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Updates

Workers comp insurers report worsening accident year results

BOCA RATON, Fla.—Combined ratios for workers compensation insurance in 1997 show accident year results deteriorated to 115% from 110% while calendar year results improved to 101% from 103%, according to a National Council on Compensation Insurance update.

"Our analysis shows a sharp deterioration in the accident year combined ratio and a widening gap to calendar year results," said Nick Lannutti, NCCI senior vp and corporate actuary.

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Senators work on bipartisan pension bill

By JERRY GEISEL

WASHINGTON—A group of senators is launching an 11th-hour effort to put together and win passage of a bipartisan, pro-employer pension bill before the congressional session comes to an end in the fall.

Benefit lobbyists say a slender opportunity to get pension legislation passed could emerge if congressional leaders agree to try to get a tax bill enacted this year. By drafting and agreeing on a pension package now, those provisions then could be quickly added to a tax bill.

"If there is a tax bill this year, I think there would be a great deal of interest in the House and Senate that the measure contain pension provisions," said James Klein, president of the Assn. of Private Pension & Welfare Plans in Washington.

"We would certainly try to attach as much as possible" to a tax bill, said a Senate committee staffer involved in writing the pension measure.

The effort is being led by Sens. Charles Grassley, R-Iowa, and Bob Graham, D-Fla. Other senators that are part of the effort include Orrin Hatch, R-Utah, John Breaux, D-La., and Max Baucus, D-Mont.

"If we expect pension coverage to increase, we have to chip away at the unnecessary requirements on employers," Sen. Grassley said.

The senators already have produced a draft proposal, which, after further changes, could be introduced as soon as next week. In the House, Ways and Means Committee staffers also are trying to assemble a pension bill based on proposals that already have been introduced.

The pension reform proposals being put together are scaled down from sweeping measures earlier introduced that, among other things, call for big increases—at a considerable loss of tax revenue—in the amount of benefits that can be provided through pension plans.

"For the most part, we are talking about technical changes and improvements," said Nell Hennessy, former deputy executive director of the Pension Benefit Guaranty Corp. and now a senior vp in the Washington office of benefit consultant ASA Inc.

See **Pension** *on page 6*

Easing pension rules

Key provisions in the Senate bipartisan pension proposal:

- **Allow employees to contribute more to 401(k) plans**
- **Faster vesting for employer matching contributions**
- **New exemption from minimum distribution rules**
- **Allow 401(k)-403(b) plan transfers**
- **More flexible non-discrimination rules**
- **Less rigid retirement plan cash-out rules**
- **Lower PBGC premiums for new, underfunded plans**
- **Tax credits for small employers starting new plans**

Politics endanger product law reform

By MARK A. HOFMANN

WASHINGTON—A modest product liability reform bill that enjoys President Clinton's backing has been put on indefinite hold because of disagreements among senators over unrelated issues.

While proponents of S. 2236, the Product Liability Reform Act of 1998, still hope that the measure can be revived, passage of the bill this year is a long shot at best. A spokesman for Senate Majority Leader Trent Lott, R-Miss., said "probably it will return next year."

Sen. Rockefeller

A motion to invoke cloture—a parliamentary end to debate—on the measure last Thursday fell nine votes short of the 60 votes necessary to halt debate and bring the bill to a vote. In fact, the bill's chief Democratic sponsor—Sen. John D. Rockefeller IV, D-W.Va.—declined to vote for cloture because he sought more time to consider additional amendments that could be agreed upon by the bill's supporters and the White House.

"Even Democrats who strongly support product liability reform refused to go along with this process until there could be more

See **Product** *on page 22*

Dow Corning deal approved

Earlier payment to implant claimants seen as key to deal

By JOANNE WOJCIK

BAY CITY, Mich.—Dow Corning Corp. and lawyers representing breast implant claimants have agreed to accept a $3.2 billion settlement negotiated by a federal mediator.

The agreement, announced last Wednesday by U.S. Bankruptcy Judge Arthur Spector in Bay City, Mich., is $200 million more than Dow Corning had offered in February but $600 million less than claimants had sought.

Many of the payments, however, will be made sooner under the new settlement proposal, allowing women who seek "closure" to move on with their lives, one of the plaintiffs' lawyers said.

"More of the payments will be front-loaded, or we wouldn't have accepted the deal," said Elizabeth Joan Cabraser, a partner with Lieff, Cabraser & Heimann in San Francisco.

Still, the present-day cash value of the plan is estimated at $2.4 billion, about the same as Dow Corning's last offer.

So far, Dow Corning has reached settlements with its liability insurers totaling $1.2 billion. About half of that was in the form of cash payments, while the remainder is in the form of coverage-in-place agreements, according to Kevin Scroggin, Dow Corning's risk manager.

Meanwhile, the California Supreme Court late last week affirmed two lower court rulings shielding

See **Settle** *on page 4*

Limits on comp dialogue pulled

Employer input key to withdrawal of North Carolina proposal

By MARK A. HOFMANN

RALEIGH, N.C.—Employers will get an opportunity to work with the North Carolina Industrial Commission to craft new guidelines for contact between employers and physicians treating injured workers.

The new cooperative effort follows the state commission's withdrawal of a controversial proposal that would have greatly restricted communication between employers and treating physicians (*BI*, June 8).

During three days of public hearings on the proposal in Raleigh, N.C., late last month, employer representatives repeatedly told commission members that proposed Rule 409 could unnecessarily cause delays in processing workers comp claims, increase expenses and encourage fraudulent claims because of the restrictions it would place upon employers.

Under the proposed rule, an employer would have been able to speak directly with the injured worker's physician only if the employee or the employee's attorney had been given "prior reasonable notice and opportunity to participate."

The proposal also would have imposed restrictions on written communication between employ-

See **Proposal** *on page 23*

Updates

Accident year ratio up: NCCI

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Accident year results show the performance of current workers comp business because they include only loss payments and reserves for accidents occurring in a particular accident year.

"The upturn in accident year results reflects a reduction in the premiums charged for workers compensation coverage as well as a rise in expenses as a percentage of premium," the NCCI said in a statement.

However, calendar year results include loss transactions regardless of accident year. They typically have been lower because of insurers' substantial reserve releases on earlier accident years, especially after cost-cutting reforms were implemented.

The new figures are based on the actual premiums charged by insurers as reported in their annual financial statements. The data updates the NCCI's preliminary estimates, which were made in April.

WellPoint buys Georgia Blues

WOODLAND HILLS, Calif.—As part of its continuing strategy to grow outside California, WellPoint Health Networks Inc. announced it is buying Cerulean Cos. Inc., Georgia's largest health insurer, for about $500 million in stock and cash.

Cerulean, the Atlanta-based parent of Blue Cross & Blue Shield of Georgia, has about 1.7 million members and reported 1997 revenue of $806 million. WellPoint, the parent of Blue Cross of California, has 6.7 million members and reported 1997 revenue of $5.8 billion.

Buying Cerulean will enable WellPoint to become a larger player in the Georgia market, Leonard Schaeffer, chairman and chief executive officer of WellPoint, said in a news release. WellPoint already has about 100,000 members in Georgia through its UNICARE national operating unit.

"The growth strategy for the combined companies includes the introduction of innovative medical and specialty products," Mr. Schaeffer said in the statement.

"We believe our members will benefit from this merger with WellPoint through the availability of additional resources in the areas of information technology, specialty products, medical cost management and product design," said Richard D. Shirk, president and CEO of the Atlanta-based Blue Cross & Blue Shield organization.

In related news, Blue Cross & Blue Shield of Georgia also announced last week that it has resolved pending litigation over its conversion to for-profit status. The Georgia Department of Insurance approved the conversion in December 1995. The proposed settlement with Let's Get Together Inc., a plaintiffs organization representing people with disabilities, was announced last week and includes the establishment of an $80 million Georgia-based independent charitable foundation that will receive cash, and, as a result of the merger, WellPoint common stock.

Completion of the deal is contingent upon approval by federal and state regulators, court approval of the Cerulean settlement with Let's Get Together Inc., and shareholder approval. The companies said they expect the transaction to close in the fourth quarter.

CNA to reorganize unit

CHICAGO—CNA Financial Corp. is reorganizing its commercial insurance unit and also will review the operations in its 27 other strategic business units over the next year and a half.

Michael McGavick, president and chief operating officer of the Commercial Insurance unit, said of the other units: "Some will be growing, some are shifting their products and some will be addressing cost issues."

No details on the other units have been released, a spokesman said.

The CNA Commercial Insurance strategic business unit, which works with businesses that generate $1 million or less in annual premium, will continue to have 40 branch offices nationwide, said another spokesman.

But policy transactions will be centralized in Orlando, Fla., while claims handling will be centralized into eight different offices, down from the 24 that have handled both these functions until now.

The second spokesman said the change is intended to improve service, move decision-making closer to the customer, increase revenues, reduce expenses and "emphasize the creation and delivery of new products." He said CNA plans to lay off 1,100 workers, or about 20% of the workforce in the Commercial Insurance unit, over the next 18 months.

Man wins $28 million bias award

LOS ANGELES—A jury returned a $28 million verdict, including $26 million in punitive damages, against McDonnell Douglas Corp. last week in a case that charged the company with retaliating against an African-American employee who had filed a discrimination complaint.

A spokesman for Seattle-based Boeing Co., which merged with McDonnell Douglas in 1997, said no decision has been made yet whether to appeal the verdict. He declined to comment on insurance coverage.

The case involved Gerald Verdine, a 58-year-old man who had worked for the company for 30 years, according to his attorney, Larry Feldman of Fogel, Feldman, Ostrov, Ringler & Klevens in Santa Monica, Calif.

After Mr. Verdine was laid off in 1992, he filed a complaint with the Equal Employment Opportunity Commission claiming he had lost his job because of his age and race. The company reinstated him, but he lost his job again four years later in a one-man layoff, according to Mr. Feldman.

In addition to the $26 million in punitive damages, the $28 million verdict reflects $500,000 in lost wages and $1.5 million for emotional distress based on a finding of retaliation and breach of contract. The jury, however, did not find McDonnell Douglas guilty of race or age discrimination.

See **Updates** *on page 22*

Errors & omissions

• Due to an editing error, a June 22 story incorrectly said the Sydney Organizing Committee for the Olympic Games has arranged insurance with the Treasury Managed Fund. SOCOG's coverage arrangements are with AMP General Insurance Ltd.

Small cost jumps foreseen from Texas HMO proposals

By MICHAEL BRADFORD

AUSTIN, Texas—New rules for health maintenance organizations in Texas likely will mean slightly higher costs for the plans and employers.

As instructed by the 1997 Legislature, the Texas Department of Insurance has proposed new regulations governing how HMOs operate in the state. The regulations, in the form of amendments and new sections to the Texas Administrative Code, are necessary to implement 15 laws passed during last year's session.

The 222 pages of proposed rules establish what basic services must be provided by the plans, contain requirements for financial performance and set out a host of administrative duties for HMOs.

"Most assuredly, it will have some impact" on the cost of care, said Geoff Wurzel, executive director of the Texas Assn. of Health Plans in Austin. Mr. Wurzel pointed out that the rules contain "a lot of procedural and administrative requirements," and he said that the cost of implementing them will not be absorbed by the plans.

Mr. Wurzel said it is unclear how much it will cost HMOs to adhere to the regulations, and the Insurance Department has not determined the full expense of implementing the requirements.

See **Texas** *on page 21*

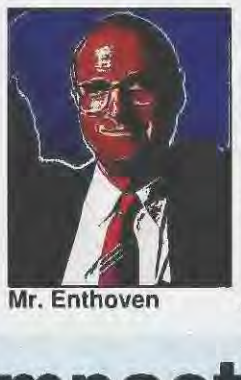
Employers ignoring prescription

Practices not controlling health costs, quality: Survey

By ROBERT KAZEL

Two decades after academia gave employers new recommendations for making managed care more competitive, most companies still are clinging to practices that fail to control either price or quality, a survey says.

Results from the Robert Wood Johnson Foundation Employer Health Insurance Survey presented by the Center for Studying Health System Change found that the model developed by Stanford University professor Alain Enthoven, who is often viewed as the philosophical patriarch of managed care, actually has been adopted by relatively few plan sponsors.



Mr. Enthoven

The "managed competition" model advocated by Mr. Enthoven requires plan sponsors to offer employees a choice of plans, to adjust financial incentives so that many workers opt for lower-

See **Survey** *on page 16*

Lawsuit impact called small

Med mal suits against plans would bring minor hikes: Study

By MICHAEL PRINCE

Allowing patients to sue health plans for medical malpractice would cause only a small increase in health insurance premiums, a recent study concludes.

The study's findings add some fuel to the debate in both Congress and statehouses throughout the United States, where bills have been introduced that would expose health plans to such suits. Business groups have opposed these bills on the grounds that the additional costs would be passed on to purchasers, driving up the cost of insurance.

Under current law, employees generally cannot sue a health plan for medical malpractice if it denies coverage for a treatment. Instead, employees must bring suit against a plan under the federal Employee Retirement Income Security Act, which limits any recovery to the value of the denied benefit. An exception exists, however, for state and local employees, whose

See **Kaiser** *on page 21*

Quick votes possible on patient bills

Some worry that bad bill could come from fast pace

WASHINGTON—The full House and Senate could vote on health care patient protection legislation as soon as next week.

In the House, staffers are scrambling to put in legislative form a proposal earlier assembled by a Republican health care task force. That proposal, among other things, would require health care plans to set up new internal and external claim review mechanisms and require employers offering only traditional health maintenance organizations to provide a point-of-service option (*BI*, June 29).

In the Senate, Majority Whip Don Nickles, R-Okla., is working to complete a bill for quick action. A three-page list of Republican health care principles released last week by Sen. Nickles says legislation should ensure that patients receive a fair and expeditious appeals process and open communications with their physician about all treatment options. Other patient protection measures also could emerge next week as Republicans and Democrats try to find a common ground.

Benefit lobbyists say floor debate on the Republican proposals, as well as more expansive alternatives backed by congressional Democrats, could begin July 21.

Health care observers, though worry that the frenzied pace at which legislators are trying to put together patient protection bills could lead to poorly drafted and ill-considered bills. Both Republican and Democrat congressional leaders are trying to get the measures considered by the full House and Senate without prior votes by committees with jurisdiction over health care legislation.

"This whole process is outrageous," said Charles Weller, an attorney in the Cleveland office of Baker & Hostetler.

—By Jerry Geisel

Inside

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Insured losses low in Florida wildfires

By MICHAEL BRADFORD

TALLAHASSEE, Fla.—Florida businesses and insurers are escaping the worst of the wildfires that have swept across the state for several weeks.

Insured losses and commercial damage have not been heavy, even though the fires have been widespread and difficult to extinguish. The fires, many sparked by lightning in the tinder-dry state, had caused an estimated $276 million in losses as of late last week, according to Florida's Emergency Operations Center in Tallahassee.

The center so far has attributed only $2.6 million of those losses to homes and businesses. "We think that figure is low at this point," said a spokesman for the center last week. The spokesman added, though, that he expects that amount to rise.

The remaining $273 million in damage is to timber, much of which is not insured. About 60,000 of the more than 485,000 burned acres are in national forests, the spokesman added, with an undetermined amount of burned acreage within state forests.

"We anticipate insured losses to be slight," said a spokesman for the Insurance Information Institute in New York. "We're still waiting to receive claims for additional living expenses, smoke damage and business interruption claims."

Insured losses are expected to reach $25 million, but "we don't expect it will go much beyond that," he said.

The fires are responsible for at least

See **Fires** *on page 22*

GRAPHIC: ADAM DOI AP/ WIDE WORLD PHOTOS

A firefighter lights a backfire earlier this month to help protect a business in an industrial complex in Flagler County, Fla. Wildfires have consumed more than 485,000 acres in the state.

D&O silence on Y2K criticized

Paper warns of coverage doubts without specific policy language

By GAVIN SOUTER

NEW YORK—A white paper commissioned and circulated by a unit of American International Group Inc. states that a standard directors and officers liability policy may not cover Year 2000-related claims.

An executive summary of the white paper was sent to AIG policyholders late last month and states that D&O policies "that are silent on the issue will rarely (and poorly) serve the best interests of the board of directors."

The communication appears to buck a trend set by some other insurers that have written to policyholders indicating that Year 2000-related claims alleging mismanagement will be viewed as any other D&O claim.

The executive summary was accompanied by a letter from Kristian P. Moor, senior vp of the domestic brokerage group at AIG in New York.

Mr. Moor says in the letter that the white paper "explores (the Year 2000) issue and offers practical suggestions for protecting your organization and its management."

However, AIG only commissioned the white paper and does not necessarily endorse its findings, said Ty Sagalow, chief underwriting officer at National Union Fire Insurance Co. of Pittsburgh, Pa., the AIG unit that commissioned the study and a leading D&O underwriter.

"We commissioned the white paper because we believe that education is an essential part of the management of the Year 2000

See **AIG** *on page 22*

Plan brings county savings

Program for wellness, productivity expanded in California

By GEORG SZALAI

SAN BERNARDINO, Calif.—A pilot program to boost the wellness and productivity of employees of San Bernardino County, Calif., has been expanded after reducing lost-time costs due to sick leaves by nearly 20% over a six-month period.

In April, the county expanded the program to include 3,300 workers, and proposals for extending it to even more of the county's 15,000 employees are being discussed, according to county officials.

The savings projection for the 3,300 employees now involved is $1 million annually in reduced lost-time under sick leaves, according to Myrna Cogan, chief of the county's Employee Benefits and Services Division.

Barbara Musselman, director of the county's Human Resources Department, said, "We think we have found the basic recipe" for reducing lost-time costs.

The county estimates that workers comp costs will be reduced by a percentage similar to sick leave savings, Ms. Cogan said.

"The program is just tackling problems in so many areas," including illness and injury prevention and improved health care administration, said Dr. Phillip Polakoff, president and chief executive officer of Emeryville, Calif.-based Integrated Health Management Associates, a consulting firm that helped develop the pilot.

Two years ago, Ms. Cogan assessed the county's high costs for sick leave, short-term disability and workers compensation programs, particularly in terms of productivity losses: $30 million in direct costs of lost time.

"It was a sizable number, and we had to do something about it," said Ms. Cogan.

Focus groups found that a major reason workers often stayed off work too long was because they had problems navigating through the county's benefits and care system.

