

Business Insurance

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

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Reinsurer loses battle to block EMLICO's Bermuda liquidation

HAMILTON, Bermuda—A Bermuda judge has ordered Electric Mutual Liability Insurance Co. into liquidation, rejecting Kemper Reinsurance Co.'s effort to halt the winding-up on grounds that it was part of a conspiracy to defraud reinsurers.

Bermuda Supreme Court Judge Richard Ground turned aside several Kemper Re arguments in a ruling issued Friday, finding that EMLICO's winding-up petition is not an abuse of process and that the liquidation should not be delayed pending hearings on
See Updates on next page

Allstate Re acquisition boosts SCOR

Deal would put SCOR among top U.S. reinsurers

By JUDY GREENWALD

NORTHBROOK, Ill.—Allstate Corp.'s plan to sell its U.S.-based reinsurance operations to SCOR U.S. Group will significantly strengthen SCOR's operations while enabling Allstate to focus on its core personal lines businesses.

The two companies last week reached a definitive agreement for SCOR to acquire for an undisclosed amount all the U.S.-based business of Allstate Reinsurance written since 1985. The deal, which is subject to regulatory approval, should close by September, said Jerome Karter, president and chief executive officer of SCOR U.S. in New York.

The sale would vault SCOR U.S., a unit of Paris-based SCOR S.A., to a spot as the 10th-largest U.S. reinsurer, based on an estimated \$656.7 million in combined 1995 net premiums written.

This reflects the combination of SCOR U.S.'s \$256.7 million in net premiums and Allstate Re's net premiums, which amounted to a "little under" \$400 million in 1995, according to an Allstate spokeswoman.

SCOR U.S. last year ranked No. 19 among U.S. reinsurers based on net premiums written, accord-

ing to the Reinsurance Assn. of America and *Business Insurance* (BI, April 1). Allstate Re does not participate in the RAA survey, though it would have ranked 17th in 1995. Apart from net premiums written, Allstate Corp. does not break out any other financial data for Allstate Re.

Not included in the sale is All-

state Reinsurance's London-based arm, Allstate Reinsurance Co. Ltd., which wrote about \$67 million in net premiums in 1995. Allstate said it is continuing to review its strategic options for that operation, which reinsures risks mainly in the United Kingdom, continental Europe, the Middle East and Far East.

The announcement of Allstate Re's sale follows last month's an-

See Allstate on page 21

Moving up the ranks

Reinsurers	Net reinsurance premiums written 1995
1. General Re	2,964,374
2. Employers Re	2,391,393
3. American Re	1,611,509
4. Transatlantic/Putnam	1,008,781
5. Swiss Re Group	919,312
6. Berkshire Hathaway	777,000
7. The St. Paul Cos.	713,474
8. Munich Re	713,371
9. Prudential Re	667,697
SCOR U.S./Allstate Re	656,656*
10. Zurich Re Centre	602,269
11. Constitution Re	558,610
12. Hartford Re Mgmt. Co.	522,032
13. TIG Re Co.	510,718
14. F&G Re	506,818
15. NAC Re	476,048
16. Kemper Re	441,833
Allstate Re	400,000*
17. National Re	334,392
18. Underwriters Re	275,728
19. SCOR U.S. Group	256,656
20. Signet Star Re	217,018

Source: Reinsurance Assn. of America and *Business Insurance*.
*Estimates

Employment risks spur new looks at coverage

By DEBORAH SHALOWITZ COWANS

Headline-grabbing lawsuits and settlements involving well-known companies are spurring risk managers to consider employment practices liability insurance more than ever before.

However, there typically is a lag time—sometimes as long as several years—between when risk managers first start thinking about buying EPL coverage and when they actually do. The primary reasons for this delay include the cost of the coverage and the fact that employers may have to give up control of defending such cases when covered by EPL insurance.

"We've seen some fairly significant cases around the country that

remind you of what the risks can be," said Scott Lange, director of risk management for Microsoft Corp. in Redmond, Wash. Mr. Lange said Microsoft currently does not have EPL coverage.

"There's clearly a broad aware-

Employers will find more coverage options in the growing employment practices liability market ... Page 14

ness that the exposure's there and it's coming to the forefront," agreed Bill Johnson, risk financing manager for Hallmark Cards Inc. in Kansas City, Mo. Hallmark just recently obtained EPL coverage for the first time, Mr. Johnson said.

Despite growing interest in the
See Coverage on page 14

Blues backing state actions against tobacco companies

By MICHAEL BRADFORD

Several Blue Cross & Blue Shield plans are taking an active role and joining states in their fight to make tobacco companies reimburse the costs of smoking-related ailments.

While Blue Cross & Blue Shield of Minnesota is the only Blues plan to join as a plaintiff in a state's suit against the tobacco industry, others are contributing money or considering doing so.

Blue Cross & Blue Shield of Connecticut has pledged \$1 million over four years to help defray the state's cost of litigation, and

the Blues plan in Massachusetts is chipping in an undetermined amount in the fight there. Maryland's attorney general also may get some help from the Blues plan in that state, and Blue Cross of Washington & Alaska is considering whether it should be involved in Washington's suit against tobacco firms.

"This is unusual" but necessary, said a spokesman for Blue Shield & Blue Cross of Massachusetts, "because the medical evidence is clear that smoking has a deleterious effect on people's health."

And "as a health care company," he added, "we are obvi-

ously very heavily engaged in prevention and wellness matters."

Ten states have sued tobacco companies to recover Medicaid costs and other expenses related to smoking.

The tobacco industry has fought back in Minnesota, attempting to have the Blues plan there removed from the litigation. But last week that attempt was thwarted when the Minnesota Supreme Court agreed with a lower court that "the plaintiff's complaint has sufficient strength to go forward on its consumer protection and equitable relief claims."

See Blues on page 23

Congressional issues on hold

Businesses' hopes for session vanish

By MARK A. HOFMANN

WASHINGTON—Risk managers and insurers will have to wait until at least the next congressional session to achieve the liability reforms and other legislative goals they have been pushing for the better part of two years.

And they may be waiting longer than that. As this Congress prepares to break for its final August recess, the high hopes shared by insurers and risk managers less than two years ago as the first Republican-controlled Congress in 40

years prepared to convene have vanished. Back then, product liability reform, Superfund reform, reform of the Occupational Safety and Health Administration, and overhaul of the legal system seemed destined for action.

Now, however, such reforms remain unrealized and unlikely to be seriously considered during the waning weeks of the 104th session. The only major reform to pass—a modest product liability reform bill—died under President Clinton's veto pen. Congressional negotiators already had jettisoned more comprehensive tort reforms to reach consensus on the product liability bill. Only a narrow securities litigation reform bill was en-

acted after Congress dealt President Clinton his first veto override.

All of the other measures are on indefinite hold.

Reform proponents partially blame the White House for their disappointing legislative performance. They also point to an ambitious congressional agenda shepherded by inexperienced lawmakers as a reason for the lack of progress on their agenda, some of which was admittedly fairly low on the lawmakers' wish list.

But outside observers say insurers and their allies in the business community deserve a share of the blame for their failure.

These observers contend that
See Congress on page 10

A troubling trend

Sexual harassment claims and costs are growing, according to data from the Equal Employment Opportunity Commission and Fair Employment Practices Agencies.

■ Number of charges filed ■ Merit resolutions*
■ Number of cases resolved ■ Monetary settlements (millions)



*Merit resolutions include negotiated settlements, charges withdrawn upon receipt of benefits and a determination of reasonable cause followed by conciliation efforts.
Source: Office of Programs Operations, U.S. Equal Employment Opportunity Commission

Updates

Judge clears EMLICO windup

Continued from previous page
the fraud charges.

"At the end of the day, I am faced with a Bermuda company which is insolvent. As things presently stand, only this court can wind it up," Judge Ground wrote. "If Kemper have been wronged, their remedy, if they have one, lies elsewhere."

EMLICO, a longtime General Electric Co. liability insurer, last year moved from Massachusetts to Bermuda, where it soon afterward declared itself hugely underreserved for GE asbestos and pollution claims and insolvent by \$512 million (BI, Dec. 11, 1995).

Kemper Re and several other EMLICO reinsurers later charged that EMLICO knew it was insolvent before the move and misled regulators as part of a conspiracy to dump the losses on reinsurers under creditor-friendly Bermuda liquidation law.

Judge Ground disagreed with Kemper Re's contention the winding-up petition was an abuse of process and declined to delay the liquidation pending a trial of the fraud charges, noting that there is "no meaningful relief" he could grant even if fraud were proved.

Judge Ground also denied Kemper Re's request to postpone the liquidation pending a judicial review of the Bermuda government orders that allowed EMLICO into the country. While Kemper Re has shown it has "a serious issue to be tried," the judicial review proceedings may take a year or more to begin, and the "balance of convenience" weighs against delaying the liquidation.

The appropriate forums for Kemper Re's fraud charges are judicial review proceedings, separate proceedings in Massachusetts or—ultimately—in arbitration between the reinsurers and EMLICO's liquidators, Judge Ground said.

A hearing in the judicial review is expected this fall, and EMLICO is challenging a court-ordered extension of time that allowed Kemper Re to seek the review.

"After careful study of the allegations which were made by reinsurers in an attempt to avoid their contractual responsibilities, the court made the proper decision," a GE spokesman said.

"(Judge Ground) has made it very plain there is a triable issue of fraud," said Christopher Grierson, a lawyer representing the reinsurer. "He just said the winding-up proceedings are not the forum to try it."

Mission runoff plan amended

LOS ANGELES—The California Insurance Department has filed a new liquidation plan for Mission Insurance Co. that amends a plan thrown out by a state appellate court last month.

The earlier plan, designed to speed up the liquidation, called for estimating Mission's long-tail claims, collecting immediately from reinsurers and making a final distribution of the estate's assets. An appeals panel, however, agreed with reinsurers' objections and ruled that state insurance law doesn't allow estimation of future claims (BI, June 24).

Under the amended plan, the estate would pay direct policyholder claims in two installments. The first payment would cover claims whose amounts are now known. At some point in the future, after the estate has recovered all available assets, a second installment would be paid on long-tail claims that had developed in the meantime.

Reinsurers would not be required to pay any estimated claims "unless future legislation results in a statute which permits such estimation," the plan says.

The first installment will cover 45% to 70% of each claim depending on which Mission unit is involved, and direct policyholders should recover 100% on their claims by the time the second installment is made, said Karl Rubinstein, a lawyer with Rubinstein & Perry.

The second payment could take five to eight years, though, with the timing depending on how quickly long-tail losses develop and on whether California passes legislation allowing estimation of future claims, said Mr. Rubinstein, who represents the liquidator.

While direct policyholders stand to recover from the estate, ceding insurers with reinsurance claims against Mission are in a separate creditor class and are unlikely to recover much, if anything.

Reinsurers may still object to the revised plan, said Debra J. Hall, vp and general counsel for the Reinsurance Assn. of America.

A court hearing on the plan is scheduled for Sept. 12.

Court allows AMA guidelines

SANTA FE, N.M.—New Mexico physicians can continue to rely on American Medical Assn. guidelines in determining injured workers' impairment ratings, the New Mexico Supreme Court ruled last week.

The ruling means the state's 5-year-old workers comp law has survived a constitutional challenge in the case of *Rodriguez vs. Wal-Mart*, in which two women injured in separate work-related accidents sued to overturn the use of the AMA guidelines (BI, Dec. 4, 1995). They argued, among other things, that the Legislature acted unconstitutionally in delegating such authority to physicians.

The AMA guide is "what it purports to be," the ruling stated, "a guideline to be used in conjunction with the expertise of the medical professional in order to arrive at a percentage of impairment based on the unique circumstances of each claim."

Use of the AMA impairment guidelines in New Mexico has been credited with reducing litigation in workers comp cases, bringing down the cost of coverage and making it more available.

A similar case is pending in Kansas.

See Updates on page 22

Errors & omissions

• Due to an editing error, the July 15 Insider Trading column incorrectly identified four individuals as employees of CNA Financial Corp. Robert G. Adams, W. Martin Braham, Peter D. Sutherland and Maurice W. Worth are associated with Delta Air Lines Inc.

MSA compromise is reached

Deal clears way for Congress to vote on health coverage portability bill that would curb pre-existing conditions

By JERRY GEISEL

WASHINGTON—Congress could pass health coverage portability legislation this week now that negotiators have reached agreement on a contentious issue—medical savings accounts—that has held up the bill.

House and Senate negotiators on Thursday agreed to include a scaled-back MSA provision as

part of a compromise health care reform bill they will assemble and possibly pass before Congress takes its August recess.

Under the compromise, tax-favored MSAs, which would be linked to high-deductible medical plans, would be available to the self-employed and employees working at companies with 50 or fewer employees during a four-year trial period. The maximum

number of MSAs would be capped during this four-year period at 750,000. It is not clear, though, how this cap could be enforced.

After this four-year experiment, Congress would decide whether or not to continue or expand MSAs to larger employers. However, even if Congress decided to pull the plug on tax-favored MSAs, those already with MSAs would be grandfathered and could continue making contributions.

This compromise, hammered out by Sen. Edward Kennedy, D-Mass., a staunch critic of MSAs, and Rep. Bill Archer, R-Texas, *See MSAs on page 21*

High-tech firms face higher BI risk

By JUDY GREENWALD

Some high-tech and electronics companies are facing tighter underwriting standards for contingent business interruption coverage, and some fear a potential crisis in the market.

A big contingent business interruption loss in this market, which has not happened yet, could cause a major withdrawal of capacity.

Already, the relatively few insurers in this market have introduced stricter underwriting stan-

dards, some are increasing premiums, and some risk managers have had to use several insurers on a quota share basis to obtain adequate limits of coverage.

Contingent business interruption insurance covers policyholders in the event of a business interruption caused by a lack of supplies from a third-party supplier. While companies in many industries purchase contingent business interruption coverage, high-tech and electronics companies face two particular chal-

lenges. First, often only a limited number of suppliers can provide the highly technical component parts high-tech firms need. Because of this, insurers are becoming increasingly aware that they could face huge exposures if just one supplier's facility faces a disruption.

"The concern of insurers is if one goes down, we've got a rippling effect throughout the high-tech industry," said William E. *See Contingent on page 22*

Healing work injuries quickly

By MEG FLETCHER

An aggressive "sports medicine" approach to treating occupational injuries can help reduce the duration of temporary disability, according to a recent draft of a study by the Integrated Benefits Institute in San Francisco.

The sports-type medical treatment approach, which has emerged in recent years, consists of immediately providing intensive medical care—such as hot and cold packs as well as electric stimulation—as a substitute for

the healing effects of time. The aim is to shorten a recuperating employee's recovery time and the duration of his temporary disability so he can return to work and wage-loss payments can cease.

IBI, a new research organization with 19 broad-based members, analyzed that approach using 471 occupational injury claims for short-duration, lost-time cases in California. The claims were opened and closed between Jan. 1, 1995, and Feb. 15, 1996, according to CareAmerica Compensation &

Liability Insurance Co. in San Francisco, which jointly sponsored the research.

The findings generally support the notion that a sports medicine approach to medical treatment may lead to savings in temporary disability payments and to productivity increases.

However, such an approach may also increase medical costs, the research found.

Average treatment costs for injured workers released to return to at least modified duty before *See Disability on page 23*

Proposed adoption tax break in jeopardy

By JERRY GEISEL

WASHINGTON—New roadblocks could derail fast-moving federal legislation that would give new tax breaks for employees whose companies reimburse them for adoption-related expenses.

Last week, the Senate passed an amendment, as part of a broader welfare reform measure, that would let employers reimburse employees for adoption-related expenses without those contributions being added to employees' taxable income.

However, that provision, added to the measure by Sen. Richard Shelby, R-Ala., is substantially different

from proposals earlier passed by the Senate Finance Committee and the House of Representatives.

Both the Finance Committee and House bills would cap employer reimbursement at \$5,000 per child for a normal adoption. The Finance Committee bill would set a \$6,000 tax-free reimbursement cap for adoption of children with special needs.

The two bills would fully extend the tax breaks to employees who have adjusted gross incomes of less than \$75,000. The tax breaks would be phased out—based on a sliding scale—for workers who have adjusted gross incomes of between

\$75,000 and \$115,000.

The Shelby amendment, though, doesn't set a dollar cap on how much employers could reimburse their employees without those contributions being included in employees' taxable income. In addition, the Shelby amendment doesn't limit the employer-provided tax break by employee income.

With different versions of the legislation pending, it isn't clear which version Congress will settle on.

"Clearly, there are problems to be worked out," said Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York. *See Adoptions on page 8*

Inside

• Most employers' mental health benefits are not commensurate with those for physical disorders, a new survey says. **PAGE 6**

• Airlines should increase passenger liability limits, one of this week's editorials says. **PAGE 8**

• U.K. insurers fear premium taxes may lead some buyers to cancel coverage. **PAGE 17**

• Oregon is phasing out its 24-hour coverage pilot program, a report says. **PAGE 21**

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As managed care expands, liability exposures also grow

By **RODD ZOLKOS**

As managed care grows, related liability exposures also are growing, forcing plan sponsors and health care providers to become more aware of risk management and risk transfer opportunities.

Federal court rulings in recent years have eroded protections afforded under the Employee Retirement Income Security Act of 1974, which previously had been widely interpreted as pre-empting state laws in cases that "relate to" employee benefit plans.

Those rulings open the door to medical malpractice actions against plans—which could include vicarious liability claims against plan sponsors—proceeding in state courts rather than in federal courts where potential damages are strictly limited and trials are more likely to be held

before a judge than a jury.

Employers and health plans could find themselves at risk of claims ranging from denial of benefits to how managed care plans are selected.

In addition, the growth of man-

aged care providers.

The managed care liability issue is one "that we kind of identified as an area that had a growing level of concern on the part of large employers," said Anthony J. Mercurio Jr., senior vp at Marsh & McLennan Inc. in New York.

"We haven't seen a case where the employer is directly implicated in what I would call a managed care liability case," said Bill Brossman, a principal with William M. Mercer Inc.'s health care provider consulting practice in Morristown, N.J. "But we've seen a lot of these cases with managed care provider organizations."

"Increasingly, courts are holding that if the case is focused on medical malpractice then the case is allowed to proceed in state court and there is no ERISA protection," said Mr. Brossman.

