$30 million aggregate for Hospital Corp. of America, retaining \$350,000 per occurrence and \$10 million aggregate and reinsuring the rest. The first \$250,000 layer of workers compensation is reinsured with Parthenon as is \$45,000 of property insurance excess of \$5,000.

FTC delays FM mutuals' merger

WASHINGTON—At the request of the Federal Trade Commission, the proposed merger between Allendale Mutual Insurance Co. and Arkwright-Boston on Dec. 31 has been postponed until March 31, 1979. FTC asked for more time to complete its study of the possible implications of the merger of the two largest insurers in the Factory Mutual System.

"The FTC has requested a great deal of information in regards to our operations," said an Allendale spokesman, all of which was supplied. In addition, Allendale and FTC officials have been meeting during the last several weeks to discuss the merger.

The delay of the merger, which had been overwhelmingly approved by the policyholders of both companies, will not affect policyholders, the Allendale spokesman said.

Lost ship could cost \$80 million

LONDON—Lloyd's and European insurers fear a German-owned freighter has been lost at sea, causing a world record shipping insurance loss of \$80 million or more.

The steel-carrying ship was caught in mid-Atlantic storms during the week of Dec. 18. Hull claims are expected to be near \$50 million, with cargo losses of another \$30 million. The ship carried a crew of 28.

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Risk Manager of the Year

Nominations of individuals for Risk Manager of the Year will be accepted through January 15, an extension of the deadline for submitting material. Any man or woman involved in risk management and the purchase of commercial insurance for a corporation or other organization is eligible for nomination. A panel of 10 eminent judges will choose the 1979 winner prior to April.

Medical malpractice trusts grow:

Texas insurer fights new malpractice trust

By MARY ELLEN McKEE

AUSTIN—A medical liability trust will provide coverage for members of the Texas Medical Assn. beginning Jan. 1, but a Texas insurer is opposing the idea.

Insurance Corp. of America in Houston, named the fastest growing medical liability insurer in the nation by Best's Review, has waged an ambitious campaign to block the entry of the trust into the medical liability market.

Since the onset of the so-called medical malpractice insurance crisis when doctors and hospitals looked for other ways to solve their insurance problems, insurance companies have cautioned risk managers and regulators alike that the newly formed trusts or mutuals could be financially unstable.

As part of the campaign, ICA is running ads in Texas newspapers complete with a coupon offer of the company's statement against the trust.

"Our opposition to the trust is not just a matter of sour grapes," claims Richard Cross, president of ICA. "We have legitimate reasons for questioning the soundness and effectiveness of the trust."

The trust does not have the financial backing of the Texas Medi-

cal Assn., he stressed. "TMA has merely cosigned a \$300,000 loan for the initial promotion of the trust, but they will not guarantee the policies of the trust if it ceased operation," explained Mr. Cross. "That one point could mean disaster for the medical community in Texas."

The trust is not actuarially sound, he charged. "Texas has a doctor-owned reciprocal, a JUA and eight insurance companies that provide medical liability insurance for the medical community," Mr. Cross said. "The trust is not offering doctors a lower premium than they can obtain through the voluntary market. Based on the fact, how is the trust going to attract enough physicians to make the trust work?"

The initial mailing to association members was misleading, Mr. Cross complained. "The governing body of the trust failed to inform physicians that the premiums of the trust would be equivalent to insurance company premiums, contributions to the surplus fund were not tax deductible and that the TMA was not financially backing the trust venture."

Meanwhile, the governing body of the trust is ignoring ICA's charges and will start issuing in-

surance to members of the TMA on Jan. 1, despite public hearings ordered by the Texas Board of Insurance to investigate the minimum solvency requirements of the trust.

Over \$1.5 million in surplus funds has already been collected from contributions made by physicians belonging to the medical group. Trust officials expect to collect as much as \$2.5 million in surplus funds by early next year.

Physicians joining the trust will pay from \$545 up to \$11,241 in premiums for the first year of claims made insurance. Premiums for the following years will be determined by Milliman & Robertson Inc., a Seattle-based actuarial firm.

The trust will operate on the standard ISO seven class system and will provide five different levels of coverage. Coverage will range from \$25,000 per claim with a \$75,000 aggregate to \$750,000 per claim with a \$1.5 million aggregate.

Each loss over \$200,000 will be reinsured with Lloyd's of London.

Trust administrators admit that their first year premiums will be as expensive as premiums charged by other markets. Greater loss control awareness should bring those premiums down within the next two years, a spokesman said.

The trust has had to weather more than the controversy sparked by ICA's accusations. Recently Dr. Milton Davis, who has served as chairman of the trust board since September, was asked to step down from the position. Trust officials refuse to explain.

Calif. exchange pays surplus to policyholders

PASADENA—The Physicians and Surgeons Insurance Exchange of California will return \$250,000 in previously paid premiums to its 2,200 policyholders.

It is the first such payment since the exchange was formed late in 1976 to deal with soaring malpractice rates and the scarcity of insurance in California, said Michael Turpel, director of marketing for the exchange.

The exchange board of governors authorized the distribution when the policyholders' surplus passed the \$4 million mark. The board said the amount is sufficient to permit the payments while maintaining a sound financial base.

The growing financial health of the exchange has enabled it to lower the costs of malpractice insurance by 45% by eliminating the requirement that policyholders contribute to the surplus of the fund. Physicians had been required to make the contributions to help build up the organization's financial base, said Robert L. Westin, president of the management company for the exchange.

The accumulation of surplus is due in part to a leveling off of the number of suits against doctors in

the last two years in California, said Mr. Turpel. "The open season on physicians seems to have settled down to a large degree."

"Things are definitely looking up. We feel very, very comfortable about the way things are going," he said. "But we're not getting overconfident. Malpractice insurance is still a field that's going to be watched very closely and we will be very cautious. We're taking a conservative point of view."

Medical malpractice rates in California are still "a little outrageous," Mr. Turpel said, but if the non-profit exchange continues to amass a surplus, policyholders may be able to enjoy a rollback in their premium rates.

The company is also looking into possible expansion into New York, he said.

So far, the company has paid out between \$20,000 and \$25,000 to closed claims, which represents about 20% of all claims made against the exchange. The remaining 80% of the claims have not yet been settled, Mr. Turpel said.

The exchange has built up a reserve account of \$3.78 million for losses and loss related expenses such as legal fees and court costs, he said.

the benefit beat

Public employee pension plans face funding crisis

Inadequate funding for municipal employee pension plans has reached crisis proportions, public employee plan representatives, employer groups and professional advisors agree. But they can't agree on the reasons why and possible solutions.

A survey conducted by the International Foundation of Employee Benefit plans during a recent three-day conference in San Diego shows that seven out of 10 of the 206 persons questioned believe municipal employees' pension programs are headed for serious funding shortages.

But only half of the employer representatives and professional advisors and 22% of the employee representatives agreed that cost of living hikes are the major cause of pension cost increases. They disagreed over whether requirements for disability pensions are too lenient and whether the normal retirement age should be raised to reduce fund problems.

Just over half the employer representatives supported merging city, county and state pension plans to increase efficiency and cut costs, but 56% of the employee group members opposed the move.

The groups agreed that some type of pension reform is desirable but nearly everyone opposed ERISA-style federal legislation to cover their benefit plans as well as the idea of using general tax revenues to offset deficits in Social Security funds.

Kodak ups retiree benefits

Retired and disabled employees of Eastman Kodak Co. will see a hike in January in their monthly benefits ranging from 3% to 12%. Those employees who retired before 1973 will receive the highest increases in benefits with those who retired in 1977 receiving the lowest.

This is the first increase in monthly benefits Kodak retirees and disabled persons have received since 1975. The increase also applies to the monthly income of spouses and dependents of deceased Kodak employees who participated in the preretirement surviving spouse benefit program or one of the other survivor options under the company's pension plan.

Improved pensions

Workers at the Martin Marietta Corp.'s plant in Middle River, Md., won pension plan and group insurance improvements in a three-year contract.

The 850 employees, represented by the United Auto Workers, gained a pension benefit of \$12 per month per year of service, an increase from the previous \$9.50. In addition, an

early retirement provision providing full pension benefits at age 62 was added. Full retirement benefits previously were available only at age 65. In addition, a 35-year limit on credited services was extended to 40 years.

In another version of early retirement, workers who retire between the ages of 60 and 62 with 20 or more years of service will receive a supplement of \$325 a month. At age 62, the supplement will be replaced by social security benefits.

Changes in the medical plan's surgical schedule increased payments by 33%, according to George H. Smith, regional representative for the UAW. The weekly accident and sickness benefit was increased \$20 per week, so the plan now pays \$140 weekly.

Substantial improvements were also made in the dental plan for payments of 100% for preventive care, 85% for fillings and extractions and 50% for denture work. Co-payment features of the plan were also substantially reduced from their previous levels. Orthodontia work is not covered under the plan.

More pension benefits

A three-year contract negotiated by the United Auto Workers for 125 employees of the Clark Grave Vault Co. of Columbus entitles the workers to improvements in their pension benefits.

Monthly pension payments to workers with 30 years of service and who are over 55 years old were raised to \$750 from \$700. The pension payment for each year of service will hit \$15 from \$11. Wages for the workers will reach \$6.90 by the end of 1981 with cost of living increases every three months.

Publisher pays premium hike

Crain Communications Inc. is absorbing an entire 25% increase in insurance premiums for its group hospital and medical plan rather than pass the increase on to its 319 employees covered under the plan. The Chicago-based publishing company previously had absorbed premium increases for the plan, underwritten by Connecticut General, but this is the first time that the firm informed its employees that it was picking up the increase. As a result of the premium increase, which reflects inflation and experience, Crain will pay \$33.83 per month per employee for its group plan, up from \$27.06 per month. Crain pays the entire premium for employee coverage and 64% of the cost of family coverage, leaving the employee who elects family coverage with a cost of \$26.28 per month.

Crain last year amended its plan to institute a \$1 million plan maximum with an annual \$50 deductible rather than a

\$50 deductible for every cause. The firm also placed an absolute upper limit of \$675 on annual out-of-pocket expenses a participant has to pay. Previously, in addition to the \$50 deductible for every cause, a participant paid 20% of hospital charges over the fully covered limit of \$2,000. The company publishes *Business Insurance*, *Advertising Age* and other magazines.

PBGC plans premium boost

The Pension Benefit Guaranty Corp. is preparing to ask Congress to boost the termination insurance premium for multiemployer pension plans to \$2.60 per participant, up from the current premium of 50 cents per participant. The increase is needed to give PBGC more assets to guarantee benefits for multiemployer plan participants. In a report prepared last summer, the PBGC warned that it could face a staggering \$3.5 billion in unfunded liabilities if the hundreds of multiemployer pension plans now in trouble terminate. Congress has until July 1, 1979, to approve the premium increase or extend the deadline for PBGC to insure multiemployer plans. Currently, PBGC's guarantees of such plans are discretionary.

Attendants win disaster benefit

Alaska Airlines' 200 flight attendants won a 3% increase in the company's contributions to their pension fund in a three-year contract along with improvements in sick time accruals and disaster care.

The disaster care clause insures that attendants involved in an air accident will receive 85 hours pay and credit for four months seniority. If they are unable to return to service, they will then receive preferential placement in another position within the company, according to Gregg Peterson, a spokesman for the Assn. of Flight Attendants. The clause also promises attendants they will be given a contact for information about insurance and psychiatric counseling if they utilize the disaster clause, Mr. Peterson said.

The new pact, calling for a wage increase of 31%, also allows attendants for the first time to accrue up to 800 hours of sick time over an unlimited period.

Benefit Beat keeps risk managers and employee benefit managers abreast of changes in plans around the country as well as other important developments. We'd like to know if you've made any changes or know of any significant developments. Write Kathryn J. McIntyre, Business Insurance, 740 N. Rush St., Chicago, Ill. or call (312) 649-5286.

Employee benefit costs mushroom 18% in 2 years

WASHINGTON—Employers paid out an average of \$4,700 per worker for benefits in 1977, an increase of about 18% in two years, according to the U.S. Chamber of Commerce.

Benefits now amount to 36.7% of employee compensation, up from 35.4% in 1975 and 32.7% in 1973. In dollars and cents, benefit costs averaged about \$2.26 per payroll hour, up 17% from \$1.93 two years earlier.

The Chamber's latest study is considered authoritative because of the large number of companies surveyed and because the 748 surveyed firms represent a broad cross section of American industry.

Benefit costs varied considerably from industry to industry. They ranged from an average 25.7% of payroll reported by hospi-

tals to 43.3% paid by chemical and allied product industries.

Benefit costs also varied widely from company to company. Twelve firms paid less than 18% of payroll for benefits last year while at the upper end of the corporate spectrum 12 firms paid out a whopping 60% or more of payroll costs for benefits.

Of the 748 companies participating in the survey, 162 companies have submitted data for each of the Chamber's biennial studies since 1957, making it possible to trace benefit costs for an identical group of companies.

For those 162 companies, benefit payments have jumped from 23.9% of payroll in 1957 to 29.5% in 1967 and 40.6% in 1977, an increase of 70% in 20 years. On an annual basis, benefit payments climbed from

\$1,105 per employee in 1957 to \$5,417 in 1977, a 390% increase for those 162 companies.

Of the 36.7% of payroll paid out in benefits, 12.7% went to private pension and insurance funds in 1977, up from 11.6% in 1975. Vacation, holiday and sick leave pay accounted for 9.8% of payroll, a decrease from 10.1% two years ago.

Legally required employer payments, such as workers compensation contributions and Social Security taxes, soaked up 8.5% of payroll, an increase from 8% in 1975. Paid rest and lunch periods took 3.5% of benefit payments, down from 3.6% while profit sharing payments and bonuses amounted to 2.2% of payroll, compared with 2.1% in 1975.

Pension payments for all companies surveyed averaged 5.9% of payroll, with premiums under in-

surance or annuity contracts accounting for 3.3% of that amount.

Sixty-four companies, or 9% of those surveyed, said they didn't make any private pension payments, but 27 firms paid amounts equalling 14% or more of payroll.

Employee insurance programs cost firms on the average 5.9% of payroll, up from 5.2% in 1975. However, 67 companies reported that their insurance payments amounted to 10% or more of payroll. In the 1975 survey, only 35 companies said they paid 10% or more of payroll for employee health and life insurance.

Larger firms tended to pay higher benefits than smaller firms. For example, companies with 5,000 and more employees paid 40% of payroll for benefits, while firms with less than 500 employees paid

out an average of 35.6% of payroll for benefits.

On a regional basis, the Chamber found that the highest benefit payments were made in Midwestern states, followed by states in the Northeast and in the West. Firms located in the Southeast on the average had the lowest employee benefit payments.

Chemical and allied products and primary metal industries tied for the number one position in benefit costs with 43.3% of payroll going for benefit payments. The petroleum industry followed with 40.8% as did banks, finance and trust companies with 39.9%.

The groups paying the lowest percentage of payroll for benefits included: hospitals, 25.7%, textile trade and apparel, 29%; wholesale and other retail trade, 30.7% and department stores, 32%.

The Chamber estimates that in 1977 employee benefits cost U.S. companies \$310 billion. By contrast, in 1929, on the verge of the depression, benefits only totaled \$1.5 billion for 3% of that year's \$50.4 billion in pay checks.

The soaring cost of health care plans is enough to make you sick.

J&H can help you cope.

An estimated 180,000,000 Americans have medical coverage through their employers.

The cost of many of these plans is soaring virtually out of sight.

But there are effective ways to contain such increases. Following are several examples of how Johnson & Higgins is helping corporations cope:

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A team of J&H specialists in medical care program design and cost containment: James P. Hillegas, Atlanta; Walter H. Clemens, San Francisco; James W. McDonald, New York; Richard J. Barksdale, Portland; and James G. Harlow, New York.

Women lose in pensions, study reports

WASHINGTON—Private pension plans discriminate against housewives and working women, a Justice Department study charges.

Housewives are excluded from the pension system and working women who take leaves to raise families are penalized, the report by the department's Task Force on Sex Discrimination says.

The report was released on the heels of announcements by the Labor Department that several studies have been commissioned to explore whether private pension plans meet the economic security needs of women.

The Justice Department task force apparently doesn't think so.

The pension system honors the "Puritan ethic" of work done by men to the exclusion of much women's work because the system limits benefits to income producing work, the study says.

