FEBRUARY 26, 2001

Business Insurance®

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

Entire contents copyright © 2001 by Crain Communications Inc. All rights reserved.

UPDATES

CalPERS rejects HMO bids, deeming increases too high

SACRAMENTO, Calif.—Saying it must draw a line on "unjustified" price increases, the California Public Employees' Retirement System late last week rejected price bids from 10 health maintenance organizations for its 2002 health plan contracts.

Price increases submitted by the HMOs ranged from 5.5% to 41% and included plans with a wide variety of designs and copayments, CalPERS reported.

See **Updates** *on next page*

Quackenbush probe to look at Lloyd's ties

Questions raised over reimbursement

By ROBERTO CENICEROS

SACRAMENTO, Calif.—Lawmakers auditing the California Department of Insurance's activities under former Commissioner Chuck Quackenbush also plan to investigate new allegations that his staff concealed money received from Lloyd's of London to defend the insurer from lawsuits brought by investors and other regulators.

A hearing by the Joint Legislative Audit Committee is scheduled to begin today in Sacramento. The hearing is part of an audit process that, among other things, will look into the allegation that monies from the state's Conservation and Liquidation Office were used to fund activities undertaken on behalf of Lloyd's, said Richard Steffen, staff director for the state Senate Insurance Committee.

Mr. Steffen said the Senate Insurance Committee first learned of such alleged irregularities last year, at about the time it was conducting hearings on other matters related to the tenure of Mr. Quackenbush, who resigned from his post last year. In addition to the joint panel, the FBI and state Attorney General Bill Lockyer also are now investigating Mr. Quackenbush's administration.

The Los Angeles Times last week reported that Mr. Quackenbush's senior staff, against the advice of one of their own attorneys, allegedly produced a phony invoice to hide $400,000 in legal fees the department incurred while working on behalf of Lloyd's during the mid-1990s. During that period, securities regulators from California and other states, as well as Lloyd's names, were suing Lloyd's for alleged fraud and securities violations.

The Insurance Department under Mr. Quackenbush joined legal efforts to fight such a lawsuit that was filed in 1996 by the California Department of Corporations. In doing so, the department incurred legal bills by hiring outside law firms for the job.

The Times' report alleges that, at first, money borrowed from the assets of insurers in conservation was used to pay the legal bills. But Insurance Department officials later turned to Lloyd's for payment, according to the Times'

See **Quackenbush** *on page 21*

PHOTO: AI WIRE PHOTO SERVICE

The recent death of NASCAR champion Dale Earnhardt, in car No. 3, leaves many business entities facing potential financial losses.

Insurance likely to cover losses in racer's death

By RODD ZOLKOS

DAYTONA BEACH, Fla.—The final-lap crash that took the life of stock car racing legend Dale Earnhardt during this year's Daytona 500 race is likely to trigger claims under a variety of insurance policies.

In recent years, the popularity of the racing world governed by NASCAR, the National Assn. for Stock Car Auto Racing Inc., has skyrocketed, with stock car racing becoming a multibillion-dollar business.

And within that world, Mr. Earnhardt was known not only as the top star but also as an

See **NASCAR** *on page 4*

Cashing out the CHPAs

Florida takes another turn at small-group coverage

By DAVE LENCKUS

Florida's plan to bring health care insurance to much of the state's uninsured population addressed many concerns of importance to the various groups that could make or break the state's health insurance experiment.

The program attempted to foster stable and more affordable insurance rates for small-employer groups, which account for a large portion of the state's uninsured population. Lawmakers hoped the program would encourage enough small-group pooling to create a sufficient spread of risk to make the business attractive to insurers. To attract small employers, the program created tremendous coverage choices. Agents and local communities were given a prominent role in the program.

The state even tapped a big-business health care representative to help set up local control, because large employers bear the burden of health care cost shifting when the uninsured cannot pay for the health care services they receive.

Ultimately, though, the program's design doomed it to failure—in large part because of the political compromises lawmakers made to mollify the groups that controlled the program's fate, observers agree. Last fall, about six years after the first small employer purchased coverage through the program and years after many observers said its eventual demise was evident, Florida's small-group insurance purchasing program folded.

"The road to hell was paved with good intentions," observed John Erb, who left his benefit consulting practice in 1993 to run a piece of the program. Mr. Erb departed from the program after 18 months and now is a senior manager in the integrated health group practice at Deloitte & Touche L.L.P. in Miami.

But this summer, under a new Florida law, the next incarnation of the state's effort to reduce its uninsured population may be under way.

Some observers question,

See **CHPA** *on page 20*

Employers seek reversal from Congress

Ergonomics rule targeted

By MARK A. HOFMANN

WASHINGTON—An employer-led drive to lobby Congress to overturn a controversial workplace safety regulation congressional action appears to be picking up momentum.

In fact, the National Assn. of Manufacturers expects members of Congress within a few weeks to begin the unprecedented process of invoking the Congressional Review Act to force the withdrawal of the Occupational Safety and Health Administration's ergonomics standard.

Patrick Cleary, NAM's vp-human resources policy, made clear during a press briefing last week that the employer group doesn't expect overturning OSHA's ergonomics standard to be an easy

task. "This is going to be a one- or two-vote issue," he said, referring to the margin of victory NAM predicts in the Senate. "I think we're going to win it."

So far, however, no lawmaker has stepped forward with legislation to invoke the CRA, though Sen. Mike Enzi, R-Wyo., said earlier this month that he supported such a move and would work with his colleagues to apply the CRA to the ergonomics rule. In addition, neither Labor Secretary Elaine Chao nor President Bush has indicated whether they would support the effort.

Under the CRA, which was enacted in 1996 but has never been used, Congress may reject federal regulations if a simple majority in each house passes a joint resolution of disapproval. If the president does not veto the resolution of disapproval, the rule is nullified. Because of the time limits the CRA places on congressional ac-

See **OSHA** *on page 22*

To Subscribe Call
1-888-446-1422 in the U.S. or
1-313-446-0450 outside the U.S. or
go online to www.businessinsurance.com

NEWSPAPER

UPDATES

CalPERS rejects HMO bids

Continued from previous page

The organization's Retirement System Board of Administration also ordered its staff to solicit new bids for retiree health benefits, with no more than seven best offers.

"The board defined 'best offers' as those that focused largely on price but also considered service, care management and access to providers," a CalPERS statement said. The action is likely to reduce the number of health plan offerings available to members, it added.

"We cannot accept proposals with across-the-board increases of this magnitude," said Board President William D. Crist. "Analysis of these bids clearly indicates that many of these prices are not justified."

The bids also revealed a continued desire by health plans to serve fewer nonurban areas, CalPERS reported. Sacramento-based CalPERS, the nation's largest pension fund, is viewed as a bellwether purchaser because it provides retirement and health benefits to more than 1.2 million public employees and their families.

CalPERS last year restructured its benefit program and increased copayments on prescription drugs in an attempt to limit 2001 rate increases in the plans it offers.

U.S. court rules against Lloyd's

NEW YORK—In ruling in favor of E.R. Squibb & Sons Inc. in its DES liability coverage case against Lloyd's of London, a federal appeals court may make it easier for policyholders to sue Lloyd's in the United States.

By holding that a single member of a Lloyd's syndicate can be sued as a representative of all of the Lloyd's underwriters on a risk, the court "provides a roadmap for how to establish federal jurisdiction over Lloyd's," said Hal S. Shaftel, a partner at Solomon, Zauderer, Ellenhorn, Frischer & Sharp in New York who represented Squibb in the case.

The decision also opens insurers up to third-generation claims related to DES, or diethylstilbestrol, an anti-miscarriage drug marketed by Squibb between 1947 and 1969.

Upholding a district court decision, the 2nd U.S. Circuit Court of Appeals in New York found in *E.R. Squibb & Sons Inc. vs. Lloyd's et al.* that, as a matter of contract and according to the rules of the London market, all Lloyd's members subscribing to the Squibb policies must abide by a judgment against any one of them.

One member, therefore, can be sued as a representative of all of the underwriters on a risk, provided that individual meets federal diversity requirements, which, in this case, meant that the member was not a U.S. citizen and provided at least $10,000 in coverage.

Previously, to bring a suit in federal court against a group of Lloyd's underwriters, a policyholder had to name every underwriter on the policy and establish that each met the diversity threshold.

The 2nd Circuit also applied the injury-in-fact trigger of coverage to the case and ruled that Lloyd's must provide coverage for the third-generation claims filed by the grandchildren of women who ingested DES.

In its Feb. 16 decision, the court recognized that "injury in fact can also include...the inevitable predisposition to illness or disability as a result of cell mutations caused by DES."

Squibb has been hit with a new wave of product liability claims following the release of research suggesting that the grandchildren of women who ingested the drug may have experienced genetic changes affecting their reproductive capabilities (*BI*, Aug. 2, 1999).

An attorney for Lloyd's was not available for comment.

HHS delays privacy rule

WASHINGTON—Critics of a new federal medical privacy rule hope that a delay in the effective date of the regulation caused by a paperwork mistake will lead to a full-scale review of the rule.

The rule was promulgated last December by the Department of Health and Human Services after Congress failed to craft its own rule, as required by the Health Insurance Portability and Accountability Act of 1996. The rule was slated to go into effect Feb. 26, though covered entities would have until late 2002 to comply with it.

But HHS failed to deliver the regulation to the General Accounting Office within the time required by the Congressional Review Act for the rule go into effect as scheduled, even though it was published in the Federal Register. As a result, the regulation had to be resent, and the effective date was pushed back to April 14.

Insurer critics hope that Tommy Thompson, the new HHS secretary, will use the extra time to review and alter the regulation, which was issued by his predecessor in the waning days of the Clinton administration.

Insurer and employer groups have held that the regulation, which would subject health care providers to an array of penalties, including possible prison time, for unlawfully divulging medical information, is too sweeping and could cause some employers to reconsider offering benefits.

"I would hope that they would use the time to go back and review the rule itself and address those areas where the explanatory material is conflicting and, at least, smooth out some of the rough edges," said Ken Schloman, Washington counsel for the Alliance of American Insurers.

Patient advocates and civil liberties groups, though, have hailed the regulation as an overdue means of keeping sensitive personal medical information out of the wrong hands.

ADA bars suits by state workers

WASHINGTON—Workers employed by states cannot sue their employers under the 1990 federal law that bars employers from discriminating against employees with disabilities, the U.S. Supreme Court

See **Updates** *on page 22*

U.K. ruling creates big hurdle for mesothelioma claimants

By CAROLYN ALDRED

LONDON—A recent decision by the U.K. High Court, if not overturned on appeal, will make it almost impossible for any victim of mesothelioma to obtain compensation through the courts if there is more than one defendant, lawyers say.

The decision last month also has brought to a halt all settlement negotiations between mesothelioma claimants and defendant companies and their insurers.

In a ruling that overturns existing U.K. asbestos liability precedents, High Court Judge Curtis embraced new medical theory and dismissed a claim by the widow of an asbestos victim because she could not prove which of two defendants was responsible for her husband's fatal exposure to asbestos, even though both defendants had exposed him to asbestos.

"The decision is perverse and is an absolute absurdity. It goes against all previous judgments and, if followed to its logical conclusion, means anyone who has been exposed to asbestos by two or more employers and, as a result, develops mesothelioma, cannot succeed in a claim for damages against the employers," said Ian McFall, head of the national asbestos unit for the London-based plaintiffs law firm of Thompsons. While Thompsons is not involved in this case, the law firm handles many asbestos cases.

The judgment is "a disaster, and if it's allowed to stand will mean all mesothelioma cases in England and Wales will fail forever," said Spencer Wood, a partner with the London-based plaintiffs law firm of O.H. Parsons & Partners. Mr. Wood, who represented the claimant, is appealing the ruling.

Mesothelioma is a malignant tu-

See **Asbestos** *on page 17*

No letup in first half of 2001

Marsh sees more rate hikes

By GAVIN SOUTER

Risk managers saw increased rates for property/casualty coverage throughout 2000 and should expect more of the same this year, according to Marsh Inc.'s latest market review and forecast.

In many cases, insurers will demand double-digit increases regardless of the loss history of individual accounts, according to the report released last week by New York-based Marsh.

Policyholders "may face double-digit rate hikes despite good loss experience, while insureds with poor loss experience face even higher increases. There is less flexibility than last year, both on price and coverage terms, and renewals as expiring have all but disappeared," the review says.

For example, favorable property risks will likely see 25% to 30% rate increases in 2001, while loss-plagued accounts will see even larger increases, according to the report.

"These general trends should continue well into the first half of 2001. Some expect a gradual slowing as the year progresses, but this remains to be seen. In any case, accounts that get their first increases during this period probably still face 25% hikes," the report says.

See **Forecast** *on page 22*

Overexertion leading cause of comp claims: Liberty

BOSTON—Overexertion heads a list of the 10 leading causes of workplace injuries and illnesses, according to a study released today by Liberty Mutual Insurance Co.

Overexertion—defined as excessive lifting, pushing, pulling, holding, carrying or throwing of an object—was responsible for about one-quarter of all direct workers compensation costs paid in 1998, or about $9.8 billion nationwide, according to the first Liberty Mutual Workplace Safety Index.

The index provides the first-ever ranking of the leading causes of workplace accidents and their cost, according to the Boston-based insurer. Researchers used 1998 data, the latest available, from the insurers' own claims; the U.S. Bureau of Labor Statistics; and the National Academy of Social Insurance, a Washington-based nonprofit and nonpartisan research organization.

"Our safety index can help focus existing safety programs on those areas that have the greatest potential negative impact on employees and employers," said Gary Gregg, executive vp of the insurer's commercial markets unit.

"Actionable information is the key value of the index," said Tom Leamon, vp and director of the Liberty Mutual Research Center.

According to the study, losses resulting from the top-10 injuries and illnesses account for 86% of the $38.7 billion in wage and medical payments employers paid in 1998. When indirect costs, such as those for hiring replacements, also are tallied, total costs soar, with estimates ranging from $125 billion to $155 billion, according to the study.

In descending order, the remaining nine causes of injuries or illnesses are: "falls on same level"; "bodily reaction," such as bending or slipping; "falls to lower level"; being struck by an object; repetitive motion; highway accidents; "being struck against an object," such as a carpenter walking into a door frame; becoming caught or compressed by equipment; and contact with temperature extremes.

Liberty Mutual also offers specific guidelines for improving workplace safety on its Web site, *www.libertymutual.com.*

—By Meg Fletcher

INSIDE

- Employers shouldn't have to bear the cost of all carpal tunnel disorders regardless of their origin, this week's editorial says. **PAGE 8**
- In a Perspective, Corby J. Pelto describes what distinguishes good commercial claims programs. **PAGE 11**
- Increased political tension and violence in the Mideast, along with shrinking political risk insurance capacity, have Western companies there reviewing their risks. **PAGE 15**
- U.K. employers may have to provide their short-term workers with paid vacation benefits if the European Union upholds a recent legal ruling. **PAGE 17**

Departments

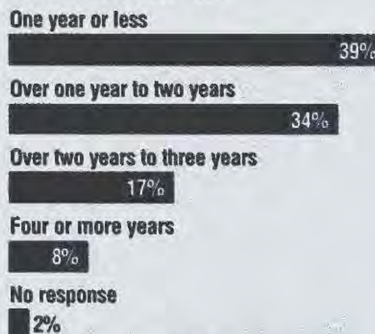
Advertiser Index 20
Classifieds 18
Datebook 14
For the Record 23
Global Briefs 15
Insurance Services Guide 16
International 15
Legal Briefs 12
Letters 8
Opinions 8
Perspectives 11
Products & Services 6
Ticker 23

Business Insurance (ISSN 0007-6864) Vol. 35, No. 9, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to *Business Insurance*, Circulation Deparment, 965 E. Jefferson Ave., Detroit, Mich. 48207. $4 a copy and $95 a year in U.S. $114 in Canada and Mexico (includes GST). All other countries $215 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Copyright © 2001 by Crain Communications Inc.

Online benefits

IFEBP members with employee benefit sites*

Length of time with a benefit site



* Including Internet, intranet and extranet.
Source: International Foundation of Employee Benefit Plans

GRAPHIC BY JOHN HALL

More plans look to add Web access

By LEE FLETCHER

About one-third of plan sponsors use an Internet site for benefits communication and administration, and about as many expect to begin providing online benefit information within the year, according to a recent survey.

The study, conducted by the Brookfield, Wis.-based International Foundation of Employee Benefit Plans, examined the approaches to benefits communication used by the organization's members. The survey, conducted last September, drew responses from 941 IFEBP members, which are corporate, multiemployer and public entity benefit plans.

Nearly all respondents—98%—said they used written materials to communicate benefits. In addition, 80% hold group meetings, and 54% discuss benefits with employees individually.

The Internet—which encompasses both Internet and intranet/extranet tools in the survey—was the fourth most common method, with 31% of respondents indicating they use some form of online technology to communicate benefits to employees. The survey also looked at the prevalence of online benefits communication in each of the IFEBP's membership sectors. It found that 42% of corporate employers use Internet tools to communicate employee benefits, as do 43% of public entities. In addition, 18% of multiemployer plans use some form of online benefits communication.

Of the respondents in the corporate sector who reported using only one online method of benefit communication, 79% said they used a company intranet, while 21% said they used the Internet.

Larry V. Aarhus, a research associate with the IFEBP in Brookfield and an author of the survey, said that although corporate employers are currently more likely to use an intranet site for benefits communication, some corporate plan sponsors are moving toward making more information avail-

See **Online** *on page 18*

Protecting against violent acts

Attorneys provide words of warning, advice about workplace exposures

By ROBERTO CENICEROS

LOS ANGELES—Although workers compensation laws may shield an employer from liability lawsuits stemming from incidents of workplace violence, some states allow an employer's parent company or related business entity to be sued, according to a plaintiffs attorney.

In addition, vendors that provide employers with security services and employee assistance programs are sources of valuable information to an attorney building a liability case, said David F. Kirby, senior partner at Kirby & Holt L.L.P. in Raleigh, N.C. And those vendors can also be sued, with television news footage and recordings of 911 emergency calls providing powerful evidence for a plaintiff's case.

In workplace violence cases, plaintiffs typically argue that an employer breached a duty to provide a safe workplace and that a violent incident was foreseeable, said Roxella T. Cavazos, an employer defense expert and a partner at Thompson & Knight L.L.P. in Houston.

An employer can best defend itself against such allegations by implementing a broad program to discourage workplace violence. To be effective, such a program must go beyond the mere publication of a zero-tolerance policy against violence. It must include additional measures, such as the creation of a company risk-assessment team and the disciplining or termination of potentially violent employees, Ms. Cavazos said.

Mr. Kirby and Ms. Cavazos spoke at the American Bar Assn.'s Tort and Insurance Practice Section meeting, held Feb. 2-3 in Los Angeles.

Mr. Kirby currently is representing the plaintiffs in a case in which an employee at a tool distribution center repeatedly attacked co-workers before being fired. The employer then allegedly ignored several warnings from employees who asked for security measures because they feared the fired worker would return to the workplace, seeking revenge, Mr. Kirby said. The worker did return with a rifle and other weapons, killing three employees and seriously injuring another individual.

See **Violence** *on page 19*

Bill would create safeguards for 457, 403(b) plans

By JERRY GEISEL

WASHINGTON—Bankruptcy reform legislation rapidly moving through Congress would protect from creditors the pension benefits of employees who work for tax-exempt and public employers.

The legislation would extend the same protection from creditors enjoyed by plans subject to the Employee Retirement Income Security Act to non-ERISA pension plans, including 457 plans, that cover employees working for state and local governments, and certain types of 403(b) plans—chiefly those funded solely by employee salary deferrals—which are typically offered by colleges and hospitals.

An unrelated provision in the bankruptcy reform also could help some U.S. investors in Lloyd's of London to avoid paying certain outstanding liabilities (*BI*, Feb. 19).

Employers generally welcome the pension provisions in the legislation, H.R. 333, which passed the House Judiciary Committee earlier this month, and S. 220, which the Senate Judiciary Committee is expected to vote on this week, as it would help to keep them out of tussles between their employees and creditors.

"Participants in pension plans would receive some very positive protection," said James Delaplane, vp-retirement policy with the American Benefits Council in Washington.

"Assets in all types of pension plans should be protected," added Angela Arnett, senior counsel with the American Council of Life Insurers in Washington.

The legislation also would protect pension benefits, like a lump-sum distribution, that are rolled over to an individual retirement account. However, the legislation would impose a $1 million cap on the amount of non-pension rollover assets in an IRA that would be shielded from creditors. Individuals not covered by group pension plans can contribute up to $2,000 a year to an IRA, as can lower- and middle-income employees covered under group plans.

Some worry that the $1 million cap on assets not attributable to pension rollovers could cause hassles for employees as they might have problems determining which assets in an IRA were attributable to their contributions and which were related to a pension rollover. One solution, assuming an employee's IRA contributions even pierced the $1 million cap, would be for the employee to set up a second IRA for a pension rollover.

The interaction of bankruptcy reform and pension benefits goes

See **Bankruptcy** *on page 21*

PHOTO: ZUMA

Planning for the millennium bug helped Tuscaloosa County in Alabama cope with a devastating tornado in December.

Y2K plan pays off following disaster

By MICHAEL BRADFORD

TUSCALOOSA, Ala.—Businesses that think the time and money they spent preparing for Y2K computer problems was a waste may find those precautions pay off when facing other calamities.

That was the silver lining in the storm clouds over Tuscaloosa County, Ala., last December, when the area was devastated by a deadly tornado nearly a full year after Y2K preparedness efforts were put to the test.

The powerful tornado that swept through Tuscaloosa was one of several in a system of storms that raked Alabama, killing 12 and injuring dozens in late December. Tuscaloosa was hardest hit, with hundreds of homes, autos and businesses damaged (*BI*, Jan. 1). Statewide, Alabama sustained $76 million in insured property damage from the storms.

Tuscaloosa County agencies found that their preparations for the millennium bug came in handy during recovery efforts following the storm. The West Alabama Chapter of the American Red Cross also said that its warnings about potential consequences of Y2K problems were part of the reason that some people in the affected area had stockpiles of emergency

See **Prepared** *on page 6*

Stop-loss rates continuing to climb

Self-insurers suffer as underwriters get tough

By MICHAEL PRINCE

Self-insured employers are likely to continue paying more for medical stop-loss coverage for the foreseeable future, even after several years of steady rate increases.

Tougher underwriting, medical inflation and consolidation are among the factors to blame for employers' higher costs, brokers and underwriters say.

On average, rates for the coverage climbed between 30% to 50% at Jan. 1 renewals, about the same increase that many employers saw in 2000. For employers with poor loss experience, though, rates for 2001 were nearly double those of a year ago.

Stop-loss coverage is a form of reinsurance that employers buy to cap their ultimate losses on self-insured group health care programs. Specific stop-loss coverage insures against a single catastrophic claim that exceeds a dollar limit the employer chooses, while aggregate coverage insures against all claims exceeding a total dollar amount for a plan year.

"This is the worst this market has ever been," said Roger Edgren, managing director, national practice leader-employee benefits services department at Marsh Inc. in Grand Rapids, Mich.

For underwriters, however, the firmer rates are good news and have allowed them to make up some losses incurred in recent years.

"It's a pretty good market for the players that have been around a while," said Scott Taylor, senior vp of group at SAFECO Life Insurance Co. in Seattle.

In addition to higher rates, underwriters of stop-loss coverage have pushed up the attachment point of their stop-loss programs, which forces employers to retain more risk. For example, an aggregate stop-loss policy that has an expectation of $1 million in losses in recent years would have had an attachment point of around $1.05 million. Now the attachment point has been pushed up to around $1.25 million, which results in fewer claims penetrating the coverage layer, Mr. Taylor explained.

