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Update

Firm that regularly pollutes denied cover for accidental spill

BOSTON—A policyholder that discharges pollutants as a regular part of its business practices cannot attempt to prove that there were discrete instances in which pollution occurred suddenly or accidentally to tap liability insurance, the 1st U.S. Circuit Court of Appeals ruled last week.

The pollution exclusion in the comprehensive general liability policy bars coverage for pollution that is not "sudden and accidental."

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Mutual Benefit in rehabilitation

Policyholder pullouts force takeover

By JERRY GEISEL and JUDY GREENWALD

TRENTON, N.J.—The rehabilitation order issued in New Jersey last week for Mutual Benefit Life Insurance Co.—the largest insurer ever put into rehabilitation by a state insurance department—demonstrates how quickly an apparently solvent company can be brought to its knees by policyholders worried about the security of their investments.

But the quick state takeover of Newark, N.J.-based Mutual Benefit Life—needed to avert the collapse of the company after thousands of policyholders demanded to cash in their policies or transfer funds—is likely to have only a minimal short-term impact on employers and employees seeking to remove their funds from the company.

New Jersey insurance officials say Mutual Benefit Life, which has $13.5 billion in assets, will continue to pay all claims and monthly annuity benefits promised retirees.

France's AXA bids $1 billion for stake in Equitable. Page 2

In addition, state officials say the company is solvent, industry analysts expect obligations to be met and most are optimistic that the company will survive.

"It is well believed that assets will be sufficient to cover liabilities," said William O'Neill, a vp with Standard & Poor's Corp. in New York.

"There is strong reason to believe Mutual Benefit Life will be able—if there is a normal maturation of liabilities—to honor its liabilities," agreed Larry Mayewski, vp in the life/health division of A.M. Best Co. in Oldwick, N.J.

Mutual Benefit Life "is quite a viable company and is clearly solvent," said Murray Becker, president of Becker & Rooney, a Teaneck, N.J., consulting firm specializing in guaranteed investment contracts.

By contrast, when California insurance officials seized Executive Life Insurance Co. in April—the last major state takeover of a life/

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Changes still in the wind?

Insurers decry ongoing soft rates

By MARK A. HOFMANN and CHRISTINE WOOLSEY

Midyear renewals left commercial property/casualty insurers seeking a cure for the summertime blues.

Insurers' assessments of the general condition of the marketplace run a very short gamut—from bad to worse. The soft market, now well into its third year, is showing no sign of abating, they say.

Insurers say

In fact, with the exception of workers compensation coverage, certain classes of directors and officers liability insurance and some individual risks, insurers reported continued rate cuts, particularly for primary liability and property coverages.

Major policyholder-owned facilities, however, report that they are obtaining some rate increases for excess liability coverages.

Most insurer executives agree that an overabundance of

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1991 MIDYEAR RENEWALS

Risk managers surprised by deals

By MICHAEL BRADFORD

Risk managers are not sweating out insurance renewals this summer, reporting plenty of capacity and even a cooling trend in some prices.

One risk manager was able to lop nearly 25% off his property coverage costs after putting the business out to bid. Others are seeing breaks in casualty prices, too.

Risk managers say

While renewals may be about as exciting as watching the summer grass grow, risk managers aren't complaining about the lack of stress.

"We were surprised," said Randy Meyer, coordinator of insurance and risk management at Idaho Power Co. in Boise. "We certainly felt last year that this year we would see a turn in the market. We were looking for property to turn quicker than liability."

What Mr. Meyer saw instead was a bill that was 24.8% cheaper than in 1990 for replacement cost coverage on the

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Energy, marine risks squeezed in London market

By GAVIN SOUTER and STACY SHAPIRO

LONDON—Rates are rising, capacity is tight and renewals are being delayed for energy-related and marine-related risks in the London market.

London market says

In particular, brokers still have not placed more than 40% of London's master energy line slip, which was supposed to renew June 26. The slip, the largest in the market with $650 million in limits, may not be renewed, some underwriters and brokers say.

The crunch is blamed on high-priced and difficult to obtain retrocessional reinsurance during January renewals and massive losses in Lloyd's of London's marine market.

London marine underwriters also now will only offer on-

Additional renewal reports appear on pages 43, 45 and 51.

shore liability coverage in energy insurance packages on a claims-made basis, rather than on an occurrence basis as they have in the past. And, underwriters are being selective about the non-marine risks they will include in energy insurance packages.

"It is true that it's the most difficult time for a long time as far as energy insurance and reinsurance is concerned," summed up Magna Seljflot, chairman of Alexander & Alexander Marine & Energy in London.

The property catastrophe insurance and reinsurance markets in London are tightening, with U.S. property catastrophe reinsurance now sometimes costing 25% more than a year ago. In particular, California earthquake insurance rates increased 5% to 25% during midyear renewals.

"The whole (property) catastrophe market is tightening, tightening, tightening," said a leading Lloyd's property underwriter.

These are the first signs that increases in insurance prices in the London market are on their way.

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A.M. Best predicts a surge in P/C insurer insolvencies Page 3

Cities say health care costs are straining their budgets Page 3

Court forces OSHA to review its lockout/tagout standard Page 2

NEWSPAPER

Update

Pollution exclusion upheld

Continued from previous page

In June 1990, the Massachusetts Supreme Court interpreted the term "sudden and accidental" to bar coverage for pollution that does not occur abruptly (*BI*, June 25, 1990). Belleville Industries Inc. of New Bedford, Mass., which made electrical capacitors, then attempted to prove that two events, a fire and a flood, caused an abrupt release of PCBs, a byproduct of the manufacturing process.

But the 1st Circuit said it is inappropriate to engage in this type of "microanalysis" when "the emission of pollutants is part and parcel of the daily conduct of business" of the policyholder.

As a result of the 1st Circuit's ruling, Belleville cannot tap liability policies written by Long Grove, Ill.-based Lumbermens Mutual Casualty Co. to pay its $4 million share of a cleanup tab.

Executive Life GIC payout plan

LOS ANGELES—A California state judge has given group annuity contract holders and guaranteed investment contract participants until Aug. 18 to file applications for partial payments from Executive Life Insurance Co.

Executive Life's individual policyholders have been receiving 100% payment of death benefits and 70% of periodic annuity payments. But group annuity and GIC holders have not been paid because they are not policyholders under the state insurance code.

At a hearing last Thursday, the judge also formally approved the April 11 conservation order, as well as the conservation order for Executive Life Insurance Co. of New York.

In addition, Judge Kurt Lewin asked the Insurance Department to determine the amount of claims that were pending against the company prior to the April 11 conservation order, which froze all disbursements. The judge said he may order the payment of these so-called "pipeline claims" if it would not compromise Executive Life.

Separately, Houston-based Maxxam Inc. has agreed to make supplemental payments to retirees of various former Pacific Lumber Co. units. After buying the Scotia, Calif.-based company in 1986, Maxxam terminated its pension plan, replaced it with Executive Life annuities, and then sold off the units (*BI*, July 15).

The payments will be made retroactive to May 1 and will continue through Oct. 1, the company said.

Teale, others refuse to testify

WASHINGTON—Insurance consultant Alan Teale invoked his Fifth Amendment right against self-incrimination in refusing last Friday to answer questions from a Senate panel investigating insurance fraud.

"I have learned that I am the alleged villain of these proceedings," Mr. Teale told Sen. Sam Nunn, D-Ga., chairman of the Senate Permanent Subcommittee on Investigations.

Subcommittee investigators charged in a June hearing that millions of dollars of reinsurance premiums ceded by insolvent World Life & Health Insurance Co. of Pennsylvania disappeared into a vast network of brokers, management companies and alien reinsurers, several associated with Mr. Teale and his wife, Charlotte Rentz (*BI*, July 1).

Ms. Rentz also refused to testify at Friday's hearing, citing her Fifth Amendment rights. Others refusing to testify were:

- Dallas R.B. Bessant, identified by subcommittee staffers as an associate of Mr. Teale and owner of three offshore reinsurers. Mr. Bessant, known as "Wise Otter," is an official of the Sovereign Cherokee Nation Tejas, a Dallas group that issued $50 million of Treasury bills purportedly capitalizing two of his reinsurers (*BI*, April 29).
- William M. Fry Jr., also known as "Bear Who Walks Softly," the "principal chief" of that group.

Deal struck on LTV pensions

WASHINGTON—LTV Corp. has reached a tentative agreement with the Pension Benefit Guaranty Corp. to repay $31 billion in unfunded pension liabilities over 25 to 30 years.

Under the agreement, LTV will make an initial $950 million cash payment on the effective date of its as-yet-unsubmitted reorganization plan. Dallas-based LTV, which has operated under bankruptcy court protection since 1986, would then pay $50 million to $60 million plus 50% of its profits annually until the plans are fully funded.

In addition, LTV would pay the PBGC more than $400 million in financial instruments, like Treasury notes, as they mature.

"The settlement will protect the pension plans and enable (LTV) to complete its reorganization," said a spokeswoman for the PBGC, which first proposed a similar plan last November (*BI*, Nov. 26, 1990).

LTV says the agreement will be subject to approval by a bankruptcy court and other LTV creditors under the company's reorganization plan, which must be submitted by Sept. 16.

The PBGC last year won a major victory when the U.S. Supreme Court ruled that it could restore the three pension plans to LTV (*BI*, June 25, 1990). It had taken the plans over when LTV said it could no longer fund them. But, the PBGC reinstated the plans when LTV set up new, low-cost "follow-on" plans.

Maine work comp reform

AUGUSTA, Maine—Republican Gov. John R. McKernan Jr. is expected to sign a compromise workers compensation reform bill that the Democrat-controlled Legislature hammered out last week along with a new, two-year budget, which he signed last Wednesday.

Gov. McKernan had refused to sign a budget in an effort to force legislators to approve more cost-cutting changes to the state workers comp system (*BI*, July 15; July 8). The workers comp bill, among other things, would: create an independent medical examiner position to resolve medical disputes; require a permanent partial disability claimant to pursue a state-wide job search after 40 weeks; expand the state's authority to automatically discontinue benefits in some situations; be effective only for persons injured after Oct. 9; continue all types of benefits up to 520 weeks; and only slightly limit employers' responsibility for compensating employee injuries.

Updates are continued on page 68

Court ruling challenges broad OSHA standards

By ADRIENNE C. LOCKE

WASHINGTON—A federal appellate court decision forcing the Occupational Safety and Health Administration to re-examine its lockout/tagout rule could lead to a lighter burden of workplace safety regulations for some industries in the future, workplace safety experts say.

The July 12 decision requires the agency to better balance the potential benefits of OSHA safety standards with the cost of compliance. It suggests that OSHA consider moving away from imposing stringent standards industrywide and instead impose less costly remedies for abating safety hazards on those industries in which employees are least at risk.

A three-judge panel of the U.S. Circuit Court of Appeals for the District of Columbia remanded OSHA's lockout/tagout standard to the agency, which now must reconsider the rule's cost and benefit and justify its broad application across many industries.

In the meantime, the court is considering whether to vacate the standard and has requested briefs from the parties involved in the case.

OSHA's 1989 lockout/tagout standard requires employers in nearly all industries to place a lock on an energy isolating device—like a circuit breaker—to cut off the power source to an out-of-service machine to prevent it from being turned on inadvertently (*BI*, Sept. 11, 1989). Tags—which do not cut off the power source but warn machine operators that the equipment is out of service—can be used in cases in which an employer can prove to OSHA inspectors that the tag is as effective as a lock.

When OSHA implemented the standard, the agency said the rule would prevent about 122 deaths and more than 28,000 lost workdays due to injuries each year.

In the case, the National Assn. of Manufacturers of Washington, D.C., and the United Auto Workers filed petitions to the appellate court in 1989 seeking a review of the lockout/tagout standard.

The court accepted NAM's arguments that OSHA did not properly justify imposing the standard broadly to industry while it rejected the UAW's efforts to force OSHA to toughen the standard.

NAM argued that because section 3(8) of the Occupational Safety and Health Act requires that safety standards be "reasonably necessary or appropriate," a cost-benefit analysis is required when the agency is considering a new rule.

And, depending on the results of the cost-benefit analysis, OSHA should adopt a safety standard only if its benefits outweigh its cost, NAM argued.

Therefore, industries in which employees face little risk of injury from a potential workplace hazard should be subjected to a less stringent standard, according to NAM.

Instead, with little evidence justifying its action, OSHA applied the lockout/tagout standard broadly to industry, NAM argued.

NAM does not dispute OSHA's finding about how many workplace deaths and injuries the stan-

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$1 billion deal has escape hatch if higher bidder appears

AXA, Equitable forge pact

By MICHAEL SCHACHNER and WILLIAM PITT

Interested parties have 120 days to outbid France's AXA Midi Assurances S.A. for a minimum 40% stake in Equitable Life Assurance Society of the United States.

That was one little-noticed aspect of an agreement reached last week between the two insurance companies.

Expansion-minded AXA of Paris will invest $1 billion in cash in return for a stake of 40% to 49% in troubled Equitable when it converts from a mutual to a stock company, probably next year.

But should another investor acceptable to New York regulators offer more for the Equitable stake within 120 days, New York-based Equitable has the right to opt out of its deal with AXA, says Gerard de la Martiniere, general manager of the insurer's investment and finance companies.

One insurance analyst, though, doubts that any other investor will step forward to challenge AXA.

Robert Tann of CS First Boston Inc. in London said it was "eloquent" that Italian insurer Assicurazioni Generali S.p.A. has expressed no interest in Equitable. AXA and Generali have an agreement to cooperate in foreign investments.

State insurance regulators already have signaled their initial approval of the deal; formal approval will have to await the conclusion of a series of public hearings in the fall.

Both companies' boards have already approved a July 18 agreement which calls for AXA to invest $750 million in secured notes and $250 million in surplus notes in Equitable. Both types of notes are to be exchanged for common stock of a new holding company when Equitable completes its transition from a mutual to a stock company (*BI*, Dec. 17, 1990).

Under the agreement, AXA's ownership will be at least 40% but will be capped at 49%. If at the time Equitable becomes a stock company AXA's stake equals more than 49%, the excess will be exchanged for non-voting preferred stock, an Equitable spokesman said.

Equitable, the third-largest U.S. life insurer and an issuer of guaranteed investment contracts, says it is setting aside half of the AXA infusion to cover real estate and junk bond losses.

AXA Chairman Claude Bebear had rejected earlier overtures from Equitable, saying AXA wanted to enter the U.S. market only as a majority shareholder.

That thinking changed recently when AXA said it would be satisfied to be the largest shareholder (*BI*, June 24). ■

BI relocates London office

The London bureau of *Business Insurance* moved to new offices over the weekend and changed telephone numbers.

As of July 22, *Business Insurance* International Editor Stacy Shapiro and Associate Editor Gavin Souter are located at: Cowcross Court, Second Floor, 75-77 Cowcross St., London EC1M 6BP.

Their new telephone number is 071-608-1172, or they can be reached through the Crain Communications Inc. switchboard, 071-608-2774.

The London bureau's new fax number is 071-608-1173.

Inside

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- The recent Society for Human Resource Management conference covered a range of topics, including drug testing, discrimination against the disabled and analyzing health care data. Coverage begins on. **PAGE 20**
- The Assn. of Lloyd's Members national conference features a tense question and answer suggestion with Lloyd's of London Chairman David Coleridge. **PAGE 61**
- California regulators are reviewing the books of California Compensation Insurance Co. because the insurer failed to notify regulators it changed auditors. **PAGE 69**

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Wellington ruling may cause chaos

London court says reinsurers can refuse to pay some asbestos claims

By CAROLYN ALDRED

LONDON—A recent London High Court judgment that allows reinsurers to refuse some cedants' claims for asbestos payments made under the Wellington Agreement could cause chaos in the London market, lawyers and underwriters warn.

Justice Evans ruled earlier this month that reinsurers have the right to refuse claims by ceding underwriters when the cedant had no legal obligation to make the underlying payment, despite a "follow the settlement" clause in the reinsurance contract.

The judge also ruled that a reinsurer could refuse to pay all claims settled through the now-defunct Asbestos Claims Facility—which was formed under the Wellington Agreement—if a ceding underwriter had not informed the reinsurer and sought its consent before joining the facility.

"Commercially speaking, (the judgment) is disastrous. If insurers have to prove they are legally liable for every claim, the whole reinsurance/insurance market could grind to a standstill," said one London lawyer.

"Some insurers are already contemplating withdrawing from the Center for Claims Resolution (the successor to the Asbestos Claims Facility) because of the judgment. And if people do that, it will ultimately cost the reinsurers more," he added.

"The decision may be regarded as a partial roadblock to recovery under Wellington," said Jack Edward Koepke, a director of Gerling Konzern Globale Reinsurance Group of Cologne, Germany.

The High Court judgment upheld an arbitration decision in a dispute between Lloyd's of London underwriters Richard Outhwaite and Robert Hiscox. At issue was whether a reinsurer must pay all claims settled by the Asbestos Claims Facility (*BI*, July 15; May 20; March 25).

The judgment means that syndicate 317/661, managed by R.H.M. Outhwaite (Underwriting Agencies) Ltd., does not have to reimburse syndicate 33, managed by Roberts & Hiscox Ltd., for payments made on behalf of asbestos producers that were not policyholders of syndicate 33.

Under the market-share formula used by the Wellington Agreement to settle and pay claims, producers insured by Hiscox would have made payments on behalf of other producers not insured by Hiscox.

As Hiscox was not legally obligated to make these settlements,

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Dispute is waged over collectibility of trucking firm's workers comp LOC

By MEG FLETCHER

JACKSONVILLE, Fla.—A federal bankruptcy trustee and California self-insurance authorities are disputing the collectibility of a letter of credit that guaranteed the self-insured workers compensation obligations of a now-defunct trucking company.

Both want the $3.2 million that P-I-E Nationwide Inc. of Jacksonville, Fla., earmarked through a letter of credit to guarantee its self-funded workers compensation liabilities in California.

The dispute centers on whether the LOC expired last October, shortly before the California self-insurance authorities unsuccessfully tried to draw down on the LOC, or after PIE's successor company filed for bankruptcy.

This is 'the most serious challenge' ever made to use of LOCs in California, says Mr. Ashcraft.

PIE bankruptcy trustee Lloyd T. Whitaker contends that the LOC expired. He wants the court to give the assets underlying the LOC—which may be PIE's largest single asset available for unsecured creditors—to PIE's estate for disbursement to creditors under federal bankruptcy law.

However, California self-insurance authorities contend that the LOC was valid and that they should be allowed to collect on it. The money would be used to help pay PIE's workers comp liabilities in California, which the state's Self-Insurers Security Fund now is paying following a recent assessment on self-insured employers.

The dispute also raises jurisdictional questions about whether a federal bankruptcy judge in Florida or California state officials should decide the matter.

The PIE dispute is "the most serious challenge" ever made to the use of letters of credit in California, said Mark Ashcraft, manager of California's Office of Self-Insurance Plans within the state's Department of Industrial Relations.

Self-insurance authorities in several states are "all watching and waiting" for the outcome, he said. However, observers point out handwritten changes were made to the expiration clause of the LOC at issue in the case that are not found in other LOCs.

PIE self-insured its workers comp obligations in California from October 1980 until late 1990. It had obtained an LOC totaling $3.2 million from Southeast Bank N.A. of Jacksonville, Fla., and pledged it to California's Office of Self-Insurance Plans as security for payment of California workers comp claims.

The LOC issued by Southeast Bank was confirmed by San Francisco-based Bank of America, in keeping with California's self-insurance requirements that the LOC be confirmed by a California bank. Under the agreement, Bank of America would pay on the LOC when the California Office of Self-Insurance Plans made a formal request to a Bank of America unit in Concord, Calif.

PIE pledged under a separate agreement to reimburse Southeast

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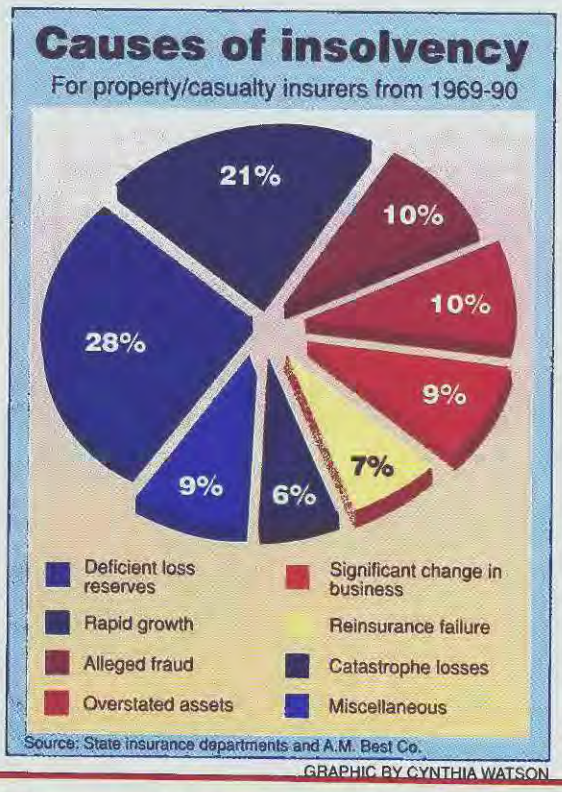
Insolvency surge?



GRAPHIC BY CYNTHIA WATSON

Best says more insurers to fail in next two years

By MARK A. HOFMANN

OLDWICK, N.J.—A.M. Best Co. predicts a surge in property/casualty insurer insolvencies during the next two years and calls upon state regulators to more frequently examine insurers exhibiting the characteristics of insurers that have failed in the past.

John H. Snyder, one of the authors of the rating agency's recently released "Best's Insolvency Study," said the study aims to put the "insolvency issue into its proper perspective."

The study examines 372 property/casualty failures from 1969 through 1990. It found that while solvency is a "problem," there are ways to reduce failures, said Mr. Snyder, who is vp-property/casualty department at A.M. Best in Oldwick, N.J.

"We're trying to be as realistic as possible in terms of recommendations," Mr. Snyder said.

He pointed out that one of the study's more significant findings is that fraud appears to have become a more widespread cause of failures only in the past 10 or so years, especially among large companies.

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Health costs hobble cities

Nine out of 10 say benefits imperil balanced budgets

By AMY KATZ

Nearly nine out of 10 cities say the rising cost of employee health care benefits is a major factor impeding their ability to balance budgets, a recent survey shows.

And, more than half of the cities say pension plan costs are contributing to their budget woes.

"If soaring health and pension costs do not abate. . .cities may be forced to take fiscal policy options that reduce services, raise local taxes and fees and find alternate means of providing services," warn the authors of "City Fiscal Conditions in 1991," which surveyed 525 cities.

The survey, sponsored by the National League of Cities, was conducted by Michael Pagano, a professor at the Center for Public Management and Regional Affairs at Miami University in Oxford, Ohio.

Among other questions about cities' fiscal situations, respondents were asked how 15 different factors affected their ability to balance budgets.

The cost of employee health care benefits was the factor that the greatest percentage of survey respondents—87.2%—said has hampered their ability to balance their budgets, the survey found.

The cost of health care benefits hampered budget balancing efforts most for medium-sized cities, according to the survey.

The survey found that 91.2% of medium-size cities—those with populations of 50,000 to 99,999—cited the cost of health benefits as a budgetary problem.

However, most larger and smaller cities also said health care benefit costs hindered their budget balancing efforts: 90.6% of cities with populations greater than 300,000; 89.7% of cities with populations from 100,000 to 299,999; and 87.8% of cities with populations of fewer than 49,999.

In addition, 90.8% of cities in the Midwest cited health benefit costs as a budget problem.

Nearly as many cities in the South, 90%, and in the Northeast, 89.2%, also complained that health

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GRAPHIC BY JOHN HALL

Benefits important in job search: Poll

By AMY KATZ

Ninety percent of Americans say the benefits offered by a prospective employer are important in deciding whether to accept a job, according to a recent survey.

In addition, survey respondents who make more than $20,000 per year would demand an extra $4,096 per year on average from their employer if their employer stopped providing health care benefits, the survey found.

The telephone survey of 1,000 Americans was conducted by the Employee Benefit Research Institute, a Washington-based benefits think tank, and The Gallup Organization Inc. in April. The results of the survey were released last week.

Asking for an additional $4,000 in exchange for giving up health benefits is reasonable, said William Custer, research director for EBRI.

"Four thousand dollars is a lot more than the average of what the employer has to pay for family coverage," Mr. Custer said. "But it is very close to what an individual would have to pay."

Employer-provided health care benefits—including medical indemnity plans, health maintenance organizations, dental and vision plans—cost an average of $3,217 per employee in 1990, noted Mr. Custer, citing a survey by A. Foster Higgins & Co. Inc. (*BI*, Jan. 28).

Interestingly, 5% of respondents said their employers would not have to increase their pay in exchange for giving up health care benefits.

Eight percent said they would want less than $1,000 if they were to give up their health care benefits; 12% would seek $1,001 to $2,000; 10% would want $2,001 to $3,000; 8% would want $3,001 to $4,000; 11% would ask for $4,001 to $5,000; and 6% would seek $5,001 to $8,000.

And, 12% said they would seek more than $8,000 in extra pay, while 27% said they did not know how much they would seek in

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OSHA rule

Continued from page 2

dard would prevent, but it objected to the agency's failure to conduct an industry-by-industry assessment of the standard's benefits.

The appeals court agreed with both arguments.

"Cost-benefit analysis is consistent with the language" in section 3(8) of the OSHA act and "reasonableness has long been associated with the balancing of cost and benefits," the court said.

Moreover, "the courts have often taken the word 'reasonable' in a statute to require that burdens be justified by the resulting benefits," the court said.

The court made it clear that nothing in its opinion should be taken as confining the discretion of OSHA in choosing among reasonable evaluation methods when writing regulations.

However, the court felt that it is possible to conduct the cost-benefit analysis without jeopardizing safety.

The court also ruled that OSHA's arguments for the rule's "economic and technological feasibility" do not explain its reasoning behind the application of the lockout/tagout standard to so many industries. In fact, OSHA does not contest data showing that employees in some industries that must comply with the lockout/tagout standard face a nominal risk of injury from out-of-service equipment, the court said.

While recognizing OSHA's need to avoid issuing separate industry requirements for many of its rules, the court sees no "barriers" for doing so regarding the lockout/tagout standard.

"Just because paper mill equipment. . .poses a significant hazard does not mean that sewing machines do," the court said.

The court pointed out that OSHA has the authority to vary the stringency of the lockout/tagout rule, noting that the cost of complying with the most stringent version of the standard could break companies with employees who are least at risk.

"OSHA's proposed analysis would give the executive branch untrammelled power to dictate the vitality and even the survival of whatever segments of American business it might choose," the court said.

However, the court rejected NAM's argument that the OSHA act gives the agency unlimited authority to issue safety regulations without congressional guidance—a power that NAM contended violates constitutional law.

The "reasonably necessary or appropriate" clause in section 3(8) provides OSHA with the guidance it needs, the court said.

If the appeals court ruling stands, time and resource constraints could force OSHA to move away from issuing broad standards, said James A. Lastowka, an attorney with Jones, Day, Reavis & Pogue in Washington, D.C., who represents employers in occupational safety and health litigation.

"It doesn't stop them from adopting rules that can be applied across several industries, but the effort that they have to go through to do the appropriate analysis would be a consideration" in determining how broadly to apply a standard, he said.

Susan Spangler Nussbaum, executive director of the Workplace Safety and Health Council in Washington, D.C., agreed. If the appellate court ruling stands, when OSHA makes any new safety rule, "the practical effect is that OSHA will have to go through a step to determine the least costly approach and whether there is a need to regulate at all," she said.

OSHA and the Labor Department's Office of the Solicitor General are reviewing the ruling.

"We are still working on interpreting the court's decision as well as coming up with options for the department," an OSHA spokesman said.

He declined to say what the agency's next step would be.

OSHA can ask for a new hearing by the appeals court, appeal the decision to the U.S. Supreme Court, or abide by the appellate court's decision.

The ruling frustrates safety advocates, said Joseph Kinney, executive director of the National Safe Workplace Institute, a Chicago-based non-profit organization that studies workplace safety and health issues.

"The court is moving toward an increasingly difficult, if not impossible, standard of proof on cost," he said.

"Safety and health policy can't necessarily depend on cost. We are talking about decisions that impact on real lives and real people, and we need to keep that in mind," Mr. Kinney said.

The attorney, Mr. Lastowka, said that the short-term effect of the court's ruling for employers will be "confusion and uncertainty."

While the court decides whether to vacate the standard, "employers don't know whether they are going to have to comply with this or not," he said.

However, citations issued for violations of the standard that are currently being challenged may be overturned because of the uncertain status of the lockout/tagout standard, said W. Scott Railton, an attorney with Reed, Smith, Shaw & McClay who represented NAM in the appeal.

"I would expect the Occupational Safety and Health Review Commission would be very cautious in confirming a violation of this act," Mr. Railton said.

The court also rejected the UAW's attempts to toughen the lockout/tagout standard.

The UAW contended that the lockout/tagout standard is a health, rather than a safety, standard because the hazards involved constituted a "harmful physical agent"—a factor that applies to health standards under the OSHA act.

Therefore, OSHA could toughen the standard and need only show that the modified rule could feasibly reduce workplace deaths and injuries, the UAW argued.

The UAW also argued that even if the rule was found to be a safety standard rather than a health standard, Congress intended that OSHA base its standards solely on their feasibility for reducing workplace deaths and injuries.

However, the court—citing an OSHA brief defining the distinction between safety and health standards—ruled that the lockout/tagout standard is a safety standard because it deals with a hazard that could cause immediately visible physical harm to an employee.

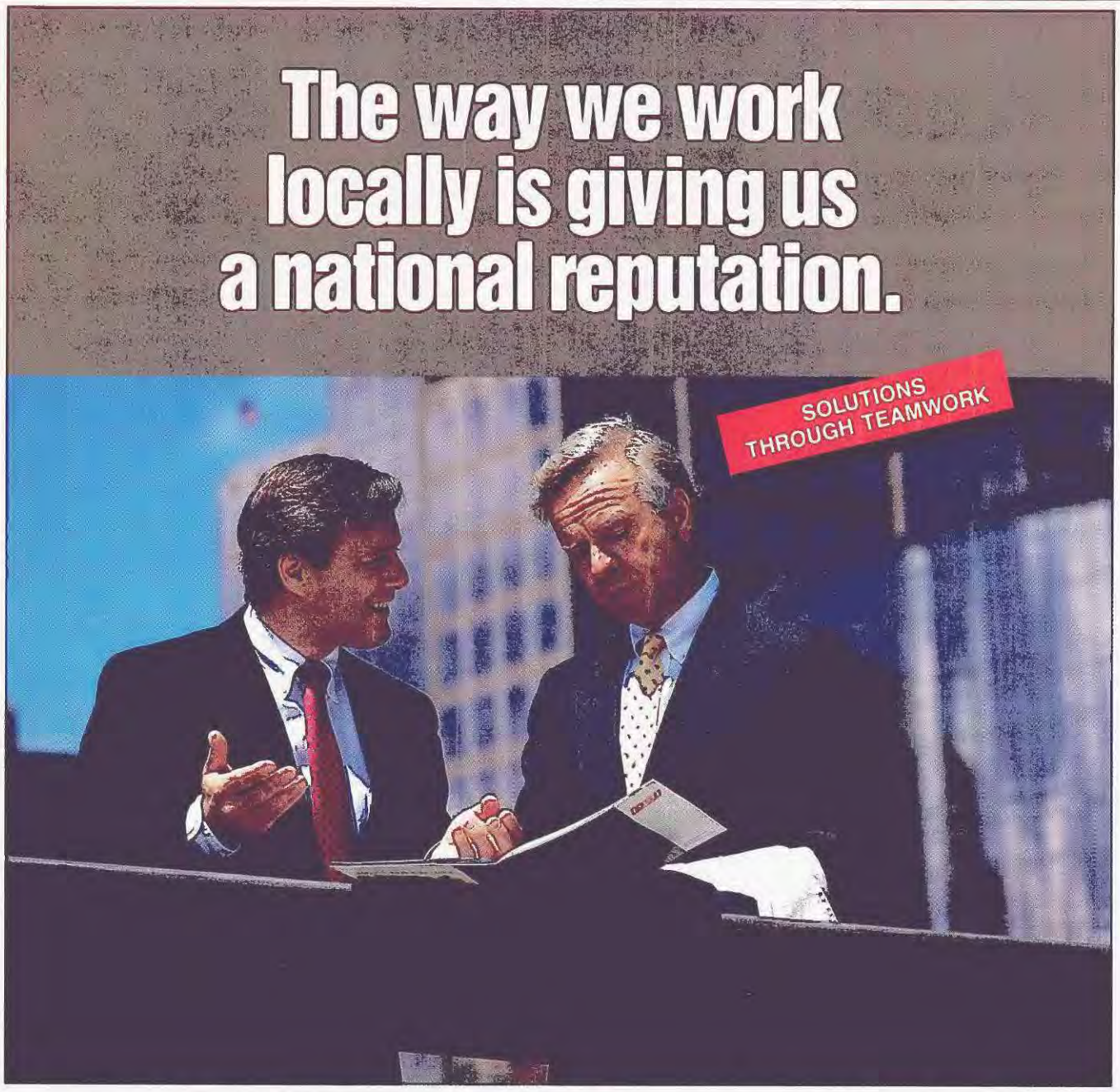
Clearly, the preamble of the OSHA act notes a recognition that "occupational health standards present problems often different from those involved in occupational safety," the court said.

The court also ruled that OSHA does not have to conduct a cost-benefit analysis industry by industry when developing a health standard. The court said its finding that health standards differ from safety standards is consistent with the U.S. Supreme Court's interpretation of the OSHA act in other cases.

"We're very disappointed" with the decision, said Randy S. Rabinowitz, a Washington, D.C.-based independent attorney representing the UAW.

The UAW has not decided whether it will appeal the ruling, but it would "strongly oppose" any ruling vacating the standard, Ms. Rabinowitz said.

"The standard is preventing carnage. If it is vacated, people will die," she asserted. ■



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Big Three, UAW view retiree benefit caps

Discussions among the Big Three automakers and the United Auto Workers union include the possibility of capping retiree health care benefits as a way to control the automakers' rising health care costs.

Negotiating committees for the union and the companies have discussed a variety of options, though no consensus has been reached and no time table has been set, say spokesmen for the UAW, Ford Motor Co., General Motors Corp. and Chrysler Corp.

"There is no agreement on the horizon," said a UAW spokesman.

Spokesmen from GM and Ford said one of the options discussed was an agreement worked out two years ago by American Telephone & Telegraph Co., the so-called "Baby Bells" and the Communications Workers of America. Among other things, that 1989 agreement stipulated that the companies would cap their annual contributions per retiree, with retirees then being responsible for paying any excess premium above the cap (*BI*, Sept. 25, 1989).

"Union and management recognize the need to control health care costs and the value of these discussions," said a spokesman for Dearborn, Mich.-based Ford.

"Ford spent between $1.2 billion and $1.3 billion last year on health care for employees, retirees and surviving spouses," or about $431 for each car the automaker manufactured, he said, adding that Ford and the UAW discussed the AT&T model and "found it interesting."

A spokesman for Detroit-based GM said the company and the UAW are discussing strategies to address looming retiree health care obligations, especially in light of the Financial Accounting Standards Board rule on accounting for retiree health care benefits.

The rule, FAS 106, scraps employers' current pay-as-you-go method of reporting retiree health care costs as an expense item on income statements. Beginning in 1993 for large employers and 1995 for small employers, companies will have to accrue as an expense against earnings retiree health care liabilities from the date an employee is hired until the employee is first eligible for benefits. In addition, these costs also must be recognized on corporate balance sheets.

The AT&T model was mentioned during the discussions and both sides agreed that it may be "viable," the GM spokesman said. However, no conclusions were reached or timetables established, he added.

In April, Chrysler Corp. introduced a retiree flexible benefits care plan that imposed significant health care cost-shifting requirements on a group of retirees in response to the FASB rule (*BI*, April 8).

While Chrysler and union representatives have discussed how to further control health care costs, no other benefit plan changes have been made since the flex plan was introduced, said a spokesman for Highland Park, Mich.-based automaker.

—By Christine Woolsey

Prescription use

Retirees not only use prescription drugs almost three times as often as active employees, but the drugs they require tend to be more expensive, a new study shows.

Retirees averaged 12.95 prescriptions per year, compared with only 4.44 prescriptions for active employees, according to the study conducted by PCS Inc., a prescription drug management company based in Phoenix.

While prescription drug costs

Benefit beat

comprised only 8% of total health care costs for active employees, the number jumps to 35% of total health care costs for retirees, according to the study.

And, the new Financial Accounting Standards Board guidelines requiring companies to account for projected retiree medical expenses on an accrual basis rather than reporting on a pay-as-you-go basis will make managing prescription drug benefits for retirees even more important in the future, the study authors said.

The study was based on 64,797 active employees and 58,099 retirees randomly selected from PCS' data base of employer groups. Data from 1990 was used.

The survey also reported that:

- The average cost per prescription for retirees was $28.38, compared with $24.63 for active employees.
- "Maintenance drugs"—those drugs prescribed for chronic or long-term illnesses—account for 70% of prescription drug costs among retirees.

Dispensing larger quantities of these drugs at a time can generate some savings.

- Generics were found to be available approximately 50% of the time for both the retired and active employee samples.

Savings could be achieved overall by increasing use of these generics.

After implementing a generic drug program, total program costs in one sample study dropped to $14,366 from $15,643 for active employees and to $23,110 from $25,110 for retirees, PCS says.

For a free copy of the study, "Prescription Drug Benefit Management for Retirees," contact the PCS Marketing Department, P.O. Box 52115, Phoenix, Ariz. 85072-2115; 800-223-7745.

—By Sara J. Harty

Construction benefits

Flexible benefit and 401(k) plans are popular among construction companies, according to a recent study.

Almost 75% of all construction companies surveyed offered a flexible benefit plan, the study showed. And more than three of every five employers surveyed offered a 401(k) plan.

"Benefits being provided by contractors are very competitive with what is offered in larger industrial companies," said Bick Robbins, vp of the Corroon & Black national benefits division of Willis Corroon Corp. in Seattle, one of the sponsors of the survey.

Like other employers, construction firms are trying to cope with rising health care costs by shifting some of the costs to employees, according to the survey. Yet only 12% of the surveyed companies are planning to cut benefits.

Executives at 400 construction firms received the survey, sponsored by Denver-based FMI Management Consultants and by the Corroon & Black benefits division and its construction industry division. Eighty companies responded to the survey.

Copies are not available to the public.

—By Sara J. Harty

You never know what people

Risk management was tough enough when all the risks were on the surface. Now, environmental exposures have opened up a whole new area of potential liability. When it's time for the clean-up, will it clean out your reserves?

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EBRI survey

Continued from page 3

exchange for their health care benefits.

Seventy-one percent of those surveyed said they received some type of health insurance benefits from their employers.

Seventy-nine percent of the respondents age 35 to 54 received health insurance benefits from their employers, compared with 73% of those between 18 and 34 and only 53% of those 55 and older.

However, only 44% of those earning less than $20,000 per year received employer-provided health care benefits, compared with 78% of those earning $20,000 to $74,999 and 83% of those earning $75,000 or more.

The employees surveyed said they contributed an average of $45.70 per month toward the cost of their health care benefits, with 35% of employees making no contribution toward plan costs. Twenty-eight percent contribute between $1 and $50 per month; 12% contribute between $51 and $100; 8% contribute between $101 and $200; 3% contribute between $201 and $500; and less than 1% pay $501 or more.

Fourteen percent of those surveyed did not know how much they contribute toward the cost of their health care plan.

Employees who pay more than $200 per month toward the cost of health care benefits may be working for companies that do not contribute anything toward the cost of benefits or for small employers that must pay the same group health insurance rates that an individual would pay, Mr. Custer speculated.

Meanwhile, surveyed individuals said their employers contributed an average of $154 per month toward their health care benefits.

While 57% of those surveyed did not know how much their employer contributed, this is a decrease from 71% of employees who gave the same answer to a similar question last year.

Sixty-five percent of surveyed employees said their health care plan is the most important benefit offered by their employer, and 15% said their pension plan was the most important benefit. No other benefits were mentioned by more than 4%.

"Respondents with incomes of less than $20,000 per year reported a significantly lower employer contribution, $67.40 (per month)" than higher-paid employees, survey authors said.

Only 4% of those interviewed said their employer contributed nothing toward the cost of their health care benefits.

Sixty-five percent of surveyed employees said their health care plan is the most important benefit offered by their employer, and 15% said their pension plan was the most important benefit. No other benefits were mentioned by more than 4% of respondents as the most important.

Pensions were regarded as the second most important benefit, named by 35%. Nineteen percent selected health insurance as the second most important benefit, followed by life insurance, named by 11%; disability insurance, named by 10%; annual leave, named by 9%; savings plans and child care, each named by 5%; long-term care coverage, named by 3%; and parental leave, named by 2%.

Fifty-three percent of respondents are covered by an employer-sponsored pension plan.

Surveyed employees said they would want an average of $5,312 in additional annual pay to make them willing to give up their pension benefits, with 24% wanting more than $8,000.

Only 7% said they would give up their pension plan for nothing, while 7% said they would settle for less than $1,000; 15% would want $1,001 to $3,000; 14% would seek $3,001 to $5,000; and 5% would ask for $5,001 to $8,000.

Twenty-seven percent said they did not know how much they would want if they were to give up their pension benefits.

The age of the employee is the most important factor in determining the additional salary requirements desired to accept a job without pension benefits.

Younger workers would require $4,500 in additional annual pay; workers age 35-54 would require $6,000; while workers 55 and over would require $5,200, Mr. Custer said.

"In the mid-range, (pension) benefits are most important," he said. "It is right at the prime earning age. If they're going to save any money for retirement, that's when they're going to do it."

However, nearly three-fifths of all respondents said they would accept a job that did not provide them with a pension plan, according to survey authors. "Particularly likely to report this were respondents 18 to 34 years of age—69%—and white respondents —61%," the survey noted.

Among other survey findings:

• If they had a choice of two identical jobs, except that one employer offered health care, life insurance and pension benefits and the other did not, survey respondents said the employer not offering benefits would have to pay them an average of $7,099 more than the other employer before they would take the job.

"Respondents with incomes of $75,000 a year or more reported that Job B would have to offer more than the average—$8,327—to be chosen over Job A," the survey reported.

Forty-three percent of all respondents said Job B would have to pay more than $8,000 more than Job A for them to consider the job without benefits. Two percent said Job B would not have to pay any more than Job A.

• Twenty-one percent of respondents said they had accepted, quit or changed jobs because of benefits offered—or not offered—by the employer."

Of those respondents age 18 to 34, 28% said they had accepted, quit or changed jobs because of benefits, compared with only 9% of those over age 55.

• Forty-eight percent of survey respondents ranked child care as the least important benefit.

Child care benefits affect only a small proportion of the workforce, said Mr. Custer, noting that this is why flexible benefits are becoming more important.

"Child care is most necessary for people with small children," he said. "But even for them, child care won't always be an important benefit."

Parental leave was named the least important benefit by 19% of workers, savings plans by 9%, annual leaves by 6% and life insurance by 5%.

•

Copies of "Public Attitudes on the Value of Benefits, 1991" (No. 23), are available from Kimberly Thorpe, Employee Benefit Research Institute at 2121 K Street N.W., Suite 600, Washington, D.C. 20037-2121; 202-775-6315. A report summary costs $75, and a full report costs $275.

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Opinions

Communicate benefits costs

MANY EMPLOYEES ARE well aware of how much their health care coverage under group health plans costs—and how valuable it is.

But, too many employees are still unaware of how expensive this benefit is, though they do recognize it as their most valuable benefit.

These are two important observations that can be drawn from the results of an employee benefits-related survey of 1,000 Americans released last week by the Employee Benefit Research Institute, a Washington-based benefits think tank, and The Gallup Organization Inc. (see story, page 3).

Survey respondents who earn more than $20,000 annually said they would demand an extra $4,096 on average annually from their employer if their employer stopped providing health care benefits.

While $4,000 is more than the average of what an employer pays for family coverage, it is very close to what an individual purchaser would have to pay, suggesting that these employees are well aware of the value of their health insurance under their group health plan.

Employer-provided health care benefits—including medical indemnity plans, health maintenance organizations, dental and vision plans—cost an average of $3,217 per employee in 1990, according to an earlier survey by A. Foster Higgins & Co. Inc. (*BI*, Jan. 28).

However, it's alarming that the survey found that 57% of respondents did not know how much their employer contributed toward the cost of their health insurance. While this is a decrease from 71% of employees who gave the same answer to a similar question last year, this is far too high a proportion of employees who are not aware how expensive their group health insurance is for their employer to provide.

That means these employees have no idea that group health plan costs are eroding corporate profits and, therefore, companies' wherewithal to expand their businesses and create new jobs.

Given the rising cost of group health insurance, and the importance of communicating that to employees to encourage wise use of health care services, this survey finding should spur employers to analyze how well they are communicating the cost of group health care plans to their employees. Obviously, it is not communicated well enough for more than half of the employees surveyed.

One approach could be for employers to survey their own employees on these exact questions to determine how conscious they are about the cost of their health care benefit. The survey findings, when communicated to employees with the actual cost to the employer of the group health plan, could help inform them of the value of this benefit, and reinforce the need for plan provisions to help contain the rising cost of health care.

It's obvious that most employees would be interested in this information, since 65% of the surveyed employees said their health care plan is the most important benefit offered by their employer. That compares with 15% who said their pension plan was the most important benefit, while no other benefit was mentioned by more than 4% of respondents as the most important.

It's long been recognized that employers that fail to communicate the cost of employee benefits to their workers forfeit a large amount of good will that these benefits could engender. Now, with the need for employees to be wise purchasers of health care services, it is all the more important that employers continually remind their workers just how much their coverage under a group health care plan costs and how those costs impede company growth and job creation.

Letters

EAPA is not a 'trade group' for 'counselors'

To the editor: While the June 24 issue was in several ways commendable, an error was made in several references to the Employee Assistance Professionals Assn. Inc. as a "trade" group for "counselors." As an indication of just how dead wrong this characterization is, of the 40 employee assistance programs listed in the directory in that issue, 31 have memberships in the EAPA.

In fact, the EAPA has existed since 1971 as a professional association of principally managerial/administrative practitioners in the occupational and employee assistance program field. We currently have 6,750 members (an increase of 300% since 1982). Some 33% of those members are internal EAP program administrators, managers or coordinators, and another 21% are external consultants engaged in the administration or management of EAPs. A mere 12% of our members describe themselves as counselors.

The balance of our members are involved in industrial relations, personnel/human resource management, marketing and community relations.

Counseling is an excellent profession, and many fine people make many sacrifices to remain available to provide direct help to people in time of need. We are proud of our members who are counselors, but EAPA is not a "trade" association exclusively for them.

Thomas J. Delaney Jr.
Executive Director
Employee Assistance Professionals Assn. Inc.
Arlington, Va.

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill., 60611.

Missouri law does not increase regulation

To the editor: An article in the July 8 issue, "Missouri Laws Enacted; Risk Retention Groups Face More Regulation," is misleading. The headline implies that Missouri has enacted legislation that goes beyond that of the Risk Retention Act. That is not the case.

More specifically, the article states that under H.B. 385, "risk retention groups will be required to submit a plan of operation or feasibility study to regulators before operating in Missouri." This is already required by Section 3902(d)(1)(A) of the Risk Retention Act, which provides that a risk retention group must submit "a plan of operation or a feasibility study" to its chartering state as well as to every state in which it intends to do business.

The article states that "risk retention groups chartered and licensed in another state but seeking to do business in Missouri will have to comply with Missouri

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SUBSTANCE ABUSE IN THE WORKPLACE— THE BLUE COLLAR VIEW.

One in an ongoing series of conversations between Argonaut Insurance Company, our clients and their brokers, dealing with issues important to their business. The intent is to keep the lines of communication open. We invite your participation.

THE PARTICIPANTS: **CURTIS WESSELN,** *Vice President of Wesseln Construction;* **DENNIS DELUCCIO,** *Superintendent, Wesseln Construction;* **JESS GORMAN,** *Superintendent, Wesseln Construction;* **DICK MURY,** *with Frank B. Hall Corporation, Wesseln's broker;* **STEVE LA SHIER,** *Senior VP Safety Management, Argonaut Insurance Company;* **LARRY EVANS,** *Manager of Safety Management, Argonaut Insurance Company.*

MODERATOR We've been talking about the problems of substance abuse in the construction trade and how to deal with it. Your firm, Wesseln Construction, specializes in residential framing. You said you have a core group of roughly 200 employees, and another 200 to 400 you bring in when things get really busy. Since framing jobs typically last a few weeks or months and then the guys move on to another job, how do you think the problem of substance abuse can be addressed?