"The Puritan work ethic does not apply to women who are supposed to devote their productive years to homemaking and child-rearing," the 78-page report explains. And since wives are not unionized, "their ability to bargain collectively for pension protection is non-existent," the report says.

Housewives, therefore, should be allowed to set up their own Individual Retirement Accounts to enable them to accumulate retirement benefits, the report suggests.

Meanwhile, working women suffer discrimination because the pension laws favor jobholders whose careers are continuous and full time, the report found.

Women frequently interrupt their careers to have children and to meet family responsibilities. As a result of these breaks in service, they find it difficult to earn a vested benefit from a pension plan. They are less likely to qualify for a pension and when they do the benefits tend to be smaller.

The report suggests amending ERISA to allow employees leaving their jobs to transfer their earned pension credits to the plan they are covered under at their new job.

According to the study, 46% of men and 21% of women were entitled to benefits under private pension plans. The median annual pension was \$2,080 for men and \$970 for women.

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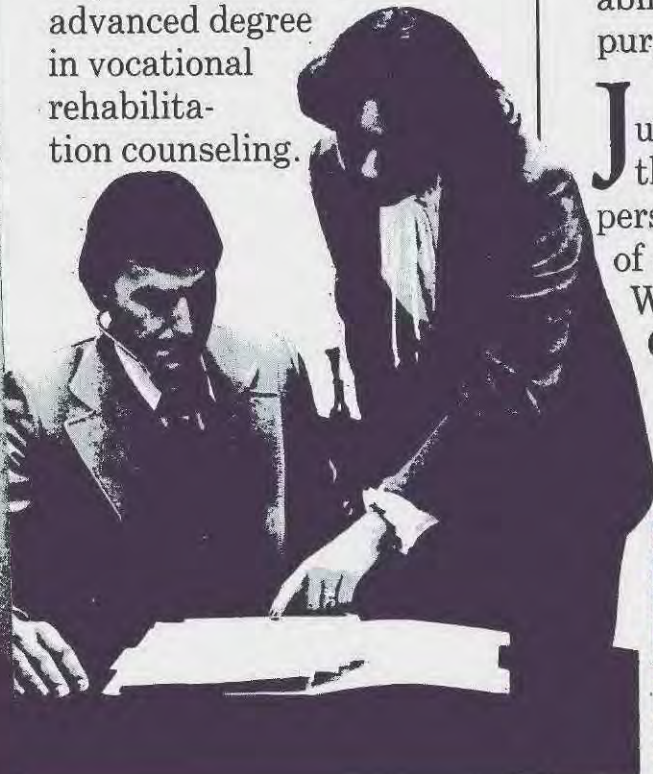
1978

This Wisconsin Historical Society plaque honors our pioneer curative workshop... a prototype of today's rehabilitation centers.

The true value of effective rehabilitation is simple... *everyone* benefits when an injured worker returns to work. Most of all the worker, but also the family, the employer and Society.

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AHA survey shows

Most hospitals depend on own insurance plans

CHICAGO—Over 50% of all the non-government hospitals in the nation now use some alternative risk-funding method other than traditional liability insurance, abandoning the insurance marketplace for more cost-effective risk management, the American Hospitals Assn. reports.

The preliminary results of the AHA's insurance survey of 3,000 hospitals reveal that only 49.6% of all the hospitals responding purchase insurance from insurance companies, which only a few years ago had a vice-like grip on the hospital liability insurance

market.

"Over 50% have already sought some other means than commercial insurance from the traditional carriers to fund their risks," said James Groves, risk manager for the AHA.

So far, 1,774 hospitals have replied to the AHA's questions, and their answers indicate the so-called malpractice hospitals said the available insurance markets aren't able to meet their hospitals' needs for liability insurance.

For the 50%-plus hospitals that have sought alternative risk funding solutions, 22.4% are using various kinds of captive insurance companies, another 13.4% are obtaining coverage from their own individual self-insured trust funds and 3.9% are self-insuring in pools such as joint underwriting agreements.

The AHA isn't quite sure whether to completely trust these preliminary figures until they're more closely scrutinized. But they do provide a clear indication that hospitals aren't using the large domestic insurance companies as extensively as they once would have.

"We think these figures are mixed up a bit," says Mr. Groves, "because we know of some hospitals that are using trusts who said in the survey they were using captives, and vice versa. They may not all clearly understand the legal niceties of all these terms."

The AHA found only seven tenths of 1% of all hospitals going bare, not buying any liability or malpractice insurance.

The survey results indicate that 43.1% of the hospitals use the claims-made insurance form, while most of the balance use the occurrence form.

The commonest primary insurance limit was \$1 million per claim for 36.4% of the hospitals, followed by \$100,000 for 20.1% of the institutions. Excess insurance limits most frequently cluster at the level of \$1 million per claim limits for 19.6% of hospitals, although 26.8% of the group said they don't buy any excess coverage.

Over 35% of the hospitals would like to make some change in their current insurance programs because they're not satisfied, most often by increasing the limits of coverage (12.2%) and by involving themselves more with self-insurance (11.4%).

Regarding professional liability insurance programs, hospitals generally said insurance limits were adequate or more than adequate (87% of the hospitals). Injury prevention services were judged adequate by 64.5%, more than adequate by another 19.2%. Claims handling services were declared adequate by 66.3%, and 24.4% said they were more than adequate.

It also appears that most hospitals think they're being charged fair premiums for their liability insurance.

The AHA survey included hospitals of over 100 beds, with 1,100 hospitals having 300 or fewer beds and the rest having more. There were 218 hospitals responding that had over 500 beds each. Only 291 governmental hospitals were included in the survey and these were primarily units associated with municipal entities, while 1,406 were not-for-profit and 77 were for-profit organizations.

Final results of the survey are expected to be tabulated by mid-January.

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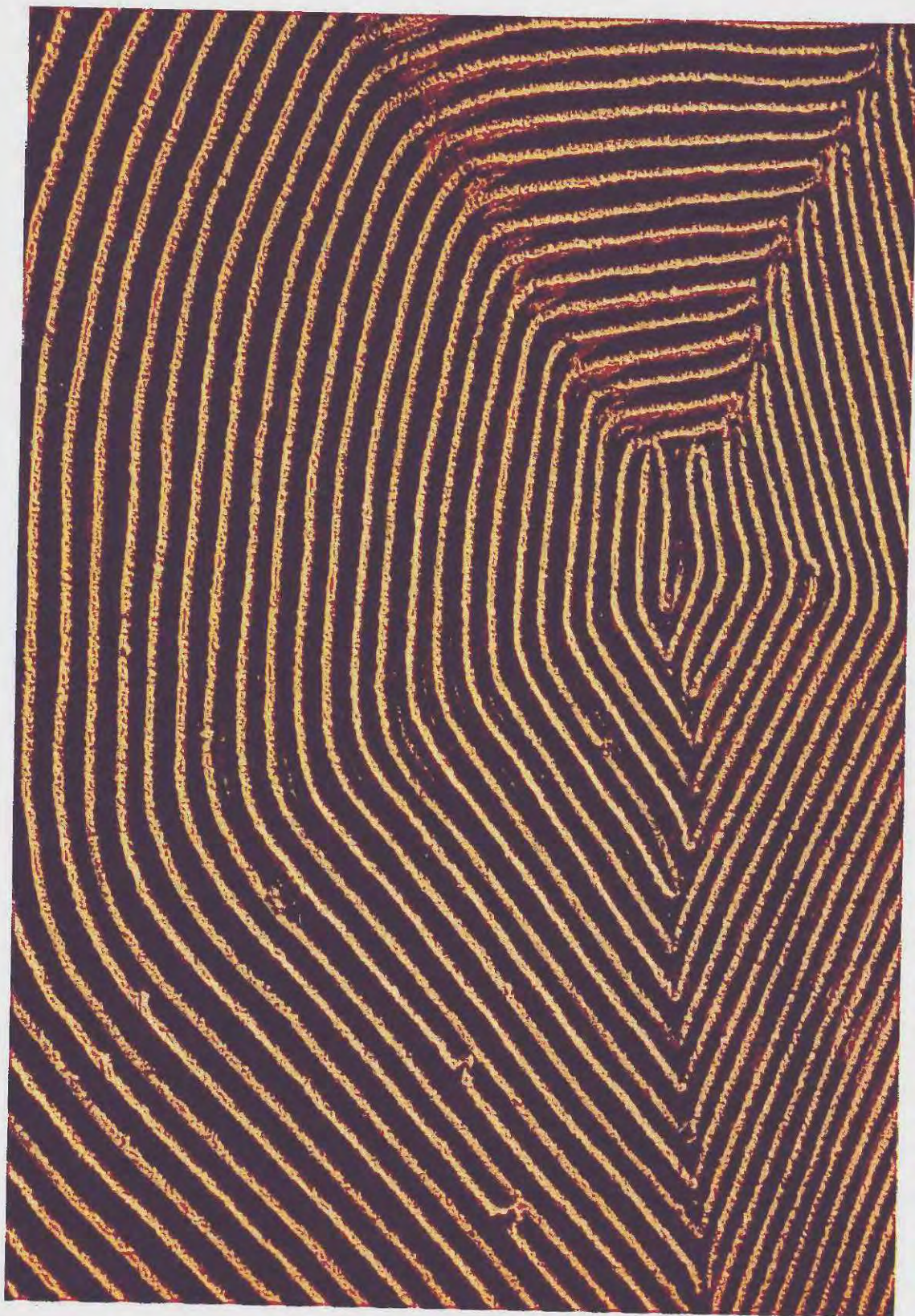
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editorial opinions

Global issues

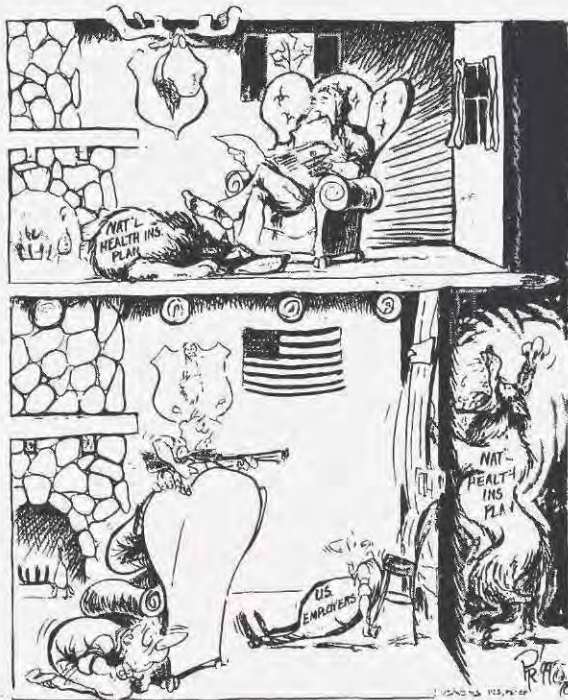
MORE THAN EVER BEFORE, the effects of nationalism are being felt within the international risk management and employee benefit management community. It wasn't long ago that every U.S. based corporation with international operations was rushing into programs to consolidate property and liability insurance using umbrella policies underwritten by familiar companies whose staffs were close to home.

Meanwhile, swift international growth was prompting U.S. employers to send expatriates abroad by the thousands, assuming the American employees could best do the company's work overseas.

These events did not go unnoticed and soon the foreign countries began asking that U.S. firms hire local people to do the work and assume the management responsibilities. At the same time, insurance laws became more restrictive in an effort to persuade U.S. companies expanding into foreign countries to bolster the local economies of those countries. The upshot is that the spirit of nationalism has moved the U.S. firms to be better corporate citizens by "buying locally," from local insurers, rather than continue to use non-admitted carriers for broad, worldwide coverages.

■ This trend is among those we'll probe in the Feb. 19 International Issue. Along with this, we'll take a look at pension legislation in Brazil, corporate funding techniques for international benefit plans, the current state of the London markets and worldwide reinsurance capacity, compulsory participation in monopolistic auto and liability programs in many countries, and the impact of political upheavals on multinational risk management programs.

We'll also publish our annual directory of international services of insurers, brokers, adjusters, salvage specialists, legal experts and benefit consultants. If you'd like to be listed in the directory or if you have an idea to contribute to the issue, please call or write to Susan Alt, Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611, (312) 649-5278.



Riding the float

THEN THERE ARE the insurance buyers who have learned to play the brokers' own game of using the float to improve cash flow. The trick? Hold off on paying premiums for 120 to 160 days, investing the funds in the meantime.

At first, brokers grudgingly admitted, corporate clients could hardly be expected not to slow down on their premium payments, knowing that the brokers hadn't been remitting them immediately to the insurance companies, anyway. Brokers have long been investing premiums until they had to be remitted to the carriers, capitalizing on this float to the tune of some pretty substantial income.

The tables have turned and brokers are getting pretty upset. They're being put on the hotseat now by the insurers, sometimes being forced to ante-up even before they've been paid by clients.

What can we say? We'd conclude that it's no fairer for buyers to exploit brokers than it is for brokers to "use" their clients in this way. Nonetheless, when we read the broker financial reports, we don't see that there's any less emphasis on the income-producing potential of the float.

letters

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

Gauging retentions

To the editor: To slyly slip an ice cube into a glass of single malt scotch, to consistently advise a conservative approach to new insurance schemes, to cautiously split an occasional infinitive, are habits I can't kick.

Two paragraphs omitted near the beginning of the article printed in your Nov. 27, 1978 issue and another mention of product liability which was cut later in the article might have made it more clear that we're talking exclusively about product liability.

The fact that it was originally published as a newsletter directed, for the most part, to insurance agents, might also make some of the statements more understandable. Several such agents had reported requests from their insureds for retention programs. These inquiries did not originate with risk managers or insurance counselors but out of a general belief that a retention was desirable because premiums would be reduced. The alternatives have not been explored and the implications of this step were not clearly understood.

I hope this explains the conservative cast of the article, but it does not excuse my enthusiasm for objective measures for setting retentions. I would certainly be more flexible had I known the context in which this would be read.

In fact our office much prefers handling the placement of excess over retentions engineered, at least in part, by objective counselors or risk managers. We do not like to see any risk management approach reduced to the level of a sales gimmick or publicized as a solution to all insurance problems. We will continue to advocate cautious individual approaches to insurance buying, always advocating the employment of the skilled professional whether that person be an objective counselor, a risk manager, or a thorough and competent agent.

Charles A. McAlear

President, McAlear Associates Inc., Grand Rapids, Mich.

Quantity v. quality

To the editor: Mr. Jablonsky objects to my pilot survey made while pursuing graduate studies at the University of Arizona in 1976. A student living on a subsistence stipend could hardly be expected to conduct a survey "professionally" without the help of organizations such as the American Insurance Assn. I twice contacted the AIA, in early 1976, outlining my proposed study and asked for their cooperation and assistance. I never received so much as a form letter from the AIA, so I am very surprised to see Mr. Jablonsky taking time out to object to seeing a summary of the study in *Business Insurance* (Oct. 12).

As a result of the publication of my articles, I have addressed several insurance safety engineering groups, always expecting to be crucified. Much to my amazement, I find the rank and file loss control representatives (LCRs) most supportive of my conclusions, (e.g.: "We know you're right but our company won't let us provide any meaningful service.")

LCRs make 600 to 1,600 "calls" a year. We are a visible group, providing "service" to "78.4% of the firms" as Mr. Jablonsky points out. We are judged, however, on the

number of calls we make each year, not on their quality. Professional consultants may only provide 17.7% of the firms with loss control service, but are responsible for greater results, because they provide quality service.

In any event, I would be more than happy to find a sponsor interested enough in financing a "professional" study that gives the insurance customer a chance to evaluate the services he is provided by his carrier.

Daniel S. Otremba, C.H.C.M.

Santa Rosa, Calif.

Explosion risk

To the editor: Regarding Associated Aviation Underwriters' advertisement on page 50 of your Nov. 27 edition, I was aghast to see a maintenance man with a cigar in his hand while using paint remover. Perhaps a more appropriate caption would have been "Beware of Things That Go Boom in the Day."

Kenneth C. Collins

Vp, Marketing and Administration, Keystone Distribution Center Inc., Hanover, Pa.

Lloyd's protocol

To the editor: A short time ago we received a letter from the U.S. General Counsel for Underwriters' at Lloyd's taking exception to our listing in the *Business Insurance* excess/surplus brokers directory which includes, inter alia, the phrase "Lloyd's Binding Contract." As so properly pointed out by counsel, this description is not appropriate.