See **Stop-loss** *on page 19*

OSHA's reach to be decided

WASHINGTON—The Supreme Court will decide whether the Occupational Safety and Health Administration's reach extends to certain vessels, such as barges, in addition to workplaces on dry land.

The justices agreed to hear a case, now called *Chao vs. Mallard Bay Drilling*, last week. The case stems from a 1997 fatal blast aboard a barge that was drilling for oil within the territorial waters of Louisiana. The explosion aboard the barge Mr. Beldon killed four workers and seriously injured two others.

According to court papers, both the U.S. Coast Guard and OSHA investigated the explosion, with OSHA relying on documents furnished by the Coast Guard. The Coast Guard had "no finding of violation," but OSHA used the results to cite the barge's owner, New Iberia, La.-based Mallard Drilling, for three violations of the Occupational Safety and Health Act, court documents show.

The violations were: failing to evacuate workers on the barge in a timely manner; failing to develop and implement an emergency response plan; and failing to train employees in emergency response.

Mallard Drilling responded that OSHA had no authority to do so because the Coast Guard has jurisdiction over the working conditions of seamen. It also argued that the barge was not a workplace within the definition of the occupational safety act.

But a U.S. administrative law judge ruled in November 1998 that the Mr. Beldon was indeed a workplace, that barge workers were not seamen and that OSHA's jurisdiction did indeed extend to the drilling barge. The judge upheld $13,230 in penalties against Mallard Drilling. The company appealed.

A three-judge panel of the 5th U.S. Circuit Court of Appeals ruled in Mallard's favor on June 2, 2000. In the decision, the judges noted that "the OSH Act does not apply to 'working conditions of employees with respect to which other federal agencies...exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.' The judges held that the Coast Guard has "exclusive authority over the working conditions of seamen." The judges then vacated OSHA's citation against Mallard.

Other federal circuit courts have upheld OSHA's jurisdiction over certain vessels not subject to regular Coast Guard inspection. In its appeal to the Supreme Court, the federal government argues that to accept the 5th Circuit's interpretation of OSHA's powers would put the lives of workers on thousands of vessels at risk.

No date has been set for oral arguments in the case.

—By Mark A. Hofmann

NASCAR

Continued from page 1

astute businessman. Dale Earnhardt Inc., the Mooresville, N.C.-based operation that oversees the racer's business affairs, is a multimillion-dollar business in its own right; it includes three Winston Cup racing teams, a Chevrolet dealership and a minor league baseball team among its holdings.

The Feb. 18 race in which Mr. Earnhardt was killed had been, until that point, generally considered one of the best Daytona 500s ever, with thrilling racing and many lead changes. It also was the first broadcast by the Fox television network, under a new six-year $2.8 billion contract with NASCAR.

"Last lap, it went from the best Daytona 500 to the worst," said David A. Holcombe, risk manager for Daytona Beach-based NASCAR and its affiliated company, International Speedway Corp.

Mr. Earnhardt's car struck a concrete wall head-on at approximately 180 mph, after it came into contact with another vehicle in the track's fourth turn and went into a spin. On Friday, NASCAR officials announced that the racer's most serious injuries likely resulted from equipment failure—a lap belt Mr. Earnhardt was wearing had come apart, which could have allowed his head and body to be thrown into his car's steering wheel. The failure of the lap belt was being investigated.

"(Mr. Earnhardt) was a very good friend, and we're very saddened by his loss," said John Gorsline, founder and chairman of the Gorsline Co., a Rochester, N.Y.-based firm that specializes in the insurance and financial service needs of racing industry clients.

"We worked with him for 16 years," Mr. Gorsline said. "He was certainly an outstanding gentleman, as well as an outstanding driver, and his wife, Teresa, is probably one of the most astute businesspeople in the racing community. They were an incredible partnership."

"I can't get into the details of what they did or didn't do, but I will assure you they did everything that should have been done," Mr. Gorsline said in regard to the driver's insurance protection.

"Dale had pretty much covered everything. There wasn't anything he didn't take care of. They took care of every detail," he said.

Within the NASCAR world, the Earnhardts stood out for the extent to which they tried to address exposures. 'They were always seeking the best advice,' says John Gorsline.

Within the NASCAR world, the Earnhardts stood out for the extent to which they tried to address exposures, Mr. Gorsline said. "They were always seeking the best advice and seeking the best solutions for any situation that might arise," he said.

"I would say they were more astute than anyone in the NASCAR crowd. And that's not to say anything bad about the rest of the NASCAR crowd; that's just how sharp they are."

The black and silver No. 3 Chevrolet Mr. Earnhardt drove is owned by Richard Childress, and industry insiders suggest the owner's Richard Childress Racing Enterprises Inc. likely had considerable key man coverage on the driver. Attempts to seek comments from the Welcome, N.C.-based company were unsuccessful.

Industry sources also presume the Fort Wayne, Ind.-based wholesaler K&K Insurance Group Inc. was involved in placing some of the coverages likely to be triggered by Mr. Earnhardt's death. K&K is active in the motorsports market; among other things, it places disability coverages for nearly all NASCAR drivers and the spectator/participant liability policy for NASCAR and International Speedway Corp.

K&K's motorsports division would not comment on any coverages related to Mr. Earnhardt other than to say that the company provides such information only to the insured individual.

London brokers that have been known to place motorsports-related coverages say they believe that all coverages related to Mr. Earnhardt were placed with U.S. insurers.

ISC/NASCAR's Mr. Holcombe said Mr. Earnhardt's death wouldn't affect ISC/NASCAR from an insurance standpoint. "I don't see any impact from a public liability perspective," he said.

Meanwhile, the business impact on NASCAR from the death of Mr. Earnhardt is impossible to calculate at this point, Mr. Holcombe said.

"Obviously, it's catastrophic. It would be like Elvis dying right at the peak or Richard Petty dying right at his peak."

As in all NASCAR races, Mr. Earnhardt and other drivers in the Daytona 500 signed liability waivers.

"They're not used just in NASCAR; they're used in every kind of motorsports event there is," Mr. Holcombe said.

But, given Mr. Earnhardt's character and that of his family, the ISC/NASCAR risk manager said, he doesn't expect the waiver Mr. Earnhardt signed to come into play.

"In his particular case, even without the waiver, I can't imagine any litigation from his family," Mr. Holcombe said. "That's not an issue in this case." BI

Carvill

Reinsurance Intermediary

INDEPENDENCE
INTEGRITY
SERVICE

CONSISTENT PHILOSOPHY & PERFORMANCE
SINCE 1977

Atlanta Bermuda Chicago London Stamford

www.carvill.com 1-800-CARVILL

BI makes changes to its sales staff

Business Insurance has made two changes to its sales staff.

Lori Lieberman has been promoted to district manager in Los Angeles, and Chris Crain has joined the magazine as a district manager in New York.

Ms. Lieberman, 50, formerly was a sales assistant for *BI* in Los Angeles. In her new role as district manager, she is responsible for advertising accounts in the Western region, except in Colorado and Utah.

Ms. Lieberman

She began working for *BI* in 1974 as a secretary, later becoming assistant to the publisher and sales assistant. Prior to joining the magazine, Ms. Lieberman worked for shoe company Marx & Newman in New York.

Ms. Lieberman can be reached at 323-370-2456.

In his role as district manager, Mr. Crain is responsible for accounts in the Middle Atlantic region.

Mr. Crain

Before joining *BI*, Mr. Crain, 25, was a marketing coordinator at Crain's New York Business and was a production manager at Crain's Detroit Business, both of which are sister publications of *BI*.

Previously, he worked in the distribution and production departments of *BI*'s publisher, Crain Communications Inc., in Detroit.

He has a bachelor of science degree in political science from Rollins College in Winter Park, Fla.

Mr. Crain can be reached at 212-210-0135.

Your risks? Broader.
Your job? More complex.
Your business? Changing.
At Zurich U.S., we go beyond insurance to address the diverse risk and financial management needs you face today. With focused risk specialists who have firsthand experience in your industry. With e-business capabilities for instant information. And easy collaboration. As part of the Zurich Financial Services Group, we have the resources and financial strength to help you manage any kind of risk. Anywhere in the world. No matter what your business. Or size. True partners. No limits.

ZURICH

Your aspirations. Our passion.

Property · Casualty · Liability
Marine · Political Risk
Accident & Health · Integrated Solutions

www.zurichus.com
1-800-382-2150

© 2000 Zurich American Insurance Company. Coverages underwritten by member companies of Zurich U.S. including Zurich American Insurance Company. Coverages may not be available in all states. Certain coverages may be written on a nonadmitted basis.

Prepared

Continued from page 3

food and water to donate to tornado victims.

"The Y2K training and preparation facilitated a smoother response," said a spokesman for the Tuscaloosa County Emergency Management Agency. "It prepared us in several ways."

Shortly after the Tuscaloosa storms passed, the county sheriff's office was operating from an emergency command center that it had outfitted to use in case millennium bug problems shut down its various systems.

The facility is housed in a trailer that the office purchased as military surplus because of downsizing at a U.S. Air Force base in Alabama. The trailer was outfitted with computers and communications equipment and was promptly set up after the tornado struck to be used as a starting point for several county agencies' relief efforts.

The command center provided meeting space for law enforcement agencies, the Red Cross, volunteer firefighters and others—a total of 21 agencies—to coordinate their response. It also was used as a temporary shelter for some people injured in the storm.

New computer hardware and software that was installed in 1999 during Y2K preparations was used to track county resources and personnel that were available during the aftermath of the storm. For example, surrounding counties were donating food and supplies to the recovery effort, "and we had to keep track of that as well as our personnel," the Emergency Management Agency spokesman explained.

New computers allowed the agency to do things it previously could not. For example, the Y2K upgrades provided an Internet link to the state's Emergency Operations Center so the agencies could exchange information during the recovery efforts.

The spokesman said the sheriff's department, firefighters and other agencies worked well together after the storms because of experience with Y2K preparations that had brought them together. "We had so many face-to-face meetings with each other" during the Y2K preparations, he explained, "that things worked a lot smoother than they might have otherwise."

The Red Cross said its efforts to get the word out about Y2K were rewarded in a way it did not expect.

Some residents who were displaced by the storms faced problems getting food. They were helped by more fortunate residents who donated boxes of food and water to the Red Cross. The unusually large amount of donated food was largely from Y2K stockpiles that never were used.

"We try hard to teach preparedness," said Donna Lowery, director of emergency services and disaster education for the West Alabama Chapter of the American Red Cross. With regard to the Y2K problem, she said the agency was diligent in its efforts to "educate the people on what could go wrong and how to get through it."

'The Y2K training and preparation facilitated a smoother response,' says a spokesman for Tuscaloosa County.

Part of the organization's Y2K drill, of course, was for people to stockpile a limited supply of food and water in case of a loss of power or civil unrest.

"They had all this food and water packed up and all these blankets packed up. People brought it in and we passed it around," Ms. Lowery said.

She said the supplies came in handy particularly for residents of three trailer parks that were destroyed in Tuscaloosa.

Tuscaloosa's experience demonstrates that investment in Y2K preparedness can still pay dividends for organizations, risk management experts say.

The value of Y2K planning and preparations has been difficult to measure for many companies—and rarely is as clear as it was for Tuscaloosa, said Chris Mandel, director of risk management with Tricon Global Restaurants Inc. in Louisville, Ky. "I don't think any company has had a chance to measure the impact like they did," he said of the planning that county agencies undertook in advance of Dec. 31, 1999.

Most organizations knew that return on their Y2K investment would be difficult or impossible to measure, Mr. Mandel said. Still, he noted, it was seen by boards of directors and investors as a legitimate expense of time and money considering the potential losses that could have arisen from a lack of preparation. "It was done because people thought it had to be done," he said.

Some companies now are insisting that their insurers pay for the cost of preparing for potential Y2K problems, Mr. Mandel pointed out. "There are no end to companies pursuing claims" related to those costs, he said.

Approximately 200 claims are still pending, seeking coverage under the sue-and-labor clause in some all-risk property policies (*BI*, Jan. 15).

"I know for a fact that a lot of our clients spent a lot of time and effort preparing for Y2K," said Charles Cox, president of Aldrich & Cox Inc., a risk management consulting firm in Orchard Park, N.Y.

"From our client base, I'm not aware of any circumstances where it has since paid off for other reasons," he said.

Even so, Mr. Cox said, Y2K disaster plans remain viable for most companies. "I don't see why not. Essentially what they are doing is planning for a complete shutdown of their operations."

In Tuscaloosa, agency officials on Dec. 31, 1999, could never have foreseen how their preparations would pay off. On that night, the spokesman for the emergency management office recalled, "New Year's Eve ended up being a party instead of a response." BI

AIG offers loss control program for EPL risks

PRODUCTS & SERVICES

NEW YORK—American International Group Inc. is offering its policyholders EPL Pak Premier, a specialized loss control program that complements its employment practices liability insurance.

The product features a Web-based training program designed to help sensitize employees to potential liability exposures arising from Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act and other discrimination laws.

The training program, Title VII Plus, addresses key employment practices and provides a way to document the effectiveness of employee training efforts. The training program can be customized for supervisors and employees, as well as for blue-collar and white-collar work environments.

EPL Pak Premier also offers a wide range of other services, including the HR Comply Employment Guide, an Internet-based human resource compliance system; an initial legal consultation with labor and employment attorneys; an employment practices self-audit guide; and employment practices seminars.

The product is provided at no cost to AIG policyholders that purchase certain EPL coverages. More information on EPL Pak Premier is available from local AIG offices or at *access.aig.com*.

The Board of Directors of Cunningham Lindsey U.S., Inc. is pleased to announce the appointment of Farid Nagji to President and Chief Operating Officer, U.S. Operations.

A graduate of New York University, Mr. Nagji has held a number of senior roles at Cunningham Lindsey, most recently, Chief Information Officer & Senior Vice President, worldwide operations.

Cunningham Lindsey is an independent insurance services company, providing a wide range of independent claims adjusting, appraisal and loss management services through a network of 3800 employees in 350 offices worldwide.

Underwriting text revised

MALVERN, Pa.—The Insurance Institute of America has published the second edition of its "Underwriting Principles" text.

The book is one of two that serve as the basis for AU 65, a course in the institute's educational program leading to the Associate in Commercial Underwriting designation. The other text is "Commercial Underwriting Property."

The revised text, a 167-page softcover, covers underwriting fundamentals for commercial underwriters. Its five chapters cover an introduction to underwriting, the organization of business enterprises and the general underwriting concerns of insuring them, account decision-making, how financial statements are used to evaluate an account, and the underwriter's role in pricing.

"Underwriting Principles" costs $44 plus shipping. The text can be ordered by phone at 800-644-2101 or fax at 610-640-9576. Orders also can be placed by e-mail at *cserv@cpcuiia.org*, or from the IIA's Web site at *www.aicpcu.org*.

Supplemental care cover

CHATTANOOGA, Tenn.—Unum Corp. is offering employer clients an opportunity to provide employees with a supplemental health plan that pays the direct and indirect costs associated with serious, life-threatening conditions.

The coverage pays a lump-sum benefit upon diagnosis of a covered specified critical illness, including heart attack, stroke, major organ transplant, end-stage kidney failure, permanent paralysis due to accident and coronary artery bypass surgery.

In addition, employees who purchase PS Critical Care Specified Critical Illness Insurance may elect the Cancer and Carcinoma in Situ Rider, which pays additional lump sums for diagnosis of cancer and of carcinoma in situ. Family coverage options are also available, and a Health Screening Benefit provides $50 per calendar year per insured for covered health-screening tests.

PS Critical Care Specified Critical Illness Insurance is the newest addition to Unum's Workplace Benefits portfolio, which is available to employer groups of 100 or more lives.

For more information, visit *www.unum.com*.

E-risk liability coverage

MORRISTOWN, N.J.—Crum & Forster is offering coverage to protect businesses from liability risks emerging from use of the Internet and e-commerce.

EComLiability, an optional endorsement to Crum & Forster's comprehensive general liability policy, expands the insurance to cover injury to information and to Web site content as well as loss of use. Web site information owned by others but in the care, custody or control of the policyholder also is covered, among other risks.

EComLiability introduces new definitions for the terms "electronic commerce" and "information" to frame the expanded coverage in terms that relate to Internet activity.

"E-commerce and the use of the Internet create new business opportunities, yet, at the same time, expose businesses to new liability risks," said John A. Traynor, vp of marketing at Crum&Forster, in a statement. "These enhancements were designed to fill specific coverage gaps on traditional general liability policy forms."

More information about the new product is available from regional offices of Crum & Forster, which is a unit of Fairfax Financial Holdings Ltd., and at *www.cfins.com*.

Vision care benefits

NEW YORK—AIG Life Cos. (U.S.) has introduced a new vision care insurance program that provides covered employees with two levels of coverage—Vision Management Service and Exam Plus.

Vision Management Service provides comprehensive vision care coverage through a national provider network. Exam Plus covers one vision examination every 12 months and offers discounts on materials purchased through Vision Care Advantage, another network of participating providers.

"With the rising need for vision care coverage, a comprehensive managed vision care plan is an increasingly essential part of employee benefit programs," said Gerry Wyndorf, president of AIG Life Cos. (U.S.) "We designed these products to meet these needs and to enable employers to provide comprehensive benefit packages to their employees."

AIG Life Cos. (U.S.) consists of AIG Life Insurance Co. of Wilmington, Del., and American International Life Assurance Co. of New York.

For more information, contact the AIG Life Cos. (U.S.) Accident & Health Marketing Department at 800-416-3797.

Warehouse cover broadened

NEW YORK—Atlantic Mutual Cos. has broadened its warehouse legal liability coverage.

"Just-in-time manufacturing/inventory and the ever-increasing sophistication of logistics has dramatically changed the way warehouses operate," said Raymond Martino, vp of the insurer's marine insurance division. In a statement announcing the changes, he said that it is "essential that their coverage reflects these modernized needs."

Among the enhancements is one that provides up to $10,000 in coverage for debris removal even when related to an uninsured loss. Coverage up to $10,000 per occurrence is included for uncollectible storage charges, and an additional $25,000 of coverage is provided for pollutant removal.

Enhancements to coverage that protects policyholders in legal proceedings were added to include coverage for prejudgment interest awarded against the insured, defense costs and other expenses. Coverage also is available for those policyholders with "appropriate inventory controls" to cover the unexplained disappearance and shortage of goods.

More information is available at *www.atlanticmutual.com*. BI

Can insurance be a competitive advantage

Last year, we saved our customers nearly 700,000 disability days. We also helped them reduce claims by 20%. And lower cost of claims by 10%. Pretty exciting numbers for insurance. Especially when you consider the other benefits these numbers can include: higher employee morale, lower turnover and improved work quality. For us, insurance goes beyond covering you in case of trouble. As part of our unique LibertyWorks™ process, we look at your business from top to bottom and help you reduce the likelihood of trouble hitting in the first place. We call it proactive insurance. You may prefer "competitive advantage."

INSURANCE *in* ACTION *To learn about case histories in your industry, or for more information, call 1-800-4-LIBERTY or go to www.libertymutualgroup.com*

©2000 Liberty Mutual Group

OPINIONS

Consider all causes of RSI

Few, if any, employers are likely to follow the lead of The Burlington Northern & Santa Fe railroad and soon begin testing workers for a genetic predisposition to carpal tunnel syndrome, but the controversy over the causes and origins of this disorder is not about to go away.

We cannot recommend the use of genetic testing by employers and insurers for this—or any potential future ailment—as a means of avoiding a claim. Such testing discriminates based on a future disorder that may not occur.

But we can sympathize with the motive behind the testing. We believe that BNSF, like many other employers, was seeking proof that it should not be liable for the full cost of treating and compensating this disorder when it may bear little or none of the responsibility for its occurrence.

That may be an unpopular inclination, because there seems to be an assumption, not fully supported by fact, that simply because a worker suffers from carpal tunnel syndrome, the condition must be caused by workplace conditions. That same thinking underlies the Occupational Safety and Health Administration's overly broad penalties for ergonomics problems.

Such an assumption ignores the fact that many people engage in potentially harmful repetitive motions during recreational activities such as sports or hobbies. It ignores the notion that such a disorder could be caused by a previous accident or injury, or by congenital defects. It ignores findings that thyroid disease and even pregnancy may aggravate the disorder. It ignores studies that cast doubt on the causal link between work activities and carpal tunnel syndrome. And, yes, it ignores research that suggests there is a genetic marker in our chromosomes for one form of carpal tunnel syndrome.

When the news of BNSF's tests to identify this genetic marker was reported in the general media, the company was quickly attacked by some as trying to deny benefits to workers, who were cast as the victims of a genetic malady that is beyond their control. But if the condition is beyond the workers' control, does it not stand to reason that it is also beyond an employer's control?

Critics of BNSF—and of business opposition in general to being held liable for so-called ergonomic injuries—fail to recognize the stakes involved in making the employer solely responsible for these ailments. If an employer is presumed liable for these repetitive strain injuries, the employer is then liable, under workers compensation statutes, for 100% of the cost of treating the worker, in addition to wage-loss benefits and, possibly, permanent partial disability benefits. That hardly seems fair if a worker's injury could just as readily have been caused by some factor other than his or her job.

That is not to say that there are no jobs in which repetitive tasks cause injury—or that an employer does not have a responsibility to provide a safe workplace and to minimize the risk of RSI to its workers. Work-related activity is, of course, a leading source of this condition, but by no means is it the only source. And even a work-related claim may result from the occupational aggravation of an existing injury, rather than develop as an original injury.

If the causes and incidences of carpal tunnel syndrome are as widespread beyond the workplace as they appear to be, employers cannot afford to discriminate against employees who may be at risk of this condition, or who develop it while on the job. It would not be unreasonable, therefore, for employers to meet some of the costs of treating this disorder, just as group health care plans provide benefits for heart disease, cancers and other ailments.

But, unlike those other ailments, employers are, in general, bearing the full cost of carpal tunnel disorders alone. That would seem to be as unfair as discriminating against injured workers.

LETTERS

Federal regulation would invite hassles

To the editor: I have managed to pick myself up from the floor. I was only slightly injured after laughing myself out of my chair after reading the Feb. 19 editorial, "Consider Federal Regulation."

Surely, your magazine has never undertaken a thorough review of the federal regulations imposed on the securities industry in the United States, or you would never have seriously proposed federalization of insurance regulation.

Line up any insurance agents that read your magazine with a copy of the National Assn. of Securities Dealers' Sanction Guidelines. You may have to hire somebody to read and explain it to them, because many of the concepts will be alien. Those insurance agents who also have Series 7 licenses to sell securities will have an inkling of to what I am referring.

You also may have to explain the regulatory and civil liability of a supervisory principal.

I would like you to poll a few regional sales managers or officers and see how enthused they would be about being the target of a sales practices investigation, such as those conducted by the securities industry. While it is not impossible for state insurance regulators to investigate sales practices, most would not look past the agent allegedly involved. In the securities industry, however, it is much more likely that local managers and regional managers will be charged, and I do mean "charged," along with the agent.

No doubt one set of federal regulators will learn quickly from another in such a related field. In the securities industry, the self-regulatory organizations—such as the NASD and individual securities and commodities exchanges—charged with enforcing federal securities laws defer to one another to avoid duplication of investigations. It seems likely a federalized regulatory scheme for insurance would often find itself side by side with securities regulators, and formal or informal deference would be practiced.

Standardization of the rules would likely follow, resulting in insurance agents forced for the first time to learn the pleasures of New York Stock Exchange Rule 405, words like "suitability," and limitations like "investment objective." No longer would these concepts be reserved for the securities industry. No longer would merely allowing the purchaser a few days to "examine the policy" be any sort of defense. The agent would have to make and be accountable for insurance product recommendations to clients.