> Substance abusers are absent 2½ times more often and file a comp claim 5 times more often.

JG: First, you have to get the builders and other subs aware of the whole problem, then get everyone to buy into the program. We talk to our competitors all the time. They all have the same problems we do. Yes, it would be good to have a program, but it always gets back to dollars and cents.

SL: Remember that you don't have to *pay* for community assistance programs. All you have to do is provide *access* to them. That could be as simple as a typewritten letter with a list of all the providers. Or the number to your local cocaine hotline. Even if you did pay for it, it's almost always cheaper to help rehabilitate someone than it is to find and train someone to replace him. Especially if he's a foreman or manager.

JG: Does Argonaut reduce rates for companies with a drug policy? What incentives do you give?

SL: The incentive is money. Your money. You're on a participating plan. The smaller your losses, the more money you get back. We're not into guaranteed cost providing. That's a losing proposition for everyone. Say your comp rate is a 57. If you cut back to a 40, you're going to get more of your money back. We'll help you any way we can. That's the type of partnership we're looking for. Companies that want to do everything they can do to minimize losses. That's why the only plans we write are participation plans.

JG: It costs us money to get that rate down, it's not all savings. The better quality tools we have to buy, the labor we have to hire to keep the job sites clean and safe, that's money right out of our pocket.

CW: We're always open to new ideas. I think what's really going to change things is when owners say, "Every contractor must have a drug program." If all the contractors and subcontractors have to pay the same costs to screen or test workers, then they're going to pass the added cost along in their bids. When that happens, everyone competes on the same level again.

DD: We had a foreman call about a year ago saying, "Hey, this guy's drunk or something. What can I do?" He didn't know. He cares about this company so he doesn't want to just say, "Hey you, get out of here." So he calls me. For insurance reasons, and we live in fear of insurance, I said, "Fire him." What the heck, if he injures somebody, we'll be in worse shape. And nothing ever came of it. Never heard another word about it. But I was worried for a while.

SL: The thing you don't want to do is tell the employee he's a drunk. You'll land in court. Why? Because you're not a doctor, a district attorney, or a policeman. You have to teach your supervisors that while they may know a person is unfit for duty, they don't know why. You can terminate someone for being unfit for duty, but make absolutely sure you don't use the words "drunk," "alcoholic," "substance abuser," "cocaine addict," or anything like them. That is defamation of character. That person may be a diabetic without his insulin. You don't know until you test him.

DD: What you just said should be written down. That's one of the things we need. Guidelines to tell us what we can and can't do.

MODERATOR Is it difficult to find information about substance abuse in the construction industry?

CW: Like we said, we talk to other people in the industry, other people on the union board. But no, as far as I know, there's no good source of information that tells us what we can and can't do, or how to do it, or who else has done it.

LE: There are a lot of taboos about substance abuse programs out there. And a lot of them are based on misinformation. And a lot of decisions about what to do, or not to do, are being made based on that information

MODERATOR Is it enough to know that everyone working for you is testing negative for illegal drugs and alcohol?

SL: No. There's something else you have to be careful about. Suppose your best carpenter suddenly can't hit a nail. Is he on drugs? Alcohol? Maybe. But it could be that his wife has just left him, or his kid is in trouble. You don't know. And an assistance program is your best way of dealing with it. It lets you deal with a problem as a safety and productivity issue, without making you into a counselor. And remember that confidentiality is the key to any program.

LE: Meeting performance standards is really a key issue. If you have a problem with someone, don't tell him it's because he's a drunk. You tell him it's because he's supposed to make ten widgets an hour and he's only made two. Tell him how to get help. If the problem doesn't go away, then you have to sit down and have a heart-to-heart talk about whether he's going to be able to remain an employee of your organization.

> Assistance programs initiated by the employer are twice as likely to succeed.

JG: But like you said, a guy breaking up with his wife isn't the same as being drunk or using drugs.

SL: You're right. But whatever the problem is, you sure don't want him up there stacking trusses until he gets it taken care of.

LE: A company I worked for instituted their first testing program in 1979. They found that some of the guys who had been working for them more than 25 years had been coming to work drunk every day. The supervisors didn't know it. They thought that was just the way the guys were.

CW: This is a hard-drinking, good old boy business.

SL: You bet, and some of those good old boys worked their way up to management and into the board room. They knew what was going on and didn't do anything about it. But things are changing. A lot of those guys are gone. There's new management, and they're very dollar conscious. They won't put up with this stuff. And do you know why? Because it increases their insurance costs. Like you said, Curtis, it all comes down to the bottom line. And the bottom line is substance abuse costs your company, and every company in America, a whole lot of money.

We'd like to hear what you have to say about substance abuse in the workplace, and about our discussions on topics that concern your business. Send your comments to Mike Crall, President, Argonaut Insurance Company, 250 Middlefield Road, Menlo Park, CA 94025.

For a copy of the complete discussion on substance abuse in a blue collar environment, please write to Argonaut Insurance Company at the address above.

Argonaut

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Letters

Continued from page 8

laws regulating the groups." While the Risk Retention Act sets forth specific areas in which states may require risk retention groups to comply, all other state laws are pre-empted by the act. Section 3902(a) states: "Except as provided in this section, a risk retention group is exempt from any state law, rule, regulation or order to the extent that such (law, etc.) would make unlawful or regulate. . .the operation of a risk retention group." The supremacy clause of the U.S. Constitution makes clear that federal law prevails over state law.

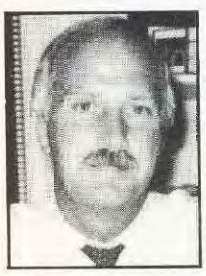
The article also states that "risk retention groups will be required to pay premium taxes, and the groups and their members will not be permitted to participate in the state guaranty fund." Section 3902(a)(1)(B) of the Risk Retention Act permits states to require risk retention groups to "pay, on a non-discriminatory basis, applicable premium and other taxes which are levied on admitted insurers and surplus lines insurers. . .under the laws of the state. As for the guaranty fund, Section 3902(a)(2) provides that states may not "require or permit a risk retention group to participate in any insurance insolvency guaranty association to which an insurer licensed in the state is required to belong."

As for purchasing groups, the article states that "under H.B. 385, insurance obtained by a purchasing group from an insurer not authorized to do business in Missouri will not be covered by the state guaranty fund, and the purchasing group will have to inform its Missouri members of this fact." Under current law, non-admitted insurers operating in Missouri or any other state are not covered by guaranty funds regardless of who they insure.

Karen Cutts
Managing Editor
The Risk Retention Reporter
Pasadena, Calif.

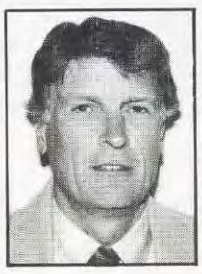
At issue

How do you communicate safety policies to employees?



Christopher Johnson
Director-Safety/Risk Management
City of Evanston,
Evanston, Ill.

Evanston has safety policies that are clearly defined in the safety manual/loss control program that has been distributed to all city administrators. Training sessions are conducted on a regular basis to ensure that all employees are familiar with such policies. Follow-up field inspections are consistently utilized to monitor compliance.

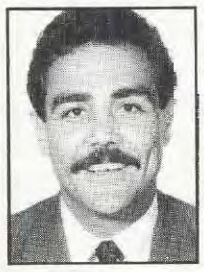


Stanley E. Smith
Risk Manager
Schnitzer Steel Industries Inc.,
Portland Ore.

Line foremen have primary responsibility for communicating safety. A safety and loss control manual was developed specifically for our operations as a guideline to help foremen get the concepts of safety across. One person at each of our sites has been assigned the responsibility of ensuring that safety program objectives are met.

Patricia F. Dwiggins
Director-Insurance/Employee Benefits
Fredrickson Motor Express,
Charlotte, N.C.

Safety policies are communicated in a variety of ways. A monthly safety awareness bulletin communicates specific problem areas that need to be addressed. In addition to quarterly safety meetings, we have weekly mini-safety meetings to bring employees up to date on problems. Critical notices are posted on a bulletin board for employees to read.



James P. Garrison
Risk Management Administrator
City of Phoenix,
Phoenix, Ariz.

The city's loss prevention/control and safety policy was established via regulations issued by the city manager. These established the programs and require compliance as a condition for employment. Department heads, safety analysts and front line supervisors provide the support necessary to ensure the message of loss prevention and safety reaches employees.

Compiled by Sara Harty

Shedding light on an important antitrust ruling

In your editorial, "A Whole Industry is Watching" (*BI*, July 1), you found "precious little" protection for common policy forms or the state action doctrine under the McCarran-Ferguson Act in light of the recent 9th U.S. Circuit Court of Appeals decision. You also conceded that you "are not antitrust lawyers."

With the benefit of counsel from some of the best antitrust lawyers in the country, may we offer a comment on this important decision?

The McCarran-Ferguson Act was never a blanket exemption from federal antitrust law. It offers no protection to common policy forms or myriad other activities if coercion, boycott or intimidation can be proved. The 9th Circuit is saying that if coercion, boycott or intimidation was a factor, then there is no immunity. Thus, McCarran-Ferguson is doing the job it was intended to do—apply the heart of antitrust law to insurers but allow them a narrow lane of safety to conduct essential and unique business practices.

In reversing Judge Schwarzer, the 9th Circuit keyed on two points. The appeals court said the judge took the position that the defendants did not refuse to deal "on any terms" but attempted to market an agreed-upon product. According to Judge Schwarzer, that did not constitute a boycott and cooperating on a product

Continued on next page

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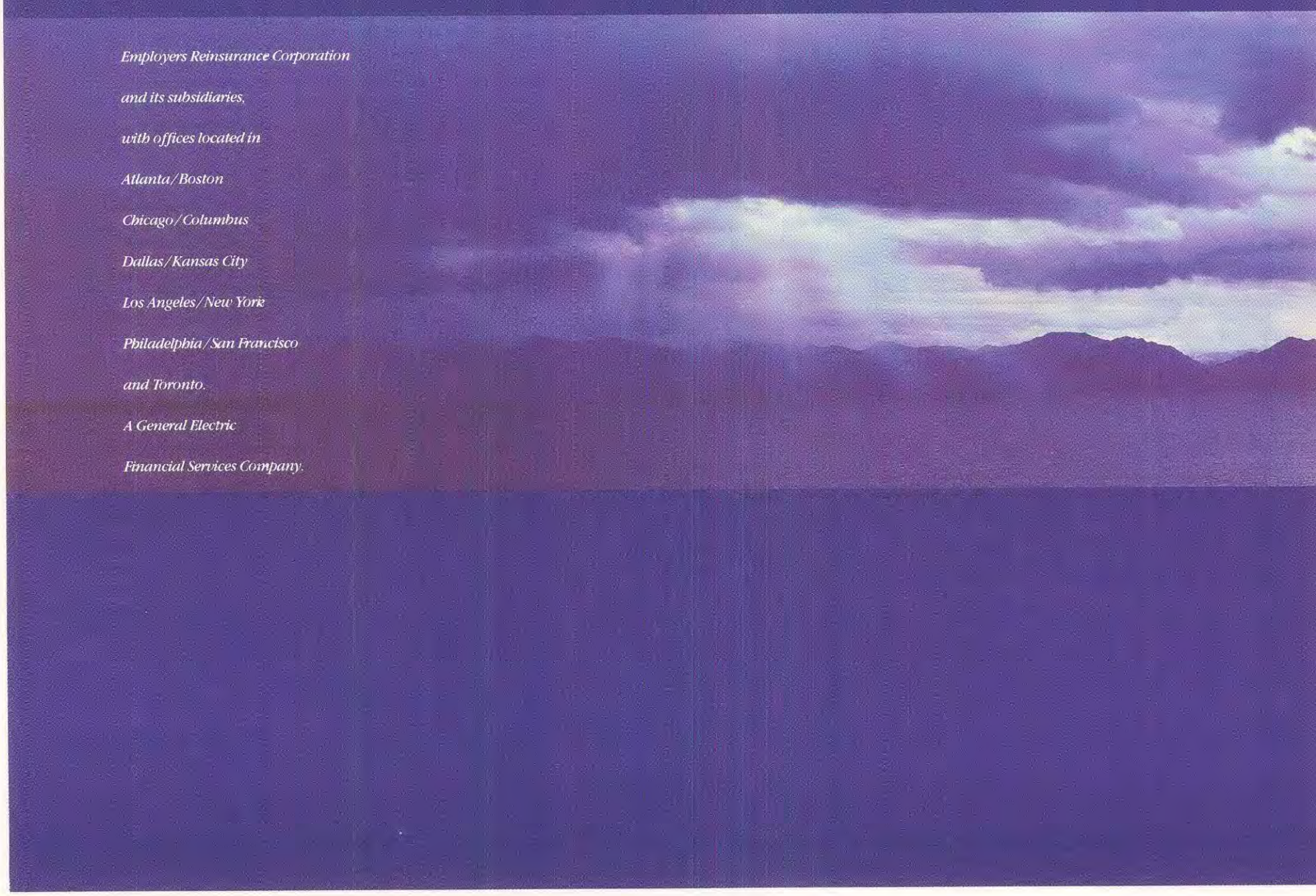

Continued from previous page
is permissible under the McCarran-Ferguson Act.

The 9th Circuit said Judge Schwarzer's interpretation was too narrow. The appeals court feels any use of economic power or market forces—like offering only an agreed-upon product—that forces someone to agree to terms may be a boycott.

Secondly, the 9th Circuit pointed out that some of the 32 defendants are foreign companies and citizens. They have no immunity under McCarran-Ferguson and never did. If a conspiracy existed with these foreigners, the U.S. defendants would lose their immunity.

The most important point to remember in all of this, however, is that these questions of coercion, boycott, intimidation and immunity all depend on whether wrongdoing is proved. Everything is mere allegation at this point, subject to a trial.

In the judgment of experienced antitrust lawyers, it is highly probable that the plaintiffs cannot prove their allegations that a boycott existed.

Lowell Beck
President
National Assn. of
Independent Insurers
Des Plaines, Ill.

London market affects capacity

To the editor: Roger Scotton's report of my speech at the Second International Conference on the Global Insurance Market, "Reluctantly, Reinsurers Face the 'End of an Era' " (*BI*, June 10), may give your readers the impression that I said losses at Lloyd's of London were solely responsible for the way capacity is delivered and priced.

In fact, I emphasized that developments on the entire London scene, particularly in the London excess market, as well as at Lloyd's, are the truly dramatic forces that are impacting the availability of catastrophe capacity.

Dewey P. Clark
Senior Vp
Prudential Reinsurance Co.
Newark, N.J.

Canadian system not acceptable

To the editor: "Americans tend to feel that the Canadian system can be introduced in the U.S. without reducing the world-admired quality and availability of American health care. It cannot."

This statement is from the conclusion of a report entitled "Why Canada's Health Care System is No Cure for America's Ills" prepared for The Heritage Foundation in November 1989 by Michael Walker, executive director of The Fraser Institute in Vancouver, British Columbia.

When examining all of the facts, it is clear this is the only conclusion that can be drawn. However, it is also painfully clear from your article, "National Health care Gets a Boost" (*BI*, June 10), that the General Accounting Office and congressional leaders like Rep. John Conyers Jr., D-Mich., are in the dark.

Rep. Conyers states that "if the U.S. were to adopt a Canadian-style single-payer system. . .(it can be implemented) at no additional cost to society." This statement could not be further from the truth.

Not only has our government repeatedly shown us that they cannot effectively manage money or programs, they cannot even be relied upon to accurately project costs. The GAO estimates that the United States could cut health care spending by $100 million to $200 million per year by adopting a Canadian-style system.

The same day your magazine's article was released, the GAO was revising its projection for the cost of the savings and loan debacle upward to $150 billion from $80 billion. How can the American taxpayer be expected to rely upon its ever-changing cost projections?

Even if we could save some administrative costs by converting to a single-payer universal system, the trade-off in reduced quality and accessibility of care would not be acceptable to the American public. As Mr. Walker points out in his report, we have health care that is admired throughout the entire would. We should not discard the system we have because of our misguided politicians.

All parties to the issue—the medical community, the insurance industry, government, the business sector and the American people—must be willing to share in the solution or any systemic revisions will fail.

The answer lies in a cooperative effort to improve the system that is in place (and in many instances working effectively), not in turning to our deficit-plagued government to run a Canadian-style system.

James T. O'Connor
Assistant Vp
Meeker Sharkey Benefits
Cranford, N.J.

Physician greed plagues health care

To the editor: Joanne Wojcik's story in your May 20 issue on the Grumbach-Lee report, "How Many Physicians Can We Afford?" and the publication of their report in the May 8 issue of the Journal of the American Medical Assn., help to focus attention on perhaps the most critical element of the current health care cost crisis: There are too many doctors chasing—and catching!—excessively high incomes.

I have yet to find, however, that any of the many recent studies, reports, papers and analyses has come right out and made this very logical, but perhaps difficult to swallow, observation. Average and median physician incomes increased significantly during the '80s, both in absolute terms and, more importantly, relative to the average income of all wage-earners. Hence, practitioners of an occupation already enjoying one of the highest standards of living in history made gains at the expense of society as a whole, while working fewer hours (this is also well-documented), and while a material segment of that society did not have access to their services.

If the crisis in health care financing is to have any real chance of being eased, this "favored profession" status of physicians must change. If a solution is going to be fair, someone is going to have to give up something, and it is clear that physicians, whose incomes are certainly one of the primary causes of the crisis, have the most to give.

As physicians' income per unit of work has skyrocketed, studies have found that many of their services are unnecessary, inefficient and, in some cases, actually more harmful than helpful to patient health. This waste is made more frustrating because of the political power of physicians and their various organizations. Efforts to implement lower-cost procedures and to utilize lower-cost personnel (nurse practitioners, for example) are constantly impeded by the iron-fisted control of those who determine what constitutes the practice of medicine.

If controls on physician incomes cause some doctors to stop practicing medicine in protest of outside influences on their business, it would perhaps be in the country's best interest. It would also suggest that the dollar has provided more incentive for persons to practice medicine than the humanitarian motives so often cited.

I suspect that one of the greatest cancers endangering the health of our health care system is that of greed. Physicians, it is time to heal yourselves!

Hobson D. Carroll
President
Employee Benefit Specialists Inc.
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Record workers comp premiums in California

LOS ANGELES—California workers compensation underwriters collected a record $8.5 billion in direct written premiums in 1990, according to Insurance Department filings reported by the California Workers Compensation Institute.

Driven by a combination of an average 5.9% rate increase and growth in insured payroll, 1990 premium volume represents an increase of nearly 8% from $7.8 billion collected in 1989.

More than 300 insurers were active in the California workers compensation market in 1990, and workers compensation premiums represented nearly 25% of the state's $33.8 billion property/casualty insurance market, according to the San Francisco-based workers compensation institute.

The State Compensation Insurance Fund, a competitive state fund, was the largest workers compensation insurer in California, collecting $1.9 billion in 1990 direct written premiums.

American International Group Inc. was the second-largest, collecting $430.4 million in direct written premiums in 1990, followed by Liberty Mutual Insurance Co. with $399.8 million.

Fremont General Corp. was the fourth-largest workers compensation underwriter in California, collecting $386.3 million in direct written premiums in 1990, followed by Crum & Forster Inc., which collected $384.1 million.

Rounding out the list of the 10 largest California workers compensation insurers were:

- Republic Indemnity Co. of America, which wrote $342.9 million in direct written premiums.
- Transamerica Corp., $318.7 million.
- CNA Financial Corp., $314.9 million.
- Fireman's Fund Insurance Co. and parent Allianz A.G. Holdings, $296.8 million.
- CIGNA Corp., $261.7 million.

The 10 largest underwriters accounted for about 59% of the statewide workers compensation premium, up slightly from the 57% market share recorded by the top 10 last year, according to the CWCI.

California's workers compensation insurers recorded a 69.9% loss ratio last year, a slight deterioration from 69.4% in 1989.

Dividend payments to workers comp policyholders topped $1 billion for the first time, up 14% from $994 million in 1989, the CWCI reported.

The expense ratio for 1990 has not been published yet, but it is not expected to vary greatly from the 26.4% expense ratio in 1989.

—By Joanne Wojcik

Around the states

New board member

AUSTIN, Texas—The former antitrust chief for the Texas Attorney General's Office, which filed a now-settled antitrust suit against numerous insurance industry defendants, is the newest member of the Texas State Board of Insurance.

Allene D. Evans was named to the post by Gov. Ann Richards earlier this month to complete the unexpired term of James E. Saxton.

Mr. Saxton, who served as chairman of the board for part of his term, resigned earlier this year after the governor called for the entire board to leave office (*BI*, March 4; Feb. 11).

Gov. Richards accused the board of "gross fiscal mismanagement" in the 1989 collapse of National County Mutual Fire Insurance Co.

Two members of three-member board and the commissioner have been replaced since Gov. Richards took office this year. Richard Reynolds, whose board term expires in 1993, has vowed not to step down.

Ms. Evans has been chief of the antitrust division of the Texas Attorney General's Office since 1987.

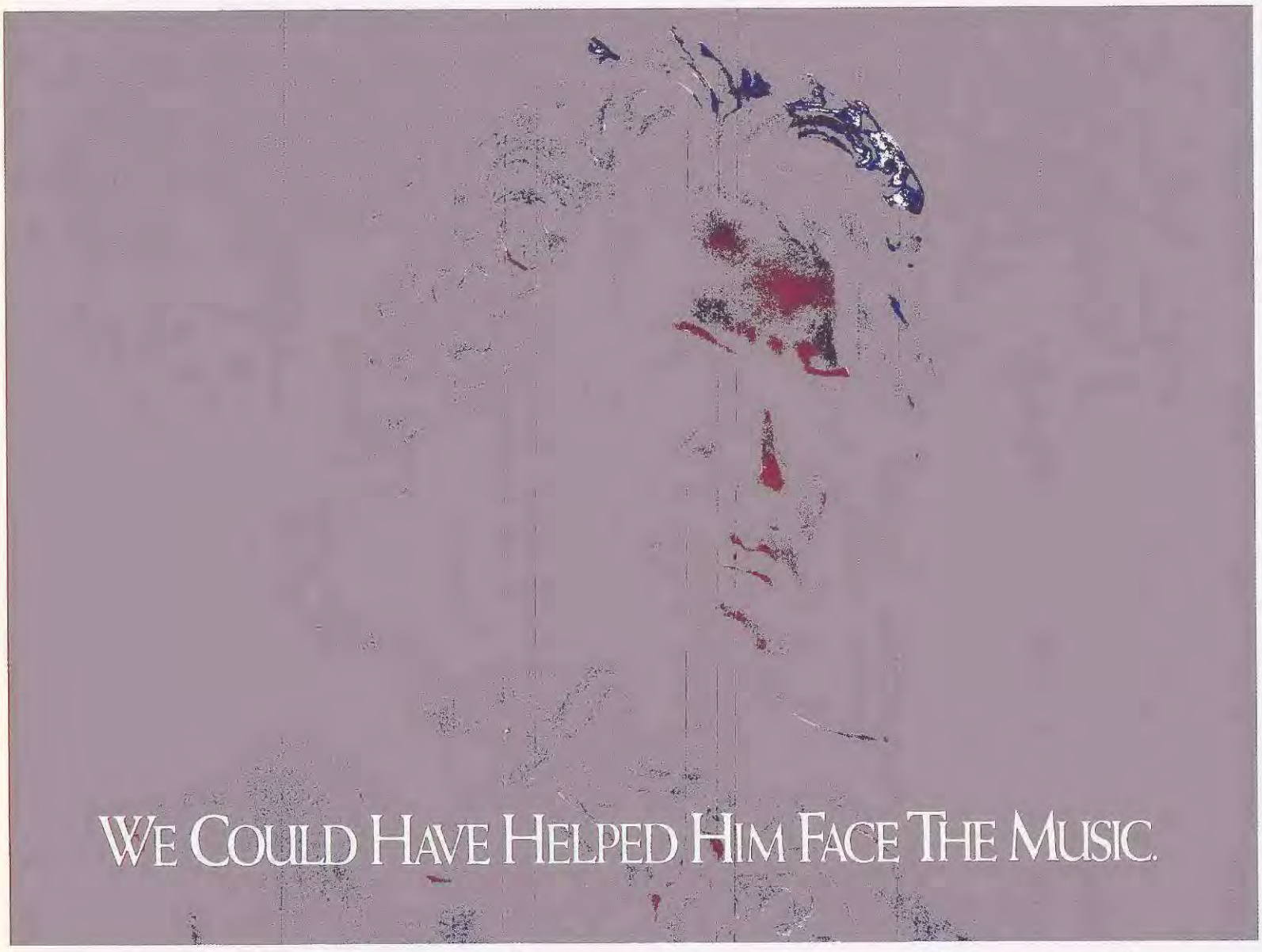
While with the attorney general's office, Ms. Evans served as lead counsel in the antitrust suit that charged nine insurers and two insurance industry organizations with boycotting certain lines of insurance and attempting to artificially inflate rates (*BI*, March 28, 1988).

The insurance industry defendants paid a total of $6.6 million to settle the litigation (*BI*, April 1).

Ms. Evans, 39, worked as assistant city attorney and assistant district attorney in Corpus Christi and Nueces County before joining the attorney general's office in 1985 as assistant attorney general in the insurance, banking and securities division. She was named deputy chief of the antitrust division in 1986 and chief in 1987.

Gov. Richards said Ms. Evans "will bring a long-needed new perspective to the insurance board. She knows the industry well. She knows the law well. Her background will help us to get to where we want to be—with more affordable insurance rates for the people of Texas."

—By Michael Bradford



After losing his hearing, Beethoven went on to produce some of his greatest work. But his disability took an emotional toll on him.

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Solvency study

Continued from page 3

When company executives, auditors and even regulators are involved in a "comprehensive scheme," the fraud can be extremely difficult to detect, Mr. Snyder said.

Alleged fraud was tied with overstated assets for the third most common cause of insolvencies among the 302 cases in which the authors could identify a primary cause of insolvency based on information from regulators. Each factor accounted for 30, or 10%, of the insolvencies.

Of the 30 instances of alleged fraud, all but two occurred after 1978, according to the study.

Because of the perceived increase in fraud, the authors recommend stricter penalties. Legislation recently passed by the U.S. Senate would set for the first time specific federal criminal penalties for insurance fraud (*BI,* July 15).

The most common cause of insolvencies was deficient loss reserves, which was the primary cause in 86 cases, or 28.5% of the sample. Rapid growth accounted for 64 insolvencies, or 21% of the sample.

Other causes cited were:

- A significant change in business for 26, or 9%.
- Miscellaneous factors, including the bankruptcy of a parent company, for 28, or 9%.
- Reinsurance failure for 21, or 7%.
- Catastrophic losses for 17, or 6%.

"With the possible exception of insolvency due to catastrophe losses. . .all the causes of insolvencies in this study involved some form of mismanagement," the study says.

As many as 45 property/casualty insurers could fail in 1992 or 1993, the authors project. But those failures would be less severe than the record 49 in 1985, said Mr. Snyder. The insurers that failed in 1985 represented 1.4% of all insurers and generated 1% of the industry's premium volume.

The study predicts that the 1992-93 insolvency peak will involve 1.1% of all property/casualty insurers and that they will at most account for 0.7% of total premium volume.

Several factors will mitigate the severity of the anticipated insolvencies, the study says.

The study holds that the current soft market will not last as long as the 1978-84 soft market and thus future failures will be smaller and less frequent than in 1985.

And stable or falling interest rates will discourage the type of cash-flow underwriting that marked the 1978-84 soft market, the study says. Inflation also is expected to remain relatively stable through next year, which could hold down claim costs.

The study projects increased insurer profits from commercial lines rate increases of about 10% in 1992 and 15% in 1993.

Regulators, the authors contend, could better prevent failures and reduce their costs by "taking earlier and more decisive actions."

Regulators should review and examine high-risk profile companies more often, the study says. States typically do reviews every three years, though some do so less frequently. Many insurers in the study developed problems and became insolvent in fewer than three years.

Of the 372 companies studied, only six had a Best's rating in the A category and 19 had a rating in the B category in the year they failed.

But 221 companies had been assigned a Best's rating at least three years before they failed, and the study points out that ratings were downgraded for "virtually all" of them in the ensuing three years.

Most of the remaining 151 were unrated because they declined to be rated or failed to provide financial data, the study says.

Mr. Snyder noted that unrated companies accounted for 42% of the insolvencies from 1985 through 1990.

Unrated companies, the study noted, have been failing more frequently of late: After only 67 became insolvent during 1969-1984, 84 failed in the past six years alone. "We believe this unrated group contains a significant number of potentially high-risk companies although it represents a relatively small percentage of the industry's total premium volume," the study says.

The study identified these five characteristics as 'significant' factors related to insolvencies:

- Size.

Insurers with $5 million or less in surplus represented 63% of the insolvencies during the period studied. Those with $5 million to $50 million in surplus represented 34%; and those with surplus exceeding $50 million accounted for 3%.

- Ownership.

Only 49% of property/casualty insurers are owned by shareholders, but stock companies represented 75% of the insolvencies studied.

Mutual companies, which accounted for 45% of the industry represented 16% of the insolvencies.

The other 5% of insurance organizations—like reciprocals, risk retention groups and exchanges—accounted for 9% of the insolvencies

The report says that the higher insolvency levels of stock companies "can be partially attributed to the kinds of business they underwrite."

The authors write: "Stock companies have been more active than mutuals in commercial lines and casualty classes of business, which have experienced more volatile underwriting results." Mutuals have pursued less risky personal lines and property business, the authors note.

- Lines of business.

From 1969 through 1979, personal lines insolvencies equaled or outnumbered commercial lines insolvencies in all but three years.

That situation changed radically in the next decade. From 1980 to 1990, insolvencies of insurers writing largely commercial business equaled or exceeded the number of personal lines failures in every year except 1981.

The shift "can be largely explained by the industry's underwriting experience," the authors say.

During the 1970s, personal lines premiums for policies written on a one- and three-year basis just could not keep up with inflation, the study explains. Commercial lines writers, with more pricing flexibility, "fared substantially better," it says.

But, during the 1980s, commercial lines writers "became intensely price competitive due to the availability of high investment yields. . .and an abundance of capital in the industry," the study says.

And slower premium growth combined with escalating claims costs resulted in "soaring commercial lines combined ratios," the study says.

In 1975, when 29 insurers failed—the second-highest total ever—the personal lines combined ratio reached 111%, compared with 106% for commercial lines.

In 1985, the worst year ever for insolvencies, the combined ratio for commercial lines insurers was 121%, compared with 111% for personal lines insurers.

- Age.

Half the insolvencies studied involved companies that had been in business for 15 or fewer years, even though such companies comprised only 27% of the industry.

Although the likelihood of any company in any industry failing is greater in its earlier years than when it is more mature, "the insurance industry is unique in that it does not know the true cost of its products at the time of sale," the study says.

- Growth.

The study found that about 81% of the insolvent companies experienced "unusual growth trends" in the three years before going under.

A Best study of life/health insurer failures is due out this later year.

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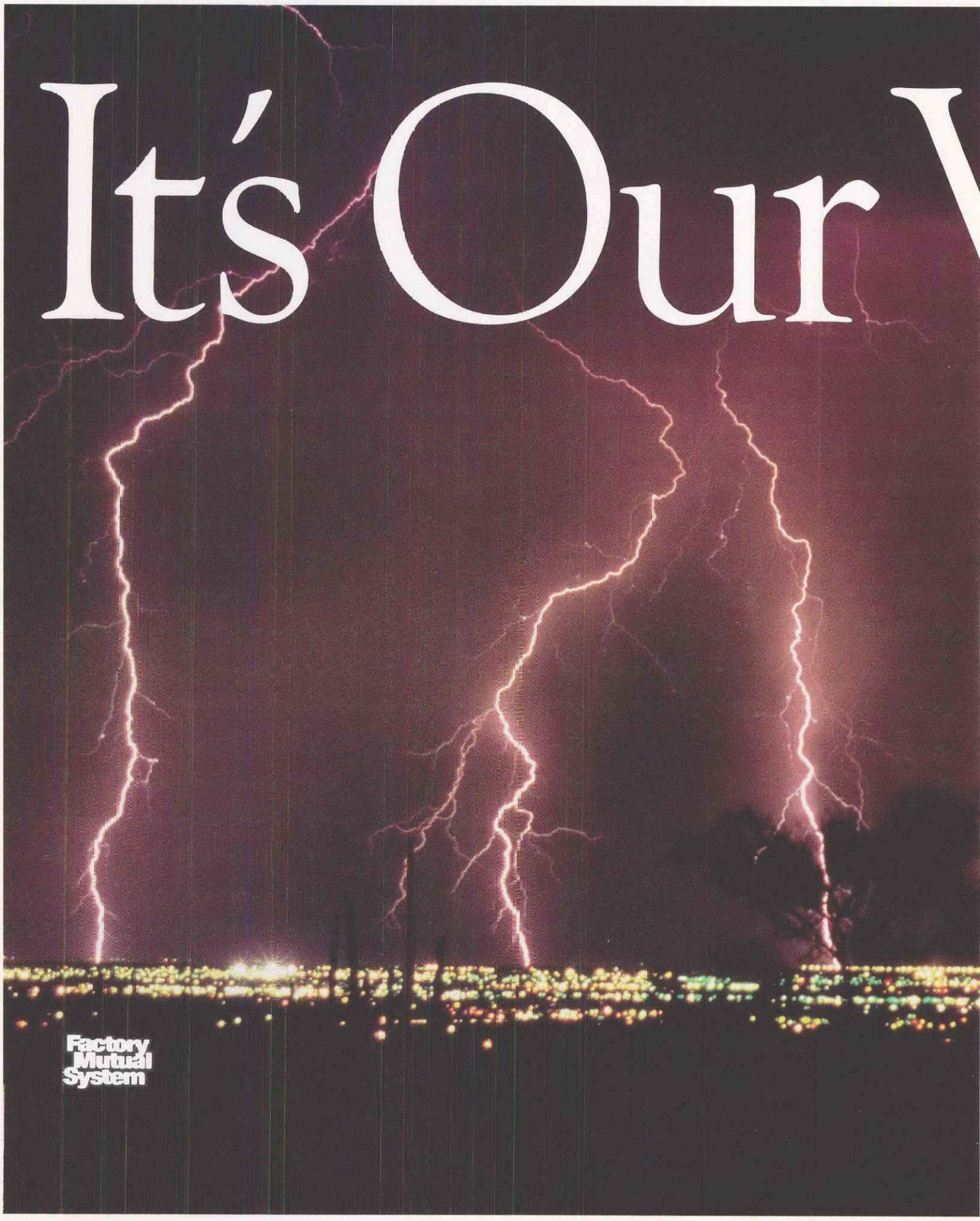
Single copies of "Best's Insolvency Study" are available for $15 from A.M. Best Co. Inc., Customer Service, Ambest Road, Oldwick, N.J. 08858; 908-439-2200, extension 5552.



City survey

Continued from page 3

benefit costs have caused budget balancing problems.

But, only 84.3% of cities in the West said health benefit costs have caused budget problems.

Mr. Pagano said the survey results are not unusual.

"The cost of health insurance is skyrocketing much faster than the rate of inflation," Mr. Pagano said, though he noted that the problem affects private employers as well as city governments.

"The extraordinary increase in health benefit costs is funded primarily by the employers, the cities themselves," pointed out an NLC spokesman.

In addition, the size of cities' labor forces have led to the increased health care costs, the spokesman said.

"Cities don't have the luxury of laying off (thousands of) people like Citibank and restructuring in one fell swoop," he explained. "It must retain the minimum staffing to carry out its functions."

The survey also reports that 58.5% of respondents said rising pension plan costs have hurt their budget balancing efforts.

Pension costs also have been rising mainly because of state and federal requirements, the NLC spokesman said.

Mr. Pagano agreed.

And, he noted, provisions of the 1990 Omnibus Budget Reconciliation Act require public entities to provide a basic pension plan to every employee, including seasonal and part-time workers, beginning this month (see related story).

"This was forced on them by a federal government mandate, and it is not anything they can get around," Mr. Pagano said.

"Cities are reducing in a very rapid fashion the number of part-time and seasonal employees so they don't have related pension costs," he added.

Mr. Pagano said cities cannot do much to lower the budget impact of these items.

Liability awards also are a continual problem for any city, the NLC spokesman said. Forty-one percent of cities said liability awards hampered their budget balancing efforts.

However, 55% of cities in 1989 said the cost of liability awards have hampered their efforts to balance the budget, he said.

The spokesman explained that other problems have overridden liability awards.

"Liability awards are the kinds of things that always have a negative effect, but the economy can be positive or negative," he said.

•

"City Fiscal Conditions in 1991" is available for $15 per copy to members and $20 per copy to non-members, plus $2 for postage and handling, from the National League of Cities, 1301 Pennsylvania Ave. N.W., Washington, D.C. 20004.

IRS rules affect public entities' pension plans

By SARA J. HARTY

Many public entities will have to revamp the pension plans they sponsor under new Internal Revenue Service rules designed to ensure that public employees have more than personal savings during retirement.

The regulations will drive up the costs of plans some public entities offer, but other public entities say they will have little problem complying with the new guidelines, which went into effect July 1.

However, if they do not comply, public entities will be forced to participate in the Social Security program. Most now are not required to participate, though many do.

The regulations, called for under the Omnibus Budget Reconciliation Act of 1990, require defined benefit pension plans offered by public entities to pay benefits roughly equivalent to what Social Security would provide, even for part-time, seasonal and temporary workers.

In addition, if employees are solely covered by a defined contribution plan, an amount equal to 7.5% of earnings must be contributed to the plan. While an employer can contribute to such a plan, it can meet the requirement if the entire 7.5% comes from employee contributions.

Under a transitional rule in the regulations, all public entity employees covered by pension plans in existence by Nov. 5, 1990, are considered members of a qualified plan until 1993, even if the plan does not meet the minimum benefit requirements.

Plans established after Nov. 5, 1990, must comply immediately with all regulation provisions.

For example, Plymouth, Mass., will immediately have to enroll 300 part-time employees in Social Security. But the town has until 1993 to make changes in the pension plan covering its 900 full-time employees, said Michael Daley, town accountant.

Enrolling employees in Social Security is generally the more expensive than providing a private pension plan, because the employer is required to contribute 7.65% of the employee's salary in addition to the employee's own contribution equal to that amount, benefit experts say.

Currently, about 70% of all full- and part-time public entity employees are covered by Social Security, according to Mary E. Busch, manager of tax and legal services with Buck Consultants Inc. in Chicago.

Another significant change that many plans will have to make is to immediately vest temporary, seasonal and part-time public employees in pension plans. However, public entities are not required to change vesting schedules for full-time workers.

The new IRS regulations are intended to provide more retirement security to those public employees who would have had to rely solely on private savings during retirement, said Andy R. Anderson, a consultant with Hewitt Associates in Lincolnshire, Ill.

Private-sector employees have a "three-legged stool" to rely on when it comes to retirement: personal savings, employer-provided retirement plans and Social Security, he said. Now, Congress and the IRS are attempting to assure public employees of at least a "two-legged stool," while allowing public entities to choose whether to offer Social Security or a pension plan, he said.

"The intent of Congress was to cover individuals not covered under Social Security or a public retirement system," said Ms. Busch.

However, the IRS rules broadened the intent of Congress "significantly by imposing minimum standards" on defined benefit plans provided by public entities, she said.

Continued on next page

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Pension plans

Continued from previous page

"Many plans still will not meet the requirements, particularly with regard to part-time, seasonal and temporary employees," Mr. Anderson agreed.

Because "some benefits provided by the state and local governments aren't all that rich," the IRS is using Social Security benefits as the benchmark for public entity retirement plans, Mr. Anderson explained.

"I'm not sure that the regulations comply 100% with the intent of Congress," said Richard E. Schumacher, executive director of the Ohio Employee Retirement System.

Ohio has covered its part-time workers under a defined benefit plan since 1935, but the plan does not meet the minimum required benefits or vesting standards set forth by the IRS.

"At this point, I can't say what changes will be made," Mr. Schumacher said.

Many public entities may not know the full effect of the regulations for some time, according to Cathie Eitelberg, director of the pension and benefit program at the Government Finance Officers Assn., a Washington, D.C.-based organization that represents state and local government finance officials.

And, the impact of the regulations varies by public entity depending on previous pension policies, according to public entity retirement plan officials.

However, Ms. Busch predicts that the new requirements for part-time employees will be a problem for many public entity plans.

For example, the 300 to 400 part-time employees in the county of Monterey, Calif., previously contributed only 1.45% of their payroll toward the Medicare portion of Social Security, said Mary Lou Emmert, risk and benefits manager for the county, which employs 3,800 workers.

Now the part-time employees will have to make the full Social Security contribution of 7.65% of payroll. And, the county will have to match that amount, she said. "This will cause a problem for our budgeting, since we have to come up with those contributing funds."

But, other public entity officials are not overly concerned about complying with the new IRS regulations.

For instance, the regulations will have very little effect on the Georgia state pension plan, since the plan already meets most of the requirements, said Jim Larche, deputy director of the Georgia Employers Retirement System.

However, the plan does not cover part-time and seasonal employees. Therefore, those employees "will now be faced with mandatory Social Security coverage" deductions from their wages, Mr. Larche said. The state also will have to come up with funds to match these employees' Social Security contributions, but that amount is not expected to be exorbitant, Mr. Larche explained.

Colorado enacted legislation this year that allows employees of public entities who were not already covered by The Public Employees Retirement Assn. of Colorado—a defined benefit pension plan—to be added to the plan as of July 1, said Don Schaefer, plan communications director.

The legislation also reduced the amount per plan participant that public entities must pay to fund the plan, he said.

For example, school districts previously contributed an amount equal to 12.5% of salary for each employee covered by PERA, Mr. Schaefer said. Schools now contribute an amount equal to 12.2% of a covered employee's salary.

Although employers will be contributing less per employee, the overall contribution to PERA will grow, Mr. Schaefer said, since more employees will be participating in the plan.

In Illinois, most state employees are covered by Social Security as well as by a state-provided pension plan, said Mike Mory, executive secretary of the State Employees' Retirement System.

However, the Illinois university system is adding its part-time workers to the state university's defined benefit plan to comply with the new IRS rules, he said.

The financial impact of adding these workers to the system is expected to be minimal, Mr. Mory said.

However, the changes that may have to be made in the way primary school and secondary school teachers are vested in the state teachers' defined benefit plan still have not been determined, Mr. Mory said

Deerfield Beach, Fla., will have to make changes in vesting requirements for part-time workers enrolled in its defined benefit plan, says Mr. Amason, but he does not expect that the changes will result in serious cost increases.

Currently, most part-time teachers receive an immediate refund of their plan contributions after leaving the school system, rather than waiting until retirement age to receive the lump sum with interest.

There is still some question as to what rate of interest would have to be applied to these contributions, Mr. Mory said.

Deerfield Beach, Fla., will have to make changes in vesting requirements for part-time workers enrolled in the city-sponsored defined benefit plan, said David L. Amason, risk manager for the city. However, he said he does not expect that any of the changes will result in serious cost increases for the city.

Many public entity pension plan administrators also expressed relief the IRS made changes from an earlier draft of the regulations.

"Many of the concerns we had with the proposed regulations were taken care of in the final regulations," said Mr. Schaefer of Colorado's PERA.

For example, unlike an earlier draft of the IRS regulations, the final regulation does not require public entities that rehire retirees already receiving retirement benefits to provide those workers with additional benefits, Mr. Schaefer pointed out.

Michael Daley of Plymouth, Mass., agreed that the final regulations are an improvement over earlier drafts.

"In my opinion, the people at the IRS responded in an appropriate way to the people of Massachusetts and the people of other states," he said. ■

Info

• Northwestern National Life Insurance Co. is offering a booklet that suggests benefit plan designs help prevent overutilization of health care services by employees. **"Managing the Chronic Pain of Overutilization"** discusses employer options like preferred provider organizations, diagnostic and surgical procedure review, case management and employee assistance programs. Using copayments and deductibles is also discussed. Case examples are included. Copies are available at no charge from Northwestern National Life, P.O. Box 20, Route 6525, Minneapolis, Minn. 55440; 612-342-7137.

• The Self-Insurance Institute of America Inc. is offering copies of the fifth edition of the **"Who's Who in Self-Insurance Services Directory."** The directory includes listings of consultants, brokers, third party administrators, reinsurers, claims investigation companies, automation vendors, health care providers and captive insurance company managers serving self-insurers. All companies listed are SIIA members. Free copies are available from the SIIA, P.O. Box 15466, Santa Ana, Calif. 92705.

• More than 235 changes in workers compensation laws were enacted by 48 state legislatures in 1990, according to the **"1991 Analysis of Workers Compensation Laws."** The booklet contains 16 charts detailing the major provisions of all U.S. and Canadian workers comp laws. A mid-year supplement updating changes and pending legislation will be available at the beginning of August. The 1991 Analysis, publication 0240, costs $15, and the supplement, publication 0245, costs $7. Discounts are available for bulk orders. Contact Carol Meyer, 202-463-5533.

• The Washington Business Group on Health has released a new publication for employers considering offering some type of elder care benefit to employees. **"An Employer's Guide to Elder-care"** describes the characteristics of workers who are caring for an older relative and provides examples of successful elder care corporate policies and programs. The guide suggests a process that takes the manager from program exploration to implementation and evaluation. Copies are available for $18 from the WBGH, 777 N. Capitol St. N.E., Suite 800, Washington, D.C. 20002; 202-408-9320.

• The National Council on Compensation Insurance has updated the format of the **"Scopes of Basic Manual Classifications."** The single wirebound edition replaces the previous two-volume set of ring binders. Subscribers will receive an updated edition twice annually instead of revision inserts. Subscriptions are available to members for $20 and to non-members for $40 from the NCCI, P.O. Box 027240, Miami, Fla. 33102-9990; 407-997-4606.

• **"Health Care Cost Management—A Basic Guide,"** published by the International Foundation of Employee Benefit Plans, discusses the reasons for health care cost increases and various possible solutions. Managed care, plan design, flexible benefit programs, wellness and health promotion are some methods for controlling costs that are described in the 105-page book. Copies are available for $23 to IFEBP members and for $28 to non-members from the IFEBP, Publications Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

• **"The Mergers and Acquisitions Checklist,"** prepared by Webber Consulting Group Inc., is designed to help risk managers in the midst of planning for an acquisition. Among other things, the checklist guides risk managers in evaluating an acquisition's company history, loss exposures, environment impairment liability and risk financing. For a free checklist, contact the Webber Consulting Group Inc. at 404-641-1868.

• The International Foundation of Employee Benefit Plans has published a book exploring benefit-related issues emerging as the European Community works toward a single market. The 115-page reference book is a collection of presentations at the IFEBP's Amsterdam Conference on European benefits. Copies of **"1992 and Beyond: An Explosion in Employee Benefits?"** are available for $23 for IFEBP members and $28 for non-members from the IFEBP, Publications Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

• A brochure published by Northwestern National Life Insurance Co. provides a checklist to use when **selecting a health care claims administrator.** The brochure outlines 14 characteristics to look for in an administrator. The brochure also offers suggestions on how benefit mangers can educate employees about the claims-paying process. Copies are available free from NWNL, P.O. Box 20, Route 6525, Minneapolis, Minn. 55440; 612-342-7137.

• Retirement Advisors Inc. has published a new guide, "Insurance," designed to **help employees near retirement review their various insurance policies.** The 32-page guide covers life, health, auto, homeowners and tenants insurance. Single copies are available free when written requests are on an organization's letterhead and bulk rates are available from Retirement Advisors Inc., 555 W. 57th St., 17th Floor, Department I, New York, N.Y. 10019; 212-582-8000.

• A revised handbook for workers compensation claim technicians is now available from the California Workers' Compensation Institute. The 52-page **"Medical Cost Containment Handbook"** reflects changes made by recent legislation. The guide contains information on medical costs, utilization review, managed care and peer review. Periodic updates and revisions will be sent to those who buy the book. Copies are available for $14 plus tax and shipping from CWCI, 120 Montgomery St., Suite 1300, San Francisco, Calif. 94104; 415-981-2107.