Approved correspondents may use only certain standard designations, as listed below: Insurance effected at Lloyd's, London; Lloyds, London—insurance effected at; Lloyd's, London—Correspondents.

M. Horrigan

Corporate secretary, West Insurance Managers, Stockton, Calif.

Athletic insurance

To the editor: I very much enjoyed the Oct. 30 issue of *Business Insurance* and in particular the articles regarding the unusual and new types of insurance available.

In particular I make reference to page 29 ("Colleges insure, won't punt on game income") where you discuss the fact that a Virginia broker had worked for almost three years to put together a program to cover scholarship indemnity insurance for the colleges. I thought you might be interested in knowing that this program was first introduced by our office with Underwriters at Lloyd's as the security at the Montreal convention of the National Assn. of Athletic Directors at least three or four years ago.

If you are at all interested in that particular program, please don't hesitate to give me a call or drop me a note. You could also obtain any information from Harold O. Molitor of the Continental Agency Co., 320 East 4th South St., Salt Lake City, Utah 84111, who is on the insurance committee for the National Assn. of Athletic Directors.

Richard A. Oldani

Executive vp, Illinois R.B. Jones Inc., Chicago, Ill.

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Rita Garcia
Risk Manager
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state basis, help us pinpoint potential problem spots...and serve as an accurate tool in assessing loss predictability. This gives us a good handle on determining reserve levels from year to year. They've also contributed to safety consulting in many of our plants across the country."

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Claim adjuster's brainchild

Realty agents list savings with new insurance plan

LOS ANGELES—A new insurance package providing liability and errors and omissions coverage at much lower prices for professional residential real estate agents nationwide has already been picked up by three national real estate networks and is being picked up by a fourth.

Ironically, the idea for the package came from an outside claims adjuster who had handled E&O claims for real estate agents and saw that such a national package was needed.

Century 21, Red Carpet Real Estate and International Real Estate Network are already using the master plan for their agents across the country. Until they signed up for this program, none of the three

companies had ever had a formal master program for franchised agents. The franchise offices had been responsible for purchasing their own coverage individually.

A fourth chain, Realty World, is finalizing plans to offer the master policy program to its 1,500 offices.

Premium discounts on the program can amount to as much as 50% by using the master policy and having individual certificates issued to the franchise offices, said Frederick J. Fisher, manager of Miller & Gilbert's office here and architect of the program. Standard premiums for E&O coverage on real estate agents were lumped together with commercial and industrial agents whose claim frequency

has been much higher.

Of Century 21's 5,000 brokers nationwide, 40% to 50% have signed up for the coverage, typically purchasing \$100,000 limits for comprehensive general liability and E&O insurance. The premium charge for the individual office averages \$1,000 to \$1,500 a year, about 40% less than these agents were previously paying for the same coverage.

Century 21's program is handled for franchised agents by J.E. Wells Co. in Pasadena, the firm's broker for many years.

Illinois Employers of Wausau, underwriter of the programs, operates on a non-admitted basis in all states except Illinois and Texas, with Stewart Smith, Haidinger of

Los Angeles acting as surplus lines broker for the business.

Red Carpet, which has only had the program for five months, has about 80 to 100 of its 1,000 offices nationwide signed up for the coverage so far. Similarly, International Real Estate Network has signed up 80 to 100 franchises of its 700 offices.

Mr. Fisher estimated that ultimately the penetration within these organizations will be near the 50% level, which Century 21 is near.

Zillgitt & Wright acts as broker for Red Carpet, International Real Estate and Realty World.

Ken Smith of Zillgitt & Wright said the coordinated program re-

sulted in premium savings of about 40% overall for Red Carpet's agents.

Miller & Gilbert's Mr. Fisher coordinated this operation at no cost, asking only that his firm be guaranteed the right to handle all claims on an hourly fee basis for the insurer. To date he's handled several hundred claims, but it's hard to tell what the annual average will be because the program is designed to manage the risk exposures and control claims and losses for the agents.

Because the program is so new, it's difficult to say whether losses have actually decreased as yet, said attorney Ralph Williams of King, Williams & Willzenbach, who serves as legal counsel for the program. However, he suspects losses will drop because of the loss prevention measures instituted by Miller & Gilbert as well as the professional claims handling procedures.

"Earlier settlements usually mean lower settlements," explained Mr. Williams. When he hit on the idea for this program, Mr. Fisher also put together a coordinated risk management package for real estate agents before any potential purchasers of the program were even approached, a departure from standard practice.

He believed by involving an independent defense attorney and a professional adjuster alongside the broker and surplus lines agent, the insurance company underwriting the program could look forward to good loss experience and the premiums could be discounted enough to make the package very attractive to real estate chains. Coverage is available up to \$500,000 with a \$5,000 deductible.

Mr. Fisher believes this mass marketing approach, coupled with risk control aspects, can mean a large increase in Miller & Gilbert's claims adjusting business.

It also means a substantial premium flow for the brokers, who are earning in the neighborhood of 10% commissions on premium volume estimated to be in the area of \$3 million for J.E. Wells Co. and ultimately as high as \$1.5 million for Zillgitt & Wright.

Each real estate agent is rated individually, based on a risk assessment, and on the basis of gross income for the office.

New lineup implements pension law

WASHINGTON—The Carter Administration's ERISA reorganization plan, designed to reduce compliance, administrative and reporting problems associated with the pension reform law, went into effect this month.

Under the plan, ERISA regulation is being streamlined by clearly dividing responsibility for the program between the Labor and Treasury Departments.

Treasury now has primary jurisdiction for setting pension plan standards for funding, participation, vesting rights and benefit payments. However, Labor retains its authority to approve certain Treasury rulings and regulations that primarily affect collectively bargained plans.

Labor will also hold sway on establishing fiduciary standards and will issue exemptions from the prohibited transactions provisions of ERISA.

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Lloyd's gives itself \$100 million face-lift

By JOHN MILLER

LONDON—Lloyd's has approved a \$100 million scheme to give its members' building a complete face-lift in the next eight years, including extending the present underwriting room to new premises in the block facing the present building in the historic center of the commercial world of London.

Lloyd's expects future growth to stretch its operations so much more room will be needed for the near-300 syndicates covering all classes of business.

The move will mean reusing much of the former building where

Lloyd's operated until 1958, though the site is close to even older parts of the city of London where insurance business was first carried out in coffeehouses more than two centuries ago.

It will take until well into 1979 to knock down part of its administrative building in readiness for new premises, but the present underwriting activities will be unaffected.

Because treasures from the Roman occupation of Britain 2,000 years ago may lie under the present-day Lloyd's, it has given \$60,000 to an archaeological group to dig deep under part of its premises before the big new building

hides them again.

Status quo predicted

U.K. insurance analysts don't expect any rapid changes in the manner U.S. business is placed with Lloyd's as a result of the transatlantic broker link-ups announced in 1978.

The new groupings with Lloyd's brokers of Marsh & McLennan and Alexander & Alexander are likely to produce \$2.5 billion each in business volume when all their terms are settled.

But their individual participation in actual underwriting is likely to be comparatively small, says

Philip Olsen of the stockbroking firm Kitcat & Aitken, who has been looking at possible trends.

"Even if other unions are forged, it will be many years before these two U.S. brokers' business finds its way mainly to their U.K. partners," he speculates.

The reason, which he outlines in a detailed appraisal of the mergers, is that both U.S. broking firms currently deal with many Lloyd's brokers for specific commercial reasons. Such relationships will not be readily disturbed, particularly where the insured client has already established a strong association with the corresponding U.K. broker.

Insured clients are therefore likely to play their own part in future developments. It will only be in the long term that any significant shifts in the flow of business to Lloyd's will take place, U.K. analysts believe.

Important distinctions between the two new major groupings point to the greater presence of Bowring/ Marsh & McLennan in the reinsurance field, especially treaties, and to the wider geographical strength of the proposed Sedgwick/Bland Payne/Alexander & Alexander link-up outside North America and the U.K., says Mr. Olsen. But he expects that the bulk of their revenue will still come from placing U.S. risks.

Missing link

Among brokers which have not yet figured in potential link-ups of their business interests with Lloyd's brokers, the most noteworthy is Johnson & Higgins, the third largest U.S. broker.

J&H for many years has used Willis Faber for access to Lloyd's, which leads to interesting speculation. Two years ago Willis Faber was the last of the major Lloyd's brokers to become a public company on the U.K. Stock Exchange. Since then Willis Faber has been naturally keen to keep its dominant position in the market where it handles more than \$1 billion of premiums annually.

That figure compares with an estimated annual \$500 million premium volume likely to accrue to the joint Sedgwick Forbes-Bland Payne corporation when it finally gets under way. Now there is increasing speculation in some circles that Willis Faber may try to tighten its links with Johnson & Higgins in order to meet any future market battles for U.S. business.

In its last annual report, Sedgwick Forbes spoke of its 75-year association with Frank B. Hall & Co. Inc., especially in marine and aviation business, and of close relations with other U.S. brokers as well. The Sedgwick Forbes group as it's presently constituted, has been going for seven years, but its origins go back more than 150 years to individual brokers who began business at Lloyd's.

Sedgwick Forbes acts as underwriting agents for a number of Lloyd's syndicates and manages the affairs of 500 underwriting members. It also holds strong broking activities in many countries outside the U.S.

Bland Payne has grown considerably over the past 12 years, with subsidiary offices all over the world, and is considered one of the larger international insurance and reinsurance broking groups in the market.

Reinsurers gather

U.K. reinsurers are planning an international seminar on underwriting profitability to be held in Cambridge, England, March 27-29. Speakers will include insurance experts from New York, Zurich, and Tel Aviv, as well as several U.K. business leaders. Future developments in worldwide reinsurance will be discussed at the seminar sponsored by the Reinsurance Offices Assn.

Buying silence

The U.K. government is giving \$40 million to people living near Heathrow International Airport so that they can protect their homes from the noise of aircraft using the terminal. The scheme has been going for 10 years and already nearly \$10 million has been handed out to avoid any action against the airport authorities for damages from the disruption. High noise levels are expected to go on for at least another five years from airplanes using the terminal.

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Our illustration is a film clip from the academy award winning 'How Green Was My Valley.' It shows Welch coal miners returning from the pits at day's end. The movie was best film of 1941. Donald Crisp was best supporting actor and John Ford won his third Oscar for directing the film. Illustration Courtesy of Twentieth Century-Fox.



Hospital chain plans first corporate Calif. captive

By JOANNE GAMLIN

LOS ANGELES—The first California-domiciled insurance captive to be established by a New York Stock Exchange corporation is starting out as a smaller entity than had been first anticipated.

The captive is being created by National Medical Enterprises Inc. (NME) in Los Angeles, an extremely high growth company with annual sales of approximately \$275 million.

The wholly owned insurance company or captive being planned by NME, which owns and manages 36 hospitals and convalescent homes around the country, will insure about \$1 million of the company's professional and general liability. The company's \$5 million excess liability coverage is insured by a Bermuda underwriter, Hospital Underwriters Group Ltd., and as things stand now the coverage will remain there for some time.

"Originally, we had planned to put all NME's general and professional liability coverage in a captive—it could have been in Bermuda, Colorado, Tennessee or California—for a total of about \$6.5 million in coverage," explained vp of insurance, Ray Hodges.

That, at least, is how the situation appeared in mid-fall. However, like many companies facing decisions that can affect their future for years to come, NME moved to modify these plans in late November. The result: Tentative plans to establish a California captive that would insure only the \$1 million primary layer of its professional and general liability insurance.

"The plans are still in a formative stage," noted Mr. Hodges, acknowledging that it's conceivable these plans, too, could be overturned by early 1979.

Nevertheless, the ambitious health care company—which is holding merger talks with Medfield Corp. in St. Petersburg, owner of five hospitals—has long held high hopes that a captive would help stem the acceleration in the cost of its liability coverage. Indeed, Mr. Hodges expressed confidence during an interview with *Business Insurance* that the \$4 million spent on coverage in 1976 could be slashed to \$2.5 million for policy year 1979 if two essential elements were present. One would be the risk management program set up soon after he joined NME in January 1977. The other would be the existence of a captive.

Not surprisingly, liability insurance is NME's largest insurance cost. NME's 17 owned hospitals and convalescent homes are primarily in California, while the 19 other hospitals it manages are around the nation. The firm's second largest insurance cost is workers compensation, which is trailed by property coverage.

Annual premiums for the three major coverages—excluding directors and officers liability and fiduciary insurance—totaled \$6.5 million this year.

General and professional liability, amounting to \$3 million, or half of NME's total insurance bill for the year, has been underwritten by the Hospital Underwriters Group Ltd. of Bermuda, since June 1, 1977. A three-year-old entity, HUG was formed by four proprietary hospital chains as an answer to the crucial need for liability insurance. There are now five health care companies in HUG.

"HUG offers an effective program which is seen by the health care industry as a means of lowering health care costs," asserted Mr. Hodges. NME joined HUG after its formation because HUG seemed like a way to obtain liability

coverage, particularly medical malpractice insurance, at an affordable cost. Moreover, the medical malpractice insurance crisis had not subsided by mid-1977.

"There are probably more markets available now than there were in mid-1977," he observed.

If NME's captive is formed as currently envisioned, the threat of being faced with skyrocketing malpractice insurance costs will fade, Mr. Hodges figures. One of the chief incentives for creating a captive was the idea that as its surplus accumulated over a five to 10 year period, NME would be able to fine tune the amount of its liability premium.

"We cannot decide where the correct figure is now because we are still making progress in our programs," he said. "I don't think

we know where the middle line is right now."

At any rate, if present plans for a captive withstand scrutiny, the captive should take form by mid-1979 and be situated in Los Angeles. Unlike many other captives, NME's subsidiary will probably not require an outside servicing company because claims management and accounting functions will be performed in-house. Two people to perform these jobs may have to be hired.

The captive is only one part, though an essential part, of Mr. Hodges' effort to bring an effective risk management and loss control program to NME. The other arm is his risk management program. At its center are three risk management manuals, the first big project undertaken by Mr. Hodges at NME. He was well equipped for

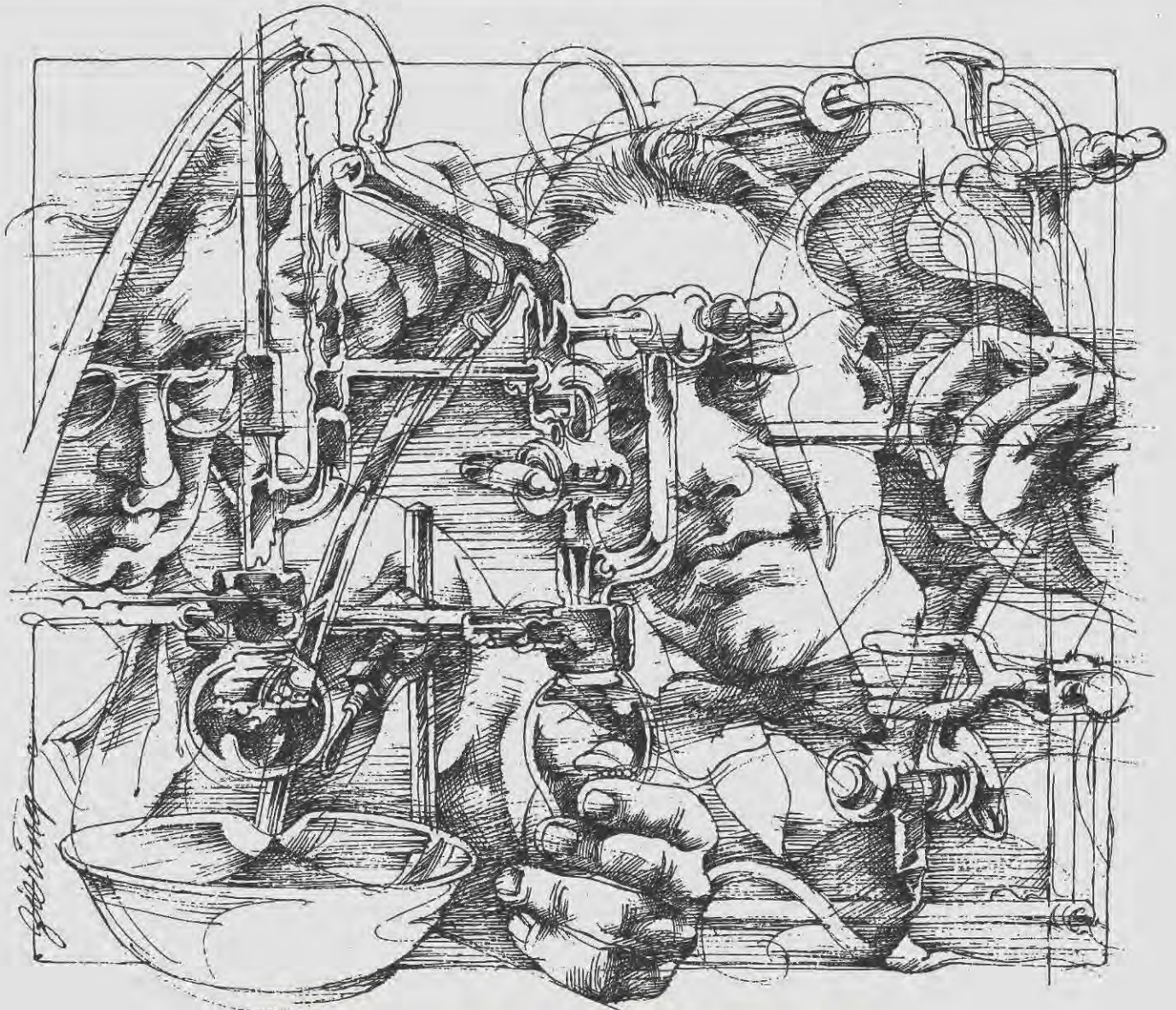
the undertaking, having been risk manager for the largest profit-making hospital chain in the nation, Hospital Corporation of America in Nashville, before he took Horace Greeley's advice and headed West.