See *Managed on page 16*

The managed care liability issue is of growing concern to large employers, says Anthony J. Mercurio Jr.

aged care under workers compensation and state Medicaid programs—neither of which falls under ERISA's protections—may prove to be the biggest litigation headache on the horizon for man-

Buyers not upping limits despite cheaper cover

M&M study sees risk of uninsured claims

By **MICHAEL SCHACHNER**

The majority of large U.S. corporations are not boosting their liability limits despite a rash of large court awards and a persistent soft market, according to a recent survey by a leading broker.

During a time when jury awards against corporations are growing in frequency and amount, most businesses are leaving themselves increasingly vulnerable to catastrophic liability claims, asserts Marsh & McLennan Inc. in a survey of 1,250 U.S. companies.

M&M found that 50% of companies it surveyed carry less than \$50 million in liability limits. Of the study group, 28% reported having less than \$25 million in limits. However, companies with more than \$200 million in annual revenues generally buy more than \$60 million in coverage.

M&M labeled buyers' willingness to maintain existing limits

despite increased affordability a "potentially dangerous trend." The broker cited an escalating number of employment practices liability claims facing companies, as well as an upsurge in the number of class-action lawsuits that have resulted in damage awards greater than \$100 million.

"You can scarcely read a business publication today without learning about another class-action lawsuit alleging job discrimination, sexual harassment, wrongful dismissal and similar charges," said Timothy Mahoney, vice chairman of M&M Inc., the retail brokerage unit of Marsh & McLennan Cos. Inc. "Employee litigation now pending seeks damages ranging from hundreds of millions of dollars to more than \$1 billion."

Mr. Mahoney said insurers have responded to the increase in exposure by offering new and broader coverages, such as employ-

See *Limits on page 6*

Elder care benefits valued

Demand for benefit expected to grow

By **MICHAEL PRINCE**

As the nation's population ages, more companies are realizing the importance of providing elder care benefits to help employees care for elderly parents while maintaining productivity at work.

"It's a cost-effective way to provide a benefit to the company's employees they could not find anyplace else," said Judith Roberts, director of risk management and insurance for Massachusetts-based Bull HN Information Systems, whose elder care program assists 50 to 75 employees a year.

Workers needing elder care benefits are everywhere. One of four workers older than 40 cares for an elderly parent, concluded a study by the University of Bridgeport Center on Aging. These people comprise the "sandwich generation," those sandwiched between caring for their parents and caring for their children.

The phrase also has another meaning: The workers are sand-

wiched between family obligations and work responsibilities. "The challenge is how to get work done and also care for the elderly," said Karol Rose, a principal with Kwasha Lipton in Fort Lee, N.J.

Care for the elderly falls overwhelmingly on their children. Elder care experts estimate that 80% of elder care is provided by family members, while only about 5% of people older than 65 reside in nursing homes. The vast majority, they say, live at home and receive care from their relatives, usually a daughter, without experience, help or training.

The need for elder care benefits will greatly increase, because by the year 2005, 37% of U.S. workers will be more concerned with caring for a parent than children, said Carl Amenhauser, director of Corporate Health Services/Confidential Advisory Program, a Princeton, N.J.-based employee assistance program that hosted a recent conference on elder care.

This figure will jump to 50% by 2020, when the majority of baby boomers will be over 65.

The children are the "canary in the coal mine," Mr. Amenhauser said. "The adult caregiver in the family is the first person noticing the problem" with an elderly parent, he said, and therefore bears the initial burden for the care.

Once a worker's elderly parent develops a health problem, it carries over into the workplace. Increased absenteeism and tardiness, reduced productivity from spending job hours arranging for parental care and increased health care costs due to stress-related illnesses are some of the results.

One study conducted by the Lynn, Mass.-based Greater Lynn Senior Services in 1994 shows that half of workers caring for an adult come to work late and almost a third take unscheduled time off.

How much this lost time costs employers is hard to determine. One estimate puts the figure at

See *Elder care on page 21*

Crain remembered by friends, family

Nearly 1,000 people gathered Wednesday, July 24 to celebrate the life of Crain Communications Chairman Emeritus Gertrude Ramsay Crain at Holy Name Cathedral in Chicago.

Mrs. Crain, 85, passed away July 20 on Cape Cod. She was remembered by friends, family, co-workers and colleagues as a woman who put her family first, whether it was her immediate family of two sons, nine grandchildren and 13 great-grandchildren, or her second family, the 900 employees of Crain Communications.

Her younger son, Keith Crain, company vice-chairman, talked of his mother's love for her employees. "Our company was her family. It was, it is, and will always be a family business," he said.

Company President Rance Crain commented on his mother's ability to use humor to make people feel special. "Mom charmed the great, the near-great and the never-will-be-great with equal sincerity and warmth," he said.

Indicative of her role in advertising and communication circles, Mrs. Crain received many industry awards including publishing's highest honor, the Henry Johnson Fisher Award from the Magazine Publishers of America. She was also a founding member of the Committee of 200, an organization of the top 200 women business owners and CEOs in the country.

At the funeral mass, Bishop Timothy Lyne recalled asking Mrs. Crain which honor meant the most to her. She told him that the Magnificat Medal from Mundelein College was particularly special because Mother Teresa and Dolores Hope had received the honor before her and that she thought she was in pretty good company.

Granddaughter Heather Hanson told the crowd about having dinner with Mrs. Crain the night before she died and how her grandmother had enjoyed look-



Gertrude Crain, 1911-1996

ing at photographs of a recent Fourth of July family outing.

She was also remembered as a woman who enjoyed life and loved to smile. "She had fun; boy, did she have fun," Rance Crain said.

At age 75, Mrs. Crain joined race driver Tim Richmond for a 160 mph spin around North Carolina's Charlotte Motor Speedway. On her 80th birthday, she went parasailing.

Mrs. Crain, who retired May 20 as chairman of Crain Communications, spent 40 years with the company. She was named chairman in 1974 after serving as secretary and assistant treasurer.

The company, founded in 1916 by her late husband, G. D. Crain, Jr., publishes 27 business, trade and consumer publications, including *Advertising Age*, *Automotive News*, *Business Insurance*, *Electronic Media*, *Modern Healthcare*, *Pensions & Investments*, *Plastics News*, and business regionals in Chicago, New York, Detroit and Cleveland. It has 15 offices worldwide.

Donations in her name should be made to the Service Club of Chicago, 104 S. Michigan, #721, Chicago, IL 60603.

Sugar refinery blast insured

By **CRISTAL CODY**

SCOTTSBLUFF, Neb.—Western Sugar Co. expects to be fully

insured for losses resulting from a July 20 explosion that destroyed seven of eight silos at its refinery in Scottsbluff, Neb.

Paul Robertson, a risk manager for Tate & Lyle P.L.C. in London, Western Sugar's parent company, said the company is protected under its broad form property and business interruption coverage, which is written by Royal Insurance Group P.L.C.

The cause of the explosion, which injured 15 employees, is under investigation.

As of Thursday, rescue workers were continuing the search for another employee believed to be trapped under the piles of heavy debris.

Jack Fulton, director of government relations for Western Sugar, who also handles risk management, said it would be several days before damage costs could be estimated.

Nearby businesses also sustained damages, but Mr. Fulton said that no lawsuits have been filed.

Despite extensive damage, Mr. Fulton said he expects the plant to be operating in time for the sugar beet harvest in late September. Until that time, all employees have been laid off.

BI



AP/WORLD WIDE PHOTO

Insurance is expected to cover property and business interruption losses from an explosion that destroyed seven silos at a Western Sugar Co. refinery in Nebraska.

Announcing the 1996 Aircraft Builders Council, Inc. Annual Conference

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Save The Date

For the Record

Washington regulator fines health plans

OLYMPIA, Wash.—Insurance Commissioner Deborah Senn fined two Seattle health insurers \$7,500 each and ordered them to advertise the availability of their basic health plans.

Under legislation passed in 1995, all Washington health insurers offering individual or small-group coverage must market plans that include the same benefits as a state-sponsored Basic Health Plan. King County Medical Blue Shield and Virginia Mason Health Plan were fined for failing to market their "look-alike" plans, Ms. Senn announced July 23.

In addition to the fines, King County Medical must spend at least \$16,210 on public advertisements notifying consumers of the availability of its plan. Of the \$7,500 fine levied against Virginia Mason Health Plans, \$4,000 was suspended provided the insurer spend that amount on published advertisements.

Ms. Senn said both insurers already have begun marketing the coverage. She called it significant for consumers, because the Basic Health Plan includes full maternity coverage, while many other individual plans limit those benefits.

Virginia Mason technically was not in compliance because of a change in ownership and management, a spokesman for the company said. But the insurer was surprised by the commissioner's action because it had been in communication with her over the issue and was just weeks away from advertising.

A representative for King County Medical Blue Shield also had been in contact with the commissioner's office about compliance.

"The fact is anyone who wants this package of benefits has been able to get it from us since Jan. 1, and over 6,000 new members have enrolled in our BHP program this year," said Rob Eaton, KCM's associate general counsel. "It would have been gratifying to get a court to vindicate our position, but doing so would have been far more costly than settling this as we did."

Comp fund converting to for-profit status

SARASOTA, Fla.—A workers compensation self-insurance fund is being converted to a for-profit entity by Riscorp National Insurance Co. following the approval of the North Carolina Department of Insurance.

Riscorp National, a wholly owned subsidiary of Sarasota, Fla.-based Riscorp Inc., is assuming all assets and liabilities of the National Alliance for Risk Management Group Self-Insurers' Fund, which Riscorp has managed on a contractual basis since 1993.

NARM is a heterogeneous, workers comp self-insurance fund in North Carolina, with about 2,700 policyholders and an annual premium volume of about \$50 million.

Riscorp also manages the North Carolina Commerce Fund, a self-insurers' workers comp fund with about 1,000 members and annual premiums of \$40 million. The NARM takeover will have no effect on that relationship.

North Carolina Deputy Insurance Commissioner Ray Martinez said Riscorp received approval last month to dissolve and take over NARM. He said it was the first such takeover of a self-insured workers comp group in North Carolina, though some discussions about converting other self-insured pools into traditional insurance companies have occurred. Riscorp will run its new workers

comp operation out of Charlotte, N.C. The company specializes in providing managed care workers comp services.

Georgia-Pacific, EPA settle pollution claims

ATLANTA—Georgia-Pacific Corp. will pay more than \$32 million to settle air pollution claims brought against it by the U.S. Environmental Protection Agency and the Department of Justice.

The federal charges involved 11 Georgia-Pacific wood products factories across the Southeastern United States.

Under the settlement, filed July 18 in U.S. District Court in Atlanta, the company will pay a \$6 million civil penalty and fund \$4.25 million in additional environmental improvement projects throughout the region administered by the Southern Appalachian Mountain Initiative, an independent agency. Georgia-Pacific also will spend \$22 million on emission control equipment to bring the plants in question into compliance.

"These costs were always in reserve," a company spokesman said. "These costs are not extraordinary for us in terms of our operation."

California comp costs dropping, report says

SACRAMENTO, Calif.—California employers' annual workers compensation costs, including self-insured employer costs, dropped to about \$8 billion at the end of last year from a peak of \$11 billion in 1993, according to the Department of Industrial Relations.

In its July 16 report, "Workers' Compensation Reform, Third Anniversary Update," the department said that had costs continued to increase at the rate they were increasing before landmark reforms in 1993, employers would be paying nearly \$13 billion in annual workers comp costs. Reforms include open rating and limitations on stress and psychiatric claims.

The report shows that workers comp insurance premiums paid in California have dropped 30%, to about \$6 billion in 1995 from \$9 billion in 1993. As a percentage of payroll, the average premium dropped to \$3.18 per \$100 of payroll at the end of last year from \$5 per \$100 of payroll in January 1993.

Free copies of the report are available by contacting the Department of Industrial Relations, 415-972-8835.

Information in brief

A federal judge in St. Louis has sentenced insurance executive **Arthur Blumeyer III** to more than 21 years in prison, the maximum allowable under federal sentencing guidelines, for his conviction on 27 counts of conspiracy, fraud and money laundering. A jury found Mr. Blumeyer guilty in 1994 of using the defunct Bel-Aire Insurance Co. of Missouri and Atlantic General Insurance Co. Ltd. of Anguilla to defraud policyholders of more than \$43.5 million. John Peckham Jr., a Blumeyer associate convicted on six fraud charges, is scheduled for sentencing Aug. 2... In the case of a junior high student, a U.S. District Court judge in Oakland, Calif., ruled July 22 that a **school can be sued for sexual harassment** among students if school officials knew of it or should have known and did nothing to stop it... Illinois Gov. Jim Edgar named John Hallock Jr., 50, of Rockford as chairman of the **Illinois Industrial Commission**. A former state representative, he has been a commission member since 1991. **EBI**

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Employees happy with Sears asthma program

By ROBERT KAZEL

HOFFMAN ESTATES, Ill.—An asthma management program begun more than a year ago by Sears, Roebuck & Co. is getting good marks from many workers, though it is too soon to say if the program is saving the retailer any money.

Sears introduced the program in April 1995 in cooperation with Northbrook, Ill.-based Caremark International Inc.

Since then, out of 6,000 employees identified as asthma sufferers, 1,100 have signed up to participate in the asthma program, according to Jill Berger, manager of medical plans for Sears (BI, July 24, 1995).

Surveys of participating employees have shown a 32% decline in disease symptoms and a 39% increase in activity among asthma sufferers, Ms. Berger said.

"So they can now play softball and climb up those stairs," she

Benefit Beat

said. "They don't have to stay home and worry about getting sick."

About 99% of the participating employees report that they are satisfied with the program, she said.

Caremark has sent letters to Sears employees with asthma and their doctors, explaining the program and how patients can monitor themselves for warning signs of asthma attacks.

Information on environmental triggers and treatments, such as medication, also is provided.

Every six months, employees in the program fill out a health assessment survey to see if their symptoms are being controlled.

In addition, employees may call a Caremark nurse on a hot line for health-related questions.

In about six months, Sears expects to have collected enough fi-

ancial data to tell how much the program has saved the company in terms of expenses such as emergency room visits and employee sick days, Ms. Berger said.

But the main purpose of the program has been to increase the activity level of those with asthma, not to cut expenditures, she said.

The program is designed for those outside of the three-quarters of Sears workers covered by managed care health contracts, because managed care companies often have their own asthma management programs.

Trying for competition

BLOOMINGTON, Minn.—A coalition of health insurance buyers is signing contracts with 15 physician networks in an innovative attempt to force provider organiza-

tions to vie against one another in areas such as efficiency, quality and customer service.

By spurring the doctor groups to compete, the Buyers Health Care Action Group—representing some 250,000 employees and dependents—expects to save its member companies 9% on health insurance costs next year.

In January, the BHCAG will begin requiring employees and dependents to belong to one of the 15 provider systems, called "care systems," which range from very large physician practices to collaborations of small doctor groups.

The providers are located in much of Minnesota, eastern North Dakota and South Dakota, and western Wisconsin.

Plan members will be required to choose a care system and will be guaranteed access to both primary care doctors and specialists no matter which they select.

Employees and their dependents can choose different care systems depending on needs and preferences, and can buy services out of network—from a competing care system, or from another provider—at a reduced reimbursement level.

The price of coverage varies depending on the group selected, and some consumers will value price while others will shop for quality, said Ann Robinow, BHCAG director of strategic projects.

"Some people buy mini-vans and some people buy sports cars," she said.

Plan members will receive information during the open enrollment period about each plan's pricing, background, doctors' training and expertise, facilities, and customer service and quality measures.

By adopting the care group system, almost 200 more medical groups will be added to the coalition's cadre of providers in 1997. The purpose of creating care groups, Ms. Robinow said, is to spur physician groups to become more efficient and to want to compete effectively; to inform consumers about the differences among providers using uniformly gathered information; and ultimately to save plan sponsors money.

Companies in the buying group include 3M Corp., Dayton Hudson Corp., the Pillsbury Co., and General Mills Inc. **BI**

Law would mean plan upgrades: Study

If Congress requires employers to offer the same coverage for mental disorders as for physical ailments, most employers will have to upgrade benefit programs, a new survey says.

Less than one-third of the 171 employers surveyed by benefit consultant A. Foster Higgins & Co. Inc. said they cover mental disorders and substance abuse on the same basis as other health care services.

For example, more than half of group traditional indemnity plans and preferred provider organizations place a lifetime dollar cap on inpatient mental health treatment. The typical limit is \$50,000. Only 12% of health maintenance

organizations, though, place a lifetime dollar cap on inpatient care coverage.

By contrast, for physical problems, group health care plans often offer lifetime limits of \$1 million to \$2 million.

Group plans limit coverage for mental health treatment in other ways as well. About half of traditional indemnity plans and PPOs limit the number of days patients can receive inpatient care during a year. The most common inpatient limit is 30 days a year. By contrast, it is rare for group plans to limit the number of days in a year participants can be hospitalized for physical problems.

Employers also restrict outpa-

tient coverage for mental disorders. For example, slightly more than 30% of traditional indemnity plans and PPOs limit the number of outpatient visits per year for mental disorders. The most common limit is 50 visits.

The survey also found that mental health costs averaged \$155 per employee through an HMO. Mental health benefits offered through a PPO averaged \$176 per employee and \$225 per employee in traditional indemnity plans. Mental health benefits offered through a stand-alone or carved-out plan averaged \$185 per employee.

Copies of the survey are not available to the public.

—By Jerry Geisel

Adoptions

Continued from page 2

In fact, Finance Committee Chairman Sen. William Roth, R-Del., said the Shelby amendment should be stripped as non-germane from the welfare legislation.

Instead, Sen. Roth suggested, the Senate should consider the adoption legislation as passed by the Finance Committee, adding that Senate Majority Leader Trent Lott, R-Miss., has assured him that the full Senate will take up that measure before the end of the session.

In view of his support for the Finance Committee version of the adoption benefits legislation, Sen. Roth may press members of a congressional conference committee—which will meet to iron out differences in the Senate and House welfare bills—to strip the adoption ben-

efits provision, predicted Foster Higgins' Mr. Saveth.

Currently, about one-quarter of large employers now reimburse employees for adoption-related expenses.

Typically, employers reimburse employees for up to \$2,000 of adoption-related expenses, said Karol Rose, a principal at Kwasha Lipton L.L.C. in Fort Lee, N.J. Adoption-related expenses often range between \$10,000 and \$20,000.

While relatively few employees take advantage of the benefit, it is a benefit that is very much appreciated by employees who adopt, Ms. Rose said.

If Congress gave employer-provided adoption reimbursement benefits tax-favored status, more employers would consider offering the benefits because it would become—for employees—a much more tax-effective benefit, she added. **BI**

Limits

Continued from page 3

ment practices liability protection and other integrated risk programs, but companies are not really buying more of this coverage.