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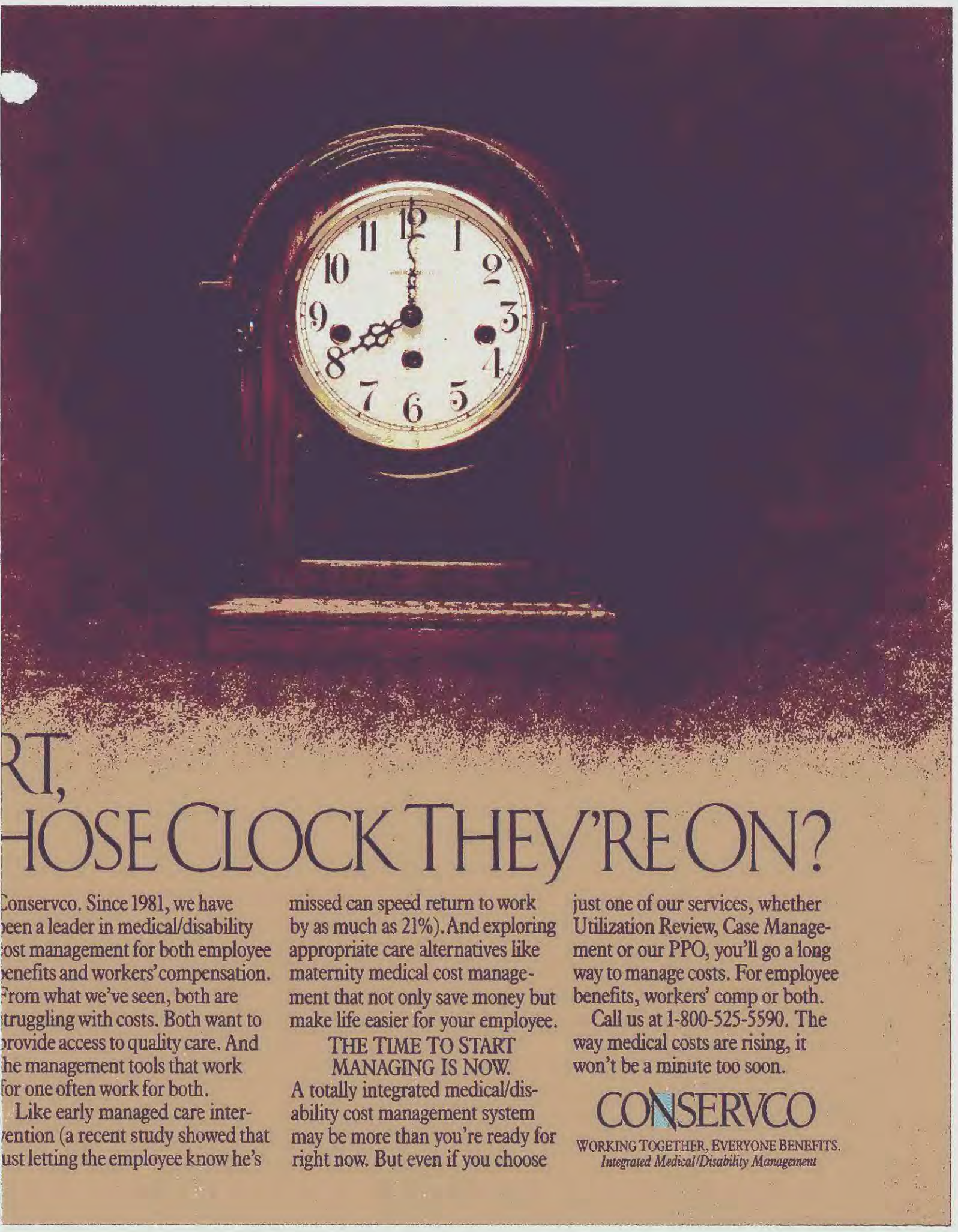

Mandatory drug testing holds pitfalls for unwary employers

By CHRISTINE WOOLSEY

CINCINNATI—Companies can protect themselves from lawsuits brought by employees who charge that corporate drug or HIV testing policies violate their rights, says a management and labor relations attorney.

HR
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Random drug testing is often constitutionally permissible, said Jonathan A. Segal of Wolf, Block, Schorr & Solis-Cohen of Philadelphia. "Most private sector employees do not have any constitutional privacy when it comes to testing."

But random testing can have many other drawbacks for employers, he cautioned during a session at the Society for Human Resource Management's national conference here last month.

"Most employees perceive random drug testing as an invasion of their privacy. When employees don't think (employers) have appropriate rights to test them, they look for help outside, and most often that help comes from unions," Mr. Segal explained.

Companies with many unionized employees know how time-consuming labor negotiations can be and how protective unions are of their members, Mr. Segal said. Union pressure may be one of the adverse effects felt by corporations that endorse wholesale drug testing, he said.

The adage " 'police yourself or be policed' is perfectly apt in the area of drug testing," he said.

In addition, plaintiffs in invasion of privacy suits sometimes base their claims on a little-known tort called "intrusion upon seclusion," Mr. Segal explained.

"I don't know what the tort means, but the plaintiffs' bar loves it. They don't know what it means either, but they use it" to pursue invasion of privacy claims, he quipped.

'Most substance abusers can be eliminated from the workforce because of disciplinary action,' says Mr. Segal. Companies that 'fire for the conduct independent of the cause' are generally protected against lawsuits by disgruntled former employees.

Mr. Segal said it is appropriate to test all new hires for drug or alcohol use as a condition of employment.

Problems are much more likely to arise when current employees are subjected to the tests, he explained. Some, for example, will claim they were dismissed from their jobs because of their substance abuse or mental health problem—not because they were unable to perform their jobs.

To avoid litigation, Mr. Segal suggested that employers make sure that any drug test given to a current employee is given because the employee is not performing properly.

"Most employers test in response to performance problems," like absenteeism, unsafe practices, a decline in productivity or the inability to work with co-workers or supervisors, Mr. Segal said. "In most cases, the cause for the test is the cause for discipline—regardless of the outcome of the test," he said.

Thus, "most substance abusers can be eliminated from the workforce because of disciplinary action." Companies that "fire for the conduct independent of the cause" are generally protected against lawsuits by disgruntled former employees, Mr. Segal said.

Lawyers for some workers claim their clients were unduly subjected to a drug test even though there was no reason to suspect drug use. "In any circumstances where you are wondering whether you have reasonable suspicion to test an employee, look at the employee's conduct and if it doesn't fall within the job description," dismiss the worker, Mr. Segal advised.

Employers that know an employee has a substance abuse problem or mental health problem are required to provide the opportunity for rehabilitation, Mr. Segal noted.

Once an employer decides a drug testing policy is appropriate for its workforce, precautions should be taken to protect the company from invasion of privacy lawsuits arising from the testing procedures themselves, Mr. Segal said. "If there is a way to screw up something in drug testing, it'll happen," he said.

Jury awards from erroneous and mishandled drug tests can be staggering, he said. For example, a Texas jury recently awarded $485,000 in damages to a worker who was fired based on a false positive drug test.

Employers should make sure they obtain the consent of all job applicants or current employees if they are to be tested, Mr. Segal said. Employees and applicants cannot be forced to submit to a drug test, but their refusal is usually grounds for dismissal, he explained.

Direct observation of employees giving specimens poses another invasion of privacy problem.

"Substance abusers are cagey" when it comes to drug testing, Mr. Segal said. Some use compounds that disguise the presence of drugs in their urine and others substitute another person's urine or substances like the soft drink Mountain Dew, he said.

Mr. Segal described a case in which a male employee was required to provide a urine sample under the supervision of his male supervisor. Soon after, the employee complained of physical and psychological problems resulting from the supervisor's direct observation.

"The employee went to see a counselor who said, 'I can't help you but I know an attorney who can,' " Mr. Segal said. The case wound up in court, where a jury awarded the employee $135,000. "Hell, I'd provide a specimen in front of my entire firm for half that" amount, Mr. Segal joked.

There are non-observed procedures that can ensure that specimens are not tampered with, he said.

For example, a pre-collection procedure involves using a bluing agent in the toilet so that water taken from the toilet to dilute the sample will appear blue. Post-collection procedures include a temperature test that can tell whether or not a sample was given at the time of the testing.

If after one of these tests the employer suspects the employee of tampering with the sample, the employer can require an observed collection, Mr. Segal said.

Employers also should be sure their company or the collection site is in compliance with National Institute of Drug Abuse guidelines, he said.

Testing employees for human immunodeficiency virus, or HIV, the virus that causes AIDS, can also lead to litigation.

In virtually every state, individuals who test HIV-positive or who have AIDS are protected from discrimination. In general, employers are only allowed to test an employee if a disease affects the performance of his or her job, said Mr. Segal.

"HIV testing tells you nothing relevant about whether your employees are capable of performing their jobs," so in most cases it is probably illegal to test, Mr. Segal said.

But, "as a matter of preservation, you employers should educate employees about AIDS," Mr. Segal said.

Teaching employees how they can and cannot get the disease will help companies avoid business interruptions that may result from irrational fears about a co-worker's HIV status, Mr. Segal explained. ■

Steep costs for drug abuse

HR
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CINCINNATI—To put the costs of substance abuse in perspective, Jonathan A. Segal, a management lawyer, cites figures from the National Institute of Drug Abuse.

Substance abuse costs businesses $100 billion a year in lost productivity and $50 billion a year in insurance premiums, said Mr. Segal of Wolf, Block, Schorr & Solis-Cohen of Philadelphia.

In addition, he said, substance abusers are three times as likely to be absent from work, 3.6 times as likely to be involved in industrial accidents and five times more likely to file workers compensation claims than other employees.

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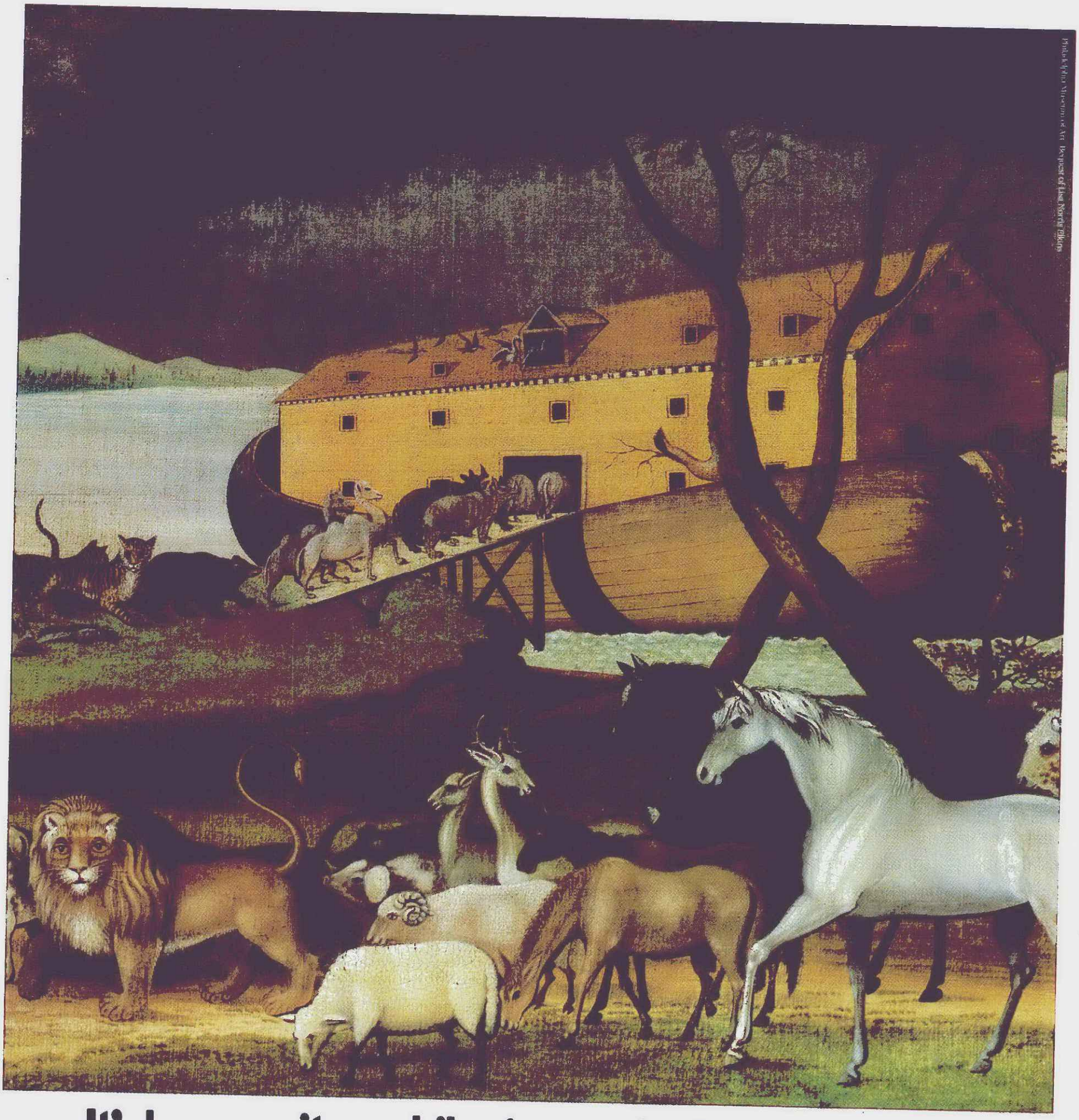

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Employers urged to plan for disability act's impact

By CHRISTINE WOOLSEY

CINCINNATI—Employers should plan now for any changes they may have to institute to comply with the Americans with Disabilities Act, says a management and labor relations attorney.

Among other things, the act, which was signed into law July 26, 1990, prohibits employers from discriminating against a "qualified individual with a disability" in regard to job applications, hiring, advancement, discharge, compensation and training, explained Michael J. Lotito, an attorney with Jackson, Lewis, Schnitzler & Krupman of San Francisco.

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The new law requires that disabled people receive the same equal employment opportunities provided to other protected classes under Title VII of the 1964 Civil Rights Act, he said.

Mr. Lotito discussed the ADA and its implications for employers during a session at the annual Society for Human Resource Management conference held last month in Cincinnati.

The law requires employers to justify the use of any employment standard or job description that tends to exclude physically or mentally disabled workers, he said. It also requires that employers make their offices, stores and factories accessible to the disabled, he added.

The ADA takes effect for companies with 25 or more employees July 26, 1992. Two years later, the law will automatically be extended to cover employers with 15 or more workers.

"We are the first country in the world to ever pass a statute of this breadth," Mr. Lotito said. Other countries will look to the U.S. experience for guidance when enacting similar laws, he predicted.

Given the changing demographics of the U.S. workforce, complying with the ADA is "an imperative," Mr. Lotito said. "You cannot afford to say you will automatically exclude people with disabilities" because there will be a shortage of skilled workers at the end of this decade, he said.

Employers should prepare for provisions in the act that require a workplace to be accessible to disabled persons, Mr. Lotito said. "Most complaints will fall under" this provision, and "if you aren't ready, no one will have sympathy for you," he said.

Employers may have to build wheelchair ramps, change restroom facilities or build additional lunch rooms, Mr. Lotito said. Companies that are building new facilities in the next few years should make sure they meet accessibility requirements or they may have to tear down and rebuild those new facilities, he warned.

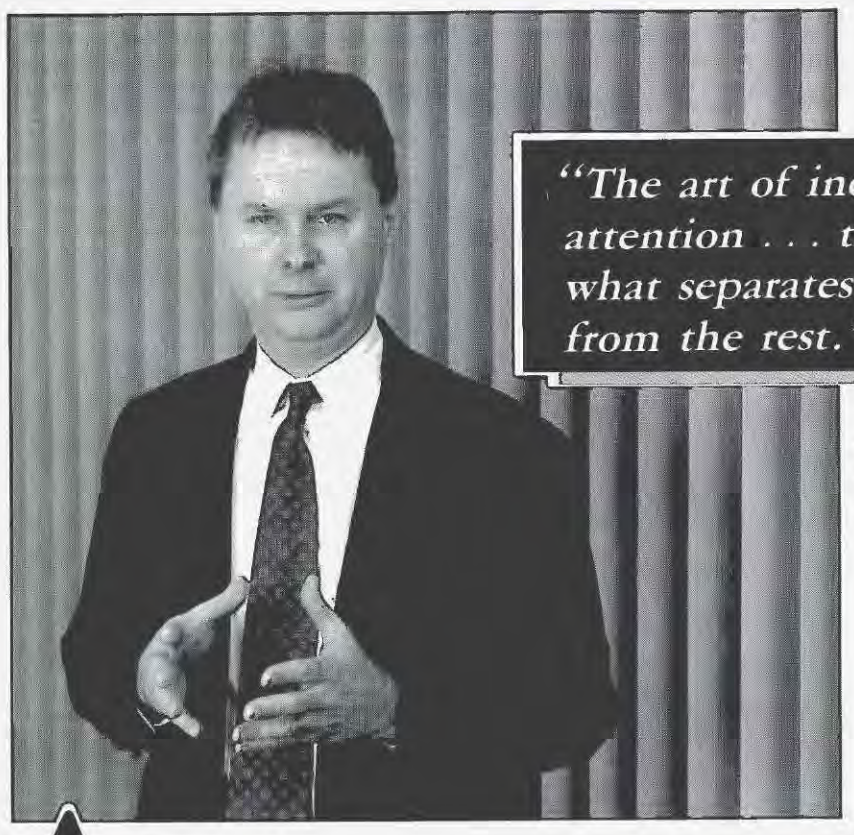
With respect to hiring, employers must reasonably accommodate disabled people with physical or mental impairments that substantially limit "a major life activity," Mr. Lotito said. In determining whether an individual is disabled, and therefore protected by the disabilities act, employers should keep several things in mind, he said.

Walking, reaching, seeing and talking, among other things, are considered major life activities, he said. When a person is completely unable to perform these activities or is unable to perform them to the extent of the average person in society, he is considered disabled, he explained.

Employers should also be aware that temporarily disabled people—those that are suffering from broken bones, for example—also are protected by the ADA, Mr. Lotito said. Disabled people who use devices like hearing aids to help them overcome disabilities, also are protected, he said.

Employers also cannot discriminate against an individual who

Continued on page 25



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Disabilities

Continued from page 22

may not have a current disability but has a record of having been disabled, according to Mr. Lotito.

When determining whether to hire this person, employers must judge whether the individual is a direct threat to his or her own health and safety or the health and safety of others, the lawyer explained.

People who are not disabled and have no record of being so but are "perceived" to be disabled also are protected, Mr. Lotito said.

For example, employers cannot automatically disqualify a burn victim from waitressing if that person is qualified to perform the job, he said.

"Coming up with a list of the types of impairments covered by the ADA is silly," contended Mr. Lotito, noting that there is no finite number.

However, most of the complaints against employers that will result when the law comes into effect will probably not be initiated by people with obvious physical disabilities, he said.

Many of these claims will result from mental disabilities, Mr. Lotito speculated.

"Mental disabilities cases will be more problematic" because they are harder to detect and accommodate, he said.

After determining that an individual is disabled, employers must decide whether that person is someone who can perform the "essential functions of the job," Mr. Lotito said.

"This is where you have an opportunity to structure the impact ADA will have on your workplace," he said. "You can help define who is a qualified individual to perform your jobs."

Employers "are entitled to set forth the necessary skills, education, experience and licenses necessary in order for an individual to do a particular job," he said.

"An 'essential function' is something intrinsic, not marginal," he said.

Having written documentation of the skills needed for the job is important for companies, Mr. Lotito said. "You need documentation about the skills necessary to perform the job to make sure the government doesn't think you're pulling a fast one."

That documentation should describe in clear detail the skills needed to perform a particular job, Mr. Lotito advised.

"That is the only way you can prove you did not discriminate" against an individual should that person claim he or she was not hired—despite having the necessary skills to do the job—because of a disability, he said.

The courts will not only examine documents that detail the essential functions of a job, but they will also look at past practices within the company to make sure other employees were required to perform the same functions cited in the job description, added Mr. Lotito.

Under the ADA, employers are required to make "reasonable accommodations" for disabled people who are qualified to perform a job.

Mr. Lotito pointed out that employers may have to reprint all of their job applications to include questions like: "If you are disabled, are there any reasonable accommodations I can make for you so you can perform the job?"

"The initial projections contained in the preamble of the ADA regulations say accommodations and modifications will cost American business about $16 million. That's an underestimate. The amount involved will be enormous," Mr. Lotito predicted.

He conceded, though, that research shows that 50% of all disabled people can perform the essential functions of a job with no accommodation and 30% of disabled people can perform the job with accommodations that cost $500 or less.

The remaining 20% will require accommodations that cost more than $500, he said.

Clear and detailed job descriptions are vital, says Michael J. Lotito. 'That is the only way you can prove you did not discriminate' against someone who claims that he or she had the needed skills, but was not hired because of a disability.

But, he said, employers should not "reinvent the wheel" before consulting with other employers. Federal and state agencies offer free advice about what other employers are doing to accommodate disabled employees, he pointed out.

Based on previous cases, it appears employers will not have to make accommodations that will cause the company "undue hardship," Mr. Lotito said.

Undue hardship can be determined in part by assessing how many employees the modifications will affect, the cost to the particular facility and the cost to the parent company, he explained.

In preparing for the ADA, employers should establish a task force that includes its human resource, in-house legal, risk management, compensation and benefits, safety and health and operations departments, Mr. Lotito said.

The task force should be educated, in some cases by outside legal consultants, about any unique situations that could affect the company's response to the ADA, he said.

Mr. Lotito cautioned against any expectations that the ADA will be repealed. CEOs who think that are "mentally disabled," he quipped.

Still, many employers have taken a wait-and-see attitude before making widespread changes in their hiring practices or facilities, he conceded.

Above all, Mr. Lotito said, "it's important to train people with respect to the law but also with respect to attitudes. It's our (unease) that prevents us in large part from integrating people with disabilities into our society." ■

WESTERN U.S. – When a 40-year-old woman gave birth to her first child, her baby boy had an unexpected problem. The newborn was diagnosed with jaundice and the recommended treatment was five days of phototherapy in the hospital, which also meant a potentially traumatic five-day separation between mother and child. Enter Conservco Nurse Reviewer Carolyn Mah.

A registered nurse, Carolyn had years of experience in the maternal and child care fields. She brought to the case not only a good deal of knowledge, but also a great sense of compassion.

"It was difficult enough that the mother had just given birth to an ill child; she was now being asked to go home without him, during an important bonding period between mother and child," said Carolyn. "I knew that the baby could be treated just as effectively on an outpatient basis, so I immediately contacted the physician."

With a single phone call to the doctor and a review of the alternatives, an agreement was reached to provide outpatient treatment. This enabled the parents and newborn child to spend the first days of life together. What's more, it saved a total of $4,000 in hospital costs. A follow-up call found the infant and grateful mother doing well.

Every day, Conservco Utilization Review Consultants handle hundreds of cases like Carolyn's. In the process, they help save millions in employee medical costs, by finding cost-effective alternative ways to provide access to appropriate medical care.

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Cost-cutting focus shifts from hospitals

By CHRISTINE WOOLSEY

CINCINNATI—Monitoring inpatient hospital costs may no longer be the most effective way to check spiralling health care costs.

SOCIETY FOR HUMAN RESOURCE MANAGEMENT

"Most efforts at health care cost management in the past 10 years have been aimed at inpatient hospital cost management," said Larry Hicks, president of Hicks & Hicks Inc., a consulting firm in Glenview, Ill.

But, because the health care environment has changed, "that's not where it's at today," Mr. Hicks said during a session at the annual Society for Human Resource Management national conference here last month.

One example of the changing environment: Over the last decade, the American Hospital Assn. estimates, the rate of overall hospital occupancy has fallen to 60% from 80%, Mr. Hicks noted.

Medicare programs that limit provider reimbursement and inpatient utilization review programs that monitor patient lengths of stay have discouraged hospitals from confining patients longer than necessary, he said. "Hospitals have become 'intensive care units' which care for patients quicker who are sicker."

As a result, "monitoring inpatient costs is no longer effective," said Mr. Hicks.

No "unilateral solution" to the health care crisis exists, he said, though there are ways companies can slow down cost increases, including outpatient utilization review and close monitoring of managed care networks.

Rather than focusing on hospitals, employers in the 1990s should turn their attention to doctors' offices, outpatient surgery centers and home health care.

"We've got to figure out new ways to control outpatient and home health care costs," he said. Overall, health maintenance organizations, preferred provider networks and utilization review "haven't done a very good job."

One reason employers have not been able to rein in costs for claims involving home health care is because most benefit plans "only pay for home care after a hospitalization," Mr. Hicks explained. "This is standard in the industry, but 'standard in the industry' no longer applies. Don't think insurance companies have the best ideas," he warned.

Employers may want to consider waiving or shortening mandatory hospital stays before patients become eligible for home care benefits, Mr. Hicks said. Many times patients are more comfortable at home and they will not incur inpatient hospital expenses.

Meanwhile, employers that have tried utilization review and complain that it does not do enough to control their costs should be aware that there are significant differences among UR vendors.

"Folks, there are Yugo UR companies and Mercedes UR companies out there," Mr. Hicks said. "Maybe you don't want to pay for the Mercedes, but you better be willing to feel the bumps in the road if you have a Yugo."

He suggested that employers really get to know their UR vendor by asking questions about who makes the decisions about employees' health care and what the vendor is doing to target outpatient overutilization.

Mr. Hicks noted that quality and outcomes will increasingly become an important focus for employers in the 1990s.

"Access was the issue of the 1970s, and lots of new hospitals and medical centers were built. We paid the price for that in the 1980s in terms of excess costs because of an oversupply of" both facilities and doctors, he explained.

"The issue of the 1990s is quality, because as we begin to control costs we have to examine what kinds of outcomes we get from providers," said Mr. Hicks.

"Outcome-related provider comparisons will become essential," he said. "We have to reward quality, cost-effective providers and penalize those who are not."

Mr. Hicks suggested several ways employers can monitor the quality of managed care networks.

Employers that contract with HMOs should verify that primary physicians are not underutilizing hospitals or specialists, Mr. Hicks said.

Because an HMO is a prepaid medical care delivery system, it only has a fixed amount of money to use during the year—regardless of how many patients are treated. As a result, some discourage doctors from sending many patients to specialists or specialty care centers because it will increase the HMO's costs.

In some cases this could result in substandard care, Mr. Hicks explained. Employers can ask the HMO or their UR vendor to conduct periodic chart audits to be sure that patients are receiving speciality care when necessary, he said.

Employers also should ask the network about physician turnover rates. "In general, we like to see a turnover rate of less than 20%," Mr. Hicks said, noting that once employees find doctors they like, they are apt to continue seeing them even if the doctors leave the network.

Employers also should ask how network physicians are paid. "An HMO that pays fee-for-service will not control costs," Mr. Hicks said. If each HMO doctor receives a capitated fee, however, those doctors are more likely to aggressively manage care for each patient, he said.

Employers that contract with PPOs should be sure their workers go to the most cost-effective providers in a community because, unlike HMOs, which are given a set amount of money with which to manage an employer's health care, PPOs are not at risk if they spend more money.

"Look at the current demo-

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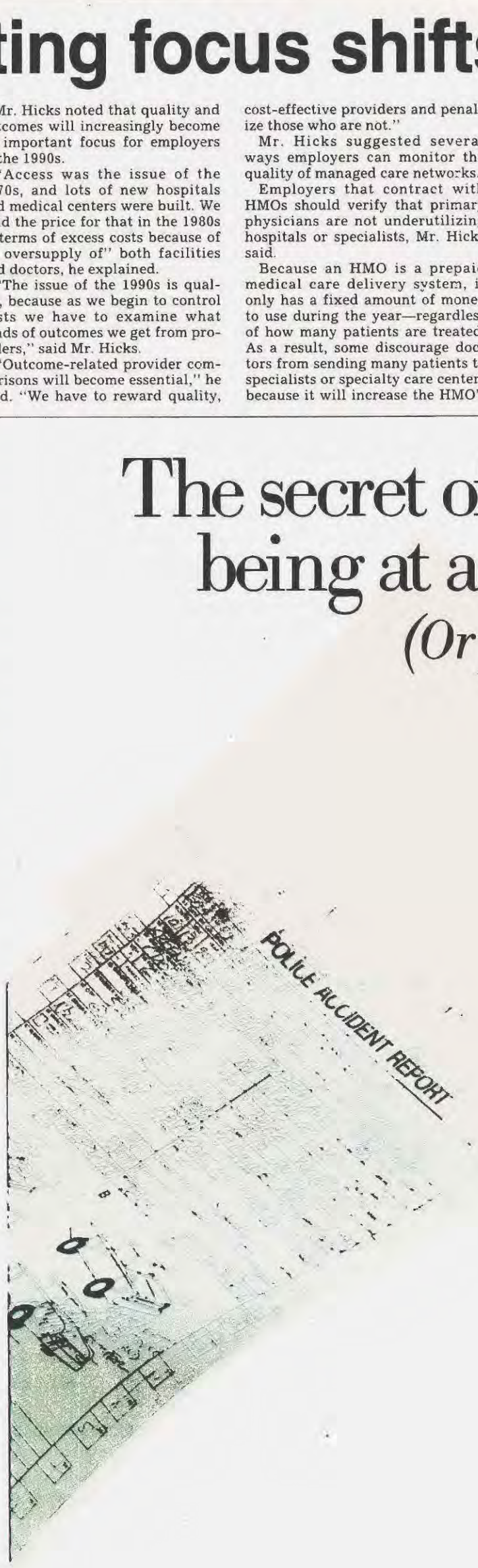

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graphics of your workforce and the prices of local providers," Mr. Hicks suggested. "If 80% of your employees go to a particular PPO hospital, how do you know that it is the best-priced hospital" in the community? Some states release pricing information and discharge data on all hospitals in the state and employers can compare those figures, he said.

"When a hospital offers a discount, you need to ask what the base price is," Mr. Hicks continued. Large discounts from the highest-priced providers in a community will not control costs, he said, likening some provider discounts to retail store discounts. "The store may say, 'We marked everything down 30%.' Only you didn't know that two days ago they increased their prices by 40%."

Employers should "get a satisfactory answer" from managed care networks or other cost containment vendors about how the vendors' services can save the employer money, Mr. Hicks stressed.

He advised employers to bargain hard with networks and vendors.

For example, an employee benefits manager negotiating with a vendor may say his company experienced average annual health care costs per employee of $2,800 last year, Mr. Hicks explained. "Tell the vendor: 'I'll go with you if you can guarantee me a cost of $2,700 per employee this year. And, how about putting at risk 30% to 40% of your administrative fee if you don't control my costs?' If a provider really wants your business," this type of bargaining strategy will guarantee results, he said. ■

Analyzing improper data distorts health plan costs

By CHRISTINE WOOLSEY

CINCINNATI—Employee benefit managers should make sure they are using appropriate health care utilization data when analyzing the effectiveness of providers and cost-containment vendors, an information specialist says.

HR SOCIETY FOR HUMAN RESOURCE MANAGEMENT

"In a lot of areas where we measure health care data, we may not actually be measuring the right thing," said Charlene Weigel, director of information services at Intracorp, the Berwyn, Pa.-based utilization review unit of CIGNA Corp.

Ms. Weigel pointed out that many managed care companies and UR vendors present employers with savings data based on comparisons of average length of hospital stays. Average length of stay is calculated by dividing the number of inpatient bed days by the number of admissions, she explained.

Comparing one provider to the another based on average lengths of stays seems fairly simple, she noted during a session at the Society for Human Resource Management's national conference last month.

For example, if Provider One's average length of stay is 8.8 days, compared with 7.5 days for Provider Two and 6.0 for Provider Three, it would seem obvious that the third provider is the most cost effective, Ms. Weigel said.

However, some providers contend average length of stay isn't a good measure for utilization review companies to use when comparing the cost effectiveness of various hospitals, because UR is intended to keep only marginally ill people out of the hospital, she said.

"People who go into the hospital these days are usually sicker and stay in the hospital longer," she explained. "At Intracorp, we are actually seeing average lengths of stay increasing."

This trend may be due to the fact that effective UR assures that only the sickest individuals are hospitalized, Ms. Weigel said.

Another yardstick employers can use to measure provider cost effectiveness is "bed days per 1,000," she noted.

Employers that are scrutinizing outpatient health care costs can measure outpatient visits per 1,000, she added.

Yet this figure may also prove misleading.

"You have to ask bed days per 1,000 *what*," Ms. Weigel stressed. Figures change drastically depending on whether the provider is quoting bed days per 1,000 employees, enrollees, persons, members, subscribers, family units or covered lives, she explained.

"Bed days per 1,000 employees is very different from bed days per 1,000 covered lives. Vendors use different measures and may mean different things even though they use the same terms," Ms. Weigel said.

Another piece of data employers should examine is the conversion rate health care providers and cost containment firms use to account for spouse and dependent utilization of health care services, she noted.

For example, a provider that says its bed days per 1,000 employees is 805 may multiply that number by 2.3 to extrapolate dependent utilization. Other providers may use 2.5 or 2.7 as a dependent conversion rate. Employers comparing providers should understand the differences in each company's calculations, she said.

Ms. Weigel also noted that average lengths of stay and bed days per 1,000 covered lives might not be relevant means to gauge providers in states with a diagnostic related group system, like New York and New Jersey.

Under DRGs, payments to hospitals are based on a specific allowance for each patient based on his or her diagnosis, an average length of stay, actual treatment costs and other factors. Unusually short or long stays are typically billed at regular hospital rates—which are generally higher than the DRG rate—but the bulk of admissions have a set DRG allowance. This prospective pricing for hospital care is intended to encourage more cost-effective use of hospital services. If the cost of care exceeds the specific allowance during the DRG period, the hospital is re-

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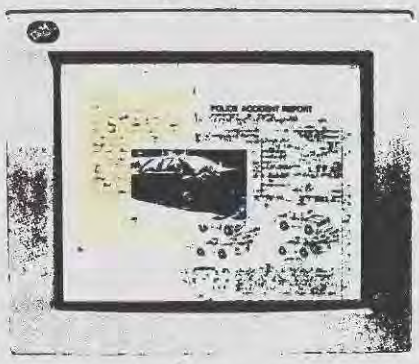

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Health care data

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sponsible for the remaining cost.

Employers need to look closely at savings data presented in DRG states, Ms. Weigel said. "They may be taking savings based on sheer number of days avoided for a particular admission, rather than really reflecting the specific points in the DRG where you can actually achieve savings." Eliminating DRG days will not achieve great savings for most admissions, she said.

Data is also helpful in assessing the savings projections of UR companies, she said.

"Vendors try to sell their services based on their data," Ms. Weigel said. Many of those vendors will present savings data comparing "requested days" to "actual days" spent in a hospital but, "we feel requested vs actual days or charges is too subjective," she said.

Employers that want to calculate the of number bed days avoided and the resulting savings from using a particular cost control vendor should compare their actual number of bed days per 1,000 covered lives to an industry norm, Ms. Weigel explained. And, multiplying the number of bed days avoided by the unit cost of health care should give employers an idea of what they are saving, she said.

Data is also helpful in assessing the savings projections of UR companies, Ms. Weigel says.

Most vendors define unit cost as "average daily hospital charges," Ms. Weigel noted.

When quoting savings to employers, these vendors will multiply the average daily charges by the number of avoided days to come up with dollar savings, she said. But, "I advocate using room and board charges rather than average daily charges" when measuring unit cost, she added.

"Room and board charges do not vary and typically cover registered nurse services," Ms. Weigel said. Average daily charges, however, vary significantly—with charges for a pre-operative day being much lower than those on the day a patient has surgery, she explained.

As a result, when a UR vendor saves a pre-operative or post-operative day, the savings it predicted based on average daily charges may be inflated, because the days it actually is saving are the least expensive, Ms. Weigel said.

Above all, employers interested in coralling health care costs should set their own expectations about the savings they can realistically achieve, Ms. Weigel said.

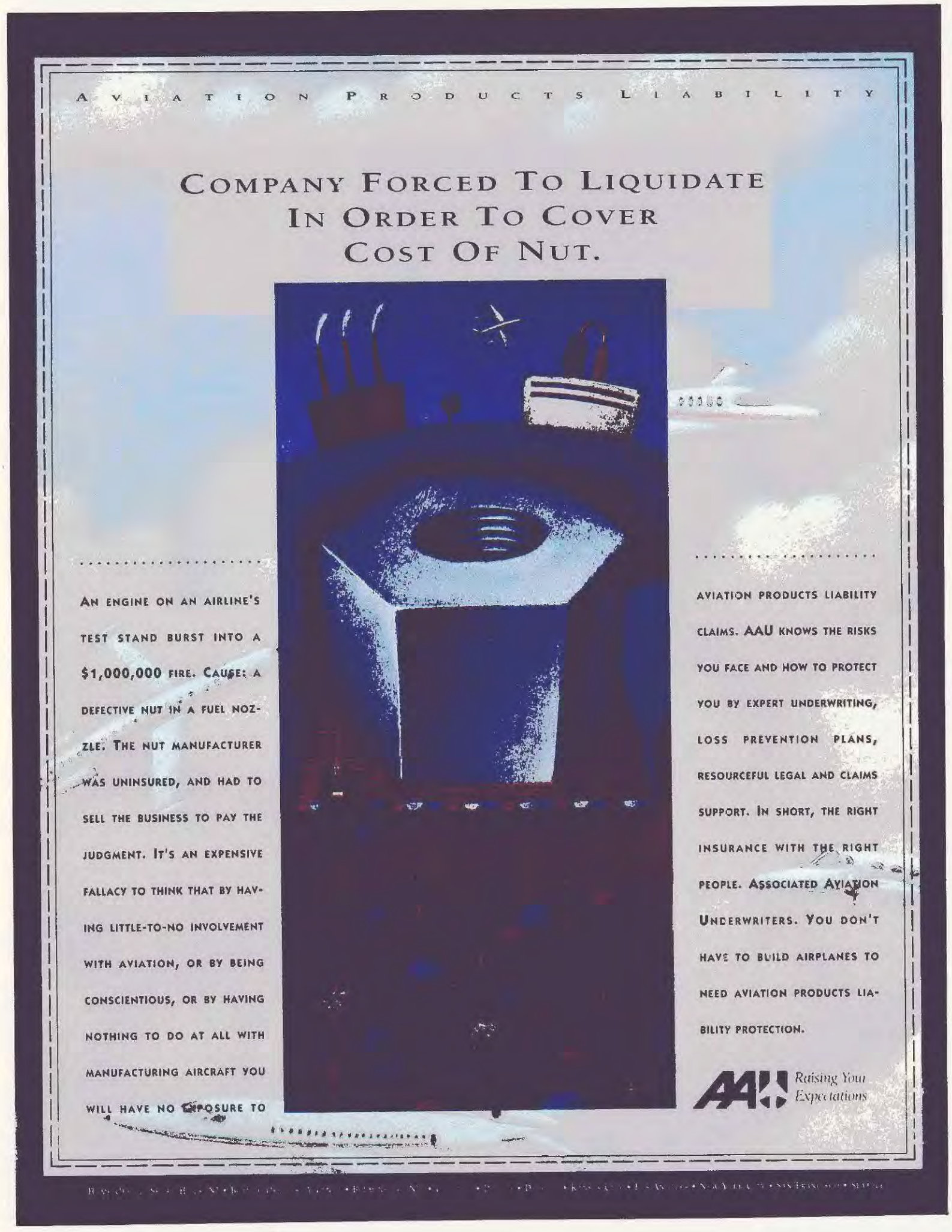
"Know your population and what reasonable goals are. Then work with your UR vendor to discuss where you can have the most impact," she advised.

Among the factors to watch when contemplating areas to crack down on are the ages of covered employees and their dependents, Ms. Weigel said.

"The National Center for Health Statistics says a workforce predominated by people 65 years of age or older will have three times more inpatient admissions than" a workforce with a younger average age, she said. In addition, older employees may signify a high ratio of teen-age dependents, which often triggers high adolescent substance abuse or mental health care utilization, she added.

Geographic distribution of employees also may influence inpatient hospital utilization rates, Ms. Weigel noted. For example, employees that live in rural areas may have to travel greater distances to reach hospitals. Those employees may want to stay an extra day in the hospital following an operation rather than make the long drive home, she said.

In addition, rural areas do not always have appropriate outpatient facilities. As a result, patients in those areas may have to be admitted to a hospital for procedures that can normally be done on an outpatient basis, she said. ■



SHRM draws 3,000 to meeting

CINCINNATI—More than 3,000 human resource and employee benefit professionals attended the Society for Human Resource Management's national conference here June 23-26.

The conference featured 20 pre-conference workshops and more than 100 concurrent educational sessions focusing on health care cost containment, changing workforce demographics, international benefits and legal issues, among other things.

Nearly 470 exhibitors offered information on their programs, products and services—including child care and elder care services, group dental and health insurance, health care cost containment services and computerized human resource information systems and training.

Formerly known as the American Society for Personnel Administration, the Alexandria, Va.-based society represents about 70,000 human resource professionals worldwide. The group has more than 46,000 individual members whose organizations collectively employ more than 53 million employees.

SHRM sponsors a variety of educational programs, seminars and conferences throughout the year. Regional conferences focusing on the Americans with Disabilities Act, recruiting strategies for a changing workforce, flexible benefit plans and controlling health care costs are planned for the remainder of 1991.

Next year's annual conference will be held June 28-July 1 in Las Vegas, Nev. For more information, contact the Society for Human Resource Management at 606 N. Washington St., Alexandria, Va. 22314; 800-255-2772.

Minet Re streamlines operations in U.S.

In an effort to streamline its operations, London-based Minet Reinsurance Brokers International Ltd. has established a new division under which its U.S. reinsurance brokerage operations will fall.

The formation of Minet Re (North America) Inc. brings together under a common ownership Minet's three U.S. reinsurance brokerage operations: Intere Intermediaries Inc. of New York, which specializes in treaty reinsurance; RFC Intermediaries Inc. of Atlanta, which specializes in facultative insurance; and Tailored Awards Inc., an Atlanta—based structured settlement consulting company.

Minet Reinsurance Brokers International is a unit of Minet Holdings P.L.C., the ninth-largest brokerage in the world (*BI*, July 1).

"A short time after Intere joined the Minet Re Group" in 1989 "we saw the opportunity to expand the services we provide—to our treaty clients at Intere and to our facultative clients at RFC," said Daniel R. Colello, president and chief executive officer of Intere. "By connecting these two companies under the new holding company, we can provide both facultative and treaty services to all our clients," he said.

"The formation of the holding company is the first step in what will be a long-term development plan for Minet Re (North America)," Mr. Colello added, although he would not elaborate on the plan.

Business Insurance ranked Intere and RFC together as the sixth-largest U.S. reinsurance broker based on 1989 gross revenues of $30 million (*BI* Nov. 12, 1990). Intere and RFC were ranked as one entity because their results are calculated together by Minet.

Mr. Colello has been appointed chief executive officer of the new holding company, but will continue as president and chief executive officer of Intere. David L. Cargile will continue as president and chief executive officer of RFC and Pavittar Safir remains president of Tailored Awards.

Markets

Dispute resolution

Two attorneys have formed a new law firm specializing in alternative dispute resolution.

Pendergraft & Jamison, based in Houston, will offer clients mediation and arbitration services to help settle workers compensation disputes, coverage disputes and personal injury cases, among other things.

The founders, Robert L. Pendergraft and Martha Hill Jamison, both graduated from the University of Texas School of Law in Austin. Mr. Pendergraft has been a mediator since 1986, most recently practicing with Bonham, Carrington & Fox in Houston. Ms. Jamison is a former assistant U.S. attorney and most recently practiced with Liddell, Sapp, Zivley, Hill & LaBoon in Houston.

For more information, contact Martha Hill Jamison, Pendergraft & Jamison P.C., 1600 Two Houston Center, 909 Fannin, Houston, Texas 77010-1007; 713-655-9011.

Communications firm

A new employee benefit communications consultant has been formed by two insurance marketers.

Benefit Explanations Inc., based in Nashville, Tenn., will offer customized group benefit communications programs for employers and marketing communications consulting and production services.

The new company will specialize in print and audio/visual projects. In addition, a network of independent practitioners with experience producing employee benefit materials will be available through the company.

Economic downturns usually result "in increased efforts by employers and and (insurers) to control benefit costs," said Michael Goforth, president of the new company. Because more employers may be introducing benefit changes like increased employee cost sharing, "there will be a greater demand for communications professionals who understand the nuances of the insurance industry," he said.

Mr. Goforth was employed for 18 years as a marketing communications management specialist with Blue Cross & Blue Shield of Tennessee and EQUICOR. Wayne Bryant, president of Benefit Solutions Inc., a Nashville-based employee benefits consulting and brokerage firm, will market the new company's services.

For more information, contact Michael Goforth, President, Benefit Explanations Inc., 5722 Hickory Plaza Drive, Nashville, Tenn. 37211; 615-340-3260.

Credit enhancement

International reinsurance broker Greig Fester Ltd. of London has formed a new U.S. subsidiary to expand its activities in the credit enhancement business.

Greig Fester Financial Guaranty Brokers Inc. will arrange insurance for the issuers of U.S. municipal bonds and asset-backed securities and reinsurance for U.S. monoline financial guarantee insurers. The brokerage firm, which is based in New York, will serve as an intermediary for British and European insurers looking to provide credit enhancement insurance to the U.S. market.

Credit enhancement insurance limits the consequences for investors if the issuer fails to make principal or interest payments on the bonds. The insurance increases the marketability of bonds by providing additional security and liquidity to investors.

Robert A. Meyer has been appointed president and chief executive officer of the new company. Before joining Greig Fester, he was president of Armonk, N.Y.-based Bond Investors Guaranty Insurance Co., a monoline financial

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ATLANTIC REGION – Saving money is not typically associated with the role of a nurse. But Cheryl Mulcahy, R.N., sees things a little differently.

As a nurse reviewer for Conservco's Utilization Review program, it's Cheryl's job to consider alternatives to costly hospital care when appropriate. Alternatives that also make life easier for the patient. Cheryl cites a recent call from a patient scheduled for back surgery.

"He was obviously a little apprehensive about what seemed a very long, involved procedure," said Cheryl. "When I spoke to the doctor's office, they told me the patient was to be admitted on a friday for a myelogram, spend the weekend in the hospital and have surgery monday morning, for a total of seven days in the hospital." That's when Cheryl started asking questions.

"The weekend admission didn't seem necessary," said Cheryl. "Why couldn't the myelogram be an outpatient procedure? And wouldn't the patient feel more comfortable spending the weekend at home? Barring complications, wasn't a 2–3 day hospital stay more appropriate? As it turned out, the patient went home in two days, for a savings of more than $3,200."

Each day, Conservco's 400 Utilization Review nurses throughout the country answer 7,000 phone calls like Cheryl's. Last year, they completed 250,000 reviews, saving millions in medical costs. Cheryl's story comes from our Atlantic region, but it could just as easily have come from anywhere in the country.

For the full story on Utilization Review and other Conservco cost-saving ideas, call 1-800-525-5590. Because the time to walk away from rising medical costs is now.

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Markets

Continued from previous page
guarantee insurer. For more information, contact Robert A. Meyer, President/Chief Executive Officer, Greig Fester Financial Guaranty Brokers Inc., 1 World Trade Center, Suite 7967, New York, N.Y. 10048-0510; 212-775-1672.

PPO buyout

Employers Insurance of Wausau A Mutual Co. will acquire 100% of the stock of Preferred Health Insurance Corp. of Milwaukee, a preferred provider network.

The Wausau, Wis.-based insurer will buy the other 50% of Preferred Health that had been held by Samaritan Health Plan of Milwaukee pending the Wisconsin insurance commissioner's approval. The two firms had been equal partners in Preferred Health since 1987.

Samaritan, a subsidiary of Aurora Health Care in Milwaukee, was responsible for provider relations and the precertification and utilization review aspects of the PPO, said James Yahnke, executive director of Preferred.

Wausau will now assume those responsibilities and will continue to offer marketing, customer service, claims processing and payment services, he said.

For more information, contact James Yahnke, Executive Director, Preferred Health Insurance Corp., 1101 N. Market St., Milwaukee, Wis. 53202; 414-347-0500.

Mergers/acquisitions

New York-based holding company **American Equity Corp.** acquired **Investors Special Risk Insurance Co.**, a surplus lines insurer in Phoenix. The company will operate under the name American Equity Insurance Co.