Workers compensation, the second largest insurance cost for NME, is usually a major problem for health care providers. But the coverage doesn't strike the same sober note for him that liability does, probably because he has recently begun self-insuring workers compensation for his company's convalescent home employees. Moreover, if at the end of the year the loss control program for these employees proves injuries can be reduced, the self-insured program will be expanded to employees in NME-owned hospitals.

Until the move into self-insurance, workers compensation coverage had been underwritten by Fremont Indemnity Co. in Los Angeles. But with the swing to self-insurance, that arrangement ended. Penn Central Agencies, a large Los Angeles-based broker which this year moved into the business of administering claims for self-insured workers compensation programs, won NME as its first California client for these services.

Mr. Hodges also uses two other brokers: Bayly, Martin & Fay Inc. in Los Angeles, and the San Francisco office of Fred S. James & Co.

Self-insurance has also been extended to the employee benefit area. NME, growing at a rate of 20% annually, last year created a trust fund to pay hospitalization benefits.



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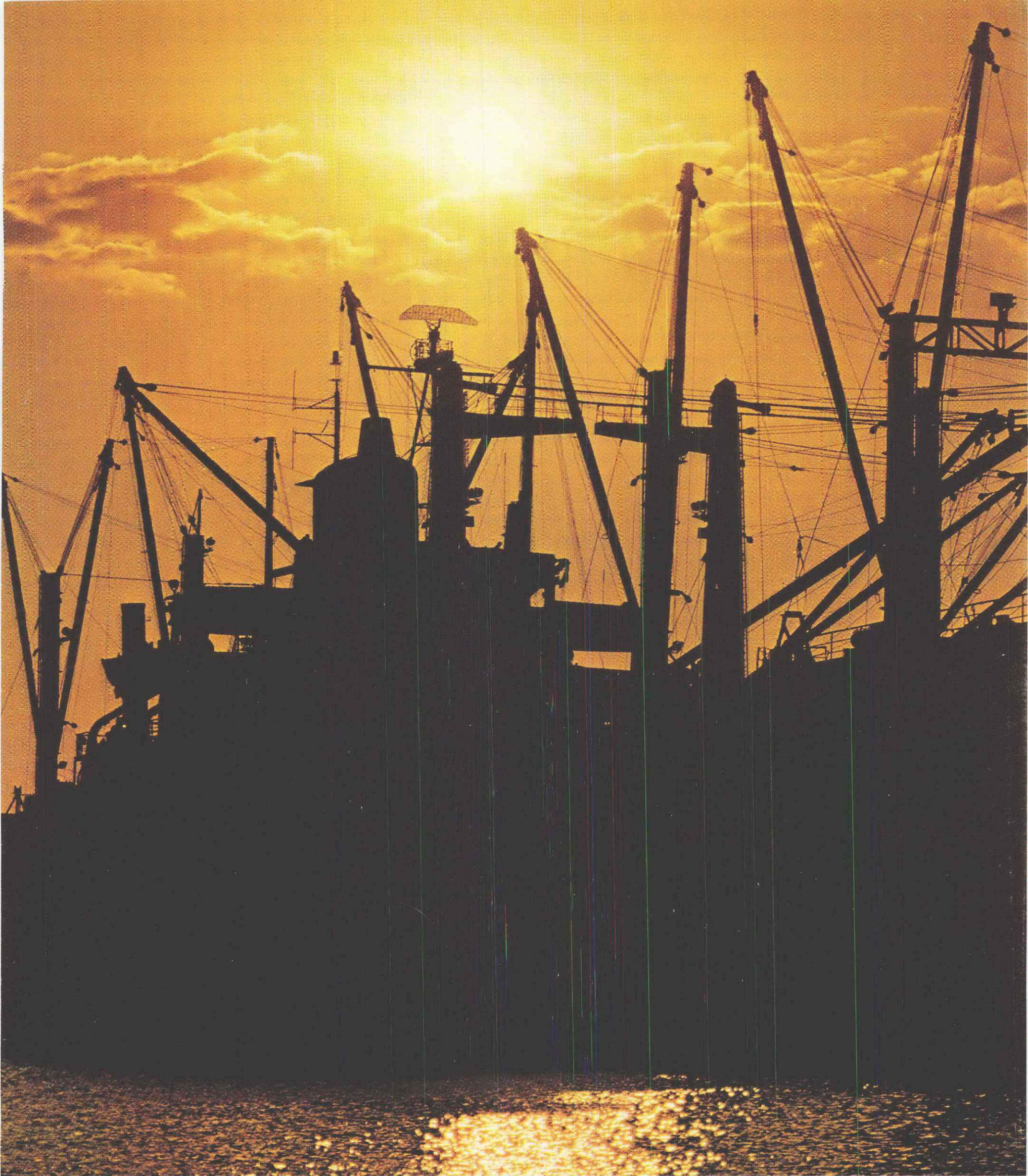
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PERSPECTIVE

Periodic physicals for all employees protect a valuable corporate asset

By Dr. Joseph LaDou

MODERN OCCUPATIONAL HEALTH programs are increasingly emphasizing preventive medicine. Preventive medicine in industry is aimed at controlling the occurrence and severity of job-related illnesses and injuries through preplacement and periodic examinations.

Preplacement health examinations have steadily become more important in recent years because of the enactment of state workers compensation laws¹ and the federal enactment of the Occupational Safety and Health Act of 1970.² Many companies responded to these laws by instituting programs of preplacement health examinations. Others had already implemented such programs to reduce worker absences from illness and injuries.

But—are preplacement examinations cost-effective?

The New York Telephone Co. answered this question a few years ago. Company management had been questioning the advisability "... of spending something over one-half million dollars a year on preplacement physical examinations, much of the value of which would presumably be lost because of employee turnover."³ If they eliminated the examinations, however, they feared that (1) communicable diseases might inadvertently be transmitted to their employees, (2) unexamined employees might create additional health and safety problems for themselves and their coworkers, and (3) the overall health status of their employees would decline.

Worth proven

The company decided to experiment with a limited preplacement health examination plan. Under this plan, job applicants were examined only when an employment interviewer expressed concern about the individual's health based on personal observation or answers to a few health-related questions. After 18 months on the job, each new employee was given a baseline examination which was essentially the same as the preplacement examination.

The results of the experiment were discouraging. Absenteeism was higher among new employees during their first 18 months than the company had ever experienced. In fact, the "excess absence cost" over the 18-month period "virtually equalled the cost of the examinations which would have prevented these and other costs." The preplacement examinations were reinstituted as a standard company policy.

A Conference Board survey of 800 companies in 1974 indicated that the number of companies giving preplacement health screening examinations to some or all new employees increased to 71% from 63% in 1964.⁴ Over the same period, those providing preplacement examinations to all new employees increased to 58% from 47%.

Without preplacement examinations, an employer can expect that a certain percentage of his employees will be medically work-limited and that some of them will risk suffering occupational illnesses or injuries because of pre-existing conditions. Morale of more physically fit workers can be affected when a work-limited employee causes staff deployment and employee over-burden. Preplacement examination costs can be further justified by the fact that industrial employers have less and less flexibility in dismissing employees.⁵

Moreover, under present laws, the employer is accountable for adverse effects in the work place. The workers compensation system specifies that an industrial injury or illness must arise out of the conditions and



Photo: Portes Cancer Prevention Center of Chicago

Periodic health examinations, which may include mammography (left) and lung testing (right), can disclose abnormalities which were unknown to the workers.

environment of employment. By judicial interpretation, however, claims may include injury or disease that is caused or aggravated by an individual's work or working conditions and results in an impairment of function or diminished capacity to compete in the open labor market.⁶

A 1972 California case (*Coffee v. McDonnell-Douglas Corp.*) established the accountability of the employer.⁷ Although an employer may not be required by law to ascertain whether applicants are physically fit for the jobs they seek, he is liable if he assumes this duty and performs it negligently.

Latent diseases

Industry is becoming increasingly aware of the need to evaluate periodically the health status of its managers and employees.

They often disclose that many seemingly well people have abnormalities or disease propensities of which they are unaware. Summarizing a survey of 45 years of reported findings in the field, Dr. Norbert J. Roberts, medical director of the Standard Oil Co. of New Jersey, said that "there is an impressive consistency with which at least 15% and up to 40% of those examined are found to have a significant disease or defect of which they are unaware. In as many as one-half to two-thirds of the cases, these disorders are still asymptomatic when so discovered. Further, in a like number of those examined (15% to 40%) there is usually found some known disease or defect for which only about half are obtaining indicated treatment or medical observation."⁸

The Conference Board's survey indicates that 57% of companies having 500 or more employees offer periodic examinations to at least some employees.

A major paper company, attempting to verify the validity of periodic physicals, studied the examination records of 131 of its male executives.⁹ They determined that the examinations had revealed 51 clinical problems, of which 19 had not been known previously to the individual

as having one or more significant diseases ranging from colon polyps to laryngeal disease.

The nine-year-old health testing program at IBM Corp. has uncovered previously undetected illnesses in one-third of the employees examined; 1.5% of the examinations produced findings that were serious enough to warrant emergency notification of the employees.¹⁰ About 50% of the findings had been unknown previously.

What type of diagnostic procedures should periodic examinations include? Some physicians feel that the resting ECG used in most such examinations should be augmented by a stress electrocardiogram. In this test, the ECG is monitored while the patient runs on a treadmill or rides a stationary bicycle. It is a sensitive diagnostic procedure designed to identify the individual who is likely to develop coronary heart disease in the near future. Once this individual has been identified, specific programs of medical intervention can be prescribed that will help to prevent premature heart attacks. Health counseling is also an important part of the periodic health examination. In one test group of workers, 80% altered their lifestyles as a result of physician counseling during annual health examinations.¹¹

The Occupational Health and Safety Administration is systematically studying the toxicity of materials commonly used in U.S. industry. Already OSHA requires surveillance examinations for workers exposed to any of a long list of chemicals.

OSHA requirements

The list of materials requiring periodic health examinations of those who handle them could eventually grow to include most workers. The complexity of these examinations can vary from a chest x-ray and spirometry for asbestos handlers to semiannual detailed blood analyses for benzene handlers. As more is learned about the toxicity of commonly handled materials, the required constituents of examinations will increase.

Employee health is an irreplaceable company asset. Consequently, the preventive maintenance of people through preplacement and periodic health examinations is equally as justifiable as the preventive maintenance of production equipment and machinery. The costs expended can also be regarded as an additional employee benefit. Furthermore, a hidden benefit results because the employee realizes that his employer is concerned about his welfare, resulting in a closer bond between employer and employee.

Footnotes:

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5. Lincoln, T. A., and H. B. Hurt. Should the medical department give a yes or no answer to employability? *JOM* 13:475, 1971.
6. *Background Information Relative to the Problem Assuring Payments of Compensation for Cumulative Occupational Injuries*, California Legislature, Assembly Committee of Finance, Insurance, and Commerce. Alister McAlister, Chairman, January 1977.
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9. Analysis of 2,812 examinations on 569 subjects at Mayo Clinic. *Indus. Med.* 41:5, 1972.
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Evaluation of Principal Factors Leading to Diagnosis

Physical examination alone	12
History and physical examination	4
Laboratory findings primarily	1
Radiologic findings primarily	2
Total	19

Significant Diagnoses the Patient Was Aware Of

Hypertension	12
Inguinal hernia	7
Diabetes mellitus	6
Arteriosclerotic heart disease	5
Benign prostatic hypertrophy	1
Emphysema	1
Total	32

32 diagnoses in 27 of 131 patients (24.4%)

Significant Diagnoses the Patient Was Unaware Of

Hypertension	5
Inguinal hernia	3
Rectal Polyps	3
Benign prostatic hypertrophy	1
Vascular insufficiency, lower extremity	1
Pneumonitis	1
Basal cell carcinoma, face	2
Pulmonary interstitial fibrosis	1
Osteoarthritis, cervical spine	1
Lupus erythematosus phenomenon	1
Total	19

19 diagnoses in 16 of 131 patients (14.5%)

Similar findings resulted from a study at the Mayo Clinic.⁹ In this study, the investigator analyzed the records of 569 executives over a 13-year period, including 2,812 examinations. More than 83% of the executives in this program were diagnosed at some point

Dr. LaDou is medical director of Peninsula Industrial Medical Clinic in Sunnyvale, Calif. He views preventive medicine as an applicable loss control technique in the workplace setting.

PERSPECTIVE

Analysis of reworded auto policies reveals obscure coverage restrictions

By Henry Salfeld

FOR A LONG TIME the ISO (Insurance Services Office) has been working to replace the comprehensive and family auto insurance policies with contracts designed to be easier to read and understand. As a result, the ISO has promulgated new business and personal auto policies which have been submitted to the various state insurance departments and approved by some. The business auto policy took effect in some states on April 1, 1978, and in New York on July 1, 1978. The personal auto policy has been approved in Pennsylvania, Florida, Connecticut (for a late effective date) and a few other jurisdictions, but not in New York and New Jersey.

Considering the importance of these policies for the insureds and their brokers, it is somewhat surprising that, besides certain comments released by the ISO and some insurers, the conditions have not been analyzed sufficiently. This analysis is essential as "editorial changes" and "clarifications of intent" used by the rating organizations to explain a new wording are generally restrictive and other limitations are either overlooked or not emphasized in the comparisons of the new and old conditions. We shall try to shed some light on them.

The attempt to make insurance policies easier to understand is due to the trend toward greater protection of the consumer or insured, promoted by administrative and judicial authorities. However, policies embody a contract and must be legally correct. Simplification may and does create new questions of coverage and ambiguities. Besides, the movement for simplification was initiated in the interest of the average insured, certainly not for the benefit of national or multinational corporations. To tell such corporations that "using the terms 'we' and 'you,' 'us' and 'our' allows simplification of difficult language construction of current coverage forms and also increases the insured's level of understanding..." is absurd.

But the absurdity is now reality. In addition, the new scheme has made necessary innumerable endorsements and an adjustment of the business and personal auto policies to each other, a step which has been only partially completed. The following comments are limited to the liability coverage sections of the policies.

Business auto policy

Neither the policy conditions nor the manual issued by the ISO state whether the policy can be written for an individual proprietorship, where the proprietor owns and uses a private passenger car for business purposes. It appears established that fleets of such vehicles can be insured under the BAP and rated according to the schedule in the business insurance manual. However, if the individual owns fewer than five vehicles, it is the opinion of the ISO, expressed orally, that the private passenger car can only be insured under the BAP if the owner also insures a commercial vehicle under the same policy, but that otherwise the personal auto policy (PAP) would be applicable. We must assume that in states like New York, where the latter policy has not been approved, the old family auto policy still applies.