Insurance agents who already hold se-

See **Letters** *on page 19*

LETTERS TO THE EDITOR

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; fax: 312-280-3174; e-mail: pwinston@crain.com

Business Insurance®

Reporting weekly on corporate risk, employee benefit and managed health care news

Vice President/Publisher Martin J. Ross III *(New York)*	Vice President/Publishing Director Kathryn J. McIntyre, ARM *(Chicago)*
Editor:	Paul D. Winston *(Chicago)*
Editor-at-Large:	Jerry Geisel *(Washington)*
Managing Editor:	Regis J. Coccia *(Chicago)*
Assistant Managing Editor - Graphics:	Kathy L. Barnes *(Chicago)*
Senior Editors:	Meg Fletcher, ARM *(Chicago)*
	Judy Greenwald *(San Jose)*
	Mark A. Hofmann *(Washington)*
	Dave Lenckus *(Tucson)*
	Douglas Mcleod *(New York)*
	Joanne Wojcik *(Denver)*
	Rodd Zolkos *(Chicago)*
Bureau Chiefs:	Roberto Ceniceros *(Los Angeles)*
	Gavin Souter *(New York)*
	Edwin Unsworth *(London)*
Associate Editors:	Michael Bradford *(New Orleans)*
	Michael Prince *(New York)*
	Sally Roberts *(Denver)*
	Sarah Veysey *(London)*
Staff Reporter:	Lee Fletcher *(Chicago)*
Copy Desk Chief:	Matt Scroggins *(Chicago)*
Copy Editors:	Dermot Connolly *(Chicago)*
	Mary B. Nick *(Chicago)*
	Joe Walker *(Chicago)*
Directory Editor:	Kevin P. Edison *(Chicago)*
Assistant Directory Editor:	Michel Schwartz *(Chicago)*
Assistant Graphics/Online Editor:	Amy R. Kepka *(Chicago)*
Editorial Assistant:	Shirley Henry *(Chicago)*
Assistant to the Publishing Director:	Karen Brown Tucker *(Chicago)*
Editorial Cartoonist:	Roger Schillerstrom *(Chicago)*
Advertising Sales Director:	Kenneth F. Luker Jr. *(New York)*
Midwest Advertising Manager:	Robert L. Niesse *(Chicago)*
Eastern Advertising Manager:	Blake Delany *(New York)*
District Managers:	Chris Crain *(New York)*
	Karen Cosco *(New York)*
	Lori Lieberman *(Los Angeles)*
	Robert B. Murray *(New York)*
	Jennifer Powers *(Boston)*
Classified Advertising Manager:	Irais Amleshi *(Chicago)*
Assistant to the Publisher:	Pat Ghazvini *(New York)*
Advertising Traffic:	Stephanie Cress *(New York)*
Production Manager:	Cheryl Magiera *(Chicago)*
Director of Communications:	Ronnie I. Drachman *(New York)*

EDITORIAL:	Chicago:	312-649-5398
	Denver:	303-698-7601
	London:	207-457-1400
	Los Angeles:	323-370-2455
	New Orleans:	504-364-1908
	New York:	212-210-0100
	San Jose:	408-774-1500
	Tucson:	520-579-1937
	Washington:	202-662-7200
ADVERTISING:	Chicago:	312-649-5276
	New York:	212-210-0228
	Los Angeles:	323-370-2456
COMMUNICATIONS:	New York:	212-210-0132
SUBSCRIPTIONS:	Detroit:	888-446-1422

Business Insurance is published by Crain Communications Inc.

Keith E. Crain
Chairman

Rance Crain
President

Merrilee Crain
Secretary

Mary Kay Crain
Treasurer

William A. Morrow
Executive Vice President/Operations

Robert C. Adams
Group Vice President/Technology, Circulation, Manufacturing

Peter Johnson
Vice President/Circulation

G.D. Crain Jr.
Founder (1885-1973)

Mrs. G.D. Crain Jr.
Chairman (1911-1996)

S.R. Bernstein
Chairman-executive committee (1907-1993)

Published weekly at 740 N. Rush St., Chicago, Ill. 60611-2590, Fax 312-280-3174, E-mail: biweb@crain.com, Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax 212-210-0704, CRAIN COM NYK; 473 Fairfield Ave., Gretna, LA 70056, Fax 504-364-1337; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax 202-638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947, Fax 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax 408-774-1155; New Garden House, 78 Hatton Garden, London EC1N 8LD England, Fax 207-457-1440; 8157 N. Torrey Way, Tucson, Ariz. 85743, Fax 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214; Fax 303-733-2244. $4 a copy and $95 a year in U.S. $114 in Canada and Mexico (includes GST). All other countries $215 a year (includes expedited air delivery). DON MIERENDORF, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 888-446-1422 or 313-446-0450, Fax 313-446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission contact: KAREN BROWN TUCKER, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312-280-3174.

www.businessinsurance.com

TO SUBSCRIBE CALL 888-446-1422 • 313-446-0450 outside of the United States

THINK

of that feeling

when you hit

green lights

all the way

downtown

We know how to get you there
without seeing red

XL RE
expect more

WWW.XLRE.COM

XL Re is the global brand of XL Capital's reinsurance operations

Do you go out of your way to avoid volume like this?

At *Business Insurance*, we love bumper-to-bumper traffic because we know that a steady stream of visitors to our Web site is one of the most significant benefits we can offer our advertisers.

Now the industry's leading newsmagazine offers daily news updates, insightful commentary and a searchable article archive, making us the most up-to-date, comprehensive and informative online destination.

Only *BI* has the power to drive users to your banner ad and keep them coming back for return trips.

Stop avoiding rush hour. When it comes to online advertising, take the road most traveled. Ride with www.businessinsurance.com ... taking the business of insurance in a whole new direction.

New York - T. 212-210-0134 F. 212-210-0704 • Chicago - T. 312-649-5276 F. 312-649-7937 • Los Angeles - T. 323-370-2456 F. 323-655-8157

Business Insurance®

a publication of Crain Communications Inc

PERSPECTIVES

Defining good insurance claim programs

Quality of claim programs can be important part of companies' success

By Corby Pelto

My grandfather immigrated to the United States just before the outbreak of World War I. Barely able to speak English, he was drafted into the U.S. Army and was sent overseas, where he earned his citizenship on the battlefields of France. He knew very little about the country he was fighting for, but he risked his life as an investment in his future.

My grandparents raised my mother and her siblings through two world wars and the Great Depression. Although they never had a lot of material wealth, they were experts on the topics of human investment and resourcefulness. I still remember my grandmother in particular responding to family situations with comments such as, "Well, you get what you pay for" or "You only get back what you put in." There were few excuses that would satisfy these two survivors. The road to salvation and reward was through hard work and investment, pure and simple.

As I apply my grandmother's words of wisdom to my experiences in the world of insurance claim administration, I can't help but wonder about the potential that we would have in this industry if clients, brokers and claims administrators were to do a better job of working together and in making the necessary investments to deliver quality claim programs.

I have managed, designed, consulted, sold or implemented claims programs for many clients over the years. During my 14-year career in both the insurer and third-party administrator environments, I have seen some common threads within the fabric of good claim programs that were not evident in poor or underperforming claim programs. Pure and simple, successful commercial claim programs show signs of strong investment in critical factors that drive operational success, whereas poor-performing claim programs do not.

The financial impact to a business that has a good commercial claim program vs. a poor one can be staggering. I have witnessed swings in incurred results that number many millions of dollars as a result of either the positive or negative impact of a commercial claim program. Along with the financial impact, a company's image and reputation among customers, government regulators and insurance industry professionals can be affected by the quality of these programs.

Here are some common traits that distinguish good commercial claims programs from the poor ones:

- **Business relationships.**

The good commercial claims programs that I have witnessed invested in the business relationship through a commitment to core values and teamwork between client and vendor. These programs were committed to values such as mutual respect, trust, empowerment and continuous improvement. In many examples, the client held weekly meetings with the claims staff. One client did this every Friday morning over doughnuts and bagels.

All of the successful claim programs that I have seen have invested in some type of celebration and recognition when successful results were delivered. Indeed, the claims staff in these programs were very dedicated to their clients. In some cases, they seemed as dedicated to their client as to their own employer.

Building and maintaining a strong business relationship requires mutual agreement and commitment with respect to expectations, objectives and core values.

Neither party wins when a relationship sours. Neither party serves the best interests of their employer when they allow a business relationship to deteriorate.

Successful commercial claims programs show signs of strong investment in critical factors that drive operational success, whereas poor-performing claim programs do not.

- **Effective model design.**

I have been surprised over the years by the occasional lack of investment in operation model design within commercial claim programs. An effective operational design addresses such issues as staff levels, staff specialization, staff training, agreed work standards, process and procedures, span of control, quality controls, applied technology, geographical coverage and information management.

Good claim programs have an agreed staffing model in place that enables the claims unit to operate with sufficient people and resources to do the job. In every poor claim program that I have ever seen, there was a poorly defined or supported staffing model, which created excessive workloads and other bottlenecks within the claims model.

Good claim programs make better use of their staff than poor programs. A good claim model enables things like training, quality assurance, and procedures and measurements to actually occur.

- **Leadership and program execution.**

The good claim programs that I've seen have been led by empowered managers who were both skilled in managing the technical requirements as well as in managing and motivating people. The good programs have managers who are empowered to act. These leaders were analytical, focused on results and operated with a sense or urgency. The poor claim programs that I have witnessed did not provide sufficient empowerment to act, and this created bottlenecks and morale issues with the staff. The poor programs either did not value strong leaders or, in some cases, had difficulty retaining them.

Good claim programs are able to make the leap from measurement and analysis of current results to benchmarking and goal-setting against historical results.

Good claim programs are effective in focusing on the "right" measurements and benchmarks, and they were good at eliminating barriers to goal achievement. The poor claim programs that I have encountered were focused on inconsequential measurements and objectives. They were not focused on the critical components that would lead to the best financial outcomes and quality results.

Good claim programs execute their business models better than poor programs because they have the right mix of ingredients to succeed. Good claim programs have strong client partnerships, they have sufficient staff and resources to do the job, and they have leaders who are effective in moving people and processes toward winning objectives.

In addition, good claim programs invest in the design and implementation details of the claims program. They know where they have been and have a vision of where they should go. They know their numbers and see the big picture of how success is dependent upon interdependent relationships and interrelated variables tied to model design and program execution. I notice time and again that good claim programs focus on the right objectives at the right time. They do a lot of little things that poor programs do not.

- **Claims operation environment.**

The good claim programs that I have witnessed work in reasonably comfortable offices, and both client and claims administrator strive to maintain a positive, professional and friendly work environment.

Both the client and claims administrator can influence the claims operation environment. I recall one situation where a client was allowed to yell at claims adjusters on the floor in front of their peers, and other situations where clients had insisted on cutting costs by creating work environments that were far below industry norms. Claims adjusters will compare their environment to other industry environments, and this factor affects staff recruitment and retention. The winning claim programs that I encountered made reasonable investments in this area as well.

- **Quality people.**

As with many other industries, the insurance job market is very competitive, and it has become increasingly difficult to both attract and retain quality veterans. It is more important than ever that both risk managers and claims administrators agree on strategies for retaining quality staff in the claims unit. Exit surveys show that employees will either stay with a company or leave based upon job fulfillment and how their supervisor or clients treat the employee.

Good claims programs invest in quality selection processes to ensure that the right person is hired for a job. They offer sufficient training to their staff and they demonstrate ongoing review of employee performance. Good programs support employee development programs that encourage continuous learning and internal promotion opportunity.

Clearly, there are many challenges in administering commercial claims programs in today's increasingly litigious and regulated environment. Even with the best efforts of clients, insurance brokers and claims administrators; there are challenges that can test even the best of claim operations.

However, the successful commercial claim programs that I have encountered are able to sustain maximum quality results and a proactive and enthusiastic effort from their staff because of the way in which they designed and supported the claims program.

Just as some sports teams sustain winning traditions year after year, commercial claims operations can sustain ongoing success by supporting the winning behaviors and critical components that I mentioned above.

It is fun to work in winning operations, but successful outcomes require some investment in thought, teamwork and resources. Just as my grandparents taught me, "you get what you pay for," and sometimes, "you only get back what you put in." BI

Corby J. Pelto is vp and national liability practice leader for Sedgwick Claims Management Inc. in Eden Prairie, Minn.

Health care industry needs to refocus

By Joe Paduda

If there is an industry that escapes comprehension, it is the U.S. health care system. With the possible exception of pharmaceutical companies, no one involved in the health care system—whether they are health care providers, employers, patients or suppliers—is happy with the present system. And they are all blaming each other.

Employees' ability to choose among health plans has decreased while their out-of-pocket cost for health care has increased. Employers, faced with costs that are once again rising at near double digits, are increasingly frustrated with their insurers' inability to control health insurance premiums. Insurers are trapped between consumers' desire for broad access to providers and minimal intrusion into the provider/patient relationship and employers' demand for better cost control and less administrative work. Health care providers appear to be winning the battle for less-intrusive medical management, but this victory is balanced against increasing pressure on provider prices.

Why, after 15 years of managed care, are we right back to where we were in the mid-1980s? Premium increases are once again four times the overall rate of inflation. Provider directories for all but the most restrictive HMOs once again resemble the Yellow Pages. Consumers face increasing costs and less choice of health plans. What happened to the promise of managed care?

We are in this mess again because leaders of the health care payer and provider industries have been trying to solve the wrong problem. The problem is not how much we pay, but rather what we are paying for. We have failed to define the "product" we want to buy, and because we haven't, all we can do is ask for the process to be done cheaper. Moreover, this failure has caused confusion among the parties involved. Because the participants haven't specifically said what will be delivered, we each have our own interpretation of what that should be—and these interpretations all differ.

To meet our own interpretations, we have developed unique ways of addressing health care. Payers came up with highly effective tools to select risks, micromanage health care providers, audit bills and reduce reimbursement. Providers forced the adoption of new technology and new procedures long before their efficacy was validated, and they used their influence with consumers to fight payers' attempts to ensure that the care that was delivered was appropriate, necessary and cost-effective. All parties to either increase reimbursement or reduce it have spent billions of dollars.

Another area of intense interest has been process measurement. As an industry, we now monitor hospital bed days, types and locations of surgical procedures, per member/per month costs for pharmaceuticals, specialty care and therapies. We analyze patient demographics, evaluate the type of care delivered according to the type of physician reimbursement and study the ability of nurse practitioners vs. physicians. We know more about what we spend for health care and where each dollar goes than we ever have.

Many employers can tell down to the penny what a hospital day costs in each of their locations, what an average prescription costs and how long the average insured is in therapy. What they can't tell is what they get for all their health care dollars. Employers, consultants and regulators have become completely focused on the process and the cost of health care and not the result. Immersed in the detail of the health care system, we have forgotten how to be intelligent buyers.

We have become so caught up in the analyzing, infighting, politicking and name calling that we have neglected to step back and ask the real question: What do we want to get for our investments in health care?

Recently, some employers and regulators decided that we need to be able to measure "quality" in health care. The drive for quality promised that managed care organizations would be judged based on the quality of the care they delivered. While many large employers and their buying coalitions demanded that health plans produce data in a standardized form selected by the employers, few have actually used that data to evaluate or select their health plan. In fact, a 1997 KPMG study of 1,502 employers reported that only 10% viewed accreditation of a health plan as important, and only 1% of employers actually gave health plan quality data to employees as part of the enrollment process. So much for quality.

If we are to bring any rationality to health care, we have to first define what we want from the system, then figure out how to measure that result, determine how best to deliver it and finally come up with the best possible means to pay for that result.

I propose that what people and employers all want from their health care system is quite simple. People want to be fully functional and able to perform the tasks that are required of them by their families, employers and avocations. Employers want healthy, fully functional people that are on the job as much as possible, producing as much as they can, for as long as they can. That's it.

The largest single problem facing most of the nation's employers is not how much they pay for health care, but how can they continue to increase output through improved productivity. With the national unemployment rate at a 30-year low and areas of the country experiencing all-time lows in unemployment, employers just cannot find enough qualified candidates. Therefore, they have to maximize the amount of return they get on their investment in the people they have. That investment, in the form of training, salary, benefits and other compensation, must be examined to determine how best to maximize the return, in terms of productivity, from the dollars allocated to each area.

Some larger employers have begun that analysis. A few employers have gone beyond analysis and addressed components of the issue by aggressively managing all disabilities or taking other incremental steps. But even these leaders have yet to make the leap from efforts to reduce absenteeism and increase workforce availability. They now need to understand that the critical element in their health benefit decision-making process must be the impact on workforce productivity of the proposed benefit plan and the providers delivering that plan.

At its core, a health benefit plan should deliver healthy, fully functional people and enable those people who are not healthy to return to and maintain the highest possible level of health and functionality.

Until health plans and providers are made to understand that employers and individuals are willing to pay for results and not process, they will continue to quibble over what process gets covered at what rate for whom in what setting. At that point, payers will be content to let the experts handle the process, as long as they get the result they want. We can look forward to intelligent, constructive discussions over how to get it done, instead of today's rancorous and unproductive screaming match among parties who haven't even thought to ask, "What is it we are trying to deliver?" BI

Joe Paduda, a workers compensation and managed care consultant, is a principal of Health Strategies Associates, based in Madison, Conn.

8th Circuit interprets CGL business risk exclusion

LEGAL BRIEFS

The 8th U.S. Circuit Court of Appeals ruled that, under Michigan law, "business risk" exclusions in a commercial general liability insurance policy applied to the policies' "completed operations" and "products" coverage.

Turbine Conversions Ltd., a Michigan company, sold two turbine engines and conversion kits to Cartillar Flying Service of Arkansas. Turbine completed the conversions and returned the converted airplanes to Cartillar in Arkansas. Shortly thereafter, the converted engines suffered catastrophic failures.

Turbine was covered under a CGL insurance policy issued by Reliance National Insurance Co. The policy covered property damage to which the insurance applied. However, the policy also contained three "business risk" exclusions:

- Property damage to Turbine's products.
- Property damage to work performed by Turbine.
- And damages to Turbine's products or work completed by Turbine.

Cartillar sued Turbine for breach of warranty and recovered a substantial judgment for damages to the engines. However, Turbine's insurer, Reliance, brought this action seeking a declaration from the court that its liability policy did not cover these damages. The trial court agreed with Reliance. Turbine and Cartillar appealed.

The appellate court agreed that these exclusions applied to each of the coverage parts of the policy. According to the court, the products-hazard and completed-operation provisions were not intended to cover damage to the insured's products or work projects out of which an accident arises. "The risk intended to be insured," the court said, "is the possibility that the goods, products or work of the insured, once relinquished or completed, will cause bodily injury or damage to property other than to the product or completed work itself, and for which the insured may be found liable." Thus, the court agreed that Reliance's policy did not cover Turbine's loss.

Reliance National Insurance Co. vs. Hatfield, 8th U.S. Circuit Court of Appeals, October 10, 2000 (BI/05/M.-$10).

Van not 'artificial member' under policy

The term "artificial member" in the workers compensation law did not include the entire cost of an injured worker's wheelchair-accessible van, according to the Court of Appeals of New Mexico.

Bunny Fogelman was injured in 1982 in a work-related automobile accident that paralyzed her in both legs and both arms. Her employer furnished her with a modified van. In August 1998, Ms. Fogelman filed a claim alleging that she was in need of a new vehicle because her old vehicle was breaking down. The employer denied any responsibility for providing a replacement vehicle. The employer asserted that a specially equipped van was not a "medical expense."

Ms. Fogelman responded that she was not seeking the van as a medical expense, but rather, as an "artificial member." The workers compensation judge ruled that the employer's responsibility was limited to the modification of the van to make the van usable by Ms. Fogelman. She appealed.

The appellate court noted that the issue raised here was one of first impression in New Mexico. Furthermore, the court noted that a 1937 amendment to the state workers compensation law required employers to furnish artificial members to injured employees. The appellate court concluded that the legislature intended "artificial member" to refer to prosthetic devices that are attached to, or used in immediate proximity to, the injured worker's body.

The court said that it would distort the words employed by the Legislature to construe "artificial member" to include the entire cost of a wheelchair-accessible vehicle. The decision denying recovery was affirmed.

Fogelman vs. Duke City Automotive Services, Court of Appeals of New Mexico, March 14, 2000, Certiorari Denied May 2, 2000 (BI/01/M.-$10). BI

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available, at $10 each, by sending a check payable to Mayo H. Stiegler, to Business Insurance *740 Rush St., Chicago, Ill 60611-2590. Provide the listed number for each opinion ordered.*

THE FOLLOWING PREVIEW HAS BEEN APPROVED FOR ALL AUDIENCES.

COMING SOON IN *BUSINESS INSURANCE...*

Issue Date	Editorial Feature	Demographic Section	Ad Closing
Feb 19	Self-Insurance: Property/Casualty & Employee Benefits *Directory: Third-Party Administrators*	IT Global Strategies	Feb 7
Feb 26			Feb 14
Mar 5		ABT Consolidation	Feb 21
Mar 12	Risk Financing Options *Directory: Risk Securitization Specialists* *Distribution: CICA; CILS; NRRA*		Feb 28
Mar 19	Benefits: New Technology & Online Solutions *Directory: Benefit Information Systems* *Distribution: NMHCC*	IT Consolidation	Mar 7
Mar 26	*Distribution: NAIC*		Mar 14
Apr 2	Benefits: Managed Care Trends & Issues *Directory: Prescription Benefit Managers*	ABT Agency/Insurer Relations	Mar 21
Apr 9	*Distribution: ALARM*		Mar 28
Apr 16	RIMS Conference/Atlanta Tourism Preview	IT Insurer/Agency Relations	Apr 4
Apr 23			Apr 11
Apr 30	Captives/Risk Manager of the Year *Directory: Captive Managers* *Distribution: RIMS*		Apr 18
May 7	RIMS REPORT: Employee Benefits & Workers Comp	ABT Information Technology *Distribution: ACORD*	Apr 25
May 14	RIMS REPORT: Risk Management		May 2
May 21	*Distribution: AAMGA; ACORD*	IT Information Technology *Distribution: IASA*	May 9
May 28	Benefits: Pensions/Retirement Plans *Directory: 401(k) Plan Administrators*		May 16

"...the most valuable, most credible and most timely newsmagazine in the industry."

"★★★★... A must-read ... Don't miss a single issue."

RESERVE YOUR AD SPACE TODAY. CALL A SALES OFFICE NEAR YOU.

New York: 711 Third Ave., NY 10017-4036 ■ Tel: 212-210-0134 ■ Fax: 212-210-0704
Chicago: 740 N. Rush St., IL 60611-2590 ■ Tel: 312-649-5276 ■ Fax: 312-649-7937
Los Angeles: 6500 Wilshire Blvd., CA 90048-4947 ■ Tel: 323-370-2456 ■ Fax: 323-655-8157
Boston: 77 Franklin Street, MA 02110-1510 ■ Tel: 617-292-4856 ■ Fax: 212-210-0704
Circulation: 965 E. Jefferson Ave., Detroit, MI 48207 ■ Tel: 888-446-1422 ■ Fax: 313-446-6777

Business Insurance®
www.businessinsurance.com

DATEBOOK

March

■ **MARCH 11-13. Intermediaries and Reinsurance Conference** in Amelia Island, Fla., sponsored by Intermediaries and Reinsurance Underwriters Assn. Inc.; $595. Also **May 6-8** and **Sept. 30-Oct. 2.** Guy Benthin, 971 Route 202 N., Branchburg, N.J. 08876; 908-203-0211; fax: 908-203-0213.