"It's ironic that businesses are not increasing their liability protection at a time when there are more flexible insurance programs available and pricing of coverage is extremely attractive. The fact that most businesses are not increasing their liability coverages could mean the soft pricing in the insurance markets is giving the erroneous impression that catastrophic losses are not occurring. The fact is that these losses are growing dramatically," Mr. Mahoney said.

But one risk manager took exception with M&M's assertion that companies should buy coverage, in part, based on market conditions.

"I think the limits a company chooses to carry should be based on its own risk profile," said Kathryn Bowers, risk manager with Bose Corp., the high-fidelity speaker manufacturer based in Framingham, Mass.

"Smart buyers buy only what the company needs, and don't necessarily spend every dollar in their budget on insurance. I'm a little insulted

that they're telling me I'm under-spending," she said.

Ms. Bowers said increasing limits because the market is soft "presupposes a government budget attitude, where if you don't spend it all this year, you won't be allotted an equal amount next year."

Furthermore, "I've seen a lot of statistics presented in a lot of different ways about court awards and frequency of litigation and, frankly, I don't trust anyone's numbers," she said.

According to the study, average liability limits for companies with \$500 million to \$10 billion in revenues fell in 1996 compared with 1995 levels. For example, companies with \$500 million to \$1 billion in revenues reported an average of \$85 million in liability limits in 1995, but only \$83 million this year. Corporations with \$1 billion to \$5 billion in revenues had average limits of \$151 million a year ago, but \$149 million this year. And, participants with \$5 billion to \$10 billion in revenues averaged \$244 million in limits in 1995, and \$239 million this year.

Only the smaller companies—those with less than \$500 million in revenues—reported boosting limits between this year and 1995.

For a free copy of the survey, call M&M Inc., 212-345-3870.

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Opinions

Lift passenger liability limits

THE RECENT CRASH of TWA Flight 800 is drawing renewed attention to a proposal by many airlines around the world to scrap unreasonably low per-passenger liability limits on international flights.

We have long supported such a proposal. The current system engenders protracted and costly litigation after such disasters and provides too little compensation to the families of air crash victims.

The International Air Transport Assn., an organization of about 230 airlines worldwide, a year ago crafted a plan to abolish those limits, which are contained in the Warsaw Convention. Last November, the IATA proposal was signed by a dozen airlines (*BI*, Nov. 6, 1995).

Currently, 41 airlines have signed the pact—including some U.S. air carriers, but not TWA—and more are expected to sign it by Nov. 1, when it takes effect for signatories. But only those airlines that sign will be bound by the proposal.

The Warsaw Convention sets the per-passenger liability limit at about \$75,000 for flights to, from and through the United States. However, no such limit exists for domestic U.S. air travel. As a result, families of victims in U.S. air crashes receive about \$2 million on average.

The only way for the families of people killed on international flights to recover more than the \$75,000 limit is to sue.

Litigation after air disasters, as a result, is rampant. Already, plaintiffs lawyers are being retained by the survivors of victims of TWA Flight 800. Some of those attorneys have spent years waging legal war against Pan Am and Korean Air Lines to recover



"YOU'RE ONLY GOING TO GET IT ANGRY!!!"

more than the \$75,000 minimum.

For TWA, it may be too late to avoid a long legal battle unless it voluntarily offers to pay damages greater than the Warsaw limits.

For other airlines, this disaster should galvanize more in the aviation industry to adopt the IATA proposal.

We think the removal of low limits will benefit all parties involved: airlines are more likely to avoid costly litigation and bad publicity; families of victims will receive fairer compensation; and insurers will avoid unpredictable jury awards.

Hopes for reform remain intact

RISK MANAGERS, INSURERS AND businesses in general have ample reason to be disappointed as lawmakers in the 104th Congress prepare to break for August.

An ambitious reform agenda that looked so promising only 18 months ago remains largely unrealized. Given that this Congress will only be back for a few weeks at most after returning from the August recess, it's a pretty safe bet that such perennial issues as Superfund liability reform and workplace safety reform will remain unresolved this year.

But even the disappointments give rise to optimism for the future.

After all, this was the first Congress to pass a federal product liability reform bill. Although President Clinton vetoed the bill, the mere fact that the reform measure

moved as far along as it did has to be regarded as a victory.

Congress also overrode a presidential veto of securities law reform, which provides some liability relief for securities dealers.

And reform of the Occupational Safety and Health Administration also got a more complete hearing than has been the case in the past, although no bill made it to a final vote in either chamber.

These developments indicate that while there is ample reason for disappointment, that doesn't mean that reform advocates should slump into discouragement.

Now that the groundwork for meaningful reform was laid in the 104th Congress, reform proponents should begin considering how best to build upon those efforts to see reform enacted in the 105th Congress.

Letters

Louisiana's appeal of RRG ruling is questioned

To the editor: The National Risk Retention Assn. regrets the decision of the Louisiana Insurance Department to appeal the federal district court decision *NRRA vs. Brown*, in which Judge John Parker confirmed the plain language of the federal Liability Risk Retention Act (*BI*, July 1; June 10).

Judge Parker ruled on summary judgment that a risk retention group licensed in its domiciliary state could operate nationwide on the basis of primary regulation by its state of domicile. While acknowledging that lead state regulation embodied in the LRRRA allows non-domiciliary states to take effective action against financially troubled RRGs, Louisiana Insurance Commissioner James H. Brown claims the decision makes the non-domiciliary state "unduly dependent on the regulation of the chartering state."

The NRRA questions how Mr. Brown can take great pride in the Louisiana Insurance Department meeting the regulatory standards established by the accreditation program of the National Assn. of Insurance Commissioners and yet is reluctant to accept the regulatory judgments of states that are, for the most part, accredited. Moreover, the Louisiana Department is able to confer with the domiciliary state

insurance department of any RRG operating within Louisiana's borders, if it has any questions about such a group's operations.

With the formal and informal tools of regulation the Louisiana Department has under the LRRRA, one must question the Louisiana Department's decision to expend its limited resources appealing an untenable legal position that demonstrates a lack of faith in the integrity of a sister state's regulator. Despite our disappointment, the NRRA looks to the affirmation of Judge Parker's ruling by the 5th U.S. Circuit Court of Appeals as increasing the precedential value of *NRRA vs. Brown* in guiding other non-domiciliary state insurance departments in their lawful treatment of non-domiciliary RRGs.

Rosita Steele

National Risk Retention Assn.
Sarasota, Fla.

Business Insurance

Reporting weekly on corporate risk,
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Congress

Continued from page 1

insurers contributed to their own defeats by overreaching, not fully understanding the culture of Capitol Hill and by overstating their cases.

The collapse of the risk management agenda, though discouraging, is no reason to give up pushing for reforms, said Louis J. Drapeau, president of the New York-based Risk & Insurance Management Society Inc. as well as manager-insurance and risk management for The Budd Co. in Troy, Mich.

"Hopefully, this was just the next step in what will ultimately be success," he said.

The current Congress was friendly toward risk management concerns, Mr. Drapeau said, particularly when compared with previous Congresses, where some of these matters never even made it to votes.

"We've made progress," he said, adding that he anticipates even more progress in the future.

Regarding Superfund, Mr. Drapeau said he thought reformers would wait and see what, if anything, happens during the rest of the session and then take up the matter again next year.

David Farmer, senior vp-federal affairs in the Alliance of American Insurers' Washington office, was

similarly philosophical.

"If there was any lesson to be learned, it is for the most part incremental reform and evolutionary reform are always much easier to achieve than total reform," Mr. Farmer said, citing OSHA as an example.

Changing the direction of such an agency after one election is extremely difficult, he pointed out.

Mr. Farmer said insurers might



'Our goal for product liability was to get a bill passed by Congress, and we did that. Unfortunately, no one predicted that the president would veto a bipartisan bill,' says Paul Brown.

not have been sufficiently bipartisan in their approach to Superfund reform.

"I think there was an expectation that it would be easier to make the case and I think there was a mistake not to believe that as much attention needed to be paid to Democrats as well as Republicans," he said.

"Just like other people, we were somewhat carried away with the enthusiasm of the 'Republican revolution,'" he said. Insurers didn't understand the need to be more bi-

partisan early on, according to Mr. Farmer, who added that "we're not at the end of the 104th Congress" yet.

He said insurers and the business community may have sensed a "sea change in politics when in fact what was occurring was a slower realignment process."

But Mr. Farmer added that the business community has every right to be disappointed in Presi-

dent Clinton's attitude on product liability reform "because clearly we had been led to believe that if the bill were moderate in nature, the president would sign the bill."

The bill sent to the president was a moderate, bi-

partisan measure, Mr. Farmer noted. But President Clinton, under pressure from the plaintiffs bar, proved "unable to remember his earlier promises to the American business community" and vetoed the bill.

"I think the insurance industry and insurance consumers did what we had to do to push the issues that were important to us. What you saw was a combination of things: an unpredictable administration and a Republican Party majority that did not have a lot of experience in leading issues. For example, our goal for product liability was to get a bill passed by Congress, and we did that. Unfortunately, no one predicted that the president would veto a bipartisan bill," said Paul Brown, RIMS director of government affairs.

"Superfund was a prime example of the Republican majority knowing what they had to do and simply not being able to get it accomplished, because of a lack of experience, particularly in the House," he added.

"The Republicans knew what their agenda was," and many of the insurers' issues were way down the list, said John Lobert, senior vp-government relations in the National Assn. of Independent Insurers' Washington office.

Some of the insurance agenda, such as a proposed reinsurance facility that would respond to large natural disasters, was so complicated that lawmakers basically told insurers to get organized around a proposal and bring it to Capitol Hill, said Mr. Lobert.

The complexity of the idea and divisions within the insurance industry meant the effort took a considerable amount of time, he said.

Then, earlier this month, when the Senate began holding hearings on such a measure, "we were sabotaged by the White House," as the administration declined to support parts of the measure White House representatives had initially proposed, said Mr. Lobert. The matter remains unresolved.

The race for the White House also helped stymie the risk management and insurance agenda, said David Pratt, senior vp-federal affairs for the American Insurance Assn. in Washington.

"Policywise, this Congress was a more positive place for us to deal than any in recent memory," said Mr. Pratt. But "the overwhelming influence of presidential politics froze most of the second session.

"The president doesn't want this Congress to pass much from here on out. The president wants to run against a do-nothing Congress," he said.

Both Messrs. Pratt and Lobert argued that the Congress, despite the lack of movement on insurance

issues, was far from a do-nothing Congress. Mr. Pratt cited as progress the enactment of a securities law reform bill despite a presidential veto. "There was only so much this Congress could get done, and they've done a lot" said Mr. Lobert, pointing to the passage of the line-item veto as only one of a number of significant legislative initiatives.

But many observers outside the insurance industry say insurers overreached.

For example, Kathleen O'Reilly, counsel to insurance group of the Consumer Federation of America in Washington, cited insurers' approach to Superfund reform as "overkill." Insurers and risk managers supported a repeal of Superfund's imposition of retroactive liability for cleaning up substances legally dumped before Superfund's enactment.

Insurers "really lost track of reality between their taking the American public's pulse and Congress taking the American public's pulse," she said. "If the industry had been more realistic, they would have now a Superfund process that includes many of the improvements that they and the (Environmental Protection Agency) had identified."

"Instead, their legislation seemed totally stalled, with no realistic expectation that they'll get anything by year's end," Ms. O'Reilly said.

"In general, the insurance industry fell victim to the same mentality that a lot of the other business lobbies fell victim to when the Republicans took over the congress," said Tom Blank, president of Washington-based environmental public affairs lobbyist Hager Sharp and a one-time aide to former Transportation Secretary Drew Lewis.

"They thought their agenda was going to sail through. They really didn't do a very good job of honing their message, building consensus for their message and demonstrating the public policy benefits of the changes and reforms that they were seeking," Mr. Blank said.

"They staked out their position in Superfund legislation. And it was a different position obviously than the chemical industry and other potential responsible parties and they were intransigent.

"They felt in the new pro-business Congress that they were not going to have to compromise, they were not going to have to give up what they wanted," Mr. Blank said. Other interested parties also lacked willingness to compromise, so there was a stalemate, he said.

A veteran Hill observer who requested not to be identified shared this assessment.

"The insurance industry perceived that the lid was off the cookie jar and overreached. I think the insurance industry is almost singularly responsible for the failure of Superfund reform this year," said the observer. "They were able to get it hung up on liability reform."

Insurers failed in part because of the "nature of the game. The insurance industry doesn't have any particularly natural allies on Capitol Hill. They're not a sympathetic group. Buying insurance is like paying taxes," the observer explained.

Insurance is regulated by the states, and thus insurers tend to have a state and "very, very anti-

federal focus," said the observer. This approach doesn't work well on the Hill, where lawmakers and staffers view insurance as a foreign topic and the insurance industry as a monolith without understanding the differences between property/casualty and life/health insurers or between direct writer and agency companies.

The observer added, however, that despite "pushing the envelope" on product liability, insurers and their allies had done a good job in that area and were stopped only by a veto they could not override.

A consumer activist disagreed. "On the product liability side, basically the insurers have been saying for 15 years that we're at a crisis state and it rings very hollow when you walk into Congress every year and say there's a crisis," said Rich Vuernick, legislative policy director for Citizen Action in Washington.

"The reason why 'tort reform' failed was that there was a lot of overreaching. Every time you had a product bill, somebody wanted to throw in something else," he said.

"For years, business in general has waged a massive public relations and lobbying campaign around the issue of product liability and tort reform. After a while, when you go to the American people and blow things out of proportion, people stop believing you."

RIMS' Mr. Drapeau disagreed overreaching was the problem.

"I don't know if overreached is a proper term. You need to strike while the iron's hot," he said.

"If you really go all out, that might be viewed as overreaching; if you don't go all out, maybe you don't get your point across," said Mr. Drapeau.



'There is pretty much of a unanimous opinion within the insurance industry that retroactive liability has been a disaster and that any limitation on it is a positive step,' says Gerald Stephens.

"I think the fact that these issues are being discussed is a victory. You see a lot of initiatives on the state level," he said. Mr. Drapeau added that as state tort reforms hamper plaintiffs attorneys who go jurisdiction shopping and then try to get cases into the federal courts, the resulting jam eventually could force action on the Hill.

Gerald Stephens, president of RLI Corp., a Peoria, Ill.-based insurer, agreed that while there were disappointments on Capitol Hill, "tort reform has somewhat succeeded throughout the states."

"There has been a lot of work done on Superfund. There is pretty much of a unanimous opinion within the insurance industry that retroactive liability has been a disaster and that any limitation on retroactive liability is a positive step," he pointed out, noting this sharply contrasted 1994, when the insurance industry was divided on Superfund reform.

But Mr. Stephens remains pessimistic about change in the short term.

"Even if there were a GOP majority in both houses and a Republican president, it still isn't a 100% sure thing we would have meaningful reform," he said.

Given the current political outlook, Mr. Stephens said he is not optimistic about "progress in this or the next Congress." **BI**

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Coverage

Continued from page 1

coverage, it remains uncertain how well EPL policies will respond to claims.

That is because many of the employers that to date have been hit with employment-related claims, such as sexual harassment or age discrimination, have not had EPL insurance.

For example, Mitsubishi Motor Manufacturing of America Inc., which in April got socked with a \$150 million sexual harassment lawsuit from the Equal Employment Opportunity Commission on behalf of workers at a Normal, Ill., plant, does not have EPL coverage, a company official said (BI, July 22).

Chicago-based law firm Baker & McKenzie does not have EPL insurance to cover a \$3.8 million

verdict against the firm for sexual harassment in 1994, according to Ed Zulkey, general counsel for the firm. The verdict is being appealed, he added.

One of the first major tests of EPL coverage may be at hand.

Astra USA Inc., which is being sued by several former employees for sexual harassment, wrongful termination and other employment-related actions, does have EPL insurance, said a spokesman for the Westborough, Mass.-based pharmaceutical company. The spokesman declined to elaborate on details of the company's coverage.

"The average risk manager at a Fortune 500 company is taking a hard look at this coverage," said Gerald L. Maatman Jr., an employment law attorney at Baker & McKenzie in Chicago.

Most insurance companies that write EPL coverage on a monoline

basis say their premium volume has doubled each year since they began writing the coverage (see related story).

However, total premium dollars spent on EPL coverage remain small, noted Rick Betterley of Betterley Risk Consultants Inc. in Sterling, Mass.

"Risk managers are almost, without fail, getting a proposal for coverage," he said. "But not a lot of those are actually getting coverage."

Risk managers are "still getting a lot of resistance from management" about the high cost of EPL coverage, Mr. Betterley said.

Michael Tawney, vp-risk management/loss control at Loomis Armored Inc. in Houston, currently does not buy EPL coverage.

"The likelihood is I would pay significantly more for premiums than simply resolving whatever comes up," he explained. Mr.

Tawney did say, however, that he is considering buying EPL coverage on an excess basis "essentially for protection against a runaway jury-type problem."

Susan Werner, director of risk management for Hardee's Food Systems Inc. in Rocky Mount, N.C., also currently does not buy EPL insurance. "In the past it's been too expensive," she said.

However, Ms. Werner did ask her broker recently to get a new quotation for the coverage, she added, "simply because there's so much litigation" in the sexual harassment and wrongful termination areas.

Outboard Marine Corp. in Waukegan, Ill., does not have EPL coverage and does not intend to buy it in the near future, according to Terry Ellis, risk manager. "We're trying to manage the exposure through good management practices," she said.

More options available in EPL policies

By DEBORAH SHALOWITZ COWANS

Important restrictions sometimes apply

Risk managers looking for employment practices liability insurance have more options now than ever before.

As many as 14 insurers write EPL coverage on a monoline basis, according to market experts, up from just a handful a few years ago. And, several insurers will endorse directors and officers liability policies to remove EPL exclusions.

Written on a stand-alone basis, EPL insurance covers liability for employment discrimination based on race, sex, national origin, religion, age and disability; sexual harassment; wrongful termination; and claims brought by prospective employees.

EPL policies cover the entity itself, as well as past and current partners, directors, officers and employees.

Although there is no standard form for an EPL policy because most of the coverage is written on a surplus lines basis, many of the policies now on the market have several aspects in common.

For example, the policies generally are written on a claims-made basis and include defense costs within the limits. The per-claim limit also is the aggregate limit.

Coverage is triggered: by a lawsuit; a written demand for damages; a written allegation of discrimination, sexual harassment or wrongful termination; or an administrative proceeding, such as a filing with the Equal Employment Opportunity Commission.