Harleysville Group Inc., an insurance holding company in Harleysville, Pa., acquired two property/casualty subsidiaries of Phoenix Mutual Life Insurance Co.: **Phoenix General Insurance Co.** in Hartford, Conn., and **New York Casualty Insurance Co.** in Watertown, N.Y.

Tampa, Fla.-based **Poe & Associates Inc.**, acquired **Farr Insurance Inc.** of Palm Beach, Fla.

Richmond, Va.-based broker **Hilb, Rogal & Hamilton Co.** recently announced several mergers and acquisitions.

Ross Lombard & Ballard Insurance Inc. of Fort Lauderdale, Fla., merged with Hilb unit **Richard Wilcox Insurance Agency Inc.**, also of Fort Lauderdale.

Voorhees, N.J.-based **Malloy-Bell Inc.** merged with Hilb, giving the broker another location and expanding its network of independent insurance agencies in the Philadelphia metropolitan area. The agency will operate as Malloy-Bell Inc.

Hilb's Memphis, Tenn., subsidiary, **C.P. Brown & Associates Inc.**, acquired **Thomas Wellford & Sons Inc.**, also of Memphis.

Hilb, Rogal & Hamilton of Victoria in Houston acquired **Southwest General Insurance Agency**, also of Houston.

Grand Rapids, Mich.-based **Syrett Zeerip-Weidenfeller Inc.** merged with **Hilb, Rogal & Hamilton Co. of Grand Rapids**.

Jarcik Insurance Agency Inc. of San Rafael, Calif., was acquired by **Hilb, Rogal & Hamilton Co.** Jarcik will retain its name and operate as a subsidiary of Hilb, with additional offices in Truckee, Calif., and Incline Village, Nev.

Hilb's Hartford, Conn., subsidiary, **Hilb, Rogal & Hamilton Co. of Hartford**, acquired **Morley Gann Agency** of Hartford.

Hilb's Richmond, Va., office, **Hilb, Rogal & Hamilton Co. of Richmond,** acquired G.W. Flournoy Insurance Agency Inc., also of Richmond.

Hilb's Corpus Christi, Texas, subsidiary, **W.L. Dinn & Co. Inc.**, acquired **Parsons & Associates Inc.**, also of Corpus Christi.

Hilb's Washington, D.C., unit, **Hilb, Rogal & Hamilton Co. of the District of Columbia**, acquired the insurance division of **Smithy Braedon Co.**, a real estate management firm in Fairfax, Va.

Hilb's Atlanta subsidiary, **Hilb, Rogal & Hamilton Co. of Atlanta Inc.**, acquired **TMS Insurance Agency Inc.** The Atlanta subsidiary also acquired **Davis & Loy Inc.**, also of Atlanta.

Gianes Insurance Agency and **Fraser Insurance Agency**, both of Park Ridge, Ill., merged with Des Plaines, Ill.-based broker **Meeker-Magner Co.**

Charlotte, N.C.-based risk and insurance management consultant **McNeary Insurance Consulting Services Inc.** acquired **Industrial Insurance Management Corp.**, a risk management consultant in Charlotte N.C. The firm will continue to operate as IIMC.

Luce, Smith & Scott Inc. and **Harry L. Davis Co.**, two Cleveland agencies, merged and will operate as Luce, Smith & Scott Inc.

Itasca, Ill.-based **Arthur J. Gallagher & Co.** bought the **Leonard Newman Agency** in New York.

New offices

The Insurance Services Office Inc. consolidated its New York operations into a single office at 7 World Trade Center, New York, N.Y. 10048; 212-898-6000.

Frank B. Hall Insurance Brokers Inc., a subsidiary of Briarcliff Manor, N.Y.-based Frank B. Hall & Co Inc., moved from Atlanta to Norcross, Ga. The new address is Southern Regional Office, 3500 Parkway Lane, Suite 440, Norcross Ga. 30092. 404-447-5005.

San Francisco-based **C.E. Heath Compensation & Liability Insurance Co.** moved to new offices at 4 Embarcadero Center, Suite 2050, San Francisco, Calif. 94111; 415-956-5834.

Industrial Indemnity Inc., a unit of Crum & Forster Corp., is consolidating its Sacramento and Stockton, Calif. offices. The new office will be located at 7405 Greenhaven Drive, Sacramento, Calif. 95822; 916-394-4000.

Dublin, Ohio-based **Frank Gates Service Co.**, a risk management and employee benefit consulting firm, opened a regional office in the Atlanta area. The address is 6740 Shannon Parkway, Atlanta-Union City, Ga. 30291; 404-306-2800.

Gay & Taylor Inc. an insurance adjusting and risk services company based in Winston-Salem, N.C., opened a branch office near San Francisco. The mailing address is P.O. Box 1457, Burlingame, Calif. 94011. The street address is 1350 Old Bayshore Highway, Suite 550, Burlingame, Calif. 94010; 415-344-9801.

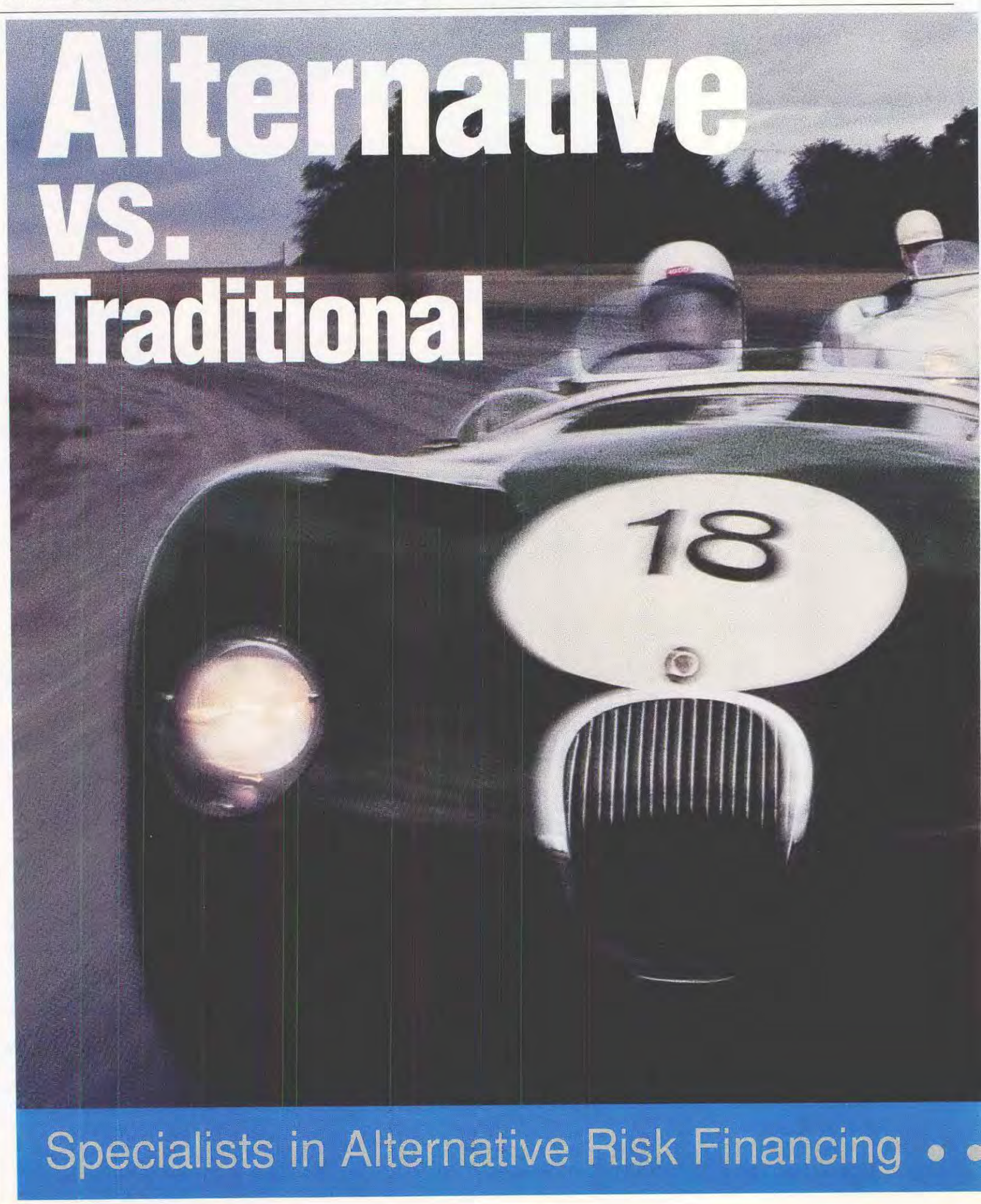
New York-based reinsurance broker **U.S. RE Corp.** moved its corporate headquarters to 99 Park Ave., 11th Floor, New York, N.Y. 10016; 212-808-5500.

Rollins Burdick Hunter of Florida Inc. opened a new office in Miami. The address is 5200 Blue Lagoon Drive, Suite 425, Miami, Fla. 33126; 305-266-8770.

Okemos, Mich.-based **Adjusting Services Unlimited.** opened a new office in Port Huron, Mich. The address is 1102 Sixth St., P.O. Box 611366, Port Huron, Mich., 48061-1366; 313-987-5590.

Zurich International U.S. opened a new office in the Los Angeles area. The address is 500 N. Brand, Suite 1150, Glendale, Calif. 91203; 818-241-4112.

Broker **Becher & Carlson Inc.** relocated its Woodland Hills headquarters to 21700 Oxnard St., Suite 1800, Woodland Hills, Calif. 91367; 818-715-0800. ■



Datebook

JULY

JULY 29-AUG. 2. Accredited Safety Auditor course in Washington, D.C., sponsored by the International Loss Control Institute; $1,050 for ILCI members; $1,250 for non-members. **Also Aug. 12-16** in Los Angeles; **Aug. 19-23** in St. John's, Newfoundland; and Salt Lake City; **Aug. 26-30** in Washington, D.C.; and Vancouver, British Columbia. International Loss Control Institute, P.O. Box 1898, Loganville, Ga. 30249; 404-466-2208.

JULY 30-31. State Filings—A Practical Workshop program in Harrisburg, Pa., sponsored by the National Assn. of Mutual Insurance Cos.; $299. **Also Aug. 7-8** in Albany, N.Y. Tonya J. Berkley, NAMIC, 3707 Woodview Trace, P.O. Box 68700, Indianapolis, Ind. 46268; 317-875-5250.

AUGUST

AUG. 5. Reviewing Possible Gaps in Umbrella/Excess/CGL Coverage seminar in Asheville, N.C., co-sponsored by The Society of Chartered Property & Casualty Underwriters and the Western Carolina chapter of the Society of CPCU; $125 for society members; $145 for non-members. Tricia Hogan, Continuing Education Coordinator, The Society of CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 215-251-2773.

AUG. 5-7. Retiree Health Care Benefits conference in Beverly Hills, Calif., sponsored by the International Foundation of Employee Benefit Plans; $600 for IFEBP members; $675 for non-members. IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

AUG. 5-7. Environmental Regulation Course in Charleston, S.C., sponsored by Executive Enterprises Inc.; $1,045. **Also Aug. 6-8** in Baltimore and Las Vegas, Nev.; **Aug. 13-15** in Baltimore; **Aug. 14-16** in San Francisco. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

AUG 5-8. Annual Statement Preparation-Property & Casualty seminar in Newport Beach, Calif., sponsored by Booke & Co.; $1,295. **Also Aug. 26-29** in Winston-Salem, N.C. Booke & Co., Insurance Company Services, 919-748-1120.

AUG. 5-9. Annual Statement Preparation—Life seminar in Newport Beach, Calif., sponsored by Booke & Co.; $1,495. Booke & Co., Insurance Company Services, 919-748-1120.

AUG. 6-7. Plant-Level Environmental Compliance Course in Orlando, Fla., sponsored by Executive Enterprises Inc.; $1,045. **Also Sept. 30-Oct. 1** in Houston, **Nov. 13-14** in Pittsburgh, **Dec. 10-11** in San Francisco. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

AUG. 7-9. Council for Accreditation in Occupational Hearing Conservation approved course in Kansas City, Mo., sponsored by Impact Hearing Conservation Inc., $325. **Also Oct. 16-18** in Kansas City; **Nov. 6-8** in Lancaster, Pa.; **Dec. 4-6** in Kansas City, Mo. Recertification classes available **Oct. 15** in Kansas City, Mo.; **Nov. 5** in Lancaster, Pa.; $150. Impact Hearing Conservation Inc., 406 W. 34th St., Suite 400, Kansas City, Mo. 64111; 800-346-2139.

AUG 8-9. Life and Accident & Health Concepts seminar in Newport Beach, Calif., sponsored by Booke & Co.; $895. Booke & Co., Insurance Company Services, 919-748-1120.

AUG. 8-9. 401(k) Plans: A Technical and Practical Analysis seminar in Chicago, sponsored by TPF&C Professional Development Institute; $750. **Also Oct. 3-4** Cleveland, **Nov. 7-8** in Philadelphia, **Dec. 5-6** in Dallas. TPF&C, 800-253-8732.

AUG. 8-15. American Bar Assn.'s Annual Meeting in Atlanta; $295 for associates; $200 for young lawyers and associates; $35 for law students; $500 for non-ABA members; $150 for judges. ABA/ITS, 104 Wilmot Road, P.O. Box 825, Deerfield, Ill. 60015-0825; 800-621-1083.

AUG. 12-14. Benefit Communication Institute in Toronto, sponsored by the International Foundation of Employee Benefit Plans; $600 for IFEBP members; $675 for non-members. IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

AUG. 12-16. Modern Safety Management course in Atlanta, sponsored by the International Loss Control Institute; $855 for members; $950 for non-members. **Also Aug. 19-23** in Washington, D.C. International Loss Control Institute, P.O. Box 1898, Loganville, Ga. 30249; 404-466-2208.

AUG. 12-16. Level 1-Infrared Thermography course in San Francisco, sponsored by American Risk Management Corp.; $1,295. **Also Sept. 23-27** in Atlanta. American Risk Management Corp., 1 Independence Place, Suite 500, 4807 Rockside Road, Cleveland, Ohio 44131; 216-447-1600.

AUG. 12-16. Fundamentals of Employee Benefits Management training course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; $1,050 for International Foundation members; $1,175 for non-members. **Also Sept. 23-27**. IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

AUG. 14-15. Commitment to Wellness conference in Canton, Ohio, sponsored by the Northeastern Ohio Wellness Committee; $220; discounts available for additional registrants from the same company. Commitment to Wellness, Stark County Health Care Coalition. The Whipple Centre, 2878 Whipple Ave. N.W., Canton, Ohio 44708; 216-478-8277.

AUG. 15-16. Wind Effects on Buildings and Structures course in Kansas City, Mo., co-sponsored by the Department of Civil Engineering at the University of Missouri-Columbia and by the Kansas City Section of American Society of Civil Engineers; $610. Linda Rodden, 314-882-3088.

AUG. 19-20. Third Annual Corporate Benefits Conference in Colorado Springs, Colo., sponsored by the International Foundation of Employee Benefit Plans; $460 for IFEBP members; $510 for non-members. IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

AUG. 19-21. Reinsurance—Property & Casualty workshop in Winston-Salem, N.C., sponsored by Booke & Co., $1,095. Booke & Co., Insurance Company Services, 919-748-1120.

AUG. 19-21. 1991 Institute for Construction Industry in Boston, sponsored by the International Foundation of Employee Benefit Plans; $600 for IFEBP members; $675 for non-members. IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

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The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the price, if any, of the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

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Commonwealth Risk Services, Inc.

Harleysville Mutual president resigns

Stephen R. Smith resigned as president and chief operating officer of Harleysville Mutual Insurance Co. and its holding company subsidiary, Harleysville Group Inc., both of Harleysville, Pa. Mr. Smith, a former vp with U.S. Insurance Group, had held those posts since 1986.

Taking over responsibility for property/casualty operations will be **Walter R. Bateman**, who is being promoted to executive vp from senior vp. No new president has been named.

Other insurer changes:

Paul E. Rutledge III named president and chief operating officer of Life Insurance Co. of Virginia, an Aon Corp. unit in Richmond. Mr. Rutledge had been executive vp and chief operating officer with United Investors Life Insurance Co.

Woodland Hills, Calif.-based Blue Cross of California announced these promotions: **Deborah Lachman** to senior vp of strategic planning; **David Helwig** to senior vp and chief actuary; **Diana Giaquinta** to vp of pharmacy and vision; **Rebecca Kapustay** to vp of health management; **Jackie Gonzalez** to vp of individual services; and **Jane Jervis** to vp of finance for consumer services.

Ms. Lachman

Mr. Helwig

Ms. Giaquinta

Ms. Kapustay

Ms. Gonzalez

Ms. Jervis

Bobby E. Hammond Jr. joined Houston General Insurance Co. as vp in the special business group. Mr. Hammond had previously been Dallas district manager for Hartford Insurance Group's specialty unit.

Farid E. Bahou was promoted to vp of reinsurance and special products in the major accounts division and **William Murphy** was named vp and manager of the Manchester, N.H., branch office for The Home Insurance Co. of New York. Mr. Murphy had previously been a vp for regional operations with the Transamerica Insurance Group.

Richard T. Zatorski has joined Princeton Insurance Co. of Princeton, N.J., as vp of actuarial services.

Continental Corp. of New York announced several changes: **Thomas J. Prendergast** appointed chairman and president of Marine Office of America Corp., a Continental Corp. unit, succeeding **Samuel T. Byron**, who is retiring early. Replacing Mr. Prendergast as president of Continental International is **Michael J. Marchesani**, who had been vp of financial operations for Continental Corp. Also at Marine Office of America Corp., **Walter T. Wells**, manager of the Pacific region in San Francisco, was appointed senior vp.

Comings & goings: industry

Robert Rich, who had been vp of workers compensation, named vp and manager of the agency group's New England region with Continental Insurance Co. He succeeds **Richard Erickson**, who retired.

John A. Fibiger—formerly vice chairman, president and chief operating officer at New England Mutual Life Insurance Co.—is named executive vp and chief financial officer for the life insurance subsidiaries of Transamerica Corp. in Woodland Hills, Calif.

Timothy Mooney, an underwriter at C.E. Heath Compensation & Liability Insurance Co. in San Francisco since 1987, has been promoted to senior vp for underwriting with the C.E. Heath P.L.C. unit.

Greg S. Adkins elected vp-commercial lines for Shelby Insurance Co. of Shelby, Ohio.

James C. Rowan Jr. promoted to vp in the investment department at Hartford Steam Boiler Inspection & Insurance Co. of Hartford, Conn.

Lloyd Lipsett appointed senior vp of field operations and distribution management at New Hampshire Insurance Co., an American International Group Inc. unit in Manchester, N.H.

Stephen L. Porcelli named vp of distribution management and of AINetwork, an agency services division, at New Hampshire Insurance Co.

W. Francis Brennan promoted to executive vp from senior vp of the related businesses group with UNUM Corp. of Portland, Maine.

Kemper Corp. of Long Grove, Ill., announced two promotions to senior vp: **Stephen G. McConahey** and **Robert T. Jackson**. Both retain their senior executive positions with the financial companies division and the financial services division of Kemper.

Willis M. Brickhouse appointed vp of underwriting at Universal Insurance Co. of Winston-Salem, N.C.

Robert C. Olsman named head of the commercial division, the largest operating unit of Reliance Insurance Co. of Philadelphia. Mr. Olsman, who previously had been senior vp for field operations, replaces **James J. McGarr**, who is retiring.

Also at Reliance, **Arthur V. Wright** promoted to regional vp for the Midwest. He is based in Chicago.

Provident Life & Accident Insurance Co. of Chattanooga, Tenn., announced these changes: **Larry Hand** and **Marianne Justin** promoted to vps in the group department regional claims operation; and **Dr. F. Warren Tingley** appointed group department vp and senior medical director for managed care.

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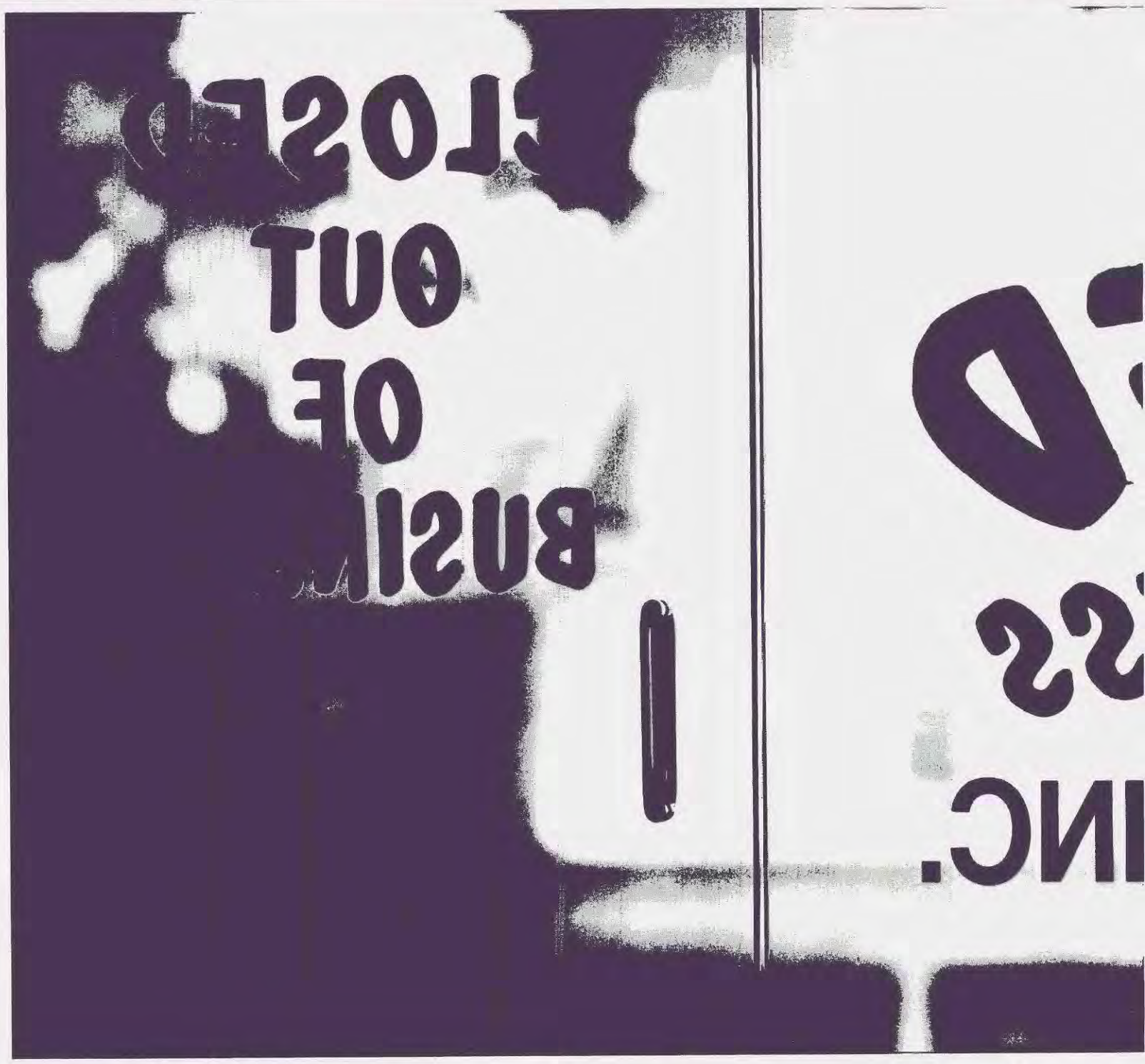

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Continued from previous page

Douglas B. Fay elected regional vp/manager of international brokerage services at Arkwright Mutual Insurance Co. of Waltham, Mass.

Mr. Meister

Mr. Diamond

Brokers

Robert A. Meister, formerly vice chairman of Sedgwick James Inc., named to that position at Frank B. Hall & Co. Inc. in New York. And **Alan R. Diamond**, president and chief executive officer for the Minnesota operations of Frank B. Hall, is additionally named executive vp and North Central regional manager for the parent company.

Richard Hertzberg named vp and manager of the energy/construction division of Alexander & Alexander of California Inc. in San Francisco.

Pettit-Morry Co., a regional brokerage based in Seattle, announced these changes: **Graham S. Anderson**, who had been president and chief executive officer, named chairman and CEO; **Frederick J. Long** promoted to president from executive vp and will remain chief operating officer; and **Robert J. Weller** named vp and Seattle branch manager.

Kirke M. Dorweiler recently named president of Kirke-Van Orsdel Inc., a brokerage in Des Moines, Iowa, replacing **William Van Orsdel**, who is now vice chairman of the board.

At joint venture Johnson & Higgins/Kirke Van Orsdel, where Mr. Dorweiler had been president, **Phillip K. Walsh** was promoted to president from senior vp of operations.

Colin Parker was named vp of operations in the San Francisco office of British broker C.E. Heath P.L.C.

Lincoln National Corp. and its sports brokerage unit K&K Insurance Group Inc., both based in Fort Wayne, Ind., announced these changes: **Bruce D. Barton**, formerly vp and director of life reinsurance with Lincoln National Life, named executive vp-operations for K&K and Lincoln National Specialty Insurance Co.; **Sal F. Nociforo** joined K&K Insurance Group Inc. as senior vp and New York regional manager; **Don DeWitt** promoted to vp in the motorsports division of K&K; and **Larry G. France** named vp-brokerage services at K&K.

Aon Corp.'s Rollins Burdick Hunter Co. unit announced these changes: **Greg Dean** promoted to senior vp from vp with RBH of Oregon Inc. in Portland; **James W. Coon** joined RBH of the Carolinas Inc. in Charlotte, N.C., as vp; **Arvid R. Tillmar** joined RBH of Southern California in Irvine as president and chief operating officer; and **Michael Mavris** joined RBH of New York as vp/account executive in the marine department.

Denis J. Loiseau promoted to senior vp from vp in San Francisco with Corroon & Black Corp., a unit of Willis Corroon P.L.C.

Robert L. Shifrin joined C.J. Thomas Co., a St. Louis brokerage, as partner. And, **Melvin L. Roll** joined C.J. Thomas Co. as a vp.

Marc Goodwin promoted to vp and branch manager of the Andreini & Co. office in Coalinga, Calif. Andreini & Co. is based in San Mateo, Calif.

John M. Goodloe named vp of Sedgwick James of Florida Inc. in Fort Lauderdale.

Excess/surplus

Robert E. Howe elected president and chief executive officer of William H. McGee & Co. Inc., an underwriting manager based in New York. He succeeds **Kenneth G.T. Drysdale**, who resigned to become chairman of Sun Alliance USA Inc., for which McGee is an underwriting manager. Also at William H. McGee, **John P. Iacono** named senior vp and general counsel; and **Michael J. Miller** named senior vp.

At McGee's Toronto unit, William H. McGee & Co. of Canada Ltd., **John P. Bass**, formerly president, was elected to the newly created post of chairman; **Peter T. Perkins**, formerly executive vp, was elected president and chief executive officer; and **Christopher M. Briggs** and **Debra J. Seminoff** appointed vps. Ms. Seminoff was also named treasurer.

Joseph M. Walsh appointed chairman of American Empire Surplus Lines Insurance Co., a Great American Insurance Cos. unit in Cincinnati. He has been president of the company since 1981.

Curt Biersch promoted to vp with the Southern California division of Sherwood Insurance Services, an excess and surplus lines broker and general agent in Los Angeles.

Laurence S. Hallett named vp and director of treaty casualty underwriting with Western Atlantic Management Corp. of New York.

Nancy M. Murphy appointed vp with General Star Management Co. in Los Angeles.

Simon P. Bancroft, a vp, named to the additional title of Dallas branch manager with Swett & Crawford, a St. Paul Cos. unit based in Los Angeles.

Alan D. Freudenheim named vp and claims manager of United Commercial Affiliated Inc. of Oak Brook, Ill. The company is a specialty line broker and underwriting manager for Oak Brook Property & Casualty Insurance Co. and an underwriting syndicate on the Illinois Insurance Exchange.

HMO/PPO

Richard A. Clissold promoted to vp for the central region with MIDA Dental Plans Inc., a dental managed care company in Southfield, Mich.

Dr. Glen Tomlinson appointed vp for medical review and medical director and **Dr. N. Stephen Ober** appointed vp and corporate medical director with Private Healthcare Systems Ltd. Dr. Ober will be based at the company's Lexington, Mass., headquarters, and Dr. Tomlinson, who had been medical director of ACCESS Health Inc., an HMO, will be based in Rosemont, Ill.

Roman T. Kulich and **Dr. John L. Lucas** named group vps and chief operating officers with Health Alliance Plan of Detroit. Mr. Kulich will be responsible for the HMO division and Dr. Lucas will oversee operations of the company's Metro Medical Group.

Other suppliers

Robert R. Flannery II joined Booke & Co., a compensation and benefits consulting firm in Winston-Salem, N.C., as vp and actuary. Also at Booke & Co., **Hal R. Busby** promoted to vp.

Keith S. Swenson, formerly head of the employee benefit consulting practice at Deloitte & Touche, joined The Wyatt Co. and will head the company's group flexible compensation practice in Chicago.

Meredith Ann Fradine joined The Mills Group, a brokerage and consulting firm, as a principal in the Washington, D.C., office. She had been in the employee benefits division of Aetna Life & Casualty Co. ■

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Disability management cuts comp costs

By MICHAEL BRADFORD

DALLAS—Medical management and vocational rehabilitation services can be combined in a case management program to help cut the cost and duration of workers compensation claims, an expert says.

Such "disability management" programs are a proven method of keeping workers comp costs down, said Peter Madeja, vp of General Rehabilitation Services Inc. in Berwyn, Pa. They often are used when workers are seriously injured or claims could be expected to be large, he said.

Medical management services in a disability management program tie together a working relationship between the patient, attorneys, employer, physicians and insurer or third-party administrator, Mr. Madeja said at a recent managed care and workers compensation seminar sponsored here by Infoline Inc., a New York-based conference organizer.

Medical management personnel also develop prognoses, follow the progress of treatment and make sure the patient is progressing toward recovery, he explained.

On the vocational rehabilitation side, counselors evaluate injured employees' skills and focus on helping workers return to work, whether with the same employer or not, he said.

Disability management is "the one element of managed care with the longest and perhaps most successful track record in workers compensation," said Mr. Madeja, whose company provides case management services. "Conservatively speaking, disability management services have been formally utilized for over 20 years."

These programs, he said, are designed to provide claims personnel —whether in-house or at an insurer or TPA—"with an effective tool for first identifying those most problematic cases and then managing your high-exposure and potential long-term claims."

Disability management allows a company to gain control of the claims process, he said, adding that claims administrators with a large number of lost-time claims have little time for handling each claim.

Unlike other features of case management—like utilization review, precertification and fee schedules for health care providers —disability management "has a total claim outlook," said Mr. Madeja. "The focus is not just medical in nature, (but on) the indemnity benefit as well.

"Whether it's a rehabilitation nurse or a vocational counselor from a disability management firm, they can never" isolate either medical or indemnity benefits, he said. "The focus always has to be on the medical and on the indemnity at the same time. You can never divorce one from the other in workers compensation."

Successful disability management requires knowledgeable field representatives, with the authority to make decisions about care "at claimants' bedsides and at their homes," Mr. Madeja stressed.

Those representatives, he added, must be able to explain decisions about care "to the injured worker, the employer, the physician, the attorney and to the host of individuals involved in a workers compensation claim."

Before starting a disability management program, employers should set goals, he advised.

"Are we looking for a 10% reduction in our workers compensation costs? Are we looking to simply hold even?" he asked. "You've got to make your disability management firm an involved participant in the process. They need to be aware of what your goals are as an employer in terms of achieving results."

He further recommends involving the insurer or TPA in the process because "there is a very important and key mesh between the disability management firm and the claims administrator. Make sure that they understand what each other's roles are."

Involving the insurer and TPA assures that they will not be "put out" when disability management services are introduced, he said.

Resistance from claims managers is a real possibility when disability management services are introduced, confirmed Rachel Ebert, corporate manager of occupational health services at Marriott Corp. in Washington, D.C.

When the hotel company began using nurse review specialists from General Rehabilitation last year, its regional claims managers "didn't believe in this at all," said Ms. Ebert.

But within three months, she said, the claims managers remarked: "I don't know what we did without them. They are absolutely marvelous."

The nurses act as an "educational resource" and as consultants on medical issues, cost containment, rehabilitation and utilization review.

Part of their responsibility is to help manage "red flag" cases, Ms. Ebert pointed out.

Red flags, explained Mr. Madeja, indicate which claims should be turned over to a disability management service provider. "You need to establish what the keys are for getting an evaluation by a disability management firm," he said.

For example, a claims manager who sees a certain diagnosis turn up repeatedly should refer those cases to the disability management firm, Mr. Madeja suggested.

Other warning signs could be connected to a "claimant profile" and could be triggered by the claimant's age, time on the job or nature of the work, he added. "I think if you profile most of your loss histories, you'll find that there are certain occupations or job titles that are more frequently falling into the most problematic workers compensation cases."

To keep claims from getting past the red flag indicators, Mr. Madeja said, employers should establish certain thresholds as a fail-safe system to identify potential problem claims.

One threshold should be monetary; all claims reaching a certain level should be referred to the disability management firm, he said.

The second threshold should be set for length of disability, Mr. Madeja said. "There may be certain occupations that may have a very low benefit level, depending upon the state, but the disability period seems to drag on and on. While the dollars may not be very heavy in the first 90 days to 180 days," the length of the payout can make it expensive.

Employers have to "look at the individual histories of your business and your own loss history within different divisions" to determine what the red flags and

Continued on next page

Group benefits services can't always be programmed.

Continued from previous page
thresholds should be, he said.

Regarding case management's role in workers compensation, Mr. Madeja said there "seems to be a war being waged over the present and future effectiveness of the concept of managed care."

While some insurers, risk and benefit managers and other insurance industry sources claim managed care is "one of the solutions to the workers compensation dilemma," others in the industry "cast severe doubt as to the benefits of managed care," Mr. Madeja said.

Doubters are concerned that managed care in the area of workers comp "may not be the cure" or that managed care is going to cause more problems than it solves, he noted.

Stephen F. Coady, president and chief executive officer of Health Economics Corp. in Dallas, was the conference chairman and moderator. ■

Insider trading

Aetna Life & Casualty Co.: John F. Donahue, director, sold and disposed of by gift 54,056 shares of common stock at an unreported price per share and at $41.35 per share from June 14 to June 28.

Mr. Donahue also sold 8,424 shares of Aetna common stock at $40.63 per share on June 26. He now directly and indirectly holds 496,406 shares.

Aetna stock was trading at $42.38 on July 12.

Alexander & Alexander Services Inc.: John A. Bogardus, director, exercised an option for 14,921 shares of common stock and sold 14,921 shares of common stock at between $21.38 and $21.75 per share on May 28 and now directly and indirectly holds 96,540 common shares.

Alexander & Alexander stock was trading at $22 per share on July 12.

Argonaut Group Inc.: Michael J. Crall, vp, sold 1,000 shares of common stock at between $94 and $95 per share from May 9 to May 15 and directly held 3,000 common shares prior to a stock split.

Argonaut stock was trading at $25.75 on July 12, following a 4-for-1 stock split.

Belvedere Corp.: Bradley D. Wiley, vp, purchased 10,000 shares of common stock at $3 per share on May 15 and now directly holds 20,000 common shares.

Belvedere stock was trading at $3 per share on July 12.

Berkshire Hathaway Inc.: Charles T. Munger, officer and director, sold 240 shares of common stock at $8,350 per share on June 13 and now directly holds 21,687 common shares.

Berkshire Hathaway stock was trading at $8,600 per share on July 12.

CIGNA Corp.: Frank S. Jones, director, sold 100 shares of common stock at $48.75 per share on May 9 and now directly holds 1,600 common shares.

CIGNA stock was trading at $44.88 per share on July 12.

Chubb Corp.: Henry G. Gulick, vp, exercised an option for 1,300 shares of common stock at $30.22 per share on May 22.

Mr. Gulick indirectly exercised an option for 573 common shares at an unreported price from Dec. 31 to March 31. Mr. Gulick now directly and indirectly holds 5,199 common shares of Chubb stock.

Donn H. Norton, vp, exercised an option for 7,992 shares of common stock and sold 7,992 common shares at between $24.50 and $66.63 per share from May 2 to May 3. He now directly and indirectly holds 176 common shares.

Richard D. Smith, president, exercised an option for 3,492 shares of common stock at $28.63 per share on May 31 and now directly and indirectly holds 25,861 common shares.

Chubb stock was trading at $71.88 per share on July 12.

General Re Corp.: Ronald G. Anderson, vp, exercised an option for 4,541 shares of common stock at between $57.44 and $55.81 per share on June 19 and now directly and indirectly holds 7,394 common shares.

General Re stock was trading at $94 per share on July 12.

Frank B. Hall & Co. Inc.: Reliance Financial Services Corp., beneficial owner, indirectly purchased 16,800 shares of common stock at between $3.63 and $3.75 per share from May 29 to May 31. In addition, Reliance indirectly purchased 137,300 shares of common stock at between $3.50 and $3.88 per share from June 7 to June 26 and now directly holds 27.9 million shares.

Hall stock was trading at $3.38 per share on July 12.

The Hartford Steam Boiler Inspection & Insurance Co.: Keith S. Hynes, vp, exercised an option for 6,000 shares of common stock at $32.56 per share on June 10 and now directly and indirectly holds 14,546 common shares.

Hartford Steam Boiler stock was trading at $56.50 per share on July 12.

Hilb, Rogal & Hamilton Co.: Dennis O. Lofton, vp, sold 9,880 shares of common stock at between $16.50 and $16.75 per share from May 9 to May 22 and now directly holds 89,422 common shares.

Hilb, Rogal & Hamilton stock was trading at $14.25 per share on July 12.

Kemper Corp.: John W. Burns, officer, sold 600 shares of common stock at $32.75 per share on Feb. 14 and now directly holds 72 common shares.

Kemper stock was trading at $33.88 per share on July 12.

Marsh & McLennan Cos. Inc.: John M. Regan, director, disposed of by gift 550 shares of common stock at an unreported price per share on June 1 and now directly holds 122,102 common shares.

Adele S. Simmons, director, disposed of by gift 200 shares of common stock at an unreported price per share on June 21 and now directly holds 93,049 common shares.

Robert Clements, director, exercised an option for 10,000 shares of common stock and sold 6,000 common shares at between $33.19 and $78.13 per share from May 13 to May 22.

Mr. Clments now directly and indirectly holds 16,288 common shares.

Alexander J. Smith, president, exercised an option for 1,625 shares of common stock at $61.50 per share on May 8 and now directly and indirectly holds 102,600 common shares.

Gregory F. Vangundy, officer, exercised an option for 1,158 shares of common stock at $57.38 per share on June 24 and now directly and indirectly holds 30,826 common shares.

Marsh & McLennan stock was trading at $79.38 per share on July 12.

•

Insider Trading, compiled by Invest/Net Trading Group Inc. of Fort Lauderdale, Fla., from reports filed with the Securities and Exchange Commission, tracks stock sales and purchases by insurance industry directors and officers. The column is distributed by Tribune Media Services Inc.

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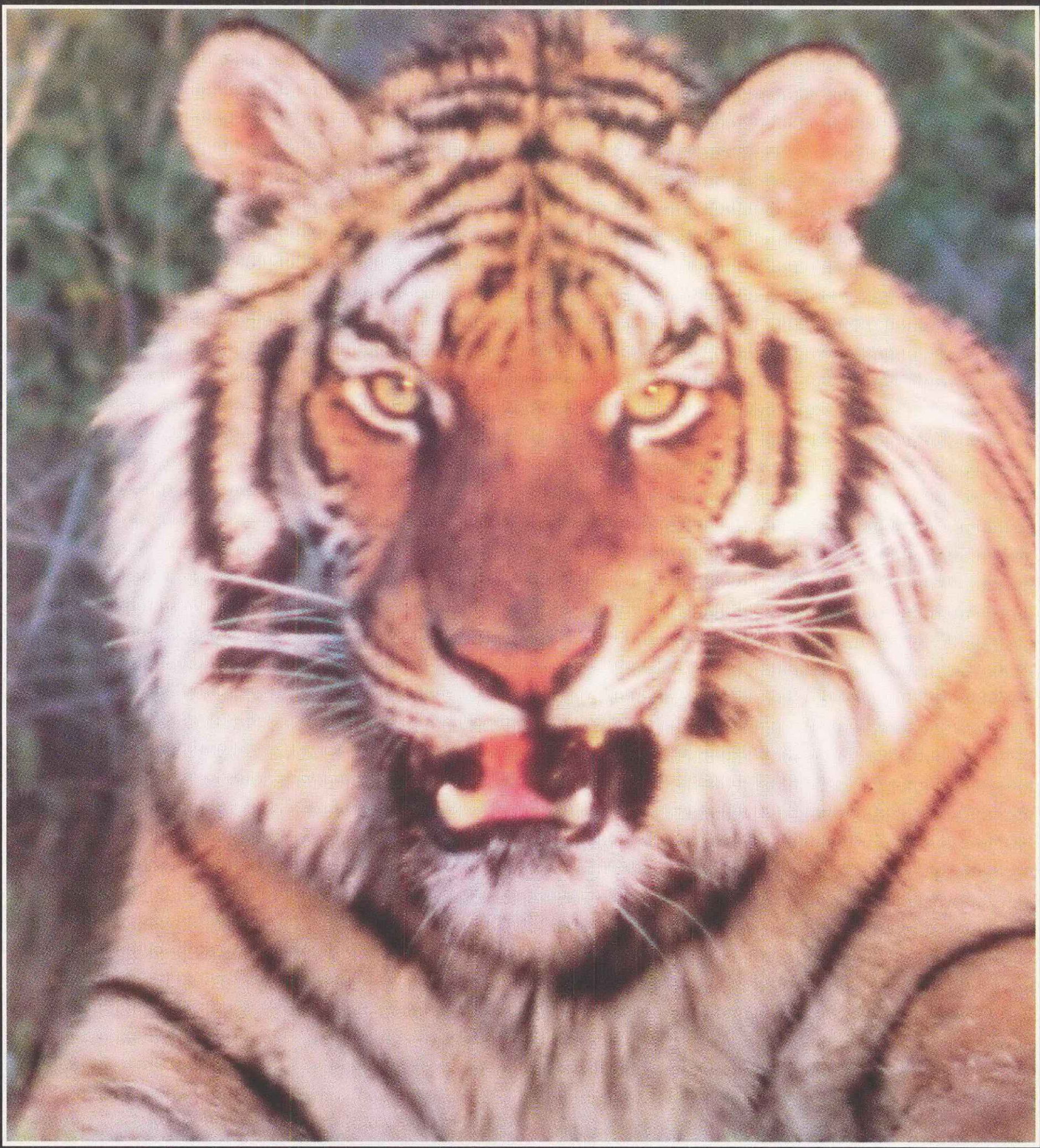

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Reinsurance Underwriting Managers

The Lockwood Companies

Rising workers comp costs

'We,' the industry professionals—not 'they'—are the problem

By John C. Myre

HARDLY A DAY GOES BY that I don't receive some piece of literature discussing the high costs of workers compensation programs.

Invariably, the primary problems are attributed to the "they" people—the lawyers who advertise and encourage people to file large claims; the medical profession for its high costs; the malingerers who are trying for easy money; and those in the workers compensation system for allowing new types of claims. The list goes on and on.

I strongly agree that these problems should be addressed. The workers compensation system should be run in a manner that is fair to everyone—the employee, the employer and all the people and organizations providing services after an employee is injured. People should not be allowed to enrich themselves unfairly.

However, the critics are misdirecting the blame for the high cost of workers compensation. "They" are not the problem. We—and our lack of attention to loss prevention—are the problem.

My goal is to get us—the members of the risk management and insurance community—to focus on our efforts and failures. The way to solve this workers compensation problem is to reduce the number and severity of accidents. Reducing the handling costs of an accident after it occurs will save pennies on the dollar. But preventing the accident itself will save the whole dollar.

It's human nature to blame the other guy. It is very difficult to look at ourselves and admit that in spite of all our efforts in the area of loss prevention we still are not getting the job done.

This failure is evident from statistics from the Occupational Health and Safety Administration published in the 1990 edition of "Accident Facts," prepared by the National Safety Council (see accompanying chart).

Accident and injury rates by industry

Per 100 full-time workers

Industry	Annual occupational injury and illness rates	Annual lost work days
Private sector	8.6	76.1
Construction	14.6	142.2
Manufacturing	13.1	107.4
Agriculture, forestry and fishing	10.9	101.8
Transportation and public utilities	8.9	118.6
Mining	8.8	152.1
Wholesale & retail trade	7.8	60.9
Services	5.4	47.7
Finance, insurance and real estate	2.0	17.6

Source: National Safety Council

GRAPHIC BY JOHN SMITHER

Now let's take a look at what these numbers mean.

A worker in the construction industry, which has an injury or illness occurrence rate of 14.6 per 100 full-time workers, can expect an injury or illness ranging from minor to fatal every seven years. Comparable probabilities exist for other industries. If we exclude the office workers and managers in those industries, since they undoubtedly have lower accident rates, the probability of injury to the craftsperson actually doing the work is even higher.

We should be appalled by these rates and by the general acceptance of the rates as if there were nothing to be done. How many of us in the risk management or insurance industry would be willing to perform jobs with accident rates as high as these?

Decades ago, the expertise and technology in many industries could not prevent fatal and serious accidents. However, those days are history. It is within the power of many industries to substantially reduce the number of injuries. My company uses a safety slogan that should apply to any private sector company: "No job is so important and no service is so urgent that we cannot take time to perform our work safely."

Some people might feel that such a policy, while reasonable in the abstract, is too costly in practice. That is a short-sighted view.

First of all, for most companies, the additional costs for loss prevention will be more than offset by the savings realized. Accidents cost far more than the actual workers compensation amounts. Wages paid as part of benefit plans, fringe benefits, lost productivity and additional supervisory and training time are just a few of the additional costs incurred.

Furthermore, as a society, we are spending billions of dollars annually for clean water and air in order to

Continued on next page

School shutdown fallout

Income loss greater for closed school than nearby shop

By The Insurance Institute of America

The following question and answer are drawn from the curriculum for the Associate in Risk Management designation awarded by the Insurance Institute of America. They represent the type of question asked—and the possible answers—in one of the three examinations for the A.R.M. designation.

This month's material, drawn from a recent national examination in ARM 54-Essentials of Risk Control, illustrates how a single event that need not involve any property damage may cause quite different net income (or business interruption) losses to two organizations whose futures are economically related.

Q: One of the four sandwich shops that Sam operates in a Southern city is adjacent to, and draws much of its business from, the campus of a private military school for boys. The school, which is the second-largest private employer in the city, operates on a two-semester academic year that begins in September and ends in June.

National news reports in August indicate that the school's plumbing system is contaminated with dangerous levels of lead from old pipes. These reports force the school to cancel its fall semester as a majority of its students seek to enroll in schools in other cities. By December, the news reports prove unfounded and the school's plumbing is found to be safe.

These events are likely to cause net income losses to Sam, the school and the city.

- Describe a proper procedure for determining the school's income loss from this event.
- Give two reasons why the school's net income loss is likely to be relatively more severe than is Sam's net income loss.
- Why is the city likely to suffer a net income loss from these events?

Assume the false news reports about the school's plumbing were traced to rumors begun by a former faculty member, whom the school had discharged. Describe the legal rights, if any, the school is likely to have against each of the following:

- The faculty member.
- The national television network that first issued the false news reports as an "exclusive."

A: • Because Sam's business is substantially, but not entirely, dependent upon the school, and because the city serves them both as well as the entire community, Sam, the school and the city suffer somewhat different net losses from these events.

The proper procedure for determining the school's net income loss is to:

✔ Estimate the effects that these events will have on the school's enrollment for each affected future semester.

✔ Compute the school's resulting loss of tuition for each of these students.

✔ Compute the resulting net increase or decrease in the school's operating expenses, including promotional costs, for each of these semesters.

✔ Find the net total of these tuition decreases and changes in the operating expenses for each affected semester.

✔ Make an appropriate adjustment for any resulting harm to the school's reputation, which is likely to reduce its long-term revenues by reducing either enrollments in the school or the tuition it can charge each student.

There are several reasons why Sam's net income loss may be less (relative to pre-event net income) than the school's net income loss. First, the school's entire tuition income is derived from its one facility, while Sam has four sandwich shops, most of which will not be affected by these events.