■ **MARCH 13-14. National Risk Retention Assn. Annual Conference** in Indian Wells, Calif.; $800 for members and $980 for non-members. Doug Barnes, 952-929-1318.

■ **MARCH 19-22. National Managed Health Care Congress in Atlanta**, sponsored by the NMHCC; $1,595 before March 4 and $1,795 after. NMHCC, P.O. Box 102713, Atlanta, Ga. 30368-2713; 888-882-2500.

■ **MARCH 21-22. Independent Insurance Agents of South Carolina Spring Conference** in Columbia, S.C. IIASC, Elaine Mikell, P.O. Box 21008, Columbia, S.C. 29221; 803-731-9460; *www.iiasc.com.*

■ **MARCH 21-22. Second Annual Employers Conference on Health Care** in Arlington, Va.; $1,095. International Business Forum, Cathy Fenn, 100 Merrick Road, Suite 500, West Building, Rockville Centre, N.Y. 10017; 516-594-3000, ext. 21; fax: 516-594-5979.

■ **MARCH 22-23. 41st Annual Educational Seminar** in Albuquerque, N.M., sponsored by Independent Insurance Agents of New Mexico. IIANM, 1511 University N.E., Albuquerque, N.M. 87102; 505-843-7231; *www.iianm.org.*

■ **MARCH 22-23. Healthcare Cost Containment Workshop** in San Francisco, sponsored by Health Research Institute; $695. Also **April 3-4** in Orlando, Fla.; **April 10-11** and **Oct. 17-18** in New York; **May 16-17** and **Nov. 7-8** in Chicago; **June 6-7** in Boston; **July 25-26** in Detroit; **Aug. 8-9** in San Diego; **Sept. 11-12** in St. Louis; and **Dec. 4-5** in Houston. Workshop Coordinator, 3538 Torino Way, Concord, Calif. 94518; 925-676-2320.

■ **MARCH 24-28. National Assn. of Insurance Commissioners Spring Meeting** in Nashville, Tenn.; $600. National Assn. of Insurance Commissioners, Miriam Hennosy, 120 W. 12th St., Kansas City, Mo. 64105; 816-842-3600; *www.naic.org.*

■ **MARCH 25-27. Financial Institutions Insurance Assn.'s 13th Annual Spring Meeting** in Indian Wells, Calif.; financial institutions: $595 for members and $985 for non-members, suppliers/service companies: $995 for members and $1,385 for non-members. FIIA, Meetings Department, 21 Tamal Vista Blvd., Suite 125, Corte Madera, Calif. 94925; 415-924-8122; *www.fiia.org.*

■ **MARCH 26-28. Life Office Management Assn. Annual Systems Forum** in Las Vegas; $1,195 for members and $2,290 for non-members. LOMA, 2300 Windy Bridge Parkway, Suite 600, Atlanta, Ga. 30339-8443; 770-951-1770; *www.loma.org.*

April

■ **APRIL 2-4. Fifth Annual Prescription Drug Utilization Conference** in Scottsdale, Ariz., sponsored by Pharmacy Benefit Management Institute; $750. Pharmacy Benefit Management Institute, 480-730-0814; *www.pbmi.com.*

■ **APRIL 8-10. American Assn. of Insurance Services Annual Conference** in Las Vegas AAIS, Joe Harrington, 1745 S. Naperville Road, Wheaton, Ill. 60187; 630-681-8347; *www.aaisonline.com.*

■ ***APRIL 18-19. National Council on Compensation Insurance Annual Issues Symposium*** in Orlando, Fla.; $575. NCCI, 901 Peninsula Corporate Circle, Boca Raton, Fla. 33487; *www.ncci.com.*

■ **APRIL 19. I-Day Annual Convention** in Pittsburgh, sponsored by Insurance Club of Pittsburgh. ICP, Renee Revtai, 1719 Investment Building, Pittsburgh, Pa. 15222; 412-471-7488; *insclubpgh@aol.com.*

■ **APRIL 23-24. Pricing and Rate Making in Plain English Seminar** in Chicago, sponsored by Dorman Consulting Services; $895. Also **May 7-8** in Orlando, Fla., and **June 11-12** in Boston. Richard Dorman, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678; fax: 216-464-2727; *www.dormanconsulting.com.*

■ **APRIL 25. Annual Statement Investment Seminar** in Chicago, sponsored by the National Assn. of Insurance Commissioners; $195 for government employees and $295 for others. NAIC, Monica Horvat, 2301 McGee, Suite 800, Kansas City, Mo. 64108; 816-783-8200; *www.naic.org.*

■ **APRIL 29-MAY 1. Alliance of American Insurers Annual Meeting** in San Francisco, sponsored by Alliance of American Insurers; $775 for members and $1,275 for non-members. Alliance of American Insurers, Thomas O'Dowd, 3025 Highland Parkway, Suite 800, Downers Grove, Ill. 60515; 630-724-2100; *www.allianceai.org.*

■ ***APRIL 29-MAY 3. The Risk & Insurance Management Society Inc.'s 39th Annual Conference and Exposition*** in Atlanta; $745 for members and $1,045 for non-members. RIMS, 655 Third Ave., New York, N.Y. 10017; 800-713-7467; fax: 212-986-9716; *www.rims.org.*

May

■ **MAY 3-5. National Assn. of Independent Life Brokering Agency Annual Meeting** in Dallas. NAILBA, Jennifer Payne, 8201 Greensboro Drive, Suite 300, McLean, Va. 22102; 703-610-9020; *www.nailba.org.*

■ **MAY 6-9. National Assn. of Surety Bond Producers Annual Meeting** in Colorado Springs, Colo. NASBP, Susan Ostrader, 5225 Wisconsin Ave. N.W., Suite 450, Washington, D.C.; 202-686-3700; *nasbp@nasbp.com.*

■ **MAY 6-9. Assn. for Advanced Life Underwriting Annual Meeting** in Washington, D.C. AALU, 2901 Telstar Court, Falls Church, Va. 22040-1205; 703-641-9400; *www.aalu.org.*

■ ***MAY 10-11. Professional Insurance Wholesalers Assn. of New York Midyear Conference*** in Pearl River, N.Y. PIWANY, Mike Cocca, 25 Chamberlain St., Glenmont, N.Y. 12077; 800-424-4244; *www.piaonline.org.*

■ ***MAY 10-13. Life Insurance Council Annual Meeting*** in Orlando, Fla., sponsored by the Life Office Management Assn.; LOMA, Bruce Dalzell, 2300 Windy Ridge Parkway, Atlanta, Ga. 30339; 770-951-1770; *www.loma.org.*

■ **MAY 20-22. ACORD Technology Conference** in Orlando, Fla.; $475 for ACORD members and $475 for nonmembers. ACORD, 1 Blue Hill Plaza, Pearl River, N.Y. 10965; 845-620-1700, ext. 506.

■ **MAY 20-23. Pennsylvania Assn. of Insurance & Financial Advisors Annual Convention** in Harrisburg, Pa. 104 State St., P.O. Box 12058, Harrisburg, Pa. 17108; 717-234-2523; *www.paifa.org.*

■ **MAY 20-24. American Assn. of Managing General Agents Annual Meeting Trade and Vendor Mart** in Palm Springs, Calif. American Assn. of Managing General Agents, 9140 Ward Parkway, Kansas City, Mo. 64114; 816-444-3500; *www.aamga. org.*

■ **MAY 22-25. National Flood Conference** in Minneapolis, sponsored by National Flood Insurance Program; NFIP, 7700 Hobble Drive, Langham, Md. 20706; 301-918-1436; *www.fema.gov/nfip.*

■ **MAY 23. Professional Insurance Agents of New Hampshire Annual Conference** in Concord, N.H. PIANH, Mike Cocca, 25 Chamberlain St., Glenmont, N.Y. 12077; 800-424-4244; *www.piaonline.org.*

■ **MAY 23-24. Michigan Assn. of Insurance & Financial Advisors State Convention** in Lansing, Mich. MAIFA, Terry Grady, 6412 Centurion Drive, Suite 120, Lansing, Mich. 48917; 517-327-3240; *www.malu.com.*

June

■ **JUNE 2-5. Midwest Regional Young Agents Conference** in Branson, Mo., sponsored by Missouri Independent Agent Assn.; Missouri Independent Agent Assn., Carol L. Dulle, P.O. Box 1785, Jefferson City, Mo. 65102; 573-893-4301; *www.missouri-agent.org.*

■ ***JUNE 3-5. Inland Marine Underwriters Assn. Annual Meeting*** in Keystone, Colo. $550. Inland Marine Underwriters Assn., Melissa Kalt, 111 Broadway, 15th Floor, New York, N.Y. 10001; 212-233-7958; *www.imua.org.*

■ **JUNE 3-6. The Insurance Accounting & Systems Assn. Inc.'s Conference and Business Show** in San Antonio; $460 for members and $920 for non-members. IASA; 919-489-0991; *www.iasa.org.*

■ **JUNE 4-6. Assn. of Insurance & Risk Managers Conference** in Birmingham, England. $550 for members and $700 for non-members before Feb. 28. AIRMIC, 6 Lloyd's Ave., London EC3N 3AX, England; 44-207-480-7610; *www.airmic.co.uk.*

■ **JUNE 9-13. National Assn. of Insurance Commissioners Summer Meeting** in San Francisco; $500 before May 9 and $600 after. Miriam Hennosy, National Assn. of Insurance Commissioners, 120 W. 12th St., Kansas City, Mo. 64105; 816-842-3600; *www.naic. org.*

■ ***JUNE 10-12. Professional Insurance Agents of New Jersey & New York Joint Industry Forum*** in Atlantic City, N.J. Mike Cocca, 25 Chamberlain St., Glenmont, N.Y. 12077; 800-424-4244; *www.piaonline.org.*

■ ***JUNE 10-13. Public Risk Management Assn. Conference*** in Chicago; $495 for members and $635 for nonmembers in government, $715 for corporate non-members. PRIMA, 1815 N. Fort Myer Drive, Suite 1020, Arlington, Va. 22209; 703-528-7201; *www.prima-central.org.*

■ **JUNE 10-13. American Assn. of Health Plans Conference** in Los Angeles; $950 for members and $1,150 for non-members. AAHP, 1129 20th St. N.W., Suite 600, Washington, D.C. 20036; 877-291-2247.

■ **JUNE 10-14. Million Dollar Round Table Meeting** in Toronto. $575. MDRT, Randy Kopcinski, 325 W. Touhy Ave., Park Ridge, Ill. 60608-4265; 847-692-6378; *www.mdrt.com.*

■ **JUNE 14-15. Environmental Insurance Forum** in New York, sponsored by the Society of Environmental Insurance Professionals; $550. Also **Sept. 6-7** in Los Angeles and **Nov. 8-9** in Atlanta. Cindy Dybdahl, 4901 Pine Cone Circle, Middleton, Wis. 53562; 877-735-0800; fax: 615-370-8142.

■ **JUNE 19-21. National Insurance Crime Bureau Annual Meeting** in Arlington, Va. NICB, May Schuld, 10330 S. Roberts Road, Palos Hills, Ill. 60465; 800-447-6282; *www.nicb.org.*

■ ***JUNE 24-27. Insurance Marketing & Communications Assn. Annual Conference*** in San Diego; $695 for members and $900 for non-members. Insurance Marketing & Communications Assn., 9710 N. 80th Place, Scottsdale, Ariz. 85258; 425-353-8504.

■ **JUNE 24-27. 53rd Annual Society for Human Resource Management Conference** in San Francisco; $785 for members and $990 for non-members. SHRM, P.O. Box 79402, Baltimore, Md. 21279-0482; 800-283-7476.

July

■ **JULY 8-11. International Insurance Society Annual Seminar** in Vienna, Austria; $1,850 for members and $2,150 for non-members. International Insurance Society, Colleen McKenna, 101 Murray St., New York, N.Y. 10007; 212-815-9290; *www.iisonline.org.*

■ **JULY 22. Federation of Insurance & Corporate Counsel Annual Meeting** in London. FICC, Joseph Olshan, 302 Centre Lane, P.O. Box 111, Walpole, Mass. 02081-0111; 508-668-6859; *www.thefederation.org.*

August

■ **AUG. 7-10. Vermont Captive Insurance Assn. Annual Conference** in Burlington, Vt. $350 for members and $550 for non-members. VCIA, Diane Leach, 1 Lawson Lane, Fourth Floor, Burlington, Vt. 05401; 802-658-8242; *www.captive.com/assoc/vcia.*

■ ***AUG. 14-16. Professional Insurance Agents of Wisconsin Annual Convention*** in Delavan, Wis. PIAW, Brenda Steinback, 6401 Odana Road, Madison, Wis. 53719; 608-274-8188; *www.piaw.org.*

September

■ **SEPT. 5-7. Independent Insurance Agents of New Mexico Annual Convention** in Scottsdale, Ariz. IIANM, Paula Trujillo, 1511 University N.E., Albuquerque, N.M. 87102; 505-843-7231; *www.iianm.org.*

■ ***SEPT. 9-12. National Assn. of Insurers & Financial Advisors Annual Meeting*** in Salt Lake City. NAIFA, 2901 Telstar Court, Falls Church, Va. 22042-1205; *www.naifa.org.*

■ ***SEPT. 9-12. International Society of Certified Employee Benefits Specialists Conference*** in Boston; $695 for members and $795 for CEBS graduates and non-members. ISCEBS, P.O. Box 209, Brookfield, Wis. 53008-0209; 262-786-8771; *www.iscebs.org.*

■ ***SEPT. 9-12. 26th Canadian Risk & Insurance Management Society Annual Conference*** in Ottawa. Canadian RIMS, Suite 320, 1000 Center St., N. Calgary T2E7W6, Canada; 403-277-7377.

■ **SEPT. 9-13. International Assn. of Special Investigative Units Annual Meeting** in Palm Springs, Calif. IASIU, Meeting Planner, 5024 Campbell Blvd., Suite R, Baltimore, Md. 21236; 410-933-3480.

■ **SEPT. 12-14. National Assn. of Professional Surplus Lines Offices Annual Convention** in San Antonio. National Assn. of Professional Surplus Lines Offices, 6405 N. Cosby Ave., Suite 201, Kansas City, Mo. 64151; 816-741-3910; *www.napslo.org.*

■ **SEPT. 21-28. National Safety Council Annual Congress and Exposition** in Atlanta. $300 for members and $425 for non-members before June 15. National Safety Council; 800-621-7619; *www.nsc.org.*

■ **SEPT. 22-26. National Assn. of Insurance Commissioners Fall Meeting** in Boston; $500 before Aug. 22 and $600 after. National Assn. of Insurance Commissioners, Miriam Hennosy, 120 W. 12th St., Kansas City, Mo. 64105; 816-842-3600; *www.naic.org.*

■ **SEPT. 23-26. National Assn. of Mutual Insurance Cos. Annual Convention** in Washington. National Assn. of Mutual Insurance Cos., Larry Baile, P.O. Box 68700, Indianapolis, Ind. 46268; 317-875-5250.

•

The Datebook is compiled from notices sent to Business Insurance. Notices for meetings should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the cost, if any, to attend the meeting and information on registration for interested readers. Business Insurance reserves the right to select those meetings of greatest interest to its readers and cannot guarantee that notices will be printed. Datebook listings also are available on the World Wide Web at www.businessinsurance.com.

"Be sure that you return it."

If you're racing through this issue of *Business Insurance* because you "borrowed" it from a colleague, you should have your own subscription.

Then you'll be first on the list. You can take as much time as you like with all of *Business Insurance*'s exclusive worldwide news of corporate risk, employee benefit and managed health care every week.

To subscribe, use the card in this issue or call 1-888-446-1422 toll free.

Ask about our special 20% off group rate for five or more subscriptions.

Subscription Dept.
965 E. Jefferson
Detroit, MI 48207
Outside the U.S.,
call (313) 446-0450

Subscription rates in U.S. dollars for 1 year, 52 issues.

U.S.	$95
Canada*/Mexico	$114
All other countries by expedited air	$215

* Price includes Canadian GST.

Business Insurance
www.businessinsurance.com

INTERNATIONAL

GLOBAL BRIEFS

London-based Moody's Investors Service Ltd. has announced a stable credit rating outlook for the **Nordic nonlife insurance industry**. Despite weather-related losses in 1999 that also fed into losses for some insurers last year, Moody's said there were few surprises on the balance sheets of the major Nordic insurers for 2000. Moody's noted that strong brands and high industry concentration were barriers to foreign competition in the Nordic property/casualty marketplace. Standard & Poor's Ltd. in London announced a stable outlook for the **Norwegian nonlife insurance market**, following rate improvements. But S&P said that stability could be threatened this year if the global economy continues to deteriorate and price competition re-enters the market....**Mark Wood** has resigned as chief executive officer of AXA S.A.'s U.K. operations. Mr. Wood will join Prudential P.L.C. as head of its U.K. and European insurance business in June....**Internet crime** is a major challenge for the insurance industry, said Oliver Prior, research and development director of London-based Willis Group Ltd. Mr. Prior said last week at a presentation at the Insurance Institute of London that many new Internet-based businesses lack the time and resources to consider fully the risks they face. Insurance buyers must now discuss with their insurers ways to tailor Internet insurance products to their needs, he said....Standard & Poor's has downgraded its public information-based rating of **AXA Insurance Singapore Pte.**, the Singapore arm of French insurance giant AXA S.A., to BB from BBB. S&P said the downgrade was the result of continued poor underwriting and operating performance and weakened capitalization due to restructuring. S&P said this was partially offset by the group's strong market position....**Wellington Underwriting P.L.C.** has forecast a profit for the 1999 and 2000 years of account. The Lloyd's managing agency's three syndicates recorded a profit of 2.71% of capacity for 1998, the most recent year to close under Lloyd's three-year accounting system. Capacity for the 1998 year of account was about £555 million ($916.2 million). Wellington said it expected the syndicates to make a profit of between 1% and 5% of capacity for the 1999 and 2000 years of account. Capacity for those two years was about £398.5 million ($661.3 million) and £429.4 million ($641.1 million), respectively. The Lloyd's market as a whole is predicted to sustain a loss for the 1999 and 2000 years of account....Groupama-GAN has been granted a nonlife license to do business in **Vietnam**. The Paris-based insurer is only the second wholly foreign-owned nonlife insurer to receive such a license. The first was Munich-based Allianz A.G. Holding....Nicholas Prestige will join **SCOR S.A.** on March 1 as the national manager for SCOR Business Solutions in the United Kingdom. Formerly, Mr. Prestige was a member of the alternative risk division of Cologne Reinsurance Co. His appointment is intended to reinforce the position of the Paris-based reinsurer SCOR in the London market, the group said....Georges Valckenaere has been appointed adviser to the chief executive officer in the field of insurance and bancassurance of **Fortis A.G.S.A.** of Brussels, Belgium, and Utrecht, Netherlands. Mr. Valckenaere, formerly the CEO of Fortis International, will advise the group's CEO, Anton van Rossum, on its insurance strategy....Detailed guidelines on the implementation of the LMP2001 **London market standards proposals** were published last week. The proposed LMP2001 guidelines, developed by a steering committee overseen by the Lloyd's/International Underwriting Assn. joint forum, are available at *www.lmp2001.com*.

Clashes prompt look at risks

By SARAH VEYSEY and MICHEL SCHWARTZ

Increased political tension and escalating violence in the Middle East since September, coupled with shrinking capacity for political risk insurance, are forcing Western companies in the region to look more closely at the risks they face.

Insurance brokers and underwriters note that while political risk coverages are available, some insurers are wary of increasing their exposure in some areas.

Fighting in the Middle East, particularly between Palestinians and Israelis, has increased in some areas since last year, creating uncertainty for companies operating there, industry observers point out.

In Israel, clashes began in late September, after Likud Party leader Ariel Sharon visited the Temple Mount, a site in Jerusalem that is held sacred by both Jews and Muslims.

Protests and fighting since then have resulted in hundreds of fatalities, and the election of Mr. Sharon as prime minister earlier this month has not stopped the violence so far. Mr. Sharon, who defeated Prime Minister Ehud Barak in a landslide, has been trying to build a new government and defuse tensions in the region.

The U.S. Department of State has warned travelers that the West Bank and Gaza areas are unsafe, but businesses such as tour organizers continue to enter Israel.

See **Mideast** *on next page*

PHOTO: NEWSCOM

Israeli soldiers clash with stone-throwing Palestinians in the West Bank city of Hebron earlier this month.

Industry rankings issued

Shell named most environmentally responsible company

By SARAH VEYSEY

Shell Transport & Trading Co., the U.K. arm of Anglo-Dutch oil giant Royal Dutch Shell, is the United Kingdom's most environmentally responsible company, according to a survey published last week by the London-based industry group Business in the Environment.

The Business in the Environment Index of Corporate Environmental Engagement ranked 184 companies, based on their responses to questions about environmental management and performance. The questions covered companies' environmental policies, training, communication, objectives and audit practices, among other matters. In addition, the survey addressed the occurrence of environmental incidents at a company, as well as its self-measurement of environmental performance.

The top 350 FTSE companies were invited to take part in the benchmarking survey, and several privately held companies also participated.

Multiline insurer CGNU P.L.C., whose group chief executive, Bob Scott, is a board member of Business in the Environment, ranked seventh among all the companies surveyed—the first time in the index's five-year history that a financial services com-

See **Ranking** *on page 17*

Environmental report cards

U.K. companies ranked on Business in the Environment's Index

Overall rankings for all participants

	Company	Sector
Top five:	Shell Transport & Trading Co.	Resources
	Scottish Power P.L.C.	Utility
	British Energy P.L.C.	Utility
	Severn Trent P.L.C.	Utility
	J. Sainsbury P.L.C.	Non-cyclical services
Bottom five:	Airtours P.L.C.	Cyclical services
	ITNET P.L.C.	Information technology
	COLT Telecom Group P.L.C.	Telecommunications
	Chrysalis Group P.L.C.	Cyclical services
	Informa Group P.L.C.	Cyclical services

Overall rankings for FTSE100* companies

	Company	Sector
Top five:	Shell Transport & Trading Co.	Resources
	Scottish Power P.L.C.	Utility
	J. Sainsbury P.L.C.	Non-cyclical services
	CGNU P.L.C.	Life insurance
	British American Tobacco P.L.C.	Tobacco
Bottom five:	Bookham Technology P.L.C.	Telecommunications
	WPP Group P.L.C.	Media
	Reuters Group	Media
	ARM Holdings	Information technology
	COLT Telecom Group P.L.C.	Telecommunications

*22 FTSE100 companies declined to take part in the survey.

Source: Business in the Environment

Markets reforming in Europe

Deregulation in insurance markets in Central and Eastern European countries is increasing, as many of the countries strive to meet European Union membership requirements, according to a study of the region by Swiss Reinsurance Co.

For example, reforms providing for the freedom of establishment of foreign insurers have been passed in all 10 of the countries that are candidates for E.U. membership. And state-owned monopolistic insurers have been scrapped in many of the countries, according to the report by Swiss Re's economic research unit.

"The cornerstones of reform in the insurance sector have been the abolition of state insurance monopolies, the deregulation of market entry for foreign insurers and the establishment of an effective supervisory framework for the insurance industry," the Swiss Re report says.

But cross-border marketing of insurance policies is still not allowed in any of the countries, and, in many of the countries in the region, price controls are still in effect for automobile liability policies, the report says.

"Of the first-wave candidates for E.U. membership, Poland and Hungary are the countries that have been most successful in bringing their insurance legislation in line with E.U. standards," the report says.