Changes to alleviate those problems were tested in a pilot program with 400 employees of the county's Social Services Group from October 1997 to March 1998. Under the pilot program, the county spent about $250,000, according to Ms. Cogan. The ap-

See **County** *on page 16*

Massachusetts may eliminate health bill surcharge waiver

BOSTON—Massachusetts may eliminate an exemption that now allows "infrequent payers" to escape—by paying a small fee—a state law that imposes a surcharge on all hospital bills.

Since Jan. 1, third-party claims administrators, insurers, health maintenance organizations, preferred provider organizations and employers nationwide that administer their own health care plans have been liable for a surcharge—currently 5.06%—on payments made to Massachusetts acute care hospitals and ambulatory centers.

However, health care payers whose Massachusetts hospital bills were less than $300,000 in 1996—such as TPAs outside Massachusetts, for example—were able to escape the surcharge if they registered with the state's Division of Health Care Finance and Policy as an infrequent payer by Jan. 15 and paid a $2,400 fee.

If in any calendar year an infrequent payer makes at least $300,000 in payments to Massachusetts hospitals, though, it would be liable for the surcharge in the next year.

State health care officials now are proposing, though, to eliminate—due to low demand—the infrequent payer exception. Only 250 payers applied for infrequent payer status.

"We thought there would be greater demand," said a spokeswoman for the Division of Health Care Finance and Policy, adding that making all payers liable for the surcharge would be more equitable.

The proposal to eliminate the infrequent payer exemption will be the subject of a public hearing Aug. 25.

Eliminating the infrequent-payer exemption would primarily affect out-of-state TPAs with a small number of covered lives in Massachusetts and self-administered employers with small number of employees in the state.

A spokeswoman for the Associated Industries of Massachusetts in Boston, a business trade group, said it would not oppose the elimination of the surcharge exemption.

The surcharge is intended to fund a $100 million pool used to reimburse hospitals for uncompensated care provided to the uninsured.

—By Jerry Geisel

Barlow dies at 91, after blazing trails in risk management

Mr. Barlow

TORONTO—Douglas Barlow, a risk management pioneer whose career spanned decades as a lawyer, risk manager and educator, died last month in Toronto. He was 91.

Mr. Barlow died at home June 19 after being hospitalized for pneumonia and congestive heart failure.

A Rhodes scholar who earned law degrees at Oxford University and McGill University in Montreal, Mr. Barlow made his mark as risk manager for Toronto-based farm equipment manufacturer Massey-Ferguson Ltd. from 1959 to 1972.

There, he was credited with creating the first global insurance and risk management program, encompassing all of the company's worldwide exposures. In 1965, he launched one of the earliest captive insurers to write Massey-Ferguson's primary property and liability coverages.

He also formulated the now-familiar concept of "cost of risk," which he defined as the sum of insurance premiums, self-funded losses, risk control expenses and other administrative costs.

Long active in the Risk & Insurance Management Society Inc., Mr. Barlow was the first Canadian elected president of RIMS' predecessor, the American Society of Insurance Management Inc., in 1971-1972.

In 1990, he became the first risk manager elected to the Insurance Hall of Fame and before that was a recipient of RIMS' highest honor, the Dorothy and Harry Goodell Award.

Before joining Massey-Ferguson, Mr. Barlow worked as general counsel for an insurance brokerage in Quebec City, was a professor of insurance at Laval University in Quebec and briefly opened his own law office.

After a short-lived retirement from Massey-Ferguson, he became corporate secretary for Toronto-based broker Tomenson Saunders Whitehead Ltd., later acquired by Fred S. James & Co. Inc.

He remained active until the end of his life: Mr. Barlow attended the RIMS conference in San Diego earlier this year and was editing a magazine article during his recent hospital stay.

While risk management academics were exploring some of the ideas Mr. Barlow employed in the 1960s, "Douglas was the one who first implemented it in a corporate environment," observed Susan Meltzer, assistant vp-insurance and risk management for Sun Life Assurance Co. of Canada in Toronto.

Ms. Meltzer, a RIMS executive council member, also noted that RIMS will celebrate its 50th anniversary in 2000 and that "if I were going to pick the most significant contributor, I would pick Douglas."

Mr. Barlow donated his body to the University of Toronto. BI

Settle

Continued from page 1

Dow Corning's parent company, Dow Chemical Co., from liability for breast implant claims. The court's action "can only serve to facilitate the resolution of breast implant claims in the Dow Corning bankruptcy reorganization process," John Scrivens, Dow Chemical vp and general counsel, said in a statement. Courts to date have dismissed Dow Chemical from more than 4,000 cases nationwide, according to the company.

Federal mediator Francis McGovern, a Duke University law professor, had given Dow Corning and the Tort Claimants Committee until July 7 to either accept or reject his compromise plan, which he called a "take-it-or-leave-it proposal."

The settlement will provide women with a range of options for settling their claims. Women may qualify for more than one settlement option based on the extent of their injuries. The options include: rupture, medical procedures such as implant removal surgery, various levels of qualified medical conditions, future symptoms and uninsured medical care. For example, a woman who has a rupture and a qualified medical condition can receive additional payments vs. those that just wish to have the implant removed.

If all goes according to schedule, Dow Corning should emerge from bankruptcy in early 1999, says a spokesman.

The settlement trust will operate over a 16-year period, and women will retain their right to either settle or litigate their claims.

Dow Corning, a joint venture of Dow Chemical Co. and Corning Inc., filed for bankruptcy protection in 1995 as lawsuits over silicone gel breast implants mounted.

The company faces 177,000 breast implant claims worldwide from women who allege silicone gel leaked from their breast implants and made them sick.

But the company long has maintained that there is no scientific proof that silicone causes the immune-system ailments that implant recipients attribute to the devices.

Silicone implants were introduced in 1962 as a means of augmenting breast size or for reconstruction following mastectomy. After reports began surfacing about implant breakage and possible health effects in the early 1990s, the U.S. Food and Drug Administration restricted their use.

Earlier this year, Dow Corning presented to the bankruptcy court a revised $4.4 billion reorganization plan that included $3 billion to be paid to implant plaintiffs over a 16-year period. In its initial reorganization plan, Dow Corning had offered to pay implant recipients $2.4 billion (*BI*, Feb. 23).

In response to the company's February proposal, plaintiffs' attorneys filed a motion in the bankruptcy court seeking to present a competing plan that would have paid plaintiffs $3.8 billion over three years (*BI*, March 16).

But Judge Spector denied the plaintiffs' lawyers' request and appointed a mediator in an effort to bring the two sides closer together.

The federal mediator gave Dow Corning and plaintiffs until July 7 to accept a compromise settlement, complete details of which have not yet been released.

Judge Spector also extended the mediator's term so that he could work with the company and plaintiffs' lawyers to develop plan documents that will be presented to the court on or before Aug. 20.

At that time, the compromise deal will be made public.

Then plaintiffs and other creditors will be asked to vote on whether to accept or reject the deal a process that will take about two months, a Dow Corning spokesman estimated.

If the plan is approved, Judge Spector will begin the confirmation process, during which time any last objections to the plan can be made.

If all goes according to schedule Dow Corning should emerge from bankruptcy in early 1999, the spokesman said.

"While many of the details remain to be worked out over the next two months, this settlement is a breakthrough in an incredibly complex case," said Gary E. Anderson, president of Dow Corning, in a press release issued July 8.

"At a certain time in the controversy, both sides need to agree to disagree and look together to find common ground. We believe this complex case can be resolved faster and more fairly through consensus rather than through continued debate," he said.

The Tort Claimants Committee hadn't released an official comment late last week.

However, Ms. Cabraser said that the committee decided it was time to at least prepare a plan that could be voted on by the claimants.

"We've been fighting about plan issues since May of 1995. We've been attempting to negotiate a consensual plan for many months. The court appointed Francis McGovern to mediate that process. We were finally at a point where it was better to go with a plan that could be voted on rather than continue to fight for the next four to five years," she said.

"Our claimants would really like to see closure on this process," she added.

But even though all parties involved in the negotiations have agreed to settle, "the devil is in the details, and we still need to work out a lot of details on how the plan will be administered," Ms. Cabraser pointed out.

"So we'll have a lot of work to do before there's a completed plan to be presented to the bankruptcy court," she said. "We're going to spend the summer drafting it." BI

How the healing

process begins.

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Pension

Continued from page 1

"It is reform with a lowercase R," said Henry Saveth, an attorney with William M. Mercer Inc. in Washington.

The likelihood that a pension bill—much less a tax measure—can be enacted in the remaining weeks of the session is uncertain.

"While there is a possibility that bits and pieces could find their way to some type of revenue or tax bill, I just don't think there will be time for it," said Stuart J. Brahs, vp-federal government relations with The Principal Financial Group in Washington.

"For all practical purposes, pension legislation does not stand a high chance of being enacted in the short time remaining," said Frank McArdle, a consultant with Hewitt Associates L.L.C. in Washington.

Others, though, say even if a pension bill fails to win approval this year, reaching a consensus now on a bipartisan package could set the stage for passage when legislators return next year.

"A long journey starts with a single step," said the APPWP's Mr. Klein.

Several provisions in the Senate draft bill will be welcomed by employers, including a provision that would make it easier for employers to cash out terminating employees whose defined contribution plan account balances are less than $5,000.

Under current law, if an employee's account balance ever exceeded $5,000, an employer cannot automatically cash out that individual from the plan. By contrast, the Senate draft bill would eliminate that "look-back" rule and set the $5,000 cash-out threshold at the time the employee terminates employment. A balance could drop below $5,000, for example, if an employee took out a loan against his or her balance.

Such a liberalization of the cash-out rule would be welcomed by employers, as they would be able to remove more former employees from their defined contribution rolls, cutting their administrative costs as well as eliminating the need to track changes in account balance amounts prior to employees terminating employment.

'A long journey starts with a single step,' says James Klein, president of the Assn. of Private Pension & Welfare Plans.

Other provisions would benefit employers and employees. For example, the draft bill would raise to 75 from 70½ the age at which retirees must take a "minimum distribution" from their defined contribution plans. In addition, the first $300,000 of a retiree's defined contribution plan account balance would be exempt from the minimum distribution rule and could remain in the plan.

For employees, liberalizing the minimum distribution rules would mean their account balances could earn more tax-deferred interest before funds would have to be withdrawn.

And because of the new $300,000 exemption, employers no longer would have to calculate—for retirees with fairly hefty account balances—how much those retirees would have to take out of their defined contribution plans each year.

Other provisions, though, could increase, albeit modestly, employers' costs. The measure, for example, would require employers with 401(k) plans to vest matching contributions within three years. Currently, such contributions must vest within five years if a cliff vesting schedule is used, or seven years if a graded schedule is used.

Another provision—elimination of the so-called 25% of compensation limit—would be a boon to employees whose spouses also work.

Under current law, employees generally can defer up to $10,000 a year to a 401(k) plan. However, 401(k) salary deferrals are also subject to a cap of 25% of an employee's compensation. For example, an employee earning $30,000 annually could defer only a maximum of $7,500—not $10,000—to the plan. Eliminating the 25% limit would allow that employee to defer the full $10,000.

This provision would be especially helpful for lower-income employees whose spouses are relatively well-off and, thus, could afford to put aside such a large amount of salary into a 401(k) plan.

Other provisions in the draft bill would:

- Add new flexibility to Internal Revenue Service non-discrimination tests. Those tests set precise formulas—such as comparing the percentage of rank-and-file employees covered by a pension plan to highly paid employees—to determine if the plan is non-discriminatory.

The Senate draft bill would give employers facts and circumstances tests to use when mechanical tests are not appropriate. Appropriate safeguards, which are not defined, would be developed to ensure that this alternative is not abused.

- Allow employees who change jobs to transfer 401(k) account balances to 403(b) plans—the tax-exempt world's rough equivalent of private sector 401(k)s—and vice-versa. Such transfers now are barred.

Similarly, the measure would allow employees to move individual retirement account balances to a 401(k) plan, a new flexibility that would appeal to employees who want to consolidate their savings plans' accounts.

- Gradually phase in for employers starting new pension plans the Pension Benefit Guaranty Corp.'s variable rate premium, which is imposed on employers with underfunded plans. The variable rate would be phased in over a six-year period for those employers.
- Give the IRS authority to waive a rule that now requires employees—in order to escape tax penalties—to roll over pension distributions to an IRA within 60 days of receiving the distribution.
- Exempt small employers starting new pension plans from certain IRS fees. Those fees range from roughly $100 to about $1,000.
- Give tax credits to small employers starting new pension plans.
- Extend the PBGC's missing participant program to multiemployer plans. This program, in which the PBGC assumes responsibility for locating missing participants who are owed benefits, now only applies to single-employer plans.
- Make clear that the cost of employer-provided retirement planning and education is not added to employees' taxable income. BI

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Opinions

Improve health plan ADR

A NATIONAL ARBITRATION association is shining a spotlight on the importance of fair and effective alternative dispute resolution mechanisms for assuring managed care satisfaction and quality care.

The group, the American Arbitration Assn., has outlined proposals for a new policy on health care-related arbitrations and mediation that should serve as a model for dispute resolution procedures followed by health plans.

While the association has its own reasons for considering a new policy, which has not yet been adopted by the organization, its timing comes as Congress considers legislation that would require health plans to adopt new claims review procedures, among other things. That federal legislation is sparked partly by consumer outrage of perceived and actual flaws in how managed care plans handle enrollees' grievances.

We would hope that health plans consider adopting all or part of the American Arbitration Assn.'s proposals, regardless of the threat of a federal law. Such a move would be an important step toward boosting participant satisfaction and improving the dim perception the general public has of managed care plans.

While some managed care plans no doubt have excellent and responsive mechanisms for resolving patient complaints or claims disputes, it is just as certain that others have systems that are poorly communicated, take too long and, in some cases, are stacked in favor of the health plan.

Such was the case with a mandatory arbitration program employed by Kaiser Permanente that was at the center of a 1997 California Supreme Court ruling. The court ruled that there was evidence to support a claim Kaiser intentionally delayed scheduling an arbitration in the case of a man with lung cancer. The claimant died before his dispute could be heard (*BI*, July 7, 1997). The case was remanded to a trial court to determine whether the HMO committed fraud in the delay.

That case was cited by the American Arbitration Assn. as one factor in its decision to propose new guidelines for how arbitrations should be handled, including its refusal to participate in programs in which arbitration is mandated, rather than offered as an alternative to the courts.

The association's proposals, which do not pertain to malpractice allegations, also would include: action within 24 hours on disputes involving emergency care; allowing claimants to be represented by a lawyer; allowing

claimants to review medical charts; and assuring potential damages in an arbitration would be identical to what could be obtained in court.

In all, there is much to like in the association's proposals. The proposals clearly are designed to make arbitration an attractive alternative to taking a dispute to court. And alternative dispute resolutions such as arbitration are almost always going to be less expensive and faster for all parties than the legal system.

As the Kaiser case shows, though, an arbitration plan can be worse than no plan at all if it is abused or structured in such a way as to tip the scales in the health plan's favor. The program must be set up to handle claims quickly and fairly, and be clearly communicated to plan participants. Ideally, other, less formal dispute resolution mechanisms would also be available to handle simpler disputes and problems and streamline the process.

The key, of course, is making any arbitration program an attractive alternative to the courts. Adopting an equitable and efficient means of settling disputes, such as the system proposed by the arbitration association, will go a long way toward assuring satisfaction among plan members and less hostility and distrust of managed care from the general public.

Employers' voices are heard

ANYONE WHO NEEDS EVIDENCE of the critical importance of employer involvement in the political process need only look to North Carolina for proof.

That's where employers have succeeded in quashing a state proposal that would have severely restricted communication between employers and the physicians treating injured workers.

Risk managers and workers compensation insurers around the country had regarded the North Carolina situation as one of the first skirmishes in what could be a nationwide war over medical records privacy in workers comp. Workers comp payers in other states should heed the active approach North Carolina employers took to preserve more open communication with providers.

North Carolina employers in general—and risk managers in particular—took advantage of three days of public hearings and a period for written comments to lobby against the proposal. We believe the North Carolina measure would have slowed the process of getting benefits to injured workers, driven up workers comp costs and, possibly, created new opportunities for workers comp fraud (*BI*, June 8).

The North Carolina Industrial Commission drafted the rule at the behest of the state's General Assembly, whose order came after a state court decision that ruled the testimony of a doctor who had spoken to a employer's attorney without the injured employee's express permission was inadmissible.

The proposal, known as proposed Rule 409, would have slapped new restrictions on how employers could contact physicians treating injured workers. In fact, the restrictions were so onerous that some employers feared they would, for all practical purposes, be forbidden to speak with the doctors.

But employers and risk managers, using the period of public comment, made their case against the proposal. They made the proposal's potential harm so plain, in fact, that the commission announced this month that it had decided to withdraw the proposed rule.

Instead, a panel of experts—including North Carolina employers—will study the issue and suggest alternatives.

By getting their concerns out front and influencing state officials to eliminate the onerous proposal, employers and risk managers have spared themselves a burdensome regulation that could have gone against their best interests.

Hopefully, this example of political risk management at its finest will inspire employers elsewhere when confronted with onerous regulations or legislative proposals.

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For the Record

Comp policy covers harassment defense

TRENTON, N.J.—Workers compensation insurers will have to defend and indemnify policyholders in sexual harassment lawsuits in New Jersey, the state's highest court has ruled.

In a unanimous June 15 decision by the state's Supreme Court, United States Fidelity & Guarantee Co. was ordered to indemnify a workers comp policyholder that lost a jury verdict in a sexual harassment suit.

The ruling in *Lisa M. Schmidt vs. Dennis Smith et al.* involved a suit brought by Ms. Schmidt in 1991 claiming that her employer, Personalized Audio Visual Inc., and its president, Mr. Smith, sexually harassed her.

After the suit was filed, the company turned to USF&G for defense under both a commercial general liability policy and the employer's liability portion of a workers comp policy. The company denied coverage under both.

While a declaratory action was pending over the coverage, a jury awarded Ms. Schmidt $181,730 in damages and interest. After the verdict, the trial court ruled that the workers comp insurer had a duty to defend and indemnify its policyholder.

On appeal to the New Jersey Supreme Court, USF&G argued that the policy contained exclusions to coverage. The court in its June 15 ruling rejected this argument and held that, because earlier New Jersey court rulings state that injuries from sexual harassment are bodily injuries, the exclusion cited by USF&G that excludes coverage for workplace harassment "violates the public policy underlying the workers compensation scheme and is therefore void."