Financially this opinion of the ISO is important to insureds as the rates for private passenger cars in the business insurance manual are frequently lower and do not contemplate surcharges due to accidents or otherwise. On coverage, the owner of the car may obtain the broader personal insurance protection by requesting attachment of an endorsement for individually owned cars to

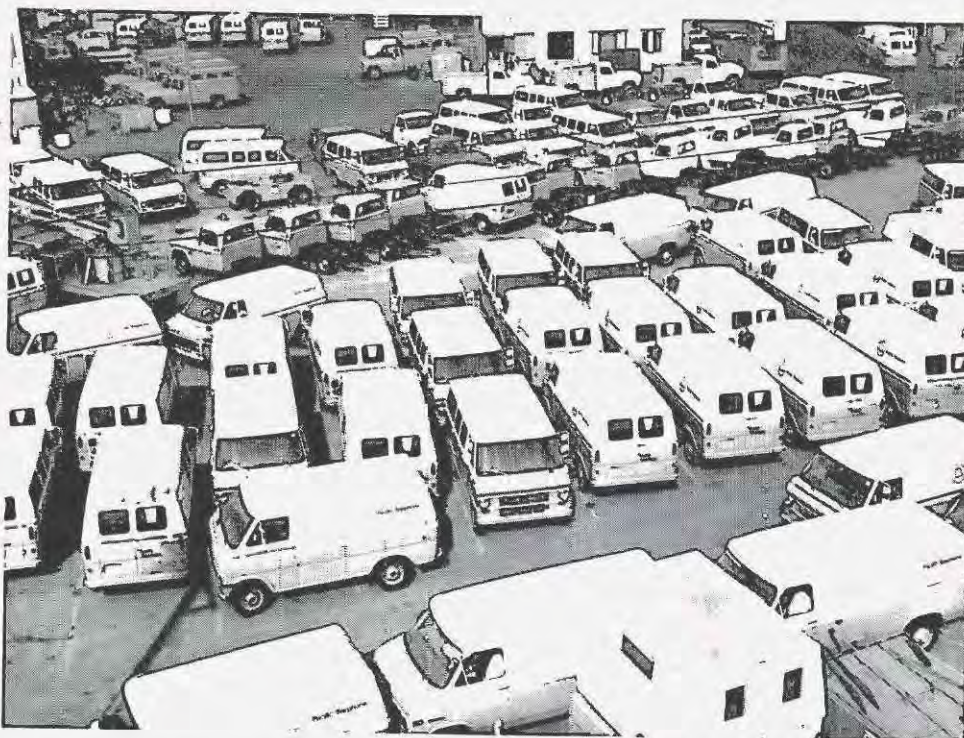


Photo: SSP Truck Equipment Inc.

The Insurance Services Office is submitting to states for approval rewritten business and personal auto policies, but the simplified language is raising coverage concerns.

the BAP.

The new policy covers accidents that occur during the policy period, whereas the CAP applied if bodily injury or property damage occurred during the policy period. If there is a collision or similar sudden event the difference may be unimportant, but how about an occurrence that extends beyond the policy period and causes damage after its expiration? The answer is the more difficult as the policy under the definition of accident includes "continuous or repeated exposure..." and in the section applicable to limits of liability states that "all bodily injury and property damage claims resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one accident."

Under the caption: "Who is Insured" the new policy states: "1. You are an insured for any covered auto. 2. Anyone else is an insured while using with your permission a covered auto you own, hire or borrow, except..." BAP, therefore, omits from the list of insureds the words "any partners or executive officers" of the named insured. The previous policy gives coverage to executives and partners without reference to the named insured's permission. This raises an interesting question: As a partner or executive represents the named insured he can give permission to himself or do the insurance companies expect them to ask other partners or executives for such permission?

The elimination of partners and officers as additional insureds might lead to the conclusion that they are not covered if they are held liable for an accident in their capacity as partners or officers and not as users of a covered auto involved in an accident. This, however, has apparently been avoided through paragraph 3 insuring "anyone liable for the conduct of an insured" described in the preceding paragraphs, which includes the partnership or corporation.

Borrowed autos

This change may have another serious implication. Insured in addition to the named insured—"you"—is anyone else while using with "your" permission a covered auto you own, hire or borrow, except "someone using a covered auto you hire or borrow from one of your employees or a member of his or her household..." No such exception was in the previous policy for executive officers. What it means is that an officer even though he has permission, however obtained, is not insured under the BAP if he uses on busi-

ness a car borrowed from another executive or employee. He must rely on the insurance of the owner of the car, the use-of-other automobile coverage under his own auto policy, if any, and his personal umbrella policy, if any.

The aforementioned extension of the definition of insured includes anyone who has the named insured's permission to use the covered auto, and does not mention the requirement that the use was within the scope of such permission. This change does not actually improve the coverage. For almost every permission has a limitation and unless the insurance company will consider every permission by the named insured, to cover every use of the covered auto, the insured demanding protection must still allege that the accident occurred while the car was used within the scope of the named insured's permission. The only question is: Who has the burden of proof? And as the insured makes the request upon the insurer the burden of proof may still be on the insured.

Punitive damages

Of the exclusions, several may cause problems. While the CAP excluded coverage for injuries sustained by fellow employees for any person "engaged in the business of his employer" the words have been omitted from the BAP. The exclusion, therefore, also applies if the accident occurred while the driver of the car was not on business, if for instance an executive or employee on his way home is asked by a fellow employee to give him or her a ride to the airport from which he expects to depart on a business trip.

An exclusion which had previously been disapproved in many states, including New York, has now been inserted in the BAP: Coverage for punitive and exemplary damages is excluded. This is extremely dangerous as it has become customary for plaintiffs' attorneys to ask for such damages in addition to compensatory ones. However, those insurers whose policies we have examined have quietly omitted this exclusion.

The new, more restrictive interpretation of loading and unloading has already caused serious problems. Under the BAP the company does not provide coverage for "bodily injury or property damage resulting from the loading of property before it has been put in or on the covered auto or the unloading of property after it has been taken off or out of the covered auto. The exclusion does

not apply to loading or unloading by means of a mechanical device that is permanently attached to the covered auto." Except in the last mentioned instance the BAP does, therefore, not cover any claims resulting from actual loading or unloading, not even if the accident occurs while the property is put on or taken off the auto.

The reasons for this limitation of insurance are several court decisions extending the terms loading or unloading far beyond the area of or surrounding the auto. What the drafter of the BAP at the ISO did not realize is the effect on the coverage under the comprehensive general liability policy. The latter excludes all claims resulting from the loading and unloading of a motor vehicle. As the CAP provided broad loading and unloading coverage according to law, the liability of the comprehensive general liability carriers ended long before the property was put on the auto and long after it had been unloaded.

Now if the restricted definition of the BAP is generally applicable, the liability under the comprehensive general liability policy continues until the property is in or on the auto and starts again the minute it is taken out or off the auto. It is understandable that the underwriters of the latter policy were not prepared to accept the broader liability.

The ISO has, therefore, drafted a new endorsement to the BAP, which has been submitted to the various state authorities but not yet universally approved, for instance not by the New York superintendent of insurance. It again extends the coverage under the auto liability policy by covering loading after the property has been accepted by the trucker and similarly after unloading until it has been accepted by the consignee and includes coverage for the insured in case of the use of mechanical equipment, for instance cranes.

Personal auto policy

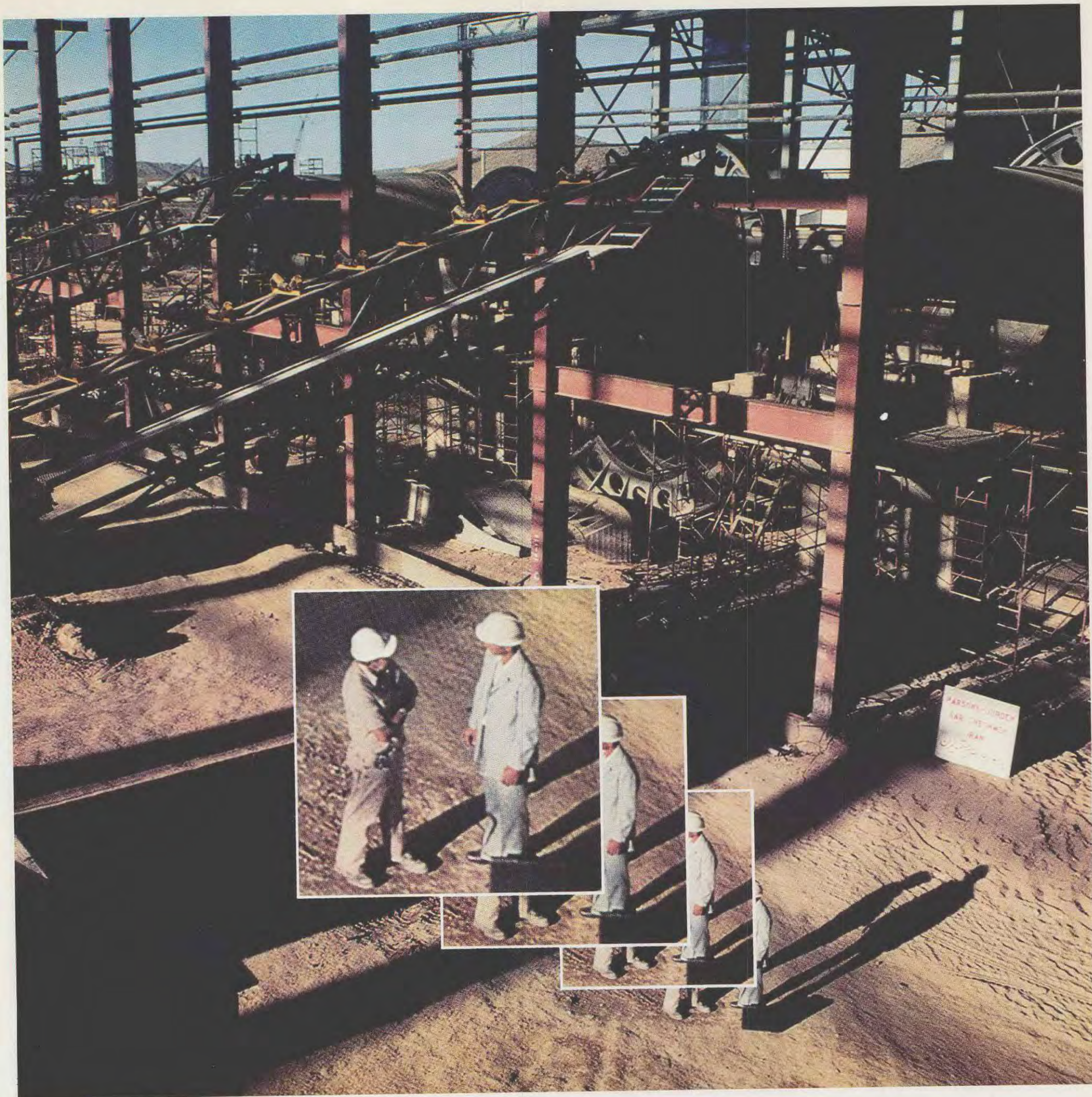
There are several important changes in this policy which are clearly understandable, so we are restricting our comments to certain others that are not so obvious.

Part A liability coverage states that the insurance company's "duty to settle or defend ends when our limit of liability for this coverage is exhausted." However, the word "exhausted" is not defined. If the company has paid a claim to the limit of liability, there is no question. The BAP provides that only payment of the liability insurance limit ends the insurer's duty to defend. Why has a different wording been used in the PAP? What else may cause the exhaustion of limits? Deposit in court, etc.?

Exclusion 7 eliminates coverage "for any person maintaining or using any vehicle while that person is employed or otherwise engaged in any business or occupation not described in Exclusion 6." Exclusion 6 (applies to individuals in business or occupation connected with selling and servicing vehicles.) "This exclusion does not apply to the maintenance or use of a private passenger type auto. It also does not apply to the maintenance or use of a pick-up, sedan delivery or panel truck that you own." The purpose of this exclusion is unclear. As coverage is excluded for "any person" it also means the named insured. One commentator believes the exclusion only applies to trailers. If so, why did it not say so in understandable language? The exclusion applies to anyone employed or in business and therefore is not limited to cases in which the vehicle is used by anyone in such capacity, but is broad enough to cover pleasure use.

In conclusion, it's evident to me that the policies also contain certain improvements in coverage, but the restrictions are of greater importance to insureds. My purpose is to alert insureds, brokers, agents and risk managers to pitfalls, caution them to study the policy conditions and enable them to request, wherever indicated, endorsements revising the coverage.

Henry Salfeld was an insurance broker with Frenkel & Co., New York, since 1935 and has been a consultant to that firm since 1974 when he retired as senior vp. He has written extensively on insurance.



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PERSPECTIVE

Product Liability Score Card

State	Tort reforms enacted	Bill pending	Cleared house	Cleared senate	Dead for 1978	S/L	State of the art	Failure to warn	Standards	Alteration	Remarks
Ala.					X	X					No action taken on a compromise measure.
Alaska					X						No action taken on bill to reduce awards by plaintiff's negligence.
Ariz.	Yes					X	X	X	X	X	Bill also prohibits asking for specific damages in a suit.
Ark.					X						Bills probably to be introduced next year.
Calif.				X	X		X				No action taken on several measures.
Colo.	Yes					X	X		X		Second state to pass major reform legislation.
Conn.			X	X	X	X		X		X	First product liability bill to be vetoed.
Del.					X	X	X	X	X	X	Possible action next year.
Fla.	Yes		X	X		X					Establishes a 12-year limitation on filing suits.
Ga.	Yes					X				X	Establishes a 10-year limitation on filing suits.
Hawaii					X						No information available.
Idaho					X	X	X	X	X	X	Bill died in senate committee.
Ill.	Yes		X	X		X					Bill establishes 10 and 12-year limitations on filing suits.
Ind.	Yes					X	X	X	X	X	Establishes a 10-year limitation on filing suits.
Iowa					X	X	X	X	X	X	Possible action next year.
Kan.			X	X	X	X					Bill died in conference committee.
Ky.	Yes					X	X	X	X	X	One of the most comprehensive bills passed.
La.					X	X	X		X	X	New effort to be made next year.
Maine					X						No reform bills introduced.
Md.					X	X	X	X	X	X	Bill never made it out of committee.
Mass.					X	X	X	X	X	X	No action taken on legislation.
Mich.	Yes		X	X							Award could be reduced if plaintiff were negligent.
Minn.	Yes										Bill prohibits asking for specific damages over \$50,000 in a suit.
Miss.					X	X	X		X	X	New bills to be introduced next year.
Mo.				X	X	X					Bill died in a house committee.
Mont.					X						No legislation introduced this year.
Neb.	Yes					X	X	X		X	Establishes a 10-year limitation on filing suits.
Nev.					X						No legislation introduced.
N.H.	Yes		X	X		X				X	Establishes a 12-year limitation on filing suits.
N.J.					X	X	X	X	X	X	No action taken this year.
N.M.					X						Possible action next year.
N.Y.				X	X	X				X	Legislation to be introduced next year.
N.C.			X	X	X	X					New effort to be made next year.
N.D.					X						No action until 1979.
Ohio			X		X	X			X	X	Bill died in senate committee.
Okla.			X		X	X					Reform bill died in the senate.
Ore.	Yes					X				X	Third state to pass p/l legislation. 8-year s/l.
Pa.				X	X	X	X		X	X	New bills to be introduced next year.
R.I.	Yes					X				X	Establishes a 10-year limitation on filing suits.
S.C.					X						No information available.
S.D.	Yes					X					Establishes a 6-year limitation on filing suits.
Tenn.	Yes					X	X	X	X	X	Establishes a 10-year limitation on filing suits.
Tex.					X						Legislation to be introduced next year.
Utah	Yes					X	X	X	X	X	First state to pass reform legislation.
Vt.					X						No information available.
Va.					X						Business groups now forming lobbying association.
Wash.				X	X	X				X	Comprehensive legislation to be introduced next year.
W. Va.					X	X				X	Legislation died in committee.
Wis.					X	X	X	X	X	X	Bills never moved.
Wyo.					X						No information available.

Business Insurance's Product Liability Score Card summarizes efforts to enact tort reforms in state legislatures. The first section details the status of tort reform legislation in the state; the second section indicates what tort reform proposals are included in the legislation. When a bill is amended, the tort reforms still alive are indicated.

The tort reform elements charted are a statute of limitations from either the date of

introduction of a product or from the date of an accident, allowing a defense that a product met the state of the art at the time of manufacture, elimination or restriction of a failure to warn claim, allowing a defense that a product met government standards and allowing a defense if a product were altered after it left the manufacturer.