Second, because of the school's academic-year scheduling, it is likely to lose all of at least one semester's income as well as portions of future semesters' income, while Sam's revenue from even this one shop is likely to resume quite promptly after he reopens. Even at this particular shop, Sam probably has a substantial number of non-school customers.

One reason this city is likely to suffer a net income loss from this event is that the slowing of activity at the school and at Sam's shop probably will reduce the activity-based tax revenues the city collects from them. Any sales or excise taxes they will pay will decline, as will any tax the city levies on

Continued on next page

Loss prevention

Continued from previous page
prevent illnesses that can be measured in single digits per million people. Doesn't it make sense that we as a society spend additional sums to prevent on-the-job accidents which, according to the National Safety Council, caused 10,400 deaths and 1.7 million disabling injuries in 1989? That's 28 deaths and 4,658 serious injuries each day of the year!

It is difficult to think of a private sector job—except for emergency workers—that warrants these high accident rates. If we as consumers need to pay more for products or services to reduce these deaths and injuries, then let's pay more.

We talk a good game of safety, but many of us just aren't playing it up to our capabilities. One of the reasons most organizations don't pay more attention to safety is that their current company and industry practices have been developed over long periods of time. Therefore, they accept their results and feel that accidents are normally the fault of the employee; the company could have done nothing more. This line of reasoning results in blaming the employee for his or her misfortune, thus largely absolving management.

Also, most accidents only affect one or a few individuals. Rarely is there a large-scale tragedy that causes public pressure to take strong action.

None of us can concentrate 100% of the time on our job responsibilities. We occasionally are careless and make mistakes. The difference is that office workers' mistakes don't put them in danger of physical injury. Their mistakes can be corrected with an eraser or by asking someone to retype a letter.

Many other workers don't have that luxury. When they make a mistake, they frequently endanger themselves physically. While they accept that risk when taking the job, managers have a moral obligation to protect workers to the maximum degree feasible. Everyone has the right to a safe workplace.

We are faced with two conflicting but accurate statements. On the one hand, virtually all accidents are preventable. On the other hand, since humans are imperfect, we are always bound to have accidents. Faced with this dichotomy, where do we go from here?

First, and most importantly, we need to recognize that there is a significant problem. We should no longer tolerate the high accident rates that have prevailed for far too long in this country.

Next, we need to convince business leaders that decreasing the number of accidents not only makes moral sense, but it also makes business sense. The companies with excellent safety records discuss safety at their top management meetings with the same zeal as sales and profits. They recognize the connection between their bottom lines and treating people as valuable assets.

Finally, industries and government need to get together to establish target accident and illness rates for their individual industries, based on the results of the companies with the best results in the industry. Companies of a certain size with accident rates consistently and significantly above the target rate should be fined, just as is being done with environmental polluters. We shouldn't wait for a fatality before fining a company to get its attention.

Obviously, some jobs are inherently less safe than others. Although much as been done to prevent accidents on these jobs, much more can be done. For example, automobile accidents are a leading cause of death and injury, and many firms have developed excellent defensive driving programs that have significantly reduced their accident rates. Safety programs developed by leading firms for other types of accidents can be emulated. The list of ways to improve safety is endless.

Many will disagree with these thoughts. Because of consistent accident rates, they sincerely believe they are doing all that is reasonable to prevent accidents. I encourage them to look at this issue from the perspective of the craftsperson, the one doing the dirty work that enables the rest of us to enjoy a safe, high standard of living. Taking steps to ensure the craftsperson a safe work environment is beneficial not only to that person, but is also good business. To the extent that this goal is not achieved, the members of the risk management and insurance community are not fully meeting their responsibilities. ■

John C. Myre is director-risk management at Southwestern Bell Corp. in St. Louis.

School shutdown

Continued from previous page
student-occupied apartments. Also, with less traffic, the city police are likely to assess fewer traffic fines for the city. Second, these events may require the city to incur some extraordinary expenses to, for example, maintain order and protect property at the nearly vacant campus and to respond to citizens' concerns that the alleged contamination may spread beyond the school onto their property.

The school arguably has been the victim of several torts. The school has the right to sue each perpetrator of these likely torts and to collect any judgments growing out of a court verdict or out-of-court negotiations with the defendants.

Thus, the school may sue the faculty member for the tort of defamation, knowingly making false statements with the intent of harming the school. It also may bring suit against the faculty member for wrongful interference with its economic right to market educational services to its students.

The television network does not appear to have intended to harm the school but, instead, to have been negligent in not taking reasonable care to authenticate the original reports of contamination. Therefore, the school has the right to sue the network and the responsible reporter for carelessly injuring the school's future economic health. ■

The sample questions and answers used in this column are taken from the Associate in Risk Management designation curriculum of the IIA. For more information on the content of the A.R.M. program, write Dr. G.L. Head, Vp, Insurance Institute of America, P.O. Box 314, Malvern, Pa. 19355.

Book details a U.S. legal system run rampant

"The Litigation Explosion: What Happened when America Unleashed the Lawsuit"
By Walter K. Olson
Published by Truman Talley Books, 375 Hudson St., New York, N.Y. 10014
$24.95

By Kevin M. Quinley

Books & ideas

MANAGING RISKS is like strolling along a Kuwaiti beach. You never know when you'll step on a mine. Risk managers are painfully aware that litigation now runs rampant in America, clogging courts and costing millions of dollars a year. In fact, risk managers can relate to Voltaire, who said: "I was ruined twice in my life: once, when I lost a lawsuit, and another time, when I won one."

In just two decades, centuries of judicial practice and tradition that had sharply limited lawsuits have been effectively overturned. This has left a clear field for ambitious lawyers and aggressive litigants.

In his first book, "The Litigation Explosion," Walter Olson, senior fellow at the Manhattan Institute, examines the causes and consequences of America's unprecedented openness to lawsuits of almost all description. For a big-picture look at today's liability system, this book is a good read for all risk and insurance professionals.

Mr. Olson shows that the traditional judicial stance toward lawsuits has been to treat them as necessary evils: a last resort only rarely justifying the time, expense and anguish that claims entail. However, there has been a profound shift in favor of vastly increased litigation. This has been spurred primarily by the actions of federal judges since 1970, he argues.

Innovations like contingency fees and class-action suits quickly arose among activist lawyers and law firms, giving them strong motivation to seek out and initiate litigation to shape the course and nature of cases.

From medical malpractice to libel actions, from job discrimination to product liability, the new breed of "Rambo lawyers" has vastly increased both the quantity and quality of litigation flooding the courts. Further changes in rules and procedures have emerged, Mr. Olson notes, allowing lawyers and their firms to initiate litigation on almost any pretext, permitting the search for evidence after a suit is filed (with the option of bringing in any new issues their search may uncover), and dragging out suits almost indefinitely by delaying motions to wear down opponents.

These developments, he argues, have produced a byzantine judicial system in which lawsuits are misused for intimidation and harassment, regardless of their actual merit.

Mr. Olson is preaching to the choir here. Most risk managers are already sold on the idea that the litigation explosion is out of control and that the legal system needs reform. For a good overview of the system, however, risk managers will enjoy this book and find its approach compatible with their first-hand distrust of the legal lottery.

Mr. Olson's book is merely the latest variation on an already familiar theme. One wonders what he can bring to the issue that has not already been noted. It seems inevitable that "The Litigation Explosion" is destined to be compared with "Liability: The Legal Revolution and its Consequences," which was written by Manhattan Institute colleague Peter Huber.

Mr. Olson concludes his vivid exploration with some concrete suggestions for reform. Since he is not an attorney, many attorneys will probably dismiss Mr. Olson's critique as another indulgence in lawyer-bashing; that would be unwise.

Like most authors on this subject, Mr. Olson is much more effective on offense than on defense. Attacking the current tort system is easier than offering a viable alternative. His main suggestion is a move to a "loser pays" system on legal fees, similar to what Europe and the rest of the world has. Further, he supports strengthening sanctions for filing frivolous lawsuits.

"The Litigation Explosion" is an effective reminder of the perils of doing business and an examination of the system that makes risk management so vital to corporate survival. It is articulate—at times brilliant—in its insight and often quite funny. Critics will argue that it is short on facts and figures, even perhaps questioning—as trial lawyers do—whether a litigation explosion really exists. But do readers need much number crunching to sense that something is awry in the legal system?

While his forceful stance for reform creates a risk that the book will be dismissed as polemical, it also makes his work accessible—and music to risk managers' ears. ■

Kevin M. Quinley is vp of risk services for MEDMARC Insurance Co. Risk Retention Group Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. Mr. Quinley holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

Widespread calm, isolated chaos

Reinsurance woes limited to cat covers, retrocessions

By DOUGLAS McLEOD

1991 MIDYEAR RENEWALS

Like the Jan. 1 reinsurance renewals, midyear renewals have been an odd mix of the chaotic and the routine, brokers and reinsurers report.

The chaos has come with renewals of property catastrophe reinsurance and retrocessional programs, where market capacity is evaporating and rates are rising fast.

The routine includes nearly everything else, according to reinsurance industry executives, who say markets for property and casualty treaty reinsurance remain stable to competitive.

"Aside from catastrophe covers, which predominantly would be led in London, our renewals have gone very well," reported William Coleman, chief operating officer of Thomas A. Greene & Co. Inc., an Alexander & Alexander Services Inc. unit in Stamford, Conn.

"Part of the market is generating proper premiums, and another part is very competitive," said James E. Dwane, president of Prudential Reinsurance Co. in Newark, N.J., referring to the catastrophe and property treaty reinsurance markets, respectively.

The toughest part of the market continues to be for retrocessional coverages reinsurers buy to cover their catastrophe exposures, brokers and reinsurers agree.

"The market between Jan. 1 and July 1 on retro covers has just disintegrated," observed Robert O'Leary, president and chief operating officer of Willcox Inc. in New York.

Part of the problem has been an insistence on "reciprocity" among retrocessionaires, with a retrocessionaire supporting a ceding reinsurer only to the extent that the ceding reinsurer in turn offers retrocessional support, Mr. O'Leary said.

For example, if a retrocessionaire previously has taken a $75,000 share of a ceding reinsurer's catastrophe program but the ceding reinsurer is willing to take only a $25,000 share of the retrocessionaire's own retrocessional program, the first company might cut its participation on the ceding reinsurer's program to $25,000, he explained.

If the ceding reinsurer is unwilling to take any of the retrocessionaire's program, the retrocessionaire might drop the cedant altogether, Mr. O'Leary noted.

"It's pretty much chaotic," said Philip W. Mitchell, managing director of the Philadelphia-based TPF&C Reinsurance division of Towers, Perrin, Forster & Crosby Inc., referring to the retrocessional market. "The capacity has shrunken dramatically."

Mr. Mitchell estimated that worldwide retrocessional capacity has declined between 40% and 50% since Jan. 1, with rates for the remaining capacity rising anywhere from 25% to 100%, depending on the program being marketed.

Philadelphia-based PMA Reinsurance Corp. experienced the tight retrocessional market first-hand in renewing one of its own July 1 programs: Attempting to renew $20 million of catastrophe retrocessional limits, PMA Re was able to place only slightly more than $12 million, leaving a roughly $7.5 million shortfall, mainly in the upper layer of the three-layer program, according to Stephen G. Tirney, senior vp.

Reinsurers facing such shortfalls can either retain the additional exposure or obtain some form of financial reinsurance.

Reinsurers say

This might take the form of a "funded cover," in which the ceding company pays a premium and is guaranteed certain future payments plus a profit commission if losses are smaller than expected.

Some reinsurers also are pursuing "spread-loss" covers, in which losses are spread and premiums adjusted over a multi-year period.

The reinsurance division of Berkshire Hathaway Inc. also has marketed a "super-cat" program to retrocessionaires, in which coverage is triggered when a retrocessionaire's losses exceed a certain level and the overall market loss from a catastrophe exceeds an agreed-upon amount.

Berkshire Hathaway wrote about $100 million of super-cat limits for a few large retrocessionaires at July 1, about the same amount as for Jan. 1, according to Ajit Jain, reinsurance division president.

Interest in the product has softened over the last six months, though, as funding arrangements have grown in popularity, Mr. Jain said.

The direct catastrophe reinsurance market, meanwhile, is not much easier for ceding insurance company buyers.

"It very definitely contracted more at July 1 than it did at Jan. 1," TPF&C's Mr. Mitchell said of the catastrophe reinsurance market.

He estimated that catastrophe reinsurance capacity from London and other European markets dropped 10% to 25% from Jan. 1 to July 1, with slightly less contraction among U.S. reinsurance markets.

Rates for the available coverage rose 10% to 25%, depending on the ceding insurer's experience and changes in exposure, Mr. Mitchell said.

"Even giving reinsurers the quoted price, we still had an ex-

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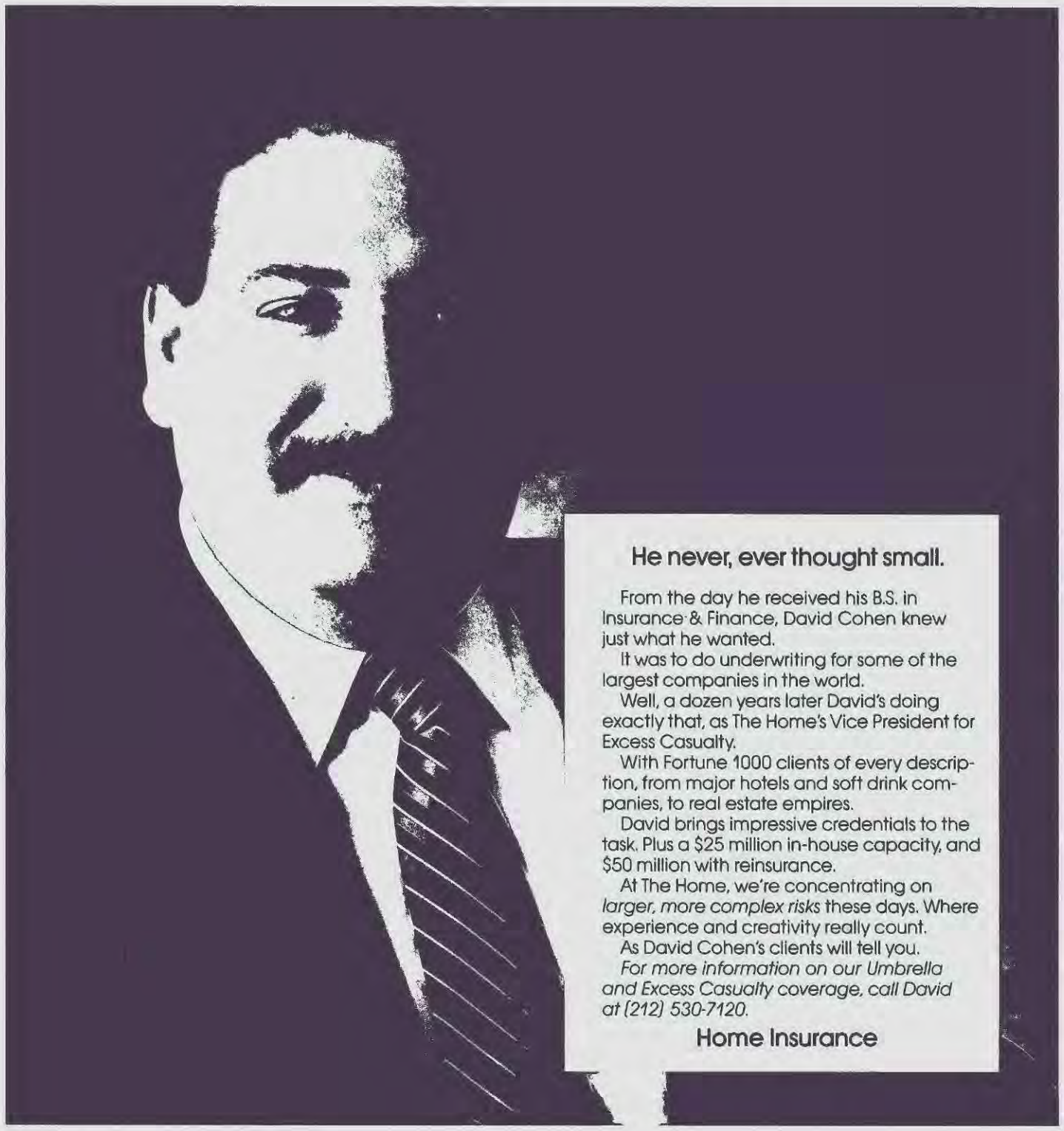
THE HOME TODAY



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Home Insurance

OLD PROS ON A NEW TEAM

Broker renewals

Continued from previous page

losses over the last several years has not made a dent in capacity, pointed out Kevin Smith, marketing manager at Palmer & Cay/Carswell Inc. in Savannah, Ga.

For example, immediately after Hurricane Hugo struck South Carolina in 1989, one large insurer tried to raise rates in that state, "but it didn't stick," Mr. Smith said.

In Canada, the property/casualty market is being driven by threats to the country's auto market, observed Michael Bass, senior casualty marketer for Morris & Mackenzie. Many insurers are trying to pump up their commercial property/casualty insurance volume to offset the Ontario provincial government's threat to take over the auto insurance marketplace, he said.

Since auto insurance is the largest single class of premium for property/casualty insurers, substantial premium volume will be lost if the law passes, said Alan Mote, senior property marketer at Morris & Mackenzie.

However, most brokers in Canada and the United States are reluctant to single out insurers that are cutting prices the most, in part because so many insurers still are slashing rates.

A year ago, several insurers were front-runners on price cutting, Mr. Bass said. But today, it's universal, he said.

"It's everywhere, not just a particular insurer," said Mr. England of Hastings-Tapley. "There's no pattern."

However, some overseas underwriters have been "irresponsible" in cutting rates, brokers noted.

Mr. Ruoff of Sedgwick James said that while most insurers are trying to stabilize rates, they are frustrated because there is always another insurer willing to write the business at a lower price.

After Hurricane Hugo struck South Carolina in 1989, one large insurer tried to raise rates in that state, says Kevin Smith, marketing manager at Palmer & Cay/Carswell Inc. But that rate increase 'didn't stick,' Mr. Smith says.

Mr. Ruoff noted that insurers are more interested in maintaining market share in areas in which they specialize but are "not interested in maintaining market share at any price" in their 'general mix of business."

The one line of property/casualty insurance that brokers agree is hardening the most is workers comp. However, since workers comp coverage is highly regulated by the states and must meet statutory requirements, the hardening of the workers comp market may not be an indicator of a market-wide turn.

The workers comp market already is in "disarray" in many areas of the country. Particularly difficult states include Texas, Louisiana, Florida and Maine, Mr. Gallagher noted.

"Obviously, workers compensation is the great issue," said John Lamberson, president and chief operating officer of Willis Corroon Corp. in New York. "That is one line that is very difficult."

The market is especially volatile in Texas.

John Van Osdall, chairman of Anco Insurance, a brokerage in Houston, said Texas workers comp insurance was "the singular exception" to July renewals being "largely a repeat of July 1990, with swings in prices of plus or minus 15%."

Mr. Van Osdall noted that many insurers in the state "do not like the thought of being the last person out who has to turn off the lights" and either have stopped or are rethinking writing workers comp insurance in Texas (*BI*, May 13.)

"Since self-insurance of workers compensation insurance is not yet permitted in Texas, every account is workers comp-driven in the renewal process," Mr. Van Osdall said.

In Texas and Maine, "insurers are just pulling out of the (workers comp) marketplace altogether," Mr. Severance agreed.

Many policyholders that can afford to do so are considering self-insuring their workers comp risks, said Tom Cannon, chairman of Jardine Insurance Brokers New York Inc., a unit of San Francisco-based Jardine Insurance Brokers Inc.

Alternatives, like forming captives or purchasing workers comp insurance with deductibles, also are being considered by clients, noted Robert A. Kerekes, senior vp and casualty brokerage division manager at Johnson & Higgins in New York.

Brokers note that aviation insurance rates also are firming. Some brokers are seeing small rate increases while others are seeing rates double for some airline accounts.

Aviation rates are firming "simply because these rates were very, very competitive," said Willis Corroon's Mr. Lamberson.

"The availability is there, but there is a price attached to it," said Sedgwick James' Mr. Ruoff. He said aviation insurance rates range from being flat to increasing 5% to 10%.

A&A's Mr. Jones agreed that aviation rates are flat or increasing. He noted that one airline's premium doubled on renewal and that some insurers that had been issuing 18-month aviation policies are now writing 12-month policies.

RBH's Mr. Sorensen said the aviation market generally has become less competitive but that rate increases are account-specific.

Poor experience has triggered rate increases in both the aviation and marine markets, said John F. O'Sullivan, a managing director of Marsh & McLennan Inc. in New York.

Aviation rates in particular had been "driven very, very low" by competition, Mr. O'Sullivan said. Rate increases are now approaching 100%, depending on the experience of the risk, he said.

And, Mr. O'Sullivan said he has seen some "very significant increases" in marine rates. Rates have increased 100% or more in some cases, he said.

"As anticipated, we have seen significant changes in the marine area," said Mr. Sorensen of RBH. And, there is a "hesitancy generally for the marine marketplace to consider non-marine exposures" as it has in the past, he noted.

Both policy wording and capacity also have become more restricted in the marine market, said Mr. Sorensen. He added that those changes vary according to the risk.

Jardine's Mr. Cannon said marine rates are "starting to firm up and increase slightly." Hull rates in the London market were up by about 10% at midyear, Mr. Cannon said.

But A&A's Mr. Jones disagreed, noting that the marine market is "still pretty open."

Brokers generally say they also see D&O insurance rates continuing to firm.

Mr. Jones said prices for D&O

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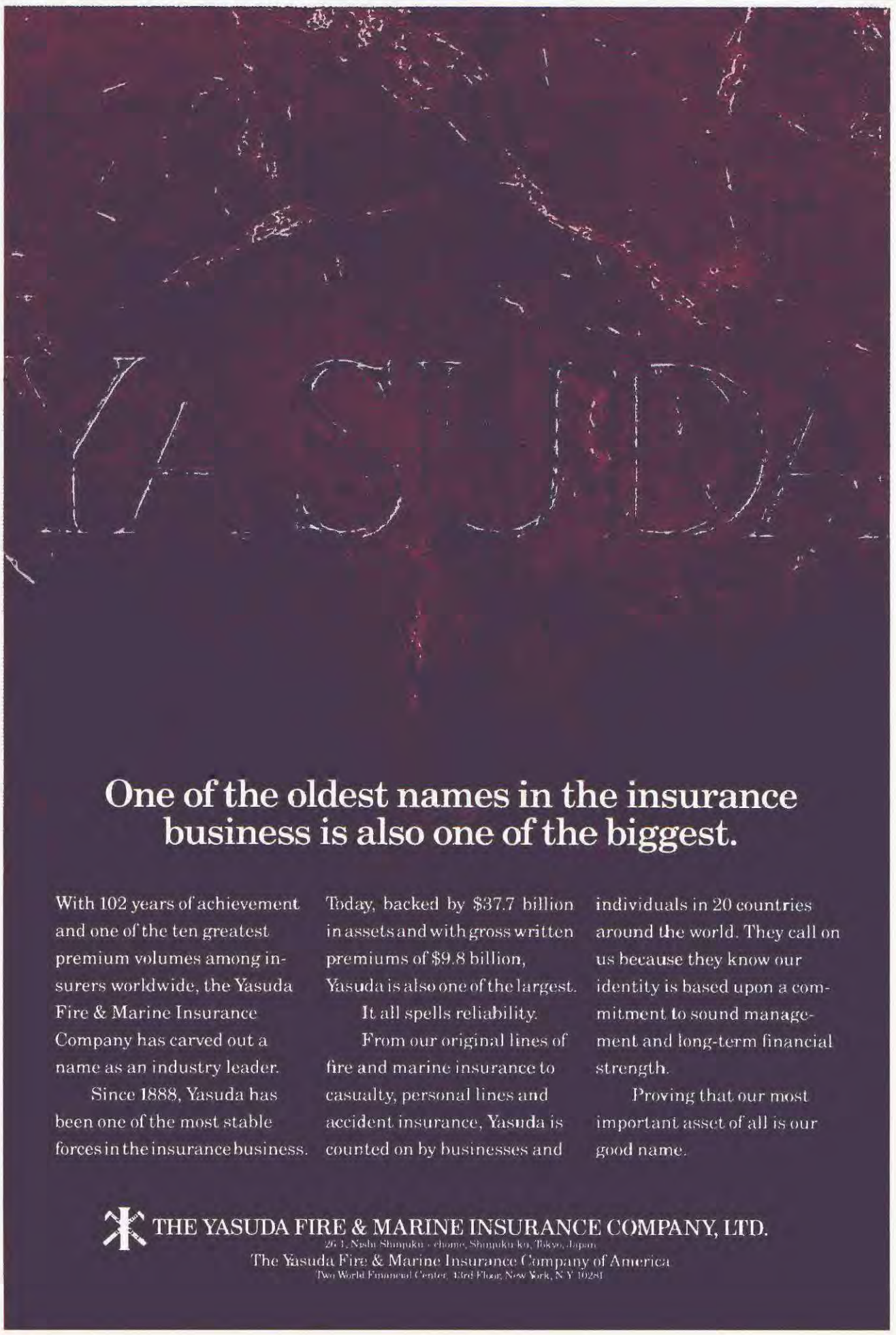

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coverage are generally increasing, but not by much more than 10%. And, underwriters are asking more questions when writing D&O coverage, he observed.

D&O rates for financial institutions are up slightly, by about 5% to 7%, said Sedgwick James' Mr. Ruoff.

But for other entities, D&O rates are flat to down less than 5%, he said.

M&M's Mr. O'Sullivan said there is a difference in rates between financial institutions with "problems" and those without them. "Rates for those with problems border on being punitive," he said.

And, capacity for D&O is "leveling," because of problems in the savings and loan and banking industries, said DSI's Mr. Heldfond.

Capacity is "being doled out in doses," Mr. Heldfond said. "Longtime clients really do have an advantage here."

However, Mr. Severance of Republic Hogg Robinson said rates for D&O coverage are flat to down about 5%, noting that "people still want to write the stuff."

In general, though, the broad liability insurance market remains competitive, brokers say.

The market for primary liability insurance "basically is a competitive marketplace," RBH's Mr. Sorensen said.

Rates for primary liability coverage are down 15% to 20%, with no capacity problems, Mr. Severance said.

Mr. Ruoff said primary liability rates are down about 5%.

He added that insurers also are offering to stretch out premiums payments for longer periods through installment billing.

There also is a "strong market" for low-layer excess liability coverage because of available capacity, Mr. Sorensen said. But, he added that he was uncertain whether he "would classify it as competitive because of the varied underwriting parameters of companies."

Low-layer excess liability is "reasonably competitive," with no capacity problems and rate declines of 5% to 10%, Mr. Severance said.

Tom Celic, a vp in J&H's casualty brokerage department in New York, said rates charged by low-layer umbrella underwriters are typically flat, though reductions of 10% to 15% sometimes are available.

Mr. Ruoff said low-layer excess liability rates are down 5% to 10% and that "coverage terms and limits don't seem to be a problem."

High-layer or catastrophe excess liability coverage appears to be more competitive, particularly among offshore facilities, Mr. Sorensen said.

However, he noted that the two largest offshore excess liability facilities—ACE Ltd. and X.L. Insurance Co.—say they will increase rates (see story, page 1).

High-layer excess liability is "very cheap," with no capacity problems, Mr. Severance said.

But, rate decreases at midyear probably are smaller than they had been, he noted. Rates have "gotten so skinny, they're probably down to the bare bones."

"Rates on normal, run-of-the-mill vanilla liability are holding steady," although "where the underwriter can get an increase, he'll do it," said Mr. Heldfond of DSI Insurance.

Liability coverages for high-hazard risks—like interstate trucking, chemical, medical, toy and other hazardous risks—are less expensive as well, he said.

Overall, Mr. Heldfond said, capacity is "still plentiful," although insurers still avoid writing pharmaceutical, environmental impairment liability and asbestos abatement contractor coverages.

However, Mr. Van Osdall of Anco Insurance in Houston disagreed with other brokers, noting that pricing for primary liability insurance is up between 10% and 15%, while capacity is down 15%. Rates for low-layer excess liability insurance also are up 10% to 15%, while capacity is down 10%. Meanwhile, rates for high-layer excess liability coverage are up 15% to 20%, with capacity unchanged, he said.

Mr. Van Osdall attributes the increases to a tightened capacity in Texas, a marked difference from capacity elsewhere.

The liability insurance marketplace in Canada is equally competitive, except for D&O coverage, said Mr. Bass of Morris & Mackenzie. Primary and excess liability rates are "cutthroat, and even more so," he said.

There is a difference in rates between financial institutions with 'problems' and those without problems, says M&M's Mr. O'Sullivan. 'Rates for those with problems border on being punitive,' he says.

Rates for even high-risk liability coverages, like programs for pharmaceutical and fertilizer manufacturers, have decreased over the past three years because insurers want to hold clients at all costs, Mr. Bass said. He said rates are dropping up to 60% on renewal, with even larger rate cuts being awarded to new accounts.

Meanwhile, the professional liability insurance market—with the exception of D&O coverage—remains competitive, particularly for association programs, said RBH's Mr. Sorensen.

Professional liability "still seems to be very competitive," Republic Hogg Robinson's Mr. Severance said. "Everybody's tripping over themselves to write the stuff."

Within the professional liability sector, medical malpractice is "fairly competitive," said Sedgwick James' Mr. Ruoff. Some new medical malpractice underwriters have appeared because of good loss ratios, he said, but professional liability for lawyers and accountants is "basically flat."

The municipal liability market remains stable, said Mr. Sorensen, noting that municipalities that pool their risks in particular are

Continued on next page

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Home Insurance

OLD PROS ON A NEW TEAM

Brokers

Continued from previous page

seeing lower premiums and wider coverage.

Overall, the property insurance market remains generally competitive, brokers say, though some note a reduction in competition in certain areas.

"Everything still seems to be very competitive in property," Willis Corroon's Mr. Lamberson said.

But Daniel Batonick, a vp and deputy manager of J&H's property department in New York, said that even though the property market is soft, he is seeing some underwriters walk away from accounts that they think are priced too low. Mr. Batonick noted that he handles mainly large property accounts.

Earthquake is one of the few property lines where capacity is limited, Mr. Batonick said. Available capacity for California earthquake coverage is about $200 million to $300 million per occurrence, usually on an annual aggregate basis, he said.

Robert Meyers, a senior vp in J&H's middle market department, said property rates are down about 7% for these risks. Middle market buyers generally have $75 million to $100 million in revenues and purchase property/casualty insurance in package form, he said.

Mr. Meyers attributed the further decline in middle-market property rates to an expansion of capacity. Favorable loss experience and the fact that property is a "very quantifiable risk" has attracted an "onslaught of carriers that didn't used to play in the mid-market," he said.

Mr. Sorensen of RBH agreed that insurers are increasing their interest in middle-market property package business.

However, competition has moderated for larger accounts, including highly protected risks, which means rates for this business are "not going down significantly," he said.

Mr. Severance said the market for highly protected risks is less competitive because rates already had declined significantly. "You can't get it for free, and you can't get the underwriters to pay you to take it," he said.

However, there still are some reductions in property rates for large risks exceeding $100 million in value, and rates are down as much as 20% for package policies, Mr. Severance said.

Mr. Brown of Brown & Brown observed that HPR underwriters are becoming more aggressive on the types of risks they will write.

Mr. Ruoff said rate cuts for large, highly protected risks are "modest"—about 5%. Rates for smaller property risks are "basically flat," he said.

The market still is soft for larger property risks but is stabilizing for small to medium risks, agreed Mr. Marks of MLW in New York.

For Canadian property coverage, "everything is still moving downward," said Mr. Mote of Morris & Mackenzie.

One exception, though, is petrochemical property risks because losses over the past three years have been "horrendous."

Property insurance rate competition generally in Canada is "brutal," because Canadian, U.S. and British insurers are all competing for the same business, Mr. Mote said. "It's a matter of maintaining market share" and hanging onto clients in hopes that the market turns, Mr. Mote said.

In contrast to other brokers, Mr. Van Osdall of Anco Insurance said pricing for small property risks is up 10%. Pricing for large HPR risks also is up 10%, while rates for large non-HPR accounts have risen 15%, he said.

The market for boiler and machinery insurance in the United States is "very competitive," with some insurers writing three-year policies, Mr. Severance said.

However, Mr. Ruoff said boiler and machinery rates are flat.

Mr. Van Osdall said pricing for boiler and machinery coverage is down 5%, while capacity is up 10%.

In Canada, the boiler and machinery insurance market "will take on risks at any price," Mr. Mote said.

However, several brokers noted that rates for surety bonds are increasing.

Rates for surety bonds are up 10%, while capacity is down 10%, Mr. Van Osdall said.

Surety is "always kind of tough, particularly in a bad economy," though "rates don't move around much," Mr. Ruoff said.

Surety premiums are higher because the market is dwindling, Mr. Heldfond said.

Meanwhile, rates for bankers blanket bonds are up by about 5% to 10%, Mr. Ruoff said.

Although rates may differ around the country, generally they vary more because of the risk to be insured than because of geography, said brokers who handle large accounts.

But some brokers who deal with smaller accounts did cite geographical variations.

In Montreal, the market is more competitive because "it's a much smaller insurance base with a lot of brokers per capita trying to pick up business," said Mr. Bass of Morris & Mackenzie.

In the past, especially during the 1970s, many insurers left the area because of the threat of separatism in Quebec, but most have returned, keeping things competitive, Mr. Bass noted.

Some see competition on the basis of policy terms or deductible levels. 'They'll give you anything you want,' says Andrew H. Marks of MLW Services Inc., allowing that exclusions for pollution and job discrimination do remain in effect.

Mr. Brown observed that rates are far greater in in Dade, Broward and Palm Beach counties in Southeast Florida than in the remainder of the state because of generous liability judgments and the threat of windstorms. Rates for some risks in those counties are almost double the rates for comparable risks in the rest of the state, he said.

In New England, "we don't have the swings you see in some parts of the country," but the market there is soft, and brokers are seeing more price swings than in the past, observed Mr. England of Hastings-Tapley in Cambridge, Mass.

The fact that the region's economy also is weak does not help matters, he added.

Kevin Smith of Palmer & Cay/Carswell in Savannah, Ga., noted that his agency, which operates in many states though it does most of its business in Georgia, is seeing less competition for property risks in South Carolina as a result of Hurricane Hugo in 1989.

Besides competing on the basis of price, insurers also are competing on the basis of policy terms or deductible levels, some brokers say.

Insurers are changing deductibles and contract wording to make themselves even more competitive, said MLW's Mr. Marks. "They'll give you anything you want," although exclusions in liability contracts for pollution and job discrimination remain in effect, he said.

However, Mr. Heldfond said flexibility in policy terms varies from insurer to insurer. "They are following their prospect lists and what their home office wants," he said.

Despite the competition, most brokers report that policyholders still are expressing interest in alternative risk mechanisms.

Mr. Ruoff of Sedgwick James said clients are considering alternatives to commercial insurance, though they generally are not planning to adopt them until the market turns.

However, J&H's Mr. Kerekes said he is seeing "increased interest across the board, perhaps because of the state of the economy." Many companies' "results are not what they used to be," and they are looking for ways to improve their management and cash flow, he said.

"Literally hundreds" of Arthur J. Gallagher's clients have looked at alternative risk financing mechanisms in anticipation of a market turn, Mr. Gallagher said. If the market turns, there "will be a huge movement in that direction," he predicted. ■

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Brokers wary of predicting market turn

1991 MIDYEAR RENEWALS

Brokers are increasingly hesitant to predict when the commercial property/casualty insurance market will turn.

In fact, some now wonder if the market will ever turn.

"Anybody who said the market would bottom out (soon) probably believes in the Tooth Fairy, too," observed J. Hyatt Brown, president of Brown & Brown Inc. in Daytona Beach, Fla.

While Brown & Brown had been predicting that the market would harden in mid-1992, it recently revised its forecast to 1993, Mr. Brown said. The only reason it would change is if the "downdraft produces enough blood by year-end," referring to a drop in the stock market in June, he said.

Rather than one event triggering a turn in the market, a series of "individual dumb decisions on underwriting" will eventually begin to drain insurers' cash flow, said J. Patrick Gallagher Jr., president and chief operating officer of Arthur J. Gallagher & Co. in Itasca, Ill. Insurers with adequate reserves and quality assets to sell will be able to pay claims, while underreserved insurers with low quality assets won't, he said.

But, when the turn comes, it likely will be sharp rather than gradual, as many others have predicted, Mr. Gallagher said. "People are presently proving they are going to write themselves into deep trouble," he said.

James E. Goulard, president of the corporate risk division of Frank B. Hall & Co. Inc. in New York, said that he doesn't "think the violence of that (last market turn) will be felt in an across-the-board sense again."

However, he said he does expect the "denouement of this soft market will be a sudden and precipitous change." The market seems to be following the same pattern that led to previous sharp turns, he said.

Mr. Gallagher said, however, that the argument could also be made that the market will never turn, noting the interest of European and Japanese insurers in writing business in the United States.

"Huge amounts of capital want to participate here," he said, observing that this could "extend the soft market indefinitely."

In fact, Arthur J. Gallagher is basing its business plans on the assumption that the market will not turn for some time, Mr. Gallagher said. While he still believes there eventually will be a sharp turn in the market, it "could be years away."

While saying that an unexpected event or fallout from losses at Lloyd's of London could help trigger widespread rate increases, most brokers predict the market won't turn until insurers realize they're losing money.

That could come sooner—or later—depending on which broker one asks.

"With the way things are going, it seems there's got to be a reaction" of insurer losses by this time next year, said Elliott Jones, vp/marketing manager of the Chicago office of New York-based Alexander & Alexander Services Inc. "Companies are not making as much money as they think they are."

"Until we see real decline in ROE (return on equity) and some constraints on surplus, the market will stay the course," commented Charles L. Ruoff, senior vp with Sedgwick James Inc. in New York, a unit of Sedgwick Group P.L.C.

Mr. Ruoff noted that commercial lines are producing better results than personal lines: The return on equity for commercial lines in the first quarter of 1991 was about 11%, compared with about 2% for personal lines, he said. In the first quarter of 1990, return on equity was about 10% for commercial lines and about 3% for personal lines, he added.

In addition, insurers' earnings may not be as strong as many think, Mr. Ruoff said. Studies by Sedgwick James and others have shown "the market as a whole is not putting away sufficient reserves," he said, estimating that the property/casualty industry is underreserved by about $20 billion.

By early to mid-1992, insurers may have to deal with the reserve shortfall, which would eat into earnings and surplus, Mr. Ruoff said, adding that insurers may begin to recognize the underreserving problem as their 1991 year-end financial statements are prepared in early 1992.

This could be a "significant signal" for the market to turn in late 1992, Mr. Ruoff said.

If the turn occurs at that time, he said, it would likely be "moderate"—in between "slight" and "chaotic."

But if the turn doesn't happen until 1993, the market could begin to move more toward "chaotic," he said. Generally, however, brokers are leery about predicting how quickly the market will turn—if it turns at all.

"I still think we have an abundance of capacity and combined ratios aren't bad enough for them to react by tightening up their rates," said Tom Cannon, chairman of Jardine Insurance Brokers New York Inc., a unit of San Francisco-based Jardine Insurance Brokers.

"If anything turns even moderately, it will be in 1993," said Alan Mote, senior property marketer at Morris & Mackenzie Inc. in Toronto.

"Things will be the same six months to a year from now," agreed Kevin Smith, marketing manager at Palmer & Cay/Carswell Inc. in Savannah, Ga. He is also betting on 1993 as the comeback year for the marketplace.

Many predict that when the market does change, it will harden very gradually, unlike the sudden shift in the mid-1980s.

"I don't see a dramatic turnaround in the market coming and when it does come, it will be gradual and slow," said M. Renwick Severance, vp-special services for Republic Hogg Robinson Inc. in Boston.

Noting that "Lloyd's is certainly having its problems," Mr. Severance said a "serious shake-up" at Lloyd's could ultimately affect the U.S. market. But, he predicted, this will not happen for some time and the effect won't be drastic.

"I don't believe we'll see it go back to the way it was the last hard market," said Robert A. Kerekes, senior vp and casualty brokerage division manager at Johnson & Higgins in New York. While the market is soft, many accounts still are adequately priced, he noted.

A major insurer insolvency or significant payments by insurers in environmental liability cases could trigger a market change, Mr. Kerekes observed.

Frederick J. England Jr., president of Hastings-Tapley Insurance Agency Inc. in Cambridge, Mass., predicts that within a year "premium level will be up 8% to 10% from this year."

Such changes will take place gradually, in part because political pressure on the insurance industry won't allow drastic shifts again, said Mr. England. Other elements include internal insurer pressure for steady balance sheets, concern about the industry's public image and increasing competition from banks.

With these influences in mind, "the industry will slowly get its house in order," Mr. England said. "We can't take another (public relations) disaster like the last hard market."

John F. O'Sullivan, a managing director of Marsh & McLennan Inc. in New York, said he thinks the market would have to turn in 1992. "I don't know how long the leaders of the market are going to be willing to play the game of chicken," he said.

The record $983.7 million loss reported by Lloyd's of London for its 1988 underwriting year (*BI*, July 1) could have an impact on the market, particularly in the "specialty markets where Lloyd's plays a major role," Mr. O'Sullivan said.

—By Colleen Johnson and Laura Mazzuca

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Risk managers

Continued from page 1

utility's $2 billion worth of property in Idaho and Oregon.

Idaho Power sought bids on the property coverage but decided to renew with Protection Mutual Insurance Co. of Park Ridge, Ill., the same insurer that wrote the account in 1990.

Along with a lower price tag, Protection Mutual threw in some goodies like increases in sublimits, Mr. Meyer said. For example, limits on coverage that protects valuable papers rose to $5 million from $1 million at this year's renewal.

IMCERA Group Inc., a Northbrook, Ill.-based supplier of medical, chemical and other products, reported an uneventful renewal this year.

IMCERA's property/casualty exposures have increased in the past year because "our business is going great guns," said William V. Wilcox, director of risk management.

Rates have not followed suit. "We have some higher premiums here and there," said Mr. Wilcox, with a total increase of around 6%.

IMCERA left its property/casualty limits at 1990 levels after briefly considering an increase, he added.

Industrial Risk Insurers, the property insurance underwriting pool based in Hartford, Conn., writes IMCERA's property coverage in the United States, and CIGNA Corp. handles the company's domestic casualty insurance.

American International Underwriters, a unit of New York-based American International Group Inc., writes IMCERA's foreign property/casualty coverages.

IMCERA funds a $100,000 property retention and a $2 million casualty retention through its Bermuda-based captive, Carnforth Ltd.

Nestle Beverage Co., a San Francisco-based unit of Nestle U.S.A. Inc., finished its property renewals with a slight rate decrease.

'It sure looks like the market is still pretty soft,' says Elixir Industries' Lea Sirota.

The company's premiums are going up, though, because its property exposures have tripled in the past year after a realignment by its parent company expanded Nestle Beverage's presence in the United States, explained Risk Manager Della Berger.

The company's property rates are down, she said, thanks to "an excellent loss history" and superb loss control.

Syndicates at Lloyd's of London write $25 million in primary property coverage for Nestle Beverage and $175 million in excess limits is provided by a number of mostly London market underwriters.

Pacific Enterprises, a Los Angeles-based oil and gas firm, also tapped Lloyd's and London underwriters along with Scandinavian markets for its property renewals this summer, said Garry Pew, assistant treasurer and director of risk management.

"We had no problems with capacity," he said. Limits, which varied according to different properties, were renewed at 1990 levels at about the same price Pacific Enterprises paid last year for the coverage, he added.

"We haven't had any trouble arranging limits," said Tim Sterling, director of risk management and property taxation at Mississippi Chemical Corp. in Yazoo City, Miss.

Mississippi Chemical, which renewed nearly its entire portfolio of coverages this summer, saw only a "very, very minor increase" in rates.

The increase—less than 5%—was in a layer of coverage above $25 million, Mr. Sterling said.

"It was a very uneventful renewal season," he remarked, adding that property and casualty coverages all renewed at the limits Mississippi Chemical wanted.

Tyler Pipe Industries Inc. in Tyler, Texas, saw no change in its property limits or premiums at this year's renewal, said Earl Davis, vp of industrial relations.

Mr. Davis said he sees no indication that the soft property market will harden any time soon. But, he added, he wouldn't be surprised to see an increase in workers compensation insurance costs when that coverage renews Jan. 1.

In other casualty areas, the soft market continues.

"It sure looks like the market is still pretty soft," summed up Lea Sirota, risk manager at Elixir Industries, which renewed excess liability coverages earlier this month.

Elixir was able to renew its $20 million in umbrella limits at a slightly lower price than the Gardena, Calif., company paid in 1990 to the same insurer.

Elixir's $20 million in excess liability insurance attaches above $1 million limits for general liability, product liability and automobile liability coverage provided by its captive, GarDen Insurance Co. of Vermont.

It appears the soft insurance market will be around for a while, she said.

"We've been hearing about it," Ms. Sirota said of a market turn, but she doesn't expect to see evidence of a change at least until 1992.

Idaho Power's excess liability coverage, up for renewal in early July, was expected to be completed with no problems, Mr. Meyer said.

The utility's excess liability limits of $25 million, above a $500,000 retention, are written by Bermuda-based captive Associated Electric & Gas Insurance Services Ltd.

Energy Insurance Mutual Ltd., a Barbados-based industry captive, writes another $75 million above that layer, giving Idaho Power a total of $100 million in coverage. Those limits include pollution coverage.

Idaho Power renewed its $35 million in directors and officers liability limits with AEGIS at the same price the utility paid in 1990, according to Mr. Meyer.

Mr. Wilcox said he thought IMCERA was facing a casualty insurance crisis a year ago when H.S. Weavers (Underwriting) Agencies Ltd. stopped underwriting excess liability coverage (*BI*, April 2, 1990).

However, replacing the coverage it had with Weavers turned out not to be a problem, he said.

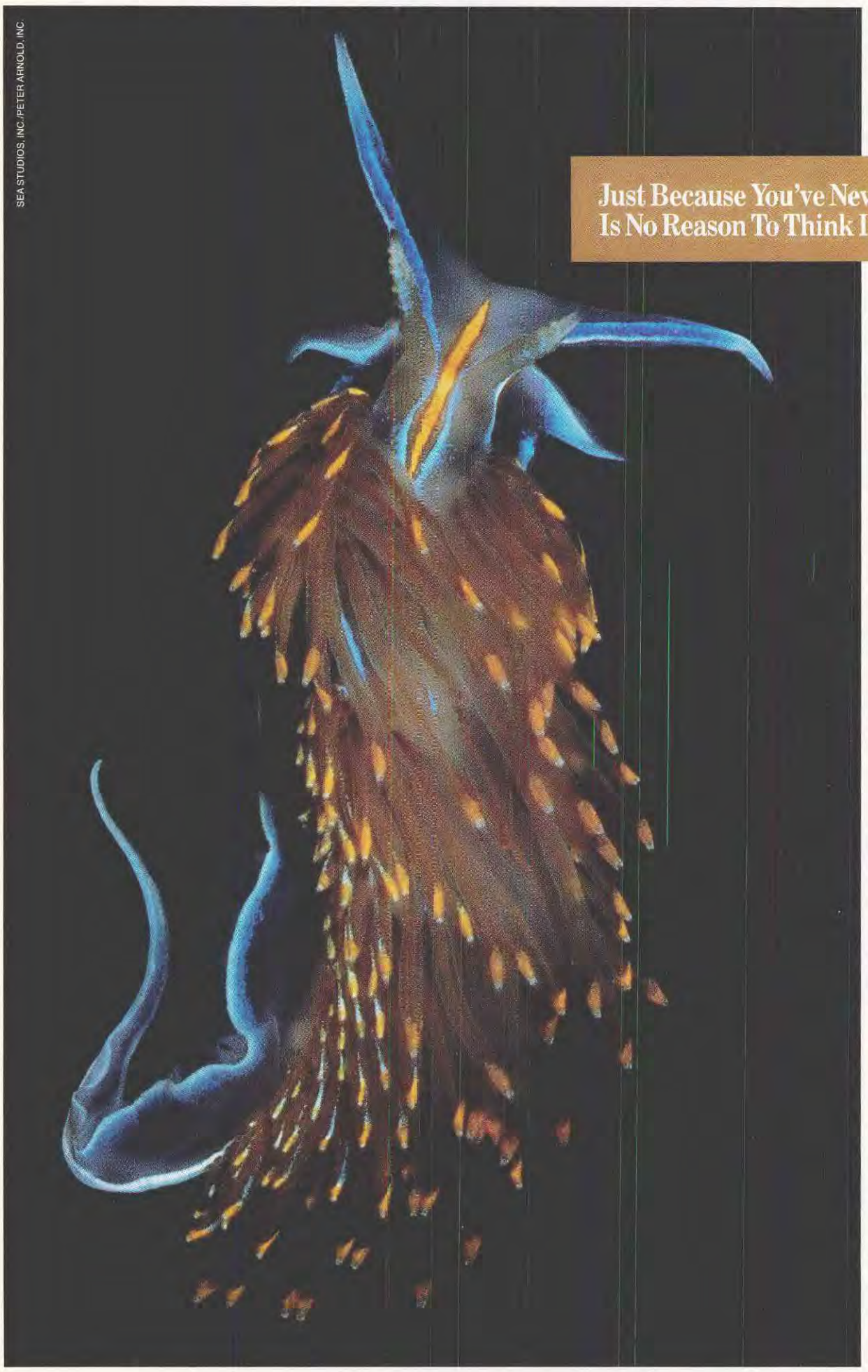
"We renewed basically the same coverage that was expiring" with insurers in London and Zurich, he said.