•

Copies of the report, "Insurance Industry in Central and Eastern Europe—Current Trends and Progress of Preparations for E.U. Membership," are available at www.swissre.com.

—By Gavin Souter

Chinese Web disruption not covered

By DAMIEN TOMLINSON

SYDNEY, Australia—Lost business resulting from the recent severing of an undersea Internet cable off Japan is unlikely to be covered by insurance.

Even if the affected companies had insurance for interrupted Internet access, high deductibles and minimal indemnity periods would limit any such coverage, said Stuart Bassett, director of Sydney, Australia-based Marsh Risk Consulting Pty. Ltd., an Australian subsidiary of Marsh Inc.

Millions of people in China have been cut off from the Internet since the cable, which links Shanghai to the West Coast of the United States, was severed Feb. 9. The cause of the damage is under investigation; and repair of the cable is expected to take several weeks.

In China, access to international Web sites remains slow, as Internet service providers have tried to divert online traffic through satellites and other data cables.

While no Australian businesses with operations in China have reported difficulties with communication links, Mr. Bassett said it would be rare for any to have purchased coverage, mainly because such insurance is not readily available. The Internet, he said, is still a "new" risk, and underwriters tread cautiously when it comes to writing specialty coverages.

Risk managers whose businesses rely on Internet access are better off putting their efforts into finding alternate service options instead of pursuing insurance coverage, Mr. Bassett advised.

"Coverage for offshore data cables would take serious negotiation, because they are an unknown to underwriters," he said. "Some wordings cover land-based utility disruption, such as electricity or water, but I haven't heard of any cover for Internet cables, even if you could class that as a 'utility.'"

If brokers were able to negotiate extensions to existing policies for computers or computer networks, underwriters would likely make those policies difficult to trigger, Mr. Bassett said. "There would probably be a lengthy time deductible, and then the indemnity period might only be 15 to 30 days," he said.

See **Cable** *on next page*

Mideast

Continued from previous page

"One of the things about Israel is that it is quite industrialized already, so lots of Western countries want to export there or have assets there. It is an unstable area, but lots of Western companies want to be there—there is high demand but limited capacity, so it is difficult," said Alex Gordon-Shute, marketing manager at Lloyd's of London-based insurance group Hiscox P.L.C. and a former political risk underwriter. "Israel is a difficult territory. The political situation has pretty well always been unstable," she said.

Despite the increasing violence in recent months, London-based political and credit risk insurance broker Berry, Palmer & Lyle said it has not seen a big increase in demand for coverage in the Middle East.

"Perhaps surprisingly, there is not a great deal of demand for cover in Israel," said Anthony Palmer, marketing manager for BPL. "There is some (political risk) business being done there," but events such as the recent flare-ups of violence in Israel don't tend to have a significant impact on the political risk marketplace, he said. "Clients tend to look at transactions and projects; they don't have a knee-jerk reaction to, say, a bomb going off," he explained.

Israel's geography may also play a role, one underwriter noted.

"In Israel, lots of the violence is very localized, and industry and manufacturing has grown up where the trouble tends not to be," said Jacques Gressier, head of marine and specialty lines underwriting at ACE London, a unit of ACE Ltd. "Industries tend to be where the people aren't. Demographics are very important here."

Furthermore, Mr. Gressier said, the nature of the political situation in Israel is another reason that large corporations and large areas of the country's infrastructure generally have not been targeted by terrorists.

"It used to be a rule of thumb—and, I think, it probably still holds true—that if you are trying to overthrow a government, it is because you want to take power, so why would you want to destroy a country's assets? You look to seize power through the least dangerous means possible," he said.

Still, ACE writes a considerable amount of political risk coverage in the Middle East, said Mr. Gressier. "We provide cover in the Middle East—war and terrorism coverages, especially—for airlines and shipping. We have lots of exposure."

Some companies in the region are taking precautions, however. Several large U.S. corporations withdrew personnel from Israel after the neighborhoods in which the companies were located became the targets of terrorist attacks, said Josh Mandel, research analyst-Middle East and North Africa at Control Risks Group Ltd., an international political risk consultant based in London.

In addition to safety risks posed to their employees, some other companies have felt the economic effects of grassroots boycotts of their products, Mr. Mandel said.

For example, Egyptian activists labeled several U.S. companies "Zionist supporters" of Israel and instigated unofficial boycotts that have "gone on longer than expected, affecting profits drastically," he said.

London-based supermarket chain J. Sainsbury P.L.C. has found itself the target of such an unofficial boycott in recent months, as protesters demonstrated outside its store in Cairo, Egypt. The protesters claimed that the supermarket chain had Israeli sympathies, a charge Sainsbury vehemently denied. Sainsbury has denied reports that the protests prompted it to consider pulling out of Israel, but the chain has admitted it is reviewing its Middle Eastern operations in the wake of the recent violence.

Tourism, once a thriving industry in Israel, has been hit hard by the recent troubles. Although tourism in Israel was up by 31% in the first half of 2000, according to the Israeli Ministry of Finance, the number of incoming tourists peaked in the middle of last year and dropped 46% in October.

Despite U.S. government warnings about the safety of the region, several large U.S.-based organizations have continued to run trips there.

Steven Nasitir, president of the Jewish Federation/Jewish United Fund of Metropolitan Chicago, travels to Israel several times a year and, through charitable sponsorship, sends hundreds of Jews to Israel. He said that the risks in Israel are nowhere near as great as depicted in the U.S. media. "Unless you're there," he said, "you don't have a full appreciation for what it's really like."

When sending groups, the organization takes safety measures such as keeping "participants in areas where security is good and advising against going certain places," Mr. Nasitir said.

Companies seeking insurance coverage for investments in the Middle East do have options. For example, business interruption is a key coverage for those companies that have interests in Israel and surrounding areas, said Daniel Riordan, the Washington-based senior vp/managing director of Zurich Emerging Market Solutions, a unit of Zurich U.S. that underwrites political risks. A business interruption policy can also cover losses caused by a boycott, as well as losses due to reduced tourism, he explained.

'One issue in the political risk market at the moment is capacity,' says Alex Gordon-Shute.

Zurich offers coverage that protects against the repercussions of political violence, such as riots, war and sabotage, for up to one year, he said.

Companies setting up operations in political hot spots such as the Middle East are often advised, or even required, to purchase political risk insurance, terrorism coverage or war risk coverage by the banks that provide them capital, say political risk experts.

"Clients are tending to involve the political risk underwriters earlier on in the process of a project or contract because of their expertise," said Ms. Gordon-Shute. When underwriters are involved in the planning stages of a project, clients can get more tailored coverage, she said. Ms. Gordon-Shute noted that, because of the limits such projects may require, political risk policies are nearly always customized.

There are several key types of political risk coverage, she said. "The most well known is confiscation: You protect against the national government confiscating your assets. What has tended to happen since the end of the Cold War is that politics is less clear cut, and there are gray areas. So this kind of cover would include things like the government revoking your license to build something or operate something," she explained.

"The second type is contract frustration. If you are investing in contracts on foreign soil when a company can't pay you, that is a credit risk," she said. "The assumption behind contract frustration political risk insurance is that a government can always pay—they can always print more money if they want—but if they chose not to, then that is a political decision."

But Ms. Gordon-Shute warned that capacity is shrinking. "One issue in the political risk market at the moment is capacity. Especially since the renewal season was so tight, capacity for political risk is shrinking," she said. "So you might find that insurers are full in certain territories and will only take on the risk if there is a spread. So, sometimes, there might be a question of whether you can get coverage at all."

In general, banks and other financial institutions are more eager to lend to investors that have political risk insurance, said a spokesman for the Overseas Private Investment Corp., a U.S. government agency that offers political risk insurance to American businesses.

"If you are a company looking for a (long-term) investment and you're concerned about the political atmosphere of a prospect, you're going to think twice about investing in that area," he said.

OPIC focuses on long-term investments, with a minimum commitment of three years, and offers limits of up to $200 million for any one project. The agency offers three types of political risk coverage—political violence, currency inconvertibility and expropriation, the spokesman said. The first focuses on injury to individuals and damage to property due to acts of war, sabotage or terrorism. It also includes business interruption coverage, where applicable. The second deals with losses when local currency ceases to be convertible into U.S. dollars. Expropriation coverage responds to attempts by governments to "nationalize industries," he said.

Lloyd's of London also is a major market for political risk coverage, and several Lloyd's-based businesses are active in the Middle Eastern political and terrorism risk marketplace.

In 2000, Lloyd's derived about £60 million ($89.6 million) in total premium volume from Israel for all lines, including political risk, split nearly equally between direct insurance and reinsurance, said the market's Israel representative, Alexandra Faris.

But Lloyd's has restrictions on the political risk business it will assume, said Mr. Gressier. While terrorism coverage is often included in property insurance programs, coverage for war risks is strictly regulated by Lloyd's rules, he said.

"Lloyd's regulation prevents you from placing war (risks)...in a property program. It was originally excluded after the Spanish Civil War, when carpet bombing led to massive damage, and London became very worried about its solvency," he said. "So, war and civil war became excluded from most policies. About three years ago, the regulation was amended to allow war cover, but it is still restricted. War cannot be underwritten as part of a property policy."

"Also, it has to be a cross-border risk," Mr. Gressier said. For example, you can't insure a U.K. company for assets in the U.K."

And war coverage must not make up more than 5% of a Lloyd's syndicate's book of business, he said.

"One area where more war business is written is in conjunction with political risk policies—expropriation, confiscation of assets, etc.," Mr. Gressier said. "In these cases, it is mainly bank-driven. Banks aren't going to direct investments into areas where there are bad risks. So, you'll pick up better risks and get a much better spread of risk."

Although terrorism coverage, in many cases, is written into property programs, this might change as the market continues to harden, Mr. Gressier said. "In lots of cases, terrorism will be included in the property program. If you have a hard property market, it is more likely that property underwriters will seek to exclude terrorism, etc."

But when the market is soft, he said, the underwriters might add terrorism coverage to attract business. BI

Products & Services Guide

To place your ad, contact Irais Amleshi

Phone: (312) 649-5340 Fax: (312) 649-7937

E-Mail: iamleshi@crain.com

Where Benefit Buyers meet Benefit Sellers

www.employee-benefits.com

CPCU® CIC and IIA candidates

I guarantee you'll learn more in less time with The Burnham System - or your money back!

Ray Burnham, Cpcu, Clu, Cic, Ale, Alm, Arm, Au, Aai, Arc

19 Everett St, Southbridge, MA 01550

Call 1-888-BURNHAM Now!

Need Dental Care?

Check Out Our Dental Plans

www.conceptdr.com

Make an Impact!

Advertise in *BI's*

Products & Services Guide 312-649-5340

Business Insurance®

www.businessinsurance.com

Cable

Continued from previous page

Internet-based companies should have alternate service provisions in place as part of their daily risk management, Mr. Bassett said.

Internet-based companies 'must look at their major risks...and plan for when disaster strikes,' says Stuart Bassett.

"Companies must look at their major risks and dependencies and plan for when disaster strikes. Work out how you would respond to different scenarios," he advised.

"No amount of pre-planning or risk management will prevent long-term loss of customer confidence and good will. With a proper strategy, including communication and prompt response, much of the impact can be absorbed more easily," he said.

If the coverage were available, Mr. Bassett said, it could take some time to establish the proximate cause. "If the cable was severed by a boat, claims will be processed more simply. But if it was caused by the rise and fall of the tide, it could be more complex," he said.

After an undersea cable linking Australia with Asia was damaged near Singapore late last year, Allan Horsley, managing director of Sydney-based Australian Telecommunications Users' Group Pty. Ltd., an association of major telecommunications companies, advised risk managers to implement backup plans for Internet service provider failures.

Repairs on that cable took four days, but the effect on Australian businesses was minimal, said Stuart Gray, a spokesman for the Sydney-based telecommunications company Telstra Ltd., one of 90 consortium members that own the cable.

"The most significant thing about the event was that it highlighted the need for business users, particularly large Internet users, to understand the arrangement their supplier has in place and establish their own backup arrangements," Mr. Horsley said.

Mr. Gray said it was the individual users who were most affected by the breakdown. They experienced slower connections, especially with overseas Web sites, he said.

Telstra received no reports of major business losses from Nov. 20 through 24, 2000, the period when the cable was affected, Mr. Gray said, and Telstra received no claims. BI

Vacation law under scrutiny

U.K. short-term workers may become eligible for leave

By SARAH VEYSEY

LONDON—U.K. employers may have to provide short-term employees with a paid vacation benefit or its cash equivalent if the European Union upholds a recent legal opinion on U.K. employment law.

The United Kingdom currently requires that to be eligible for paid annual leave, or vacation benefits, a person must be employed for 13 weeks.

Antonio Tizzano, the E.U. advocate general, issued an opinion this month that the U.K. law violates the E.U. directive it is intended to implement.

The United Kingdom in 1998 adopted regulations that implement the European Union Working Time Regulations. Regulation 13(7) of the 1993 E.U. directive states that annual leave is a fundamental social right and is necessary for a country to be in compliance with E.U. health and safety requirements.

In its law implementing this regulation, the United Kingdom states that workers do not acquire a statutory right to annual paid leave until they have been working for 13 weeks.

The Broadcast, Entertainment, Cinematograph and Theatre Union—a U.K. labor organization that represents about 30,000 technicians mainly working on short-term contracts in the broadcasting, film and theater sectors—challenged the regulations, claiming that the 13-week requirement was unlawful. BECTU said that since many of its members frequently could not satisfy the 13-week condition, they were not getting any paid annual leave.

The E.U. advocate general, whose opinion is not legally binding, said the 13-week rule was unlawful. He said that entitlement to vacation is a fundamental right under E.U. law and agreed with the labor group that the 13-week requirement precluded any accrual of that right in many cases.

The European Court of Justice will now consider the case and a judgment is expected in about two months.

According to an analysis prepared by London-based law firm CMS Cameron McKenna, the European Court is likely to concur with the advocate general's opinion.

"As the European Court of Justice mostly comes to the same or a similar decision as the advisory opinion of the advocate general, employers who employ workers on short-term contracts should be aware that holiday is likely to accrue pro rata over that period, irrespective of the length of the contract," according to CMS Cameron McKenna. "In practice, holiday will not be taken during short-term contracts but will have to be paid on the termination of that contract." BI

Independents form 'Global' network

Two brokers plan to enlarge alliance

LONDON—An international network of independent brokerages that specialize in political and credit risks is forming and seeking additional members.

London-based Berry, Palmer & Lyle Ltd. and Walpole, Mass.-based Export Insurance Agency Inc. last week in London announced their strategic alliance, which forms the basis of the new network, to be known as Global.

"In essence it is a franchising agreement," Charles Berry, chairman of BPL, said of the new network.

The network's two founding members—which have had a correspondent relationship for years—will revise their corporate branding to become BPL Global and EIA Global, and will license the right to use the Global name to other independent political and trade credit risk brokerages around the world, he explained. A licensing office is being established in Bermuda.

Prospective members of the Global network will be subject to a rigorous vetting procedure, said Mr. Berry. Although BPL and EIA have no target number of members in mind, they expect to name a member in Continental Europe within the next few weeks and a Far East member in the coming months.

"In our market we see being specialist, independent and global as the winning combination in terms of delivering value to clients," said Mr. Berry. "We believe the Global network will be unique in providing that combination," he added.

"So far, with the major markets for our business being in the U.S., London and Europe, we have serviced multinational clients through a traditional correspondent relationship with BPL," said Al Giandomenico, the president of EIA.

"However, with increased globalization we wanted to develop this relationship and use it for a platform for further expansion," Mr. Giandomenico added.

Mr. Berry said that the network would allow brokers to maintain their identity but gain global reach. "The new structure and concept provides a framework for building identity, coordinating services and building intellectual capital," Mr. Berry said.

Members of the alliance would continue to be independent and employee-owned, added Mr. Berry.

—By Sarah Veysey

Ranking

Continued from page 15

pany has made the top 10. Among FTSE 100 companies, CGNU ranked fourth.

Although Business in the Environment said it was generally pleased with the level of response to the survey and with an increased awareness of corporate environmental responsibility, it expressed concerns about responses to questions on carbon emissions.

The survey revealed that 21% of FTSE 100 companies and 33% of all respondents do not measure emissions thought to contribute to global warming. In addition, only 15% of respondents said they had set reduction targets of 10% or more for these emissions, while 22% said that had set reduction targets of less than 10%. Sixty-four percent said they had set no reduction targets at all.

Mr. Scott called on insurers to help mitigate the effects of climate change. He said insurers should be involved in the planning stages of building developments on at-risk land, such as flood plains, and that "insurability" should become a key determinant of whether building work is carried out in such areas. "I would call upon the government to mandate this," he said.

Lord Sainsbury of Turville, the minister for science and innovation at the Department of Trade and Industry, whose family-run supermarket chain J. Sainsbury P.L.C. ranked fifth on the survey, said that government has a key role to play in setting environmental targets for business. BI

Asbestos

Continued from page 2

mor of a type of bodily cavity lining, usually of the lung, that is most commonly caused by inhaling asbestos fibers.

Plaintiffs lawyers say that, as a result of the judgment, insurers now are refusing to settle mesothelioma cases.

"In light of the judgment, I would have to advise insurance clients to think twice before settling any mesothelioma claim if there is more than one employer," said Geoff Laker, a legal executive with the London-based defendants law firm of Kennedys.

"We are all going to sit back and wait for the Court of Appeal decision," said Mr. Laker. He said he expects the case to be expedited through the appeal process because of its significance.

Judge Curtis' ruling stems from a lawsuit filed by the widow of Arthur Eric Fairchild against both Waddington P.L.C., a Leeds, England-based international packaging and printing company, and the Leeds City Council claiming that the two entities had negligently exposed Mr. Fairchild to asbestos.

Medical experts in court agreed that mesothelioma was the cause of the 1996 death of Mr. Fairchild, a building contractor, and that this condition developed as a result of his exposure to one or more fibers during brief stints in 1962, renovating swimming pools that were owned by the Leeds City Council, and in 1968, converting a building owned by Waddington into a factory. The medical experts also agreed, though, that the relevant exposure could have occurred at either of the two premises or at both and that it was impossible to say that the fatal exposure was more likely to have occurred at one place than the other.

The City Council and Waddington each denied liability, on the grounds that it could not be proved when Mr. Fairchild suffered the exposure that proved fatal, according to a statement from Halliwell Landau, the law firm representing the defendants.

Judge Curtis concluded that "no court could find on the facts of this case" that either the City Council or Waddington was liable for Mr. Fairchild's death. The judge said that all three medical experts who gave evidence in the case agreed that there was "no scientific means of ascertaining from which source of exposure came the single asbestos fiber, or fibers, responsible for the malignant transformation of the (lung) cell."

As a result, Judge Curtis ruled, "it follows that the exposure causing the disease could be at either of the named premises or in combination," and he dismissed the claim.

The progress of all mesothelioma settlements has been halted and the possibility of any payment at all is in doubt.

Prior to Judge Curtis' ruling, courts typically apportioned blame for mesothelioma to multiple defendants based on how long a victim worked for each defendant.

Waddington was insured by a unit of American International Group Inc., and the Leeds City Council is self-insured. Neither AIG nor Leeds would comment on the case. Although Halliwell Landau, representing AIG, issued a statement following the judgment, Chris Phillips, head of litigation, would not comment pending an appeal.

This is the first time a defendant has successfully used the "single fiber" theory to defend a mesothelioma case, said Mr. Wood, the claimant's lawyer.

He noted that medical opinion had changed during the last few years, moving away from the hypothesis that mesothelioma is caused by accumulated exposure to asbestos to the theory that a single fiber can cause a fatal change in one cell.

Mr. Wood said that he had feared that defendants would adopt this argument for some time but that they had been waiting for the "right case." Consequently, he and other plaintiff lawyers have been trying to settle as many cases as possible.

"Three days before the judgment, we settled a mesothelioma case for £600,000. Now, all my other clients with similar claims must wait until the Fairchild case is appealed," he said. Mr. Wood noted that if the case is appealed again and goes to the House of Lords, many claimants will die before their cases can be settled.

And not only has the progress of all mesothelioma settlements been halted for the time being but the possibility of any payment at all is in doubt. With the changeover to the new theory, future claims now likely will fail unless the law is overturned by the Appeal Court, Mr. Wood said.

Furthermore, defendants for other industrial diseases, including other types of cancer, may begin to use similar arguments, that medical opinion now holds that disease occurs when damage is caused to a single cell, Mr. Wood said.

Although he said he is hopeful that the Court of Appeal will overturn the decision, Mr. Wood said he also knows that defendants, insurers and their lawyers will fight to retain the ruling.

Asbestos claims are hitting insurers hard, and "there are serious concerns about the long-term liquidity" of some insurers due to increasing asbestos claims, he noted.

The Health and Safety Executive, which monitors workplace safety in the United Kingdom, estimates that there are currently 3,000 deaths from asbestos-related diseases in the United Kingdom. This is expected to increase significantly over the next two decades, with up to 250,000 victims dying from asbestos throughout Europe, said Thompsons' Mr. McFall.

Mr. McFall's Newcastle upon Tyne office currently represents 300 mesothelioma claimants. Overall, the firm has about 2,700 asbestos claimants, he said.

"There is a huge volume of asbestos litigation, and the Appeal Court should have a clear understanding of the implications" of the Fairchild case, Mr. McFall said.

"I have letters in my post bag this morning (from insurers and their lawyers) referring to the Fairchild judgment. These are claims filed by terminally ill men or widows that would have been settled" before the judgment, he said.

The judgment is so unusual that even some defendants' lawyers doubt whether it will survive appeal.

"It's a novel judgment, and I cannot see the Court of Appeal going for it. If the appeal court does allow it to stand, it could limit the ruling to the particular circumstances of the case," said Mr. Laker of Kennedys.

Still, until the appeal, "we can't ignore" the decision, Mr. Laker said. "I would have to advise insurance clients not to settle but to wait for the Court of Appeal's decision." BI

Business Insurance® • SERVICES •

REPRINT SERVICES

BI's Reprint Department can provide reprints, in quantities of 100 or more, of any article appearing in the weekly newsmagazine. Legal permission, complying with U.S. copyright laws, also can be provided to companies wishing to reprint on their own, material appearing in the newsmagazine. For information, call or fax:

312/649-5319

Fax: 312/280-3174

Online

Continued from page 3

able via the Internet. "It seems backward, but it makes more sense because there's more accessibility" with the Internet, Mr. Aarhus said. In addition, he noted that plan sponsors' willingness to make information available on the Internet has grown as concerns over security and privacy have abated.

Among corporate plan sponsors that reported using two online tools, 93% said they used an intranet in conjunction with the Internet. Only 7% reported using an intranet in conjunction with an extranet, which is an intranet that can be accessed remotely via the Internet.

Dennis J. Nirtaut, managing director of compensation and benefits for Arthur Andersen L.L.P. in Chicago, said Internet technology brings greater efficiency to benefit communication, "and it's much cheaper, too. We're killing a lot less trees," he quipped.

Mr. Nirtaut said that because a large proportion of his company's employees work remotely when on assignment, it makes sense to connect them back to the company's intranet via e-mail, rather than send them lengthy e-mail attachments.

"If I want you to learn about annual enrollment, I'll provide a link to our intranet for an employee. People don't want to read big attachments—it takes too long," Mr. Nirtaut cautioned.

John C. Garner, president of Garner Consulting in Pasadena, Calif., said that speed and consistency are the two main advantages of online benefits communication.

Garner Consulting's NetWorking Employee Benefit Solutions subsidiary aids employers in using online technology to improve employee benefits administration and communication. "We're seeing clients doing a lot of things in-house—putting up frequently asked questions, taking forms that people have to fill out and putting them online," Mr. Garner said.