However, "there can be a wide variation . . . among policy restrictions," stated Jonathon S. Reed, an employment practices defense attorney in Hackensack, N.J.

Risk managers should read carefully all policy language, he said.

For example, "up until recently, most EPL insurance specifically excluded" punitive damages, noted Ed Zulkey, an insurance specialist and general counsel for law firm Baker & McKenzie in Chicago.

Recently, though, some EPL policies have begun to cover punitive damages in states where they are insurable, he said.

Also, some EPL policies exclude coverage for claims arising from company downsizing or plant closures, warned Rick Betterley, president of Betterley Risk Consultants Inc. in Sterling, Mass.

EPL policies also differ in defining circumstances under which an intentional-acts exclusion applies, Mr. Betterley noted.

Some EPL policies exclude coverage if a court finds a perpetrator's acts were intentional, while other policies exclude coverage simply if an employee alleges that another employee acted intentionally, he explained.

EPL premiums are based on the number of employees.

EPL experts agree that a handful of insurers write the bulk of monoline EPL premiums, including: Chubb & Son Inc., Lexington Insurance Co., Reliance Insurance Co. of Illinois and Zurich-American Specialties Inc.

Warren, N.J.-based Chubb writes EPL insurance with limits of \$25 million. There is no minimum deductible or premium, according to Vp Michael Furgueson. The policy can be endorsed to cover punitive damages and liquidated damages, such as back pay, that are assessed under the Age Discrimination in Employment Act and the Equal Pay Act, he said. The policyholder has the right to refuse a settlement.

Chubb's EPL policy is extremely broad, Mr. Furgueson noted. For example, some of the special areas Chubb's EPL policy covers include breaches of written and oral employment contracts, wrongful failure to promote, invasion of privacy and employment-related wrongful infliction of emotional distress, he said.

Mr. Furgueson said the policy is geared to employers of all sizes. Chubb has written EPL coverage since 1992.

Lexington, a Boston-based subsidiary of American International Group Inc., writes EPL coverage with limits of \$50 million. The minimum deductible is \$5,000 and the minimum premium is \$25,000. Coverage of punitive damages is negotiable, as is the policyholder's right to refuse a settlement, according to Richard Bucilla, executive vp.

Lexington has two basic EPL products, Mr. Bucilla said. One is geared to employers with more than 250 employees, while a newer policy is targeted to Fortune 1000 companies. The insurer started writing EPL coverage in 1992.

Reliance Insurance Co. of Illinois, a subsidiary of Reliance National Insurance Co. in New York, writes EPL coverage with a \$5 million limit. Occasionally Reliance will write a \$10 million limit, but not often, said Joseph P. Monteleone, senior vp and claims counsel for Reliance National. The minimum deductible is \$5,000 and the minimum premium is \$7,500 for a pol-

icy with a \$500,000 limit.

The policy does not cover punitive damages, though Reliance is considering changing this, Mr. Monteleone said. If a policyholder refused a settlement, it would be liable for damages exceeding the amount of the proposed settlement and subsequent attorneys fees.

Reliance typically targets employers with about 500 employees for this coverage, which the insurer has written since 1991.

Zurich-American Specialties writes EPL coverage with a \$25 million limit. Although the minimum deductible is \$10,000, the company prefers to write coverage with a \$25,000 deductible, according to Vp James C. Gray. The minimum premium is \$20,000.

Coverage of punitive damages is negotiable. A policyholder does have the right to refuse a settlement. The policy is geared to employers with at least 250 employees. Zurich-American Specialties, a subsidiary of Zurich-American Insurance Co. in New York, has been writing the coverage since 1994.

In addition to these markets, numerous other insurers write EPL insurance. A sampling of these follows.

Evanston Insurance Co. writes EPL coverage with a \$3 million limit. The minimum deductible is \$2,500. The minimum premium for a \$500,000 policy is \$3,500, while the minimum premium for a \$1 million policy is \$4,340.

Evanston's EPL policy covers punitive damages as long as the insurer's loss-control recommendations have been followed, explained Stan Zolna, senior underwriter for Evanston, Ill.-based Shand Morahan & Co., a managing general agent that owns Evanston Insurance Co.

Evanston does not allow policyholders to refuse a settlement.

Evanston's program is geared to employers with 750 or fewer employees, though "that's not an absolute limitation," Mr. Zolna said. Evanston has been writing EPL coverage since 1994.

New Hampshire Insurance Co., a Wilmington, Del.-based subsidiary of AIG, writes EPL coverage for small employers with a limit of \$5 million. The minimum deductible is \$2,500, while the minimum premium is between \$4,000 and \$5,000 for a group of up to 25 employees, according to Jim Bracken, profit center manager for New Hampshire Insurance's small-business division.

Punitive damages are not cov-

ered. A policyholder may refuse a settlement but would be liable for damages exceeding the amount of the settlement and subsequent attorneys fees. New Hampshire Insurance has been writing EPL coverage since late 1992.

American Technology Excess & Surplus Insurance Services, a wholesaler in San Mateo, Calif., has an EPL program written by various insurers in the London company market for associations, said Richard Rupp, managing director.

Limits for the coverage are \$1 million per claim/\$2 million aggregate. The minimum deductible is \$5,000 and the minimum premium is \$1,688. Punitive damages are excluded.

Executive Risk Specialty Insurance Co. writes EPL coverage with a limit of \$25 million. The minimum deductible is \$25,000 and there is no minimum premium, said Michael Thomas, a senior underwriter with Executive Risk Management Associates, an underwriting manager in Simsbury, Conn., and an affiliate of Executive Risk Specialty.

The policy covers punitive damages. A policyholder may refuse a settlement but would be liable for additional damages and attorneys fees.

The policy is geared to employers with 200 or more employees.

The policy can be canceled only by the policyholder and offers an extended reporting period, Mr. Thomas said. Executive Risk began writing EPL coverage in February.

For employers seeking high excess limits on EPL coverage, Hamilton, Bermuda-based X.L. Insurance Co. Ltd. writes coverage with a \$100 million limit (BI, March 25). The typical self-insured retention on the X.L. policy is \$5 million and that retention need only be met once when multiple claims stem from one cause.

In addition to markets for monoline EPL policies, some directors and officers liability insurers are modifying their policies to cover employment practices liability for an additional premium, Mr. Betterley pointed out.

"I'm seeing a lot more clients buying the insurance through their D&O policies," he said.

The first modification necessary to make a D&O policy cover employment practices liability is an endorsement adding coverage of the entity, he explained. Then, an endorsement is added to the policy that removes the employment practices exclusions and the mental anguish exclusions. **BI**

Generally, the decision to buy EPL insurance takes a while.

"The decision to purchase coverage is a long decision," commented Michael Furgueson, vp of Chubb & Son Inc. in Warren, N.J.

"A lot of people buy this the second year they look," said Jim Bracken, profit center manager for the small business division of New Hampshire Insurance Co. in Wilmington, Del., a subsidiary of American International Group Inc.

For example, Microsoft's Mr. Lange said "we looked at (EPL coverage) very seriously last year" but did not buy it. However, "I expect there's a 95% probability we will effect (an EPL) program before the end of this year," he added.

One of the factors risk managers must discuss with others in their organization—particularly their company's general counsel—is how the coverage may affect control over employment-related litigation, Mr. Maatman pointed out.

If a company does not have EPL insurance, the general counsel decides whether to settle a lawsuit, Mr. Maatman explained. However, if a company does have EPL coverage then the insurer makes that call.

"That seems to be, rather than price, a more sensitive issue" among employers considering EPL coverage, Mr. Maatman said. "It is a different way . . . of resolving personnel issues than in the past. Surrendering that sort of discretion over settling a lawsuit with an employee" can be difficult, he said.

"It's extremely important for risk managers to involve people in general counsel and human resources early in the process," said Chubb & Son's Mr. Furgueson. **BI**

California plan sees 22% growth in enrollment

ROSEVILLE, Calif.—California's first statewide health insurance purchasing pool for small employers continues to grow as the innovative program enters its third year.

As of July 1, 111,245 employees and dependents of small employers were enrolled in the 28 benefit options offered by 22 carriers, including traditional indemnity insurers, preferred provider organizations and health maintenance organizations.

That's up 22.1% from a year ago, when enrollment was 91,116 in The Health Insurance Plan of California, or HIPC, as the program is frequently called. On average, rates will be flat in the year ahead.

The Roseville-based HIPC, launched in 1993 after the passage of legislation creating the program, is a voluntary health insurance purchasing pool for employers with three to 50 employees. Legislation is pending that would allow employers with as few as two employees to obtain coverage through the HIPC.

To be eligible for coverage, employees must work at least 30 hours a week. Part-time, temporary and substitute employees are not eligible for coverage.

To qualify for participation in the HIPC, 70% of a company's employees who have no other coverage must obtain coverage from the co-op. The employer is required to pay at least 50% of the lowest-cost premium available for each employee.

The HIPC is administered by Employers Health Insurance Co. a Green Bay, Wis.-based insurance company.

By Jerry Geisel

Securing premises can limit liability

Easy steps can prevent crimes, limit property owner liability

By James E. McIntyre

WHEN AN EMPLOYEE, GUEST OR resident becomes a victim of crime on your property, who's liable?

Based on recent court decisions, it appears commercial property owners can be blamed for violent crimes and robberies as much as the people who commit them. The price of that responsibility is steep: Seven-figure verdicts are becoming commonplace.

Owners and operators of office buildings, motels, hotels, shopping malls and apartment and condominium complexes must be especially diligent in providing security to visitors or tenants. But every establishment with a parking lot or garage is vulnerable.

Some reasons for blockbuster jury awards and the ever-growing number of premises-security suits and claims are:

- The tendency of the courts to shift responsibility from the criminals to "negligent" property owners.
- The reluctance or inability of business owners to keep up with advances in security technology. If your systems fall short of what a jury would consider state-of-the-art, you have a potential problem on your hands.
- Failing to adequately screen employees assigned to high-risk positions. It's easy for juries to second-guess the character of the employee to whom you gave the keys.
- More violent crime.

Fortunately, you probably don't have to spend a lot of time or money to increase security on your premises and limit your liability. Here are some simple steps

you can take right now.

1. Manage for safety. Make security a top management commitment. Management must monitor security controls—even if you have a security firm. When violations are noted, the appropriate employees should be promptly notified and the situations corrected.

2. Limit access to your property. How easy is it for unwanted guests to walk or drive in? Consider posting guards at entryways if feasible.

3. Consider closed-circuit television. When monitored by people who can react decisively to emergencies, the payoffs of closed-circuit television can be immediate and substantial. Maintain your equipment. Inoperable cameras can increase your problems by luring your customers into a false sense of security.

4. Brighten things up. Hallways and parking lots should be well-lighted. Illuminate potential trouble areas to eliminate shadows and provide for clear CCTV pictures.

5. Build a fence. Good perimeter fencing will keep people from wandering onto your property and mark the boundaries of your area of control.

6. Be careful with your keys. Well-written and enforced key-control plans are crucial and expected in public-use areas such as office buildings and hotels. Yet many managers are surprisingly lax when it comes to keeping track of keys.

7. Check your doors and windows. Lock should look solid and be in good repair. Sliding doors should have track-blocking devices to supplement handle locks. Double-cylinder deadbolt locks should be on tenant and guest room doors.

8. Eliminate stops on vacant floors. Program your elevators to bypass them. They are prime locations for assaults.

9. Screen new hires. Conduct background checks on people responsible for safety and security, and those

with access to master keys, such as housekeeping and security personnel. Depending on the potential employee's level of responsibility, consider checking employment history, motor vehicle records and police records.

10. Educate your staff. It's crucial that employees know security procedures and be kept informed of changes. Security is everyone's responsibility.

11. Make friends with the police. Do you have a good working relationship with your local police department? Ask the police about criminal activity in your neighborhood or for an appraisal of your security systems and procedures. For information on current security technologies, try a reputable security company.

12. Document your security efforts. Keep careful records of training programs you conduct, procedures you put in place and physical enhancements you make to improve security. You'll want this information in case a problem ever arises. If you ever have to cut back on a security measure, be sure to document the reason.

13. Don't overplay the safety of your facility. Avoid making inflated claims about the safety of the your site and its surroundings. If warnings are appropriate, make them.

Ask an attorney familiar with this area what's safe to say and what isn't. **BI**



James E. McIntyre is manager of loss control for The Hanover Institute Co., based in Worcester, Mass.

For one couple, implant controversy created dilemma

Book explores worker's divided loyalty to Dow Corning, wife

"Informed Consent"

By John A. Byrne

Published by McGraw-Hill, 11 W. 19th St. New York, N.Y. 10011

\$22

By Kevin M. Quinley

THINK YOU'VE HAD A TOUGH day at the office? Consider the fact that someone has the challenge of being the risk manager for Dow Corning Corp. Thousands of women decided to undergo silicone breast implant surgery to enhance their self-esteem but now accuse Dow Corning of damaging their health.

Colleen Swanson was one such woman. What sets her story apart from thousands of others is that her husband, John, headed Dow Corning's ethics program.

A new book, "Informed Consent," by Business Week journalist John A. Byrne, shows how the Swansons' lives were tragically affected by Ms. Swanson's decision to pursue a claim and raises questions about corporate responsibility to the public.

Mr. Byrne is a business journalist, an unlikely muckraker in this modern-day morality play.

In the book, Mr. Byrne explores the moral dilemma faced by John Swanson.

Dow Corning "company man" and architect of its renowned corporate ethics program, he slowly realizes that the product he's staunchly defended for years may be responsible for his wife's catastrophic illness. He is torn between his wife's accusations that Dow Corning's implants caused her illness and his company's belief that silicone is safe.

Books & Ideas

Dow Corning maintains to this day that science is on its side, but Ms. Swanson—like thousands of other women—believes Dow Corning denied her the right of informed consent by hiding the risks of having silicone breast implants.

To offer a bigger picture on the situation, Mr. Byrne portrays the experiences of other silicone breast implant recipients, including Kathleen Anneken and Sybil Goldrich, the co-founders of the Command Trust Network, a support group for women with implants.

Mr. Byrne also focuses attention on a link between silicone implant manufacturers and the doctors who practiced plastic or reconstructive surgery.

The author points out that the plastic surgeons paid about \$220 for a pair of Dow Corning implants, but charged their patients about \$4,000, adding that "more than six out of ten failed to inform patients of the full risks of the operation."

In May of 1995, after years of public battles and draining litigation, Dow Corning filed for bankruptcy. By this time, the cases' merits seemed to matter little. The sheer volume of litigation against the company by staggering numbers of women made financial restructuring a necessity.

Unrepentant, Dow Corning continues to maintain that it acted ethically, citing recent studies by institutions such as the Harvard Medical School and the Mayo Clinic casting doubt on the link between silicone and autoimmune disease.

Critics—particularly plaintiffs lawyers, who coincidentally stand to reap a fortune—dismiss these studies on various grounds, including the small size of their samples. Yet, for all of their seed money, the plaintiffs attorneys have yet to produce one scientific

study meeting their exacting criteria proving such a causal connection.

Of course, many risk managers may have their own take on this good vs. evil struggle as portrayed in John Byrne's morality play.

To what extent are corporations obliged to warn patients of risks that haven't been scientifically proven?

To what degree did John Swanson "sell" his story? Is this a corporate form of checkbook journalism? Does this compromise his objectivity?

Why did Mr. Swanson take so long to get religion and not resign in protest sooner? Rhetorical questions admittedly, but ones dodged in Mr. Byrne's otherwise revealing book.

It is now politically incorrect to defend Dow Corning. It is considered bad form to note the disturbing truth that not a single scientific study has proven a causal link between silicone implants and autoimmune disease.

In any event, the controversy is not likely to end soon.

Whether you view the Dow Corning situation as a case of junk science run amok or corporate greed transcending public responsibility, it stands as a modern-day case study of risk management in its most extreme form. **BI**



Kevin M. Quinley is vp of risk services for MEDMARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. Mr. Quinley holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

Doctors, business square off over managed care bills

Illinois lawmakers seek support for changes

By CRISTAL CODY

Now that Illinois Gov. Jim Edgar has signed two bills that are part of a broader Managed Care Patients' Rights Act, state legislators are looking to gather public support for remaining provisions under the act.

However, a business group is urging employers to rally against the remaining proposals or else risk losing managed care tools that have helped lower health care costs.

One bill that Gov. Edgar signed earlier this month guarantees new mothers a hospital stay of at least 48 hours after normal childbirth and 96 hours after a Caesarean section. That law takes effect immediately for state employees and within 60 days for other insurance programs regulated by the state. The law does not apply to self-insured plans.

The second bill signed by the governor requires HMO plans to allow women direct access to obstetricians or gynecologists without visiting a general practitioner first for approval.

More than 40 Illinois state legislators are co-sponsoring the broad

'Unless business and health care purchasers speak out and give their views and concerns about this legislation, we will be handcuffed by these proposals,' says Larry Boress.

managed care legislative package, which among other things would prohibit a prior-authorization requirement for emergency care and bar plans from revoking treatment authorization previously granted. Proposed legislation still to be passed also would outlaw "gag" clauses that restrict physicians' discussion of treatment options and would allow patients to choose their own physicians.

Illinois Sen. Dan Cronin, R-Elmhurst, is among those supporting passage of the managed care reform package, because he said there is an underlying backlash amid the public's conformity to managed care.

"We live in a democracy, so popular sentiment means something," he said. "The question to be asked is whether there is too much managed and not enough care."

The senator intends to begin the next legislative session by letting both sides answer that question at several hearings planned in the fall.

"I think this is a debate that needs to take place," he said. "And when it is over, (I hope) we all learn something about how effective, or lack thereof, managed care is."

Mr. Cronin said his main interest throughout the hearings will be to examine the adequacy of managed care plans. "Is it saving money? Probably yes, but what is the end result?" he asked. "I like the free-market influence, but I don't want it to go so far as sacrificing good

Managed

Continued from page 3

"That's a fairly significant change, although it's occurred over a relatively long period of time."

While an employer hasn't been sued yet in a managed care case, "It's only a matter of time in my mind before the plaintiffs bar gets ahold of a similar fact pattern and presses it (against an employer)," Mr. Mercurio said.

Most of the employers that Marsh & McLennan has been involved with are those more actively involved in the actual delivery of care, Mr. Mercurio said. Some of those are contracting with health care providers, while others are directly employing the caregivers.