The editors of Business Insurance have attempted to make the chart as accurate

and up-to-date as possible. If you know about product liability actions in your state, please write or call Jerry Geisel, Business Insurance, 1253 National Press Building, Washington, D.C. 20004 or call 202-638-5300.

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around the states

Pa. court names U.S. Steel in workers' cancer suit

HARRISBURG—The Pennsylvania supreme court ruled that U.S. Steel Corp. should be a co-defendant in a multi-million dollar lawsuit filed on behalf of steelworkers who allegedly contracted lung cancer at the Clairton Coke Works.

The suit, originally filed in 1976 against Koppers Co., Allied Chemical and Dye Corp. of New York and the Salem Corp. of nearby Carnegie, alleged negligence in connection with the design, construction and installation of large coke ovens at the U.S. Steel plant.

In its decision, the supreme court ruled that Allegheny County common pleas judge Ralph Smith Jr. erred when he allowed U.S. Steel to be excluded from the suit.

Black lung

FRANKFORT—The Kentucky state legislature did not intend for a worker disabled by black lung disease to be deprived of benefits simply because he tried to work a few shifts after his condition was diagnosed, the state court of appeals has ruled.

Ruling in the case of David E. Bell, an employee of the Island Creek Coal Co., a three-judge appellate panel upheld a circuit court reversal of the state workers compensation board's decision.

The board had ruled that Mr. Bell did not qualify for benefits under a state law that says claimants must show they were exposed to the hazards of pneumoconiosis (black lung) for at least two years immediately preceding disability or death.

Mr. Bell quit his job as an underground miner in March 1971 after his doctor told him that he was totally and permanently disabled and that he should not return to work. But financial pressures forced him to return to the mines for a few shifts before his breathing impairment forced him to quit.

Md. OSHA strengthened

ANNAPOLIS—The Maryland division of labor and industry is going to "get tough" on enforcing a long-standing law requiring doctors to report cases of occupational disease, says director Harvey A. Epstein.

A special unit in the Maryland Occupational Safety and Health Administration is being established to put new emphasis on controlling cancer causing agents in the workplace, he announced.

The state health department has failed to enforce the reporting mandate, he charged, but the state health secretary pleaded lack of funds to push the mandate.

The new state OSHA unit will collect information on exposures, educate employers about toxic substances and suggest loss controls such as protective garments, medical surveillance that would extend to worker's families and better ways of handling emer-

gency spills.

Work comp increases

HARRISBURG—Pennsylvania workers compensation rates were hiked 4% this month under a decision by the state insurance department. The increase will cost Pennsylvania employers \$34.5 million.

Previously, the insurance department had approved a 26.9% increase in workers compensation rates effective Oct. 1.

Rehabilitation urged

LITTLE ROCK—The Arkansas legislative joint performance re-

view committee is recommending an overhaul of the state's workers compensation laws and regulations.

A study by the committee this summer concluded that the present compensation system for injured workers discourages rehabilitation of workers who suffer seemingly permanent and totally disabling injuries.

The committee recommended that a small staff be assembled in the state workers compensation commission to review every claim case to determine whether rehabilitation could be productive. A recommendation would be made to the administrative law judge to

whom the case would be assigned before the litigation was begun.

Schools' liability

SACRAMENTO—California school officials fear that the state supreme court decision allowing school districts to be sued for injuries sustained by truant students will increase insurance costs, which districts can ill-afford.

The decision concerned a 10-year-old Manhattan Beach boy, who walked away from summer school classes in 1974 and four blocks away was struck and seriously injured by a motorcycle.

In a 4-3 decision, the court sent

the case back to Los Angeles county superior court with instructions to determine whether the Manhattan Beach City School District exercised reasonable care in supervising students during school hours.

The supreme court maintained that its opinion "in no way expands the supervisory obligations of school districts."

"Liability insurance (for districts) has been going up in the last few years—almost skyrocketing—and only in the past year has it leveled off," a district official said. "This (recent decision) will have a tendency to pick it up again," he predicted.



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PHILADELPHIA—INA Corp. has formed a new property/casualty insurance company in Trinidad and Tobago in a 50-50 partnership with Maritime Life (Caribbean) Ltd. of Port of Spain, Trinidad.

Maritime-INA General Insurance Co. Ltd. will serve agents and brokers in Trinidad and Tobago, replacing INA's branch operation.

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info for buyers

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• A 64-page **catalog of occupational safety and health materials and services** is now available from the National Safety Council. For a free copy write on organizational letterhead to Earle Zatt, Sales Manager, National Safety Council, 444 N. Michigan Ave., Chicago, Ill. 60611.

• Do you know the implications of the **new age discrimination in employment act**? Kwasha Lipton offers some thought provoking explanations in a newsletter designed to help corporate benefit managers understand the issue. For a free copy write Department M, Kwasha Lipton, 420 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• **E Pluribus Unum, Out of the Many, One**, is the name of a promotional brochure describing the

newly created manufacturers output policy now being offered by American Home/National Union. For a free copy write American International Group Inc., PR-2 Corporate Communications, 70 Pine St., New York, N.Y. 10005.

• With the rising cost of workers compensation coverage, more companies are being forced into **state assigned risk pools** for workers compensation insurance. In response to this problem, a governing committee of the Texas assigned risk pool is offering a booklet explaining the function of an assigned risk pool. The booklet describes who is in the pool and what the differences are in premiums for insureds in the pool as compared to those insureds which have obtained workers compensation insurance through the voluntary

market. The booklet also gives employers some ideas on how to best seek coverage in the voluntary market. For a free copy write James A. Johnston, CPCU, 222 Chevy Chase IV, 7715 Chevy Chase Drive, Austin, Tex. 78752.

• **Primer of Boiler and Machinery Insurance** is an educational manual describing the objects insured, kinds of protection afforded, as well as important accident prevention and inspection services that most carriers of this insurance provide as a service to the policyholder. Copies are \$3. Write Communications & Public Affairs Dept., Kemper Insurance Cos., Long Grove, Ill. 60049.

• **Risk Management for the Smaller Company** is a 45-page booklet published by The Assn. of Insurance and Risk Managers in Industry and Commerce (AIRMIC), the representative group of U.K. insurance and risk managers. Cost of the booklet is \$7.50. Write to R. A. Muckleston, INCO Europe Ltd., Thames House, Millbank, London SW1P 4QF, Britain.

• Are you considering building a shopping mall? If the answer is yes, you might want a brochure from Nordstrom Larpenteur entitled **Mall Insurance: What to buy, types of coverage, the right agencies and the pitfalls**. For a free copy write Nordstrom Larpenteur, 1300 Northwest Financial Center, Minneapolis, Minn. 55431.

dates for buyers

JAN. 2-4. Registration for a 13-week course on hazard identification and analysis will be held at the College of Insurance in New York. The course will be held at the College of Insurance in New York. The course will provide an in-depth review of fundamental principles relating to the identification and control of hazards of the

workplace. Equal emphasis will be given to health, accidental and property hazards, stressing identification of the conditions which lead to accidents and techniques for controlling these kinds of hazards. Completion of this course is needed to receive an IIA associate in loss control management designation. Cost is \$145. Contact Noel

Feustel, The College of Insurance, 123 William St., New York, N.Y. 10038; phone 212-962-4111.

JAN. 14-19. The Risk Research Group is offering an intensive course on the principles, techniques and practical application of the **risk management process** at the Tower Hotel in London. Workshops and discussion groups in the course are designed to clarify the role of risk management in industry and commerce and its relationship to other activities and guidelines on how to develop a "practical" and effective risk management program. Contact Gillian Morley, Risk Research Group (London) Ltd., Bridge House, 181 Queen Victoria St., London EC4V; phone 01-236-2175.

JAN. 16-17. RCI Communications Inc. will present an advanced seminar in San Francisco on the **reduction of construction insurance costs**. Workshops will cover new material such as preparations for premium audits, rating plans for competitive proposals, management for professional liability, captive and self-insurance funding, determining insurance costs for construction bids, the London market and workers compensation guaranteed cost plans. Cost: \$395, team fees available. Contact RCI Communications Inc., Suite 350 Building V, 10300 North Central Expressway, Dallas, Tex. 75231; phone 214-363-9659.

JAN. 17-18. How to profit from the **London market** by improving coverage and lowering costs is the title of a RIMCO seminar to be held in San Francisco. The program will cover an introduction to Lloyd's the "other London company," security, role of the Lloyd's broker, role of the surplus lines broker, collecting a loss, role of a Lloyd's agent and how to present a risk for a London placement. Cost: \$395, team fees available. Contact RCI Communications Inc., Suite 350, Building V, 10300 North Central Expressway, Dallas, Tex. 75231; phone 214-363-9659.

riskWatch

By ELLIS SIMON

N.Y. insurance market innovations may be the start of something big

Yearend is a good time for reflection on the gestation of the New York Insurance Exchange and Free Trade Zones. The Free Trade Zone has been in business for several months and the constitution for the insurance exchange is about to be presented to the state legislature for its approval.

The two have made the year a remarkable one. In a relatively short time the two concepts have been transformed from just that—concepts—into realities well on their way to becoming significant factors in the insurance marketplace.

At one point the fate of both proposals rested in the hands of one man—state Sen. John Dunne, the Republican chairman of the state senate insurance committee. To his credit, the senator who seemed skeptical at hearings he held in May on the proposals put aside partisan considerations and helped push the enabling legislation through the state house in an all-night session.

Since then, both the free trade zone and insurance exchange have taken off and the pace of acceleration seems to be quickening. After only 3½ months, the free trade zone has attracted 45 insurance companies as licensees. The insurance exchange appears to be gathering additional support each moment.

Insurers, many of whom were skeptical at first and feared added competition, have jumped on the bandwagon. And why not? After all, they were given the opportunity to write the constitution and bylaws for the exchange and are pleased with the results of their work. Large brokers, angered when provisions were included in the constitution that would have restricted their role in governing the exchange, are now pleased with the revised document, which gives them a greater voice.

Now the question being asked is what posture the various players will take in the exchange. Insurance companies are considering forming syndicates, either singly as wholly owned ventures or as partnerships. Brokers, excess and surplus lines brokers and others, are expressing interest in managing underwriting syndicates as well as placing business on the exchange. Don Kramer, who designed the insurance exchange concept and promoted it from the beginning says he wants to manage a syndicate. So does an insurance analyst at a major New York-based investment banking house.

With so many potential managers planning their strategy there is going to be a drive to attract capital. Plans for starting the exchange call for a minimum of 20 syndicates capitalized at \$3.5 million each, or a total of \$70 million. In this country, that's considered merely a drop in the bucket of the investment money pool available.

According to Mr. Kramer, the partnership tax advantages applying to the syndicates will make investment attractive. With a direct pass through of income to investors, syndicate members would be able to deduct 50% of any underwriting losses to offset investment gains. If surplus were invested in tax-free bonds, a \$10,000 underwriting loss and a \$10,000 investment gain would still yield \$5,000 for the syndicate member since there would be no tax on the bonds and half the underwriting losses could be deducted.

This arrangement would make the exchange an attractive tax shelter when it begins operations. It is unlikely that the exchange will realize any underwriting profits during its first years of operation, since much of its business is likely to come from long tail liability risks and other lines requiring a buildup of substantial reserves. But it is in these exotic areas where the exchange is likely to have its greatest impact. Its main forms of business will be reinsurance, foreign risks and risks rejected by the free trade zone; the exchange won't attract so-called safe classes of business. The new kid on the block isn't considered likely to steal away old-line reinsurance arrangements or attract business from abroad.

This facet of the exchange represents its greatest beauty for the buyer. It will mean another facultative market for product liability, maritime workers comp, drilling rigs, satellites and other tough risks. Though markets for some of these coverages have eased during the past year, by the time the exchange opens its doors, probably late 1979 or early 1980, things could be different.



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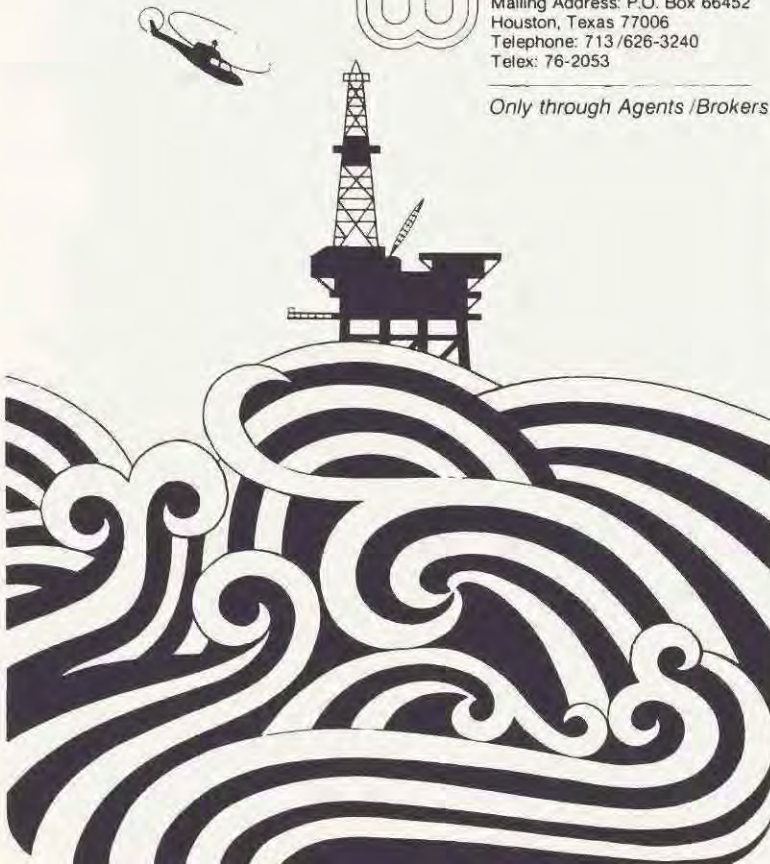
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Love Canal . . .

Continued from page 1
insurance coverages.

Hartford Insurance Co., in seeking to deny coverage to the city and school district, is basing its case on a similar insurance policy exclusion.

Harold Baida, a state insurance department examiner, explained that while state law requires liability policies to carry such an exclusion, it could be left to the courts to determine whether the leakage at Love Canal was "sudden or accidental."

"If everything had been all right for years and all of a sudden the site leaks chemicals, I don't know how the courts will interpret it," he said.

Carl E. Mooradian, corporate counsel for the city of Niagara Falls, said the Hartford's move is a fair one because it will let all parties involved know where they

stand legally. Niagara County attorney John V. Simon has recommended that the county's liability insurer, Utica Mutual Insurance Co., join the Hartford on the action.

Hartford challenged

Mr. Mooradian noted that there are other issues between Hartford and the city, including an interpretation of whether the policy's \$300,000 limit applies to each claim or to the entire occurrence. To date the city alone has received 425 claims.

Mr. Mooradian added that the city will challenge Hartford's move on the ground that the policy did not contain the exclusion until 1971.

In addition to deciding Hartford's responsibility in the Love Canal cases, the courts could

have to determine whether Hooker Chemical can be held responsible for bodily injury and property damages resulting from the pollution.

Attorneys for Mead Corp., in their bid to prevent a takeover by Occidental Petroleum, argue a clause in the land transfer contract between Hooker and the Niagara Falls school district could be declared void because it runs counter to public policy.

The clause states: "No claim, suit, action or demand of any nature shall ever be made by the grantee, its successors or assigns against the grantor (Hooker) for injury or death resulting from buried waste products resulting from the manufacture of chemicals."

Mead's attorneys claim Hooker never disclosed to the board of education what had been buried on the site and the dangers involved.

Richard Lippes, plaintiff's attorney representing members of the Love Canal Homeowners Assn.,

said the clause only dealt with land on the canal bed itself. People built their homes adjacent to the canal and the clause is "not all too helpful for Hooker" in defending suits brought by them.

Most of the homes in Love Canal district were built in the early 1950's, about the time the city acquired the site from Hooker and built the school. The canal overflowed its underground banks in 1976 after six years of abnormally heavy rains.

Burn complaints

So far, 150 different chemical compounds have been identified at the old landfill site. People in the neighborhood have complained of burns after walking across the canal site, dogs have died early from tumors and a higher than normal rate of miscarriages, birth defects and liver abnormalities have been found in the area.

However, Marvin Nailor, direc-

tor of communications for the state health department, said that although the department has been collecting data on the Love Canal population since June, it has yet to document any unusual patterns of illness.