Another advantage to Web-based activity, Mr. Aarhus said, is that the information is more current and accurate when employees are responsible for giving their own data.

"It's more accurate, and then it's available 24 hours a day, seven days a week," Mr. Aarhus said.

Robert N. Minton, communications manager for health care initiatives at General Motors Inc. in Detroit, said that GM is trying to move away from print communication to a Web-based approach.

"We use both the intranet and the Internet for our annual health care enrollment for both salaried employees and retirees," Mr. Minton said. For the 2001 enrollment period, online enrollment increased more than 300% over the prior year, Mr. Minton said. "Part of that was because we emphasized the convenience of doing it that way," he added.

Nearly two-thirds of those surveyed said the principal drawback to online benefits communication was limited participant access to computers.

In fact, IFEBP's Mr. Aarhus said he was surprised by the survey finding that 18% of multiemployer plans are using online benefits communication tools, because many employees in this sector, who generally are in trade fields, are unlikely to have access to computers at work.

"They seem to be coming up to speed in the past year. We expected a lower percentage in the multiemployer sector with the employees changing from employers to employers depending on jobs," and because "they're always out in the field and away from a kiosk or a computer," he said.

Mr. Aarhus said he expects that, within the next year or two, about two-thirds of plan sponsors will use online technology to communicate employee benefit information.

Mr. Garner agreed that employers are making a strong move toward Web-based communication. "Eighteen months from now, we're not going to be talking about these issues, because using the Internet is going to be one of the standard ways to communicate and administer employee benefits," he said.

Mr. Aarhus emphasized that it is important to use other methods of communication in conjunction with the Internet.

"It doesn't mean that you can go completely electronic and no longer print anything anymore," he said.

•

Copies of "Web Strategies for Communicating Employee Benefits" are available from the IFEBP at 262-786-6710, ext. 8240, or via e-mail at books@ifebp.org.

Professional Marketplace

www.businessinsurance.com

To place your ad, contact Irais Amleshi

Phone: (312) 649-5340
Fax: (312) 649-7937
E-Mail: iamleshi@crain.com

Business Insurance, Classified Department, 740 N. Rush Street, Chicago, IL 60611-2590

Call for details on Blind Box and Internet Advertising

HELP WANTED

Ambition.

You have your ambitions. You know what you're capable of - greatness. Let **The Hartford** show you where to achieve it. We're one of the nation's largest international insurance and financial services organizations and we're opening our doors to motivated individuals like you. Here's your opportunity. Be aggressive and go get it.

You know what you're capable of. Go get it.

Commercial Lines Underwriters

The Hartford
Select Customer Insurance Centers located in:

- ***San Antonio, TX***
- ***Charlotte, NC***
- ***New Hartford, NY***

Seeks Seasoned Commercial Lines Underwriters.

These individuals will be an integral part of a geographic team responsible for generating revenue for small to medium commercial property and casualty business. Requires the ability to develop significant new business within this commercial market and the ability to communicate effectively over the phone projecting a positive sales attitude. Requires the knowledge to discuss insurance coverage, quote premiums, and process requests for coverage enhancements, new policies and closing sales. Must be able to analyze data, draw conclusions and make decisions in a rapid-paced environment.

Requirements include two years of sales experience and/or commercial multi-line insurance underwriting experience. Must possess excellent communication skills, strong organizational skills and working knowledge of computers. LRA or Solicitor's License is a plus and will be required following training.

We offer flexible schedules, competitive compensation, excellent incentive programs, and an immediate benefit package. Relocation assistance and sign-on bonus negotiable.

Please send your resume to: The Hartford, Attn: Michele Marcinik, 4440 Piedras Dr. South, Suite 300, San Antonio, TX 78228; Fax: (210) 736-0284; E-mail: michele.marcinik@thehartford.com. When submitting your resume, please specify which location(s) you are interested in.

WHATEVER LIFE BRINGS YOU | BRING IT ON.®

Go see It: @ www.thehartford.com

THE HARTFORD

HELP WANTED

Insurance Coverage Attorneys

Leading Chicago law firm seeks several motivated attorneys to join our nationally recognized and expanding insurance coverage counseling and litigation practice, which involves toxic tort, environmental, construction defect, professional liability, first-party property, and other types of commercial coverages. Ideal candidates should have 3-20 years of insurance coverage litigation and counseling experience, possess excellent analytical and writing skills, be creative, and be able to excel in a fast paced and challenging environment.

We offer a competitive compensation and benefit package including health, dental, LTD, vision care, Life, 401(k), and a collegial work environment. All inquiries should be made by mail or e-mail (no calls please).

Please send a cover letter and resume to:

Meckler Bulger & Tilson
233 South Wacker Drive • Suite 8200 • Chicago, IL 60606
Attn: Michael M. Marick (michael.marick@mbtlaw.com)

Our firm is an EEO/M-F Employer

REQUEST FOR PROPOSALS

NOTICE

The Kansas State Employees Health Care Commission will issue a Request for Proposal (RFP) #02787 on February 22, 2001 for a **voluntary vision program**. Responses may be for insured or capitated arrangements.

Currently, 34,723 active employees and 9,451 retirees participate in the health plan. Total covered lives are 90,000. Membership is increasing due to inclusion of unified school districts.

If interested in receiving a copy of the RFP, please contact:

KANSAS DEPARTMENT OF ADMINISTRATION
Health Benefits Administration — Attn: Bonnie Long
900 S.W. Jackson Street, Room 951-S
Topeka, Kansas 66612-1251

E-mail: benefits@state.ks.us
Phone: 783-296-6280
Fax: 785-368-7180

REQUEST FOR PROPOSALS

NOTICE

The Kansas State Employees Health Care Commission will issue Request for Proposal (RFP) #02786 on March 1, 2001 for the **indemnity medical and HMO components of its health plan**. Responses may be insured, self-funded or capitated arrangements.

Currently, 34,723 active employees and 9,451 retirees participate in the health plan. Total covered lives are 90,000. Membership is increasing due to inclusion of unified school districts. If interested in receiving a copy of the RFP, please contact:

KANSAS DEPARTMENT OF ADMINISTRATION
Health Benefits Administration — Attn: Bonnie Long
900 S.W. Jackson Street, Room 951-S
Topeka, Kansas 66612-1251

E-mail: benefits@state.ks.us
Phone: 785-296-6280
Fax: 785-368-7180

HELP WANTED

Risk Management Consultant

Grainger, the leading distributor of Maintenance, Repair and Operating equipment, is searching for a Risk Management Consultant. In this role, serve as primary functional assistant to the Risk Manager. Negotiate and recommend the purchase of all liability, property and associated insurance contracts. Must have strong risk management, brokerage or underwriting experience. Bachelor's required. No relocation assistance. Resumes can be sent to Grainger, Inc., 100 Grainger Pkwy. Lake Forest, IL 60045 or e-mail:

vela.c@grainger.com
EOE

HELP WANTED

Insurance Accounting Specialist

The National Association of Independent Insurers (NAII), a leading insurance trade association located in Des Plaines, IL, is seeking an Insurance Accounting Specialist. Indiv dual will review and draft regulations and legislation as well as testify before regulatory and legislative bodies.

Ideal candidate will have a degree in accounting with CPA designation preferred. Experience in the property casualty insurance industry with either an insurer or accounting firm is desired.

The NAII is a stable professional organization that delivers a comprehensive benefits package and flexible working conditions. For immediate consideration, send resume and salary requirements to:

Dori Weber, NAII, 2600 River Road, Des Plaines, IL 60018. Fax (847)297-5064; E-mail: dwever@naii.org. EOE

BI

Advertise in our next issue!

March 5
Closing February 27

Call 312-649-5340

More Classifieds Online

Business Insurance®
www.businessinsurance.com

FOR SALE

For Sale

Small E&S/MGA Located West State. Excellent financials, profitable, assets exceed liab. good companies and Lloyds London. Confidentiality agreement required. Inquiry must have your name, address, etc.

Please respond to Business Insurance, Box 3155, 740 North Rush Street, Chicago, Illinois 60611-2590.

BUSINESS OPPORTUNTIES

Nacora Insurance Brokers Inc., a small International Brokers, specializing in Transportation, marine cargo and Logistic covers, is interested in buying an existing broker in the New York tri-State area to take advantage of existing synergies.

Our target firm will be predominantly commercial lines with annual commission income of 2 to 4 million.

Contact:

Managing Director
Nacora Insurance Brokers, Inc.
10 Exchange Place
Jersey City, NJ 07302

Business Insurance Classifieds

- **Announcements**
- **Business Opportunities**
- **For Sale**
- **Help Wanted**
- **Legal Notices**
- **Position Wanted**
- **Request For Proposals**
- **Situation Wanted**

Whatever your needs in the Corporate Risk, Employee Benefit or Managed Health Care arenas, advertising in *BI* can help you fulfill them.

Call Irais Amleshi at 312-649-5340
Fax: 312-649-7937

Business Insurance®

Violence

Continued from page 3

Television news film of grieving and stunned employees recounting how they had asked company management for protection was among the evidence Mr. Kirby's law firm gathered. Mr. Kirby also collected police records, including tape-recorded 911 emergency telephone calls from the crime scene.

A jury in 1998 awarded $7.9 million to the families of two men killed in that shooting. The jury found against sister companies Butterfield Corp. and Dormer Tools Inc. for their failure to protect the two employees. The two companies jointly operated the tool distribution center. The jury verdict is being appealed, Mr. Kirby said.

Workers compensation laws may prevent an injured worker or surviving relatives from suing an employer following such incidents, Mr. Kirby said. But, he said, manufacturing plants and other workplaces often share facility space with other entities owned by the same parent company. Those entities may share the responsibility for security decisions about the property, he said, and they may even have information about an employee's violent tendencies, even though they did not directly employ the individual. If so, they are potentially liable, he said.

A parent company can also be held liable if it is found to have played a role in setting security and human resource policies. Depending on the state, workers compensation exclusive remedy provisions that bar an employee from suing his or her employer do not always extend to a parent or sister corporation, Mr. Kirby said.

When building a case against an employer, a plaintiffs attorney may consider whether security was a priority or a mere afterthought for a corporation, as well as whether an entity's security policies were enforced uniformly throughout all its subsidiaries, Mr. Kirby said. In addition, an attorney may seek to determine whether the employer has a policy of zero tolerance for violence and may examine its budgeting and personnel patterns on safety and security, he said.

Employers also should be aware that attorneys will seek to examine security evaluations.

"The absolute mother lode of information is going to come from security consultants," Mr. Kirby said. "Has anybody ever conducted a security evaluation of the business? If they have, get your hands on it," he advised the lawyers in attendance.

That advice applies to security evaluations conducted both by independent consultants and by the company's own internal security staff. In their evaluations, the consultants may have advised the company of

'The absolute mother lode of information comes from security consultants,' says plaintiffs attorney David F. Kirby.

dangers that were ignored or that were not dealt with due to cost considerations, Mr. Kirby said.

A plaintiff can use such information to establish whether violent acts were foreseeable and whether an employer took reasonable care in attempting to prevent such acts.

The promotional and sales materials provided by security consultants to employers can also be important to a plaintiff's case, Mr. Kirby said, because such materials often emphasize how foreseeable and preventable some crimes are. A security company hired by an employer can also be sued for professional negligence related to workplace violence incidents if it lacks the requisite skill, training and education, or if it fails to fulfill its duty to protect the work premises, Mr. Kirby said.

A plaintiff should seek to determine whether an employer or related party contracted with an employee assistance program or other mental health consultant to establish workplace violence policies, Mr. Kirby said. An EAP's advertising materials or other information might have contained a perpetrator profile that matched the description of a workplace shooter yet was ignored by the company.

If the mental health consultant offered the employer advice on workplace violence but lacked expertise or training in that area, it, too, can be held liable, Mr. Kirby said.

In suits alleging liability for an incident of workplace violence, an employer can defend itself by arguing that it took steps to provide a safe workplace.

Those steps should include the adoption of a policy of zero tolerance toward violence. Such a policy, Ms. Cavazos urged, should be repeatedly emphasized though employee communications materials. The policy should aim to deter anti-social behavior by, among other measures, prohibiting:

- Conduct or language that is threatening, intimidating or injurious.
- The possession of a firearm and other weapon.
- Domestic violence on company property or while conducting company business.

But a complete anti-violence program should also include training managers how to enforce zero-tolerance policies, as well as how to recognize the traits of potentially violent or aggressive employees and how to defuse hostile situations.

An employer should also establish a threat-assessment team or designate a specific manager to handle violent threats. Such a team should consist of employees from a variety of work areas, including the security, human resources and legal departments, as well as outside consultants such as violence counselors.

The responsibilities of the threat-assessment team should include the review of security requirements, the investigation of threats and the examination of supervisor reports about employee behavior changes, Ms. Cavazos advised.

An employer can also protect itself by striving to identify potentially violent employees and watching for the warning signals that often precede violence. BI

Stop-loss

Continued from page 3

The situation is even worse for employers that have seen a high number of catastrophic medical claims in the past few years. For these higher-risk companies, many insurers are unwilling to write coverage except for renewals of existing clients, according to Mr. Edgren. "To a degree, they are at the mercy of the incumbent carrier," he said of employers.

A new attitude among reinsurers—which write the majority of this coverage—underlies these rate hikes. After a number of years in which losing money on stop-loss coverage became a regular occurrence, reinsurers have shifted their emphasis away from building market share in this area to turning profits.

"The level of underwriting needs to be improved, and the reinsurers see this," said Don Gasparro, president of the consulting group at NIIS/Apex Group Holdings Inc. in Princeton, N.J.

Reinsurers are performing more-frequent audits of their managing general underwriters—sometimes as often as every quarter—to ensure that they are following underwriting guidelines when writing this business, he said.

A move to more-profitable underwriting is more complicated than simply flipping a switch, though.

In addition to a focus on profitability over market share, stop-loss rates are also moving upward because of underlying health care inflation.

Catastrophic health care cost trends are up around 18% this year, significantly above the rate for overall health care costs, said David Kelley, vp at Cairnstone Inc., a stop-loss underwriting and medical management firm in Miami.

"So you need an 18% increase on specific stop-loss or you've lost ground," he said.

Because of this inflation, more claims penetrate into the stop-loss coverage; the size of these claims grows as well. If the retention for the stop-loss coverage remains the same, any increase in costs for a single large claim falls entirely on the stop-loss insurer, Mr. Edgren said.

For example, a $110,000 claim under a specific stop-loss policy with an attachment point of $100,000 means the stop-loss insurer pays $10,000. Assuming medical inflation of 10%, that same claim a year later would cost $121,000, translating into a $21,000 loss for the insurer, or a 110% increase in its exposure, Mr. Edgren explained.

Consolidation in the market has also occurred, as many insurers, reinsurers and MGUs have left the field after suffering large losses in recent years, Mr. Edgren said.

Many reinsurers had underpriced their stop-loss policies to attract business and then suffered losses that led the entire market in a downward pricing cycle, he noted.

The past year has also seen a large number of MGUs that wrote stop-loss on behalf of reinsurers go out of business. These underwriters were often paid for the volume of business they produced, and not its profitability. As a result, they wrote lots of business, but little of it was profitable. The poor showing has caught up with them, as many reinsurers canceled their relationships with them.

"Many of the low-ball players are simply not in the market anymore," SAFECO's Mr. Taylor said.

Cairnstone's Mr. Kelley predicts that, in the next six months, more MGUs will go under, because they are still pricing their coverage too low.

Another potential driver behind stop-loss rates is the patient privacy regulations recently issued by the federal government. Because of these, many health providers may no longer provide details about large cases to employers or to stop-loss insurers that rely on this data to underwrite the risk. Without these details, many stop-loss insurers will assume worse experience for an employer than actually exists and price the insurance accordingly, Mr. Edgren said.

"These regulations are having an adverse impact on the pricing," Mr. Edgren said.

Despite the rate increases over the past year, a lot of renewal business this January still is priced too low, some in the industry contend.

Rates will continue to go up through the year, and, later this year, renewals will be priced at more-profitable levels, Mr. Kelley predicted.

He said he expects that 2002 renewals will provide a much better environment for companies selling stop-loss policies. As a result, his firm is waiting a year before aggressively pursuing new business, he said.

While profits were rare in 2000, "a lot of reinsurers are getting closer to profitability," said Mr. Gasparro of NIIA/Apex.

There are a few strategies that employers can implement to keep price hikes from spiraling out of sight.

An employer should be sure to have a large-case management program in place to hold down the cost of catastrophic claims, as well as a contract with a transplant network that provides significant discounts, several experts say.

Another option is for employers to create a risk-sharing pool with a third-party administrator or a health insurer, said Cara Jareb, a consulting actuary for Watson Wyatt Worldwide in Washington. But this may not be a panacea for every employer, she added.

"Sometimes, the pooling can be just as expensive as buying stop-loss," Ms. Jareb said.

Other options depend on the amount of risk an employer is willing to assume. Those that are inclined to take on more risk can stop buying stop-loss coverage entirely and assume the entire risk, Ms. Jareb said. Or they can increase the attachment points, boosting their retentions but lowering their premiums, she said.

An employer also can stop self-insuring its health plan and switch to a fully insured product, such as a health maintenance organization. But employees may object to some of the restrictions that can accompany a fully insured program, particularly the restrictions on access to care that come with some HMOs, Ms. Jareb said. BI

LETTERS

Sloppy vocabulary ails new patient care bill

To the editor: Amen to the Feb. 12 editorial, "New Patient Bill is Still Flawed," about the new patient bill of rights proposal! As new ideas and proposals emerge, all of us need to realize that words don't necessarily mean what they seem to.

Sloppy vocabulary is probably our greatest threat. For example, proponents of lawsuits talk about suing "HMOs," but legislative language refers much more broadly to "plans" or "managed care." If Congress means "HMO," then it should say "HMO" in the law.

Another dangerously sloppy term is "medical decisions." Congress finally seems to understand that employers and third-party administrators handling plans that pay for services after they have been provided should not be sued, because they are not making what common sense considers "medical" decisions. Furthermore, because their involvement is after the fact, no medical care was refused.

So, employers and plan service professionals might sit back comfortably when they hear that liability would not be applied unless "medical decisions" are made. But do not relax! Many proponents of patient protection legislation consider any decision—including whether coverage existed and/or whether a service is eligible for payment after the fact—a "medical" decision. That kind of interpretation puts employers, TPAs, brokers, consultants and anyone else front and center to be sued.

As lawyers often comment, "You can sue anyone." So, you'd better be sure that any congressional language is absolutely clear that "medical decision" is defined strictly as only a situation in which someone is physically barred from receiving medical care. Otherwise, someone who gets a cosmetic face lift and whose claim for coverage is denied because it is not a covered benefit can sue you for making a "medical" decision.

Every politician wants to brag that his or her law helps gazillions of people. So—believe it or not—they came up with the idea that, while employers would be exempt except for "medical" decisions, TPAs, brokers, consultants and, presumably, the in-house staff of employers as individuals, still could be sued.

To avoid this liability, every TPA, in-house staffer and insurance company would have to verify every claim and detail every day with the employer so that it was clear that the employer was making the medical decisions directly. Or, these service providers would have to raise substantially the prices they charge employers to cover their higher costs for medical malpractice liability insurance.

So, as you read the words and assurances from politicians, brainstorm the worst-case scenario about the crazy interpretations of each term by regulators and those wishing to bring lawsuits.

The worst case is probably reality. Be sure that your representatives in Congress understand these concerns. Let them know you will not accept sloppy vocabulary.

Frederick D. Hunt Jr.
President
Society of Professional Benefit Administrators
Chevy Chase, Md.

Continued from page 8

curities licenses and sell mutual funds will think my statements a bit of an overreaction until there comes a market correction that affects one or more of the products they sold.

That's especially the case if any of these salespeople sold the product without reading the prospectus completely, or failed to reviewing a client's position after an announced change in fund managers, or made the simple human error of mismatching a fund with the recorded investment objectives of a customer.

Federal regulatory mechanisms cause sleeplessness in salespeople; it is a proven fact.

Oh, and you don't really believe that the word "optional" and the word "federal" can be used in the same sentence, do you?

Rodney J. Heggy
Day Edwards Propester
& Christensen, P.C.
Oklahoma City

CHPA

Continued from page 1

though, whether any effort could clear all of the obstacles inherent in taking a private-market approach to covering the uninsured who work for small employers.

In attempting to reduce the ranks of Florida's uninsured population, state lawmakers have tried

CHPAs became 'the lightning rod' for the smallest groups seeking health care coverage, says Wes Fischer.

to encourage small employers to sponsor group health plans, because the vast majority of the state's 2.1 million uninsured work for small companies, according to the state's Agency for Health Care Administration.

But while the state's uninsured population dropped by 700,000 as its overall population grew by 2 million from 1993 to 1999, little credit goes to the 1993 Florida law that ostensibly made the small-employer community a much more attractive market for health plans.

The law divided the state into 11 Community Health Purchasing Alliances, which served as health insurance information clearinghouses for companies with 50 or fewer employees. An employer that enrolled in its local CHPA district could compare the rates that each participating health insurance plan charged for standardized coverages. Initially, the state required participating health plans to offer two standardized coverages, but later it added a third.

The program marked the first time that Florida's small employers could compare the prices for identical coverage offered by different health plans.

"It brought a new paradigm to the market for the small employers," said Bill Herrle, the Florida state director of the National Federation of Independent Business in Tallahassee. The Florida NFIB has about 15,000 employer members, each of which has, on average, six employees.

Any number of health plans could qualify to participate in the program and offer coverage in any or all of the CHPA districts.

Depending on their employee populations, employers had to offer at least two or three health plans to their employees, and an employer could offer all the health plans that had qualified to write coverage in its district.

To obtain coverage, the employers had to work with independent insurance agents.

But, at its peak enrollment in 1998, the CHPA program covered fewer than 100,000 lives, said Connie Ruggles, a senior management analyst with the AHCA in Tallahassee. Her division director oversaw the CHPA program.

Ms. Ruggles and other observers concur that the CHPA program could do nothing but fail.

A costly early mistake was that lawmakers originally planned to help drive down CHPA insurance rates by requiring the CHPA districts to place coverage directly with insurers, many observers say.

Lawmakers then succumbed to agent pressure and required small employers to procure their CHPA coverage through independent agents.

But many agents still feared that lawmakers later would yank away the program—and their program commissions—from them and, therefore, they never supported the program, observers say. That fear was fueled by the Clinton administration's early efforts to craft a universal health care program, observers say.

Another criticism leveled against agents is that they shunned the program because it did not generate sufficient revenue. Agents could earn more revenue by ignoring the low-commission employer groups that the program attracted and concentrating on the high-commission business that typically sought coverage outside of the program.

But the commission issue did not stop every agent from placing CHPA business. "Plenty of agents didn't sell CHPA. Equally as many thought it was a wonderful thing, and it represented a significant portion of their business," said the AHCA's Ms. Ruggles.

While the commission problems made the CHPA program unappealing for many agents, one Florida agent who said his agency wrote a significant amount of CHPA business contends that many health insurers manipulated market conditions to discourage agents from placing CHPA business.

But why would insurers bother to qualify for a voluntary program in which they did not want to participate?

One reason is that then-Gov. Lawton Chiles, whose administration developed the CHPA program, and then-AHCA Director Douglas M. Cook pressured insurers to participate, said Wes Fischer, president of The Health Insurance Store Inc., an independent health insurance and employee benefit agency in Kissimmee, Fla.

Becky Cherney, the president of the Orlando-based Central Florida Health Care Coalition and a consultant for the AHCA during the first year of the CHPA program, agreed.