Joslyn Corp., a Chicago-based manufacturer of products for electric power companies, telephone utilities and other companies, finished up workers comp, general liability and auto liability renewals at a slightly lower cost than in 1990.

Rates for Joslyn's $1 million in primary coverage, written by Boston-based Liberty Mutual Insurance Co., remained steady, according to Risk Manager Thomas R. Wrobleski.

Costs for its umbrella insurance, which provides another $49 million in coverage, fell by 6%, said Mr. Wrobleski.

The coverage is written by, among others, Virginia Surety Co. Inc. in Chicago, First State Insurance Co. in Boston, a unit of Hartford Insurance Group, and National Union Fire Insurance Co. of Pittsburgh, Pa., an AIG unit. ■



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No sign surplus lines slide is ending

By DEBORAH SHALOWITZ

1991 MIDYEAR RENEWALS

An end to the continuing slide in surplus insurance rates is nowhere in sight due to excess capacity and underwriters' attempts to maintain market share, surplus lines underwriters and brokers say.

Most surplus lines insurers and brokers say rates for many liability and property risks are dropping 5% to 20%.

But that slide is not affecting all risks equally. Rates are stabilizing or at least not dropping nearly as much for directors and officers liability and high-hazard liability risks, like chemical and pharmaceutical manufacturers and other companies with pollution or long-tail liability risks.

Even for these risks, though, rates generally are not increasing, experts noted.

A couple of experts did say that rates are increasing slightly for errors and omissions liability coverage for some professionals.

On the property side, only California earthquake insurance was cited as being relatively stable.

"The July 1 renewal season has been the most competitive that we've seen since 1983," said Kenneth Woods, president of California Union Insurance Co., a CIGNA Corp. unit in Los Angeles.

"The market actually has gotten worse since the end of 1990," agreed Kevin Brooks, president of General Star Indemnity Co., a General Re Corp. unit in Stamford, Conn. "The last three months have been absolutely awful."

During last January's renewal season, surplus lines insurers and brokers said they believed the soft market would continue for another nine to 18 months, after which rates would rise substantially (*BI*, Jan. 7).

That optimism did not last. Surplus lines insurers and brokers are now more pessimistic.

None believe the market will harden during 1991 and few predict a turn in 1992.

Indeed, most refused to speculate on when the market will turn.

"Every time we think it has bottomed out, it seems to get worse," observed Marcus Payne, executive vp and chief operating officer of Crump E&S Group Inc. of Dallas, a unit of Price Forbes North America, a holding company unit of Sedgwick Group P.L.C.

There are "absolutely no" indications that the market is turning yet and "nothing appears on the horizon," said Kiernan Burke, president of Tri-City Insurance Brokers Inc. of New York.

There will be "no rate (increases) until serious cash flow problems exist" for insurers, predicted Daniel Kestenbaum, chairman of wholesaler Alexander Howden North America Inc. in Atlanta, a subsidiary of Alexander & Alexander Services Inc.

"We are planning for the 1992 year with the absolute understanding that there will be no market turning" and that the market will not turn "for the next 18 months at least," said Warren Stanley, president of wholesaler Swett & Crawford Group in Los Angeles, a St. Paul Cos. Inc. unit.

The market will not turn until "we have a major insurer go under," which will scare other companies into raising rates, "or the securities market forces a carrier to look to underwriting as its primary source of profit," observed Charles Garrison, president of E&S Facilities Inc., a regional broker based in Birmingham, Ala.

Excess capacity is one of the major factors driving the market, insurers and brokers said.

Surplus lines market says

"Capacity, capacity, capacity" is driving the market, said Andrew Frazier, executive vp of Western World Insurance Co., a surplus lines insurer in Ramsey, N.J. "There is a great deal of capacity in most every sector of the market."

"There is so much excess capacity, supply exceeds demand," explained Thomas Bloom, president of Willis Faber Holdings Inc., the Grand Rapids, Mich.-based wholesale brokerage subsidiary of Willis Corroon P.L.C.

"There's such an overabundance of capacity," agreed Joseph Walsh, chairman of American Empire Surplus Lines Insurance Co. of Cincinnati.

There is "absolutely no question" that there is too much capital in the industry to support widespread rate increases, said Ralph Palmieri, president and chief operating officer for Boston-based First State Insurance Co., the surplus lines insurance unit of Hartford Insurance Group.

There is probably 20% more capacity available "across the board than there was a year ago," Tri-City's Mr. Burke estimated.

For example, St. Paul Surplus Lines Insurance Co. increased its property limits July 1 to $10 million from $7.5 million, said Janet Nelson, president of the St. Paul Cos. Inc. unit in St. Paul, Minn.

The increase "gives us a little more flexibility," Ms. Nelson explained.

Another major factor driving the market is underwriters' desire to maintain market share, experts agree. Surplus lines insurers are competing with each other as well as with admitted markets, they said.

Insurers "get desperate to keep market share," Willis Faber's Mr. Bloom said. However, "no individual company will admit they're underpricing."

The surplus lines market is "market-share driven, but why (insurers) would want market share at these prices is beyond me," said Alexander Howden's Mr. Kestenbaum.

Competition with the admitted market for business traditionally written by the surplus lines market continues to be extremely keen, insurers and brokers said.

The competition is "insane, absolutely insane," said Mr. Walsh of American Empire.

Mr. Woods estimated that California Union last year lost approximately 15% of its business to the admitted market.

In addition, the insurer loses 70% of quotes for new business to the admitted market, he said.

Mr. Brooks of General Star said that of the renewal business General Star loses, more than 70% is lost to the admitted market.

As a result, rates are continuing to fall for almost all lines.

Most experts estimated that rates for both liability and property risks are down an average of 5% to 20% from a year ago.

Liability coverage in general is "the most competitive as far as

Continued on next page

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Surplus lines

Continued from previous page

rates go, with no stabilization in any line," stated Vickie Kartchner, vp of the speciality underwriting division of Scottsdale Insurance Co. of Scottsdale, Ariz.

Low-layer excess liability coverage, generally considered to be $5 million excess of primary coverage, is "very, very competitive right now and has been for four years," Mr. Brooks said. "The standard companies are very aggressive" in this area, he said.

In a few cases, low-layer excess liability coverage rate reductions may be as high as 35%, although most are not that great, said Mr. Woods of California Union.

In comparison, high-layer or catastrophic excess umbrella liability coverage rate reductions are "not that bad," down only about 3%, estimated John Griffin, chairman and chief executive officer of The London Agency Inc. in Atlanta, a Crum & Forster Inc. specialty lines underwriting unit

Several experts said rates for D&O and E&O liability coverage seem to be more stable than those for other kinds of liability risks.

There is some stability but no price increases for both D&O and E&O, agreed Messrs Stanley, Bloom and Payne.

However, David Thompson, chairman and chief executive officer of Crum & Forster Managers Group and president of International Surplus Lines Insurance Co., both of Chicago, said there have been some rate increases of 1% to 5% for E&O coverage. But, the increases are "still spotty" and do not constitute a trend, he said.

First State's Mr. Palmieri said he thinks some E&O liability rates may be rising slightly.

There also seems to be more rate stability in high-hazard liability risks, like chemical and pharmaceutical manufacturers and other companies with a pollution liability or long-tail liability, several experts said.

Rates for this coverage "seem to be dropping much more slowly," with decreases ranging between 5% and 7%, said James Barnes, president of the northern division of broker Sherwood Insurance Services in San Francisco.

There are "some price reductions (for these risks), but not as steep as others," Tri-City's Mr. Burke agreed.

"This seems to be a more stable market," The London Agency's Mr. Griffin said.

In the property area, the greatest competition is for the largest accounts, the experts concurred.

"The likelihood of them being shopped is much greater," noted Roger Quigley, senior vp of underwriting for Crum & Forster Managers Group.

Several insurers and brokers noted that the market for California earthquake insurance seems to be more stable than the rest of the property market. Sherwood's Mr. Barnes said that although these rates are dropping 8% to 10% on average, the slide is "less dramatic than the rest of the market."

Liability and property rates generally are consistent throughout the country, according to surplus insurers and brokers.

In addition to cutting rates, insurers often are lowering minimum deductibles and broadening coverages to attract and maintain business.

For example, some insurer are offering multiple-year policies, several insurers and brokers said.

And, some insurers are offering broader environmental pollution liability coverage than they previously had. For instance, some of those insurers are offering occurrence-based instead of claims-made EIL coverage. And, others are offering to write EIL coverage for contractors.

Although the experts agreed that a hardening is not close at hand, they did not agree on how abrupt it would be when it does occur.

"It'll be like somebody dropped the curtain on the stage," predicted Mr. Garrison of E&S Facilities. "Moderation's never been our strong suit."

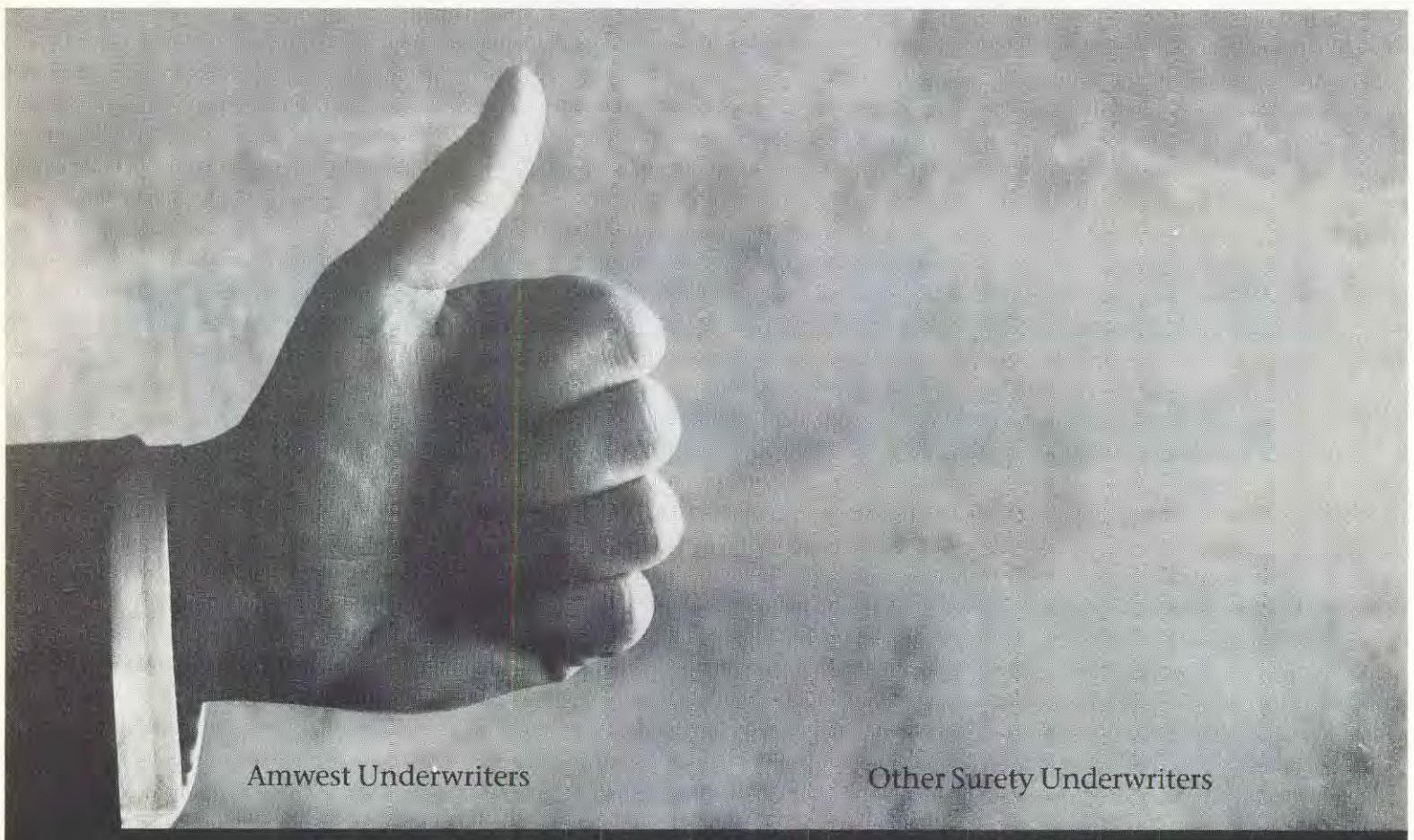
Prices will skyrocket, agreed Tri-City's Mr. Burke. "It'll be worse than the mid-'80s," he said.

"The correction required will be great, due to the length of the soft market," Mr. Burke explained.

That opinion was far from unanimous. Several experts said that neither regulators nor the public will tolerate another crunch with triple-digit rate increases.

There "will not be a spike-up like we experienced in the mid-'80s, but a more tempered and a more solid rise," predicted Western World's Mr. Frazier.

There will be a "rolling hills approach, not a mountainous one," with moderate rate increases of 10% to 15%, agreed The London Agency's Mr. Griffin. ■



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Insurers

Continued from page 1

capacity is the culprit behind the prolonged soft market, although few are willing to predict when the market will turn.

"All lines except workers compensation look very competitive," said Catherine E. Buxton, vp-marketing, product and customer development for Northbrook Property & Casualty Insurance Co. in South Barrington, Ill.

Thomas Kelsey, executive vp of Chubb & Son Inc. in Warren, N.J., said the market is "softening again" after some signs of firming earlier this year.

"There is some slow bleeding going on," said George Ramsdell, senior vp and chief underwriting officer for the agency group of Continental Corp. in Cranbury, N.J., referring to the current market.

"In general, I believe it has stabilized at a level where it would not produce reasonable rates of return," said Rich Barbieri, vp responsible for specialty insurance at Hartford, Conn.-based Travelers Corp.

"I think the market has bottomed out. I don't think you'll see rates dropping proportionately to the extent they did last year," observed David McDonald, senior vp and chief underwriting officer for the property/casualty insurance units of Royal Group Inc. in Charlotte, N.C.

Primary liability rates for "traditional types" of accounts have stabilized, while the rates for more difficult exposures—like certain types of product liability—have continued to drop as much as 8% to 10% from last year's levels, Mr. Barbieri said.

Chubb's Mr. Kelsey also noted some isolated declines in primary liability rates, although he characterized primary rates in general as "flat."

Edmund R. Saunders, vp-underwriting for Public Service Mutual Insurance Co., a regional insurer based in New York, also called primary liability rates "generally pretty flat." But as part of a package policy, liability rates may be cut. "You can write yourself into a hole," said Mr. Saunders. "Competition is taking the form of some irresponsibly priced programs."

Richard W. Wratten, president of the commercial insurance division of Woodland Hills, Calif.-based Transamerica Insurance Co., said of primary liability business: "Nothing's going up, but it's not going down, either."

Only Continental's Mr. Ramsdell reported some increases in the primary liability area. And even those —which he characterized as a "slight uptick" on a case-by-case basis—were in the low single-digit range.

Insurers also report continuing competition in both the low-layer and high-layer excess lines.

"We've lost some excess business," said Transamerica's Mr. Wratten, noting that the competition for low-layer excess liability insurance is more pronounced than it was in January. In some cases, rates have dropped by 20%, he said.

Travelers' Mr. Barbieri said that excess liability accounts with premiums greater than $100,000 are subject to a "feeding frenzy" with low-layer rates dropping by the double digits. Competition for smaller accounts has pushed rates down about 5%, he said.

Although some insurer executives, like Chubb's Mr. Kelsey, characterized the low-layer excess market as "flat," no one reported any rate increases.

For high-layer excess liability coverage, though, a sharp division emerged between conventional insurers and their policyholder-owned competitors.

Mr. Kelsey said high-layer excess rates are "definitely" down by 8% to 10%, while Transamerica's Mr. Wratten characterized rates for this business as flat.

That's not the case at offshore facilities ACE Ltd. and X.L. Insurance Co., where executives say rate increases are in the offing.

"There will be an increase on all rates, but there will be no minimum, no average and no maximum" percentage increase, said Walter Scott, chairman and chief executive officer of ACE Ltd. in Hamilton, Bermuda. At the beginning of July, rates were hiked for all accounts, but Mr. Scott would not say by how much. That was the first time ACE has raised excess liability rates since its founding in 1985 (*BI*, June 17).

Mr. Scott attributed the need for the hikes to the increased probability of losses exceeding $100 million and the cost per layer of insurance. And, he said, policyholder exposures in Texas, where ACE has suffered its greatest losses to date, also necessitated the rate hikes.

'You can write yourself into a hole,' warns Edmund R. Saunders.

X.L. policyholders will face average increases of 6% upon renewal, said Bob Cooney, senior vp-excess and general liability underwriting for the Bermuda-based facility. For accounts with large losses, excess liability rates will increase 10% to 15%.

"We are seeing an increase of loss activity in high-hazard liability risks" like major oil and gas, petrochemical and pharmaceutical risks, said Mr. Cooney. Increases for those accounts will be close to 15%, he added.

Directors and officers liability insurance is the one area in which insurers of all types are reporting rate increases—although the magnitude of the increases varies according to the type of account.

Chubb's Mr. Kelsey, for instance, said that for many risks, "we're fighting to hang on to renew as is."

For financial institution risks, the story is quite different. Some small institutions are facing D&O premium increases in the 30% to 50% range, Mr. Kelsey said. Larger institutions face 5% to 15% increases, he said.

Stephen Sills, chief underwriting officer of Executive Risk Management Associates, a Simsbury, Conn.-based unit of Aetna Life & Casualty Co., agreed that financial institutions are facing tougher times in the D&O marketplace.

"It's lot harder environment out there for financial D&Os," he said, although he would not elaborate on the extent of ERMA rate hikes.

"I've seen some shrinkage in the willingness of insurers to write financial institution D&O," he added.

Mr. Sills said that although ERMA will cut down on business that it considers inadequately priced, it is still willing to write financial institution D&O.

But some D&O insurers continue to underwrite risks with little regard for the potentially large claims that loom ahead of them if there is a loss, Mr. Sills said. "You can write a piece of business today and get a claim that may not blossom into a festering sore for six years," he said, adding that some insurers "just keep writing this business like there is no danger."

Most D&O rates will probably be a little firm a year from now, he predicted.

ACE's Mr. Scott agreed that financial institution D&O rates are rising by double digits, but added, "by and large, our prices are fairly stable in D&O right now. We're seeing rate increases, but not dou-

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Insurers

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ble-digit."

"Because of our attachment point, we don't see the high increases. Double-digit increases for financial institutions usually fall in the primary layers," said Jim Ansaldi, senior vp-D&O and professional underwriting for X.L. The facility is asking for 5% to 6% increases from its financial institution D&O accounts, he said.

Other forms of professional liability and specialty coverages remained generally soft.

Hospital malpractice rates, for example, have dropped by single digits, Travelers' Mr. Barbieri said. Continental's Mr. Ramsdell agreed, calling medical malpractice liability rates for both doctors and hospitals competitive.

Municipal liability rates remain competitive, Mr. Ramsdell added.

And bankers bonds rates are dropping for large accounts, but rising slightly for smaller banks, said Mr. Kelsey of Chubb.

Insurers also are just as disappointed with property rates as they are with most liability pricing.

"Never have so many chased after so few for so little," said Michael McIntyre, senior vp at Allendale Mutual Insurance Co. in Johnston, R.I.

"In our niches, they're giveaway rates," said PSM's Mr. Saunders.

Property "is as competitive as anything that's out there," Continental's Mr. Ramsdell said.

"If anything, it's gotten a little softer" since January renewals, said Richard Roth, senior vp-underwriting for Arkwright Mutual Insurance Co. in Waltham, Mass. Property rates are "at a level that's unsustainable over the long haul," he said, although he added that Arkwright's rates have remained relatively stable over the last year.

Rates for highly protected risks range from "competitive" to "very competitive," insurers say.

Insurers are just as disappointed with property rates as they are with most liability pricing. 'Never have so many chased after so few for so little,' says Michael McIntyre, senior vp at Allendale Mutual Insurance Co. in Johnston, R.I.

Boiler and machinery rates are a little softer than six months ago, said Keith Hynes, senior vp-underwriting for Hartford Steam Boiler Insurance & Inspection Co. in Hartford, Conn.

Some signs of stability, however, are emerging for these risks, said Glenn Thomas, senior vp-property underwriting for Reliance National Insurance Co. in New York.

Despite the evidence of continued rate cutting for most commercial property/casualty lines, no insurer executives admit to engaging in the practice themselves and insist that they are willing to lose business rather than underprice it.

"We are continuing to take a strong stand on pricing," said Northbrook's Ms. Buxton. This tactic has cost the Sears, Roebuck & Co. insurance unit "a little" renewal business and is "very definitely" costing it new business, she said.

"Yes, we are losing accounts," said Chubb's Mr. Kelsey. But, he added, "we don't have a categorical command" that a certain price must always be charged. Long-time clients do have an advantage, but that doesn't reflect market conditions, he said.

"It's just the nature of intelligent underwriting," Mr. Kelsey said, noting that underwriters can make better judgments on business with a track record.

Allendale's Mr. McIntyre agreed that long-term clients do have an advantage, but only if their experience is adequate to justify it.

Mr. Wratten said that Transamerica is committed to adequate pricing. "As a result, we've lost a lot of good commercial business in the last couple of years—business I didn't want to lose," he said.

At ACE, "we are 100% committed to the stabilization in the marketplace. The fact that we are raising rates does not argue against stabilization. We think we need to increase rates now because of inflation and the increased frequency of large losses," said Mr. Scott.

ACE's long-term clients do have an advantage, he said. However, he noted, "the advantage isn't measured in price. We go to great lengths to be consistent in our pricing in individual industries."

For example, all of ACE's pharmaceutical accounts are priced similarly, with adjustments made according to each account's limits, Mr. Scott said.

"We are treating our incumbents a little better than new accounts," X.L.'s Mr. Ansaldi said. "We are an alternative market, but we aren't a market for distressed business. We are seeing a lot of troubled business come down to Bermuda."

Mr. Ansaldi said some of the troubled accounts he is seeing now are accounts that came to X.L. two or three years ago but refused to buy coverage because it was cheaper in the general marketplace.

"We've lost a few accounts this year because we've taken the position that we will not chase the market down if it continues to go down," Mr. Ansaldi said.

X.L.'s Mr. Cooney said some insurers are aggressively pursuing general liability business in an attempt to gain market share. Those competitors may be positioning themselves so they will have a substantial book of business to renew when the market does eventually turn, he said. "If someone wants to undercut us 20%, we are prepared to see that business go."

"The vast bulk of our clients are accepting modest premium increases," Hartford Steam Boiler's Mr. Hynes said. In a significant departure from its strategy of six months ago, Hartford Steam Boiler is raising its new business quotes 10% or more across the board, he said. "We aren't going any lower, period. That's a change from six months ago. We are not going to follow the market down."

All insurers are trying to maintain their renewal business, Mr. Hynes said, and some are trying too hard. "It's to the point that good underwriters are backing bad risks. While we'd like to increase our book of business, we don't feel it's the right thing to do," he said.

While rate competition continues in many lines, some primary insurers have adopted strategies—including increasing minimum terms and conditions—to cut their losses.

"We've restricted little or nothing in coverage," said Mr. Wratten. But, Transamerica has raised deductibles to "bring an ownership by the insured into the coverage," he said.

Hartford Steam Boiler is restricting policy form wording and introducing higher deductibles for more coverages, occupancies or specific equipment risks than six months ago, according to Mr. Hynes.

And some insurers are moving away from particular risks.

Reliance, for one, has "tried to gradually move away from some large refinery risks," Mr. Thomas said. Underwriting practices are

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tightening a bit, he added.

"We are pushing much harder to make sure we have adequate values assigned to large multi-location risks. We are raising deductibles and attachment points and we are using more engineering and loss control—taking a more careful look at each risk," Mr. Thomas said.

The continued soft market has cooled interest in forming new alternative risk financing facilities, several insurers observed.

Royal's Mr. McDonald noted that very few new risk retention groups were formed last year. Given the current softness in the market, it is harder to justify the formation costs, he said.

"There is very attractive coverage and pricing available in the general marketplace," said Hartford Steam Boiler's Mr. Hynes. He said buyers now recognize that alternative risk facilities like ACE and X.L. "ultimately are governed by managers and directors that have an interest in keeping their operations viable. The concept that you can get better coverage and pricing from the alternative markets isn't true anymore."

Executives of the major alternative markets—who claim stable pricing is their hallmark—admit that buyers aren't beating down their doors.

ACE wrote 20 new excess liability accounts and 13 new D&O accounts in the first six months of 1991—about the same number as last year, Mr. Scott said. However, he noted, "our total number of in-force excess policies didn't go up a lot. We lost 13 accounts," many due to mergers and acquisitions, he said.

There may be more interest in alternative markets coming from D&O accounts, said X.L.'s Mr. Ansaldi. He said X.L. wrote more D&O accounts in the first six months of 1991 than in all of last year.

At the same time, said Mr. Cooney, X.L. has seen a slowdown on the general liability side: Only 20 new accounts were written during the first six months of this year, compared with 38 at this time last year.

But several insurers said that there is one area in which the general lack of enthusiasm for forming new alternative mechanisms doesn't hold true—workers compensation.

There's "very definitely," an interest in alternatives to traditional insurance for workers comp, said Transamerica's Mr. Wratten.

Chubb's Mr. Kelsey agreed. Interest is on the upswing in some states because it's either the only market available or because self-insured workers comp is free of residual market loadings, he said.

Insurer executives did not agree that any particular geographic area was unusually competitive or unusually stable in terms of rates.

PSM's Mr. Saunders said New York and Boston tend to be more competitive than other areas of the United States.

And Transamerica's Mr. Wratten remarked that the East is more stable than the Midwest or West.

Mr. Barbieri of Travelers said the Southeast appears to be the most competitive region. But, he pointed out, individual branch managers can greatly influence the competition for particular lines of business in particular regions. "The more local you get, the more it can be influenced by an individual," he said.

"It's difficult to generalize, but price competition is the heaviest in areas of the country where there are a lot of direct market, mutual and regional companies," noted Reliance's Mr. Thomas. "Those companies know the local market well and" may be able to charge less than large national companies.

While there is little agreement over geographic competitiveness, there is near unanimity about the adequacy of capacity for just about any risk imaginable.

"There's plenty of capacity out there today," said Mr. Barbieri of Travelers.

"There is more than enough capacity," concurred PSM's Mr. Saunders.

And, Arkwright's Mr. Roth said "I think the biggest problem is excess capacity."

Transamerica's Mr. Wratten said he is not aware of any exceptions to the abundance of capacity. "There's somebody out there to write something for everybody," he said.

Some insurers, however, said the capacity situation may be changing—but only on a very selective basis.

For example, X.L.'s Mr. Ansaldi said he has seen some tightening of capacity for law firm errors and omissions coverage. He added,

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Insurers

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however, that capacity from London is pretty much filling any gaps right now.

Reliance's Mr. Thomas said capacity is tightening only in areas that have experienced heavy losses, like some highly technical risks or risks that sustained significant earthquake or flood damage in the last several years of catastrophes.

"There is still more than enough capacity and more than enough competitiveness" for "general manufacturing entities," but capacity may be tightening for "high exposure risks" like petrochemical, oil and gas and pulp and paper risks, said Hartford Steam Boiler's Mr. Hynes.

And, Mr. Thomas pointed out some tightening of capacity may result following July 1 treaty renewals with reinsurers (see related story, page 43).

ACE's Mr. Scott said inflation—both financial and social—is driving up ACE's rates. Social inflation reflects "the ever-increasing level of settlements and awards in liability cases," he explained. And, claims are being paid more quickly than in the past, he noted, reducing investment income.

Insurers' explanations for the lingering soft market range from irresponsible underwriting to desperation to maintain market share—all of which are fueled by overcapacity to underwrite insurance, they say.

Travelers' Mr. Barbieri characterized the market as: "Too many people chasing too little business, particularly in a recession."

In some cases "there's a short-term thinking" that chases market share to get cash in the midst of a recession, agreed Transamerica's Mr. Wratten.

The withdrawal of some multiline insurers from the personal lines property/casualty insurance market means that insurers can throw more resources, both financial and human, into pursuit of commercial lines business, said Ms. Buxton of Northbrook.

"Desperation" is driving the current market, Mr. Hynes asserted. "Competitors are doing downright stupid things. . .by providing pricing and coverage they cannot possibly make money on," he said.

Underwriting executives generally agree that the soft market will stay its course over the next six to 12 months.

And, few executives expect the eventual market turn to approach the crisis situation that characterized hard market of the mid-1980s.

"My sense is we're going to run through 1991 as we did 1990," said Chubb's Mr. Kelsey.

"There are no indicators that things are going to change in the foreseeable future," agreed Northbrook's Ms. Buxton.

"There is nothing on the horizon, short of Armageddon, that is going to force the market to harden," Mr. McDonald said.

He said he does not expect this market turn to be as severe as the last one in 1985. In fact, he said, the turn may come about in phases, with certain market segments or geographic areas hardening before others.

Rather than experiencing a definite turn that affects all lines, Mr. McDonald explained, "we'll be constantly in some form of harder or softer market—either by line of business or geographic location."

"I think what we're seeing now is multiple cycles," he said. "Personal lines, large and small commercial lines and even umbrella are not necessarily affected by the same underwriting cycle. This time, we may see the market turn for large commercial lines first."

PSM's Mr. Saunders said he also does not foresee another "1985-1986 rate riot."

Such a repeat of history would be disastrous for insurers, he said. "Legislators and regulators aren't going to let us do that kind of thing again. We're still climbing out of the lack of confidence" engendered by the last contraction of insurance capacity.

In fact, executives of policyholder-owned facilities say alternative risk financing mechanisms will prevent a violent market turn.

"I don't see anything like" the crisis in the mid-1980s "happening, because you've got ACE and X.L., which are supplying excess capacity," ACE's Mr. Scott said.

"There are so many more players today, and they are reputable players," said X.L.'s Mr. Ansaldi. "Capacity won't disappear. You'll see increases, but they won't be triple-digit increases."

However, Hartford Steam Boiler's Mr. Hynes cautioned, "The deeper the soft market goes, the harder the turn will be." ■

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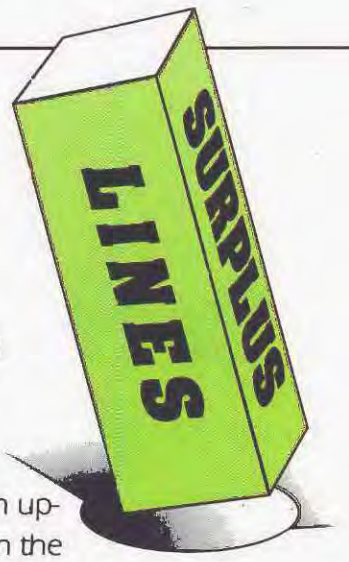

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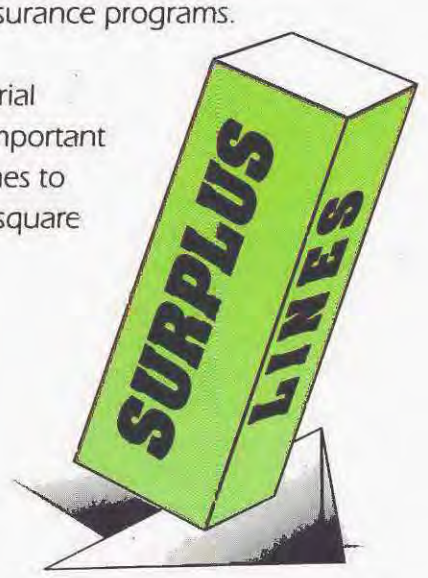

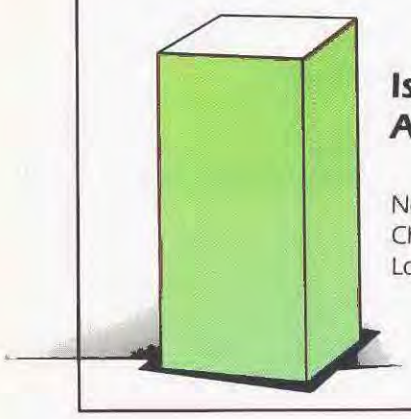

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London renewals

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North American property and casualty insurance rates generally remained soft in the London market during midyear renewals with little prospect of any significant increases before the end of 1992, brokers and underwriters agree.

Price wars in the U.S. domestic market, coupled with plentiful capacity in the London market and growing competition from European insurers, have kept any rate increases to a minimum, while rates for some types of coverage are still falling.

The end of the soft market for U.S. property/casualty insurance could be in sight, however, as the vicious contraction of the marine reinsurance market forces more underwriters to increase their retentions and pay more for reinsurance, brokers and underwriters say.

"The U.S. property market is still very competitive (with) prices being reduced slightly," said Mark Kettle, executive director of Leslie & Godwin Insurance Brokers Ltd. "In U.S. casualty, there are also reduced prices or self-insured retentions."

By the end of the year, however, "we might start seeing a change," Mr. Kettle added.

Midyear renewal season in London is composed of a mixed bag of renewals from the North American and Australian markets, covering anything from insurance for major U.S. energy-related companies and hospitals to property catastrophe treaty reinsurance.

But this year's renewals also follow on the heels of major upheavals in London, particularly in the marine market.

During year-end 1990 reinsurance renewals, a massive contraction in the reinsurance and retrocessional markets reduced the market's excess-of-loss reinsurance capacity by as much as half and caused some hefty reinsurance price increases. European ceding insurers, for example, paid as much as 600% more for their coverage, while U.S. ceding insurers paid between 15% and 25% more (*BI*, Jan. 7).

And, last month Lloyd's announced its worst results ever: A record pretax loss of nearly $1 billion (509.7 million pounds) for its 1988 underwriting year (*BI*, July 1). The loss was related to a massive increase in reserves for U.S.-related asbestos and pollution claims and the string of disasters that hit Lloyd's catastrophe and marine markets. Lloyd's global 1988 result included a 551.3 million pound ($1.06 billion) loss in the marine market, compared with a 291.9 million pound ($470 million) profit in 1987.

This devastating result—coupled with an expected 1 billion pound ($1.63 billion) overall loss for 1989—is causing Lloyd's syndicates to take stock of how they underwrite business.

Some at Lloyd's expect that the number of syndicates could fall to 250 by the end of the year from 354 at the beginning of 1991. Some underwriters are already being laid off, added one Lloyd's underwriter.

And it is expected that Lloyd's membership will shrink by 20% next year, causing capacity to shrink by 10% to 15%. Members have until Aug. 31 to decide whether or not they will write business next year.

In addition, this year the Council of Lloyd's has forced five syndicates to stop underwriting until year-end because they could overwrite their premium income capacity.

Lloyd's poor 1988 global results "clearly had to get some reaction" from the market during midyear renewals, noted A&A's Mr. Seljflot.

"Lloyd's syndicates are now assessing where they are going. . .so it's a period of inactivity now until they know what to do with next year's stamps," said a leading London excess-of-loss reinsurance broker.

"I'm not doing a lot of underwriting now," said one Lloyd's reinsurance underwriter. "I've spent a lot of time during this midyear talking to members' agents about the bad press we've been getting and their concerns about what our capacity will do next year."

Lloyd's losses—especially those in the marine market—had a dramatic effect on energy-related and marine-related insurance and reinsurance placed during midyear renewals.

"Things are tightening up very quickly," said Richard Youell, underwriter for a leading Lloyd's marine syndicate 932 managed by Janson Green Ltd. Underwriters are seeking at least 20% rate increases for energy risks; at least 25% and up to 100% increases in marine hull rates; and at least 25% rate increases for marine-related liability risks, he said.

Marine underwriters also are no longer interested in writing energy non-marine liability coverage on an occurrence basis, said Mr. Youell.

"It's all gloom and doom," said Mike Beard, executive director of Leslie & Godwin Insurance Brokers Ltd. "There are 10% to 15% rate increases in energy insurance packages in London and Scandinavia, and capacity is shrinking. Reinsurers are calling the tune and insisting on these increases or they won't write the business."

In particular, brokers still are trying to place 40% of the London Master Energy Line Slip, which should have renewed June 25.

Last year, the master energy slip reduced its total limit to $650 million from $750 million. Policyholders could buy $500 million in coverage for any one unit, plus $150 million in coverage for the cost of controlling a well; $150 million in marine liability coverage; and $75 million for non-marine liabilities. However, policyholders could buy only a maximum of $650 million of these coverages, not including the well control coverage.

Alan Hiscock, deputy chairman of Sedgwick Energy Ltd., confirmed that about 40% of the line slip still has to be placed. However, although other brokers and underwriters say the slip will be quashed if the other 40% is not placed, Mr. Hiscock said, "whatever we finish completing, we will be able to place that proportion of the risks on the slip."

Mr. Hiscock said that some following underwriters on the slip have been reluctant to support it this year because their reinsurers are charging them higher rates if they participate on the slip. Also, "there has been a slight contraction in the marine market and underwriters are being properly prudent" in how they use their capacity, he said.

Mr. Youell said that underwriters are not interested in supporting the slip this year because "no one has made money out of it" and the risks insured are both costly and highly exposed.

Underwriters' caution also comes from a lack of support by the reinsurance market, he said. "There virtually isn't any" excess-of-loss reinsurance to support energy underwriters, so they must "write net retained lines," he said.

Brokers still can place energy insurance packages in the London market apart from the line slip. "But it's taking a lot longer. Time is a major thing that is not given," said the energy broker.

For example, four major energy insurance packages were completed during midyear renewals in the open market that would normally have been placed on the master energy line slip. But instead of simply contacting the line slip's six leading underwriters, brokers had to see 225 underwriters, said the energy broker.

The accounts are also "being rerated" because they are entirely new insurance programs with different terms and conditions, said the energy broker. For example, underwriters are asking that onshore liability risks included in energy packages now be written on a claims-made basis, he said. And underwriters want premium payment in 60 days, or they are threatening to review the terms of the contract.

London brokers also are maintaining their own energy line slips for much lower limits than the master energy slip. Leslie & Godwin, for example, still has a $250 million line slip that renews in the autumn, said Mr. Beard. "I think most brokers will retain their covers," he said, voicing the belief of other brokers that underwriters will support the smaller energy line slips when they come up for renewal.

"There's no real harm to clients over the loss of the master rig slip," he stated.

However, Mr. Hiscock of Sedgwick says that it's "wishful thinking" by the brokers to think that their line slips will be easy to place when they come up for renewal.

By year-end, marine market capacity will have fallen by 25% compared with the beginning of the year, projected Mr. Seljflot at A&A, which also has its own line slip. "Underwriters will be braver; there will be fewer Lloyd's marine syndicates but they will be much stronger, and premiums will go up." Underwriters might also consider separating non-marine from marine risks when writing energy-related business, he said.

"Things can only get worse for the marine market by year-end," added Mr. Beard, who believes some non-marine risks—particularly business interruption—will be separated from marine coverages and will be priced "out of sight." By year-end, shrinking capacity and rising rates will make multinationals consider increasing self-insured retentions, he said.

The year-end renewals will be a lot worse than midyear negotiations, added an energy broker. "Start placing renewals for Dec. 31 now for any major capacity. Start talking to your broker now!"

Another area that is hardening in the London market is property catastrophe reinsurance.

North American ceding companies continued to pay more for their property catastrophe reinsurance programs at midyear, as they did during year-end renewals. Catastrophes have been a main source of claims to the London market following $17 billion to $18 billion in estimated catastrophe claims from late 1989 and early 1990.

During midyear renewals, reinsurers received "28% more cash" for North American property catastrophe reinsurance programs than they received in July last year, said a leading Lloyd's property underwriter.

Catastrophe reinsurance rates will continue to rise and by year-end it will be "tougher and tougher" to place the coverage. "I am surprised that the U.S. market is holding onto writing catastrophe insurance when some of them are writing it net," added the underwriter, who said that at least one U.S. company is writing up to $400 million in catastrophe limits without any reinsurance to cover the losses.

However, property insurance risks with catastrophe exposures are seeing rate increases of 10% to 20%, added Les Rock, Lloyd's underwriter for syndicate 362, managed by Harvey Bowring & Others. "There are some signs that underwriters in the U.S. are being more selective and are rejecting some catastrophe risks and some mining risks."

Reinsurance support in London is continues to withdraw from the property catastrophe market as underwriters face catastrophe losses.

There are also signs of hardening

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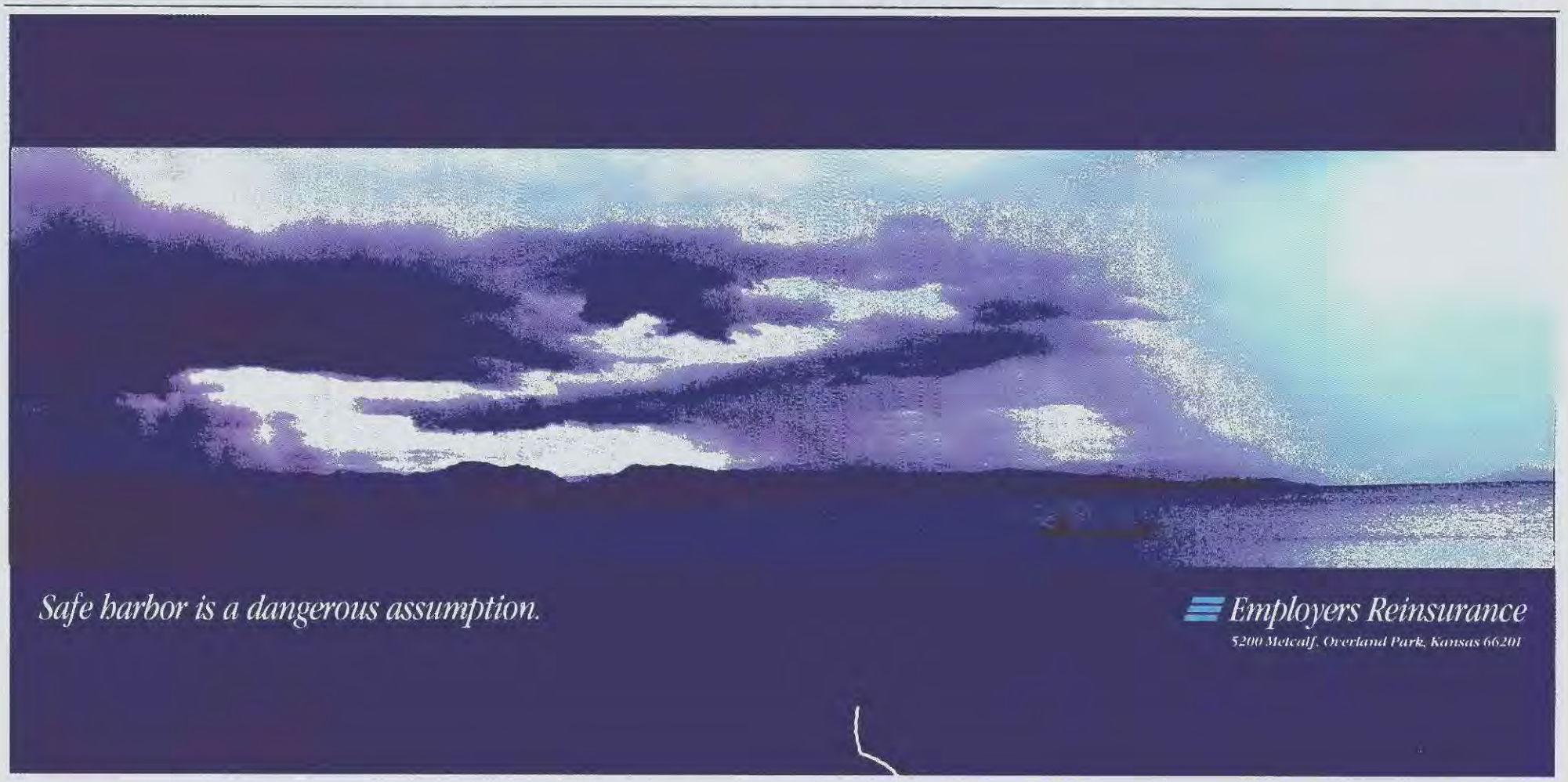

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London renewals

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in the California earthquake insurance market where rates from London underwriters are rising 5% to 25%, added Ross McKenzie, chief executive officer of London-based Alexander Howden Ltd.

Yet despite these signs, the overall London market for North American property/casualty insurance still is competitive. Rates remain flat, capacity is still abundant and only a few orders are being lost to the rate-cutting U.S. underwriters.

On the property side "there's not much to say," said Mr. Kettle of Leslie & Godwin. "The U.S. property market is still very competitive. The bigger the accounts, the cheaper the price. London is keeping its larger property renewals (but) prices are being reduced slightly."

Many London underwriters, however, are drawing the line on how low they will go to compete with U.S. insurers for property accounts, Mr. Kettle noted. "The U.S. market has not been hurt as much as London" by the string of catastrophe losses in 1989 and 1990, he said.

"General manufacturing (property) business is still very competitive both on this side of the pond and in the U.S.," a Willis Corroon P.L.C. property brokerage executive added. "A lot of people feel that the market has reached the bottom, but there is no sign of it hardening."

Capacity remains plentiful in London and the United States, he said, while continental European underwriters are also interested in writing North American property coverage as they look for new business outside their own markets.

The continental European capacity is coming from major, well-capitalized European insurers, some of which are starting out in the U.S. property market with 10-year business plans and are planning to write the coverage from London offices, the broker said.

The North American property market is holding steady with the same prices and players as last year, said Mr. McKenzie of Alexander Howden. "There is some tightening in the reinsurance market and one would assume that this will come through to the direct market, but we are not seeing it yet," he said.

There are few concrete signs of hardening, agreed Michael Barnfield, chairman of the North American division of Lowndes Lambert Group Ltd. "Rates have remained much the same. There has been some tweaking up and down, but they have mainly remained unchanged."

Major North American property losses over the past four years, like Hurricane Hugo and the 1989 Northern California earthquake, have had little impact on general rates, Mr. Barnfield said.

"The rates are not really driven by the losses but by the capacity that is available," he added.

Property reinsurers generally are still dissatisfied with rates in the London market, said John Wetherell, underwriter for syndicate 1031, managed by Janson Green Management Ltd., and chairman of Lloyd's Underwriters' Non-Marine Assn.

"We haven't seen the increases we hoped for," he said. "Rates in the U.S. are not increasing by more than 10%, and we needed a 20% increase."

However, the rate increases must come through soon, and Jan. 1 renewals should be much tougher, Mr. Wetherell added.

Meanwhile, rates and capacity in the North American casualty market remain stable more than a year after London's leading casualty underwriter, H.S. Weavers (Underwriting) Agencies Ltd., was forced to shut down (*BI*, April 2, 1990).

New leaders have established themselves as successors to Weavers.

Most brokers agree that Zurich Re U.K. Ltd. has replaced Weavers as the leader for U.S. excess liability coverage, offering a claims-made form that is acceptable to most following underwriters and policyholders. Only Lexington Insurance Co. Ltd., a unit of American International Group Inc. that offers up to $15 million in excess liability coverage, will not support the Zurich Re policy wording.

Brokers say that other casualty underwriters supporting the Zurich Re form include: the London branch of Italy's Assicurazioni Generali S.p.A.; St. Paul Fire & Marine Insurance Co. (U.K.) Ltd.; CNA Reinsurance of London Ltd.; and Anglo-American Insurance Co. Ltd.