According to Fay A. Rozovsky, vp of risk management and legal affairs for New York-based AIG Healthcare Management Services, employers also face potential claims for negligence or breach of fiduciary duty over the way they select health care providers.

For example, an employer could face negligent selection claims if a plaintiff's lawyer can show the company selected a provider purely on the basis of cost without regard to quality of service, or if it selected someone after having been put on notice that that provider's services were of questionable quality.

Wrongful denial of claims is yet another potential liability associated with managed care plans.

Brent J. Graber, a partner with Blatt, Hammesfahr & Eaton in Chicago, said that to his knowledge there still has not been a claim in which ERISA has not pre-empted a wrongful denial action in state court, unless the plan is an exception to ERISA.

But, with the door open to malpractice claims in state courts, many plaintiffs are crafting claims more carefully to pre-empt ERISA and gain access to the higher awards that state courts can provide, the attorney said.

"One thing plaintiffs are doing more and more frequently is taking claims that have some aspect of wrongful denial of benefits... and styling that claim more like a medical malpractice claim," he said.

One health care risk management expert said that while she sees the ERISA pre-emption issue becoming an increasing concern "down the road," for now the areas that don't enjoy ERISA protection have created more than enough exposures for managed care plans.

And those areas at risk are growing, most notably through efforts to apply managed care to workers compensation programs—which don't fall under ERISA protection—and by states seeking to introduce managed care techniques to their Medicaid programs.

"The major issue from a severity standpoint with managed care organizations continues to be denial of benefit issues," said Judy Hart, vp and deputy national director of Alexander & Alexander Inc.'s National Health Care Practice in St. Louis.

"A lot of those are caused by the definition of 'experimental procedures,'" Ms. Hart said. "A lot of that is because the benefit contract does not do a good job defining experimental procedures."

A factor that is not necessarily driving the filing of cases, but is causing considerable problems in defending them, is physician incentive programs or cost contain-

ment incentives, Ms. Hart said.

"Plaintiffs lawyers argue, 'The reason you have this brain-damaged baby is because the physician didn't do a C-section because that would've affected the amount of money he would've gotten back in the risk-sharing pool,'" she said. "These are going to get jury sympathy."

And, as more and more states move to bring managed care into their Medicaid programs, the fact that Medicaid recipients aren't

'It's only a matter of time in my mind before the plaintiffs bar gets ahold of a similar fact pattern and presses it (against an employer),' says Anthony J. Mercurio Jr.

covered by ERISA could lead to more liability exposure for the managed care organizations doing Medicaid business.

"Obviously, given the volume of such patients if there is going to be an opening of the floodgates that's where it will be," Mr. Graber said.

As the liability risks associated with managed care grow, both employers and managed care providers can minimize their exposure with risk management techniques and insurance.

Coverage provided by managed care insurers include directors and officers liability, direct medical professional liability, vicarious medical professional liability and errors and omissions or "business operations" liability.

Marsh & McLennan designed its Managed Care Risk Program to analyze clients' core managed care functions to assess and mitigate risks, and Mr. Mercurio said the broker has seen a steady increase in employers looking for insurance solutions to their managed care exposures.

Marsh & McLennan is delivering those coverages through two approaches, he said: "expanding out" a conventional general liability policy or professional liability policy to provide needed coverage, or through a stand-alone insurance placement.

"The reason we've done stand-alone placements in some cases is not driven so much by the nature of the exposure," Mr. Mercurio said. Instead, the decision stems from the risk manager's reluctance to commingle the managed care exposure with the company's existing GL coverage or the existing policy's capacity for the managed care exposure.

Marsh & McLennan is seeing more and more stand-alone approaches, Mr. Mercurio said, with many large self-insured employers seeing the stand-alone policy as a way to buy down the self-insured retention.

There are also "front end" risk management approaches to limiting the problem for employers, said Mr. Brossman, who works with Marsh & McLennan's Managed Care Risk Program. Those approaches include due diligence in selecting providers, such as detailed requests for proposal that examine the quality of the provider organization.

Among other things, employers should ask for written proof of providers' accreditation, check references and investigate whether they've been sued, said AIG Healthcare Management's Ms. Rozovsky.

"And you want to document a paper trail that your criteria for selection were appropriate," she

said, emphasizing that the employer's selection process must focus on quality as well as cost-effectiveness.

"Once you've identified your managed care provider, employers are then entering into a fairly disciplined process in terms of contract protections," said Mercer's Mr. Brossman. Those contracts include indemnifications and hold harmless provisions in their language in case the employer is sued for any action by the provider.

Many employers, particularly larger companies, are pushing more responsibility to the managed care organizations, Mr. Brossman said, demanding certain levels of performance.

"Some of this may actually help the employer to avoid liability because they can say they've done a good job in selecting the managed care provider, and then they've shifted responsibility," he said.

Both employers and managed care organizations should take a hard look at benefit documents to eliminate opportunities for wrongful denial of benefit claims.

"You have to make very sure you're closing the loop on what your benefits are," A&A's Ms. Hart said, noting benefits must be outlined clearly and completely in membership materials.

At Stamford, Conn.-based Xerox Corp., which has a self-insured employee medical plan that deals with some 216 HMOs, risk management is a constant element of the program, said Helen Darling, manager of health care strategy and programs.

"Some of the things that I've seen that could be concerns can be addressed by doing things the right way," Ms. Darling said. "If you do all those things right I haven't seen a case yet where the company hasn't been upheld."

Among other things at Xerox, that means "going to a lot of trouble to make sure that if we're being looked at by anybody who is less than friendly to us that we did everything humanly possible to give the employee every break possible under the plan," Ms. Darling said.

Meanwhile, Xerox has "an army of lawyers who makes sure that every word we say is unambiguous and we qualify everything we say," she said. "If there's any chance it can be misunderstood you've got to clarify it."

Still, there is occasional ambiguity, and when those cases arise "we always are on the side of the employee," Ms. Darling said.

There are two reasons for siding with the employee in those cases, Ms. Darling said. The first is that the company's benefits area is "here to help out, not to be barriers."

The other is what Ms. Darling calls the "you've got to be kidding test." While benefits denial challenges rarely draw the attention of the company's top executives, the test is to avoid situations in which the chairman would say, "You've got to be kidding. Why didn't we just pay this?"

"So if it doesn't pass the 'You've got to be kidding test' we give the benefit of doubt to the employee," Ms. Darling said. "And you can't go wrong if you do that." **BI**

INTERNATIONAL

British insurers lobbying for repeal of premium tax

Tax will prompt some buyers to drop cover: ABI

By EDWIN UNSWORTH

LONDON—British insurers are urging the government to repeal its property/casualty premium tax, arguing the tax ultimately could lead policyholders to reduce or abandon their coverage.

In a position paper released last week, the Assn. of British Insurers claims that the 2.5% tax on most non-life insurance policies penalizes the buyer and discourages individuals and businesses from purchasing sufficient coverage. The tax took effect in November 1994.

"Insurance premium tax penalizes those who seek to protect with insurance," ABI Director General Mark Boleat said. "This extra tax burden can only act as a disincentive for taking out adequate insurance cover."

In addition, the premium tax conflicts with government initiatives aimed at encouraging people to be more self-reliant through insurance, he said.

Mr. Boleat said ABI member insurers look forward to "constructive discussions with the government and hope they will recognize the threat to prudent protection which overtaxing insurance presents."

The ABI said the real cost impact of the premium tax on insurance premiums has so far been masked by reductions in insurance rates since the tax was imposed in November 1994. However, property/casualty insurance rates are expected to start rising by the end of 1996 or early 1997 and, when they do, the premium tax also will rise because it is charged as a percentage of premium and will "exacerbate" any increase in the size of future cycle swings in premium level.

The ABI also said that because the effect of the tax has not yet become apparent, its ef-

fect on demand for insurance has been similarly "postponed." However, when insurance rates start to rise, "there must be concern that the magnifying effect of (the premium tax) on such rises will only worsen the position" in some sectors where high proportions of people already are underinsured.

The positions could be worse still in the commercial sector, where some policyholders already have demanded lower premiums or have purchased less coverage as a result of the tax. Unlike value-added tax, for which companies can obtain a refund, the premium tax can not be recovered. The policyholder pays the premium tax at the time the premium is paid.

The ABI said that as a result of the premium tax, one major insurance company already has seen premium income from nine of its biggest commercial clients drop by half. Other insurers report that policyholders are retaining more risk, the association added. It said retentions are being made "in an effort to counteract the greater cost of IPT."

The tax also could cause problems in compulsory classes of insurance, such as employers liability coverage or third-party liability insurance for motor vehicles. The ABI claims that rather than accept the higher overall charges, "the more probable result will be an increase in the already worrying levels of evasion of such compulsory insurances."

Amid fears that the government may raise the premium tax in November, the association concludes that, "The government should recognize the threat to prudent protection and take action in the November 1996 Budget. Outright abolition of (the premium tax) is the ideal solution. As a minimum, there should be neither any increase in rate or scope of the tax." **EB**

Germany threatens freeze on health insurance rates

Insurers seek rate hike to meet rising costs

BONN, Germany—In an attempt to control spending by health insurers, the German government is threatening to freeze health insurance rates even before a cost-cutting program goes into effect next year.

The government, which hopes to reduce health insurance premiums by 0.4% in 1997 through an austerity plan put in place this year, threatened the rate freeze to counteract German sickness funds' proposals to raise rates by about 1% before the law goes into effect.

"If the sickness funds are unable to budget themselves, then the government must take on the responsibility," said German Health Minister Horst Seehofer.

Sickness funds, however, say they must raise rates to get out of the red. Earlier this year, the government reduced health insurance premiums for the unemployed, retirees and welfare recipients, thereby lowering sickness funds' income even as the costs of hospital services and drugs continue to increase.

In Germany, health care insurance is compulsory and administered chiefly by sickness funds, which are non-profit organizations funded through employee and employer contributions that total about 13.5% of gross salary or wages. They receive essentially no government money but are regulated by German law.

As part of the austerity plan, the govern-

ment has cut benefits for health spas, eyeglasses and dental work, which it says will reduce health care costs by 7.5 billion DM (\$5 billion) this year. In Germany, health care spending totaled about 240 billion DM (\$167.06 billion) last year.

While employers are asking the government to reduce health insurance premiums, German health insurers are lobbying for greater control over hospital spending.

Officials of some of the more than 100, mostly regional, German sickness funds call the austerity plan unrealistic.

"The government is trying to talk the blue from the sky," said a spokesman for the leading German sickness fund, Allgemeine Orts Krankenkasse. He said the measures will save at most half of the planned 7.5 billion DM.

The austerity plan, which projects a reduction in health care benefit contributions this year, is aimed at reducing non-wage labor costs.

The government blames sickness funds for excessive spending and poor business practices, which include allowing doctors and hospitals to charge too much for their services.

"The average wage contribution must remain between 13% and 14%," said Mr. Seehofer. "I'm not in principle against rate increases, but I reject wasteful spending."

—By Don Lewis Kirk

Four Lloyd's members agents planning to merge operations

By SARAH GODDARD

Lloyd's of London agencies are continuing to consolidate to prepare for the new-style Lloyd's after the implementation of the market's reconstruction and renewal plan.

Last week, four Lloyd's members agencies—R.F. Kershaw Ltd., Castle Members Agents Ltd., Holman Macleod Ltd. and Marlborough Underwriting Agency Ltd.—announced plans to merge their operations into a single new company, Greenwich Lloyd's Underwriting Ltd., at the beginning of next year.

Based on current capacity, Greenwich will be the second-largest members agent after Sedgwick Oakwood Lloyd's Underwriting Agents Ltd. The four agencies handle about £487 million (\$756.2 million) in capacity this year for 871 names and two small, limited-liability corporate capital vehicles.

Kershaw Managing Director Christopher Hodgson, who will become managing director of the new agency, said the move was a response to "the desire for greater critical mass" in the new Lloyd's.

Greenwich will be "prepared for the changes in the marketplace," Mr. Hodgson said, including the anticipated shift to limited liability participation in Lloyd's by a number of traditional names.

However, this change in membership status probably will not happen until the 1998 year of account, he said.

Furthermore, the shift partly will be in response to changes in capacity-to-capital ratios that currently permit unlimited liability members to underwrite a greater proportion of business than corporate vehicles, he said. Mr. Hodgson predicted the so-called gearing ratios will be more equal by

London

1998 and it will be easier for names to convert to limited liability status.

Also, managing agents Atrium Underwriting Ltd. and M.H. Cockell & Partners are in talks about merging. There are no plans to combine the syndicates the two agencies now control.

Atrium, part of the Atrium Group Ltd., which also includes corporate capital provider Atrium Capital Ltd., manages marine syndicate 609 and Cockell manages non-marine syndicate 570.

The two syndicates have combined capacity for 1996 of £121 million (\$187.9 million), £7 million (\$10.9 million) of which is provided to syndicate 609 by Atrium Capital.

In a joint statement, Michael Cockell, senior partner of M.H. Cockell & Partners, and Daniel Burnett, managing director of Atrium Group, said the merger "would leave us well-placed to respond to the dramatic changes presently taking place in the world insurance market."

\$575 million in claims

Pool Reinsurance Co. Ltd., the U.K. government-backed reinsurer for terrorism risks, has received claims from last month's Manchester bombing totaling £370 million (\$574.5 million).

Claims are still being received, confirmed Pool Re Chief Executive Leslie Lucas, but he is confident the majority of claims have been reported.

Despite the high level of claims, Mr. Lucas does not expect rates to increase for the moment, though another major terrorism attack in mainland Britain could hike rates, he admitted.

Cargo ship sinks off Africa



LONDON—Marine underwriters last week were still trying to determine their exposure to claims stemming from the loss of a Greek-owned cargo ship that sank in stormy waters off east Africa.

The bulk cargo carrier MV Sundance sank July 23 while making a voyage from Aqaba, Jordan, en route to deliver its cargo in Indonesia.

The vessel, which was built in 1978, and its entire cargo of 16,000 metric tons of potash were lost, while 27 of the ship's crew of 29 were rescued.

The vessel's managers, Primera Maritime (Hellas) Ltd., which is based in Athens, Greece, declined to disclose information about insurance for either the vessel or its cargo.

Marine underwriters at Lloyd's of London still were trying to ascertain details of the MV Sundance's insurance coverage last week.

The vessel sank at about 1 degree north latitude and 54 degrees 47 minutes east longitude, or about 1,000 miles off the coast of Somalia. The storm was creating 26-foot waves.

Another vessel that was sailing in nearby waters was able to rescue 27 crew members of the MV Sundance, but the fate of two remaining crew members was unknown late last week.

—By Edwin Unsworth

Insurance buyers have seen the removal of the 20% discount and 60% premium retention since the South Quay terrorism attack in February, which resulted in claims to Pool Re of almost £100 million (\$155.3 million).

Figures for the total insured loss at Manchester will not be available until the middle of August, said a spokesman for the Assn. of British Insurers.

Failure blamed on software

PARIS—A fault in guidance system software was responsible for the failure of Ariane V, which was exploded by ground staff on its maiden flight from French Guiana early last month.

In a report into the disaster, the European

Space Agency identified a complete loss of information on the rocket's guidance and altitude, and commented that the loss of the rocket was partly due to insufficient testing and analysis before the flight. The rocket was not insured.

Ariane V is now not expected to enter service until next year.

Reliance adds capital

Reliance Group Holdings Inc. has upped the capital dedicated to its London underwriting operation, Reliance National Insurance Co. (U.K.) Ltd., by \$10 million, bringing total capital to £42.1 million (\$65.4 million) up from £25.6 million (\$39.8 million) in 1995.

See London on page 20

The Professional Marketplace

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ANDREW WEIR INSURANCE COMPANY LIMITED

A Scheme of Arrangement was approved by the creditors of Andrew Weir Insurance Company Limited ("Andrew Weir") and subsequently became effective on 14 April 1994 after receiving High Court Sanction.

Pursuant to the terms of the Scheme, the Scheme Administrators, Paul Evans, Richard Boy-Stones and Colin Bird of Price Waterhouse set the "Initial Payment Percentage" at 10%. The Commencement Date in accordance with the Scheme was 7 February 1995.

Following a review of the financial position of Andrew Weir and after consultation with the Creditors' Committee, the Scheme Administrators have set a revised payment percentage of 15% with effect from 17 July 1996.

Scheme creditors who have already received a 10% payment in respect of their Established Liabilities will receive an additional payment equivalent to the increase of 5% together with a compensatory payment.

Scheme creditors with claims established after this date will receive the increased payment percentage of 15% in respect of their claim within 60 days of each claim becoming an Established Liability.

Claims should continue to be agreed with Andrew Weir and if creditors require more information, please contact the company's run-off managers:-

**Insurance Management Associates Limited, Renslade House, Whitfield Street, Gloucester GL1 1NA
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No. 264
IN THE MATTER OF N.F.L. INSURANCE LIMITED (IN LIQUIDATION)
AND IN THE MATTER OF THE COMPANIES ACT 1981**

NOTICE TO CREDITORS TO PROVE

(Companies (Winding-Up) Rules 1982, rule 73)

TAKE NOTICE THAT the Joint Liquidators of the Company have fixed August 26, 1996 as the date by which all debts are to be proved and any claims to priority are to be established.

Creditors who fail to prove within the aforesaid deadline will be excluded from the benefit of any distribution made before debts are proved or from objecting to such distribution.

Proofs of debt should be delivered or mailed to the Joint Liquidators on or before August 26, 1996 at the following address:

The Joint Liquidators of NFL Insurance Limited-In Liquidation
c/o Cooper & Lines
Dorchester House
Church Street
Hamilton HM 11
Bermuda
Fax: 441-295-1242

Dated this 22nd day of July, 1996

David E.W. Lines
Peter C.B. Mitchell
Joint Liquidators

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INCREASED PAYMENT TO CREDITORS

TRINITY INSURANCE COMPANY LIMITED

A Scheme of Arrangement was approved by the creditors of Trinity Insurance Company Limited ("Trinity") and subsequently became effective on 18 March 1993 after receiving High Court Sanction.

Pursuant to the terms of the Scheme, the Scheme Administrators set the Payment Percentage at 10%. The Commencement Date in accordance with the Scheme was 6 January 1994. The payment percentage was further increased to 15% with the agreement of the Creditor's Committee, commencing with effect from 9 January 1995.

Following a review of the financial position of Trinity and after consultation with the Creditors' Committee, the Scheme Administrators, Paul Evans, Richard Boys-Stones and Colin Bird of Price Waterhouse have set a revised payment percentage of 25% with effect from 17 July 1996.