Ms. Ruggles suggested that many health plans initially qualified to participate in CHPA only for the chance to bid on more lucrative multiyear state contracts. Ms. Ruggles noted that the state required health insurers to participate in the CHPA program if they sought to bid on the state employee benefits program or the Medicaid program. Those contracts came up for bid within the first two years of the CHPA program, she said.

At the same time, the U.S. Health Care Financing Administration imposed some short-lived rules that forced a health plan to pick up a minimum amount of commercial business if the plan sought to write Medicare or Medicaid business, Mr. Fischer noted.

Around the same time, though, insurers discouraged agents from placing coverage for employers with one- to four-life groups, Mr. Fischer said. Those groups tend to have the poorest claims experience, he said.

In the mid-1990s, insurers sliced agents' commissions for those groups to 1% of premium from 8%, Mr. Fischer noted. Such a low commission made those small groups unprofitable for agents, he said.

Other insurer tactics forced the smallest groups into the CHPA program, Mr. Fischer said. While state law relaxed some insurance eligibility requirements for small employers that sought CHPA coverage, insurers toughened some other requirements for non-CHPA coverage, forcing even more small employers into the CHPA program, Mr. Fischer said.

So, CHPAs became "the lightning rod" for the smallest groups seeking health care coverage, because it was their "path of least resistance." Mr. Fischer said. And that was the business that insurers and many agents did not want, he said.

But D. David Russell, chairman of the health insurance committee of the Florida Assn. of Insurance & Financial Advisors in Tallahassee, said health insurers modified their commission structure nationwide, not just in Florida. Mr. Russell is a regional sales manager in Tampa for the general agency Rogers Benefit Group Inc. of Minneapolis.

In addition, Mr. Russell said, Florida's health insurers did not toughen any insurance eligibility requirements for small groups that sought non-CHPA coverage.

Some observers do not blame agents and insurers at all, and even those who are critical of the Florida industry's response to the CHPA program agree that legislative compromise condemned the CHPA program.

'CHPAs were so ill-conceived that they had no chance of surviving,' says Rick Curtis.

"CHPAs were so ill-conceived that they had no chance of surviving except for political clout and fiat," said Rick Curtis, president of the Washington-based Institute for Health Policy Solutions, a nonprofit organization that researches problems of health care costs and quality. The organization often helps states establish universal health care coverage for children and develop policy for small-employer purchasing pools.

"There was a fatal flaw" in the way the system was designed, the NFIB's Mr. Herrle agreed.

CHPAs could not negotiate rates and coverage with insurers, even though that was the Legislature's original intent.

Insurers pressed lawmakers for that change, because insurers feared that "CHPA would become an all-powerful gorilla in Florida, and no one wanted to give them that," the AHCA's Ms. Ruggles said.

Small groups "went from a purchasing pool to purchasing puddles, which was not going to be effective," said Mr. Erb, who for 18 months ran CHPA District 10, in the Fort Lauderdale area.

On top of all that, the CHPA districts could not hold master policies, which would have allowed them to direct all of their participating employers into a single health plan. That, at least, would have given market clout to employers and a good spread of risk to insurers in each district, observers say.

Indeed, under the CHPA program, each employer had to sponsor at least two or three health plans, and sponsors could sponsor as many plans as they had employees.

That level of choice also was a leading factor in sinking the program, Mr. Russell and other observers agree.

"That, in effect, made every group a one-employee group for the carrier who got that business," Mr. Russell said.

"That really became one of the biggest negatives" of the CHPA program, said Terry McCorvie, former director of the Orlando-area CHPA district and now the president of third-party administrator Workable Solutions Inc. of Orlando.

Health plans never were able to capture enough small-group market share to write the business profitably, Mr. McCorvie said.

"It makes sense to give small employers a choice of plans," said Mr. Curtis of the Institute for Health Policy Solutions. "Choice is a good response to the backlash to managed care," which was triggered when employees got stuck with a single plan that did not perform well, he said.

Privately established small-group purchasing pools in Colorado, Connecticut and New York, for example, allow the employees of participating employers to select coverage from among three or four plans

"But in Florida, there was way too much choice," Mr. Curtis said.

Other problems with the CHPA program were that its 11 districts did not overlap neatly onto the state's five medical markets; district board members could not include anyone with any relationship to—and, therefore, any knowledge of—the health insurance industry; and the districts were funded at equal levels even though they were not of equal size, Ms. Cherney said. Those problems hurt the program's marketing efforts, said Ms. Cherney, whom the AHCA tapped to help set up the district boards.

By the late 1990s, the CHPA program risks were spread so thin that health plans were abandoning the program. Gov. Jeb Bush, who inherited the program in 1998 from his predecessor, did not expend any significant political capital to keep the program afloat, observers note.

Last March, when the CHPA district boards voted to fold the program, health insurers had abandoned one district entirely. In addition, no health plans were writing business in many counties in several other districts.

State lawmakers, though, have not given up on the concept of small-group pooling. The state last year enacted a law that allows small groups to form health insurance purchasing alliances that differ from CHPAs in a few important respects.

One difference is that new alliances will have some negotiating authority with health plans. They will be able to negotiate a discount, but only on the portion of the rate that relates to the plans' administrative expense.

But health plans, which must underwrite each group in an alliance separately, also can cut or hike their community rates 10% in the first year of a contract and 15% after that if the plans can justify adjusting a group's rate, explained Rich Robleto, bureau chief for the Florida Insurance Department's life/health forms and rates division.

In addition to rating on age, gender and location, health plans now also have some ability to base rates on a group's health status and claims experience.

Another big change under the new law is that an alliance can limit its members' health plan choices and can hold a master contract with a health plan.

The new law will "empower an alliance for the first time with true purchasing power, which has been a pipe dream for small business" until now, said the NFIB's Mr. Herrle.

The NFIB, Workable Solutions and general agency BenefitPort Southeast L.L.C. in Fort Myers are teaming up to create a small-employer health insurance purchasing alliance. The partners want to contract with either one health plan that writes statewide in Florida or up to a half-dozen health plans that write regionally.

In either case, small employers that sign up for the alliance would have only one health insurer option, though employees likely would be able to choose from a variety of plans that the insurer offers, officials of the three organizations explained.

The idea is to not only give small groups true purchasing power but also to guarantee the selected health plan or plans a large market share and to avoid adverse selection.

Mr. McCorvie said he hopes the selection process will be completed by the end of March and that the alliance is in operation by summer.

Though Florida's new small-group pooling law and the forming NFIB-backed alliance are designed to avoid the mistakes made with the CHPA program, any small-group pooling effort will face significant challenges, according to observers.

"If purchasing alliances are the answer to cost problems, then we'd have them" in large numbers, Deloitte's Mr. Erb said. He said that many past pooling arrangements elsewhere have suffered the same fate as the CHPA program—adverse selection.

"That will always be the problem," he said. Because of the cost of coverage, small groups will not buy health insurance unless they need coverage for employees with health problems, he said.

By shying away from small-group pools, insurers are "trying to protect themselves, and I don't blame them," he said.

'If purchasing alliances are the answer to cost problems, then we'd have them' in large numbers, says John Erb.

Benefit consultant Art Dickerson of William M. Mercer Inc. concurred that Mr. McCorvie's and others' challenge in Florida "is creating a compelling reason for insurers to act."

Market consolidation is "making this free market less of a reality. We do not see many insurance companies, nationally, taking risk," said Mr. Dickerson, a principal and practice leader for Mercer in Houston and Mercer's former practice leader in Florida.

Consequently, Mr. Dickerson asked, what would induce an insurer to participate in even a soundly structured small-group program, if the insurer already is big and successful? **BI**

ADVERTISER

INDEX

Issue of February 26

ADVERTISER	PAGE #
American Assoc. of Orthodontia	16
Business Insurance	10,13
Carvill America Inc.	4
CNA RSKCo	24
Cunningham Lindsey	6
Liberty Mutual	7
XL Re	9
Zurich US	5

Luddites in the stock market

For some time now, the values of technology stocks have been in the tank, signaling little investor confidence in the profitability and staying power of this sector.

When it comes to technology companies, it's as though Wall Street has taken a 180-degree spin, from days of irrational exuberance to those of irrational abhorrence.

Of course, I agree that things got a little kooky there for a while. I acknowledge that the days of triple-digit increases in tech stock values are long gone; still, I'm surprised that more money isn't flowing back into this sector. We've all grown dependent on high-tech products and services. And unless we become Luddites, shunning technological advances, many of these businesses should have solid future prospects for growth and profitability. Yet the lack of investor confidence in these companies suggests otherwise.

If tech firms fail to regain investor support, there is a real chance they will wither and die. If that's the case, perhaps we should begin now to prepare for a world without these tech companies. To help you plan, consider some of the things we'll have to learn to do without:

• **E-mail.** Forget e-mail and get used to writing letters, notes and memos—on paper—again. Go buy some stamps; they're probably a lot more expensive than you remember. If you still want to pretend that the 20th century happened, maybe you can find a typewriter.

Paul D. Winston

• **Amazon.com.** Sure, Amazon.com is lower priced, better stocked, more interactive and more convenient than most brick-and-mortar bookstores. But, in spite of your December Visa bill, Amazon.com will never turn a profit, so its days are numbered. It's time to get reacquainted with your local bookstore, if it hasn't been driven out of business.

• **Online music.** Sorry, but you've got to pay for music again, now that we're abandoning the online way of life and now that Napster has lost its day in court. It's back to the days of making and sharing cassette tapes, instead of swapping files or burning CDs for friends. And you can forget listening to samples of new songs online, too; we're returning to those halcyon days of buying an entire CD only to discover it has just one decent song.

• **Search engines.** Here are three words you haven't heard since grade school: Dewey. Decimal. System. Yes, it's time to get a library card again and relearn how you use a card catalog. You'll also have to figure out how to use the microfilm reader, all those gigantic research tomes shelved in the back of your local library, the Encyclopaedia Britannica and so on. Oh, and remember the Yellow Pages? Ouch.

• **Cell phones.** It's clear from watching the stocks of companies in this line of business that wireless telecommunications firms are going the way of the dotcoms. Better stock up on quarters, as pay phones and landlines make a comeback. At least we won't have to wonder about all those people who now walk around seemingly talking to themselves. Or that worrisome debate about the effects of radiation from cell phones.

• **PowerPoint presentations.** Remember how crummy handmade transparencies used to look on overhead projectors? Get used to it all over again.

• **MapQuest.** It's time to buy yourself a road atlas, because MapQuest and those other online map generators won't be in business much longer. Personally, I don't mind, because they've been 0 for 4 when it comes to getting me from point A to point B with any accuracy.

• **Online news and information.** Buy a newspaper or magazine again. Better yet, buy several. Savor the old-fashioned feel of paper between your fingers and the opportunity to read at your leisure, or to spend more than a couple of minutes gleaning quick bytes of information.

• **Computer solitaire.** Time to get yourself a real deck of playing cards. Don't be surprised if the designs on the cards are not animated.

• **Privacy.** Privacy will again become a matter of closing your door and drawing your curtains, instead of worrying that someone will gather your personal information online and sell it to every two-bit phone company and mortgage broker in the world.

• **Cyberbabble.** You know all those funny expressions that have crept into modern parlance? Gone, thank goodness. A period will become a "period" once again and not a "dot." People will "talk," not "interface." Folks will ask "questions" instead of "queries." We'll be "writing" and not "word processing." We'll celebrate Spam, the meat byproduct, instead of cursing spam, the e-junk mail.

Such is one possible view of the future.

But there still may be time to avoid moving backwards, technologically speaking. Quickly, before it's too late, get online and e-mail your stockbroker with instructions to get you back into that tech fund.

Editor Paul D. Winston's commentary appears fortnightly and on www.businessinsurance.com. He can be reached at pwinston@crain.com or by carrier pigeon.

Bankruptcy

Continued from page 3

back to the last congressional session. Initially, legislators, as part of a bankruptcy reform package, proposed giving to non-ERISA plans the same protection from creditors that benefits provided through ERISA-covered plans currently enjoy.

'The issue is whether people who file for bankruptcy should be able to shield assets in retirement accounts,' says Sen. Charles Grassley, R-Iowa.

Legislators later, however, floated various proposals to remove the protection offers. Under one proposal, for example, employees would have been allowed to waive this ERISA protection. Benefit lobbyists feared that creditors would have exploited this by inserting "boiler plate" language in loan agreements that would have caused employees to unknowingly waive the ERISA protection.

A succeeding proposal would have established a sliding scale in which the amount of pension assets protected from a bankrupt employee's creditors would have been based on an employee's age. The scale would have ranged from $250,000 for a 21-year-old to $1 million for a 65-year-old employee.

Congressional backers of a cap argued that individuals shouldn't be able to shield assets in retirement plans while creditors were not paid.

"The issue is whether people who file for bankruptcy should be able to shield assets in retirement accounts," said Sen. Charles Grassley, R-Iowa.

But employer benefit lobbyists questioned—given federal restrictions on contributions to pension plans—if employees really could amass large sums of money in employer-provided plans. For example, the maximum annual deferral to a 401(k) plan is $10,500.

Perhaps, more significantly, benefit lobbyists said, giving creditors the right to seize pension benefits would be inconsistent with wanting to encourage employees to save for retirement.

"That would be very damaging to retirement security," said the American Benefit Council's Mr. Delaplane.

Apparently those arguments were convincing to legislators, because under the latest bankruptcy reform measure "pension plans would get some very positive protection, while the damaging provisions from earlier bills are not present," Mr. Delaplane added.

Still, benefit lobbyists are opposed to the $1 million IRA cap, warning that it could be the first step to removing the security of retirement plan assets from creditors. BI

Quackenbush

Continued from page 1

report, which was based on Insurance Department internal memos.

An attorney representing Lloyd's was concerned that an invoice to pay for the department's efforts would arouse the suspicion of auditors. The attorney representing Lloyd's dictated the wording of an Insurance Department invoice that went to Lloyd's so that it appeared as a billing for "educational briefings," according to the Times' report.

A spokesman for Lloyd's disputed the Times' reporting and said a court would dismiss the internal Insurance Department correspondence on which the newspaper's report was based as hearsay.

In a prepared statement, Lloyd's said it did not reimburse the Insurance Department for legal expenses. Monies it paid to the department were for reimbursement of the costs associated with the department's monitoring of the insurer's operations, as required by law. Furthermore, any reclassifying of monies received from Lloyd's is an internal Insurance Department issue, the statement said.

"Lloyd's reimbursed the California Department of Insurance for expenses incurred during work to monitor Lloyd's and gain a greater understanding of its complex financial structure," the statement said. "Lloyd's, in common with all other major insurers trading in the U.S., makes similar reimbursements to regulators in other states and continues to do so."

But one critic of Lloyd's disputes that statement.

Jeffrey Peterson, executive director of the Rancho Santa Fe, Calif.-based American Names Assn. contends that as, a non-admitted insurer, Lloyd's would have no reason to pay for Insurance Department auditing and monitoring. The American Names Assn. participated in suing Lloyd's in the mid-1990s.

Non-admitted insurers are not directly regulated by state insurance departments. Lloyd's is a non-admitted insurer in all states but Illinois, Kentucky and New York, where it is licensed.

A spokesman for the Insurance Department said the department does not conduct individual audits of Lloyd's, but it has participated in exams conducted by the National Assn. of Insurance Commissioners.

He could only verify that the Insurance Department maintained this practice for the past six years, however. Any bills for such exams would be submitted by the NAIC, not the Insurance Department, the spokesman said.

Mr. Quackenbush during the 1990s was a member of the NAIC's Surplus Lines Task Force. California is the nation's largest surplus lines insurance market, generating more than $1.52 billion in non-admitted premiums in 1999.

Allegations that Lloyd's paid for the Insurance Department's legal representation come as no surprise, said Bill McDonald, enforcement director for the California Department of Corporations. Mr. McDonald led his department's 1996 lawsuit against Lloyd's that charged Lloyd's fraudulently sold securities by recruiting names to invest in syndicates that Lloyd's knew could expect massive pollution and asbestos losses.

The Insurance Department, in response, then sued to block the Department of Corporations' suit, claiming that the department did not have jurisdiction in the matter, as Lloyd's is an insurer. The pleadings contained in the Insurance Department's complaint made Mr. Quackenbush's team appear to be "carrying water for Lloyd's," Mr. McDonald said.

"We were flabbergasted that one state agency was suing another," he said. "It was crazy. Every argument they made was an argument on behalf of Lloyd's. They were acting as outside counsel."

'We were flabbergasted that one state agency was suing another. It was crazy. Every argument they made was on behalf of Lloyd's,' says Bill McDonald.

In defense of the Insurance Department, Mr. McDonald said he thinks it genuinely believed that allowing securities regulators to prevail would have a negative impact on insurance solvency issues.

It was common at that time for securities regulators in several states to fight with insurance commissioners over jurisdiction in similar cases involving Lloyd's, Mr. McDonald said. But Mr. McDonald said that as far as he knows, no other state insurance commissioner filed a lawsuit against the security regulators of his or her own state.

The Department of Corporations eventually settled with Lloyd's after its lawsuit was dismissed on a technicality.

A spokeswoman for Mr. Lockyer, California's attorney general, said law enforcement officials will not comment on whether their ongoing investigation includes a review of monies paid to the Insurance Department by Lloyd's.

But the Joint Legislative Audit Committee routinely works closely with the state attorney general's office, providing it with audit findings, Mr. Steffen said.

"They are going to look at all the money and where it has gone," he said. "It's a huge net. They will catch everything."

The Insurance Department declined to comment on the case. But Mr. Quackenbush's successor, Insurance Commissioner Harry Low, requested last fall that legislators order such an audit, Mr. Steffen said. "He found some funny bookkeeping when he took over." BI

OSHA

Continued from page 1

tion, the joint resolution would have to be introduced by early spring to overturn the ergonomics rule, according to the NAM.

If both chambers passed the joint resolution of disapproval and President Bush did not veto it, the congressional action would mean "that this ergonomics rule that was issued in late November cannot be reissued in substantially the same form," said Jenny Krese, NAM's director-employment policy, at the briefing. She noted, though, that rescinding this ergonomics rule would not stop a future administration from issuing another, provided it was substantially different.

"We're not against ergonomics regulation—we're against this ergonomics regulation," said Mr. Cleary.

Employers and insurers have fought the ergonomics rule published in the Nov. 14 Federal Register for several reasons. They claim it is inflexible, is based on inadequate science, is expensive to comply with and undercuts the state-based workers compensation system by creating a special category of benefits for ergonomic injuries.

A number of employer and insurer groups, including the NAM and the Risk & Insurance Management Society Inc., sought federal court review of the standard, and all of those legal actions have been consolidated before the U.S. Circuit Court of Appeals for the District of Columbia.

Conversely, organized labor, remains outspoken in support of the ergonomics rule. In a statement sent to the press Feb. 13, Peg Seminario, director of the AFL-CIO Safety and Health Department in Washington, called the standard "the most significant job-safety measure ever issued by OSHA." The standard will prevent hundreds of thousands of injuries annually, according to the statement.

"For years," Ms. Seminario's statement said, "big-business groups and some members of Congress have waged a relentless campaign to block the ergonomics standards. Now that the final ergonomics standard has been issued, opponents, including the new Bush administration, are likely to try to overturn it. The AFL-CIO and its affiliate unions, together with public health groups and coalition partners, will unequivocally defend the ergonomics standard if it comes under attack."

'This will give Congress an opportunity to review the regulation and to vote to disprove it,' says John Savercool.

Supporters of the CRA approach readily admit they're taking a gamble, but they hold that the rule's very nature more than justifies doing so.

"It is uncharted territory. The statute has never been used before," said Ken Schloman, Washington counsel for the Alliance of American Insurers. "I would think it would be a close vote."

"This is the perfect kind of rule that was envisioned by drafters of the legislation to be the target of the CRA," said John Savercool, vp-federal affairs for the American Insurance Assn. in Washington.

Mr. Savercool gave the reasons AIA holds the rule should be rescinded.

"It's a rule that was promulgated late in an administration and was certainly subject to political influences given its timing. Also, the regulation really isn't based on as firm a scientific foundation as people would want it to be. Also, simply, at least one provision, in our view, is illegal—the provision mandating that compensation levels are to be set by the federal government. It goes against specific congressional guidance about what OSHA should and shouldn't regulate," Mr. Savercool said.

"This will give Congress an opportunity to review the regulation and to vote to disapprove it," he said.

"We are also optimistic that it will ultimately pass, although there's a lot of work to do. We expect a very close vote in the Senate, but I think we're optimistic that we will prevail," Mr. Savercool said.

"It's a very controversial standard, and CRA is just one of the avenues to challenge open. And I think it's appropriate to explore all of the avenues," said the Alliance's Mr. Schloman. In addition to invoking the CRA and pursuing legal challenges, opponents of the standard may eventually ask for reopening of the regulatory process or for an administrative stay, he said. BI

Forecast

Continued from page 2

Those increases follow rate hikes of, on average, 10% to 15% experienced by property accounts last year. In addition, some accounts saw drastic hikes in 2000, such as the 300% increases imposed on some Caribbean windstorm risks, the Marsh report noted.

In addition to rate increases, property insurers are: raising or eliminating dollar caps on percentage deductibles, examining interdependency risks within policyholders' operations more closely, and demanding more information on catastrophe exposures, the report said.

Primary casualty rates, which last year rose by 7% to 12% for good accounts, also will increase further in 2001, Marsh predicts. "In 2001, general liability rates are expected to rise by 10% to 20%, on average, for insureds with good-to-moderate loss records."

And workers compensation rates also will likely increase another 10% to 20%, though there will be marked state-to-state differences, according to Marsh.

Again, the 2001 increases follow hikes pushed through last year: Workers comp rates for good accounts last year increased 10% to 15% in better-performing states and rose by more than 25% in problem states such as California, Pennsylvania and Virginia, the report notes.

Policyholders have reacted to casualty rate increases by retaining more risk or by shifting to large-deductible plans, the report said.

"This shift will put a lot of pressure on insureds to implement strong loss control measures," the report said.

And as the increases continue, policyholders are likely to make greater use of captive insurers to reduce their dependence on commercial insurance, according to the Marsh report.

"The casualty correction should persist at least through 2001 and into 2002. Some time in 2002, insurers, newly profitable after a series of rate increases, may develop a renewed appetite for market share," the report says.

Excess casualty risks without significant losses will likely see 10% to 15% rate increases this year, the report says. That comes on top of 5% to 10% rate increases in 2000.

There is still ample capacity for excess casualty risks, but insurers are holding the line and restricting coverages, according to the report.

Marsh's "2001 Market Review and Forecast" is available at *www.marsh.com*. BI

Former New Mexico regulator sues over ouster

ALBUQUERQUE, N.M.—Former New Mexico Insurance Superintendent Don Letherer is suing several current and former state officials for wrongful termination, charging they ousted him in large part because his office uncovered evidence the officials had misappropriated public funds.

Mr. Letherer, who was fired in late January for negligence, inefficiency and misconduct, filed suit Wednesday in the U.S. District Court in Albuquerque, seeking unspecified compensatory and punitive damages.

Named in the suit are Bill Pope, chairman of New Mexico's Public Regulation Commission; commissioners Jerome D. Block and Tony Schaefer; and Jack Hiatt, the PRC's former chief of staff. Mr. Hiatt now is general counsel for the state's Taxation and Revenue Department.

Two other PRC members were not named because they objected to the PRC action against Mr. Letherer.

Mr. Letherer charges that the defendants inappropriately covered the PRC's past budget shortfalls with $500,000 in funds that the Legislature had appropriated to the Insurance Division to establish a special unit to carry out the objectives of a 1998 health care patient protection act.