It is too early to make a connection between illness and injury at the canal and exposure to chemicals, he said.

However, plaintiff's attorney Mr. Lippes says he intends to present the results of independent research in cases on behalf of his clients. No suits have been filed to date. Notice of claim to a public entity is required prior to filing suit.

At present, the only persons at the Love Canal site are members of a state task force team working out of the school built on the old landfill. Cleanup efforts, house acquisition costs and other expenses are expected to run as high as \$40 million, with funding coming from state and federal agencies.

Profit sharing could be hurt by oversight

CHICAGO—The Profit Sharing Council of America thinks the wage guidelines issued by the Carter Administration may have a detrimental effect on profit sharing plans.

Because the Administration's definition of pay doesn't mention profit sharing plans, there may be "a misapplication of the President's proposals for dealing with inflation by unnecessarily restricting certain profit sharing programs which have no inflationary impact," said the organization in a letter to the Council on Wage and Price Stability.

Asking for special consideration of profit sharing plans, the Profit Sharing Council proposed that fixed formula contributions to the plans be allowed to continue unhindered, because they generally reflect only higher productivity and profits. But the Profit Sharing Council suggested that discretionary contribution increases be limited to an average of the employer's actual contributions for the three preceding years, measured as a percentage of participating payroll.

About two-thirds of companies with profit sharing plans use a predetermined fixed formula for determining contributions to their plans, while only one-third use discretionary distribution formulas, said the letter. Most companies with discretionary plans are smaller companies with fewer than 100 employees.

Many profit sharing plans may actually exert "a positive anti-inflationary pressure," suggested the Profit Sharing Council in requesting a limited exemption. This is because they reward employees for higher productivity in the event there is a profit from operations by distributing part of the profits on a deferred compensation basis. Wage increases from higher productivity are exempt from the guidelines, and therefore redistribution of profits from productivity gains—which in turn stimulate further productivity gains—should also be exempt, the Profit Sharing Council argued. But there hasn't yet been a change.

Health benefits

Insurance companies paid out more than \$21 billion in health insurance benefits in 1977: \$18.3 billion in hospital, medical and dental bills and \$2.9 billion in disability income insurance benefits, says the Health Insurance Institute.

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*Leo J. Shapiro & Associates, July 1978

GM benefit exec predicts higher costs, challenges

By REBECCA A. FANNIN

PHILADELPHIA—Gazing into a crystal ball at the kick-off luncheon for a new employee benefit association here, the director of employee benefits at General Motors Corp. predicted increasing health care costs, new benefits and new government regulations will make the benefit manager's role more creative and challenging than ever.

Victor M. Zink said efforts to

contain costs should be critical areas for a manager's focus. At General Motors, employee benefit costs have increased 300% in less than a decade, from \$800 million in 1968 to \$3.2 billion in 1977, the benefit manager noted.

"I see nothing in the immediate future—or the 1980s for that matter—to change this picture," Mr. Zink said. "In fact, if the unions get their way and keep benefit cost increases out of the anti-inflation guidelines, as the old say-

ing goes, we ain't seen nothing yet."

To help control costs, Mr. Zink advocated that benefit plans incorporate co-payments. Taking away benefits would be impossible to achieve with the unions, he said, but managers could give a little more in one area to obtain cost sharing in other more critical areas.

General Motors' three newest health care plans—dental, vision care and hearing aid coverages—all provide for co-payments, he noted, with the co-payment for some dental care as high as 50%.

Introducing benefits or modifying existing benefits are also likely targets for the future, Mr. Zink suggested. He cited group legal plans, group auto plans, day care for children and on-site recreational or physical fitness facilities as examples of benefits to come.

Existing benefit plans may need to be altered to meet new demands of labor and government and an everchanging society, the benefits director said.

A top priority of the United Auto Workers, he said, is cost-of-living increases for retirees. Moreover, there will be continued strong emphasis on early retirement, he added.

Benefit plans that need to be shifted include disability and supplemental unemployment, Mr.



Photo: Rebecca A. Fannin

Labor and government will continue to demand benefit and program changes, says Victor Zink of GM.

Zink said. The younger, shorter-service employees have been receiving a disproportionate share of disability benefits when just the opposite would be expected, he pointed out. The same situation has occurred in supplemental unemployment benefits. These benefit plans may need to be altered to provide higher benefits to longer term employees, he suggested.

Proposed age discrimination regulations may require a more innovative approach to providing survivor benefits, Mr. Zink said, including more optional coverage if the employee wants to pay for it, with the premiums age-related.

More regulation will be forthcoming in the same vein as the Em-

ployee Retirement Income Security Act, the Health Maintenance Organization Act, pregnancy disability, and the Age Discrimination in Employment Act. In addition, he looks for more government designed plans such as Tax Reduction Act Stock Ownership Plans.

Such wide-ranging changes are broadening the role of the employee benefit manager, who now needs to understand such myriad fields as personnel, labor relations, finance, taxation, medicine, economics, psychology, public relations and more, Mr. Zink said.

Specifically, the employee benefit manager's new responsibilities may include altering benefit structures that were built upon the assumption that the average employee was a family man who would stay with the company until he retired. "Is this still appropriate with the increasing independence and mobility of the work force and the growth of women as a percentage of the total?" Mr. Zink wondered.

Moreover, the employee benefit manager should become a key member of management's bargaining team in labor negotiations, he recommended. Benefit managers should also learn how to operate more effectively in Washington and in state capitols, he said.

Even a pleasant attitude of the benefit staff toward employees can help control costs, he said.

Regional group rallies around benefit issues

PHILADELPHIA—A new employee benefits association is being organized in the tri-state area of Pennsylvania, Delaware and New Jersey out of a concern for the rising cost of health care.

Sponsored by Penjerdel Corp., a trade association for companies in the tri-state area which is affiliated with the local Chamber of Commerce, the Penjerdel Employee Benefits Assn. is being touted as a model for similar efforts by other Chambers of Commerce.

While PEBA was inspired by cost containment goals, it doesn't intend to "go to war with other associations," said Thacher Longstreth, president of Penjerdel. "It was formed with the recognition that businesses pay much of the benefits cost, so that if we organize, we can bring about movement in the right way."

If successful, the association may become the model for other chambers to act on, according to Frank J. DiBernadino, an assistant vp for Johnson & Higgins who has helped to spearhead the development of the organization. Mr. DiBernadino said other chambers are eyeing Penjerdel's efforts.

Membership is open to corporate employee benefit departments as well as benefit consultants and educators. Dues are \$100 annually and meetings are quarterly.

Response to the idea was enthusiastic at a kick-off luncheon recently in Philadelphia to introduce prospective members to PEBA. PEBA expects to enroll approximately 200 to 300 members, Mr. Longstreth said.

The formation of PEBA is an outgrowth of employee benefit cost containment programs that Penjerdel has hosted for those concerned about rising health care costs in the Greater Delaware Valley.

In seeking ways to enhance its efforts in health care cost containment beyond the cost containment programs, Penjerdel sought suggestions from employee benefit managers and consultants.

Thomas Crowell, senior personnel officer for Girard Bank in Philadelphia, suggested that the association be formed to discuss cost containment as well as current events affecting employee benefit plans. Mr. Crowell is serving as interim president of PEBA.

PEBA will also highlight proposed and pending legislation, conduct workshops and seminars and work to enhance the expanding role of benefit plan fiduciaries.

PEBA emphasizes it will be strictly a working group.

For example, at PEBA's first workshop planned for March, topics to be discussed include the Age Discrimination in Employment Act, the Revenue Act of 1978, the voluntary wage and price controls and the sex discrimination amendment to the Civil Rights Act of 1964.

These topics will each be reviewed in depth by standing committees of PEBA. The retirement committee, for example, will review each of these acts to determine their impact on design, financing and administration of retirement plans.

The remaining four standing committees are health, survivorship and disability, welfare and legislative.

Following the standing committee's workshops on relevant issues, general sessions will highlight timely issues by bringing in outside speakers.

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Competition . . .

Continued from page 1

the Travelers Insurance Co.

"We'd all be better off if we just did things in moderation," said Richard M. Miller, president of Corroon & Black Corp.

Commercial property rates, however, may be bottoming out because the coverage is so profitable to underwrite that competition has forced premiums near the amount needed just to cover losses, sources agreed.

But boiler and machinery insur-

ance rates are expected to continue dropping by another 5% to 10%, noted Lorne V. Palmason, senior vp and national services officer for property insurance at Marsh & McLennan.

The only price increases expected will arise in workers compensation, where sharp premium increases are necessary to cover higher benefits to injured workers. Workers compensation was the only coverage in the red on insurers' books at the end of the third

quarter in 1978.

The crisis in products liability and medical malpractice is easing, largely because rates have risen enough to cover the increase in large court awards paid in liability suits.

The insurance industry recorded an exceptionally good year in 1978, turning in a combined loss and expense ratio of 96.8% for the first nine months of 1977. Although the figure is a good showing, sources said, it compares with a more favorable 95.2% loss-expense ratio in the third quarter of 1977.

Premium decreases

The third quarter in 1978 was the sixth in succession to achieve a combined ratio of less than 100%, reported the Financial Services Division of the A.M. Best Co. from data submitted by 90% of the insurers.

There was also good news in investment income, which rose

27.5% in the first nine months of 1978, and surplus, which increased by 19%, a \$5.5 billion increase over the last nine months.

Figures from Best's also showed that premiums are dropping. Premium increases for 1978 will be 11% to 12%, compared with 19.8% in 1977 and 21.8% in 1976. The drop in 1978 signals the end of the rash of rate increases that were required to keep the industry afloat after the disastrous underwriting losses of 1974 to 1976, Best's said.

Industry sources also expect insurer profits to continue in 1979, but with the combined ratio dropping a few points. Corroon & Black's Mr. Miller said "there's not much they can do to have bad profits in 1979." He explained that insurers are reserving more than they need to for future losses and that these excesses will flow back into earnings over the next few years.

He pointed out that Continental Insurance Co. added \$125 million

to its reserves for incurred but not reported losses in 1977 and another \$104 million during the first half of 1978 in order to keep pace with the rate of inflation.

Earnings dropping

Despite insurers' efforts to protect themselves from underwriting losses by reserving heavily, industry sources predict that the market will turn sour after 1977 because of the strong downward pressure on rates while inflation simultaneously increases the cost of settling claims.

Underwriting earnings will continue to deteriorate through 1980 because of liberal underwriting standards, reported the Value Line Investment Survey of insurers. In 1980, the survey noted, the industry's combined loss-expense ratio may top out at 102%. Overall earnings, including investment income, will decline an average of 15% by 1980, it said.

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WASHINGTON—A new cloud of uncertainty now looms over employers as the Labor Department revealed it will not publish final guidelines on how much companies can reduce benefits for older workers by the time the mandatory retirement age is raised to 70 on Jan. 1.

As a result, the only official guidance employers will have on benefit cutbacks for older workers is a Labor Department interpretative bulletin released in late September.

That bulletin called for limited cutbacks in life insurance, medical benefits and long term disability coverage for workers staying on the job past 65. Most benefit managers planned to slash benefits.

A Labor Department spokeswoman said the delay in issuing final guidelines is due to the time the department needs to review the hundreds of comments it received from employers suggesting changes in the initial guidelines. She expects the final interpretative bulletin to be published at the end of January, though it is possible that this target date might be missed.

In the meantime, the spokeswoman suggested that to be on the safe side employers should follow the department's September guidelines. She cautioned employers against instituting drastic benefit cutbacks for older workers.

The Labor Department is also cautioning employers that both the preliminary and final interpretative bulletins are only guidelines, not regulations. They do not carry the weight of law.

However, courts often have used such bulletins as an important guide in resolving legal actions, the spokeswoman added.

The Labor Department is reportedly considering several revisions to its initial guidelines, with the most significant change expected to be in the area of long term disability coverage for which the department initially offered two proposals.

The first proposal would not permit a cutoff of any long term disability benefits before age 70. Under the second proposal, companies could stop benefits at age 65 for an employee who becomes disabled before reaching 60. For workers who become disabled after age 60, disability benefits could continue for up to five years or until the employee reaches age 70, whichever comes first.

The Labor Department, though,

is now apparently considering a shorter period in which an older worker would be entitled to collect disability payments.

But the department is still divided over whether employers will have to give credit in pension plans for pay increases earned after 65. The initial interpretative bulletin sidestepped this crucial issue, causing considerable anxiety in the benefit community.

In addition, the department has

not yet decided whether to back off from its original guidelines that would have permitted employers to reduce life insurance coverage by only 8% a year beginning at age 65 to cover the increased cost of this benefit for older workers.

In written comments to the Labor Department, dozens of employers urged that a greater reduction in life insurance coverage be permitted, with many companies suggesting a 50% reduction guideline would be more appropriate.

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Wage guidelines . . .

Continued from page 1

Increases are the result of complying with ERISA or actuarial requirements. The initial guidelines called for including in the 7% ceiling any increase in pension contributions—even if the contribution was needed to maintain an existing benefit level.

- The cost of new federally mandated benefit requirements, such as the recent law that requires firms to offer equitable benefits to pregnant employees, will be excluded from the 7% guideline. Also excluded from the 7% ceiling will be the cost of providing benefits to workers over 65. The initial guidelines made no such exceptions.

- Employers may exclude from the guideline any added health benefit costs that exceed 7%. As a result, if the cost of maintaining current health and medical benefits increases by more than 7% from the previous year's cost, the amount over 7% will not have to be charged against the guideline.

The release of the revised guidelines easing the wage standard by counting only part of the costs of maintaining health benefits and excluding the costs of maintaining pension benefits came after the Council was flooded with hundreds of phone calls and letters from employers concerned that the initial guidelines were unrealistic.

Beyond control

Several benefit managers saluted their companies for aggressively speaking out against the guidelines and urging more flexibility. "I'd like to think that input from employers and business groups made a difference," said Mr. McGarrah of Texas Instruments.

Some employer groups, however, believe the Council should exclude all health cost increases that result from the maintenance of existing benefits rather than counting the first 7% of cost increases against the ceiling.

"When you promise a benefit and the cost is beyond your control, it should not be counted," said Steve Schanes, principal of the employer lobbying group, National Employee Benefits Institute, and president of Schanes Associates, a benefits consulting group. Mr. Schanes would have preferred that existing benefits be excluded from the wage ceiling.

One benefit manager complained that the government seemed inconsistent in excluding pension cost increases while counting, at least partly, health

cost increases in the ceiling.

But a benefit consultant suggested it seems only fair to include health cost increases in the wage standard since medical and hospital costs can at least be partially controlled by employers.

The consultant pointed to a recent study prepared for the U.S. Chamber of Commerce that offers employers a series of strategies for reducing health care costs.

Benefit experts predict that if employers and unions abide by the guidelines, the growth of new benefits added to employees' compensation packages will slow markedly.

Unions wary

"The guidelines will obviously limit benefit increases and more emphasis will be placed on wages

and cost of living increases," said Joseph Fromm, employee benefits and risk management director at American Motors Corp.

The nation's labor unions took a cautious approach before making a public commitment to support or reject the final guidelines. Frank Fitzsimmons, president of the 300,000-member Teamsters union whose truckers' contracts expire in March, said the revised guidelines are "complicated and complex and it will take time to evaluate them."

However, AFL-CIO president George Meany, who denounced the initial guidelines when they were released in October, criticized the Council for allowing only a partial exemption for the cost of maintaining existing health benefits.

Experts believe that the revised guidelines will give employers a realistic opportunity to comply. "Without revisions, it would have been very difficult to adhere to the

program. And therefore the program would have fallen down on its own weight," said Paul Dorf, director of the compensation services division at the consulting firm of Kwasha Lipton. "Now at least there is a greater likelihood of the program succeeding."

Benefit managers generally support the Council's position that improvements in existing benefits or adding new benefits should be fully counted in the 7% ceiling. "Benefits can be as inflationary as wages," observed Mr. Smith of American Home Products.

No clear position

Benefit consulting groups, though, are concerned that the Council didn't take a clear position on how certain kinds of benefits are to be treated.

"We were disappointed that certain kinds of retirement plans, such as profit sharing and savings plans, weren't specifically ad-

ressed," said Janet Shephard, a consultant with Hewitt Associates in Lincolnshire, Ill. "We would have liked to have seen some kind of acknowledgement that there could be some questions about those type of benefits."

Employers were particularly enthusiastic that the Council decided to exclude the cost of federally mandated benefits such as equitable pregnancy benefits and benefits for workers over 65.