The court also noted that because workers comp policies might cover the same acts as an employment practices liability policy, the Commissioner of Banking and Insurance and Commissioner of Labor "may wish to work with the insurance industry to resolve or address this overlap."

The court also held that workers comp "policies must cover not only claims for compensation prosecuted in the Workers Compensation Court but also claims for work-related injuries asserted in a common law court."

Ruling favors fund in subrogation case

LOS ANGELES—In a dispute between the California guaranty fund and state insurance regulators, a California appellate court says the key issue in determining who is entitled to funds subrogated after an insolvent insurer's claims are paid is whose assets were used to pay those claims.

The May 27 decision by the state appellate court in Los Angeles in *California Insurance Guarantee Assn. vs. Superior Court of Los Angeles County* focuses on a dispute between CIGA and the California Insurance Department related to Los Angeles-based Signal Insurance Co., which was placed in liquidation in January 1978.

Signal had been found to be insolvent in 1975, after regulators concluded that its primary asset, medical malpractice insurer Imperial Insurance Co., had a $6.7 million reserve shortfall.

A total of about $850,000 in funds that has been recovered by CIGA through subrogation is at issue in the dispute.

Insurance Commissioner Charles Quackenbush had contended that, as liquidator of the insolvent insurer, he is entitled to sums the guarantee association recovered because they are the estate's assets.

However, CIGA contended that, as the state's statutory guarantee association, it is entitled to the sums it recovers through subrogation because it paid the claims. CIGA then brought this lawsuit.

In its decision, in which it ordered a lower court to issue a new, revised order in the dispute, the appellate court said, "In our view, the proper resolution of this dispute over subrogation recoveries is to render onto CIGA what is CIGA's and render onto the estate what is the estate's."

"In other words," the appellate court continued, "to the extent CIGA pays covered claims with its own assets, such as proceeds from the premiums it charges its members, it is entitled to retain the amounts it recovers through subrogation actions. Conversely, to the extent CIGA pays covered claims with 'early access distributions' or other assets from the insolvent insurer's estate, the estate is entitled to the proceeds of any subrogation action."

Lawrence E. Mulryan, executive director of CIGA, said the decision, which he believes is the first by an appellate court, clarifies an issue that has arisen in other states throughout the country. "I think it will be helpful to all parties," he said.

Mr. Mulryan said the decision means CIGA will receive virtually all of the funds in dispute.

However, Harry LeVine, senior staff counsel to the California Insurance Department, contends this is not clear. He added that the department will appeal the decision to the California Supreme Court.

"We think the problem with the court's decision is tracing the money" in determining the source of the funds used to pay the claims, Mr. Levine said. "How we'll ever trace which dollars were used is a good question," he said.

Death of tobacco bill may spark state suits

WASHINGTON—The death of comprehensive tobacco control legislation in the Senate last month could mean a flood of litigation against tobacco companies in state courts.

At least 15 states already have set court dates for their suits against cigarette makers in an attempt to recover smoking-related Medicaid costs. The suits had been on hold in anticipation of congressional approval of a proposed $368.5 billion "global" settlement of such claims worked out by 40 state attorneys general and five tobacco companies last June (*BI*, June 23, 1997). Four other states have settled with tobacco makers.

A bill drafted by Sen. John McCain, R-Ariz., to implement the settlement initially would have granted tobacco companies limits on punitive damages and a degree of immunity from class-action lawsuits in return for their acceptance of numerous restrictions on their business activities. The measure also increased the projected cost to cigarette makers to more than $500 billion over a 25-year period.

But the McCain bill, despite support from the White House and several major public health organizations, came under fire from lawmakers who said it did not punish tobacco companies enough and from those who claimed it would unfairly burden low-income smokers with new taxes. After several weeks of amendments—including one that removed the immunity provisions and another that limited attorneys fees for lawyers who worked on the deal to a maximum of $4,000 an hour—proponents of the bill could not muster the 60 votes required to end debate. Almost a year to the day that the preliminary agreement between the states and the tobacco companies had been announced, Senate Majority Leader Trent Lott, R-Miss., announced that the McCain bill was dead.

The death of the McCain bill sets the stage for states that have not settled with the tobacco companies to pursue their suits. In addition to hundreds of private suits, including a multibillion-dollar class-action suit in Florida, have been filed against cigarette makers. Although cigarette makers have generally prevailed in state courts, a Florida jury recently returned a verdict against Brown & Williamson Tobacco Corp. that for the first time levied punitive damages as well as compensatory damages in a smoking-related death case (*BI*, June 15).

Some form of tobacco control legislation may yet win congressional approval this year. Late last month, Sen. Lott and House Speaker Newt Gingrich, R-Ga., said Republicans would introduce limited tobacco legislation later this summer aimed at reducing youth smoking. BI

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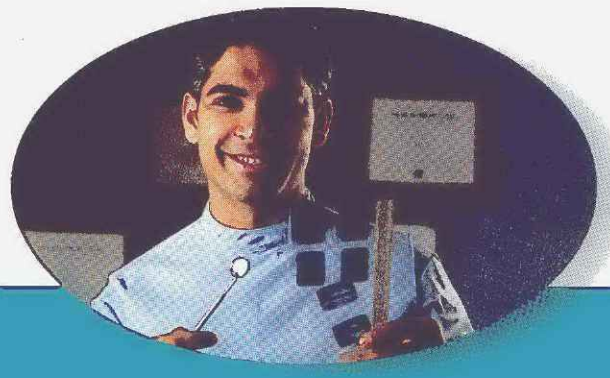

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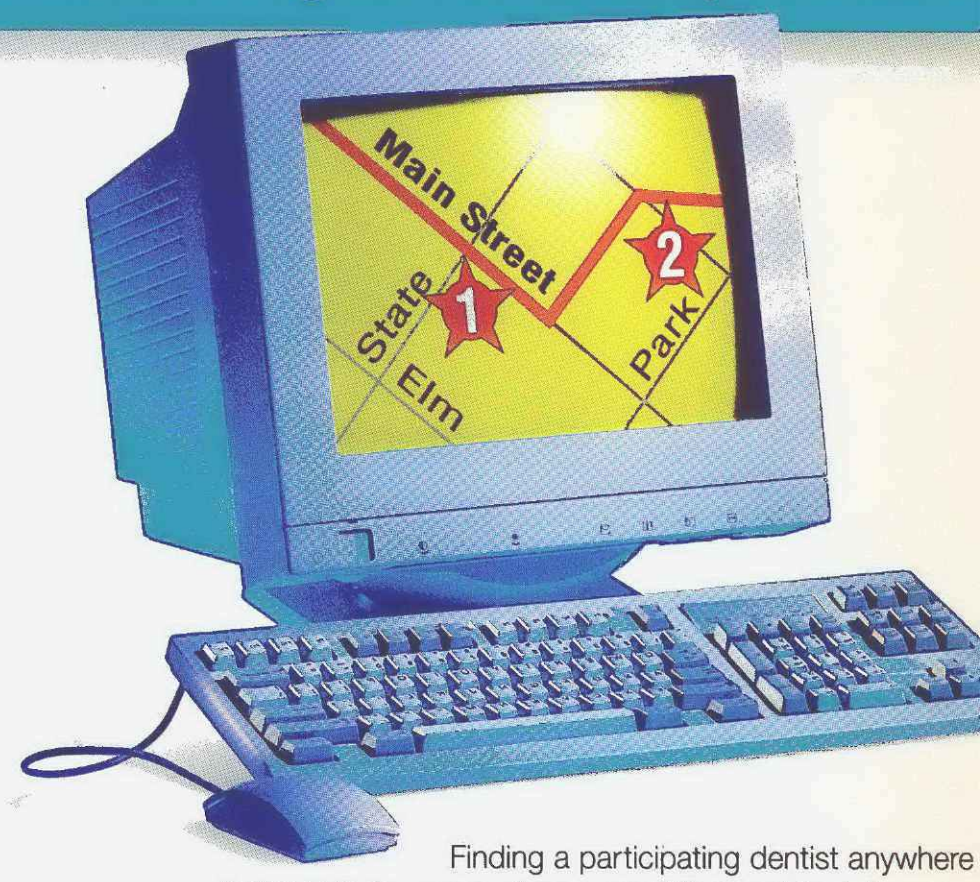

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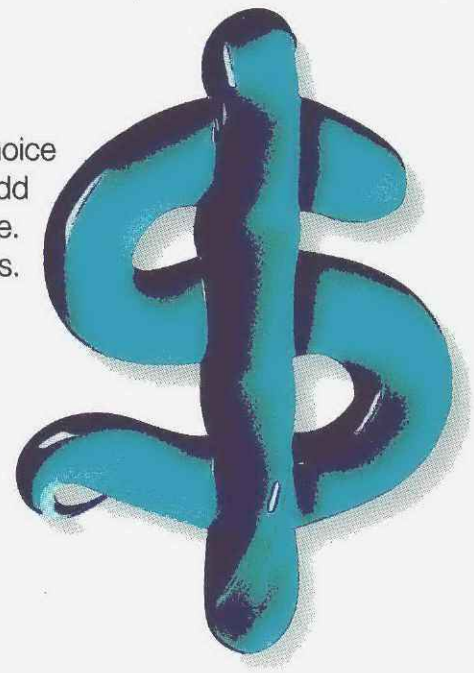

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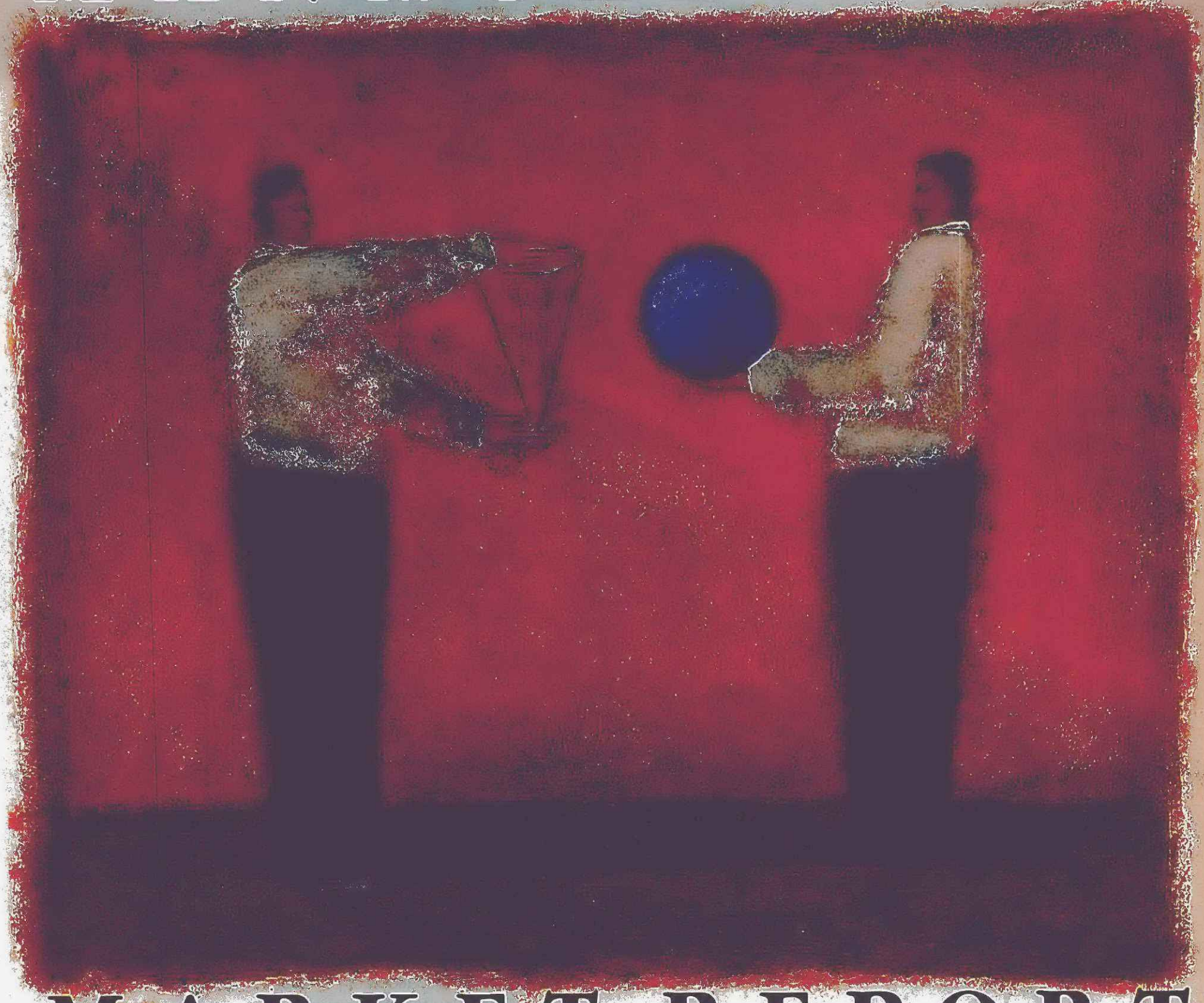

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ASK A RISK MANAGER

Q **What are the critical elements of good safety and loss prevention programs, and how can risk managers use them to be more successful?**

A Many risk managers focus on insurance and risk financing as their areas of responsibility with the most impact and often give only cursory thought to the ways in which losses can be prevented.

There are many reasons for this potential misprioritization, including: senior management's focus, narrow job responsibilities, a lack of time, a lack of expertise and limited resources. None is a good reason for subordinating this critical area of opportunity; much more value is often added by the successful implementation and management of prevention programs than from other things for which we are accountable. This is especially evident when you consider the oft-quoted "indirect" costs of risk, such as lost productivity, impact on morale, customer satisfaction and the like, which typically are orders of magnitude greater than the direct costs, such as lost wages, medical expenses, pain and suffering, and others.

In many cases, the starting point is getting management's attention refocused on this opportunity, so that you have the resources needed to accomplish the goal. In all cases, senior management's open and recurring endorsement of safety as a key operating priority is an essential step to success in preventing losses.

Getting support for this operating priority objective can be difficult and will often depend on what's going on in the business at the time you need or want to make your case. Clearly, if "the sky is falling" in terms of meeting financial targets or other key objectives, you probably won't get the attention you need, regardless of what you do or how you approach the issue. However, you don't need to wait for a crisis to make your move. The key to success often will lie in your ability to tie your case to core operating issues, such as the relationship among employee injuries and employee retention and recruitment.

For example, in restaurants, being able to say you have the safest or one of the safest work environments can be a competitive advantage in that extremely thin-margin, hypercompetitive industry segment. Similarly, in a manufacturing environment, minimizing the disruption of accidents on work lines can have everything to do with getting orders out on time and with accuracy. So consider carefully how safety objectives can be tied to core business objectives and present these correlations to management in a clear, concise and understandable way. Avoid the use of jargon typical of safety "experts."

Another useful step in the process of getting management attention is benchmarking the right measures and, importantly, the right competitors. Management always cares about where the organization stands against its key competitors and usually will be highly impressed—for better or worse—by evidence that your company is at the top or bottom of the pack.

If you're at the bottom, your opportunity to make a case is at its peak. If you're at the top, your case should be how to stay there. Here you need to be sure you single out the few key competitors that management—or even the board of directors—considers the best in your industry segment and the most relevant to where they're taking the business strategically.

Typically, you can identify these entities by looking at which companies other departments—such as planning or marketing—use as benchmarks when they consider the competition. Of equal importance is isolating those few key measures that management can easily understand and relate to the core business, that most effectively reflect where you are in terms of safety performance and that, if addressed, will show how you have improved that performance, given the right resources to do so.

Having identified key benchmark measures, you'll be on your way to understanding which goals need to be set to measure results from your initiative. The goals need to be tied to those areas that represent the most significant safety opportunities for your company and that need management approval to be effective in influencing the long-term commitment of resources.

Communicating those goals to operations in a way that brings them on board also is critical. The success of the effort will hinge on operations' perceptions of fairness, achievability and clarity. Once the program is in place, you'll need a frequent and easily decipherable forum for communicating progress toward the goals. To do so, provide the information in the reporting medium that is most used by operations to track their other core goals and that is reviewed and reinforced by operating supervision. Finally, make sure operators know whom to call to get answers to questions that relate to the program; show your support for them in this realm.

Next, consider how you communicate these goals and your vision for safety to new employees. Getting your message out at the door is essential to building a culture of safety and creating a safe work—and customer—environment. Look at the orientation process for new employees and get your clear and concise message included in that forum. It may be pamphlets, videos, token incentives or anything that creates initial awareness in your work environment.

From there, you must keep employees aware of your key goals. Your work environment will define how you do this, as it differs significantly based on the types of employees and the expectations of management. To be really effective in this area, you'll need to have great working relations with the key human resource people who control these processes.

I've found that, in creating an awareness program, you can be most effective by wrapping into it reward, recognition, training/education and focused communications. Addressing most or all of these in a focused awareness campaign often is the best way to keep the workforce informed about the importance of safety. It also says the company cares about its people and not just profits. Employee perceptions in this regard can be highly influential in meeting or even exceeding safety goals and building a safety culture—where safety is assumed to be a key operating priority and people naturally act to support related goals.

Operators frequently view auditing as a dirty word, but a version of auditing for program compliance is needed to reinforce management's commitment to the mission. I've found that what you call the process and especially how you practice it can facilitate the acceptance of audits and auditors. But consider "safety coaching" as an alternative to the traditional audit model.

Create support tools and even positions such as safety or loss prevention leaders/coaches so that it is less threatening for operators to admit they have safety problems that need to be addressed; have tools and counsel to address them. Especially in geographically far-flung work environments, it is critical to be able to send in experts who can assess where the opportunities are and guide operators toward solutions that help them to be better managers and thus run their parts of the business more effectively. Don't assume that, without this assistance, operators will have or take the time to look at the "whys" of accidents, let alone address the issue of how to keep such accidents from happening again.

If you don't have the internal resources to coach and guide, consider how to use third parties to make this happen. These third parties usually won't know the business the way an employee would, but, given the proper information and guidance, they can be effective in getting operators to focus on safety.

Safety training has evolved immensely over time. However, to be truly effective, safety should be fully integrated into core operations training modules. It should not be allowed to stand alone, where it will often languish from inattention or lack of use.