The unit was supposed to be in operation by July 1999, but the defendants "purposely withheld paperwork and delayed establishment" of the unit so they could use the funds, Mr. Letherer's suit charges.

The delay in establishing the unit created the appearance that the unit had not needed the entire appropriation, Mr. Letherer charges. That led the state's Legislature to underfund the unit for the next fiscal year, which substantially contributed to the division's budget deficit. The defendants had blamed the budget deficit on Mr. Letherer, the lawsuit states.

The insurance division's budget deficit was increased further when the PRC transferred 12 employees to the insurance division's payroll in an effort to cut the PRC budget deficit, the lawsuit alleges.

Mr. Letherer also charges in the lawsuit that, for 18 months beginning in early 1998, the defendants misappropriated $150,000 from the Insurance Fraud Fund to cover a PRC budget shortfall. Mr. Letherer alleged that the defendants used $50,000 of those funds to remodel their offices.

A spokesman for the state's Risk Management Division said he could not comment on the lawsuit.

Separately, on Tuesday, the PRC voted 3-2 to appoint former State Corporation Commissioner Eric Serna as insurance superintendent. The state merged its Corporation Commission and its Public Utilities Commission in 1999 to form the PRC.

Mr. Pope and Herb Hughes, one of the commissioners who objected to Mr. Letherer's ouster, opposed the appointment.

—By Dave Lenckus

UPDATES

ADA bars suits by state workers

Continued from page 2

ruled last week.

The Americans with Disabilities Act does not pre-empt state immunity—granted under the 11th Amendment of the Constitution—against suits brought under federal law by its residents, the justices ruled in a 5-4 decision.

Congress, under the 14th Amendment, can permit individuals to recover monetary damages against states, but only if there is a pattern of discrimination, such as denial of voting rights on the basis of race. But the court ruled that remedy was not applicable to the ADA.

The ruling, though, does not bar the federal government from taking action against states for ADA violations, nor does it prevent individuals from obtaining court injunctions to stop state violations of the ADA, the justices wrote.

The case, *Alabama vs. Garrett*, involved two employees of the state of Alabama.

High court may hear ADEA case

WASHINGTON—The U.S. Supreme Court will likely decide next week whether to review an appellate court decision that held that federal age discrimination law permits older retirees to sue their former employers if the retirees receive lesser health care benefits than younger retirees.

The 3rd U.S. Circuit of Appeals last year ruled that the Age Discrimination in Employment Act, which bars employers from discriminating against older workers in benefit offerings, also applies to retiree health plans (*BI*, Aug. 14, 2000).

The ruling involves Erie County, Pa., which offered younger retirees a point-of-service health care plan that allowed them to choose their own providers on a service-by-service basis. In contrast, Medicare-eligible retirees were covered through a health maintenance organization that required them to remain in the HMO's provider network. A group of Medicare-eligible retirees brought suit in U.S. District Court, charging that Erie County's benefit offerings were discriminatory.

A slew of business groups, including the American Benefits Council and the ERISA Industry Committee, have asked the Supreme Court to review the lower court ruling. Benefit experts have warned that if the decision is allowed to stand, it could lead to more terminations of retiree health care plans, because employers would be unwilling—for cost and for other reasons—to provide equal benefits for the two groups.

Prescription standard planned

The three leading U.S. pharmacy benefit managers are creating a joint venture to make it easier for physicians to write electronic prescriptions.

Called RxHub L.L.C., the new nonprofit venture seeks to develop a uniform standard for the electronic writing of prescriptions. Currently, several such standards exist; the RxHub partners say the existence of multiple standards has prevented physicians from writing electronic prescriptions on a widespread basis. But the single standard created by RxHub will eliminate this confusion, they say, permitting more physicians to use technology that will let them write electronic prescriptions, check for potential drug interactions and research their patients' prescription drug coverage.

Founded by AdvancePCS of Irving, Texas; Express Scripts Inc. of St. Louis; and Merck-Medco of Franklin Lakes, N.J., the venture will permit physicians, pharmacies, health plans and PBMs to be linked electronically much as a telephone exchange allows phone calls to be connected.

Each of the three PBMs will invest $20 million in the joint venture over the next five years. Together, the three companies provide pharmacy services for more than half the individuals in the United States who have drug plan coverage, the companies said.

The joint venture does not yet have a business plan; that task will fall to senior management, which has not yet been named. But RxHub's initial strategy is to spread the cost of the system among those that will benefit from electronic prescription writing and have them "pay some of that cost through a transaction fee," said David Halpert, chairman and CEO of AdvancePCS, during a press conference.

The joint venture anticipates the system will be operational by late 2001 or early 2002.

City may cover sex changes

SAN FRANCISCO—San Francisco is expected to become the first U.S. city to explicitly provide health care coverage for transgendered city workers, including paying for sex-change operations.

The Health Service System Board, which administers benefits for city workers, approved a plan to provide the coverage Feb. 8.

The Board of Supervisors, which has already unanimously passed a resolution commending the health board's action, is expected to approve the proposal next month and Mayor Willie Brown has indicated his support, said Nathan Purkiss, a legislative aide to Supervisor Mark Leno.

Under the plan, the city would provide up to $50,000 for an individual's transgendered health care, including sex-change surgery. Currently, male-to-female procedures cost about $37,000, while female-to-male operations cost about $77,000. Mr. Purkiss said other services would include psychotherapy for those considering sex change surgery.

San Francisco's employee health care coverage is provided through a combination of self-insurance and health maintenance organizations.

There are only 12 workers who have identified themselves as transgendered, Mr. Purkiss said, and it is not known how many of them would want the surgery. "We're not talking about a huge cost to the city," he said.

Although San Francisco would be the first municipality to approve such legislation, the city has received inquiries from other cities that are considering similar measures, Mr. Purkiss said.

FOR THE RECORD

Excerpts from *BI*'s Daily Online Updates, Feb. 20-Feb. 23, 2001

QUERN NOMINATIONS SOUGHT The Risk & Insurance Management Society Inc. is seeking nominations for its 2001 Arthur Quern Quality Award. RIMS presents the award at its annual conference to an individual, risk management department, company or product that personifies quality in risk management.

The award honors the late Arthur Quern, former chairman and chief executive officer of Aon Risk Services. Mr. Quern was recognized for his professionalism, vision, ethics and determination in promoting quality in insurance and risk management. The first winner, named in 1998, was ECS Inc., an environmental risk services company that now is part of XL Capital Ltd. In 1999, the award was won by Insurance Management Co., a broker in Erie, Pa. Last year's winner was the risk management department of the city of Plano, Texas. The deadline for this year's nominations is April 1. Nominees must have accomplished the following: established or implemented an effective customer-oriented quality program; identified and solved one or more specific quality problems; initiated innovative techniques or policies that produced superior quality in a risk management product or service; contributed to the enhancement of ongoing quality programs and/or embraced training and continuous improvement. Submissions must include a nomination form and essay about the nominee. More information about the nominations and submission forms is available from Cecelia Cooper at 212-655-6224 or at *ccooper@rims.org*. Information on the Quern award also is available at *www.rimscope.org/quern.*

SULZER INSURED FOR CLAIMS Sulzer Orthopedics is insured for potential claims arising from hip implants that were recalled by the company. The company is the target of a lawsuit filed on Feb. 13 in U.S. District Court in San Francisco seeking nationwide class-action status on behalf of hip implant recipients. The lawsuit was filed on behalf of an estimated 17,500 people who received the implants but have not yet suffered a failure, according to plaintiffs attorney Richard M. Heimann, a partner with the San Francisco-based firm Lieff, Cabraser, Heimann & Bernstein L.L.P. Austin, Texas-based Sulzer Orthopedics, a division of Winterthur, Switzerland-based Sulzer Medica, announced a recall on Dec. 8, 2000, of its Inter-Op acetabular shell for hip implants. The recalled implants were sold primarily during 1999, with a small number of lots sold before then. In addition to the class action, an estimated 25 individual cases have been or are in the process of being filed against Sulzer to obtain compensatory damages for the replacement of failed or recalled hip implants, Mr. Heimann said. Mr. Heimann said that none of the cases have yet been settled by Sulzer. According to a Sulzer Medica company spokesman, Sulzer has commercial general liability and excess coverage, but declined to comment on limits. Additionally, he said that while the company does have product liability insurance, it does not have product recall coverage. "We do feel that we have sufficient coverage to respond to the recall," the spokesman said.

CGNU BOOSTING RESERVES OF SOLD UNIT CGNU Group P.L.C. will pay an extra $200 million to shore up the reserves of the U.S. property/casualty business that it sold to White Mountains Insurance Group Ltd. last December. London-based CGNU said in a statement that the sale amendment arises from a reserve analysis conducted prior to the sale.

"As a result of this analysis, the U.S. general business has strengthened its 31 December 2000 reserves and purchased reinsurance to provide some protection against further adverse developments," the statement said. CGNU agreed to sell CGU, its Boston-based U.S. property/casualty business, to White Mountains for $2.53 billion last year. White Mountains is domiciled in Bermuda, and its principal U.S. office is in Hanover, N.H.

ICAHN BOND OFFER CLOSES Carl Icahn came up short in an effort to purchase enough Reliance Group Holdings Inc. bonds to block a restructuring plan the company is negotiating with insurance regulators. As of the Feb. 20 close of his tender offer, Mr. Icahn had purchased bonds with a face value of about $75 million. That is less than the roughly $97 million—or one-third of a total $291.7 million in bonds outstanding—he would need to guarantee an ability to block Reliance's restructuring plan. Mr. Icahn had originally offered to buy $40 million worth of bonds when he launched a tender offer last December, but when his offer ended, investors had agreed to sell only $20.9 million in bonds. Mr. Icahn already owned Reliance bonds worth $43.6 million and purchased an additional $10.5 million of bonds in a separate transaction. Reliance was placed under formal regulatory supervision earlier this month and it is currently discussing a restructuring plan with regulators. Mr. Icahn opposes the plan.

BLANCH POSTS DECLINES E.W. Blanch Holdings Inc. reported a net loss and lower revenues for 2000. The Dallas-based intermediary saw its 2000 revenues fall 14.8% to $208.2 million compared with the year earlier. Blanch posted a net loss of $9.6 million in 2000, compared to net income of $39.7 million in 1999. Blanch's 2000 earnings included a $9.5 million restructuring charge, much of which related to contract termination and employee severance expenses connected with a corporate restructuring, which involved selling noncore assets and cutting corporate overhead. The year's earnings also included $11.0 million of special pre-tax charges for certain write-offs and reserves taken in the third and fourth quarters of 2000. In a statement announcing its 2000 results, the company also said that while it continues to take steps to position itself for long-term growth and profitability, it expects 2001 earnings per share to be "significantly below" the $1.60 figure it previously projected. For 2000 the company posted a loss per share of $0.74, compared to a profit of $2.89 per share in 1999.

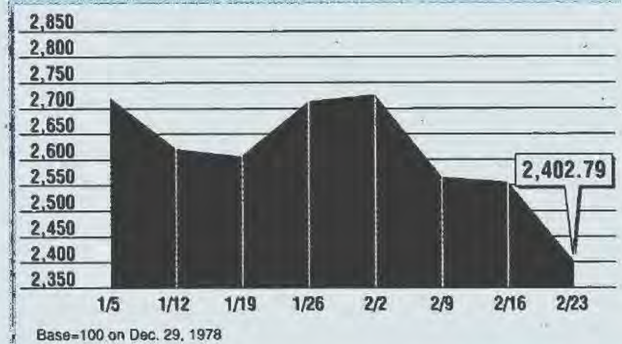
BRIEFLY NOTED Australian building materials manufacturer James Hardie Industries Ltd. has set up a $293 million Australian ($154 million) foundation to pay **asbestos-related claims** made against the company. The foundation should have sufficient funds meet all expected legitimate claims, a company statement said....**Christopher Z. Marshall**, chief financial officer of ACE Ltd., has been named assistant to the chairman at the Bermuda-based insurer. He will work on special projects, including mergers and acquisitions. ACE has not yet recruited a successor to Mr. Marshall as CFO....**Royal & SunAlliance USA** last week said it is investigating a possible fraud involving the use of the name Globe Indemnity Co., which is one of its insurance subsidiaries. In a statement, the Charlotte, N.C., insurer said its announcement "stems from allegations that a group of people and companies claiming to represent an offshore pool of underwriters are offering what purports to be insurance under the names 'Globe Indemnity & Casualty Ltd.,' 'Globe Indemnity Co.,' 'Globe Indemnity' and 'Globe.' Lines of coverage being offered under this program include, but are not limited to, trucking, taxicabs, 'black cars,' limousines, bars and nightclubs."...**Edward Muhl** has joined PricewaterhouseCoopers L.L.P. as a partner in its New York-based Insurance Regulatory Solutions practice. Mr. Muhl was formerly insurance commissioner for New York and Maryland....Atlanta-based loss adjusting company **Crawford & Co.** has been granted a full trading license in Japan. The company's full-service branch office in Tokyo will be headed by Takushi Yamamoto. *BI*

To get breaking news as it occurs, visit Business Insurance's free online Updates at www.businessinsurance.com. All of the material in the For The Record column, as well as other content in this week's issue, is generated from daily news postings that appeared on the Web site in the previous week.

Find daily coverage on Corporate Risk, Employee Benefit and Managed Health Care News at www.businessinsurance.com

BI Industry Stock Report FEB. 20, 2001, THROUGH FEB. 23, 2001

		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
BROKERS							
Aon Corp.	NYS	33.14	-8.76	-3.24	42.31	20.69	5019
Brown & Brown	NYS	38.55	0.78	10.14	39.92	15.63	207
Clark Bardes Holdings	NDO	11.75	-3.09	16.05	17.88	8.50	24
E.W. Blanch Holdings Inc.	NYS	9.50	-16.81	-45.52	56.94	9.50	761
Gallagher Arthur J. & Co.	NYS	26.56	-4.12	-16.51	34.25	11.53	793
Hilb, Rogal & Hamilton	NYS	37.40	-0.53	-6.21	42.13	25.63	70
Kaye Group Inc.	NDO	12.75	-0.97	64.52	12.88	5.00	9
Marsh & McLennan	NYS	105.34	-5.95	-9.97	135.69	70.50	4907
BROKERS	AVERAGE		-5.68	-2.74			
INSURERS/REINSURERS							
ACE Ltd.	NYS	36.60	-3.05	-13.76	43.94	14.06	6379
Accel International Corp.	NDO	0.20	0.00	-32.64	1.13	0.10	5
Acceptance Insurance Cos.	NYS	4.48	-8.57	-14.67	6.94	2.75	90
AEGON N.V.	NYS	32.15	-8.66	-22.41	43.00	31.50	638
AFLAC Inc.	NYS	57.71	-5.16	-20.06	74.94	33.56	4288
Allmerica Financial Corp.	NYS	52.52	-7.86	-27.56	74.25	35.06	1665
Allstate Corp.	NYS	39.75	-4.58	-8.75	44.75	17.19	10725
Ambac Financial Group	NYS	57.00	-2.46	-2.25	61.25	25.91	2627
American Financial Group	NYS	24.00	-2.60	-9.65	29.00	18.38	802
American General	NYS	75.57	-4.21	-7.28	83.44	45.63	3896
American Intl Group	NYS	80.85	-6.66	-17.97	103.75	52.38	19014
American Safety Insurance	NYS	7.40	2.07	20.82	7.40	3.25	8
Argonaut Group	NDO	16.31	-11.22	-22.32	21.25	14.44	116
AXA-UAP Group	NYS	59.05	-6.12	-17.77	81.50	58.00	852
Baldwin & Lyons Inc.	NDO	24.00	-6.80	3.23	28.75	15.25	5
Berkley W.R. Corp.	NDO	42.56	1.04	-9.80	47.63	14.00	1056
Berkshire Hathaway Inc.	NYS	68400.00	-2.01	-3.66	74600.00	668.00	1
Capitol Transamerica Corp.	NAS	12.50	-3.38	0.50	13.25	10.00	11
Chubb Corp.	NYS	69.69	-5.81	-19.43	90.25	43.25	4652
CIGNA Corp.	NYS	102.20	-5.92	-22.75	136.75	60.75	4104
Cincinnati Financial Corp.	NYS	35.66	-4.44	-9.87	43.31	26.19	1015
Citigroup	NYS	48.20	-10.74	-5.61	59.13	35.34	71468
CNA Financial Corp.	NYS	36.35	-3.14	-6.19	41.94	24.56	248
CNA Surety	NYS	13.30	-0.67	-6.67	14.94	10.38	261
EMC Insurance Group Inc.	NDO	10.50	-2.33	-10.64	13.13	6.81	2
ESG Re Limited	NDO	2.31	2.78	25.42	6.50	1.72	41
Enhance Financial Services	NYS	13.60	-3.00	-11.90	17.00	8.63	724
Everest Reinsurance	NYS	59.78	-2.62	-16.54	74.75	21.25	2074
Fremont General Corp.	NYS	2.84	-20.00	0.98	8.25	1.50	959
Gainsco Inc.	NYS	3.50	9.37	33.33	6.38	2.19	122
Harleysville Group	NDO	27.53	6.92	-5.88	30.63	11.63	568
HSB Group Inc.	NYS	38.75	0.00	0.00	40.53	21.50	0
HCC Insurance Holdings	NYS	22.40	-2.61	-16.84	27.19	10.94	575
ING Groep N.V.	NYS	68.51	-4.58	-14.50	83.94	46.81	639
IPC Holdings Ltd.	NDO	23.38	-1.32	11.31	24.50	9.75	96
Hartford Financial Services	NYS	63.75	0.00	-9.73	80.00	29.38	6454
John Hancock Financial Services	NYS	34.80	-5.31	-7.51	38.25	13.44	6020
LaSalle Re Holdings Ltd.	NYS	13.88	0.00	0.00	19.38	10.88	0
Lincoln National	NYS	42.75	-8.06	-9.64	56.33	22.63	3994
MAIC Holdings Inc.	NYS	14.65	-12.17	-12.21	22.00	10.00	232
Markel Corp.	NYS	168.07	0.79	-7.14	183.25	111.50	702
MBIA Insurance Group	NYS	74.85	-3.19	0.98	77.95	36.31	1613
Meadowbrook Insur. Group	NYS	4.80	-6.80	-40.92	8.38	3.94	13
MetLife	NYS	30.34	-5.63	-13.31	36.63	14.25	7610
Mutual Risk Mgmt. Ltd.	NYS	11.65	1.39	-23.29	25.75	11.10	1314
Navigators Group	NDO	13.63	-0.91	2.35	14.13	8.63	#N/A
NYMagic Inc.	NYS	18.35	-0.54	-2.78	19.25	12.25	3
Ohio Casualty Corp.	NDO	8.88	2.16	-11.25	17.68	6.13	654
Old Republic Int'l	NYS	26.34	-4.57	-17.69	32.06	10.63	3516
Partner Re Ltd.	NYS	50.02	-3.81	-18.00	62.50	29.25	1222
Penn-America Group Inc.	NYS	9.20	2.22	20.66	9.75	6.88	10
PMA Capital Corp.	NDO	17.75	1.43	2.90	19.13	15.19	35
Philadelphia Cons. Holding	NDO	29.00	0.87	-6.07	31.25	14.13	320
PXRE Corp.	NYS	17.90	2.29	6.07	20.10	11.88	74
ReliaStar Financial Corp.	NYS	53.94	0.00	0.00	53.94	23.75	0
RenaissanceRe Holdings Ltd.	NYS	76.15	-7.81	-2.76	84.19	35.88	602
RLI Corp.	NYS	42.24	-3.74	-5.48	45.16	26.25	36
St. Paul Cos.	NYS	45.54	-6.32	-16.15	57.30	21.31	3517
SCOR	NYS	48.70	-1.22	-3.08	53.75	38.38	11
SAFECO Corp.	NDO	23.00	-7.30	-30.04	35.88	18.00	4882
SCPIE Holdings Inc.	NYS	26.80	-7.59	13.44	36.94	18.31	NA
Seibels Bruce Group	NDO	0.99	0.00	76.00	2.25	0.53	14
Selective Ins. Group	NDO	21.81	-7.92	-10.05	26.94	14.75	491
Tokio Marine & Fire	NDO	53.44	2.27	-6.25	61.00	45.00	59
Torchmark Corp.	NYS	33.65	-3.86	-12.46	41.19	18.75	1811
Transatlantic Holdings	NYS	96.80	-4.10	-8.57	107.06	68.75	40
Trenwick Group Inc.	NYS	21.51	-7.68	-13.31	27.13	12.00	192
Unico American Corp.	NDO	6.00	-2.04	2.13	7.75	4.50	4
United Fire & Casualty	NDO	20.50	-2.96	3.80	25.00	15.50	21
Unitrin	NDO	37.00	-2.31	-8.92	41.94	27.19	221
UNUM Corp.	NYS	25.03	-2.61	-6.87	30.44	11.94	4569
Vesta Insurance Co.	NYS	6.28	-21.01	24.05	8.39	4.13	484
XL Capital Ltd.	NYS	76.00	-2.19	-13.02	39.25	39.00	2815
Zenith National Ins.	NYS	28.45	-2.40	-3.15	30.70	18.75	24
INSURERS/REINSURERS	AVEFAGE		-3.48	-6.28			
HEALTH MAINTENANCE ORGANIZATIONS							
Aetna Inc.	NYS	35.62	-3.94	-13.25	42.69	32.94	3450
Health Net Inc.	NYS	20.40	-8.97	-22.10	26.94	7.63	4073
Humana Inc.	NYS	12.50	-6.23	-18.03	15.81	4.75	3974
Oxford Health Plans	NDC	31.88	-4.49	-19.30	42.75	12.75	24192
Pacificare Health Sys.	NDC	36.88	5.92	145.83	72.31	9.81	4277
Sierra Health Services	NYS	5.00	-3.85	31.58	8.25	2.44	764
United HealthGroup	NYS	54.33	-4.53	-11.48	64.36	23.19	7722
Wellpoint Health Networks	NYS	91.79	-9.70	-20.36	121.50	56.94	3542
HMOs	AVERAGE		-4.55	12.31			
ALL COMPANIES			-4.57	1.10			



Top advancing issues: Gainsco Inc., Harleysville Group, PacifiCare Health System. Leading decliners: Vesta Insurance Co., Fremont General Corp., E.W. Blanch Holdings. Most active issue: Citigroup. The *BI* Index decreased 6.0%; the Dow Jones 30 Industrials went down 3.3%; the S&P 500 dropped 4.5%; and the NYSE Composite sank 3.8%. Average P/E: Brokers, 21.8; Insurers/reinsurers, 34.8; and HMOs, 17.3.

Source: *CNET Investor* (investor.cnet.com) Boulder, Colo.

Wonder why your Risk Service Provider hasn't mentioned their 30 ton driver simulator?

Because only RSKCo has one.

Not every Risk Service Provider can actually drive up to your company and give your employees a lesson in safety. Only RSKCo has a driver simulator that lets up to eight people who drive for you simultaneously get safety training. And the more they learn, the more you gain. We have a lot of unique solutions that can help your company minimize your risks. And if a solution for your problem doesn't currently exist, we'll create one. This continued quest is just one more way we set ourselves apart. To find out more about how we can help your company, call 1.877.222.2165.

DIFFERENT. For good reason.

Advanced training reduces risk.
A simple idea from RSKCo.
1-800-519-2835

Claims Services and Information Services are provided by Transcontinental Technical Services, Inc. Loss Control Services are provided by Ctek, Inc., and Smith System Driver Improvement Institute, Inc. Cost Management Services are provided by Continental Rehabilitation Resources, Inc., all member companies of RSKCo. The navigator globe design and the name RSKCo are protected service marks. © Copyright 2001, RSKCo.