Scheme creditors who have already received a payment in respect of their Established Liabilities will receive an additional payment, equivalent to the increase of 10% together with a compensatory payment.

Scheme creditors with claims established after this date will receive the increased payment percentage of 25% in respect of their claim within 60 days of each claim becoming an Established Liability.

Claims should continue to be agreed with Trinity and if creditors require more information, please contact the company's run-off managers:-

Insurance Management Associates Limited, Renslade House, Whitfield Street, Gloucester GL1 1NA.
Tel: 01452 428000 Fax: 01452 301387.

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INCREASED PAYMENT TO CREDITORS

BRYANSTON INSURANCE COMPANY LIMITED

A Scheme of Arrangement was approved by the creditors of Bryanston Insurance Company Limited ("Bryanston") and subsequently became effective on 13 April 1994 after receiving High Court Sanction.

Pursuant to the terms of the Scheme, the Scheme Administrators, Paul Evans, Richard Boy-Stones and Colin Bird of Price Waterhouse set the "Initial Payment Percentage" at 10%. The Commencement Date in accordance with the Scheme was 5 December 1995.

Following a review of the financial position of Bryanston and after consultation with the Creditors' Committee, the Scheme Administrators have set a revised payment percentage of 15% with effect from 17 July 1996.

Scheme creditors who have already received a 10% payment in respect of their Established Liabilities will receive an additional payment, equivalent to the increase of 5% together with a compensatory payment.

Scheme creditors with claims established after this date will receive the increased payment percentage of 15% in respect of their claim within 60 days of each claim becoming an Established Liability.

Claims should continue to be agreed with Bryanston and if creditors require more information, please contact the company's run-off managers:-

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Telephone (312) 649-5340 • Fax (312) 649-7799

INTERNATIONAL

London

Continued from page 17

Reliance U.K. Managing Director Carl Bach said the increased capital reflects the parent's "strong commitment to our growing business operations in London and Continental Europe," including offices in Amsterdam, Rotterdam, Madrid, Cologne and Stockholm.

Also, the capital injection "will provide a solid base for future expansion," said Mr. Bach.

Operation absorbed

Composite insurer Commercial Union has absorbed its marine underwriting operation Ocean Marine into its underwriting room in the Institute of London Underwriters, as the final phase of its restructuring program.

Ocean Marine is no longer writing new business, though CU will honor all outstanding commitments and will continue to write marine business at the combined capacity of the former CU room and Ocean Marine room.

The merger was in response to the changing nature of the market, said Cees Schrauwers, managing director, non-life, of CU's U.K. division.

"To maintain our position as a pre-eminent provider of marine insurance internationally, we must respond to customers' needs, particularly in the light of the tough trading conditions which lie ahead," said Mr. Schrauwers.

Swire expanding

Broker Swire Blanch Holdings is expanding its international network with new companies in the Far East and Europe.

Swire Blanch (Hong Kong) Ltd. has been set up in Hong Kong, under general manager Lawrence Liao Xiao Ju. It will report to Swire Blanch (Asia) Pte. Ltd. in Singapore, headed by managing director Graham Clark, who has been appointed to the board of the holding company in London.

Also new is Swire Blanch Europe BV under chief executive officer Luc Brossier, formerly president director general of AXA Re. Based in Paris, the new company will be used to expand Swire Blanch's European reinsurance business.

U.K. fire losses down

Total U.K. fire losses fell 25% to £900 million (\$1.40 billion) in 1993,

according to the World Fire Statistics Center. However, the improving trend in the United Kingdom was not reflected around the world.

In 1993, U.S. fire losses increased 3% to \$9 billion, while Dutch losses soared by 45% to 1.45 billion guilders (\$867 million). Norwegian losses rose by a marginal 2.5% to 2,050,000 Norwegian kroner (\$320,000) and Germany remained about steady at 5.9 million DM (\$4 million).

Countries showing falling losses include Japan at 390 billion yen (\$3.59 million), down 11% to 1992, New Zealand (\$93.7 million), Canada down 12% to \$1.5 million Canadian (\$1.1 million), Denmark down 15% to 2 million Danish kroner (\$348,000) and Sweden down 4% to 3.5 million Swedish kronor (\$534,100).

Fire is costing European Union member countries about 1% of gross domestic product.

New Equitas officer

Equitas Ltd., the proposed run-off reinsurance provider for Lloyd's of London's 1992 and prior year liabilities, has appointed Colin Maltby as chief investment officer and Tony Richards as group financial controller.

Mr. Maltby previously was chief executive of Kleinwort Benson Investment Management, though he left the company when it was bought by Dresdner Bank last year. Since then, he has been a consultant on managing change in financial institutions. Mr. Richards was general manager, finance at Pearl Group P.L.C. before he joined Equitas last year.

Also, Equitas has named nine North American and U.K. fund managers to manage its fixed income investment portfolio. Equitas is expected to have assets of about £7 billion (\$10.87 billion) when it starts up later this year, and each of the fund managers will manage between £500 million (\$776.4 million) and £1 billion (\$1.55 billion).

In the United States, Equitas has appointed Black Rock Financial Management Inc.; Scudder, Stevens & Clark Inc.; Wellington Management Co.; and Zurich Investment Management Inc. RT Capital Management Inc. will manage Canadian funds.

The U.K. appointments are BZW Investment Management Ltd., Mercury Asset Management P.L.C., PDFM Ltd. and Prudential Portfolio Managers Ltd. **BI**

Datebook

AUGUST

AUG. 8. Flexible Benefits Update in Downer's Grove, Ill., sponsored by International Foundation of Employee Benefit Plans and Midwestern University; \$60. IFEBP, Attn.: Registration Dept., P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 8257.

AUG. 11-14. 11th Annual Vermont Captive Insurance Assn. conference in Burlington, Vt., sponsored by the Vermont Captive Insurance Assn.; \$100 for first-time captives, \$350 for members, \$550 for non-members. Vermont Captive Insurance Assn., P.O. Box 763, Stowe, Vt. 05672.

AUG. 19-21. The 11th Annual Private Long Term Care Insurance Conference in Hilton Head Island, S.C., sponsored by The Long Term Care Insurance Educational Foundation; \$500 for private sector, \$375 for government. 11th Annual Private Long Term Care Insurance Conference, Attn.: Diane J. Fulton, 4111 Plaza Lane, Fairfax, Va. 22033.

AUG. 19-22. Life & Health Annual Statement Preparation and Analysis Seminars in Windsor Locks, Conn.; sponsored by Bowne Insurance Division; \$595 for basic or advanced. Insurance Answers, 400 Canyon Lane, Irving, Texas 55063; 800-223-3103.

AUG. 26-29. Property and Casualty Annual Statement Preparation and Analysis Seminars in Nashville, Tenn., sponsored by Bowne Insurance Division; \$595 for basic or advanced. Insurance Answers, 400 Canyon Lane, Irving, Texas 55063; 800-223-3103.

SEPTEMBER

SEPT. 4-6. Advanced Pension Conference in Chicago, sponsored by Corbel; \$595. Educational Services, Corbel, P.O. Box 47720, Jacksonville, Fla. 32247; 800-326-7235, ext. 1139.

SEPT. 6. Harvesting Settlements: Negotiation and Confrontational Skills for Claims Adjustors in Denver, sponsored by Mediation Seminars Inc.; \$295. Christopher Belila, Mediation Seminars Inc., 613 N.W. Loop 410, Suite 900, San Antonio, Texas 78216-5584; 210-442-2372.

SEPT. 7-8. The Global Behavioral Healthcare Leadership Development Congress in San Francisco, sponsored by the Institute for Behavioral Healthcare, the Global Behavioral Healthcare Partnership and CentraLink; \$995. CentraLink, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028; 415-851-8411.

SEPT. 7-11. Behavioral Healthcare Tomorrow conference in San Francisco, sponsored by the Institute for Behavioral Healthcare; \$795, \$895 after Aug. 9. Institute for Behavioral Healthcare, 4370 Alpine Road, Suite 108, Portola Valley Calif. 94028; 415-851-8411.

SEPT. 8-10. Globalization of the Insurance Market conference in San Diego, sponsored by A.M. Best Co.; \$475. A.M. Best Co., Attn. Karen Goodman, A.M. Best Road, Oldw. N.J. 08858-0700; 908-439-2200, ext. 5541.

SEPT. 8-11. Managed Care Leadership Summit on International Healthcare Trends summit in Mexico City, sponsored by Astra Merck Inc., Diversified Pharmaceutical Services and Genentech; \$1,995. GHAA/AMCRA Customer Services, Department Number 0612, Washington, D.C. 20073-0612; 202-778-3269.

SEPT. 9-10. Reinsurance Law and Practice: New Legal and Business Developments in a Changing Global Environment conference in New York, sponsored by Practising Law Institute; \$995. PLI, 810 Seventh Ave., New York, N.Y. 10019; 800-260-4PLI.

SEPT. 10-13. The Sixth Annual Midwest Managed Health Care Congress in Chicago, sponsored by Temple University School of Medicine; Thomas Jefferson University, Jefferson Medical College; Massachusetts College of Pharmacy and Allied Health Sciences; Philadelphia College of Pharmacy and Science; \$1,195, for government employees, \$795 for others. NMHCC, 70 Blanchard Road, Suite 4000, Burlington, Mass. 01803; 617-270-6000.

SEPT. 10-13. RIMS West Coast Conference in Stevenson, Wash., sponsored by the Washington State Chapter of RIMS; \$350. Terry Killen, The Boeing Co., P.O. Box 3707, MS 13-57, Seattle, Wash. 98124-2207; 206-655-3523.

SEPT. 11-12. Nuclear Insurance Coverages and Issues seminar in Orlando, Fla., sponsored by Johnson & Higgins; no charge. Jim Loesner, Johnson & Higgins, 125 Broad St., New York, N.Y. 10004-2424; 212-574-7984.

SEPT. 12-13. Professional Liability Trends in Health Care Law: Managed Care and Other Hot Topics seminar in Boston, sponsored by the DRE, Research Institute Inc.; \$445. DRE, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

SEPT. 16-17. Contemporary Reinsurance and Excess Insurance Issues conference in Chicago, sponsored by Glasser LegalWorks Seminars; \$895. Glasser LegalWorks, 150 Clove Road, Little Falls, N.J. 07424; 800-308-1700.

SEPT. 16-17. International Reinsurance Litigation 1996: Disputes, Wordings and Commutations conference in Cambridge, Mass., sponsored by Andrews Continuing Education Institute; \$700. Andrews Publications, P.O. Box 1000, Westtown, Pa. 19395; 800-345-1101.

SEPT. 16-17. Profiting from the New Era of Data Management conference in Chicago, sponsored by Faulkner & Gray Inc.; \$725. Insurance EDI Forum, Faulkner & Gray Inc., 11 Penn Plaza, New York, N.Y. 10001; 800-535-8403.

SEPT. 16-20. Industrial Ergonomics: Human Factors in Occupational Health and Safety course in Boston, sponsored by the Harvard School of Public Health; \$1,145. Harvard School of Public Health, Center for Continuing Professional Education, 677 Huntington Ave., II-23, Department B, Boston, Mass. 02115-6023.

SEPT. 16-20. The Essentials of Multiemployer Trust Fund Administration conference in Brookfield, Wis., sponsored by International Foundation of Employee Benefit Plans; \$1,175 for members, \$1,325 for non-members. IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 8257.

SEPT. 17-18. Employee Benefits in an Important Election Year seminar in Washington, sponsored by the National Employee Benefits Institute Foundation Inc.; \$125. National Employee Benefits Institute, 601 Pennsylvania Avenue, N.W., Suite 750 North, Washington, D.C. 20004-2601; 800-558-7258.

SEPT. 18-20. Financial Analysis of Life/Health Insurance Operations Seminar in Philadelphia, sponsored by Michael Conn Associates; \$1,250. Also Oct. 23-25 and Nov. 20-22 in Philadelphia. Michael Conn Associates, 223 Bloomfield St. #104, Hoboken, N.J. 07030; 201-795-9333.

SEPT. 19-20. Negotiating Environmental Agreements executive program in Cambridge, Mass., sponsored by Massachusetts Institute of Technology; \$1,175. Carol Sloane, Center for Management Research, MIT, 55 William St., Wellesley, Mass. 02181; 617-239-1111.

SEPT. 25-26. 401(k) Course in Brookfield, Wis., sponsored by International Foundation of Employee Benefit Plans; \$510 for members, \$570 for non-members. IFEBP, P.O. Box 69, Brookfield,

Wis. 53008-0069; 414-786-6710, ext. 8257.

SEPT. 25-27. Managing Ergonomics in the 1990s: Harmonizing the Workplace with Humanity conference in New Orleans, sponsored by the Center for Office Technology and American Automobile Manufacturers Assn.; \$395 before Aug. 15. Managing Ergonomics Conference Secretary, The Pearson Group, 1150 S. Washington St., Suite 210, Alexandria, Va. 22314; 703-683-6334.

SEPT. 25-28. Excess/Surplus Lines Claims Assn. Inc. 28th Annual Conference in Hilton Head, S.C., sponsored by Excess/Surplus Claims Assn. Inc.; \$275. Joanne Moore, Tokio Re Corp., 1 Liberty Plaza, New York, N.Y. 10006; 212-267-3300.

SEPT. 26-27. Mealey's First Reactions to the New Reinsurance Market conference in New York, sponsored by Mealey Publications Inc.; \$995. Mealey Publications, P.O. Box 446, Wayne, Pa. 19087-0446; 1-800-MEALEYS.

SEPT. 26-27. Integrating Group Health, Workers' Compensation and Disability summit in Washington, sponsored by the Institute for International Research; \$1,295. Customer Service, Institute for International Research, 708 Third Avenue, 4th Floor, New York, N.Y. 10017-4103; 800-999-3123.

SEPT. 30-OCT. 1. Financial Analysis of Property/Casualty Insurance Operations Seminar in Philadelphia, sponsored by Michael Conn Associates; \$1,050. Also Nov. 14-15 and Dec. 12-13 in Philadelphia. Michael Conn Associates, 223 Bloomfield St. #104, Hoboken, N.J. 07030; 201-795-9333.

SEPT. 30-OCT. 1. Capturing, Analyzing & Utilizing Data for Disease Management Programs conference in New Orleans, sponsored by The National Managed Health Care Congress; \$1,595. Also Nov. 7-8 in San Francisco, National Managed Health Care Congress Executive Briefing Series, 70 Blanchard Road, Suite 4000, Burlington, Mass. 01803; 800-872-0094.

OCTOBER

OCT. 1-4. Reinsurance and Contract Wording Textbook Training Course in Stamford, Conn., sponsored by Robert W. Strain Publishing and Seminars Inc.; \$1,985. Robert W. Strain, P.O. Box 1520, Athens, Texas 75751; 903-677-5974.

NOVEMBER

NOV. 6-8. The Fourth Annual Business Insurance Workers Compensation Conference in Pasadena, Calif., sponsored by Business Insurance; \$595 for risk managers, benefit managers and safety managers; \$895 for service providers. \$100 group discount per person for two or more employees of the same company. International Business Forum, 7 Penn Plaza, Suite 901, New York, N.Y. 10001; 212-279-2525; fax: 212-279-9307.

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Allstate

Continued from page 1
 nouncement that Allstate Corp. also had entered into a definitive agreement to sell its Northbrook property and casualty insurance operations to St. Paul, Minn.-based St. Paul Fire and Marine Insurance Co. for about \$180 million in cash.

Allstate had said in April that it was conducting a "strategic review" of its Northbrook and Allstate Re operations, and that the sale of those operations was a possible option (BI, April 22).

Referring to the reinsurance transaction, an Allstate spokeswoman said: "It's a much better business for them than it is for us, because they have the size and they're in that business. We're in the personal lines business, and as a commercial company they can do a lot more with it than we ever could."

Mr. Karter said in addition to a strong book of surety reinsurance, Allstate Re has specialized in serving smaller, regional U.S. insurers, and is the leading market and generally the lead underwriter for business in that segment. "We, of course, have some of that as well, but that's not the predominance of our book, so it's just a very good fit as far as that's concerned," said Mr. Karter.

"The whole business is also very complementary for us in that all they do is treaty, and of course we already at SCOR Re have a fairly large book of facultative business" as well as alternative-risk business.

"They don't do any of those things, so that's an opportunity to bring those two businesses together in those areas, trying to leverage opportunities out of both."

Allstate Re also has an "excellent group of people," said Mr. Karter. "They have a very strong and particular team approach to the business that very much fits in with the strategies that we've been developing over the years, so it's a very good fit as far as that's concerned."



'SCOR Group is amongst the largest professional reinsurers in the world, and we have to have that kind of major position in the U.S. as well,' Jerome Karter says.

All 90 Allstate Re employees will be retained and continue to operate out of their South Barrington, Ill., office, while underwriting also will continue to be based in SCOR's New York office, said Mr. Karter.

"Nobody needs additional disruption, and we want to be in a very strong position to go into the renewal season without having to worry about moving around, so there are a lot of reasons why it makes sense to be out there (in South Barrington)," said Mr. Karter.

Robert Faber, assistant vp for underwriting at Allstate Re, will stay with the operation, although vp and general manager Terry Kelaher, to whom he now reports, will remain with Allstate, said Mr. Karter.

Mr. Karter noted only post-1984 business is included in the deal. "I think everybody knows that pre-1985, there was some very difficult years in the casualty business, and those are the years where, if there is to be uncertainty in the reserves,

that's the most likely place you'd find it. That is the reason why this business was offered the way it was, only 1985 and onward."

The deal clearly establishes SCOR's position in the U.S. market "as a major one, and that's clearly in line with the group's strategy," said Mr. Karter. "We have for years said that we wanted to be a larger presence in this market, and that we are a buyer, not a seller of our business. We just needed the right deal to come along. We think that this was it in many ways. It just fit very well with SCOR Group's and SCOR U.S.' strategy."

The deal also will permit SCOR to "assume a much larger position in the market," said Mr. Karter. "The point is that for better or for worse, the market values the larger players with the well-defined franchise, and clearly a lot of staying power."

"SCOR Group is amongst the largest professional reinsurers in the world, and we have to have that kind of major position in the U.S. as well, so this is also a step in that direction." SCOR S.A. is the world's 10th largest reinsurer, based on BI's ranking of 1994 net premiums written (BI, Aug. 28, 1995).

Michael Smith, an analyst with Salomon Bros. in New York, said the acquisition "goes a long way towards reversing some perceptions that may have been created late last year" when SCOR U.S. was "delisted" from the New York Stock Exchange as a publicly traded stock (BI, Nov. 13, 1995).