This is critical to the concept of a safety culture. If safety is to be a cultural imperative for your company, training integration is one of the best ways to show the work force that you're serious about safety. Over the long term, this training integration will help make safety awareness second nature. Obviously, having a great working relationship with the training department will be very helpful. Get training aligned with your vision and mission, and over time it should be easier to accomplish this objective.

Ideally, risk managers should have a direct hand in designing an integrated program and should be a mandatory resource for new or revised program design and introduction. Part of this needs to include playing a consultant's role in reviewing the safety of all new product and process introductions before they hit the system.

Finally, beyond these core elements of a good safety program, here are a few other characteristics and issues that will help make your effort more successful:

- Use "carrots" often and "sticks" infrequently.
- Realize that access to key management personnel affects the risk manager's credibility.
- Realize that the workforce must believe management cares.
- Realize that safety, morale and productivity are interrelated.
- Realize that a program must be results-focused to last.
- Practice continuous improvement of the program and processes.
- Keep those you want to take action informed of the program's progress and opportunities.
- Focus on changing attitudes that can affect behaviors and reflect themselves in results.

Remember, getting a company to focus on safety ultimately means building a safety culture, the only way to sustain safety performance and maintain management's long-term commitment. BI

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four quarterly features in the Perspective section of Business Insurance can give you some answers.

Ask A Risk Manager, Ask A Benefit Manager, Ask A Benefit Actuary and Ask A Casualty Actuary answer questions on risk and benefits management issues and actuarial problems.

This month's column on risk management issues is written by Christopher E. Mandel, director-risk management at TRICON Global Restaurants Inc. in Louisville, Ky. Dennis J. Nirtaut, managing director of compensation and benefits for Andersen Worldwide S.C. in Chicago, answers questions on employee benefit plans. William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago, answers actuarial questions on benefits issues. And Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field.

Mr. Mandel

Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.

Survey

Continued from page 2

priced plans, and to provide consumer information about competing plans so that employees can make judgments based on quality.

Most employers polled did not conform to any of the model's principles, said survey co-author Stephen H. Long, a senior economist with the Santa Monica, Calif.-based Rand Corp., which helped design the study.

In the case of plan choice, only 17% of private employers of all sizes that offer health insurance said they offer employees a choice of plans. Even among employers with 100 or more employees, only one-third offered a choice. If workers are counted instead of employers, about four in 10 have a choice of health plans.

It is up to plan sponsors to take a leadership role and offer more choice to employees, says Stephen H. Long.

Mr. Long emphasized that it is up to plan sponsors to take a leadership role and broaden choice among their plans. "The employees can't give themselves a choice," he said. "The employers are the decision-makers."

The second necessary element to managed competition that can save employers money is providing employees incentives to shop for lower-priced plans. It is counterproductive, in this view, for employers to subsidize health care premiums completely. Instead, the model advocates the employer pay the same amount toward employees' premiums no matter which plan is selected, forcing the worker to decide whether paying an additional incremental amount is worthwhile.

Thirty-one percent of businesses surveyed pay the full premium for employees, the survey found. Thirty-four percent pay an equal percentage of the cost, regardless of the plan chosen. Only about three in 10 pay an equal dollar amount toward all plans.

Finally, the last leg of managed competition's three-legged stool—the provision of information on competing plans' quality—also is far from solid, Mr. Long said. Seeing information beyond basic plan descriptions is extremely rare among employees of small companies. Even among plan sponsors with more than 500 employees, only 22% provide quality data to their workers.

Mr. Enthoven, a professor of management at the Stanford Graduate School of Business, said he concurs with the study's findings.

"I generally agree with what they're saying," he said. "Nationally, we are very far from doing it right."

Even in California, a state with many mature managed care markets, the California Managed Health Care Improvement Task Force—a panel Mr. Enthoven headed—found last year that about 40% of employees had only one choice for health coverage, he said.

Mr. Enthoven said one way to provide employees with more choices is through pooled purchasing coalitions that bring together small employers. These coalitions would increase small employers' clout and expand their number of health plan options.

Generous employer subsidies of workers' health care premiums have become difficult to reverse after having been put into place; they are a legacy of times when employers paid the whole cost to get tax breaks, Mr. Enthoven said. "Employees don't realize that it just comes out of their paychecks," he said.

As for consumer information, Mr. Enthoven said plan sponsors across the rest of the country should follow the lead of large California employers by giving employees comparative information such as HEDIS, or the Health Plan Employer Data & Information Set, and the results of consumer satisfaction surveys.

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Copies of the study, "How Widespread Is Managed Competition?" are available free by contacting the Center for Studying Health System Change at 202-554-7549; fax: 202-484-9258.

Return-to-work plans similar: Study

Occupational, non-occupational programs share features

By MEG FLETCHER

A new survey finds surprising similarity in employers' return-to-work programs regardless of whether employees sustained disabilities in occupational or non-occupational settings for employers that have programs for both settings.

Of the 75 employer respondents with both types of return-to-work programs, about three-fourths had very similar programs, according to a soon-to-be-released survey by the Integrated Benefits Institute, a research organization based in San Francisco.

'Few employers measure return-to-work savings, despite corporate pressure to relate expenses to bottom-line results,' says the Integrated Benefits Institute.

"The most striking result of the IBI's comparison of. . .program features is their similarity," even though employers and employees traditionally believe it is inappropriate for an employer to get involved with an employee's non-occupational disability, according to a 25-page analysis of the survey.

The research organization based its conclusions on survey responses from 121 diverse, nationwide companies that had return-to-work programs for employees with occupational-related disabilities. About 63% of those respondents—or 75 companies—had both types of return-to-work programs, while about 73% of that group—or 53 companies—had very similar programs regardless of whether the injury was occupational or non-occupational, according to William P. Molmen, IBI's general counsel. He helped write the analysis along with two researchers.

Similar program features included modifying the employee's own job, finding alternative work, communicating return-to-work program information, describing essential job functions and using those descriptions to modify an employee's job.

In addition, "employers more experienced in return-to-work highly value active case management techniques such as assigning a case manager early and establishing a return-to-work coordinator," researchers found.

The survey also found that "development of return-to-work programs is recent and dynamic," with employers establishing at least 85% of the occupational and non-occupational programs after 1988.

"Typically, early return-to-work programs were established by large, union employers principally in the service and retail trade sectors," according to the analysis.

Mr. Molmen said he found it "fascinating" that "the very first programs combining occupational and non-occupational disability programs were sponsored by union employers."

That finding "sets to rest concerns about union responsiveness to such programs," at least for the participating employers, he said. However, it is not known what related trade-offs employers may have made in negotiations with unions to help accomplish this, he added.

In addition, recent growth in such return-to-work programs has broadened across industry sectors to include small and mid-size employers as well as non-union employees.

However, "many employers fail to collect critical metrics to measure results," the analysis found. For example, only half of the employers with non-occupational return-to-work programs collected data on lost days in those programs.

In addition, "few employers measure return-to-work program savings, despite corporate pressure to relate expenses to bottom-line results," the analysis found. "When they do, results are good, with savings of generally 40% on occupational disability costs and 23% of non-occupational disability payments, the analysis said.

IBI's work reflects the interests of its 65 members, 45% of whom are employers. Other IBI members include health maintenance organizations, brokers, consultants, third-party administrators as well as disability and workers compensation insurers.

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For a copy of the survey, "Both Sides Now: Occupational and Non-Occupational Return-To-Work Programs," contact IBI at 415-222-7280. A single copy costs $50 printed or $40 by electronic mail.

County

Continued from page 3

proach included prevention and education programs, the streamlining of processes and an administrative integration of workers comp with sick leave claims.

One part of the program was the introduction of nurse care coordinators, registered nurses certified in occupational health, who act as liaisons among employers, employees, health plans and care providers.

The coordinators, who are employees of the consulting firm IHMA but work in county facilities, provide doctors with a better understanding of an employee's work and needs, and help employees get, among other things, medical appointments and medication. The process gives employees a faster and more effective way through the care system, said Dr. Polakoff.

In another change, the county's modified-duty program that had been in place for occupational illnesses and injuries was expanded to include non-occupational cases.

As a result, employees returned to work faster, performing light duty while healing and going back into their old jobs as soon as they were fully recovered.

The county also educated its health care plans—Kaiser Permanente, Aetna U.S. Healthcare and Blue Cross of California—and health care providers about the program and asked for their help in bringing people back to work faster.

Other changes in the pilot included establishing an on-site Center for Employee Health and Wellness to offer conventional occupational health services as well as prevention programs such as:

- Offering free influenza vaccines, which brought estimated savings of two days of sick leave per person, translating into monetary savings of between $700,000 and $1.4 million annually, Ms. Cogan said.
- Introduction of an at-work walking program, which attracted about 300 people in the pilot program, said Ms. Cogan.

"People who exercise regularly are healthier," which in turn reduces costs and raises morale, she said.

The results of the pilot are encouraging, county officials say.

Instead of a planned reduction in sick leave costs of 10%, the actual numbers were closer to 20%, or $60,000 in total for the pilot group, according to Dr. Polakoff.

The normal sick leave costs for the group for six months would be about $373,000, said Ms. Cogan.

An employee survey showed an "overwhelmingly positive reaction" to the pilot program, said Ms. Musselman.

County officials are confident of the potential to save worker comp costs, as well. Those savings could be even larger than the sick leave savings, Ms. Cogan said.

Besides looking into ways to increase work safety, the pilot introduced a case manager for all workers comp cases requiring medical care.

'We want to change people's mind-set that this is an adversarial program to deny them benefits,' says Myrna Cogan of the Employee Benefits and Services Division.

"We want to change people's mind-set that this is an adversarial program to deny them benefits," Ms. Cogan said.

Further extensions of the program are being discussed.

Ms. Cogan said all county employees might be involved within two to three years. Countywide net savings are projected at $4.5 million, she said.

"But we want to see what happens over the year," said Ms. Musselman, "and, based on that assessment, we will roll out the program further." BI

INTERNATIONAL

Global Briefs

French insurer **AXA Group** is merging its Belgian subsidiaries, Royale Belge and AXA Belgium, which are Belgium's second- and sixth-largest insurance companies, respectively. The new company has yet to be named, but the merger had been expected since AXA gained control of Royal Belge last month. AXA also said in Luxembourg it will merge AXA Luxembourg with Royale UAP, a Luxembourg subsidiary of Royale Belge, while in The Netherlands, its UAP-NieuwRotterdam and AXA Leven subsidiaries will be similarly merged. . . .**Alternative Risk Finance**, a joint venture between AXA Group and French bank Banque Paribas, has launched a catastrophe-linked option bond based on earthquake risk in California. The deal is for an unidentified U.S. client and has been done as a private placement with a small number of primarily European investors who receive a premium in exchange for taking on the earthquake risk over a one-year period. . . .Michael Deeny has been appointed chairman of the **Assn. of Lloyd's Members** in succession to Sir David Berriman. Mr. Deeny is currently a member of the ALM council and a former member of the ruling Council of Lloyd's. Mr. Deeny said he would carry on the job of defending the interests of names—individual investors in the Lloyd's market—against what the ALM believes is a campaign to force them out of the market. . . .The **London P&I Club**, one of the protection and indemnity mutuals for shipowners, has criticized the recent Standard & Poor's Corp. report rating the relative financial strength of the main P&I clubs. While it welcomed S&P's introduction in May of traditional financial strength ratings for P&I clubs rather than its previous system of "flag" rankings (*BI*, May 25), the London Club's managers maintain S&P's latest report needs to be treated with caution because "it is based on out-of-date information, and so does not properly reflect the strengths of the clubs." The ratings fail to take into account the individual circumstances of each club and thus overlook the fact that the London Club had collected all its supplementary calls on members to meet additional claims, the P&I club said. . . .**Lloyd's of London** has settled a dispute with the architects and builders of its 1986 headquarters over alleged defects in the building, though the terms have not been disclosed. Lloyd's had been in dispute with architects Rogers Partnership Ltd. and Ove Arup & Partners and Bovis Construction Ltd., Haden Young Ltd., and Senior Construction Services Ltd. because of corrosion in the external service units of the building. . . .Standard & Poor's Corp. has raised its insurer financial strength rating of **The Imperial Fire & Marine Re-Insurance Co. Ltd.** to A- from BBB+. The upgrade of the London-based reinsurer is based on good results in its first full year of operation and having demonstrated its good business franchise since the initial rating was assigned last year. Imperial Re was acquired from Aetna Life & Casualty in July 1996 by Imperial Financial Holdings Ltd., a company controlled by Imperial Re's chief executives. S&P said Imperial Re's "extremely strong capital adequacy and strong and conservative management team" are partly offset "by the good, but still fledgling, business position and lack of earnings history." . . .Lloyd's of London **Hiscox Syndicate 331** has appointed Gloria Davies as senior cargo underwriter. Ms. Davies was previously cargo/specie underwriter on Octavian Syndicate 329. . . .**Leucadia National Corp.** of New York has agreed to sell for $140 million a 25% stake in privately held Argentine insurance holding company Caja de Ahorro y Seguro S.A. to a private Argentine company that is also an investor in Caja. The transaction, which is subject to approval of the Central Bank of Argentina, would leave Leucadia with a 5% interest in Caja.

Groupama buys GAN

Combination will create France's second-largest non-life insurer

By MARIA KIELMAS

PARIS—French mutual insurer Groupama Assurances will become the second-largest non-life insurer in France after assuming majority ownership of troubled Paris-based Groupe des Assurances Nationales S.A.

The combined company will generate a premium volume of 78.5 billion French francs ($12.91 billion), Groupama said in a statement.

"In the French market, this places the entity in second position in non-life insurance with combined premiums of 37.2 billion French francs ($6.12 billion), and in fourth position in life insurance with combined premiums of 26.5 billion French francs ($4.36 billion). The international premium income reaches 14.8 billion French francs ($2.43 billion), and assets under management amount to 250 billion French francs ($41.13 billion)," the Groupama statement added.

The largest non-life insurance company in France is AXA Group, which was created by the merger of AXA and Union des Assurances de Paris in the second half of 1996 (*BI*, Nov. 18, 1996).

Groupama's 1997 premium volume totaled 31.4 billion French francs ($5.38 billion, while GAN reported premium volume of 50.8 million French francs ($8.7 billion).

The Finance Ministry said the Groupama offer included 2 billion French francs ($329 million) to upgrade GAN's computer network. Groupama executives have also said GAN will require up to 5 billion French francs ($822.5 million) in recapitalization.

Groupama and Zurich-based Swiss Life Insurance Co. were the only two bidders for GAN (*BI*, June 15). French Finance Minister

See **GAN** *on page 19*

And then there were deux

Groupama's acquisition of GAN will create France's second-largest non-life insurer, based on 1997 figures.

	Gross premiums written	Net income	Assets
GAN	**$8.70 billion**	**$75.9 million**	**$43.92 billion**
Groupama	**$5.38 billion**	**$260.4 million**	**$24.32 billion**
Combined	**$14.08 billion**	**$336.3 million**	**$68.24 billion**

Source: Company statements, Standard & Poor's Corp.

RSI ruling favors employers

By CAROLYN ALDRED

LONDON—Employers and insurers are relieved by a landmark House of Lords judgment denying a secretary's repetitive strain injury claim.

Pickford vs. Imperial Chemical Industries P.L.C. is the first RSI case to be heard by the House of Lords, Britain's highest court, and its ruling that the plaintiff had failed to prove that her condition was caused by a physical injury or that it was work-related likely will set an important precedent for future RSI claims.

"It is a resounding victory for future (RSI) defendants. The judgment showed that it is for the plaintiff to prove that the injury is a physical injury caused by work rather than it being psychogenic," or all in the mind, said a spokesman for leading employers liability insurer Commercial Union P.L.C.

In light of the ruling, Commercial Union is considering appealing a recent decision in which policyholder Midland Bank was found liable for RSI injuries sustained by several employees (*BI*, June 8), said the spokesman.

See **RSI** *on page 19*

Bid failure insurable

Product covers losses from aborted buyouts

LONDON—U.K. companies can now insure the risk of financial losses from failed takeover bids or merger negotiations.

A new product, Aborted Bid Costs Insurance, was developed by underwriters at Lloyd's of London and TOI Corporate Services Ltd., a Guildford, England-based underwriting manager specializing in creating commercial insurance products. The coverage is being offered through Lloyd's broker Prentis Donegan & Partners.

ABC Insurance will reimburse a private or public company for the direct costs associated with an agreed bid, merger, acquisition, management buyout or related transaction that is aborted for identifiable reasons outside the control of the policyholder.

Events giving rise to such claims could include regulatory intervention, a counterbid, or withdrawal by the other party to the transaction.

Coverage is available for up to 1% of the value of a transaction for a premium of about 3% of the sum insured.

ABC Insurance initially is available only to U.K. companies, though TOI Managing Director Sandra Ringsell said lawyers are currently working on gaining approval for a policy to cover U.S. companies. The coverage should be available in the United States by September, she estimated.

Ms. Ringsell said independent studies indicate that about one in eight corporate mergers or takeover transactions ends in failure.

There have been a number of recent examples in the United Kingdom of failed deals, including aborted combinations of Ernst & Young and KPMG Peat Marwick, Glaxo Wellcome P.L.C. and SmithKline Beecham P.L.C. and Royal Bank of Scotland Group P.L.C. and Birmingham Midshires.

Adrian Blackshaw, a director of TOI, said the costs of aborted mergers or acquisitions can be considerable, involving a great deal of management time and expense. They can include fees paid to financial advisers, lawyers, stockbrokers, public relations advisers, accountants and management consultants.

Mr. Blackshaw forecasts that ABC Insurance will become as commonplace as professional liability and product liability insurance.

TOI Corporate Services already offers Hostile Takeover Insurance, which covers a policyholder for the costs associated with defending against an unwanted takeover bid.

—By Edwin Unsworth

Museum security issue in a new frame

Art stolen with inside help highlights need for employee screening

AP/ WIDE WORLD PHOTOS

This Cezanne and two Van Gogh paintings recovered recently had been stolen from a Rome museum, allegedly with the help of a guard.

By EDWIN UNSWORTH

LONDON—Museums and their insurers should do more to investigate all museum staff in order to prevent thefts such as that which occurred in Rome recently, a leading art security expert says.

Although all three Impressionist paintings stolen on May 19 (*BI*, June 1) from Italy's National Gallery of Modern Art were recovered, Italian police said the thieves allegedly had been aided by one of the museum's female security guards.

James Emson, managing director of the London-based Art Loss Register, a database of stolen artworks, said he believes the incident shows that museums and their insurers must take greater care to ensure that their security measures extend not just to the buildings housing works of art but also to all the people employed in them.