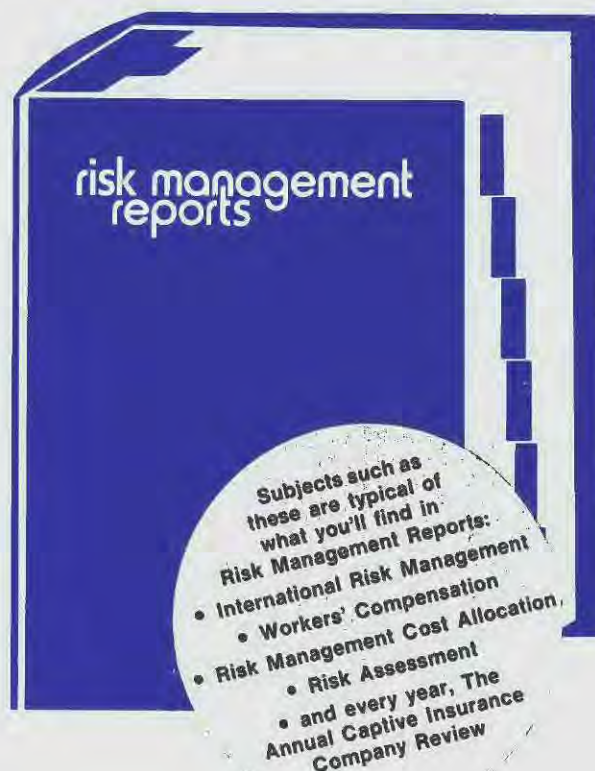
One benefit manager noted that if his company follows a Labor Department proposal to offer full long term disability coverage to older workers, its disability costs will shoot up 20% to 25% annually. "It wouldn't be fair to count that increase in the guidelines," he maintained.

Mr. Fromm of AMC noted that if the cost of the new pregnancy benefit and older workers' benefits had been included in the 7% wage cap, the Council would have had to raise the 7% limit higher.

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Suit says trustees violated ERISA

PARAMUS, N.J.—The government is suing trustees of the P.T.&L. Construction Co. Inc. Profit-Sharing Plan, charging the trustees with violations of the pension reform law.

According to the Labor Department suit, the trustees loaned more than \$500,000 in plan assets to the P.T.&L. Construction Co. Inc., and its two affiliates, and failed to require adequate security in exchange for the loan.

The suit, which was filed in U.S. district court here, asks that the defendants be removed as fiduciaries and that they be held liable for any of the plan's future losses.

Named as defendants in the suit are Nicholas Laganella and John Laganella, who are current plan trustees, and Harvey Strickland, a former trustee.

Under ERISA, fiduciaries must act with undivided loyalty on behalf of the participants and beneficiaries.

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Babbitt takes risk reins at Florida drug chain

Lawrence J. Babbitt, 38, is the new risk manager for Jack Eckerd Corp. in Clearwater, Fla. The new position reports to corporate treasurer David M. Baker. Mr. Babbitt is responsible for developing and administering all insurance programs with the exception of employee benefits. Previously, Mr. Babbitt worked for five years as a risk manager for Stop and Shop Cos. Inc. in Boston. No replacement has been hired. Mr. Babbitt has been in the insurance field since 1964.

A.B. "Tony" Causey has been named supervisor of risk management services for Gulf States Utilities Co. in Beaumont, Tex. Mr. Causey is responsible for the administration of the corporate property and casualty programs as well as group insurance. He reports to **Olice A. Steward**, who was recently promoted from the director to manager of risk management services.

Roy M. Perkins has joined Southeast Banking Corp. as insurance manager, reporting to Thomas B. Walker, vp and treasurer. Mr. Perkins is responsible for negotiating property and casualty insurance contracts, evaluating insurance needs and administering insurance claims for the banking corporation and its affiliates. A 28-year veteran of the insurance industry, Mr. Perkins was previously manager of insurance and safety for three years with New York News Inc. in New York City. New York News is currently interviewing for Mr. Perkins' replacement.



Pierson



Castille

ment.

At Parthenon Insurance Co. in Nashville, the captive insurance company for Hospital Corp. of America, **Robert E. Pierson**, CPCU, has been promoted to vp of claims and **Maurice J. (Cas) Castille** has been promoted to vp of loss prevention. Mr. Pierson joined Parthenon as claims manager in September 1977 from St. Paul Insurance Co. where he was a claims manager. Mr. Castille came to Parthenon in November 1977 as loss prevention manager. He previously was risk manager for Humana Inc. in Louisville.

Charles E. Wilson, has joined Ball Corp. in Muncie, Ind., as risk manager. He reports to Edward Moran, corporate director of risk management. Mr. Wilson replaces **John Stephenson**, who retired. Mr. Wilson previously was an account representative for Allendale Insurance Co. in Cincinnati.

Donald J. Hayward, 47, has joined Transamerica Corp. in San Francisco as assistant risk manager-loss control, a new position created because of increased

duties in risk management. Mr. Hayward reports to risk manager Wayne Morrison and is responsible for managing and supervising loss control and safety programs including safety training. He also assists the corporation's subsidiaries in all safety fields. Mr. Hayward was previously risk insurance manager for Shaklee Corp. in Hayward, Calif., where he was involved in risk management, security and safety administration. In an austerity move, Shaklee plans to hire an entry level engineer for loss control responsibilities and to promote the manager of environmental control to handle insurance functions.

Dennis L. Ness has joined Control Data Corp. in Minneapolis as manager of administration in corporate risk management. He replaces **David Evert**, who was promoted to manager of employee disability and safety, a new function for Control Data, with major responsibilities in employee rehabilitation. Mr. Ness was formerly with Economic Laboratory Inc. in St. Paul as property and casualty insurance manager. No replacement has been hired. Robert E. Abrahamson is corporate risk manager at Control Data.

Dennis P. Brescoll, CPCU, associate risk manager with Esmark Inc. in Chicago, has received the 1978 Cristy Award. Mr. Brescoll was presented the award by the Risk & Insurance Management Society for scoring the highest grade average among 346 graduates nationally in 1977-78 of the three-semester IIA Associate in Risk Management program.

Robert Wilkinson is the new risk manager at Avery International Corp. in San Marino, Calif., replacing Edward E. Beckley Jr., who resigned to join a brokerage firm. Mr. Wilkinson had been vp and insurance administrator for Title Insurance & Trust Co. in Los Angeles for four years. At Avery International, he will report to James McCormick, vp, treasurer and secretary.

Norman Hoffman, 56, risk manager for Kane-Miller Corp. in Tarrytown, N.Y., for the last three years, is joining the College of Insurance in New York January 1 as an assistant professor. A 1977 graduate of the state university of New York, Mr. Hoffman worked as a risk manager for National Industries in Louisville, Ky., before joining Kane-Miller in 1975. He holds a CPCU and the risk management designation conferred by the Insurance Institute of America. No replacement has been named at Kane-Miller yet.

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Workers comp . . .

Continued from page 1

company; Carter Hawley Hale Stores Inc. and Dayton-Hudson Corp., both large retailers, and Ryder Truck Lines Inc. and Transcon Lines, two trucking companies.

Another trucking company, McLean Trucking Co. in Winston-Salem, N.C., however, reported workers compensation as its third highest insurance cost, after cargo and general liability, in that order.

Diversified companies such as the Peavey Co. and A. E. Staley Co. also identified workers compensation as the highest insurance cost. But at those companies, the ascendancy of workers compensation to this distinction was more recent.

For the Peavey Co. in Minneapolis, workers compensation now costs approximately 33% more than property insurance, the firm's second most costly insurance item, according to assistant treasurer Andy Meuwissen.

"But workers compensation has only become number one by replacing property during the last three to five years," he said. And Peavey's workers compensation experience has not been so bad, with an experience modification of only 80%, he noted. "Our operations are concentrated in the states where it hurts—Illinois, Michigan, California and Minnesota," Mr. Meuwissen said.

At A.E. Staley Co. in Decatur, Ill., workers compensation is only now beginning to emerge as the foremost cost of insurance coverage in the property/casualty area. Assistant treasurer Bill Robertson said "workers compensation and total public liability are close to neck-and-neck, but the former probably has the lead. Certainly in Illinois, workers compensation is higher than public liability."

Alan Pearce, assistant treasurer for Foremost-McKesson Inc. in San Francisco, said, "without a question, workers compensation is the highest cost of insurance outside of benefits for my diversified company," despite the fact that the company is self-insured.

"The biggest problem is in California, where workers compensation claims average \$300 a worker," he said.

Likewise, Norman Chanzis, director of risk management for American Standard Inc. in New

York, believes it makes no difference whether workers compensation is handled conventionally, or through self-insurance or through "one of those fancy cash flow programs." Its cost will remain extremely high, he maintains.

Causes cited

The coverage represents the number-one cost of insurance for this diversified manufacturer, according to Mr. Chanzis. He fears the very liberal Longshoremen's & Harbor Workers' Act benefit standards will be forced by the federal government on everyone.

Robert E. Butler, director of corporate insurance for Lockheed Aircraft Co. in Burbank, Calif., said workers compensation became his company's leading cost of insurance outside of benefits in 1974, when the coverage bypassed aviation liability. He blamed the company's Seattle shipyard operations where workers are covered by the L&H act as the cause.

Other corporations where workers compensation is running ahead in cost in the property/casualty area are: Mead Corp. in Dayton, Ohio, where the coverage devours 28% of the property/casualty expense budget; Kane-Miller Corp. in Tarrytown, N.Y., where workers compensation is twice as costly as general/auto liability, including product liability; Libby McNeill & Libby in Chicago, and PepsiCo Inc. and the Nestle Co. Inc., both in New York.

Justin Murphy, insurance manager for the Nestle Co. in White Plains, N.Y., pointed out that although workers compensation has always had the highest insurance cost for his company, it's now "eating up 70% of total property/casualty premiums, rather than 60% as a few years ago."

The reasons workers compensation is becoming such a huge cost and concern for American companies large and small have been for the most part well publicized. Those interviewed cited the jumps in benefits in northern industrial states coupled with the rising frequency and dollar amount of claims. What is perceived as a pro-worker attitude of referees and judges who are now permitting claims for degenerative diseases

was also blamed.

"There is an emerging pattern of persons near retirement who will use permanent/partial disability benefits as a supplement to their retirement payments," observed Edith Lichota, assistant treasurer for The Carborundum Co. in Niagara Falls, N.Y.

Ms. Lichota company's said her workers compensation costs equal two-thirds of what Carborundum pays for all insurance excluding benefits. The company self-insures its workers compensation exposure in all states where it maintains major payrolls and boasts of "a good cost containment program."

Outside of captives and self-insurance, which risk managers like Alan Pearce and Ms. Lichota do not believe reduce total costs anyway, what can be done?

Philip J. Baeker, corporate director of risk management and insurance at PepsiCo Inc. in Purchase, N.Y., believes the only answer is an old one: effective loss control.

Solutions offered

Mike Craig, manager of insurance for Transcon Lines in Los Angeles, believes Congress should be pressured for a "reasonable" federal workers compensation act. Laws are particularly needed, he said, to provide for offsetting workers compensation benefits with income received by the applicant from other sources, such as Social Security and private pension plans.

At Transcon, workers compensation costs consume 50% to 60% of the total spent on property/casualty insurance.

Although workers compensation is the highest insurance cost for Dayton-Hudson Corp. in Minneapolis, risk management director Bill Cain is one of the few insurance executives who is not wringing his hands about it. Pointing out that all insurance, outside of benefits, costs Dayton-Hudson about 0.26% of its \$3 billion in sales, he said that workers compensation costs 0.11% of total sales while general liability costs 0.09%, fire/extended coverage and boiler represents 0.04% and miscellaneous insurance is 0.02%.

"The reason we get those figures is we believe in safety," Mr. Cain explained. Mr. Cain is quite satisfied with the results.

This announcement is neither an offer to sell nor a solicitation of an offer to buy any of these securities. The offering is made only by the Prospectus.

NEW ISSUE

November 29, 1978

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THE INSURANCE BUYER'S ERISA QUIZ

- ☐ Does your policy limit coverage to persons defined as fiduciaries?
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- ☐ Does your policy provide defense costs within the limits of liability?
- ☐ Does your policy limit loss to damages by definition, and exclude non-pecuniary claims?
- ☐ Does your policy by definition exclude employee benefits liability losses?
- ☐ Does your policy include outside persons as insured fiduciaries?
- ☐ Does your policy contain a limited retroactive acts exclusion?
- ☐ Has your policy been purchased without the advice of competent legal counsel who has rendered an opinion in writing as to which contract he felt offered the broadest coverage?

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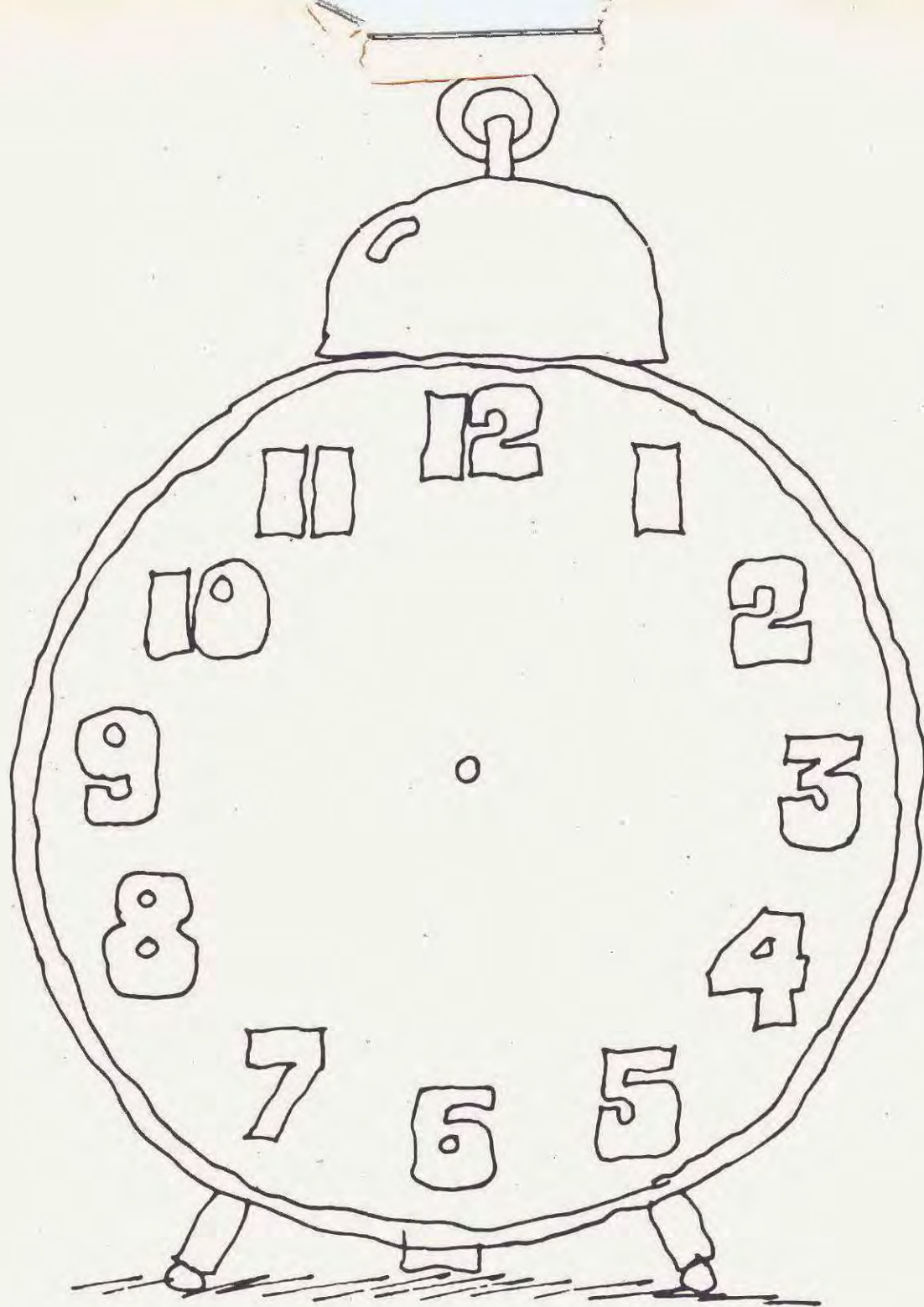


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