"There were some of us who thought that perhaps the parent was sending out some signal that after more than a decade of poor underwriting experience in the U.S. market then perhaps it wasn't so inter-

ested in doing reinsurance business in the U.S. any more, and that kind of a perception could have been potentially damaging to SCOR."

"Now," added Mr. Smith, "it looks like it's corrected that. At the very least it tells the world SCOR has a renewed commitment to the U.S. reinsurance market."

Mr. Karter noted that parent company SCOR S.A. had recently announced that it planned to list its own shares on the New York Stock Exchange through a secondary public offering, subject to the correct market conditions. "It is logical for the parent to be represented on the stock exchange, and not one of its subsidiaries, which is exactly why Paris took us private in December of last year, because Paris is listed on the French Bourse."

Michael Morrissey, a principal with Morristown, N.J.-based Firemark Consultants, described the deal as "just part of the inexorable consolidation of the reinsurance business. I think the Allstate transaction points out the reinsurance companies that are going to change hands are not just the ones that are truly small, but the ones that are non-core for their owners, even if they're pretty big."

Twenty-five years ago, "every big company had a reinsurance subsidiary, but it's a tougher business than it used to be," Mr. Morrissey said. "It's not a business for dabblers. It's a business for really focused, professional reinsurance companies."

"I think it's a good vertical acquisition for SCOR Re," said Mr. Morrissey. Mr. Karter is a "fine executive who I'm sure will be able to assimilate the Allstate business very well." The deal moves the business "into strong hands."

David Seifer, vp with Donaldson, Lufkin & Jenrette Securities Corp., said while he is not familiar with the business sold, SCOR "wanted more penetration into the U.S. reinsurance marketplace, so this acquisition gives them more size, more scale, more penetration."

He added, "The SCOR people are knowledgeable, seasoned reinsurance executives, so that you have to believe that they exercised due diligence and looked at the risks and reserves."

A.M. Best Co. responded to the announcement by placing SCOR U.S. A rating under review with developing implications, although it said it reviews the transaction favorably because it demonstrates the SCOR Group's commitment to the U.S. reinsurance marketplace.

The move is a good one for Allstate as well, say observers. "They're getting back to basics and they're eliminating their operations in the property/casualty area that are outside the personal lines area," said Michael A. Lewis, first vp with Dean Witter Reynolds in New York.

Following on the heels of the Northbrook sale, the deal "frees up some significant capital to be redeployed into their primary business, which remains personal lines and life insurance, so this is basically consistent with everything they've done since going public to concentrate on their core two sectors," Mr. Lewis said.

Weston M. Hicks, an analyst with Sanford Bernstein & Co., said that "Allstate is clearly focusing its capital resources on its core auto, property and life insurance business. That's where its returns are the highest and obviously where its competitive strengths lie." **BI**

MSAs

Continued from page 2
 an MSA backer, resolves a key difference in earlier health care portability bills passed by the House and Senate. The House bill would allow employers of any size to establish MSAs for their workers, while the Senate bill lacks an MSA provision.

The Clinton administration has previously indicated that it could accept MSAs if they were sharply limited in scope. After last week's agreement, a White House spokesman said the administration is now looking forward to a Rose Garden bill-signing ceremony.

With the agreement on MSAs, "we have cleared the major hurdle that has blocked our efforts to make progress on the health insurance reform bill over the past several months," said Senate Labor and Human Resources Committee Chairman Nancy Kassebaum, R-Kan.

Congressional negotiators, though, still have other issues to resolve, including whether employers should be required to provide the same coverage for mental disorders as they do for physical ailments (see story on page 6). The Senate bill would require health plans to offer the same coverage for mental disorders as for physical ailments. The House bill lacks a mental health care benefits parity provision.

But the core of both bills is identical: curbing pre-existing medical condition exclusions from health care plans. About 70% of traditional indemnity plans and preferred provider organizations have such exclusions and would have to be amended if legislation is enacted.

Health maintenance organizations, though, rarely have such exclusions. **BI**

Elder care

Continued from page 3
 \$3,500 annually for each worker caring for a parent. Carol Abaya, publisher of the magazine "The Sandwich Generation," estimates a company loses one year of productivity for every 34 employees.

"Elder care is a very smart investment when you look at the return on the investment," Mr. Amenhauser said.

As a result, more companies are providing elder care benefits, said Ms. Rose of Kwasha Lipton. In 1993, 31% of employees at medium-sized and large private companies were provided with elder care benefits, according to a Bureau of Labor Statistics survey. This is up from 9% in 1991 and 3% in 1989.

"Most companies put elder care with child care and look at work-life issues from a broad perspective and provide resources to employees to allow them to focus on work," Ms. Rose said.

One large difference between elder care and child care is preparation time. "Elder care is not like child care where you have nine months to plan," said Carolyn Pemberton, senior communication associate with the Washington-based Employee Benefit Research Institute. "With elder care, generally something happens unexpectedly."

The Confidential Advisory Program at Princeton has incorporated an elder care benefit into its EAP package covering more than 50,000 employees. Unlike other elder care benefits, however, CAP's goes beyond a 24-hour phone line. "We try to bring more to the table than other EAPs," Mr. Amenhauser said.

The program, developed in conjunction with Bethesda, Md.-based National Eldercare Services Co., provides counseling for the worker and family to determine the exact nature of the problem. Once the problem is

diagnosed, whether it is a legal issue, housing or medical problem, the counselor will direct the family to an appropriate provider and also manage the services to completion.

CAP also addresses issues in the workplace. It acts as an advocate for employees in dealing with conflicts with employers and teaches employers how to accommodate caregiving workers.

CAP is attempting to accomplish the difficult task of combining an EAP, which generally focuses on counseling, with a research and referral service. "Very few providers have integrated research and referral with EAP services," Ms. Rose said. "Many say they have, but it turns out to be superficial."

Elder care benefits are particularly important in companies that have downsized, because the remaining employees become more valuable, said Debra Baldwin, elder care program manager for Boston-based Work/Family Directions. Work/Family runs a research and referral service for many large companies, including Basking Ridge, N.J.-based AT&T and Armonk, N.Y.-based International Business Machines Corp.

These companies, Ms. Baldwin said, see elder care as part of a policy to increase productivity by eliminating distractions in employees' lives. "This is part of how we're going to get the work done," is how she described her clients' attitude. "They view this not as a frill but as a structural business issue. If they support their employees, they will get the commitment and work back in return."

Bull's elder care services are provided by Elder Services of the Merrimack Valley, a non-profit organization in Lawrence, Mass. Elder Services provides elder care services to 25 companies in the country. In addition, it provides onsite seminars on caregiving issues, private social workers and training of managers and supervisors. "Employers can

pick and choose what they want," said Associate Director Anne Proli.

As part of a network of non-profit elder service agencies, Elder Services is able to tap into the network's 840 other agencies to locate service providers nationwide. This is critical for success, as frequently the caregiver lives far from the parent.

One of the most important services offered, Ms. Proli said, is the training of management. "We give them some resources to deal with care issues," she said. "Because so often people don't think about that stuff until their parents become unable to care for themselves, they stress out at work. Managers are not equipped to deal with that and it really affects productivity in the workplace."

Test of 24-hour cover ends

By MEG FLETCHER

NEW YORK—Sponsors of Oregon's pilot program testing 24-hour coverage have found that combining workers compensation and group health benefits is much harder than they thought.

However, they are still enthusiastic about such a program, a Tillinghast-Towers Perrin report that tracked the programs through the end of last year says.

Oregon's program, which consisted of up to five plans sponsored by health care providers and workers comp insurers, is being phased out due to modest enrollment levels, according to the National Assn. of Insurance Commissioners' latest Progress Report on the Implementation of 24-Hour Coverage, which was released in June. As of May 1, four of the six pilot plans were providing coverage to 3,624 employees at 14 employers.

The report was developed from questionnaire responses of plan

sponsors, which included two self-insured employers—ESCO Corp., a steelmaker in Portland, and Safeway Inc., a grocery store chain with operations in Clackamas.

Plan sponsors say participants believe coordinating occupational and non-occupational medical care is practical and desirable.

The plan sponsors agreed lost-time duration management and provider reimbursement were the most appropriate elements to integrate in a 24-hour program, though establishing a single medical provider schedule is challenging. They disagreed about the extent to which 24-hour programs could integrate medical case management, disability payments and employee communications. But they agreed financing and claims handling could not be integrated.

Free copies of "Oregon 24-Hour Pilot Programs: Status Report as of Dec. 31, 1995," are available by calling 1-800-525-6741.

Contingent

Continued from page 2

Yocke, risk management practice leader for Deloitte & Touche's western region, based in San Francisco.

"When you see a limited number of suppliers providing any type of product you get concerned... and you will watch how much limit you will put out on any one risk to control your aggregate exposure," said Bob Ditmore, senior underwriting officer of technology, for the St. Paul, Minn.-based St. Paul Fire & Marine Insurance Co., one of the insurers writing this coverage.

Second, much of the work outsourced is sent overseas, in particular to the Far East, where adequate fire protection may be problematic.

For some policyholders in the high-tech area, contingent business interruption is not an issue because they do little if any outsourcing.

But other companies farm out a significant portion of their manufacturing.

"One company can have as many as 70-80 subcontractors," noted Dorothy C. Jones, vp at Johnson & Higgins of California in San Jose.

High-tech companies like the flexibility of being able to shift subcontractors rather than retooling their own plants, explained Ricard L. Rogers, vice chairman of the Johnson & Higgins Technology Group, based in San Jose.

Also, the length of product cycles has shrunk from three years to six months, making outsourcing's flexibility more attractive, said Mr. Rogers.

Olenka Krupa, senior risk manager for Fremont, Calif.-based Cirrus Logic Inc., a computer software and semiconductor manufacturing company, said: "It seems, especially the last year, insurance companies have all of a sudden woken up and realized how much capacity, or how much exposure, they have underwritten, and so they're taking a hard look at it right now and tightening up."

Nonetheless, Cirrus Logic has been able to obtain the coverage it needs, Ms. Krupa said.

Others agree with her assessment of the market. Tighter underwriting standards, particularly in the high-tech field, is a "significant challenge, more so than it was a few years ago," according to Matt Davis, San Francisco-based vp at Sedgwick James of California.

Underwriters are taking three approaches, said Mr. Davis: They are imposing sublimits for contingent business interruption losses; they are often increasing premiums; and they are subjecting coverage requests to greater scrutiny.

Tom Cornwall, vp for Chubb Corp. in Warren, N.J., one of the major insurers in the market, agreed this is an issue. "We have been monitoring and tracking our (contingent business interruption) exposures for quite some time now because there are a relatively few number of what is referred to as foundry chip manufacturers.

"Companies like ourselves who write a lot of electronics firms find ourselves with a reasonably significant accumulation of limits at singular locations because of the relatively few number of these chip foundries and big assembly operations, and it is pretty easy to get into the hundreds of millions of dollars pretty quickly.

"If, for example, you only did \$5 million apiece, as soon as you get 20 (policyholders), you have \$100 million, and it doesn't take very

long," said Mr. Cornwall.

"We have insured that would like to buy in excess of \$200 million for contingent business interruption in one of these locations," where not only does Chubb have no control, but where there might already be \$100 million in coverage provided to other policyholders. "We're not much inclined to do that," said Mr. Cornwall.

"We as a carrier are trying to maintain an openness, an ability to respond, but if the numbers of an entire foundry operation become in excess of \$2 billion, the worldwide capacity is strained significantly," he said.

The capacity has stayed the same, but the exposure has become more severe, said Klaus A. Gebhardt, senior vp and chief underwriting officer at Arkwright Mutual Insurance Co. in Waltham, Mass., one of the highly protected risks insurers active in this market.

Many companies have single suppliers and hence no capacity if that source goes out of business, and they would have a hard time finding alternatives, said Mr. Gebhardt.

Observers point to the unusually close interdependence among high-tech firms. Few high-tech companies manufacture an entire product from start to finish, and some do virtually no in-house manufacturing.

"I think that insurers are concerned over the continued interdependency of companies on one another in the high-technology sector," said Mr. Davis. "You can have one company that is a supplier... that impacts dozens and dozens of companies," he said, referring to the high-tech "food chain."

"Even the big companies are dependent upon literally hundreds of other parties to get a product produced," he said.

"The electronics industry is the most interdependent industry that exists. That is, nobody does everything for themselves," agreed Mr. Cornwall. There may be assembly operations in Taiwan and the Philippines, testing in California's Silicon Valley and chip manufacturing in Japan, Singapore, Korea, Taiwan, or even Scotland and Ireland. "If something happens someplace, generally a lot of folks are likely to be affected."

The sheer number of subcontractors who can be involved is an issue, agreed J&H's Mr. Rogers. "It's hard for the risk management department and broker to gather the necessary data," he said. "That's what's making the underwriters nervous."

The foreign locales of many manufacturing facilities also is a factor.

"It is more incumbent today on Minet as a broker to have our engineers taking a lead role in conducting survey work... and working with clients and subcontractors to ensure the proper fire protection improvements are made so as to be able to provide greater capacity and lower rates for our clients," said Dan R. Francis, executive vp with Minet Insurance Services Inc. in Palo Alto, Calif.

Underwriters are becoming more critical, and as they review companies' global exposures they are saying, "there's the weak link in the chain there," said Paul W. Pinckney, a principal with Tillinghast-Towers Perrin in Irvine, Calif. An extraordinarily devastating loss is possible because the appropriate system, such as an effective fire department, is either not in place or inadequate to keep a "little event from becoming a big event," he said.

However, William R. Linhares,

vp and director of underwriting for Park Ridge, Ill.-based Protection Mutual Insurance Co., an HPR insurer, said because of the importance of these operations, policyholders "rapidly are changing their tack to provide HPR protection wherever they can."

"It's absolutely critical to them," he added. "If they're out of business for 60 days, it's devastating to them."

Chubb's Mr. Cornwall also noted that, "All of this is exacerbated by 'just in time' manufacturing and 'just in time' inventory," a business approach that calls for limiting inventory to only a week's worth or so in order not to tie up capital.

All this means a major loss or losses could create a crisis and result in capacity withdrawing from the market, say observers.

"It could really have an impact on the marketplace," said J&H's Mr. Rogers.

While finding alternative means of supply is the ideal solution, "that's pretty hard to do these days," said Mr. Cornwall. "You don't set up a foundry operation in your backyard under a tent, that's for sure."

"What we're helping our clients do is focus on contingency plans for each critical step in the manufacturing process," said J&H's Ms. Jones.

Most risk managers are approaching the issue by "trying to get a better understanding of what their contingent BI expenses are, so they're going to greater lengths to understand what the product chain is, the development chain, so they can be in a better negotiating position with their underwriters," said Mr. Davis.

In addition, "many of them are retaining more risk in that area, i.e., instead of looking at premium increases... they're willing to accept higher deductibles," he said.

"But to a certain extent, they're a little bit handicapped in that for the most part, not many of them are going to change the way their companies do business," he said.

"We've seen many of our high-tech risk managers that have gone to great lengths to educate their senior operational management, their production managers, their distribution management, on the issue, but at this point we've not seen any company drastically change its operation because of this."

There has been some success, however, in creating a heightened awareness of the issues involved, said J&H's Mr. Rogers. "Like everything else, it's not perfect," he added.

Two developments would ease underwriters' concerns, said Deloitte & Touche's Mr. Yocke: "Obviously, a broader manufacturing base, so it's not so exposed to one catastrophe, and two, some better experience over a period of time."

To build needed limits, some risk managers are buying coverage on a quota share basis. "You get a group of insurers so that the manufacturer can build the limit that they want," said St. Paul's Mr. Ditmore.

"We're going through property renewal right now, and taking a look at not just your traditional layer of insurance, but also quota share by various insurers where they take a percentage of the entire loss, and with new capital coming in, I think there is more opportunities for creative options," said Cirrus Logic's Ms. Krupka.

As the need for capacity expands, there will be more sharing of risk in the future, predicted J&H's Mr. Rogers. EJ

Updates

House bill would ban gag rules

WASHINGTON—Legislation passed last week by the House Commerce Committee would bar health maintenance organizations and other managed care plans from imposing so-called gag rules that restrict health care providers' communications with enrollees.

Under the measure, H.R. 2976, managed care plans could not bar providers—as a condition of signing a contract to be in their networks—from restricting medical communications with patients, such as discussing alternative medical procedures.

Penalties for managed care plans that violate the law would range up to \$25,000. States would be allowed to establish tougher standards.

The bill could come up for a House vote in September.

PBGC proposes new rules

WASHINGTON—Employers with underfunded pension plans face new reporting requirements under rules proposed last week by the Pension Benefit Guaranty Corp.

The PBGC is proposing that employers notify the agency when they apply to the Internal Revenue Service for permission to delay annual minimum required payments to their pension plans, default on loans exceeding \$10 million or file for protection from creditors under Chapter 11 of the Bankruptcy Code.

These new proposed reporting events come on top of events for which employers with underfunded plans are required—under a 1994 law—to provide advance notice to the PBGC. Those events include: breakup in the corporate structure; liquidation of a corporate member; declaration of an extraordinary dividend or redemption of stock above certain levels; and transfer of at least 3% of pension benefit liabilities.

The reporting rules generally apply to companies whose pension plans have more than \$50 million in unfunded liabilities and are less than 90% funded.

The rules were published in the July 24 issue of the Federal Register.

Surety company seized

NEWPORT BEACH, Calif.—California Insurance Department officials seized the offices and property of American Diversified Financial Services and two related companies after an investigation revealed American Diversified had been operating without a license.

Since 1991, American Diversified allegedly sold more than \$100 million worth of allegedly phony surety bonds for construction projects to contractors, many posted on government contracts. The bonds were placed with American Diversified Insurance Co., a non-admitted insurer based in Antigua, West Indies, and affiliated with the Newport Beach, Calif.-based financial services company.

George Jacobs and Thomas Ashley, the operators of the companies, recently were indicted and prosecuted in U.S. District Court in Los Angeles on federal charges of conspiracy, mail fraud and other charges stemming from similar phony surety bond sales, court documents show. A jury is deliberating the case.

Also seized by the insurance department in the July 23 action were: Republic Surety Insurance Agency Inc., also known as Republic Surety Insurance Co.; and Global Marketing Corp., both of Newport Beach, Calif.