"If you have any responsibility, particularly where there's more money hanging on the wall than in most bank vaults, then you have to take that responsibility seriously," said Mr. Emson. He was referring to the value of the three paintings stolen in Rome—two Van Goghs and a Cezanne. Art experts said the paintings were worth a total of at least $30 million, while at the same time acknowledging that their fame made them impossible to sell openly.

See **Museums** *on page 20*

The Professional Marketplace

RATES AND CLOSING TIME:

Rates: Display classified is $171.00 per column inch, minimum of one inch. Straight classified is $15.50 per line, minimum of 5 lines. Count 34 characters per line (include each space and punctuation as a character). Additional $25.00 charge for all blind box ads. Only those responses which fit into a business size envelope will be forwarded. Responses are forwarded daily.

Closing: Published every Monday. Copy must be in typewritten form by 5:00 Tuesday, 6 days preceding publishing date. No verbal phone copy accepted. Most major credit cards accepted. Mail ads to, Irais Amleshi, Classified Advertising, 740 N. Rush St., Chicago, IL 60611. For more information call 312-649-5340, FAX 312-649-7937, or e-mail cadeszko@crain.com

REQUEST FOR PROPOSALS

NEW YORK CITY HOUSING AUTHORITY

REQUEST FOR PROPOSALS (RFP) FOR THIRD PARTY WORKER'S COMPENSATION CLAIMS AND ADMINISTRATIVE SERVICES

The New York City Housing Authority ("NYCHA") requests proposals from Third Party Administrators to provide workers compensation claims and administration services to NYCHA. Services to commence on January 1, 1999.

Proposals must be made in the format outlined in the RFP packet containing instructions, specifications and detailed submission requirements. Packets may be obtained beginning July 13, 1998 from NYCHA Risk Finance Division, 250 Broadway, Room 632, New York, NY 10007, phone (212) 306-6475. Complete proposals must be received by 4:30 P.M. on August 13, 1998.

A Proposer's conference will be held on July 29, 1998 at 2:30 P.M. in the 9th Floor Board Room, at NYCHA's offices located at 250 Broadway, New York, NY 10007.

All inquiries for additional information regarding the RFP are to be directed to Augusto Montan, Assistant Director, Risk Finance Division, NYCHA at the above mentioned address and telephone number.

Rudolph W. Giuliani, Mayor, New York City
Ruben Franco, Chair, NYCHA

LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING-UP)
1998: No. 218
IN THE MATTER OF BELVEDERE INSURANCE COMPANY LIMITED,
AND IN THE MATTER OF THE INSURANCE ACT 1978
AND IN THE MATTER OF THE COMPANIES ACT 1981

GTE REINSURANCE COMPANY LIMITED — Petitioner
-v-
BELVEDERE INSURANCE COMPANY LIMITED — Respondent

ADVERTISEMENT OF PETITION

(Companies (Winding-Up) Rules 1982, Rule 48)

NOTICE is hereby given that a Petition for the winding up of the above-named company by the Supreme Court of Bermuda was, on the 7th day of July 1998, presented to the said Court by the said GTE Reinsurance Company Limited of Jardine House, Reid Street, Hamilton, Bermuda. And that said Petition is directed to be heard before the Court at 2:30 a.m. on the 24th day of July 1998; and any creditor or contributory of the said company desirous to support or oppose the making of an order on the said Petition may appear at the time of hearing by himself or his counsel for that purpose; and a copy of the Petition will be furnished to any creditor or contributory of the said company requiring the same by the undersigned on payment of the regulated charge for the same.

Signed

MILLIGAN-WHYTE & SMITH
Barristers & Attorneys
Bermuda Commercial Bank Building
44 Church Street, Hamilton
Fax Number: 441-295-1348
Attorneys for the Petitioner

NOTE: Any person who intends to appear on the hearing of the said Petition must serve on or send by post to the above-named, notice in writing of his intention so to do. The notice must state the name and address of the person, or, if a firm, or his or their attorney (if any), and must be served, or if posted, must be sent by post in sufficient time to reach the above named not later than four o'clock in the afternoon of the 23rd July, 1998.

HELP WANTED

DIRECTOR OF RISK MANAGEMENT

The University of Colorado at Boulder invites applications for the position of Director of Risk Management.

The University of Colorado at Boulder is the flagship of a four-campus system comprised of approximately: 25,000 students, 1,200 faculty, 3,400 staff, 200 rural Italian-style buildings (approx. 9,000,000 sq. ft.) and is situated on 786 acres in the center of Boulder, Colorado.

Under the general direction of the Director of Business and Financial Services, this position is responsible for envisioning, creating, managing and constantly improving the Risk Management Department and Safety and Loss Control Programs for the Boulder Campus. The Risk Manager ("Risk Manager") must work cooperatively and collaboratively with many other offices and department both within the Campus and with the University's System Administration. The Campus Risk Manager is an integral part of the Campus' administrative team and must develop programs consistent with the Campus' strategic goals and objectives. The Department employs eight staff and has an operating budget (excluding insurance premiums) of approximately $650,000.

Required Qualifications: 1) Bachelors degree in Business Administration, Public Administration, or related field. 2) A minimum of 7 years progressively responsible risk management experience in a large and complex environment. 3) Demonstrated success in developing and implementing significant loss control programs, application of recognized leading edge RM techniques with positive results. 4) Demonstrated ability in establishing and maintaining productive relationships with a full range of campus and external constituents that reflects a strong customer service commitment and a continuous quality focus. 5) Demonstrated excellence in oral and written communications with the ability to persuasively market issues and loss control programs. 6) Demonstrated commitment to diversity and the ability to establish and maintain working relationships with a diverse student body, faculty, staff and community. 7) Demonstrated skills in effective management, supervision and team building.

Preferred Qualifications: 1) Advanced degree. 2) Experience in higher education. 3) Certifications: Associate Risk Management Certification (ARM), Certified Industrial Hygienist (CIH), Certified Safety Professional (CSP), Chartered Property & Casualty Underwriter (CPCU).

Application Process: To be considered for this position, please submit a letter of application addressing the following: Your experience related to the qualifications listed above. Your perception of how a risk management operation should be managed to meet the needs of a changing institution committed to a Total Learning Environment (TLE). Your leadership style.

Please also attach a resume and the names, addresses, telephone and fax numbers of three current references and send to:

Chair, Director of Risk Managment Search Committee
University of Colorado at Boulder
Campus Box 317
Boulder, CO 80309-0317

The Search Committee began its review of applications on July 1, 1998 and will continue to accept applications until the position is filled. Competitive salary.

The University of Colorado at Boulder is committed to diversity and equality in education and employment.

REQUEST FOR PROPOSALS

REQUEST FOR PROPOSAL

Strategic Business Development Plan
- Phase One -

Statewide association of local governments seeks proposals from strategic business planning consultants with experience in the property/casualty insurance and intergovernmental, self-insurance/risk-retention industries to assist in an internal programs and systems analysis and an external/marketplace environmental review for an established intergovernmental risk retention pooling program.

If interested, please contact Pat Lynch, Executive Director, Special Districts Association of Oregon at (503)371-8667 in Salem, Oregon for a copy of the request for proposal. Proposal deadline: August 21, 1998.

FOR SALE

HEALTHCARE PPO
Statewide New York network with all direct contracts. 13,000+ doctors, 75+ hospitals. Inquiries to Business Insurance, Box 3079, 740 N. Rush Street, Chicago, IL 60611-2590.

We're on the Web
Business Insurance Online!
www.businessinsurance.com

HELP WANTED

Underwriting Manager

HRM is an expanding medical malpractice insurer looking for a self-directed motivated individual to be responsible for the overall operation of our Underwriting Department. Oversee the underwriting of new and existing insurance risks, and participate in the development of new insurance products and programs. Evaluate potential liability in existing and emerging coverage areas. Direct physician registration and establish policies for underwriting standards. Strong relationship with member institution insurance representatives. Recommend enhancements in continual upgrade of underwriting program.

Ideal candidate has demonstrated knowledge and experience of the underwriting process, preferably in medical malpractice. Firm grasp of general insurance concepts relating to risk analysis. Experience working in a team environment a plus. MS Office technology experience. Polished presentation and communication skills required. Master's degree or higher preferred.

Send resume to: **Harvard Risk Management Foundation, Attn: Human Resources, 101 Main Street, Cambridge, MA 02142 or email: HR@HRM.harvard.edu.**

You may also visit our website at www.harvard.edu

Harvard Risk Management FOUNDATION

HELP WANTED

ERNST & YOUNG **Center for Business Knowledge®**

Position Yourself *at the Core of Excellence*

STRATEGIC ANALYSTS

Join a team of high performance Business & Strategy Analysis professionals who provide actionable knowledge and insight to our Ernst & Young Client Serving Professionals around the world. Based in either our Cleveland, Boston or Chicago office, you will analyze a broad range of topics which impact on new business opportunities, emerging technologies and the strategic direction of the firm. These analyses will also help facilitate client decision-making and support senior management in honing our vision for the future.

Employing a solid understanding of primary and secondary business information sources, and equally strong interpersonal skills, the selected analysis professionals will be responsible for:

- Designing and producing complex business analyses
- Designing new analysis products and services
- Supervising the workflow of other analysts
- Participating in cross-functional project teams

These Strategic Analyst positions require:

- MBA or other advanced degree, and 7 years of relevant experience
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GAN

Continued from page 17

Dominique Strauss-Kahn announced July 1 that Groupama had offered 17.25 billion French francs ($2.84 billion) for the 87.1% stake in GAN, while Swiss Life offered 17.43 billion French francs ($2.87 billion). But Swiss Life had asked for state guarantees against any future losses of 6.9 billion French francs ($1.14 billion) compared with a request of 2.9 billion French francs ($477.1 million) in the case of Groupama.

The two companies had made quite different proposals to develop the business and social interest of the company, but both were of sound quality, a Finance Ministry statement said. Groupama has promised to conserve all jobs in the joint company for a period of five years.

After the decision, Swiss Life Chairman Manfred Zobel said in a series of interviews that Swiss Life had been unable to guarantee jobs would remain.

A Swiss Life spokeswoman said: "We regret the decision (of the French government). This would have been a big step forward in French insurance."

Stock market analysts had long worried about GAN's potential liabilities.

"Swiss Life asked for more guarantees because they felt uncomfortable with the outstanding liabilities," said Michael Lindsay, insurance analyst at Lehman Brothers in London.

"Each company did their due diligence, and (the French government) decided on a purely subjective basis," said Lewis Phillips, an insurance analyst at Fox-Pitt Kelton in London.

Mr. Strauss-Kahn said the offer from the mutual company was "more advantageous to the public sector." "I don't doubt that comment will be made that the government has chosen a French company. As far as I am concerned, that is not the issue. The rules of the game were clear from the outset," he added. BI

Schering probes release of placebos

BERLIN—German pharmaceutical manufacturer Schering A.G. may face government fines and potential lawsuits after an undetermined number of placebo birth control pills wound up on the market in Brazil.

A government investigation is continuing into how the placebo contraceptive pills, which were used for testing a packaging machine, were removed from the company and wound up on the Brazilian market.

Authorities have not determined any wrongdoing on Schering's part but have criticized several points in its security measures.

The company became aware of the problem in late May, when an anonymous package containing placebos of Milcrovlar contraceptive pills was received by Schering do Brazil, the company's Brazilian subsidiary, according to a Schering spokeswoman in Germany. The package contained a note indicating that they had been dispensed in Sao Paulo. Schering at first feared it was the target of a blackmail attempt, but no demands were made, the spokeswoman said. Soon thereafter a second package was received and the company informed police.

Brazilian authorities ordered Schering to stop production of all pharmaceuticals the week of May 25, though the company won a court order lifting the ban on all products but Milcrovlar a week later. That same week, authorities ordered a freeze on sales of Milcrovlar contraceptives, which was expected to be lifted on Friday.

The company recalled 900,000 packages of its product from pharmacies, the spokeswoman said. The company ran advertisements alerting the public to the danger of the placebos and urging people to return the Milcrovlar pills.

A total of 600,000 placebo pills had been used to test the packaging machine, the spokeswoman said. While the majority of pills

See **Schering** *on next page*

RSI

Continued from page 17

Derek Howie, liability underwriter with insurer Eagle Star P.L.C., said, "It is a very, very important decision, which, without a doubt, is going to have an impact" on future cases.

"We have judges saying that RSI is of no diagnostic value as a disease. Any plaintiff planning to start an action against an employer will have to have absolute sound medical evidence and will have to prove a specific causation," said Mr. Howie.

"We are pleased that the judgment vindicates the company's position," said a spokesman for Zeneca Ltd., the now demerged former pharmaceutical section of ICI.

Zeneca offers employees plenty of ergonomic advice, the spokesman pointed out.

The judgment "would seem to be good news from an employer's point of view," said Marion Houghton, insurance manager for the London-based publishing group Reed Elsevier (UK) Ltd.

Nevertheless, the judgment will not change the company's attitude toward risk prevention, Ms. Houghton said, pointing out that Reed Elsevier takes "RSI very seriously and believes that risk management helps enormously."

For example, the company, which has "received only a few isolated RSI complaints," provides all employees with workstation assessments in which an ergonomic expert checks the layout of the desk for each employee. Staff members also get information related to back, eye and RSI problems and are encouraged to bring any problems to occupational health officers within the company, said Ms. Houghton.

Meanwhile, personal injury lawyers are disappointed with the judgment.

"We are very concerned that this could be used by defendants as a precedent and that the judgment could be a setback to other people suffering from RSI," the Nottingham, England-based Assn. of Personal Injury Lawyers announced.

One leading plaintiffs lawyer predicts, however, that the case will not halt the increase in RSI-related cases.

The condition Ms. Pickford is alleged to have suffered, that of writer's cramp, is a "very difficult condition to define and medically prove, making it a difficult condition to pursue in court," said Simon Allen, managing partner of the Sheffield, England, office of personal injury law firm Russell Jones & Walker.

In the time since the condition was listed as an injury by the government Department of Health and Social Security many years ago, other medically definable RSI conditions, such as carpal tunnel syndrome, have been recognized, he said. These types of injuries would be easier to medically prove in court, he said.

As a result, the ICI case is not likely to impact any of the law firm's 500 or so RSI cases currently filed in court, said Mr. Allen.

However, he expressed concern over the Law Lords' ruling that employers are not obliged to issue warnings about the risk of contracting writer's cramp.

"Lord Hope suggested that an intelligent employee should be able to plan his or her day to incorporate breaks and should be aware of the dangers without company warnings," Mr. Allen noted.

"I think it odd that the House of Lords took so robust a decision. Warnings can be very effective, and both employees and employers realize that information about dangers and hazards are beneficial to both parties," said Mr. Allen.

Four of a panel of five Law Lords ruled June 25 that the Court of Appeal had no right to overturn the original trial judge's ruling that Ann Pickford had failed to prove that the cramp in her hand had a physical cause or that it was caused by her typing work as a secretary for ICI.

Ms. Pickford worked as a full-time secretary for London-based ICI's pharmaceutical section in Macclesfield, south of Manchester, England, from January 1984 to May 1990. As the secretary to three section managers, typing took up about 50% of her work time. In May 1989, she complained to her doctor of pain in her hands. Her doctor could find no abnormality but signed her off work for several weeks. She was seen by a company doctor, who noted that the volume of typing seemed to be the problem but was unable to find any organic, or physical, explanation for the pain.

After seeing several specialists, she was placed on long-term disability in November 1989. Ms. Pickford returned to work in May 1990 but left three days later. The company ended her employment in September 1990 because there was no work available for which she felt she was fit.

Ms. Pickford then sued ICI, claiming the company's negligence had caused her to sustain Prescribed Disease A4, listed by the government's Department of Health and Social Security as a cramp of the hand or forearm due to repetitive movements.

She argued that the complaint was organic in origin, that it had been caused by a large amount of typing without breaks, and that her employer was negligent in failing to warn her of the risks of developing PDA4 if she did not take breaks.

The trial judge decided the plaintiff had failed to prove the complaint had a physical cause or that it was caused by her typing. He also ruled that the employer was not obliged to specify breaks because her duties provided natural breaks from typing, such as telephone calls and speaking to managers. He also noted that it is not the practice in business in general to warn of the risks of RSI because that could prompt more people to claim they have the condition.

The Court of Appeal, with one judge dissenting, reversed the trial judge's decision, ruling that Ms. Pickford should have been warned of the risk and that in not doing so, ICI was negligent.

However, the House of Lords ruled that the Court of Appeal was wrong to overturn the trial judge's decision and to put the burden of proof on the defendant. According to the judgment, the medical issues were controversial because the condition was so mysterious, with two conflicting medical views—one that the disease's origin is organic in cause, and the other that it is psychogenic, or in the mind.

Meanwhile, the defendant's employers said PDA4 had never occurred among typists on their premises and that no medical understanding of changes in the tissue had yet been demonstrated for the condition. When medical evidence alone is insufficient to show the precise cause of a plaintiff's injury, a trial judge is entitled to consider other evidence, the Law Lords ruled.

They also agreed with the trial judge that an employer is not negligent in failing to warn a secretary—whose work involves other duties aside from typing—that she should take breaks. In conditions such as PDA4, which are not easily identifiable and not well-understood, caution should be taken about any warnings, the Law Lords noted. BI

Pension reforms pledged in Germany

BONN, Germany—German Chancellor Helmut Kohl's government is pledging if re-elected to implement new tax incentives for employer-sponsored pension plans and to loosen restrictions on investing pension assets.

Finance Secretary Juergen Stark said if the ruling coalition Christian Democrat Party and Free Democrat Party survive September elections, the government would allow employers to make tax-free contributions for all of their pension liabilities to capital market investment vehicles.

Currently, employers cover their pension obligations by purchasing life insurance products, maintaining reserves internally that are reported on their balance sheets or by setting up restricted funds separate from the company to which they can contribute a portion of their pension liabilities. Contributions under all of these current arrangements are subject to taxes.

The change would cost the government between 2 billion and 3 billion deutsche marks ($1.10 billion to $1.65 billion) in tax revenues.

"Employers would have an incentive to use pension funds," Mr. Stark said, adding that the move would also help re-energize the country's capital markets.

The government's plan also would ease restrictions on multiemployer pension funds. Currently, employers can establish pension funds jointly with other companies, but cannot cover all of their liabilities through them.