The Zurich Re claims-made excess liability form, which was in-

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troduced last year (*BI*, July 9, 1990) is now accepted by all following underwriters except Lexington, said Chris Horton, casualty underwriter for Zurich Re.

The Zurich Re form is similar to the Weavers form but it contains exclusions that were included as endorsements in the old Weavers policy. Also, the retroactive date of the Zurich Re form is the inception of coverage with Zurich Re.

Zurich Re provides $20 million in capacity excess of $2 million on general liability business and excess of $3 million on each loss for product liability, with a $5 million aggregate on product liability losses, Mr. Horton said.

"We have taken a strong interest in the old Weavers book, and generally renewals have been following well this year as clients are looking for a stable program," Mr. Horton said. Prices remain stable on the Zurich Re book but clients are asking for enhanced coverage, he said.

"We deal mainly with Fortune 500-companies so we are dealing with sophisticated risk managers who recognize that it is best to have a balanced program rather than gouge the market for all it is worth," he said.

Zurich Re has even reduced premiums for some companies that have increased their retentions, Mr. Horton added.

Taking over so much of the Weavers book has increased Zurich Re's premium volume "dramatically," he said. "We have seen a number of clients come back into London who left after the Weavers collapse."

However, the U.S. domestic market keeps slashing its prices by 40% below sensible rates in an effort to hold on to business, according to Mr. Horton, so "new opportunities are limited because of the soft occurrence market in the U.S."

"We have had a great July 1," said Marcus Brown, underwriting director at Anglo-American Underwriting Management Ltd., which manages Anglo-American Insurance Co. Ltd. Anglo-American, which will write $5 million in the first $20 million layer of coverage, participated on the Weavers line slip until Weavers stopped underwriting last year.

"We have renewed all of our normal renewals, we have got a lot of business back and we have doubled our new business income," he added.

At midyear 1990, policyholders, confused by the Weavers downfall, were standing back from London. But their fears have now been allayed and there is plenty of secure capacity in the market, Mr. Brown said.

There is more than $50 million of casualty capacity available in London, and there is more activity in the market, though there is little hard evidence that rates are increasing, added Mr. McKenzie of Alexander Howden. The gaps left by Weavers have been largely filled by other underwriters, and North American customers have re-established their confidence in London, he said.

"Everybody is saying that the market will harden, but we are not seeing it happen. I can't see it happening between now and the end of the year, and no one can have any idea about what will happen in 1992," Mr. McKenzie said.

"This year the coverage has consolidated and the market is stronger than it was a year ago," said John Holford, deputy chairman of Sedgwick Non-Marine Insurance Ltd. Underwriters' constant attempts to raise rates, however, have failed, he said.

The loss of Weavers has also allowed clients more flexibility and tailor-made policy wordings because there are more players in the field, Mr. Holford said.

"In previous years, it had been difficult for brokers do this because the underwriters always wrote through the Weavers form," he said.

Zurich Re also has introduced a new medical malpractice form that is easier for clients to understand, he said.

Under the new form, hospital professional liability coverage is included in the excess liability policy wording rather than being written as an endorsement, as it was under the Weavers form, Mr. Holford said.

Generally, the medical malpractice capacity void created by Weavers' demise has been effectively filled by underwriters like Ken Barrett, underwriter for Merrett Underwriting Management Ltd.'s syndicate 1066 at Lloyd's, and by Unionamerica Insurance Co. Ltd. in the company market, both of which write the first layer of excess coverage while Zurich Re and Lexington come in on the next layer, Mr. Holford said.

"It takes longer to place the coverage now simply because instead of talking to one underwriter, you have to talk to a dozen," he said.

These companies were in the market when Weavers was the leading underwriter, but they did not want to compete with Weavers on price, Mr. Holford said.

Even without Weavers, though, they are still having to compete with the U.S. domestic market on price, and this is keeping medical malpractice rates soft, he explained.

"I don't see how underwriters can afford to let rates keep going down, but the question is when will they go up, and nobody knows the answer to that," Mr. Holford said.

Some gaps left by Weavers remain in the professional liability market, Mr. Holford said.

"Weavers did some things which are more difficult to do now," he said. ■

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LOC dispute

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Bank for any drawdowns on the LOC. That agreement granted Southeast Bank a security interest in all of PIE's deposit accounts at Southeast as collateral for the LOC, according to the trustee's complaint to the bankruptcy court.

In April 1990, PIE was bought by an investor group headed by Leonard A. Pelullo of Miami, who was recently convicted in Philadelphia of diverting millions of dollars from the now-defunct American Savings & Loan of Stockton, Calif.

PIE's name was changed to Olympia Holding Corp. just before it filed for reorganization under Chapter 11 of the federal bankruptcy code last October and ultimately sought liquidation.

A few days later, California's Office of Self-Insurance Plans tried to collect the $3.2 million under the letter of credit from Bank of America.

But, the bank refused to pay, contending the LOC had expired, said the bank's Florida counsel, Steve Gillman of Shutts & Bowen in Miami.

Specifically, the bank contends that, under the amended expiration clause, the LOC expired Oct. 1, 1990, following a one-year automatic renewal, according to court papers filed by the trustee.

California authorities, however, maintain that the expiration clause was an "evergreen" clause, which requires a bank to annually renew the LOCs unless it provides 45 days' notice of non-renewal, which Bank of America did not provide, according to a June 20 letter from self-insurance guaranty fund attorney Douglas W. Sullivan of Folger & Levin in San Francisco to a Department of Industrial Relations hearing officer.

"B of A can argue, at best, that the letter of credit wording is ambiguous. Well-established principles of contract law require, however, that these ambiguities be construed against the drafting party," according to a Jan. 3 letter to Bank of America and Southeast Bank from attorneys for the Office of Self-Insurance Plans.

In addition, Mr. Sullivan points out that in August 1990, Southeast Bank debited PIE's account for the LOC's annual renewal fee—and PIE authorized it—which would have extended the LOC into 1991.

California self-insurance authorities are now asking the state Industrial Relations Department to hold an administrative hearing on or after Aug. 26 to decide the collectibility of the LOC, in accordance with California's self-insurance requirements.

The California authorities want the state officials to order Bank of America to honor the Office of Self-Insurance Plans' demand and pay the $3.2 million, plus fees and expenses, to the Self-Insurers Security Fund.

However, Mr. Whitaker, PIE's bankruptcy trustee, plans to seek a preliminary injunction to stop the administrative hearing in California so that U.S. Bankruptcy Judge George L. Proctor in Florida can decide the issue.

'All LOCs—to be of any value—have to be evergreen,' or irrevocable, stresses Joe Markey.

The trustee has asked the judge to rule that the LOC expired shortly before California regulators tried to draw down on it through Bank of America so that the assets underlying the LOC can be distributed to PIE creditors in accordance with bankruptcy law.

PIE's estate now faces about $200 million in unpaid claims from about 32,000 creditors, according to Gardner F. Davis, an attorney for Mr. Whitaker with Foley & Lardner in Jacksonville, Fla.

California self-insurance authorities are asking Judge Proctor to reconsider his order last month that he has jurisdiction over the issue, even though state regulations say that a state agency should resolve disputes over self-insurer security.

The authorities argue that Judge Proctor's failure to dismiss or abstain from the proceedings violates legal precedent and their constitutional rights under the 11th Amendment, which safeguards a state's sovereign immunity.

California operates the nation's largest workers comp self-insurance program, with employers providing more than $2.8 billion in state-mandated security to guarantee the payment of workers comp claims if self-insurers go out of business, Mr. Ashcraft said. More than $2 billion of that security is in LOCs, because relatively few employers make use of other acceptable instruments like surety bonds and securities.

Currently, about two dozen states allow employers to obtain LOCs as security for self-insured workers comp obligations (*BI*, March 25). Many of those states have used California's comprehensive LOC form as a model, in part because California's LOC form has generally prevailed in other legal challenges (*BI*, Jan. 29, 1990).

Observers disagree, though, about the ultimate significance of this dispute on the acceptability of LOCs generally, in part because the LOC in this case included handwritten alterations to the expiration clause. The specifics of the changes are not in court documents.

The case is important because LOCs "have achieved unprecedented popularity as a means of self-insurers depositing money with states to cover liabilities in the eventuality of insolvencies," said Joe Markey, secretary-treasurer of the Self-Insurers Security Fund in Sacramento.

"All LOCs—to be of any value—have to be evergreen" or irrevocable, he emphasized.

An adverse ruling in the PIE case could conceivably create "a major, national issue" for state self-insurance authorities and self-insuring employers, said Allyn C. Tatum, a commissioner with the Arkansas Workers Compensation Commission and president-elect of the International Assn. of Industrial Accident Boards & Commissions.

An unfavorable outcome could restrict not only the use of LOCs but also the use of surety bonds, because many insurers require that surety bonds be collateralized with separate LOCs, he said.

However, Mr. Davis, the attorney for the bankruptcy trustee, says the ramifications would not be so widespread.

"No one disputes that LOCs can be effectively used to secure self-insuring employers' obligation to fund workers compensation claims. The question here is whether California let the LOC expire prior to attempting to draw on it," he said.

Southeast Bank officials declined to comment on the case because of the ongoing litigation.

Meanwhile, the California self-insurance guaranty fund recently assessed self-insuring employers in California 1.5% of their workers comp-related expenditures made in the previous calendar year for claims received in that year to collect the more than $3 million needed to fund the unpaid work comp claims from the bankruptcies of PIE and other companies, Mr. Markey said.

An audit done in February 1990 "projected a shortfall in excess of $700,000" between PIE's workers compensation obligations and its posted security, which includes the disputed LOC, Mr. Markey said. ■

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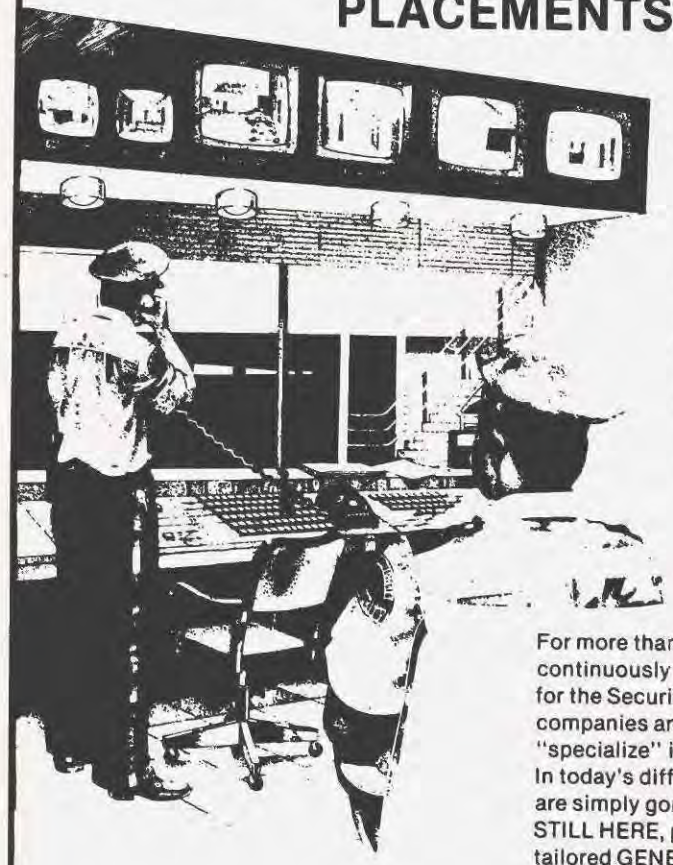

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INTERNATIONAL

Names vent frustrations with Lloyd's

By STACY SHAPIRO

LONDON—The nearly 10,000 individuals who belong to the Assn. of Lloyd's Members should all refuse to pay their losses for the 1988 underwriting year to force Lloyd's of London or the British government to protect members from losses, one member advocates.

Or, the Council of Lloyd's should consider selling all Lloyd's operations to provide members with income on their investment, another member suggested.

These were just two of the desperate comments made July 11 at the ALM's tense national conference. A record 700 members attended; 550 attended last year's meeting.

The members' comments were addressed to Lloyd's Chairman David Coleridge and ALM Chairman Anthony Haynes following a discussion between Mr. Coleridge and Lloyd's member Neil Shaw, chairman of Tate & Lyle P.L.C., over whether or not members should remain at Lloyd's.

While billed as a debate, Mr. Shaw actually asked Mr. Coleridge a list of prepared questions on why members should remain with Lloyd's. The questions, which were shown to Mr. Coleridge beforehand, centered on whether Lloyd's has proper controls to ensure good underwriting and sound advice from members' agents.

Mr. Coleridge pointed out that while Lloyd's had instituted various controls—involing managing agents, auditing, reinsurance disclosure to members and scrutiny of new members—it cannot control the business written by underwriters.

Questions from the audience reflected the genuine dismay among members at the moment, many of whom face substantial cash calls in the aftermath of Lloyd's nearly $1 billion pretax loss for its 1988 underwriting year (*BI*, July 1; June 10).

Although the question-and-answer period at the ALM conference was shorter than the four-hour Lloyd's annual general meeting held the day the 1988 results were announced, the mood still was somber.

"It's obvious that Lloyd's is filled with incompetent bunglers," a member from Rugby, England, said at the ALM meeting. "I have been a member of Lloyd's since 1977. . .I write 1.3 million pounds ($2.1 million). As a result of the 1988 year, over a 10-year period I have a total profit of 13,000 pounds ($21,372), discounting stop loss (reinsurance), discounting tax recovery.

"I think the time has come when the ALM should band together as one voice. And I believe that we should use our strength like a union and all refuse to pay losses or cash calls for 1988," the member said.

The member called on Mr. Haynes, the group's chairman, to put a proposition to members that they should refuse to pay losses. "Assuming that 60% of 10,000 members of the ALM refuse to pay, then Lloyd's and, more important, the (British) government have got to do something about it," he said. "The proposition is that none of us pay anything at all."

"Our aim is to make Lloyd's a profitable place," answered Mr. Haynes, who was chairing the debate. "It doesn't do anybody any good just to strangle the whole place."

Mr. Haynes added that there are many qualified people working at Lloyd's and that members should work to improve the market. "Most of us wish to trade out of the problems that we are currently in. We have those problems whether we like it or not. . .and we have a chairman who's demonstrated by what he has done that he is determined to lead Lloyd's positively," he said.

"As far as refusing to pay cash calls is concerned, union or no union, I believe that when I am bound by a contract, I do not intend to break the law by breaking that contract," added Mr. Haynes.

A U.S. member from California, referring to the Lloyd's task force that is now studying all aspects of the market, asked: "Is it possible that they are looking into the possibility of a sale (that) can be very, very attractive to stockholders or, in this case, members?"

"The sale of what? The building?" asked Mr. Coleridge.

"The entire operation," said the American member, suggesting that the sale would generate three to five times each member's annual deposit.

"We have looked at this possibility and we have decided that Lloyd's is 'unsalable,' " said Mr. Haynes, a member of the task force.

Converting Lloyd's to a stock insurance company would require more capital than members have invested, he said. And Lloyd's would have to convince the buyer to assume the liabilities of its syndicates.

Another member complained that after joining the market in 1986, he was put on the syndicates belonging to the now-defunct Feltrim Underwriting Agencies Ltd.

The three Feltrim syndicates now face a worst-case estimate of 350 million pounds ($595 million) in losses, and the Feltrim member said

Continued on next page

U.K. court denies Iraq Re access to funds

LONDON—A British court is refusing to allow the London representative office of Iraq Reinsurance Co. access to company funds that were deposited in a London bank to pay office expenses.

After Iraqi assets were frozen by governments around the world nearly a year ago following that country's invasion of Kuwait, Iraq Re was forced to apply to the Bank of England to obtain funds to pay office expenses, explains Wassim Yassin, manager of the reinsurer's London office. Access to those funds was denied in February, and since then Mr. Yassin has lived on his personal savings.

The situation has been complicated because the London office of Iraq Re, which is owned by the Iraqi government, has its accounts with the London branch of Rafidain Bank, the Iraqi state-owned bank. International trade sanctions have halted the bank's operations.

In February, the Bank of England placed the London branch of Rafidain Bank under liquidation. The liquidator, accounting firm Price Waterhouse & Co., contends the bank has a deficit of at least 3 billion pounds ($4.93 billion).

Earlier this month, the Bank of England asked the London High Court to wind up the bank's London branch. On July 8, the court postponed action on the winding-up petition for one year. However, uncertainty remains about the court's jurisdiction and how this order will be recognized in other countries.

Two days later, the court refused Iraq Re's application for access to funds deposited in the bank.

Mr. Yassin would not comment on the money at stake. Press reports in London said that Iraq Re had two accounts with Rafidain Bank, one that contained more than 700,000 pounds ($1.2 million) and one that contained 4 million pounds ($6.6 million).

Iraq Re asked the court for 21,500 pounds ($35,346) to meet existing obligations and 11,000 pounds ($18,000) per month to meet operating costs, the report said.

Mr. Yassin says he now will have to apply to Price Waterhouse in an attempt to gain access to the money.

Meanwhile, Mr. Yassin says he will attempt to have Iraq Re's headquarters in Baghdad arrange for the London office to access company funds in other countries so the office can cover its expenses.

"We have an account with the Bank of Tokyo, but first we have to request permission" from the Japanese central bank before those funds can be accessed, he explained.

—By Maria Kielmas

Australian insurers say market still flat

By KATE McILWAINE

BRISBANE, Australia—Commercial property/casualty insurers still are hoping rates will go up Down Under, though July 1 renewals were primarily flat.

There are some signs, however, of a hardening in the Australian property insurance market, which has been battered by catastrophe losses, underwriters say.

Liability lines, though, still remain competitive, they add.

Underwriters had hoped to push rates up by 20% during July 1 renewals (*BI*, March 25), but they said there was still too much competitive pressure in the market for that to be achieved.

Philip Clairs, managing director of Australia's third largest non-life insurer, National Commercial Union Ltd. of Melbourne, tried in April to get underwriters to informally agree to increase rates by 15%, but those hikes have taken hold for only a few accounts, not across the board.

Hans A.J. Sprangers, chief executive of Sydney-based Lumley General Insurance Ltd., a unit of British insurer Edward Lumley Holdings Ltd., said the soft market continued during July 1 renewals, adding that there was "not a lot of movement in big accounts."

Mr. Sprangers, who described the renewals as "checkered, but generally quiet," added that "there's still some silly underwriting in the market."

Some underwriters are "irresponsible; they're burning their shareholders' funds," he said.

In the long term, though, the irresponsible insurance companies will collapse or be taken over, Mr. Sprangers said.

But, more underwriters will "commit suicide" before the hardening arrives, he said. "We have seen (property) rates that are one-fifth of what the catastrophe cover costs. I call that suicide. It doesn't make commercial sense," he said.

Mr. Sprangers said the industry has made "a genuine effort" to lift rates, "but there's still too much capacity and too much pressure on companies to write business to keep their expense ratios under control."

Cyril J. Hart, general manager, general insurance, for Sydney-based Manufacturers' Mutual Insurance Ltd., characterized renewals as "pretty static."

"The big end of the market is still soft, there's no appreciable hardening there at all," he said.

Some underwriters saw improved pricing during renewals.

Chris L. Meller, managing director of CIGNA Insurance Australia Ltd. in Sydney, said the midyear renewals had been "encouraging," although there were some "erratic" prices.

"Prices are moving up," he said. "Overall, it's more positive than last year."

John J. Mallick, general manager of Sun Alliance Australia Ltd., said July 1 renewals had been "up and down, but the ups were better than the downs."

However, underwriters have to achieve rate increases to survive, he said. While there were increases in property rates, liability rates were disappointing, he said.

"It's sad, because that area of the market could cause a lot of future problems. It's easy to gamble if your chicks don't come home to roost until much later," Mr. Mallick said.

John Broerse, operations manager for Sydney-based CIC Insurances Ltd., also said the market was improving—slightly.

"It's not a conscious, united thing, but there's a bit of common sense coming back into the market," he said.

Les F. Thorn, general manager of Zurich Australian Insurance Ltd., a Sydney-based unit of Switzerland's Zurich Insurance Co., said the market is now more responsible, although it has "a long way to go."

Rates firmed slightly in most classes except liability during July 1 renewals, he said. But, some business was lost to the London market, where there is still substantial discounting, and to government-owned insurance companies, which were very aggressive and competitive, he said.

CIC's Mr. Broerse said rate increases during July 1 renewals had been "patchy." Although personal lines had seen some increases, rate hikes were harder to achieve in commercial lines, he said.

"In some areas, where competitors perceive there to be profits, there's still rate cutting," he said.

"The market is hardening; CIC is not on its own in trying to get rates up," Mr. Broerse said. Underwriters have changed their focus from increasing market share at the expense of cutting prices to a focus on profitability, he said. "Everyone has had big losses," he added.

Terry R. Herbert, general manager of Melbourne-based GRE Insurance Ltd., a unit of Guardian Royal Exchange P.L.C., said the July renewals were "a mixed bag" with some prices lifting and others remaining steady.

"The highest rise was 35%, but that was unusual. Most were 10% to 15%," he said, noting that most of those rate increases were in smaller property accounts. Mr. Herbert said the market was still badly underpriced, but underwriters are taking "a sensible approach."

"No one's racing out ahead, but things are starting to go up," he noted.

Mr. Herbert said large, across-the-board increases were not possible in the competitive Australian market. That would be achievable only if cartels are allowed to operate, he said, noting such mechanisms were outlawed by restrictive trade practices legislation introduced nationwide about 10 years ago.

Bob Wagstaffe, commercial division manager for National Commercial Union, said, "We got some increases in liability, but generally business was rolled over" at the same price. "We didn't reduce any rates, and we lost some business because of that," he said.

He noted that there is too much capacity for liability business because it is seen as a lucrative area by many underwriters, in contrast with property business, which has been unprofitable for many years.

The midyear renewals are the start of an upward trend but underwriters still need a minimum 40% increase over the next few renewals, Mr. Wagstaffe said.

"But we're not going to get that," he noted. "This is nothing really. We have turned the market, but now we need to make some gains; otherwise, the outlook is dim."

Increased rates were most frequently achieved in property lines, underwriters say.

Ron S. Peden, manager-commercial operations for AMP General Insurance Ltd., a Sydney-based unit of the Australian Mutual Provident Society, said prominent property accounts continued to exploit available premium reductions, but smaller accounts were showing signs of firmer pricing, with an average increase of 10% being achieved.

Mr. Peden said the "unprecedented catastrophe losses" incurred by underwriters over the past year would result in more price increases in the property market.

CIGNA's Mr. Meller said there is a trend toward a firming in the property market because companies are

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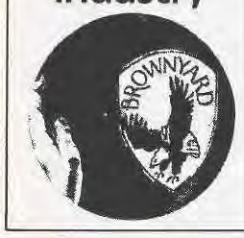

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INTERNATIONAL

Frustrated names

Continued from previous page

he could lose 200,000 pounds ($329,000), "including my house."

A new members' agent pulled the member off the Feltrim syndicates in 1989, he said, but was convinced following a meeting with Feltrim during which good results for the future were promised that the member should stay on the syndicates.

"It's staggering. Quite frankly, how can a name receive good advice from his (members') agent when his agent can only go by what he is told?" the member asked.

"We are now going to have an inquiry. As a result of that inquiry, litigation may follow—all sorts of things may happen," he said.

During the litigation, which could take up to five years, "I am prohibited from trading at Lloyd's" because he will not be able to meet Lloyd's solvency or wealth requirements, he said.

"It seems wrong that this situation should exist," the member said. Lloyd's may donate money to various charities, he pointed out, "but you know, sir, charity does start at home."

The member suggested Lloyd's consider helping members like himself. "Stop all cash calls from Feltrim from today onwards until the results of the investigation are known. . .so that these (members) can go on trading," he said.

"Either that, or the Council of Lloyd's can turn a blind eye to the whole thing. . .let those of us who are in my position—quite a number of us—go down the drain."

In cases like Feltrim, where the losses are so large that an inquiry is being held, "I think. . .that it is the duty of Lloyd's to stand by people like myself and support them—or at least give them time—until the matter has been sorted out," he said.

"It's very difficult to answer you," said Mr. Coleridge. "I understand every word you say, and there's nothing I disagree with."

Mr. Coleridge pointed out that the preliminary results of the Feltrim investigation should be available to members by early September. If a Lloyd's member can meet solvency requirements, any "earmarkings" from the Lloyd's Central Fund to pay Feltrim losses if a member doesn't pay do not have to be made until the end of October, Mr. Coleridge said.

"So there will be time for you at least (to decide) whether the preliminary result of the inquiry gives you any indication or hope or reason for hope that the reason for the Feltrim loss could lead to some kind of legal action by members against the agent," said Mr. Coleridge, who had no opinion of whether there was any evidence to prove negligence.

However, "I don't know that we can really levy money" from the membership to postpone cash calls of Feltrim members, the chairman added, noting that any losses that members refuse to pay would have to come from Lloyd's Central Fund, which is intended to pay losses owed by bankrupt members.

"Those losses have got to be paid. There's no money in the Feltrim coffers. . .and there are assureds around the world with legitimate claims that have got to be paid. That's why there's been these cash calls. The cash is desperately needed," he stated.

"I know what you're suggesting —that there should be some fund or some levy to produce the cash to pay the claims for the moment to give you (and others) more time if they are going to be able to trade on," said Mr. Coleridge.

"But you have a moral responsibility, sir, to see that we are in that position," interrupted another Lloyd's member in the audience. "I know this hasn't been done before, but there's no reason why the rules can't be changed. I mean, we've got to uphold the integrity of Lloyd's."

"I've got a moral responsibility to everyone. . . ." replied Mr. Coleridge.

"No you don't," yelled someone from the audience.

"I do have a moral responsibility to people," repeated Mr. Coleridge. "I'm sorry, but I do feel that very strongly. I do know that my main responsibility is to see that every Lloyd's policy is paid to anyone who's bought one. I have got to do that. That is absolutely vital. Otherwise, our security is not intact (and) we're out of business.

"But I understand what you've said," Mr. Coleridge said to the Feltrim member, adding that a letter the member said he sent to Lloyd's in July would be answered.

Another Lloyd's member complained that the task force studying changes at Lloyd's is acting too slowly and that the cost of being a Lloyd's member has increased.

"I cannot see why it's taken the task force so long" to report its find-

Continued on next page

INTERNATIONAL

Continued from previous page
ings, another member told Mr. Coleridge. The task force, which was set up late last year, hopes to publish its results by the end of this year.

"When I decided to become a member (three years ago), writing 400,000 pounds ($657,600), I reckoned it would cost me 15,000 pounds ($24,660) to be a member over three years," added Mr. Harvey. "Since then, costs per year moved to about 12,500 pounds ($20,550). That means that if I get a 40,000 pounds ($65,760) return, I shall only get 27,500 pounds ($45,210) before taxes.

"How are names able to get a reasonable return? I'm keen to stay in Lloyd's, but how are we actually going to get a financial return?"

Mr. Coleridge responded that as the market's chairman he cannot dictate to underwriters how to produce a reasonable profit for their members. It costs money to run a syndicate, he said. Underwriters' salaries must be paid, offices must be rented, plus there are everyday operational expenses, said Mr. Coleridge, who also is chairman of underwriting agency Sturge Holdings P.L.C.

Mr. Coleridge added that a 10% pretax return on a member's investment should be a "decent, fair" return, even allowing for expenses. While in some years members will receive no return or, in the case of 1988, will post a loss, "the return is quite acceptable" over a period of time, he said.

For instance, Lloyd's reported record profits of 649.5 million pounds ($1.18 billion at the appropriate exchange rate) for 1986 and profits of 509.2 million pounds ($819.8 million) in 1987.

Members who stay at Lloyd's—"if you can stand it"—should reap a better return once premiums start to rise, which should occur this year and will definitely occur in 1992-1994, "unless the world simply disappears," he said.

"If I'm wrong, you can come and find me because I'll be retired."

A Lloyd's member from Canada said he had flown to London for the ALM conference to decide whether to remain a member, though he said he was 90% sure before he arrived that he would resign.

While the Canadian member noted that 60 members who live near him were represented by one member's agent and now face a total of $60 million in losses, he, on the other hand, has had a "very good members' agent" since he joined Lloyd's in 1980. That agent does everything required by a foreign investor, including diversifying his portfolio of syndicates.

However, "I look at the results of 10 years at Lloyd's—eight of them actual, two of them projected—and when I get down to the bottom right-hand corner of the spreadsheet, my before-tax income is 39,800 pounds ($65,431)," the member said.

"I go to bed at night in Canada. . . and I keep thinking in the first hour that I go to sleep, 'which one of my 45 portfolio underwriters who's heading into the (Lloyd's underwriting) room may turn into the next Feltrim?' "

Noting that his profits from Lloyd's have averaged 3,980 pounds ($6,543) a year over 10 years, "I say to myself, 'Is the reward worth the risk?' My answer is pretty obvious. 'No, it isn't.'

"However, having decided to leave, I find that the best way to leave is to stay," he said sarcastically, referring to Mr. Coleridge's prediction of better days ahead for Lloyd's. "So, after leaving here today, I think that both sides win," he said, to a round of laughter and applause. ■

Australian market

Continued from page 61
"under pressure to turn their results around."

Duncan Boyle, operations director for Melbourne-based Royal Insurance Australia Ltd., said Royal had achieved premium increases of up to 15% on some accounts in the property market. Mr. Boyle said he is pleased to see the property market finally turning, but added that "it hasn't gone far enough."

Industrial special risk policies, which combine property and business interruption covers, were underrated by about 40%, he said.

GIO Australia, which is owned by the New South Wales government, had achieved property rate rises of 5% to 15%, but there were not many new accounts in the market, said Kevin J. Kinsella, manager-corporate insurance for the Sydney-based insurer.

Richard Maltby, general manager-operations for Sydney-based QBE Insurance Group Ltd., said he is delighted to see the property market hardening, noting property rates hikes ranging up to 15% at July 1 renewals.

"We stood very strongly and lost accounts rather than write at nonsense rates," he said.

Ray Kent, chief manager-insurance for Brisbane-based Suncorp Insurance & Finance, the Queensland government-owned insurer, agreed the property market had bottomed and was on the way up "a little, but there have been no outstanding rate increases."

James Tisdall, underwriting manager for Melbourne-based Factory Mutual, a unit of Factory Mutual International, said he sees property rates staying the same.

Liability insurance prices, meanwhile, remain soft, underwriters agree.

John Radley, managing director of C.E. Heath Casualty & Liability Pty. Ltd., an underwriting unit of C.E. Heath P.L.C., agreed there was "some sanity" returning to parts of the market. But, he said there was still "a lot of pressure" to cut rates for liability lines because capacity still is plentiful.

CIC's Mr. Broerse said rate reductions were continuing for long-tail liability lines during July 1 renewals.

QBE's Mr. Maltby said liability insurance renewals were written "at rollover or less."

The liability market generally has been static, with no price cutting but no major increases, either, said Suncorp's Mr. Kent.

MMI's Mr. Hart and CIGNA's Mr. Meller agreed that the liability market still is very soft. "It's been crazy for a long time. There's been some rate cutting, but it's more stable (than last year). There's very little left to cut," Mr. Hart said.

Several underwriters say they simply are walking away from underpriced business.

Mr. Broerse said CIC is "walking away" from business rather than trying to match low rates.

Mr. Sprangers said Lumley, too, would "stay on the sideline" rather than write business at reduced rates.

Mr. Hart said MMI had lost some business because it had adopted a policy of keeping rates level and increasing rates for those accounts with unsatisfactory loss experience.

Rising catastrophe reinsurance prices may eventually push primary insurers to raise their rates, some underwriters say (see story, page 43).

The property market has "hit rock bottom" and increases in catastrophe reinsurance rates will force direct underwriters' rates up severely, said GIO's Mr. Kinsella.

MMI's Mr. Hart also predicted that a hardening will occur in the Australian market because of substantial increases in catastrophe reinsurance prices.

The Australian industry tends to "react rather than foresee. We need to get bludgeoned over the head," he said.

Felix Zaccar, managing director of Sydney-based Gerling Global Reinsurance Co. Australia, a unit of German reinsurer Gerling-Konzern Allgemeine Versicherungs A.G., said most property reinsurance treaties had been renewed at the same rate, but there were indications from cedants that rate increases were being achieved on the primary level.

Mr. Zaccar said programs that had been hit by losses during the year were paying more for catastrophe layers and that was influencing the rate hikes.

The GIO's Mr. Kinsella predicted primary insurers' reinsurance rates would go up in December renewals and again next July, but he said it would take several renewal seasons to achieve the sort of levels underwriters wanted.

QBE's Mr. Maltby was less optimistic about the future than some other underwriters. "The Australian market is oversupplied, so there is always going to be intense competition." ■

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Runoff policies

Continued from page 3

Outhwaite can refuse to pay them under the runoff reinsurance contract syndicate 317/661 wrote for syndicate 33, the judge ruled.

Moreover, the court also ruled that the burden of proof rests with syndicate 33 to show legal liability for claims paid under the Wellington Agreement.

"Payments made to the Wellington facility or under the Wellington Agreement in respect of liabilities other than those which were insured and reinsured do not form part of the 'ultimate net loss' for which the reinsurers are liable, and there is no estoppel which requires (reinsurers) to prove which payments were not of that kind," the judge said.

This judgment appears to confirm that a reinsurance contract makes a reinsurer legally liable only for claims for which the original insured had been liable, the Outhwaite agency said in a statement.

"This is an important decision in our favor, particularly because it may influence other cases where similar disputes over (the amount due) have arisen," said Edward Bloxham, chief executive of the Outhwaite agency.

Outhwaite has disputed liability for claims under many of the runoff reinsurance contracts written by syndicate 317/661 in the early 1980s.

"The judgment gives full legal support to the view, expressed in an earlier award by Lord Wilberforce, that a reinsurer is only responsible to meet claims through the Wellington Agreement for which the reinsured is legally liable and confirms that voluntary payments made through the facility are not covered under reinsurance contracts," added Mr. Bloxham.

The London market as a whole reacted far less favorably to the ruling.

There is considerable concern in the market that the judgment could encourage more litigation between reinsurers and insurers as well as discourage compromises like the Wellington Agreement.

The Wellington Agreement was signed by asbestos producers and insurers in 1985 to reduce the ultimate cost of asbestos litigation by settling insurance coverage disputes and promoting efficient settlement of asbestos bodily injury claims. The Asbestos Claims Facility formed under the agreement closed in 1988 after asbestos producers could no longer agree on the market share formula for liability.

"It's a very bad judgment for anyone who took part in a compromise settlement that saved everyone money," said Mr. Hiscox.

Payments on behalf of non-policyholders represent less than 10% of the total payments syndicate 33 made through the facility, he estimated. But the judgment will mean the syndicate will incur further expense in proving the validity of the remaining 90% of the claims paid, he added.

Syndicate 33, he pointed out, secured confirmation from Outhwaite that membership in the facility would "not prejudice" the syndicate's position with respect to reinsurance recoveries. But any reinsurer that did not give such permission may now turn around and deny all claims, he said.

"It's an awful award to have sitting there. A reinsurer can now ask details of every claim paid and that sort of information can be very difficult to furnish. It is ridiculous," he added.

Syndicate 33 is considering an appeal, he said, noting that it would be in the London market's interest to see the judgment overturned.

Justice Evans pointed out that he had not been asked to rule on whether Outhwaite could deny payment of uninsured claims if Hiscox could prove that the Wellington facility saved money.

"The question whether a further estoppel prevents them from denying liability for the total of all such payments upon proof that the total was lower than it would otherwise have been, has not arisen on this appeal," the judge said.

As a result, Hiscox is considering raising this issue in any future appeal, said Clive Boxer, a partner of Fishburn Boxer, the London law firm representing Hiscox.

In the meantime, the syndicate already has pulled out of the Center for Claims Resolution because of uncertainty surrounding reinsurance recoveries for claims paid through the facility.

The judgment appears to create an 'insurmountable obstacle,' says Jack Edward Koepke of Gerling Re. 'It is now essentially impossible to reconstruct the original plaintiff groups to which Hiscox would have been liable.'

One reinsurer called the ruling a "major upsetting of the apple cart." Documenting the legal validity of each claim settled through the Wellington Agreement "would be mind-boggling," he said.

"It is going to prove difficult to prove the validity of the underlying insured claims," agreed Peter Driscoll, a partner with Elborne Mitchell, the London law firm that represented Outhwaite.

The judgment appears to create an "insurmountable obstacle," said Gerling's Mr. Koepke. "It is now essentially impossible to reconstruct the original plaintiff groups to which Hiscox would have been liable had the Wellington formula not been applied."

In theory, reinsurers may now "be able to question any agreement which an insurer entered without express prior consent of the reinsurer," said Mr. Koepke.

However, Mr. Boxer said that because Hiscox obtained Outhwaite's permission to join the facility, syndicate 33 is "not disqualified from getting anything," but it is "only entitled to recover those sums that they would have been entitled to recover had there been no Wellington Agreement."

"The vast majority of claims are recoverable but they have now the problem of proving them," he added.

If the judgment is correct, then "anyone who didn't get consent of their reinsurers prior to joining Wellington could be, by reason of the underlying insurance contract being incorporated into the reinsurance contract and the use of the term 'follow the settlement,' unable to recover anything paid under the Wellington facility," said Mr. Boxer.

"The rest of the market ought to be terrified. It isn't just runoff reinsurance that has 'follow the settlement' terms. So every reinsurer might argue, 'No Wellington payments unless you have my consent and then only if you can prove you would have been liable.' This is going to mean chaos and litigation," warned Mr. Boxer.

For some years, reinsurers have sought further information from Wellington facility insurers before agreeing to pay claims. Until now, though, most have not specifically disputed payments made to non-policyholders. Reinsurers had long accepted the market share formula as a way to reduce legal costs.

But the judgment has changed the rules. Reinsurers will now be obligated to assess the validity of all claims on behalf of their shareholders or syndicate members, lawyers say.

Underwriter Stephen Merrett, whose Lloyd's syndicates also wrote several runoff policies, has disputed some of the policies on grounds of non-disclosure and other specific issues. Although so far he has not argued that claims paid to non-policyholders are not recoverable, he will examine the judgment closely.

"If it indicates that certain claims are reinsurable and certain aren't, we will have to consider it," he said.

Until now, "where claims have been paid in line with a market agreement whose purpose is to reduce the general aggregate loss, we have thought it appropriate to go along with it," said Mr. Merrett. "But if we now have an obligation to defend claims as a result of the judgment, we will have to review our position."

Mr. Merrett allows that he has "some sympathy" with the view that the judgment "might cause the market to grind to a halt" if reinsurers seek proof of validity of every claim.

"It is like trying to put all the toothpaste used between 1950 and 1960 back into its original tubes," said Mr. Koepke.

The Gerling reinsurance executive adds that this judgment appears to be isolated. The reasoning has not been followed in the United Kingdom or the United States, he said, nor is it likely to be followed. "I would be surprised if they take that approach; it's a very formalistic approach."

Yet the ruling should not be ignored, said Clive O'Connell, a partner with London law firm Barlow Lyde & Gilbert. He cautions that "the judgment will oblige both reinsurers and reassureds to study

Continued on next page

The professional marketplace

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NOTICE AND INVITATION FOR OFFERS

Monarch Life Insurance Company
Susan K. Scott, Acting Massachusetts Commissioner of Insurance and Temporary Receiver (the "Receiver") of Monarch Life Insurance Company ("Monarch Life"), hereby solicits offers for the assets of Monarch Life. Although the form of this "Notice and Invitation for Offers" has been approved by the Court supervising the Monarch Life Receivership, the court has not determined ths authority of the Receiver to convey assets.

Offers for Monarch Life's general insurance business (including particular lines of business), subsidiaries (including its life insurance company subsidiaries), investments and proprietary business systems are hereby solicited by the Receiver.

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Information concerning the offered assets are available from: Christopher Sloan, Legal Section, Massachusetts Division of Insurance, 280 Friend Street, Boston, Massachusetts 02114, (617) 727-7189 (x-408).

Offers must be received in writing by the Reciever within forty-five days from July 12, 1991 and should be directed to Susan K. Scott, Temporary Receiver of Monarch Life Insurance Company, 280 Fiend Street, Boston, Massachusetts 02114.

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Commercial Consumers

Administrative:	
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Vice-Presidents, General Managers and Other Administrative Personnel	4,489
Financial:	
Chief Financial Officers and Vice-presidents of Finance	2,581
Secretaries, Treasurers, controllers and other Financial Personnel	4,349
Risk/Employee Benefits:	
Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	10,606
Sub-total	**24,591**
Associations	488
Government, Unions and Educational Institutions	1,275
Commercial Consumers	
Sub-total	**26,354**
Insurance Agents and Brokers	9,651
Insurance Companies	8,074
Accountants, Actuaries, Attorneys & Consultants	3,438
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers	1,294
Others Allied to the Field	1,365
TOTAL	**50,176**

* Source Business/Occupational breakdown of qualified circulation, November 26, 1990 issue, as submitted to BPA for December 1990 BPA Publisher's Statement.

Continued from previous page
their wordings most carefully and to consider the precise factual backgrounds to the presentation of claims and to the advices to reinsurers relating to involvement in the Wellington facility."

In addition, the judgment may hinder the development of other settlement structures in the future, lawyers point out.

Before any such claims paying agreement could be struck, insurers would "have to go to their reinsurers and bear their breasts and seek indemnification, and if the reinsurers don't agree, the market agreement may be unable to proceed," said Stephen Lewis, a partner of law firm Clifford Chance.

According to Justice Evans, "The reinsurer is always entitled to raise issues as to the scope of the reinsurance contract, and where the risks are co-extensive with those of the underlying insurance, he is not precluded from raising such issues, even when there is a 'follow the settlement' term of the reinsurance contract.

"Ultimately, this is the only sure protection which the reinsurer has against being called upon to indemnify the reinsured against payments which were not legally due from him to the original insured, however reasonable and business-like the payments may have been," Justice Evans wrote.

"Payments made in respect of claims asserted against non-insured producers are not within the scope of the reinsurance contract, and the arbitrator was correct in holding that they are excluded," he ruled.

In light of the judge's ruling, it's fortunate for Hiscox that it sought Outhwaite's approval to join the Wellington facility.

"If nothing had been said, the reinsurers might have been able to argue that no payment made to the Wellington Facility was within the contract of reinsurance, because it was made in respect of the syndicate's liability under the Wellington Agreement, rather than under any underlying contract of insurance," the judge ruled. ■

Federal certification of MEWAs proposed

By ADRIENNE C. LOCKE

Washington

WASHINGTON—Self-funded multiple-employer welfare arrangements that meet specific funding and reporting requirements would be certified by the Labor Department as federally regulated, under legislation introduced last week in the House of Representatives.

Under the measure, H.R. 2773, states would retain the authority to regulate only those MEWAs that either do not apply for federal certification as an entity regulated by the Employee Retirement Income Security Act or those that are denied certification.

Only MEWAs in operation for three years or longer would be considered for certification. These MEWAs also would have to operate in good faith and have a satisfactory five-year plan of operation.

The legislation, which was introduced by Rep. Thomas E. Petri, R-Wis., would require applicants seeking Labor Department certification to provide:

- The identities of members of the MEWA's "operating committee."
- Copies of agreements between the MEWA and service providers.
- Copies of documents governing the MEWA, including bylaws and trust agreements.

Applicants also would have to provide a complete actuarial statement outlining "the extent to which rates are adequate to provide the payment of all obligations and the maintenance of required reserves."

MEWAs that generate inadequate premiums still could be considered for certification if they provide the Labor Department with information on changes "needed in the contribution rates to attain such adequacy."

Financial information included in the actuarial statement as well as in proposed changes to generate adequate premiums would have to contain currently valued assets and liabilities, as well as a 12-month projection of assets, liabilities, income and expenses.

The Labor Department also could request any other information it deems appropriate.

MEWAs certified by the Labor Department would be required to maintain reserves to pay claims as recommended by a qualified actuary and must maintain minimum reserves of at least 20% of expected incurred claims and expenses and unearned contributions.

Reserves equal to an additional 10% of expected incurred claims and expenses would be held in escrow for the sole purpose of meeting plan termination obligations.

In addition, MEWAs would be required to maintain aggregate stop-loss insurance that responds after no more than 125% of total expected claims, as well as specific stop-loss coverage that responds after no more than 105% of an expected single claim.

Certified MEWAs would have to seek recertification every five years.

In addition, the Labor Department could suspend or revoke certification after showing cause. However, suspensions and initial denials could be appealed.

"I think it's a good, very well thought-out piece of legislation," said Frederick D. Hunt, president of the Society of Professional Benefit Administrators in Chevy Chase, Md.

Because the bill would set clear financial standards for MEWAs to meet to ensure they are federally regulated, there would be no question about their solvency, Mr. Hunt said.

He said the legislation would ensure improvement in MEWA regulation. "The states have had years and years to get their act together and they haven't."

Wisconsin Insurance Department General Counsel Fred Nepple agrees that federal MEWA legislation is needed.

But, Mr. Nepple criticizes the measure because it would take away "the authority of state insurance regulators to regulate these entities while opening existing loopholes" that have frustrated state enforcement attempts.

Mr. Nepple, who is a member of the National Assn. of Insurance Commissioners' ERISA Working Committee, said he would rather see Congress clarify the right of states to regulate MEWAs.

Bush addresses NFIB

President Bush recently applauded small employers for helping his administration reach "common goals" on mandated benefits and health care reform.

At a meeting of the National Federation of Independent Business last month, the president thanked employers for their opposition to mandated medical and family leave legislation in favor of "parental choice in child care."

Two bills, H.R. 2 and S. 5, would require employers with at least 50 employees to provide workers with up to 12 weeks of unpaid job-protected leave to attend to a newborn or adopted child, an ill family member or the employee's own medical needs (*BI*, Jan. 21; Jan. 14).

Both bills also would require employers to continue to provide an employee's health insurance at the same level and under the same conditions as if that employee were still working.

Mr. Bush said employers have played a leading role in "pushing back this endless flow of mandated programs" of which the medical and family leave legislation is the latest example.

"We will resist mandated benefit programs. You know them all too well—Washington's one-size-fits-all solutions to problems that come in all sizes and shapes," the president said.

Currently, H.R. 2 is pending before the House Personnel and Police Subcommittee, while S. 5 has passed the Senate Labor and Human Resources Committee, although no debate is yet scheduled.

At the small business meeting in Washington, Mr. Bush also restated his opposition to a national single-payer health care program that many small employers also oppose.

"Although some people think it makes sense to establish our own brand of federally mandated national medical care, I disagree strongly," he said.

The administration, the president said, has already made some proposals designed to hold down medical costs without reducing the amount of care available.

Some of those initiatives "encourage people to take care of themselves," Mr. Bush said. And another proposal, medical malpractice liability reform legislation, encourages patients "to resolve disputes with doctors instead of hauling everyone involved into court," he said.

"Too many medical dollars go to pay off lawyers. Our medical money ought to pay for healing, not suing," Mr. Bush said.

The Bush administration's medical malpractice proposal was unveiled in May (*BI*, May 20). Later that month, Sen. Orrin G. Hatch, R-Utah, introduced it as bill S. 1123.

Among other things, the Bush proposal would:

- Cap awards for non-economic damages at $250,000, while eliminating joint and several liability for such awards.
- Require judgments for future costs, like future medical expenses, to be paid out in installments rather than a lump sum.
- Eliminate the collateral source rule to prohibit double recovery from other compensation sources like health care or workers compensation coverage.

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Financial Services for the Insurance Industry

Washington

Continued from previous page

Monitored by a 13-member advisory board of corporate medical directors and employee benefit personnel, the center will keep track of research in health care quality.

The center, which opened this spring, will publish a series of condition/diagnostic reports on the outcomes of specific medical procedures.

The first two reports, which are expected to be completed in the fall, will focus on Caesarean section procedures and alcohol abuse treatment.

In addition, the center will publish an eight-page quarterly newsletter of employer perspectives on quality, public policy and health care payment/financing issues.

WBGH members can receive the center's publications at no cost. For non-members, there is a $50 annual fee for the newsletter and a nominal charge for the reports.

For more information, contact Carol Cronin, Project Director, or Mark Koepki, Assistant Project Director, Washington Business Group on Health, 777 N. Capital St. N.W., Washington, D.C. 20002; 202-408-9320.

Liability reform bills

Joint and several liability would be eliminated in product and professional liability suits by separate bills recently introduced in the House of Representatives.