Briefly noted

Alfred W. Gross will become **Virginia's insurance commissioner** Aug. 1. He became acting commissioner May 1 after Steven Foster resigned to join Prudential Insurance Co. of America... Employers participating in The MidAtlantic Healthcare Purchasing Coalition, which negotiates with managed care health plans in the greater District of Columbia/Baltimore metropolitan areas, have **reduced health care costs** by an average of 10.3% this year, the Baltimore-based coalition said last week... Sedgwick James Inc., a unit of Sedgwick Group P.L.C., has settled litigation with Utah and Tennessee regulators over the broker's 1988 sale of **Southern American Insurance Co.** to a Utah entrepreneur. Terms of the settlement were not disclosed. Regulators charged that the sale to Victor Borchers—who paid using \$5.75 million of Southern American's own money—violated state insurance law and the insurer's own corporate charter. Southern American was ordered liquidated in 1992 after Mr. Borchers allegedly channeled millions of dollars out of the insurer for his own benefit (BI, March 28, 1994)... The Louisiana Department of Insurance has filed an official notice with the 5th U.S. Circuit Court of Appeals that it is appealing a lower court decision that struck down a 1995 Louisiana law. The law set capitalization and other regulatory requirements for **risk retention groups** licensed in other states and that wanted to do business in Louisiana (BI, June 10). A decision by the appellate court is not expected until early next year... The board of **Travelers/Aetna Property Casualty Corp.** last week approved the repurchase of up to \$100 million of the company's stock, or about 4 million shares. The repurchase, equal to about 1% of outstanding shares, will be used for stock-based employee benefit and director compensation plans. The stock closed at \$26 per share on July 26... The Property Claims Services division of New York-based American Insurance Services Group Inc. estimates **Hurricane Bertha** caused \$135 million in insured property damage (BI, July 15)... Congressional negotiators are expected to begin meeting this week to iron out differences in tax bills earlier passed by the House and Senate that contain a slew of provisions that would **simplify pension plan administration**... **Leslie Dew**, former deputy chairman of Lloyd's of London at various times in the 1970s, died on July 12. Mr. Dew moved to Bermuda in 1976 to underwrite for Gulf Oil Co. captive Inso Ltd.

Disability

Continued from page 2

they reached the point of maximum medical improvement were 78% higher than costs for workers who were released at or after that point—\$1,130 compared with \$635 per case.

Also, the seriousness of worker injuries could increase the duration of treatment and the recovery period, the draft indicated.

Missing from the IBI analysis, however, was an evaluation of the impact that an aggressive return-to-work program could have.

"The employer's role—regarding attitude, motivation and cooperation in fostering return to work—appears to be key to shortened temporary disability durations, al-

though more research is necessary to quantify this relationship," according to the draft.

However, researchers theorized that large employers had an easier time encouraging recuperating employees to return to work earlier, because those employers had more options for modified duty than smaller employers did.

Despite the study's limitations, it raises "significant issues of broad relevance and helps point the way toward benefit integration," according to Thomas Parry and William P. Molmen, the co-authors of the study.

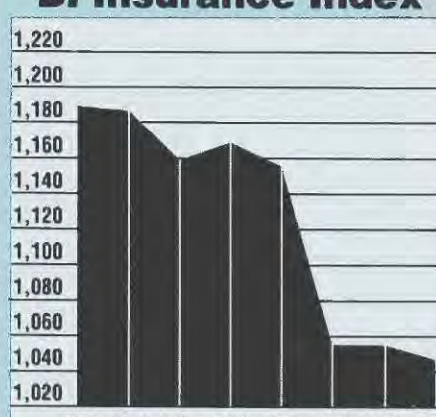
"The ability to decrease temporary disability through medical management and the employer's role in early return-to-work have important implications for how an integrated benefit program is structured," they said.

"Typically, employer health and disability programs are separate and uncoordinated. In addition, many employers do not have aggressive return-to-work programs for non-occupational or even for occupational injuries and illnesses."

Employers should examine the current structure of their health programs to find out how they are affecting their group disability benefits, including sick leave, short-term disability and long-term disability. That analysis can help identify where integration efforts can be most effective, the authors said.

A copy of the study, "Return to Productivity—Lessons from the Treatment of Occupational Injuries and Illnesses," is available for \$5 prepaid from the Integrated Benefits Institute, 525 Market St., Suite 740, San Francisco, Calif. 94105.

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

Blues

Continued from page 1

Cigarette makers, however, are praising the court's ruling that while the plan can pursue its claims of conspiracy, fraud and deception, it cannot proceed with tort claims for damages suffered because of subscribers' smoking-related illnesses.

The ruling stated that the plan "could not overcome the need for a closer connection between the injury and alleged tortfeasor."

"The bottom line is that to recover payments allegedly made on behalf of smokers on a tort theory, they must base their cases on evidence obtained from each individual smoker," said a statement by Charles Blixt, senior vp and general counsel at R.J. Reynolds Tobacco Co.

Michael York, an attorney with Washington firm Whener & York representing Philip Morris Cos. Inc., would not comment on the Blues' participation in the tobacco industry suits.

"These types of smoking and health cases are incredibly individual matters," he said, and must be decided according to the circumstances surrounding each smoker.

While some Blues plans are joining the fight against cigarette makers, others have not. In deciding whether to join the states, each plan considers its own charter and mandate. As individually licensed entities, the plans have the freedom to determine which social and financial issues will be given high priorities.

"We're all separate organizations," said a spokeswoman for Blue Cross & Blue Shield of Florida, which is not involved in Florida's lawsuit against tobacco companies. "We all have different ways of operating, different boards or executives. We try to emphasize that we are all

independent and autonomous."

Participating Blues say there are financial and ethical motives in their effort to prevent smoking-related illnesses. The suits are aimed not only at recovering the health care costs of smoking but also at reducing the marketing that plaintiffs say encourages youngsters to smoke. The fewer smokers, the less money will be spent to treat their illnesses, the plans note.

The suits, while aimed at product makers, are not being handled like product liability actions.

"It's not a product liability case," said Tom Gilde, corporate counsel at Blue Cross & Blue Shield of Minnesota in Eagan, Minn. "It's focusing on the conduct of the tobacco companies," he said of the suit in his state, which alleges tobacco companies violated public trust through conspiracy, fraud and deception.

Cigarettes have been singled out among other products that could harm people, the Minnesota plan contends, because unlike other products, cigarettes hurt users when used as the manufacturer intended.

Blue Cross & Blue Shield of Minnesota is taking on the tobacco companies because it is convinced part of its mission is to prevent illnesses, according to Mr. Gilde.

"Mandatory language in the Minnesota statutes says that we are to advance health care in the state and the science of medicine in Minnesota," he said. "If we are going to do more than pay lip service to those mandates, we feel we have to look at this smoking issue."

And there is the financial stake, Mr. Gilde said. "It's a financial concern for us" because when "additional health care is required, it in turn generates costs for us."

In 1992, the last year figures were available, health care costs for smoking-related illnesses

in Minnesota reached \$472 million, said Mr. Gilde. The number is calculated by the Minnesota Department of Health.

Any recoveries awarded to the state or to Blue Cross & Blue Shield of Minnesota will be determined by a jury, he pointed out.

Earlier this month, Blue Cross & Blue Shield of Connecticut announced it was contributing \$1 million over four years to help defray the costs of Connecticut Attorney General Richard Blumenthal's suit against the tobacco industry. That suit seeks \$1 billion, including \$750 million in past and future Medicaid costs paid to treat smoking-related illnesses.

"Blue Cross & Blue Shield of Connecticut's support of Attorney General Blumenthal's action is an outgrowth of our commitment to our members," said Carl J. Maleri, senior vp-health delivery systems at the plan.

The plan stands to gain in the long run through lower health care costs if the suit forces tobacco companies to fund smoking cessation programs and stop marketing that the plaintiffs claim influences children and adolescents to take up smoking. About 60,000 Medicaid recipients are enrolled in a Blue Cross & Blue Shield of Connecticut plan.

Connecticut also is getting a total of \$100,000 of legal services per year from the firms Silver, Golub & Teitell of Stamford, Conn., and Berger & Montague of Philadelphia. The firms will split 25% of any award the state receives, meaning they could profit from their effort.

In Maryland, discussions are being held between the Blues plan there and the state, a spokesman for the attorney general confirmed. No commitments have been made, but "it's not inconceivable that there will be something like that down the road," he said.

PCS catastrophe options

As of July 26			
Call spread	Price bid/ask	Call spread	Price bid/ask
Eastern September 1996			
40/60	3/4.4	California Annual	
50/70	1/6	40/60	8/1.6
80/100	1.8/4	80/100	.5/1.4
Southeast Sept. 1996			
40/60	2.5/4.1	Western Annual	
80/100	1.6/3.5	40/60	1/2
Texas Sept. 1996			
40/60	1.2/2.2	80/100	.5/2
80/100	.5/2	Northeast Sept. 1996	
		40/60	1/1.6
		80/100	.6/2
Total volume: 4 Total open interest: 3,509			
For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.			
Source: Chicago Board of Trade			

British Issues

July 25						
Companies	Price pence	P/E	Div. pence	Yield %	1 week high—low	
Commi Union	579	11.1	35.3	6.1	586—579	
Genl Accident	625	9.4	38.8	6.2	636—625	
Gdn Royal Exch	235	8.7	11.3	4.8	238—232	
Independent	456	8.5	14.1	3.1	460—456	
Royal & Sun	365	8.7	21.6	5.9	372—365	
Brokers						
Bradstock	71	11.8	7.1	10.0	71—68	
Fenchurch	94	6.3	10.6	11.3	96—94	
CE Heath	94	11.1	6.3	6.7	94—94	
JIB Group	108	10.7	9.4	8.7	112—108	
Lloyd Thompson	182	11.2	11.3	6.2	182—182	
Lowndes Lmbt	132	8.6	10.5	8.0	133—132	
Nelson Hurst	187	11.5	9.8	5.2	188—187	
Sedgwick Grp	122	9.5	8.1	6.6	123—120	
Steel Bri Jones	39	5.1	5.6	14.3	39—39	
Willis Corroon	143	12.9	8.3	5.8	147—141	
Source: Philip Olsen, London						

BI Industry Stock Report JULY 22, 1996, THROUGH JULY 26, 1996

BROKERS								INSURERS/REINSURERS								HEALTH MAINTENANCE ORGANIZATIONS							
Price	Weekly % change	Year to date % change	High	Low	Vol.(000)	Price	Weekly % change	Year to date % change	High	Low	Vol.(000)	Price	Weekly % change	Year to date % change	High	Low	Vol.(000)						
Acordia Inc.	NYS	31	-2.75	4.20	33.75	23.50	24	Everest Reinsurance	NYS	23.875	-1.04	2.14	26.50	18.50	378	SAFECO Corp.	NDO	32	-3.40	-7.25	39.75	28.25	980
Alexander & Alexander	NYS	17	-2.86	-10.53	25.50	16.75	366	Excutive Risk Inc.	NYS	34.25	-4.53	18.10	38.25	18.75	78	Selbels Bruce Group	NDO	2.25	-5.26	50.00	4.25	0.44	44
E.W. Blanch Holdings Inc.	NYS	18.625	0.68	-20.32	25.50	16.50	67	EXEL Ltd.	NYS	66.5	-1.30	9.24	73.63	51.75	565	Selective Ins. Group	NDO	31.25	-6.02	-11.97	38.75	30.75	61
Gallagher Arthur J. & Co.	NYS	31.75	-0.78	-14.77	39.50	30.00	83	Fremont General Corp.	NYS	23.5	5.62	-4.08	26.25	17.63	231	Sphere Drake Holdings	NYS	9	-7.69	-35.71	19.13	9.00	28
Hib, Rogal & Hamilton	NYS	13	0.00	-2.80	14.38	11.38	220	Frontier Insurance Group	NYS	32.625	-2.25	-.95	38.00	25.75	138	TIG Holdings	NYS	28	2.75	-1.75	34.25	23.13	921
Kaye Group Inc.	NDO	4.6875	-12.79	-41.41	8.75	4.63	267	Gainsco Inc.	ASE	9.375	-1.96	-17.58	12.38	8.31	252	Titan Holdings, Inc.	NYS	14	-3.45	-2.61	16.63	11.75	130
Marsh & McLennan	NYS	89.5	-1.38	0.85	101.63	77.25	987	GCE Holding Ltd.	NDO	23	4.25	NA	27.25	19.75	430	Tokio Marine & Fire	NDO	60.75	-4.71	-7.95	69.25	50.88	8
Poe & Brown	NDO	23.5	-4.08	-5.53	25.50	22.75	38	General RE Corp.	NYS	148.875	-0.42	-3.95	158.25	130.00	1168	Torchmark Corp.	NYS	41.375	1.53	-8.56	49.88	38.25	392
BROKERS	AVERAGE	-3.0	-11.3					Gryphon Holdings	NDO	13.875	-5.13	-27.92	20.25	13.75	58	Transatlantic Holdings	NYS	66.625	-2.20	-9.20	75.25	62.38	98
INSURERS/REINSURERS								Guaranty National Corp.	NYS	14	-3.45	-6.94	18.13	13.38	84	Transnational Re Corp.	NDO	23	2.22	-6.12	27.25	20.63	58
ACE Ltd.	NYS	44	1.15	10.69	50.38	29.00	1004	Harleysville Group	NDO	25.125	-3.37	-22.39	33.00	24.25	29	Travelers Aetna Property	NYS	26	-2.35	NA	28.50	23.13	429
Acceptance Insurance Cos.	NYS	17.75	-1.39	19.33	18.63	13.13	147	Hartford Steam Boiler	NYS	43.875	0.00	-12.25	52.50	42.88	183	Travelers Corp.	NYS	40.75	-2.98	-2.40	47.25	29.75	4953
AEGON N.V.	NYS	44.75	-2.19	1.70	50.38	33.25	27	HCC Insurance Holdings	NYS	24.625	4.23	33.11	25.50	10.25	102	Trenwick Group Inc.	NDO	50	-2.91	-11.11	57.50	45.00	48
Aetna Life & Casualty	NYS	60	-2.24	-13.36	78.75	55.38	7029	IPC Holdings Ltd.	NDO	19.875	0.63	NA	22.25	19.00	162	Unico American Corp.	NDO	7.125	-6.56	14.00	7.75	5.50	67
AFLAC Inc.	NYS	31.625	5.42	9.05	33.13	24.38	2070	ITT Hartford Group	NYS	50.875	-5.13	5.17	54.75	44.50	1199	Unionamerica Holdings	NYS	15.625	0.81	NA	18.13	14.75	31
Allied Group Inc.	NDO	35.625	-0.35	-1.04	44.25	28.38	510	LaSalle Re Ltd.	NDO	21.3125	0.89	NA	23.63	19.50	59	United Fire & Casualty	NDO	32.75	5.65	16.96	40.00	19.38	10
Allmerica Prop. & Casualty	NYS	26.125	0.97	-3.24	27.25	21.88	66	Lincoln National	NYS	42.375	0.89	-21.16	57.00	39.88	1045	Unihrin	NDO	45.75	-0.54	-4.69	51.75	44.25	312
Allstate Corp.	NYS	44.625	5.62	8.51	46.75	29.75	3984	Markel Corp.	NYS	85	-5.29	12.58	94.50	59.00	15	UNUM Corp.	NYS	61.125	4.94	11.14	63.25	45.38	712
AMBAC Indemnity Corp.	NYS	48.125	-0.77	2.67	55.25	39.50	150	MBIA Insurance Group	NYS	74.875	-0.99	-0.17	80.88	65.25	270	US Facilities Corp.	NDO	16.125	-4.44	-24.56	23.38	16.13	198
American Bankers Ins.	NDO	40.5	-4.14	3.85	44.25	30.75	439	Meadowbrook Insur. Group	NYS	26.75	-3.60	-20.15	34.13	24.00	14	USF&G Corp.	NYS	15.5	-0.80	-8.15	19.50	14.25	922
American Financial Group	NYS	29.375	-2.08	-4.08	34.50	25.25	302	Mid Ocean Ltd.	NYS	40.125	0.31	8.08	43.00	30.88	96	USLIFE Corp.	NYS	30.5	0.83	2.09	33.25	26.88	172
American General	NYS	34.5	-1.43	-1.08	39.13	31.00	1715	MMI Cos. Inc.	NYS	31	0.81	29.17	31.50	19.75	95	Washington National	NYS	26.875	-1.38	-2.71	30.50	20.50	277
American Heritage Life Ins.	NYS	19.75	-4.82	-13.66	24.25	18.88	30	Mutual Risk Mgmt. Ltc.	NYS	27.375	-5.19	-20.22	34.88	25.63	88	Zenith National Ins.	NYS	27.125	-1.36	26.90	28.88	20.00	27
American Indemnity/Fin'l	NDO	10.5	-4.55	5.00	13.38	9.00	12	NAC RE Corp.	NYS	34.25	6.20	-4.86	39.00	28.50	499	Zurich Reinsurance Centr.	NYS	29	-4.13	-4.53	32.63	27.88	126
American International	NYS	92.375	-1.07	-0.14	103.38	72.00	3060	National Re Corp.	NYS	51.375	0.24	35.20	51.75	30.00	447	INSURERS/REINSURERS	AVERAGE	-1.1	-1.4				
American Re Corp.	NYS	50.875	12.12	24.46	53.25	34.00	1537	Navigators Group	NDO	16.5	-6.38	-6.38	20.25	13.50	66	HEALTH MAINTENANCE ORGANIZATIONS							
Aon Corp.	NYS	48.75	-1.02	-2.26	56.00	38.25	745	Nobel Insurance Ltd.	NDO	11	-1.12	-3.30	12.75	10.13	17	FHP International	NDO	24.75	-4.81	-13.16	34.25	21.75	987
Argonaut Group	NDO	29.25	-2.50	-10.00	35.00	28.88	131	Ohio Casualty Corp.	NDO	34.25	-0.72	-11.61	40.00	30.00	118	Healthsource Inc.	NYS	13.5	0.00	-62.50	40.88	12.75	2193
AVEMCO Corp.	NYS	15	0.00	-6.25	17.50	11.75	64	Old Republic Int'l	NYS	20.75	-1.19	-12.32	24.38	18.88	523	Humana Inc.	NYS	16.75	1.52	-38.81	28.88	15.00	2751
Baldwin & Lyons Inc.	NDO	19.25	0.00	18.46	20.75	14.25	3	Orion Capital Corp.	NYS	48.625	-0.51	12.10	51.00	39.75	151	Oxford Health Plans	NDO	37.375	13.69	1.18	55.25	23.00	6776
Berkley W.R. Corp.	NDO	40.5	-0.92</																				

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