The government's proposal would offer greater security and investment opportunity, particularly for smaller employers that cannot afford to maintain a pension plan on their own.

—By Don Lewis Kirk

Zurich enters Nordic market

By GERARD O'DWYER

STOCKHOLM—Swiss insurance giant Zurich Insurance Group has become Sweden's largest marine insurer following its acquisition early this month of the commercial insurance division of Trygg-Hansa A.B.

Zurich's purchase of the Industrial & Marine Insurance Portfolio division of Trygg-Hansa, which is owned by Swedish bank Skandinaviska Enskilda Banken, is the Swiss-based insurer's first major acquisition in the Nordic region. Following approval last month by Swedish regulators, the deal was completed July 2.

The Industrial & Marine Insurance division, Sweden's largest marine insurer, underwrites midsize and large property/casualty risks, such as industrial property, marine cargo and offshore oil platforms. Last year, the division reported a premium volume of 1.3 billion Swedish kronor ($160.3 million).

Until now, Zurich has had a modest market share in the Nordic region. The Swiss insurer posted a 1997 premium volume of 560 million Swedish kronor ($69 million) in the region, most of which came from Sweden. The recent acquisition will make Zurich the region's second-largest marine insurer, behind Norway's Storebrand ASA.

Although neither Zurich nor S-E-Banken disclosed the purchase price, recent acquisitions in the region have been valued at about one and half times the acquired company's premium volume.

The new Zurich unit, which will be named Zurich Forsakring Sverine, will be based in Stockholm and is expected to start underwriting by the beginning of September.

The purchase includes six Industrial & Marine Insurance Portfolio subsidiaries and will give Zurich branch offices in Sweden, Denmark, Norway, Finland, Estonia, Latvia and Lithuania. Although Zurich is a licensed insurer in Sweden, it did not have a formal branch in the country. Zurich has had a representative office in Stockholm since the early 1990s.

"We needed to undertake a major investment in Scandinavia, and the deal makes perfect sense. With the acquisition, Zurich is now an important player in Sweden, as well as in the rest of the Nordic region and the Baltic Sea area," Zurich Chief Executive Officer Rolf Hueppi said at a press conference.

The Scandinavian market presents many challenges and advantages, he said. "Financial services and marketing are at the cutting edge in Sweden, especially from a technology perspective."

Lars H. Thunell, group CEO of S-E-Banken, also said at the press conference: "The sale is highly positive from our position. Although the unit sold to Zurich is and has been profitable, it does not form part of our core business, and our focus on the savings market. In contrast to the rest of our non-life business, the synergy potential with S-E-Banken's other activities is limited."

Trygg-Hansa will concentrate on life business and smaller non-life risks. BI

Euro not worrying risk managers

By MARIA KIELMAS

BRUSSELS, Belgium—The introduction of a single currency as an accounting unit in 11 European Union member states is less than six months away, but for risk managers, it's business as usual.

"We don't foresee any major problem. There'll be some simplification," said Anders Bjarehall, head of risk management at Azko-Nobel N.V., an Arnhem, Netherlands-based chemicals and defense electronics company.

As a Dutch company, all of its contracts, including those between the head office and foreign subsidiaries, are in Dutch guilders. As of Jan. 1, 1999, however, these will be denominated in euros.

Azko-Nobel has a captive insurer domiciled in the Netherlands and two captive reinsurers domiciled in Luxembourg. Business with the reinsurers is conducted in Luxembourg francs now. "So we will switch to the euro," Mr. Bjarehall said.

Other risk managers take an equally untroubled view of the new currency.

"We manage 40 currencies now, so later we will have to manage just 30 currencies," said Thierry van Santen, head of risk management at Paris-based food and agribusiness company Groupe Danone S.A.

"The euro is not going to be an issue in the way I select a panel of insurers," said John Mayo, treasury director and risk manager at London-based electric and power systems company General Electric Co. P.L.C. "We have a number of local policies in Sweden and Germany for things like engineering services and employee benefits. Price transparency is the really big thing" that's going to result from the switch to a common currency, he added.

Marketing departments of many European companies, in fact, are worried about upcoming price transparency, when consumers will be able to compare prices for the same products in various European countries and ask why there is a difference, according to Mr. van Santen. "We have to adjust some of our prices between France and Spain," he noted.

Mr. van Santen explained that another important matter for most companies operating throughout Europe is how to transfer some marginally defined prices—such as 99/100ths of any particular currency—into euros.

But little is expected to change for insurance buyers as the insurance industry already conducts business on an international level.

"My insurers are in New York and London, and we are already working internationally," Mr. van Santen said.

By contrast, French companies that are not multinational may find that the introduction of the euro brings more competitive rates as their domestic insurers are forced to compete on price with insurers in other E.U. countries, he said.

Opinions in Europe are divided.

"We see no changes in the insurance premiums we will pay" due to the introduction of the euro, said Ingrid Prager, risk manager for Munich-based BayWa A.G., a trading and service provider to food and agribusiness that operates entirely within the German market and is insured entirely within the German market.

But Jeanette Weir, chief economist at the Assn. of British Insurers, said she believes competition on international lines will heat up with the advent of the euro. The London market has prepared for this, and Lloyd's of London, for example, will introduce the euro as a settlement currency on Jan. 1, 1999.

Ms. Weir also predicts that some international industry sectors will make the move to euros.

"Maybe some insurance currency now conducted in dollars will switch to euros. A key market is aviation," she said, pointing to the influence in Europe of aircraft manufacturer Airbus Industrie in Toulouse, France.

European multinationals have been changing their currency management within Europe for some years.

Groupe Danone has based its accounting on the European Currency Unit, which is a unit based on a basket of European currencies and is the accounting unit that the European Commission uses in budgeting.

Companies such as Swedish roller bearings manufacturer SKF A.B., based in Gothenburg, Sweden, have also based their European business accounting on a basket of European currencies. Even though Sweden is not among the first entrants to the single currency, SKF is ready to do business in euros.

"Half of our business is with Europe, so we have been preparing for this (the single currency) for years. If a customer wants to use the euro, then he will get it; we will adapt for that," said an SKF spokesman.

Most corporations in mainland Europe have been preparing for the euro for many years.

"Most of the companies in France, even the small ones, have had action plans and euro committees in place," said Mr. van Santen.

Ford Werke A.G., the Cologne subsidiary of the Ford Motor Co., has appointed a special vp and member of the company board of management, to oversee the switch to a single currency, said Dieter Heinrisch, general manager at Ford Versicherungs Vermittlung, the automaker's captive broker in Cologne.

But risk managers have not been involved with these preparations in any big way.

"My only role has been to see that people are tackling these problems," said Mr. van Santen. The single currency, from his point of view, is an accounting and marketing problem, not a risk management concern.

Other risk managers note that they have had far more important things to worry about recently. "The privatization process in our company has come first," said Vicente Martin, risk manager at Empresa Nacional de Electricidad S.A., Spain's largest power utility, which completed the last tranche of an $8 billion privatization program in May.

Don Cuthbert, head of EMU implementation strategy at consultant Towers Perrin in London, criticized European companies that see the euro just in terms of a currency and computing systems switch, rather than as a harbinger of change in how to conduct business.

"Companies are not seeing this as a commercial issue. You will not be able to play in this market after next year (without factoring in the euro). That applies to the majority of midrange multinationals," he said.

A company should debate how to use the euro to increase its commercial advantages and its market share with both customers and suppliers, Mr. Cuthbert added.

Danone's Mr. van Santen agreed.

"I have the feeling that in the accounting side, most companies are prepared. But they are not prepared to face new competition that the euro might bring. They are not prepared to see bids with Spanish, German and Italian companies and to compete on the same market," he said.

Mr. Cuthbert added that, in Britain, the debate about the single currency has been highly politicized. Some executives believed that, because the euro was not a British invention, there was no need to think about it, while others, believing that the change to a single currency might not happen, adopted a wait-and-see attitude.

But British risk managers disagree.

"What is the problem they (the consultants) are hunting? The euro will provide a business opportunity. We don't think we need to be complacent, but we don't think we have to seek problems," said Mr. Mayo of GEC.

GEC already has opened euro bank accounts to deal with joint ventures with European partners such as Siemens, which will conduct all of its accounting in euros. BI

Museums

Continued from page 17

While Mr. Emson believes mos museums generally install effi cient security systems for thei buildings and probably do ask th pertinent security questions of jo applicants, he also maintains tha they "are a bit naive" when i comes to the human element.

"They should be doing so muc more," such as checking databas es for outstanding loans or debt of potential employees, he said.

He added that museums als could enlist the services of privat security vetting firms, which wil check such things as the qualifi cations, credit ratings and crimi nal records of those being consid ered for employment.

One such company is Networ International, a London-base subsidiary of Hambros Group.

Jeremy Phipps, a managing di rector of the company, said on of the security services his compa ny offers is a pre-employmen screening program that checks th records of people prior to their be ing recruited. While Network In ternational is employed in this ca pacity mainly by financial ser vices companies, the service i equally suited to museums, h said.

However, Mr. Phipps said Net work International has no muse ums among its clients. He was no aware of any museums using th services of his company's com petitors, either.

While he said it is difficult t give an average figure of what i would cost to vet potential em ployees for a museum, as charge would depend on such things a how far back he was instructed t check or whether the potentia employee was foreign, Mr. Phipp said Network International' charges generally range from £5 to £800 ($82 to $1,309). He main tains it is a worthwhile price t pay if it helps prevent art thefts.

Italian police recovered th three stolen paintings at apart ments in Rome and Turin. The arrested eight people, including the museum security guard.

Because the stolen painting were in a state-run museum, the were not commercially insure but were covered by governmen indemnity. BI

Schering

Continued from previous page

were destroyed, the company's investigation has found that an undetermined number of packages were not accounted for.

Schering will re-examine its security standards for production and testing in light of the situation, the spokeswoman said.

To date, seven women who took the pills are pregnant, according to the Brazilian Health Ministry. Brazilian authorities have threatened to fine the company 4.5 million deutsche marks ($2.5 million) though none have been levied.

Meanwhile, the company spokeswoman in Germany said five women are negotiating a settlement with Schering do Brazil. She could not provide details of the amounts the women are seeking.

"The company is a victim of criminal manipulation," said Dietmar Greseus, casualty insurance manager for Schering. Schering's Brazilian unit purchases liability insurance in the local market, he said.

—By Don Lewis Kirk

ADVERTISER INDEX

Issue of July 13

Commentary

Fireworks affinity worth defusing

The 4th of July has come and gone and I have all my fingers intact, the integrity of my ear drums is near 90% and I have not been jailed for breaking the law.

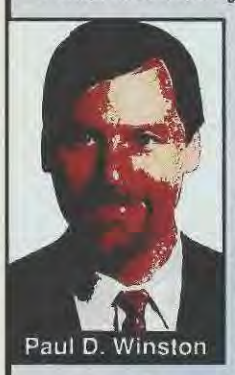
Although I am getting older and like to believe that the attainment of maturity is in direct proportion to the advancement of age, something about that day makes me abandon all pretense of common sense, responsibility and adherence to local statutes and behave like a pyromaniacal, glee-addled idiot year after year.

Yes, I am a fireworks junkie.

This year, I satisfied my dark urge with the neighbor's cache of midsize rockets (with explosion and parachuting flare), a gross of simple bottle rockets and a lowly box of sparklers. Yes, even lame devices such as sparklers, burning snakes and smoke bombs can hold my attention.

By virtue of owning a Zippo lighter, I was awarded the exalted task of lighting the fuses, which is half the fun.

In previous years, I have had to cross state lines to obtain the objects of my addiction. As a child growing up in Seattle, we would travel to a nearby Indian reservation that sold fireworks, because they were illegal to sell in the state. Later, living in Denver, we would drive north to Wyoming, where fireworks were freely sold.


Paul D. Winston

Now, in Chicago, one has a choice of heading north to Wisconsin or south to Indiana. I've done both.

I especially recall the time I drove north to Wisconsin for the express purpose of buying fireworks. While they were openly sold just north of the border, one could not take them from the store without owning a truck or Jeep. This, I suppose, was because only such sturdy vehicles were thought capable of withstanding the accidental ignition of one's purchase. So I made arrangements to have them shipped to my office in Chicago.

A few days later, I received a call from the receptionist informing me that I had a package waiting. When I got to her desk, there was a large cardboard box plastered with bright stickers warning of "explosives" and "danger." She gave me an odd look that I'm sure was what co-workers might have once fixed on Ted Kaczynksi.

It was even worse riding home on a crowded bus, standing with the large box tucked under my arm and waving in the face of seated passengers, who must have been holding their breaths waiting for me to hijack the driver and begin motoring for Cuba.

In spite of all those fond memories, I'm starting to feel like a pack-a-day cigarette smoker must feel in the cafeteria of the American Lung Assn. Maybe it's time I kicked the habit.

Why? Well, for starters I have children. While I can recall at age 8 my parents giving me a handful of explosive devices and rockets as a child and a pack of matches to do with as I pleased without adult supervision, I'm starting to wonder if maybe such "good old days" may really be a euphemism for a gross abdication of parental responsibility.

It's also against the law in more jurisdictions than not. This year I was in Indiana and refrained from stopping at a well-advertised roadside fireworks mall because a radio report announced that Illinois state troopers were stopping cars on the border to search for illegal fireworks. While I'm sure my version of "Civil Disobedience" would be a joy to read in this space, I decided not to risk it.

And perhaps the most important reason of all: It's not safe. Toying with explosives once a year hardly qualifies me as an expert in the safe handling of fireworks.

I've never been badly hurt, which is not the same as saying I haven't had fireworks blow up in my hands or thrown or shot in my direction for fun. And while it's OK for me to run the risk of burning or blowing up my hands, I involuntarily cringe at the thought of my daughters being accidentally maimed.

The Consumer Products Safety Commission on July 2 released statistics showing that in 1996, hospital emergency rooms treated an estimated 7,600 injuries caused by fireworks. About 40% were burns to the eyes, hands and head. One-third were sustained by children under age 15.

So maybe it's time to retire my Zippo and satisfy myself with the annual municipal fireworks display. I have a year to decide before the urge strikes again.

Editor Paul D. Winston and Publisher and Editorial Director Kathryn J. McIntyre publish columns on alternate weeks.

Texas

Continued from page 2

Larry Hall, executive director of the Houston Area Health Care Coalition, said, "Any time you have mandates, you will have an increase in cost."

Mr. Hall said he made a quick review of the regulations and believes only a small increase in costs will be needed to implement the changes. "I don't know that what's in the law will break anyone," he said.

The regulations indicate that HMOs will incur some cost in providing information on the changes to enrollees.

The proposal estimates that 3.2 million Texas plan members have manuals explaining their coverage and that changes should cost about 10 cents per book, or about $320,000.

The current draft of the proposed rules comes after the Insurance Department released its first version in April. Regulators invited comments on the first proposal and considered those remarks in drafting the current proposed regulations.

The department is taking written comments until Aug. 3 on the current proposal, and a public hearing is set for Aug. 17 to discuss the regulations. After that public hearing, Insurance Commissioner Elton Bomer could say no additional changes are necessary and issue the order making the rules final. Or he could ask for changes, which would mean another public hearing would be required.

No deadline is set for final adoption.

The proposed rules require HMOs to provide some basic coverages and services. For group plans, those requirements would include:

- Treatment of chemical dependency under the same limits and terms as those for treatment of physical illnesses.
- Coverage for transplants of kidneys, corneas and bone marrow when medically necessary. Osteoporosis and serious mental illness, as defined in the state's insurance code, also must be covered.
- Direct access to obstetricians and gynecologists.
- Preventive health services, including family planning, certain infertility treatments, well-child care, prostate cancer screening, annual ear and eye exams for children under 18, and immunizations.
- Treatment of diabetes.
- Home health services, as prescribed or directed by physicians designated by the HMOs.
- Inpatient and outpatient services, including rehabilitative services and physical, speech and occupational therapy.

Employers eventually are going to see health care costs rise if a mandate to cover obese workers is not included in the final version of the regulations, says Diane Crumley.

The proposal also contains requirements for HMOs to document certain business operations and to make the documentation available to the Insurance Department when requested.

In its draft released in April, the Insurance Department added a memo asking for comments on whether coverage should be mandated for prescription drugs, blood plasma for hemophiliacs, breast reduction operations, and the treatment of morbid obesity. Based partly on the comments it received, the department decided not to add those mandates to the proposed rules.

An Insurance Department spokesman said comments were solicited on those four coverages because they were ones regulators had received complaints about from enrollees who thought the coverages should be required.

Diane Crumley, president of Insureds Advocacy Group in Houston, said employers eventually are going to see health care costs rise if a mandate to cover obese workers is not included in the final version of the regulations.

Surgical methods that can help curb weight gain are inexpensive compared to treating illnesses such as diabetes and high blood pressure that stem from obesity, said Ms. Crumley, whose group works to persuade managed care plans and insurers to cover the procedures.

"When you look at it from a business standpoint, it is horribly costly to leave it untreated," she said of obesity.

Employers did not turn out to comment at the public hearing. A list provided by the Insurance Department indicates 20 people commented.

Doctors, attorneys, health care plan representatives and consumer advocates were listed. No employer groups or benefit managers were on the list.

Mr. Hall said employers and HMOs he has talked with haven't expressed a lot of concern with the changes. "A lot of (HMOs) are doing these things already. It's just that now it's required by law."

Mr. Wurzel said health plans can live with the proposed regulations.

After a quick review of the latest version, he said, "we feel pretty good" about the proposed rules, because they appear to reflect the intent of the laws passed in the 1997 session.

"That's not to say that we don't have some issues," Mr. Wurzel said, but "we're not ready to go into detail" until a thorough review of the proposal can be conducted. BI

Kaiser

Continued from page 2

benefit plans are not covered by ERISA, and people who obtain health insurance by themselves and not through their employers.

Using this exception, Coopers & Lybrand L.L.P., in a study commissioned by the Henry J. Kaiser Family Foundation, examined three health plans for public employees and the frequency of suits against them. The Menlo Park, Calif.-based foundation, a health care philanthropy, is unrelated to Kaiser Permanente.

The study states that the three groups, California Public Employees Retirement System, the Los Angeles Unified School District and the State of Colorado Employee Benefit Plan, with a total of more than 1.1 million combined members—CalPERS alone has about 1 million enrollees—had litigation rates ranging from 0.3 to 1.4 cases per 100,000 enrollees per year.