In addition, another, similar House bill that would introduce product liability reforms is expected to be introduced later this month.

Product liability legislation, H.R. 2700, introduced this month by Rep. Don Ritter, R-Pa., would:

- Prohibit manufacturer or product seller liability if alcohol or drugs were at least 50% responsible for a plaintiff's harm.
- Limit punitive damages to cases in which there was "clear and convincing evidence" of "flagrant" misconduct by the manufacturer or product seller. No uniform standard currently exists.

If punitive damages are warranted, the court would set the amount based on the profitability of the defendants, their financial condition and the total effect of other punishment—like other punitive awards—imposed on them as a result of the conduct.

- Make product sellers responsible only for the harm caused by their own negligence. They would be held liable for the manufacturer's negligence only if the manufacturer could not be brought to trial or did not have the funds to pay an award.
- Limit the amount of an award to the percentage of harm caused by each defendant.
- Exempt a product from punitive damage awards if it was approved by the Food and Drug Administration or if its design was approved by the Food and Drug Administration. This exemption would not apply to products that received FDA or FAA approval through misrepresentation.
- Reduce awards by any collateral source payments like workers compensation or health insurance.
- Establish a two-year statute of limitations and prohibit suits involving capital goods and general aviation aircraft that are more than 12 years old.
- Encourage the development of alternative dispute resolution mechanisms.

A bill similar to Rep. Ritter's—and a companion to a product liability bill introduced in the Senate by Sen. Robert W. Kasten Jr., R-Wis. (*BI*, March 18)—is expected to be introduced later this month by Rep. Roy J. Rowland, D-Ga.

The Kasten proposal differs from the Ritter measure in several respects. Sen. Kasten's bill, S. 640, would, for example, eliminate joint and several liability only for noneconomic damages and would allow product liability suits to be filed when the goods involved are fewer than 25 years old.

Meanwhile, Rep. Ritter also introduced a professional liability bill, S. 2701, that would abolish joint and several liability for licensed professionals like doctors and engineers.

Damage awards would be reduced by any collateral source payments like workers compensation or health insurance. And the bill also would:

- Allow punitive damages only in cases of "clear and convincing evidence" of "malicious and reckless disregard" of the harm done, or in "an extreme departure from accepted standards of conduct."
- Hold plaintiffs' attorneys liable for suits a court finds frivolous.
- Require awards of more than $100,000 to be paid out in periodic payments.
- Encourage the development of alternative dispute resolution mechanisms to resolve liability suits.
- Limit plaintiffs' attorney fees based on a sliding scale percentage of the award. ■

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Mutual Benefit Life

Continued from page 1

health company—its financial problems led regulators to immediately cut by 30% annuity benefits paid to tens of thousands of retirees.

In addition, California Insurance Commissioner John Garamendi has warned that if Executive Life is to survive, its liabilities, including about $3 billion in GICs sold to savings plans and municipalities, must be restructured.

Mutual Benefit Life expanded its GIC business in the 1980s and supported that business with real estate and mortgage investments. Those soured investments are blamed for its deteriorating condition and the resulting policyholder run.

Under a rehabilitation plan approved last week by New Jersey Superior Judge Paul Levy, Mutual Benefit Life—or a stock subsidiary—will continue to write group and individual life and health and long-term disability policies, pay disability and death claims and make annuity payments.

Cash surrenders, withdrawals from annuities and policy loans have all been halted to preserve the remaining assets. Such withdrawals will only be permitted in hardship cases.

The plan calls for the insurer's profitable group life and health business to be maintained separately in a wholly owned stock subsidiary, Mutual Benefit Life Assurance. MBLA will be managed outside of the rehabilitation, with its profits paid to the parent company.

Mutual Benefit Life also plans to institute cost control measures and seek new investors.

The sale of additional pension contracts by either Mutual Benefit Life or MBLA is suspended pending a feasibility study. If new pension business is to be written, it would be by MBLA.

New individual business written by Mutual Benefit Life in rehabilitation will be reinsured by Metropolitan Life Insurance Co., which earlier failed to hammer out a merger pact with Mutual Benefit Life, and by Prudential Life Insurance Co., in an effort to retain the support of independent agents. These policies will remain outside the rehabilitation.

Benefit experts note that in some benefit lines where Mutual Benefit Life is a major player, like long-term disability insurance, there is ample capacity and fierce competition. As a result, employers would not be greatly affected even if Mutual Benefit Life could not be successfully rehabilitated (see related story).

Mutual Benefit Life had only a small market share and was not considered a major player in other products, including GICs and 403(b) annuities—which are a type of defined contribution plan available to certain non-profit organizations.

The company reported $5.6 billion in annuity reserves in 1990, including $769.1 million in GIC liabilities.

Its GIC business had tailed off recently. The $769.1 million in GIC liabilities posted in 1990 is down 11.5% from $869.5 million posted in 1989. That, in turn, is a 13.6% decline from the $1.01 billion in GIC liabilities reported in 1988.

Mutual Benefit Life wrote only $9 million in GIC premiums in 1990, a 31% decline from $13 million in 1989.

In recent years, Mutual Benefit Life has focused on providing full-service pension management to smaller companies, emphasizing its fee-for-service 401(k) pension plan administration rather than GIC sales.

However, some GIC consultants are concerned that the Mutual Benefit Life takeover reflects badly on the entire GIC industry (see story, page 68).

In the 403(b) market, Mutual Benefit Life is one of dozens of companies that provide the special annuity product, which, under the Tax Code, is available to certain non-profit organizations like universities and hospitals.

While it wasn't immediately known last week how many non-profit organizations selected Mutual Benefit Life as a 403(b) plan provider, the insurer did have some well-known accounts, including the University of Illinois.

Mutual Benefit Life is one of five options University of Illinois employees can choose from to make pretax contributions to their 403(b) plan, which supplements another university pension program, a spokeswoman said.

While the 403(b) program is available to all 23,000 University of Illinois employees, only about 1,900 actually make contributions. In recent years, employees had been directing about $11 million, or 60%, of $18 million in total contributions, to Mutual Benefit Life.

Leading the 403(b) annuity market is New York-based TIAA-CREF, which provides 403(b) plans to about 4,600 non-profit organizations.

Mutual Benefit Life also underwrote stop-loss insurance for employers self-funding their group health care plans, but fully reinsured the stop-loss policies with U.S. and foreign reinsurers, according to a third-party administrator reading from a letter he had received from an underwriting manager.

"There is nothing to worry about," said a third-party health care claims administrator, referring to Mutual Benefit's stop-loss insurance contracts.

But New Jersey legislators were worried enough to pass a law last week to create a state life and health insurance guaranty fund.

If an insurer is liquidated, policyholders would be paid up to $500,000, or the difference between what the company can pay and what they are owed, whichever is less.

With the New Jersey law, only Colorado, Louisiana and the District of Columbia do not now have life and health guaranty associations, according to the National Organization of Life and Health Insurance Guaranty Associations in Herndon, Va.

Mutual Benefit Life also has guaranteed the performance of 60 industrial revenue bond issues with a total value of $770 million, according to Standard & Poors.

Of those, 18 revenue bonds representing $244 million contain provisions allowing the bond holder to return the bond to Mutual Benefit Life at the bondholder's discretion. However, experts don't expect New Jersey regulators to buy the bonds in the near future.

In addition, as long as the bond issuers continue to pay, Mutual Benefit Life is not at risk.

The insurer left the bond guarantee business when states adopted regulations prohibiting multiline insurers from writing the business.

Mutual Benefit Life's rehabilitation is an example of how widespread fear can bring even a well-respected and large insurer to its knees.

The insurer had no choice but to request the rehabilitation order in New Jersey to protect its assets after policyholders sought to remove funds.

Between January and June, $425 million flooded out of the company in group and individual pension disbursements and withdrawals. The Insurance Department projected an additional $1.2 billion in group pension disbursements and withdrawals for the rest of the year if they had not acted.

Mutual Benefit Life last week had $374 million in surplus, which was threatened by the continual withdrawal demands of policyholders.

"The cash-flow drain had to be stopped. No company can withstand that kind of strain," said Mr. Mayewski of A.M. Best.

A series of events are blamed for triggering the policyholder panic that ultimately forced Mutual Benefit Life into rehabilitation to conserve its assets.

S&P's Mr. O'Neill believes that policyholder panic initially may have been triggered by leaks this spring that Mutual Benefit Life was seeking a merger with or an investment of capital by Metropolitan Life.

"Those discussions should have been kept under tight wraps," Mr. O'Neill said.

S&P's decision in May to reduce Mutual Benefit Life's rating by four grades to A from AA. also may have fueled policyholder concern. S&P earlier could have reduced ratings in more gradual steps, some observers commented.

Michael G. Odlum, director of guaranteed investment services at the Vanguard Group in Valley Forge, Pa., suggested "the rating agencies have underestimated the impact of the liquidity situation. I think they also just underestimated the impact of the mortgage situation."

Everyone had been concentrating on the junk bond issue, yet this is not a major problem in the life insurance industry, he said.

Mr. O'Neill said S&P is aware that the marketplace does react to a change in the rating of an insurer, but the rating agency has an obligation to provide information as soon as possible.

"The primary responsibility we have is to provide the most accurate information we can at once. In the case of Mutual Benefit Life, we analyzed the information as quickly and thoroughly as possible as soon as it became available," he said.

Mr. O'Neill said S&P cut Mutual Benefit Life's rating in May after learning that the value of its investments plunged by more than $200 million in 1990, primarily in its mortgage portfolio.

These losses, which exceeded S&P expectations, were not revealed until Mutual Benefit Life filed its annual statutory statement for 1990, Mr. O'Neill said.

In addition, unattributed reports earlier this month in New Jersey-area newspapers that state regulators were preparing to seize Mutual Benefit Life accelerated panic among policyholders, who flew in from all parts of the country to Newark to try to cash in their policies.

"The press fueled the panic," said Mr. Mayewski of A.M. Best.

Benefit experts say it isn't surprising that panic can develop so quickly among an insurer's policyholders at just the slightest hint of trouble.

Kim McCarrel, a consultant with Wyatt Asset Services Inc. in Portland, Ore., believes that the mass failures of savings and loan associations, as well as the earlier collapse of Executive Life, have created a grave loss of public confidence in the financial services industry, including insurance.

"There is a fear that nothing is safe," she said.

"There is an unprecedented level of fear among policyholders," said Mr. O'Neill of S&P.

And, once panic shifts into high gear, there is virtually nothing to do to stop it.

"The alarming thing is how a basically solvent insurance company was very quickly forced into a state takeover because policyholders reacted to publicity and tried to get their money all at once," said Frank McArdle, a consultant in the Washington, D.C., office of Hewitt Associates.

Indeed, in the case of Mutual Benefit Life, the panic created a situation that no company could survive, said Best's Mr. Mayewski.

"When an insurance company invests for the long term and there is a short-term demand for cash caused by panic, it cannot withstand the strain" and needs protection by regulators, he said.

While industry analysts agree that Mutual Benefit Life's financial problems are significant, they also believe that the company could have successfully restructuted—without a state takeover—had policyholders not panicked.

"We felt a restructuring was doable. They had strong group operations that would have attracted investors," Mr. Mayewski said.

Prior to the takeover by the New Jersey Insurance Department, Mutual Benefit Life had already been considering a financial restructuring to transfer its group life/health business to MBLA. Mutual Benefit Life then hoped to raise $300 million by selling a portion of that unit to an outside investor, he said.

"With a successful restructuring, Mutual Benefit Life would have ended up on its feet," Mr. Mayewski said.

But no one faults Mutual Benefit Life for seeking the rehabilitation order and the New Jersey regulators for quickly responding.

Through the quick action, Mutual Benefit Life, unlike Executive Life, did not use up its liquidity and did not have to sell off higher quality, liquid assets.

The speed with which Mutual Benefit Life sought help from the Insurance Department "bodes well for Mutual Benefit contract holders," said Peter E. Bowles, president and chief investment officer at Fiduciary Capital Management, a GIC investment management firm in Woodbury, Conn.

By ending withdrawals at a relatively early point, Mutual Benefit Life has preserved liquidity, he said.

Executive Life in California, he noted, hemorrhaged for more than a year before seeking help, using up its liquidity, selling off higher quality, liquid assets, leaving it only with its lower quality assets.

Following the quick action, Mutual Benefit Life contract holders at worst may get a "haircut" on their interest rates, getting something less than originally promised, Mr. Bowles predicted.

Contract holders "will ultimately get back all their investment and, I think, the bulk of their interest," Mr. Bowles speculated.

After the regulatory takeover in 1983 of Baldwin-United Corp., a provider of single premium deferred annuity products, Baldwin-United policyholders ultimately got back all their principal and much of their interest, he noted.

Mr. Becker of Becker & Rooney estimated that in a "worst case scenario" a large company may have only 15% of its GIC funds with Mutual Benefit Life, and would lose just 10% of that amount.

Even small plans with 100% of their funds with Mutual Benefit Life will not lose all their money, Mr. Becker predicted.

In the case of Executive Life, policyholders will still get 71 cents on the dollar and, unlike that insurer, Mutual Benefit Life is not a "basket case," he said. "It's not all down the drain."

Despite some superficial similarities, there are significant differences between Mutual Benefit Life and Executive Life.

Mutual Benefit Life had virtually no involvement in junk bonds, which is the major reason for Executive Life's downfall. In addition, it voluntarily sought regulator's takeover, which was not the case for Executive Life.

The official rehabilitator is New Jersey Insurance Commissioner Samuel F. Fortunato, but Nicholas deB. Katzenbach, former U.S. Attorney General and Undersecretary of State under President Johnson, will serve as the on-site deputy rehabilitator.

Stephen J. Carlotti, formerly Mutual Benefit Life chief operating officer, has become chief executive officer, while Donald F. Haller Jr., the chief financial officer, will also remain.

Henry Kates, who had been chief executive officer, refused Mr. Fortunato's request to remain in his position, but will serve as a consultant for six months.

In a statement, Mr. Carlotti said, "Rehabilitation will enable Mutual Benefit to continue serving policyholders, remedy its real estate problems and restore public confidence." ■

No LTD disruption seen

TRENTON, N.J.—Mutual Benefit Life Insurance Co., one of the top half-dozen underwriters of group long-term disability insurance in the nation, may find it difficult to retain that business following its anticipated rehabilitation.

But, Mutual Benefit Life could disappear from the highly competitive group LTD market without disrupting it.

"With LTD, you are looking for income replacement for 20 or 30 years. You are looking for long-term stability, and no one can yet say if Mutual Benefit Life will be stable over the long term as well as the short term," observed Bob Eicher, a principal with A. Foster Higgins & Co. Inc. in New York.

Before being forced by panicking pension product and annuity policyholders to submit to state rehabilitation, Mutual Benefit Life had "been very successful in writing LTD," said Mr. Eicher. "Their pricing was stable and they provided excellent service. They are a major player."

Mutual Benefit Life in 1990 wrote $205 million in LTD premiums.

"They are very well-respected. They have sound underwriting practices and are very fair on renewals," said J. Lawrence Hager, a principal in the Newtown, Pa., office of Noble Lowndes U.S.A.

Mutual Benefit Life was especially strong in the group LTD market for programs covering fewer than 250 lives, though it did write larger accounts.

And, unlike some competitors, Mutual Benefit Life usually was willing to write group LTD coverage on a stand-alone basis. Other insurers sometimes offer favorable quotes only when an employer agrees to purchase other benefit coverages, like life insurance.

But, if policyholders want to leave Mutual Benefit Life, there is plenty of capacity in the LTD market to pick up the business, consultants say.

Other insurers already are poised to pick up Mutual Benefit Life's LTD business, said Peter O'Brien, a national director of Ernst & Young's health and welfare benefits practice in New York.

Harry Don, a consultant with The Wyatt Co. in Cleveland, said competition is so intense in the LTD market that in one recent case 13 of 13 insurers asked to submit bids did so.

"There are a lot of aggressive underwriters out there," Mr. Eicher said.

—By Jerry Geisel

'This is not the tip of the iceberg'

TRENTON, N.J.—The state seizures of Executive Life Insurance Co. in California and Mutual Benefit Life Insurance Co. in New Jersey within three months are not the beginning of a widespread collapse of life insurance companies, an industry official asserts.

"This is not the tip of the iceberg. To a considerable degree, the problems of Executive Life and Mutual Benefit Life are unique to each company" and are not shared by the industry, said Stephen Young, director of the American Council of Life Insurance's New York office.

Mr. Young notes that Executive Life's massive holdings of junk bonds —nearly two-thirds of the company's $10 billion in assets—is atypical of life insurers. On average, insurers maintain about 6% of assets in medium and lower grade bonds.

Bonds rated BB are considered medium grade.

In addition, the nearly 40% of assets invested in mortgages and real estate by Mutual Benefit Life is about double the industry-wide average, Mr. Young said.

Not only did Mutual Benefit Life invest much more heavily in mortgages and real estate, its investments were much less successful than those of many other insurers.

For example, 5.6% of Mutual Benefit Life's mortgage portfolio in 1990 was non-performing, according to insurance securities analyst Conning & Co. Of these, 4.1% were in the process of foreclosure and 1.5% had payments more than 90 days overdue, according to Conning.

This compares with a total nonperforming rate of 3.3%, according to a study of 100 companies by Conning.

"They made some decisions that didn't pan out," Mr. Young said.

Mr. Young also noted that Mutual Benefit Life underwrote mortgages in commercial real estate markets in Florida, which were clobbered when the economic recession hit last year.

Mutual Benefit Life also expanded its investments in commercial mortgages during the mid-1980s when the real estate market was booming, he said.

By the time these buildings were completed, the market had been glutted, making it difficult for developers to find tenants to fill the buildings. As rental income dwindled, the developers fell behind in mortgage payments.

"Mutual Benefit may have made some wrong guesses in the real estate market," Mr. Young said.

As developers fell behind in mortgage payments, Mutual Benefit Life aggressively foreclosed on properties, leading to big writedowns in the value of assets.

"Their underwriting (for mortgages) was not as conservative as some companies'," said Larry Mayewski, vp of the life and health division of A.M. Best Co. in Oldwick, N.J.

Mr. Mayewski said he expects further writedowns of Mutual Benefit Life's mortgage portfolio will continue, but should be more moderate than in the past.

Still, "They are not out of the woods yet. We know there is more exposure," he said.

—By Jerry Geisel

Panic rattles GIC industry

By JUDY GREENWALD

TRENTON, N.J.—Mutual Benefit Life Insurance Co.'s financial problems could have widespread ramifications for the guaranteed investment contract industry, regardless of whether a rehabilitation plan proposed by the New Jersey Insurance Department ultimately succeeds.

Mutual Benefit Life had just $9 million in GIC sales last year and reported $769.1 million in GIC liabilities, which makes it only a second-tier GIC issuer.

But, its rehabilitation—following so closely on the heels of the failure of Executive Life Insurance Co. (*BI*, April 22)—could spur pension plans sponsors and participants to rethink the security of their GIC investments.

Mutual Benefit Life's rehabilitation has caused "immeasurable" damage to the GIC industry's image, said James R. Hiner, a principal with William M. Mercer Inc. in Chicago.

"It's going to change our lives," he said.

"There's some real concern" because plan sponsors fear a domino-type effect, with other insurers falling as well, said Kim McCarrel, who directs Wyatt Asset Services' national GIC and annuity consulting practice from Portland, Ore.

There is worry among plan sponsors that this "will become a much broader phenomenon," said Ms. McCarrel, who attended meetings with plan sponsors shortly after the Mutual Benefit Life takeover was announced.

However, Ms. McCarrel noted that she does not share this concern. "Every insurance company is different. You don't have a basic underlying weakness" that would cause numerous insurance companies to go under, she said.

But a press report that implied that Mutual Benefit Life's GIC business—rather than its choice of investments —caused its financial problems is worrisome, said Peter E. Bowles, president and chief investment officer of Fiduciary Capital Management, a GIC investment management firm based in Woodbury, Conn.

"If a lot more articles of that sort appear," Mr. Bowles said, the Mutual Benefit Life rehabilitation "could have a more negative impact than it should."

The larger issue in the Mutual Benefit Life rehabilitation is the perception it creates, said Larry Mylnechuk, executive director of the GIC Assn., a Portland, Ore.-based trade group.

"The perception of risk is greater than the actual risk right now" in investing in GICs, and this can cause "serious problems in the industry," Mr. Mylnechuk said.

"It certainly didn't do anything to negate any of the damage done by Executive Life," he added.

"The public has become really sensitized to the issue of risk in GICs because of Executive Life," which has "fostered a lot of fear in the marketplace," Mr. Mylnechuk said.

"It's going to, I think correctly, cause plan sponsors to realize there's some degree of risk" when investing in GICs, he said.

Mutual Benefit Life's rehabilitation represents "another weakening of the image of the insurance industry," said Murray L. Becker, president of Becker & Rooney in Teaneck, N.J., a consulting firm specializing in GICs.

"The insurance industry is no longer considered so safe as to not be an issue," Mr. Becker observed.

"It's not going to be favorable, whatever it is," said John Woyke, a principal with TPF&C based in Valhalla, N.Y., commenting on the effect of Mutual Benefit Life's problems.

Executive Life could have been considered merely an aberration, Mr. Woyke said. But the Mutual Benefit Life situation "has put a new light on the whole issue," he added.

Now, it appears that an insurance company failure "is an experience that can happen to anybody," he said.

"There certainly is a lot of concern out there," said Brian Ternoey, a principal with A. Foster Higgins & Co. Inc. in Princeton, N.J.

A lot of people are going to have to re-evaluate whether GICs fit their needs, he said.

Some plan sponsors may consider new strategies, like seeking other various investment vehicles to diversify their risk. And some may decide to back out of GICs altogether, although it is still too early to determine that, Mr. Mylnechuk said.

Employees who regarded GICs as the safest of funds for their investment option will rethink their position, Mr. Woyke predicted. Employees will realize that while GICs may be reasonably safe, the investment option also must be managed and watched, he said.

However, an overreaction to the risks inherent in GICs would be switching to short-term U.S. Treasury bills, Mr. Ternoey said. While minimizing credit risk, T-biills create an inflationary risk, he pointed out.

"Will they accumulate enough money there to have decent benefits?" he asked.

Tim Strauch, director of retirement trust at Cleveland-based American Greetings Corp., which has a GIC contract with Mutual Benefit Life, says its problems will make the company think twice about investing in a long-term GIC contract.

American Greetings has a $1.5 million 15-year contract with Mutual Benefit Life that it purchased in 1981. The contract is only a fraction of its $250 million profit sharing plan—which has a 401(k) plan feature—and of the $150 million it has invested in GIC contracts, Mr. Strauch said.

While Mutual Benefit Life's problems are obviously of concern to American Greetings, if the plan does lose the money "it wouldn't be catastrophic," Mr. Strauch said.

Nevertheless, "$1.5 million is still a lot of money to me," he added.

In the future, American Greetings would consider buying a three- or five-year GIC from an insurer rated Triple A. "We're going to be very cautious on GICs larger than, say, five years," he said.

Over the past 15 months, American Greetings has reinvested $75 million of its fixed fund investments, and just $15 million went to a GIC issued by Metropolitan Life Insurance Co., while the remaining $60 million went to fixed income managers specializing in government security-type portfolios, Mr. Strauch said.

But while consultants are concerned about the fallout in the GIC market from Mutual Benefit Life's rehabilitation, GIC issuers and one investment adviser say they see few signs of widespread concern.

After initial press reports about Mutual Benefit Life's problems, John Hancock Financial Services received some calls from concerned GIC managers and consultants seeking reassurance but has yet to hear from an employer, said Judith Markland, vp of group pension guaranteed product services. The company is a unit of Boston-based John Hancock Mutual Life Insurance Co., a major GIC issuer.

Spokesmen for Prudential Insurance Co. said they have not detected any increase in interest in the Triple-A insurer because of the Mutual Benefit Life news, although it is still too early to gauge.

"I haven't had my phone ringing off the hook from clients," said John B. Kleiman, vp at Hartford, Conn.-based investment adviser Conning & Co. There has been "nothing that would suggest panic from this group of people," he said. ■

Update

California comp laws hailed

SACRAMENTO, Calif.—California employers are hailing a new law that makes felonies of many more fraudulent workers compensation activities, particularly by physicians and attorneys.

The anti-fraud law—S.B. 1218—creates penalties for doctors who place media ads that mislead the public about injuries that are compensable under the worker comp system and the cost of treatment.

The law also increases penalties for physicians and attorneys who employ people to procure workers comp clients.

Physicians and attorneys who are convicted of fraud face up to five years in prison and fines of $50,000, or double the amount of the fraud.

S.B. 1218 also makes it easier to revoke the licenses of doctors and disbar lawyers who participate in workers comp fraud.

The law also calls for assessing employers and insurers $3 million or more annually to fund fraud investigation and prosecution.

California employer groups also endorse a workers comp reform measure, A.B. 971, also signed into law last week, that bars most stress claims by workers during their first six months on the job. The bill would permit employees on the job fewer than six months to file stress claims only for psychiatric harm caused by a "sudden and extraordinary employment condition."

But, the law does not change a 1989 law requiring that employees prove that at least 10% of the stress was job-related. Gov. Pete Wilson and employers had sought a 50% threshold (*BI*, May 20).

A.B. 971 also extends the life of the Workers' Compensation Rate Study Commission to March 1, 1992 (*BI*, March 11).

Jail term in pension fraud case

ROANOKE, Va.—An insurance broker has been sentenced to 42 months in jail for embezzling $1.1 million from a client's 401(k) plan.

Ronald Lee Wood, chief executive officer of Lynchburg, Va.-based Virginia Financial & Insurance Services, pleaded guilty in February to fraud and embezzlement related to a pension fund established under the Employee Retirement Income Security Act of 1974.

Federal prosecutors charged that Mr. Wood stole the money from a 401(k) plan set up by DonnKenny Inc., a Wytheville, Va., firm.

In addition to the jail term, a federal judge sentenced Mr. Wood last Tuesday to four years of probation and $150,000 in fines.

Insurers contest BCCI law firm

LONDON—Alleging a conflict of interest, Lloyd's of London underwriters have asked a Florida court to disqualify Washington, D.C., law firm Patton, Boggs & Blow as U.S. legal representatives of failed Bank of Credit & Commerce International (Overseas) Ltd.

The move by the underwriters, led by syndicates managed by Sturge Holdings P.L.C., stems from litigation over an allegedly fraudulent insurance claim made by Munther Bilbeisi, a Jordanian coffee trader living in Florida. In 1986, Mr. Bilbeisi made a claim for the theft of $4 million of coffee and $2 million in fine art under a policy underwritten by Sturge syndicates.

The underwriters denied the claim, contending that the coffee was illegally imported into the United States using fraudulent letters of credit and cashiers checks provided by BCCI, and was then resold for a massive profit, said James Dougherty, the underwriters' Miami lawyer.

The Lloyd's underwriters filed suit in Florida District Court against Mr. Bilbeisi and BCCI, among others, alleging fraud and breach of contract and seeking declaratory relief.

According to the underwriters, the alleged conflict of interest arises because Patton, Boggs & Blow represents both BCCI and the Abu Dhabi Finance Department. The underwriters contend that the ruler of Abu Dhabi, Sheik Zayed bin Sultan al-Nahayan, has personal interests in BCCI and he intends to keep operating the bank. Consequently, there would be a conflict of interests if Patton Boggs & Blow continues to represent both the bank and the Sheik, the underwriters say.

BCCI was put into receivership two weeks ago amid allegations of massive fraud.

California chemical spill

SAN FRANCISCO—Southern Pacific Transportation Co. self-funds property and liability losses but has catastrophe insurance to respond to the cost of cleaning up the Sacramento River area in Northern California where an overturned railroad car last week leaked more than 18,000 of a toxic chemical.

Treasurer Ed Grady said Friday that he did not have access to the coverage details.

The ruptured tanker car contained 19,500 gallons of metam-sodium, a herbicide used by farmers. The spill killed thousands of fish in the river, prompting the shutdown of many area resorts, several of which last week sued Southern Pacific and chemical maker AMVAC Chemical Co.

High toxic levels in the 40-mile spill path prevented the California Office of Emergency Services from assessing damages last week.

Briefly noted

Indiana Insurance Commissioner **John J. Dillon III** has been named commissioner of the state's Department of Transportation. John F. Mortell, the Insurance Department's special deputy rehabilitator/liquidator, has been named acting insurance commissioner. . . .Wind, hail, tornadoes and flooding, assigned Catastrophe No. 84, caused an **estimated $75 million of insured property damage** in seven states from Wisconsin to Maryland July 7-8, reports the Property Claim Services division of the American Insurance Services Group. . . .A Pennsylvania state judge ordered the liquidation of **CARE Welfare Trust**, a Delaware County, Pa., entity operating as a multiple employer welfare arrangement. CARE, which the Pennsylvania Insurance Department considers an unlicensed health insurer, sold health insurance to about 1,700 small employers and currently owes about $300,000 in unpaid claims, a department spokeswoman said. . . .The city of Baton Rouge, La., filed a $3.9 million lawsuit last week against CIGNA Corp.'s **Connecticut General Life Insurance Co.** unit, demanding payment for claims under a minimum premium health care policy the city had purchased in the early 1980s. CIGNA declined to comment.

Cal Comp dispute leads to review

By JOANNE WOJCIK

NOVATO, Calif.—California regulators are reviewing the books of California Compensation Insurance Co. because the workers compensation insurer failed to notify regulators it changed auditors following a dispute over the adequacy of its reserves.

However, Cal Comp President and Chairman Donald W. Marken maintains that the Novato, Calif.-based insurer is not required to report a change of auditors to the Insurance Department and that the company's reserves are adequate.

The review was prompted by articles in Accounting Today and the Insurance Journal that reported Cal Comp dismissed its auditor, Coopers & Lybrand, after it recommended that Cal Comp beef up reserves by $41 million.

However, Mr. Marken said Cal Comp "severed relations" with Coopers & Lybrand after an independent audit by Milliman & Robertson Inc. of Pasadena, Calif., showed that Cal Comp's reserves were within acceptable standards.

Cal Comp has since asked a third auditor, Arthur Anderson & Co., to analyze its books, said Maureen Breakiron-Evans, audit and business advisory partner in the accounting firm's San Francisco office. Insurance regulators have set a July 31 deadline for this review, she said.

Meanwhile, Insurance Department actuaries are meeting with officials from Cal Comp and Coopers & Lybrand to determine whether Coopers & Lybrand's finding that Cal Comp is underreserved by $41 million was founded.

Coopers & Lybrand did not return calls.

The disagreement between Cal Comp and its auditor was brought to the department's attention when the Insurance Journal reported that the insurer's holding company, Business Insurance Corp., also of Novato, filed an 8K with the Securities and Exchange Commission indicating a change of auditor following a dispute.

"The failure of Cal Comp and its holding company to inform the Department of Insurance of the 8K filing and the material facts regarding the disagreements with Coopers is taken by us to be a very serious mistake on their part," a department spokesman said. "We are very concerned, and have sent in our own actuarial team to conduct a review of this company." No deadline has been set for completing the Insurance Department audit, he said.

A.M. Best Co. placed Cal Comp, which earned a B+ contingent rating in 1990, on its watch list Dec. 14, 1990, because of the large amount of business it was writing. It had earned a B+ contingent rating in 1989 and 1988.

The insurer's Best rating began falling after 1984, when Best assigned it an A+rating. Cal Comp, whose name was changed from California Compensation & Fire Co. in 1989 after its parent company merged it with another subsidiary, was assigned an A rating in 1985 when it wrote only $32.2 million in direct written premiums. Best dropped the rating again to an A contingent in 1986, when the insurer wrote $38 million of direct written premiums.

Cal Comp's rating dropped to B+ contingent in 1988, when direct written premiums rose nearly 45% to $46.6 million. Cal Comp's direct written premiums soared by nearly 79% in 1989 to $83.3 million and by 138% to $198.6 million in 1990.

"Everybody says we've grown too fast," Mr. Marken said. "But, we never had any advertising. People came to us because we have a really innovative product." In addition to underwriting workers comp coverage, Cal Comp provides claims management services and training for in-house claims managers, he explained.

Mr. Marken also said the article incorrectly reported Cal Comp's premium-to-surplus as 3.9-to-1. The newspaper incorrectly figured the ratio based on direct written premiums, he said. He said the company actually is writing at a 3.4-to-1 net-premium-to-surplus ratio.

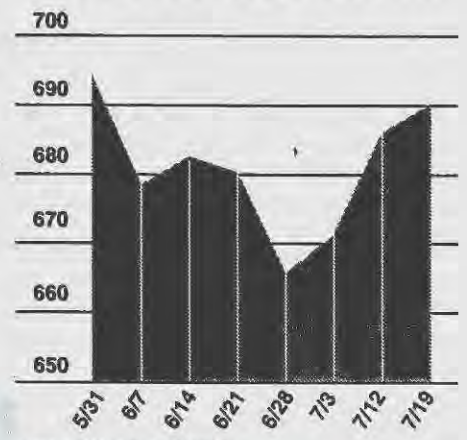
Based on 1990 net written premiums of $163.5 million and policyholder surplus of $47 million, the company was writing at a net premium-to-surplus ratio of 3.48-to-1.

The article also raised questions about Cal Comp's $47 million in surplus. The article said $20 million of surplus was contributed by the insurer's parent, which obtained the funds by drawing on a line of credit. Mr. Marken could not be reached for comment on this point.

The article also reported that Cal Comp increased its quota-share reinsurance arrangement with General Reinsurance Corp. to 10% from 5% "to keep from further stretching its already strained premium-to-surplus ratio."

However, Mr. Marken said that under Cal Comp's agreement with Gen Re, the reinsurer could assume up to a 40% quota share, but Cal Comp is ceding only 10%. ■

BI Insurance Index



Base = 100 on Dec. 29, 1978
Source: Nordby International Inc.

Insurance industry stocks made a moderate increase last week as the *Business Insurance* Index rose 4.5 points to 685.6 on July 19, from 685.6 on July 12. Advancing issues for the week were led by FHP International, up 10.5%; Continental Corp., up 7.1%; and Navigators Group, up 6.3%. Declining issues for the week followed Arthur J. Gallagher & Co., down 15.5%; Travelers Corp., down 10.7%; and USF&G Corp., down 7.3%. The most active insurance issue for the week was Sears, Roebuck (Allstate), with 3.9 million shares traded. The *BI* Index was up 0.7%; the Standard & Poor's 500 climbed 1.0%; the Dow Jones 30 Industrials were up 1.2%; and the New York Stock Exchange Composite rose 1.2%.

Nine Lloyd's syndicates close down or merge

LONDON-Nine Lloyd's of London syndicates are closing down or merging with other syndicates, as three managing agencies seek to cut their costs.

Janson Green Ltd. this week will amalgamate all six of its marine and non-marine syndicates into a single syndicate 79, confirmed underwriter Richard Youell. The syndicates that will merge into syndicate 79 are marine syndicates 932 and 936, as well as non-marine syndicates 989, 279 and 650.

Syndicate 79 hopes to have the same capacity as all six of the syndicates did this year—or about 180 million pounds ($347 million at appropriate exchange rates), said Mr. Youell, who said cost-cutting was behind the move.

Also, non-marine syndicates 530 and 1163, managed by London Wall Holdings P.L.C., will be merged into syndicate 512 on Jan. 1, 1992, while marine syndicates 207 and 288, managed by Sturge Marine Syndicate Management Ltd., have ceased underwriting.

London Wall Chairman Robin Warrender said the syndicates are being merged to "achieve economies of scale."

The enlarged syndicate 512 will have total capacity of 100 million pounds ($193 million), he said.

Sturge syndicate 207 writes mainly hull and liability business, while the other Sturge syndicate to close its account, syndicate 288, underwrites a book covering excess-of-loss, hull, liability and energy business.

Poor underwriting results are the principal reason for the closure of syndicate 288, said Terry Hayday, chief executive of Sturge Holdings P.L.C.

Meanwhile, the Assn. of Lloyd's Members is setting up five new member action groups for syndicates that have declared losses exceeding 100% of their allocated capacity and are likely to be the subject of independent reviews ordered by the Council of Lloyd's.

At a meeting of more than 700 members earlier this month (see related story, page 61), the ALM said it will "organize early meetings" for members who want to participate in action groups regarding the 1983 underwriting year of syndicate 421, managed by Merrett Underwriting Agency Management Ltd., and the 1988 years of syndicate 80, managed by R.A.F. Macmillan & Co. Ltd.; syndicate 255, managed by Rose Thomson Young (Underwriting Agency) Ltd.; syndicate 298, managed by Gooda & Partners Ltd.; and syndicate 1084, managed by Cuthbert Heath Underwriting Ltd.

—By Gavin Souter and Stacy Shapiro

British Issues

July 18 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence pence
Comml Union	514	N/M	30.7	6.0	525—514
Genl Accident	525	N/M	35.7	6.8	538—525
Gdn Royal Exch	181	N/M	15.9	8.9	186—181
Royal	404	N/M	34.7	8.6	412—404
Sun Alliance	366	N/M	18.7	5.1	370—366
Brokers					
Bradstock	149	17.0	6.0	4.0	150—149
CE Heath	452	15.8	34.5	7.6	452—444
Hogg Group	198	11.9	10.7	5.4	199—198
Lloyd Thompson	379	25.2	10.0	2.6	379—376
PWS Holdings	80	9.8	4.7	5.9	80—80
Sedgwick Grp	274	26.2	16.0	5.8	275—271
Steel Burr Jones	298	15.7	16.3	5.5	298—298
Willis Corroon	320	17.0	17.6	5.5	320—309

Source: Philip Olsen, Insurance Industry Analyst London

BI Industry Stock Report

JULY 15, 1991 THROUGH JULY 19, 1991

BROKERS		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
Alexander & Alexander	NYS	21.75	-1.14	-5.95	27.63	16.13	370	1.00	4.60	16	9.77	2.23
Gallagher Arthur J. & Co.	NYS	20.50	-15.46	-11.83	28.38	19.75	117	0.64	3.12	16	5.88	3.49
Frank B. Hall	NYS	3.25	-3.70	-10.34	4.13	2.00	45	0.00	0.00	-7	-5.24	-0.62
Hilb, Rogal & Hamilton	OTC	13.50	-5.26	-8.47	17.50	11.25	29	0.36	2.67	20	3.56	3.79
Markel Corp.	OTC	18.50	2.78	57.45	21.00	10.25	23	0.00	0.00	10	3.56	5.20
Marsh & McLennan	NYS	77.00	-2.99	-1.28	87.25	59.75	300	2.60	3.38	18	14.77	5.21
Poe & Associates	OTC	12.00	2.13	87.50	12.50	6.25	278	0.32	2.67	14	2.09	5.74
BROKERS	AVERAGE		-3.4	15.3					2.3	13		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W R. Corp.	OTC	31.00	0.00	-17.33	32.25	19.00	8	0.32	1.03	17	23.89	1.30
Berkshire Hathaway Inc.	NYS	8525.00	-0.87	27.72	8900.00	5675.00	0	0.00	0.00	-27	4612.00	1.85
ITT (Hartford Group)	NYS	58.75	3.98	22.40	63.00	40.25	1149	1.72	2.93	7	64.01	0.92
Sears (Allstate)	NYS	37.75	4.86	48.77	40.88	22.00	3885	2.00	5.30	13	37.38	1.01
CONGLOMERATES		AVER-AGE	2.0	20.4					2.3	2		
INSURERS/REINSURERS												
Aetna Life & Casualty	NYS	41.75	-1.47	7.05	51.25	29.00	963	2.76	6.61	8	64.23	0.65
American General	NYS	39.88	2.90	29.67	48.00	23.50	939	2.00	5.02	8	37.14	1.07
American Heritage	NYS	28.00	-3.03	33.33	32.25	19.63	1	1.04	3.71	12	19.25	1.45
American Indemnity/Fin'l	OTC	7.00	1.82	115.38	7.50	2.75	5	0.08	1.14	13	12.93	0.54
American International	NYS	86.13	3.45	12.03	102.00	57.00	1637	0.48	0.56	12	45.34	1.90
Aon Corp.	NYS	39.88	1.92	14.75	41.75	26.75	147	1.60	4.01	11	18.50	2.16
Argonaut Group	OTC	25.50	-0.97	19.53	33.38	17.75	55	0.68	2.67	8	48.26	0.53
AVEMCO Corp.	NYS	20.75	-3.49	23.27	22.88	14.13	18	0.40	1.93	15	9.55	2.17
Baldwin & Lyons Inc.	OTC	23.00	0.00	22.67	25.25	17.00	2	0.28	1.22	8	24.29	0.95
Belvedere Corp.	ASE	3.00	0.00	20.00	3.88	1.75	6	0.04	1.33	21	7.65	0.39
Chandler Insurance	OTC	3.00	0.00	-56.36	8.25	2.75	26	0.00	0.00	-3	5.95	0.50
Chubb Corp.	NYS	73.13	1.74	34.79	75.25	34.63	736	1.48	2.02	12	35.19	2.08
CIGNA Corp.	NYS	44.88	0.00	9.79	56.75	33.25	1140	3.04	6.77	11	73.15	0.61
CNA Financial Corp.	NYS	79.13	-1.40	15.30	92.50	49.50	67	0.00	0.00	13	70.23	1.13
Continental Corp.	NYS	28.75	6.98	15.58	30.63	15.75	742	2.60	9.04	11	37.83	0.76
Durham Corp.	OTC	33.50	-0.37	19.64	34.13	23.00	53	0.92	2.75	17	28.04	1.19
Fund American Corp.	NYS	63.13	1.61	21.69	65.25	33.50	381	0.68	1.08	14	36.11	1.75
Fremont General Corp.	OTC	24.25	-1.02	67.24	25.25	10.13	300	0.88	3.63	7	19.13	1.27
Frontier Insurance Group	NYS	25.50	0.00	34.21	27.75	15.38	24	0.00	0.00	10	11.20	2.28
General RE Corp.	NYS	94.88	0.93	2.02	102.50	69.00	923	1.68	1.77	14	37.50	2.53
Hanover Insurance Co.	OTC	28.00	-0.44	5.66	30.75	21.00	77	0.44	1.57	9	37.44	0.75
Harleysville Group	OTC	32.00	3.23	39.89	32.00	13.50	14	0.64	2.00	10	22.99	1.39
Hartford Steam Boiler	NYS	57.00	0.88	16.92	63.75	43.50	74	1.80	3.16	15	17.05	3.34
Kansas City Life Ins.	OTC	35.75	-0.69	15.79	36.50	30.00	4	1.20	3.36	9	39.22	0.91
Kemper Corp.	NYS	33.13	-2.21	39.47	41.75	17.13	303	0.92	2.78	60	34.20	0.97
Lawrence Insurance Group	ASE	8.88	0.00	26.79	9.50	6.38	3	0.48	5.41	14	4.71	1.88
Liberty Corp.	NYS	40.75	-0.31	-0.91	49.88	39.00	22	0.92	2.26	13	23.86	1.71
Lincoln National	NYS	47.63	1.87	10.76	55.25	30.75	215	2.72	5.71	10	45.16	1.05
NAC Re Corp.	OTC	39.50	3.27	19.70	42.50	25.50	144	0.20	0.51	15	18.90	2.09
Navigators Group	OTC	34.00	6.25	55.73	34.00	16.50	9	0.00	0.00	19	13.52	2.51
Nobel Insurance LTD.	OTC	3.63	0.00	20.83	4.38	2.38	22	0.00	0.00	-	7.76	0.47
NWNL Companies	NYS	23.38	4.47	38.52	32.88	11.75	506	1.40	5.99	5	42.73	0.55
Ohio Casualty Corp.	OTC	46.75	-2.35	14.02	50.25	26.75	351	2.48	5.30	10	36.38	1.29
Old Republic Int'l	NYS	29.50	0.00	28.96	31.13	17.38	145	0.72	2.44	7	33.09	0.89
Orion Capital Corp.	NYS	27.63	0.45	57.86	29.50	13.00	40	0.92	3.33	8	20.42	1.35
Phoenix RE Corp.	OTC	9.13	4.29	17.74	10.88	5.00	51	0.20	2.19	12	13.30	0.69
Protective Life Corp.	OTC	20.50	-2.38	37.82	22.50	10.25	60	0.84	4.10	9	16.29	1.26
Provident Life	OTC	18.75	4.17	7.14	24.50	12.00	750	0.92	4.91	5	25.88	0.72
Re Capital Corp.	ASE	16.88	-2.88	31.07	18.63	11.75	14	0.20	1.19	12	15.05	1.12
RLI Insurance Corp.	NYS	12.75	-1.92	-12.07	16.38	9.63	18	0.44	3.45	7	14.41	0.88
St. Paul Companies	OTC	63.75	0.39	1.59	74.25	47.00	799	2.60	4.08	7	52.00	1.23
SAFECO Corp.	OTC	43.25	4.53	31.56	44.75	25.13	951	1.48	3.42	10	31.50	1.37
SCOR U.S. Corp.	NYS	13.13	3.96	6.06	15.25	8.38	15	0.24	1.83	8	11.19	1.17
Seibels Bruce Group	OTC	7.75	0.00	82.35	9.88	4.25	93	0.36	4.65	-155	7.35	1.05
Selective Ins. Group	OTC	15.00	2.56	13.21	18.00	12.50	63	1.04	6.93	8	18.91	0.79
Statesman Group Inc.	OTC	4.88	5.41	211.90	4.88	1.25	751	0.00	0.00	-49	2.48	1.97
Tokio Marine & Fire	OTC	42.88	-0.58	-9.26	56.50	34.50	8	0.00	0.00	-	70.93	0.60
Torchmark Corp.	NYS	49.75	2.31	1.79	58.50	38.00	360	1.60	3.22	12	16.70	2.98
Transamerica	NYS	32.00	-0.39	-1.92	38.50	23.25	367	1.96	6.13	10	36.56	0.88
Transatlantic Holdings	NYS	33.88	-1.09	23.74	39.38	18.88	46	0.20	0.59	12	36.56	0.93
Traveler's Corp.	NYS	20.88	-10.70	25.56	29.88	11.50	927	1.60	7.66	-11	41.44	0.50
Trenwick Group Inc.	OTC	27.75	-1.77	20.00	30.00	16.25	35	0.60	2.16	11	21.71	1.28
United Fire & Casualty	OTC	45.25	0.56	28.83	58.00	28.75	1	1.32	2.92	8	35.39	1.28
USF&G Corp.	NYS	8.00	-7.25	6.67	26.75	7.00	1794	0.20	2.50	-1	11.96	0.67
UNUM Corp.	NYS	68.75	3.38	47.45	69.75	32.13	434	1.04	1.51	12	37.25	1.85
USLIFE Corp.	NYS	42.38	0.89	51.34	42.50	23.25	219	1.64	3.87	9	60.34	0.70
Unitrin	OTC	36.00	2.13	17.07	41.50	24.50	352	0.80	2.22	14	30.70	1.17
Washington National	NYS	14.13	-2.59	29.89	21.63	9.38	10	1.08	7.65	-7	26.86	0.53
USLICO Corp.	NYS	20.63	3.13	29.92	21.88	14.75	30	1.00	4.85	9	29.44	0.70
Zenith National Ins.	NYS	18.00	0.70	32.11	18.50	9.88	30	1.00	5.56	-75	13.14	1.37
INSURERS/REINSURERS	AVERAGE		0.5	27.8					3.3	5.4		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	OTC	26.25	10.53	72.13	29.75	8.88	1137	0.00	0.00	22	5.44	4.83
HMO America Inc.	OTC	15.50	2.48	138.46	17.13	4.25	446	0.00	0.00	19	0.61	25.41
Pacificare Health Sys.	OTC	39.88	1.59	145.38	40.75	12.00	332	0.00	0.00	23	6.55	6.09
Safeguard Health Enter.	OTC	5.38	0.00	13.16	7.38	4.00	36	0.00	0.00	19	3.53	1.52
Sierra Health Services	ASE	23.25	1.09	69.09	29.50	5.50	146	0.00	0.00	40	1.78	13.06
United Healthcare Corp.	OTC	54.25	3.33	133.33	54.25	13.13	2229	0.06	0.11	35	3.76	14.43
United Medical Corp.	ASE	9.50	0.00	18.75	11.00	6.63	5	0.20	2.11	12	8.79	1.08
U.S. Healthcare	OTC	35.00	-4.11	19.15	38.00	10.00	3037	0.32	0.91	26	3.38	10.36
HMOs	AVERAGE		1.9	76.2					0.4	25		
ALL COMPANIES	AVERAGE		0.4	30.5					2.8	8		

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