It was estimated that each administrative appeal costs $10,000 to defend and each suit costs $100,000 to defend. This works out to a direct monthly cost per enrollee of $0.03 to $0.13, when combined with the costs of internal administrative appeals, the study said.

The authors noted, however, that HMOs might face higher rates of litigation than the employer plans studied.

"Because health insurers and HMOs are more actively involved in the administration of benefit plans and do not enjoy an employee/employer relationship with their members, they may be subject to greater appeal and litigation risks than plan sponsors," the study states.

The study comes at a time of greater interest in opening health plans to liability for malpractice. Bills were introduced in 30 states this year that would expose health plans to greater liability for treatment decisions. At least 23 states, though, have rejected such measures.

The study comes at a time of greater interest in opening health plans to liability for malpractice.

A federal measure backed by the House Republican leadership does not include the malpractice provision (*BI*, June 29). An earlier proposal by Rep. Charles Norwood, R-Ga., that would amend ERISA to allow such suits is pending, but is not expected to pass. In fact, Rep. Norwood has thrown his support to the House Republican leadership proposal.

Another aspect of litigation examined by the study was the rate of lawsuits filed by individual purchasers of insurance. One health plan that was examined experienced 9.3 lawsuits per 100,000 members per year from January 1993 to June 1996. This compares with 1.3 suits per 100,000 claimants with group coverage for the same time frame. Despite ERISA, group members sued anyway.

The authors caution, however, that this higher rate among individuals might not apply to group members if group members were permitted to sue because individuals often buy insurance under different circumstances—for example, they may have more health care needs—and often have more restricted policies than group members.

The study's results differ from one conducted earlier this year by Barents Group L.L.C., a unit of KPMG Peat Marwick L.L.P. That study, sponsored by the American Assn. of Health Plans, stated that the change in liability for health plans would increase premiums by between 2.7% and 8.6% (*BI*, May 4).

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Copies of "Impact of Potential Changes to ERISA: Litigation and Appeal Experience of CalPERS, Other Large Public Employers and a Large California Health Plan" are available free by calling 800-656-4533.

Product

Continued from page 1

amendments allowed than would have been allowed under cloture," said a spokesman for Sen. Rockefeller.

Moments before the cloture vote, Sen. Rockefeller expressed his regret that "the argument of politics" had entered the debate and said he was "not going to put product liability to death."

"I hope my colleagues will vote no on the pending cloture motion so we might have a chance to continue this discussion and hopefully work out something on this modest but helpful bill," he said.

Ironically, only two days earlier, Sen. Rockefeller had said "on this one, I think there is very little room for movement" in terms of amending the bill.

Senate Democrats had made no secret of their desire to add health care-related amendments to the product liability bill and other pieces of legislation the chamber would take up this summer. Some Democrats also wanted to change the bill to remove any doubt that gun manufacturers, regardless of their size, would not enjoy caps on punitive damages if juries found them liable for injuries.

"Product liability, like other legislation this year, got in front of a political freight train that had nothing to do with the merits of the bill," said Victor E. Schwartz, longtime product liability reform advocate and counsel to the Arlington, Va.-based Product Liability Coordinating Committee.

Senate minority leader Thomas Daschle, D-S.D., "had made it a party-line vote with regard to trying to let the Kennedy health care bill (a patients' rights bill) out of prison, and until that bill comes out of prison, product liability itself cannot move forward,' according to Mr. Schwartz. "It is possible product liability could be resurrected if health care reform proceeds, but it could become a tar baby for other initiatives such as minimum wage or tobacco, and if that is so, it is dead for the year," he said.

"This vote had nothing to do with the product liability bill's merits. It had to do with control of the Senate floor and nothing else," said James A. Anderson, vp-government relations for the National Assn. of Wholesaler-Distributors in Washington.

Mr. Anderson said "it is very clear" that Senate Democrats want "an unlimited opportunity" to amend and debate "ad nauseum" any legislation that comes to the floor. He noted, however, that Sen. Lott won't allow that to happen.

Yet in another ironic twist to the product liability debate, Sen. Lott himself inserted an amendment into the bill. The Lott amendment, which would have broadened the bill's proposal to grant immunity to manufacturers of some raw materials used in medical devices, drew fire from Democrats.

Sen. Daschle said that amendment would undo the compromise worked out between the White House and Sens. Rockefeller and Slade Gorton, R-Wash., the chief GOP sponsor of the bill.

President Clinton vetoed a more comprehensive bill two years ago but held out the possibility that he would not oppose a more limited bill (*BI*, May 6, 1996). As a result, the bill considered last week by the Senate stops far short of the reforms contained in earlier product liability reform proposals.

Under the proposal, a cap of $250,000 on punitive damages would be extended only to individuals with a net worth of less than $500,000 or businesses with with annual revenues of $5 million or less and fewer than 26 employees (*BI*, June 15). The bill also would retain the imposition of joint liability in product liability cases.

But the measure also calls for the creation of a uniform standard of proof to determine product liability, would set an 18-year statute of repose for durable workplace goods when the plaintiff has received or is eligible to receive workers compensation, and would create a defense for manufacturers if they could prove the plaintiff was under the influence of alcohol or drugs when an accident occurred and that the plaintiff's inebriated state was the principal cause of the accident.

In addition, the bill would provide some legal protection for product sellers and provide some relief from product liability for manufacturers of raw materials used in medical devices.

"The bill, of course, is not as broad as the one that was then vetoed or the bill that was passed out of the Commerce Committee. Nonetheless, it does bring a significant degree of rationality and predictability to product liability litigation. It removes a number of severe inhibitions that stand in the way of research and development for new and improved products in the commerce of the United States," Sen. Gorton said as discussion of the bill began last week.

"This bill is a modest attempt to improve the compensation system for defective products in the United States, and it modestly improves it," he said later.

"I will be more direct and say that it is a much more limited bill. The logic for that is very simple. If it was other than its current form, we might be able to pass it, but it would not be signed," said Sen. Rockefeller.

With the failure to invoke cloture, the continuing Senate deadlock over health care reform and a rapidly shrinking legislative calendar, odds of the bill being signed this year are considerably less than favorable.

Consumer advocate Ralph Nader, who has consistently opposed any federal product liability legislation, issued a statement after the vote that read in part: "The corporate-backed drive to federalize and weaken the products liability law of the 50 states has been defeated once again. With waves of campaign cash swirling around this bill and a cowardly White House that signed off on it over a month ago, Democratic leader Tom Daschle held firm. This is a victory against the wrongdoers' lobby and for a safer society under state laws that hold manufacturers accountable for harm done."

But Mr. Schwartz refused to pronounce the measure dead.

"This bill has had more lives than the proverbial cat, and I am not counting it out this year. But it has hit issues over which we have no control," he said.

"One benefit, slim as it is, is that the bill did not come up during the annual meeting of the Assn. of Trial Lawyers of America," said Mr. Schwartz.

ATLA, the major national society of plaintiffs' attorneys, has consistently opposed federal product liability reform. ATLA just happened to convene its annual meeting in Washington only a day after the cloture vote failed. BI

AIG

Continued from page 3

problem. The paper was written by independent experts across many fields. The paper specifically states that the views expressed are those of the authors and do not necessarily represent those of National Union," he said in a statement.

The white paper was written by: Milbank, Tweed, Hadley & McCloy; Coopers & Lybrand L.L.P.; Arter & Hadden L.L.P.; and John V. Guttag, professor of computer science and engineering at the Massachusetts Institute of Technology.

The executive summary gives an overview of Year 2000 problem, which could affect computers and the devices they control if they only record the year in a date with two digits. It goes on to advise policyholders that they must ensure they make all legal disclosures regarding the problem and assemble a team to deal with the problem.

Insurance issues are addressed in the final part of the letter, which says policyholders should discuss the problem with their insurers and that most corporate insurance policies will "probably afford little protection against Year 2000 losses."

It then states that D&O liability insurance policies that do not specifically address the issue are not in the best interests of the policyholders.

The summary contrasts with letters sent by Chubb Corp. and Reliance National Insurance Co. earlier this year that stated the insurers would treat Year 2000 D&O claims like any other claims.

AIG had sent an earlier letter to policyholders on the Year 2000 issue that said little about insurance coverage, but some observers said it could signal AIG's intention to deny Year 2000-related claims made on commercial liability policies (*BI*, June 29).

"This goes much further than the last communication," said William Kelly, managing director of risk management at J.P. Morgan & Co. Inc. in New York.

It seems to suggest that any D&O policy that is silent on the issue of the Year 2000 is unlikely to cover losses arising from the problem, he said.

AIG seems "to be getting back to the idea of a need for express coverage," Mr. Kelly said.

However, express coverage not only would cost additional premiums, but it also could lead to claims disputes, as insurers and policyholders will likely argue over definitions in the policy, he said.

Risk managers would be better served by the broad coverage that their existing D&O policies give, Mr. Kelly said.

"A life insurance policy doesn't expressly cover an airline crash, but why would you want to buy a policy that does expressly cover a crash when you think that the coverage that you already have is so broad that it covers that?" he asked.

AIG may hope that the summary could encourage policyholders to buy National Union's recently launched D&O Gold policy (*BI*, May 25), which offers express coverage for Year 2000 liabilities, said Carolyn Rosenberg, a partner at Sachnoff & Weaver Ltd. in Chicago.

"It serves the interests of insurance companies that want to sell insurance geared specifically toward the Year 2000 problem and that coverage will obviously be more expensive than traditional D&O coverage," she said.

The summary should also encourage AIG policyholders to seek further clarification on D&O coverage issues from the insurer, said Joshua Gold, a partner at Anderson, Kill & Olick P.C. in New York.

"People want to get the bottom line on coverage, and this is an ambiguous statement. . .it will add to the confusion," he said. BI

Updates

Unions ratify AT&T pact

NEW YORK—Members of the Communications Workers of America and the International Brotherhood of Electrical Workers last week ratified a four-year contract with AT&T Corp. that will boost pay and benefits for the roughly 50,000 workers represented by the unions.

The contract, which covers about 48,000 CWA and 2,000 IBEW members, calls for a new cash balance pension plan. The plan, to be established next year, is believed to be the largest cash balance plan ever to cover union members. AT&T already has a cash balance plan for management employees.

Employees with AT&T for at least 15 years can stay with the company's traditional pension program and will receive an immediate 7% benefit increase and additional increases totalling 8% by the year 2000, said George Fromme, AT&T vp of human resources.

Health care benefit changes include lower generic drug copayments, financial incentives for some retirees to join Medicare risk health maintenance organizations, and allowing same-sex partners to apply for health and other benefits.

Child and elder care programs will be expanded under the agreement, and adoption reimbursements and scholarships for children of union members will be continued, Mr. Fromme said.

New health measure in Hawaii

HONOLULU—Under patients' bill of rights legislation that will take effect in Hawaii this month, state residents will be able to appeal managed care companies' treatment decisions to a new review panel.

The three-member review panel will be selected by state Insurance Commissioner Rey Graulty and composed of a representative from a health plan not involved in the dispute, a medical provider, and the commissioner or his designee. The legislation also will prohibit managed care plans from discouraging doctors from discussing treatment options with patients. Additionally, it requires plans to provide a reasonable choice of qualified providers of women's health services, such as gynecologists and certified nurse-midwives.

If Gov. Benjamin Cayetano signs the measure as expected this week, it would take effect immediately. If he doesn't sign it, it will automatically become law July 21.

Am-Re Global Services forms

PRINCETON, N.J.—American Re-Insurance Co. has consolidated American Re and Munich Re's reinsurance and retail brokerage, captive and risk management, and insurance and reinsurance consulting services into a new subsidiary, Am-Re Global Services Inc.

Mahmoud Abdallah will become chairman and chief executive officer of the new subsidiary, which officially began operations last week, according to a spokeswoman. It includes Becher & Carlson Cos., which provides retail brokerage, risk management consulting, captive management and captive rental services; reinsurance intermediary Am-Re Brokers Inc., which will merge its operations with Munich Re intermediary International Insurance Consultants; ARB International Inc., a Lloyd's brokerage house; and insurance and reinsurance consultants Am-Re Consultants Inc. Except for International Insurance, all the units will retain their names.

2 more plans deny Viagra cover

CHICAGO—Two large health care organizations will not provide coverage for the male impotence drug Viagra.

Roseland, N.J.-based Prudential HealthCare and Louisville, Ky.- based Humana Inc. independently announced their decisions last week. Both HMOs cited concern about reports of deaths and serious side effects possibly associated with use of the medication, which is manufactured by Pfizer Inc.

Humana is particularly concerned that the U.S. Food and Drug administration did not require clinical trials involving men with diabetes, hypertension and vascular disease before giving its approval of Viagra, a Humana spokeswoman said. A relatively small number of self-insured employers that use Humana as a third-party administrator can decide for themselves if they want to pay for Viagra, she said.

Oakland, Calif.-based Kaiser Permanente also recently said it would not pay for Viagra due to the high cost. Minnetonka, Minn.-based United HealthCare, which is acquiring Humana, said last week it would continue to approve coverage of eight pills a month for most patients. About one-third of its enrollees, who are subject to a closed drug formulary, however, might be denied the pills and would have to file a request for a medical exception, a spokesman said.

Briefly noted

ACE UK Ltd. has acquired LIMIT (No. 9) Ltd., a unit of LIMIT P.L.C., one of the largest corporate investors in Lloyd's of London. For the 1998 year of account, LIMIT (No. 9) has underwriting capacity of £55 million ($90.8 million) on syndicates managed by ACE. . . .**EXEL Ltd.** has bought a majority stake in Reeve Court Insurance Ltd. in Bermuda for $100 million. Reeve Court offers investment and estate planning products to trusts and wealthy individuals. . . .The boards of the World Insurance Network, London Insurance Market Network, and Reinsurance and Insurance Network have established a steering committee to explore and evaluate a merger to create a single global organization for **international electronic communications**. . . .Boxing promoter **Don King** was acquitted of charges that he defrauded Lloyd's of London underwriters of $350,000 through a bogus insurance claim. The federal jury in New York found that Mr. King did not defraud the insurers when he filed the claim after the cancellation of a bout involving Julio Cesar Chavez in 1991 (*BI*, July 19, 1994). . . .The **Occupational Safety and Health Administration** has proposed fining Kansas City, Mo.-based Interstate Brands Corp. $910,000 for alleged violations of safety regulations during asbestos removal at its Schiller Park, Ill., plant earlier this year.

Fires

Continued from page 3

one large insured commercial loss: extensive damage at W.W. Truss Co. in Ormond Beach, Fla.

"Their lumber and inventory were wiped out," said Charlie Lydecker, a senior vp at insurance broker Poe & Brown Inc. in Daytona Beach, Fla. He said the truss-building company's loss is expected to reach about $500,000 to $750,000.

Mr. Lydecker said property coverage placed by Poe & Brown with CNA Insurance Cos. is expected to cover W.W. Truss' loss.

The loss is the only commercial claim Poe & Brown had received as of last week. The broker had received about half a dozen claims from homeowners.

Jefferson Smurfit Corp., a St. Louis-based paper manufacturer, expects its timber losses to reach about $12 million to $14 million, said Mike Branch, region manager in the company's Fernandina Beach, Fla., office.

Trees owned by Jefferson Smurfit on about 16,000 acres in northern counties were scorched, and the timber losses are not insured, according to Mr. Branch. "We're in the process of trying to evaluate what we will be able to salvage," he said.

Mr. Branch said most operations like Jefferson Smurfit don't carry insurance to pay for timber losses. "A few agencies will write it, but it's very expensive."

Georgia-Pacific Corp., based in Atlanta and doing business as The Timber Co. in Florida, owned timber on about 40,000 burned acres, mostly in coastal counties.

Estimates were not available on the loss, which is self-insured, according to Gorman Eidson, eastern region manager in The Timber Co.'s Palatka, Fla., office.

Poe & Brown took to the airwaves as the fires approached the Daytona area, advising its clients and others to prepare to leave their homes and businesses. The messages focused on getting out of harm's way first, and second, what to take along if time allowed, Mr. Lydecker explained.

Timber that has been lost is for the most part not covered because insurance for timber losses is 'very expensive,' says Mike Branch.

Mr. Lydecker found he had to follow his firm's advice. He and his family became evacuees July 1 when authorities gave them about 15 minutes to get out of their home. "When I left Wednesday night, I thought the city was burning," he said.

"The fact that we suffered as little damage as we did is, frankly, nothing short of a miracle," he said. Firefighters were able to keep the blaze from reaching Mr. Lydecker's home and others in the area.

Others weren't so fortunate.

Allstate Floridian Insurance Co. said late last week it had received 872 fire-related property claims for an undetermined amount. The insurer had identified all but 11 of the claims as filed by owners of dwellings.

The III spokesman said business interruption claims may eventually be filed. The fires caused the closure of portions of Interstate 95 from Titusville to Jacksonville for six days; the interstate was completely open by the evening of July 6. Fire also destroyed some crops, he pointed out. That could mean businesses outside the area were unable to receive goods or food that is used in their operations.

Daytona International Speedway postponed until Oct. 17 the Pepsi 400 NASCAR Winston Cup Series race. Originally scheduled for July 4, the race was called off so the speedway could direct its firefighting equipment and personnel to battle the blazes.

Speedway employees also helped feed firefighters and government employees working in emergency operations, a Speedway release said.

A Speedway spokesman could not say how much it cost to reschedule the race but confirmed that such expenses are not covered by insurance. Tickets for the sold-out event will be honored on Oct. 17. BI

Proposal

Continued from page 1

ers and injured workers.

The proposal was developed as a result of the commission being instructed by the state General Assembly to draft a rule incorporating the North Carolina Court of Appeals' reasoning in its 1996 decision in *Salaam vs. N.C. Department of Transportation.*

That decision threw out a physician's testimony in a workers comp dispute because the doctor had spoken with the employer's attorney without the express permission of the employee.

The state Industrial Commission had argued at the time that such contact was permitted, but the state appeals court rejected the argument.

After the hearings and public comment period, the commission earlier this month tabled its proposed rule and authorized the creation of a special committee to study the issue.

The panel—the members of which must be approved by the full commission—should complete its work and issue a report to the Industrial Commission by Nov. 1.

The commission's move has drawn praise from risk managers and employers.

"We are very pleased that the rule has been withdrawn, and we look forward to working with the commission to come up with a proposal that isn't overly burdensome for employers," said Nancy Bradley, director of governmental affairs for the North Carolina Citizens for Business and Industry in Raleigh, N.C.

"From an employer's perspective, I think, obviously, that it's a very good thing that the Industrial Commission has decided not to go forward with the proposed rule as written," said Mitch Byrd, manager of corporate risk for Public Service Co. of North Carolina in Gastonia, N.C., and former president of the Carolinas chapter of the Risk & Insurance Management Society Inc.

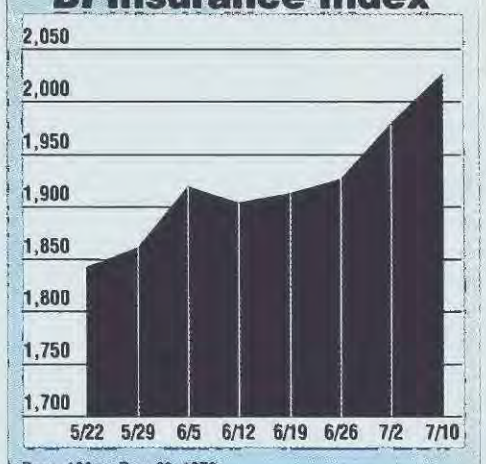
"My main concern was that I would not be able to communicate immediately with the physicians about the condition of my employees, and whether his injury was caused by something I would need to alert other workers in the workplace to," Mr. Byrd said. "The bottom line is, if there is nothing in dispute, why have a rule that creates an adversarial position from the beginning?" he asked.

"People had many legitimate complaints about the proposed rule, but many of them offered no alternatives at all," said John Toay, chairman-legislative affairs for the Carolinas RIMS chapter and president of Loss Prevention Management in Fort Mill, S.C.

Mr. Byrd said the withdrawal of the rule showed the importance of employer input.

"It does appear that the system for having public hearings does work in North Carolina," he said. BI

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: *Nordby International Inc.* (nordby.com) Boulder, Colo.

PCS catastrophe options

As of July 10

Call spread	Price bid/ask
National Annual 1998	
40/60	10.5/—
60/80	5.0/10.0
80/100	—/8.0
Southeastern September 1998	
40/60	2.0/3.3
Northeastern September 1998	
100/150	0.9/2.0
Florida September 1998	
40/60	1.0/2.4
California Annual 1998	
40/60	NA
150C	0.9/—
Western Annual 1998	
40/60	NA
80/100	NA
150C	1.0/—
Eastern September 1998	
20/40	3.0/—
40/60	2.3/3.5

Total volume: 62 Total open interest: 18,617

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.
Source: Chicago Board of Trade

British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Gdn Royal Exch	364	5.4	12.1	3.3	495-266
Legal & Gen	693	17.2	12.7	2.3	785-400
Royal & Sun	626	16.5	22.8	3.7	825-461
Brokers					
Lmbrt Fenchurch	100	7.8	5.7	7.1	138-100
Lloyd Thmpson	178	12.0	10.0	7.0	194-151
Sedgwick Grp	143	12.2	7.0	5.1	171-115
Willis Corroon	177	14.9	6.8	4.8	181-116

Note: Prices are July 10 closings; other numbers from July 9.

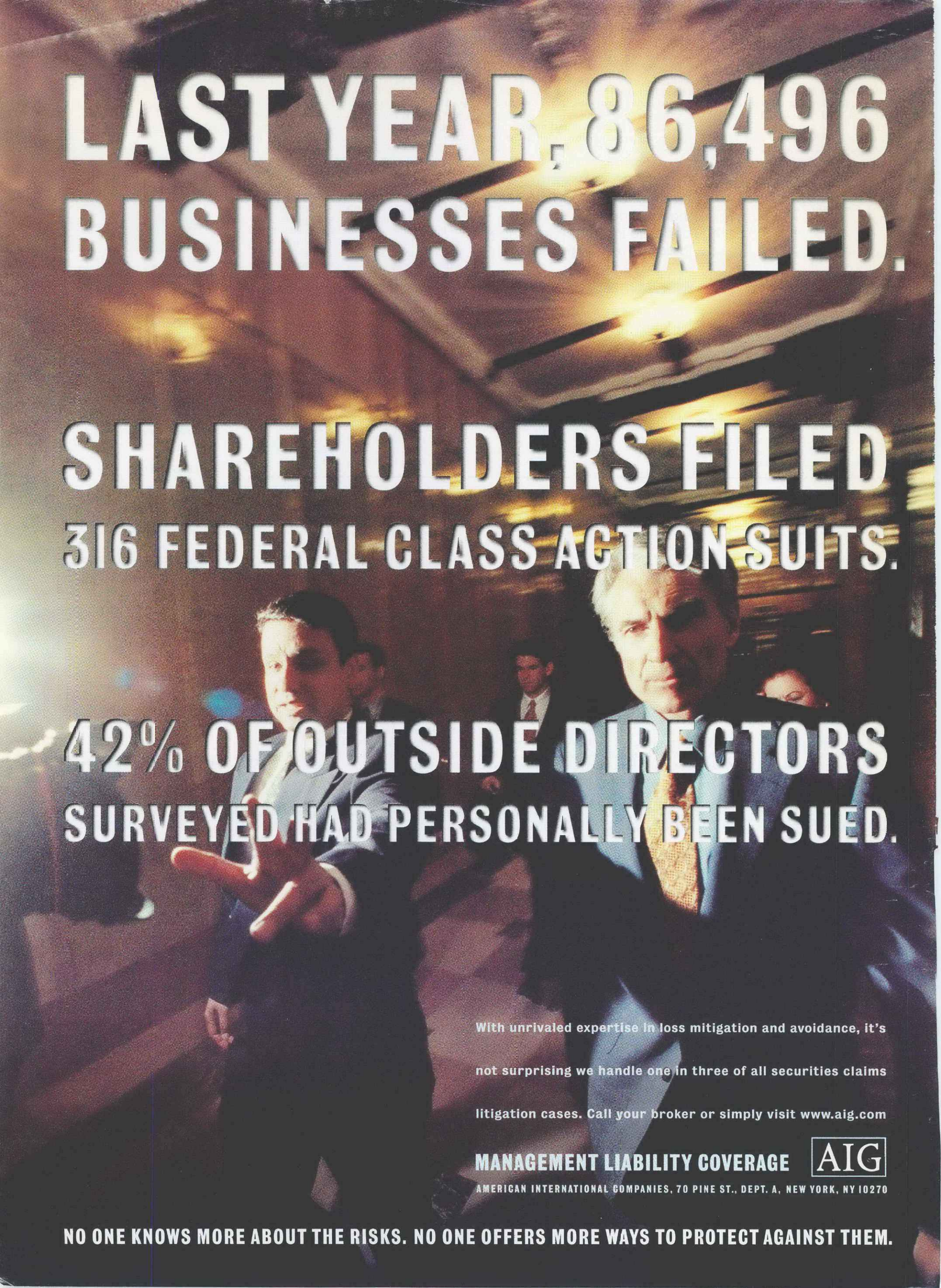
Source: *Nordby International Inc.*(nordby.com) Boulder, Colo.

BI Industry Stock Report JULY 6, 1998, THROUGH JULY 10, 1998

BROKERS		Price	Weekly % change	Year to date % change	52-week High	52-week Low	Vol.(000)
Aon Corp.	NYS	73.81	3.51	25.91	75.56	50.00	1197
E.W. Blanch Holdings Inc.	NYS	37.63	1.35	9.26	38.75	27.94	81
Gallagher Arthur J. & Co.	NYS	44.31	-0.14	28.68	46.56	33.56	73
Hilb, Rogal & Hamilton	NYS	17.75	7.58	-8.09	19.63	15.38	127
Kaye Group Inc.	NDQ	7.13	5.56	7.55	9.00	5.13	31
Marsh & McLennan	NYS	62.06	3.12	24.85	63.31	44.00	2688
Poe & Brown	NYS	39.75	4.95	33.61	39.75	23.88	31
Sedgwick Group PLC	NYS	11.88	-2.06	-3.55	14.44	9.38	33
Willis Corroon Corp.	NYS	14.25	8.06	15.74	15.19	9.75	120
BROKERS	AVERAGE		3.55	13.50			
INSURERS/REINSURERS							
ACE Ltd.	NYS	41.00	3.80	27.46	43.00	25.06	1741
Acceptance Insurance Cos.	NYS	24.69	2.07	2.07	28.63	21.13	93
AEGON N.V.	NYS	96.25	9.45	114.78	96.25	34.00	230
Aetna Life & Casualty	NYS	78.50	1.37	11.25	118.13	66.31	1706
AFLAC Inc.	NYS	37.25	12.88	45.72	37.25	22.13	3291
Allied Group Inc.	NYS	47.00	0.13	64.19	47.13	25.00	382
Allstate Corp.	NYS	51.19	7.06	13.12	52.38	35.44	13455
AMBAC Indemnity Corp.	NYS	64.81	7.57	40.90	64.81	38.94	891
American Bankers Ins.	NDQ	60.50	-0.62	31.70	66.06	32.19	872
American Financial Group	NYS	44.44	1.86	10.23	49.25	34.56	221
American General	NYS	74.44	2.50	37.69	75.69	46.56	2789
American Heritage Life Ins.	NYS	24.25	2.65	34.72	25.00	16.75	39
American Indemnity/Fin'l	NDQ	11.38	-1.62	-18.02	15.50	9.50	2
American International	NYS	149.00	1.40	37.01	149.94	93.75	4292
Argonaut Group	NDQ	32.50	-0.38	-4.06	38.13	29.63	195
AXA-UAP Group	NYS	61.38	6.51	57.37	62.63	30.75	238
Baldwin & Lyons Inc.	NDQ	23.25	-2.62	-3.63	28.75	18.50	4
Berkley W.R. Corp.	NDQ	38.88	-3.57	-11.40	49.88	35.69	591
Berkshire Hathaway Inc.	NYS	77250.00	-0.32	67.93	84000.00	30000.00	2
Capital RE Corporation	NYS	35.00	-6.67	12.79	38.69	24.94	360
Capitol Transamerica Corp.	NAS	21.75	6.75	2.05	28.13	19.00	67
Centris Group Inc.	NYS	12.31	-1.01	10.36	14.81	9.69	22
Chartwell Re	NYS	29.31	0.64	-13.15	36.25	28.25	58
Chubb Corp.	NYS	86.69	5.16	14.63	88.25	63.50	2883
CIGNA Corp.	NYS	72.94	2.64	26.94	73.63	45.63	1736
CNA Financial Corp.	NYS	45.94	-0.94	7.88	53.25	36.44	473
CNA Surety	NYS	14.81	0.42	-4.05	16.75	12.88	1808
EMC Insurance Group Inc.	NDQ	13.94	-7.08	5.19	15.88	12.25	42
ESG Re Limited	NDQ	23.00	3.37	-2.13	28.88	19.88	203
Enhance Financial Services	NYS	36.88	4.24	23.95	37.56	22.75	364
Everest Reinsurance	NYS	38.94	-1.89	-5.61	45.25	33.00	642
Executive Risk Inc.	NYS	61.38	-14.61	-12.09	75.75	49.31	619
EXEL Ltd.	NYS	81.94	5.30	29.29	82.31	52.75	1014
Fremont General Corp.	NYS	56.50	1.80	3.20	62.13	36.75	346
Frontier Insurance Group	NYS	23.13	0.27	1.09	35.69	18.19	477
Gainsco Inc.	NYS	6.56	2.94	-22.79	10.19	6.00	134
General RE Corp.	NYS	255.94	-0.02	20.73	275.00	188.63	2226
Gryphon Holdings	NDQ	15.88	-0.78	-5.22	19.38	14.75	46
Harleysville Group	NDQ	22.06	0.86	-8.07	28.50	18.38	171
Hartford Steam Boiler	NYS	57.19	5.78	55.44	57.19	33.25	489
HCC Insurance Holdings	NYS	22.00	-2.22	3.53	32.69	15.63	240
ING Groep N.V.	NYS	69.13	3.95	63.37	71.06	38.88	332
IPC Holdings Ltd.	NDQ	29.00	-5.31	-9.90	33.25	27.50	268
Hartford Financial Services	NYS	116.81	1.96	24.85	119.13	78.56	1333
4LaSalle Re Holdings Ltd.	NYS	37.63	-1.95	6.36	42.94	30.50	81
Life Re Corp.	NYS	83.38	-0.67	27.90	84.38	49.75	313
Lincoln National	NYS	95.50	2.14	22.24	96.38	63.81	677
MAIC Holdings Inc.	NYS	28.19	-1.10	5.23	30.38	18.88	59
Markel Corp.	NYS	183.50	3.82	17.53	183.50	127.00	12
MBIA Insurance Group	NYS	79.13	5.68	18.43	80.94	56.50	1213
Meadowbrook Insur. Group	NYS	30.38	10.45	16.55	35.00	21.88	60
Mid Ocean Ltd.	NYS	82.38	4.89	51.84	83.25	52.75	342
MMI Cos. Inc.	NYS	22.31	-2.99	-11.19	27.88	20.75	81
Mutual Risk Mgmt. Ltd.	NYS	38.31	0.16	27.97	39.94	22.63	494
NAC Re Corp.	NYS	54.63	-0.23	11.91	55.88	43.50	276
Navigators Group	NDQ	18.69	-1.32	-0.50	22.50	17.00	14
Nobel Insurance Ltd.	NDQ	0.75	-94.42	-94.29	15.00	0.75	36
NYMagic Inc.	NYS	27.00	-0.69	-2.04	34.25	20.63	8
Ohio Casualty Corp.	NDQ	46.19	-0.14	3.50	51.75	41.56	329
Old Republic Int'l	NYS	30.81	2.71	24.29	32.25	20.44	1413
Orion Capital Corp.	NYS	57.13	2.93	23.01	58.25	37.75	539
Partner Re Ltd.	NYS	51.56	0.00	11.19	52.50	39.44	168
Penn-America Group Inc.	NDQ	13.00	-0.95	-36.59	23.00	12.25	231
Pennsylvania Manufacturer's Co	NDQ	21.56	-4.16	28.73	23.75	16.25	38
Philadelphia Cons. Holding	NDQ	20.75	1.22	16.90	24.38	15.50	37
PXRE Corp.	NYS	29.94	-0.21	-9.79	35.25	29.00	69
Reliance Group Holdings	NYS	18.56	3.13	31.42	19.81	11.63	1356
Reliastar Financial Corp.	NYS	50.31	3.21	22.15	50.63	33.63	1003
RenaissanceRe Holdings Ltd.	NYS	46.06	-0.67	4.39	50.75	38.19	248
Risk Capital Holdings	NDQ	25.00	3.63	12.36	25.50	19.75	118
RLI Corp.	NYS	42.06	3.06	5.55	45.44	27.63	108
St. Paul Companies	NYS	42.00	-1.32	2.36	47.19	36.25	2465
SCOR	NYS	67.88	-0.55	42.15	68.38	39.25	7
SAFECO Corp.	NDQ	47.25	-1.69	-3.08	56.00	42.50	1826
SCPIE Holdings Inc.	NYS	34.75	2.02	20.09	38.38	24.31	NA
Seibels Bruce Group	NDQ	7.00	0.00	-6.67	8.94	6.63	65
Selective Ins. Group	NDQ	22.56	-2.43	-16.44	29.25	22.38	246
Terra Nova Insurance Co. Ltd.	NYS	34.44	11.99	31.19	35.00	21.25	266
TIG Holdings	NYS	23.56	0.27	-29.00	36.56	22.63	706
Tokio Marine & Fire	NDQ	50.50	-2.18	-12.55	66.00	41.25	164
Torchmark Corp.	NYS	45.31	-1.89	7.41	49.81	34.81	1343
Transatlantic Holdings	NYS	80.25	2.72	12.24	80.25	66.63	124
Travelers Property Casualty	NYS	43.75	0.14	-0.57	46.06	34.88	998
Travelers Corp.	NYS	69.00	8.45	28.07	73.50	42.00	30857
Trenwick Group Inc.	NDQ	39.31	-0.47	4.49	41.75	33.38	105
Unico American Corp.	NDQ	13.88	-9.02	13.27	18.13	10.75	186
United Fire & Casualty	NDQ	41.50	1.53	-6.21	47.00	37.88	4
Unitrin	NDQ	68.19	-0.09	5.51	74.13	56.25	133
UNUM Corp.	NYS	59.00	4.89	8.51	59.63	40.69	1505
Vesta Insurance Co.	NYS	21.75	9.78	-63.37	64.75	17.94	1598
Zenith National Ins.	NYS	28.50	0.44	10.68	30.50	24.50	53
INSURERS/REINSURERS	AVERAGE		0.11	12.19			
HEALTH MAINTENANCE ORGANIZATIONS							
Foundation Health Systems Inc.	NYS	26.06	-1.18	17.13	33.94	22.06	1199
Humana Inc.	NYS	30.94	-2.17	49.10	32.13	18.44	3255
Oxford Health Plans	NDQ	14.88	-0.42	-4.42	89.00	13.75	4536
Pacificare Health Sys.	NDQ	86.00	0.00	71.14	88.88	46.75	136
Safeguard Health Enter.	NDQ	7.00	12.00	-48.15	14.88	6.00	6
Sierra Health Services	NYS	24.06	-5.64	7.34	27.75	20.56	175
United Healthcare Corp.	NYS	63.56	-2.31	27.92	73.94	42.44	3694
Wellpoint Health Networks	NYS	71.00	-0.79	68.05	74.00	38.63	1113
HMOs	AVERAGE		-0.06	23.52			
ALL COMPANIES	AVERAGE		1.20	16.40			

Top advancing issues: AFLAC Inc., Safeguard Health Enter., Terra Nova Insurance Co. Ltd. Leading decliners: Nobel Insurance Ltd., Executive Risk Inc., Unico American Corp. Most active issue: Travelers Corp. The *BI* Index rose 2.3%; the Dow Jones 30 Industrials increased 0.9%; the S&P 500 rose 1.6% and the NYSE Composite increased 1.1%. Average P/E: Brokers, 19.4; Insurers/reinsurers, 18.9; HMOs, 23.7.

Source: *Nordby International Inc.* (nordby.com), Boulder, Colo.


LAST YEAR, 86,496
BUSINESSES FAILED.
SHAREHOLDERS FILED
316 FEDERAL CLASS ACTION SUITS.
42% OF OUTSIDE DIRECTORS
SURVEYED HAD PERSONALLY BEEN SUED.
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