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UPDATES

N.Y. sovereign immunity bars punitive awards

A federal court judge in New York set aside a $1 million punitive damages award against New York City in a sexual harassment case, ruling that despite New York City's human rights law, the city still has sovereign immunity from punitive damages. The decision is the first time a court has ruled on the issue of sovereign immunity with respect to New York law. But the judge

See **Updates** *on next page*

No link found to RSI

Keyboard claims cast in doubt

By MEG FLETCHER

A recently published Mayo Clinic study that found heavy keyboard use does not increase a worker's risk of developing carpal tunnel syndrome likely will be cited by employers both in their fight against efforts to establish sweeping federal ergonomics rules and in contesting some workers compensation claims.

The findings produced divergent views about how valuable the study will be to those efforts. The study's proponents say that the research by such a credible medical institution is among the first to scientifically demonstrate a lack of job-related causation for the disorder, which will help employers to challenge what many regulators and adjudicators had accepted as fact.



The study's critics, though, contend the findings of the two- and one-half page study are inconclusive for several reasons, including its relatively small sample and lack of a control group.

The Mayo Clinic study will likely be discussed during the Occupational Safety and Health Administration's three public forums on ergonomics later this month, as well as in individual workers comp cases (*BI*, June 11).

The study of Mayo Clinic office workers in Scottsdale, Ariz., who were heavy users of keyboards, indicated that only 10.5% of the 257 study participants met the clinical criteria for carpal tunnel syndrome in 1995, though about 30% of employees surveyed had tingling of various sorts in at least one hand. The percentage of those with documented carpal tunnel syndrome was not much different from the percentage found in the general population, according to the researchers.

"We had expected to find a much higher incidence of carpal tunnel syndrome in the heavy computer users in our study, because it is a commonly held belief that computer use causes carpal tunnel syndrome," according to a statement by Dr. J.

See **Syndrome** *on page 37*

Employer immunity in patient bill not total

By MARK A. HOFMANN

WASHINGTON—Employers would enjoy some immunity from liability in health plan coverage disputes if the Senate's version of a patients' bill of rights becomes law.

The bill would allow employers to immunize themselves from liability by naming a "designated decisionmaker," such as an insurer or third-party claims administrator, to make coverage decisions. Authors of the amendment containing that protection argued last week that it would effectively protect 94% of all employers—all but those that self-administer their plans—from liability. But the amendment, which won Senate approval Thursday by a vote of 96-to-4, does not go nearly as far in protecting employers as an earlier amendment, which was defeated.

Approval of the narrower employer liability relief, which was put together by Sens. Olympia Snowe, R-Maine, Mike DeWine, R-Ohio, and Ben Nelson, D-Neb., removed one of the last major roadblocks to passage of the Bipartisan Patient Protection Act of 2001. The Senate appeared likely to pass the legislation over the weekend, though probably not by a veto-proof margin.

The Snowe amendment represented an attempt to answer many employers' chief complaint with the Bipartisan Patient Protection Act, which was drafted by Sens. Edward Kennedy, D-Mass., John McCain, R-Ariz., and John Edwards, D-N.C.

Employers have called for total immunity from

See **Rights** *on page 38*



PHOTO: GETTY IMAGES

Sen. Don Nickles, R-Okla., (inset) contends that an amendment to the Bipartisan Patient Protection Act of 2001 co-sponsored by Sen. Olympia Snowe, R-Maine, would drive up health care costs.

LTC cover coming of age

Recognition of need expected to boost demand

By JOANNE WOJCIK

Even though group long-term care insurance is relatively inexpensive, most employers see little interest in the benefit among employees because people don't think they'll need it until after they retire.

Insurers and benefit experts point out, though, that a significant percentage of people requiring long-term care are younger than retirement age.

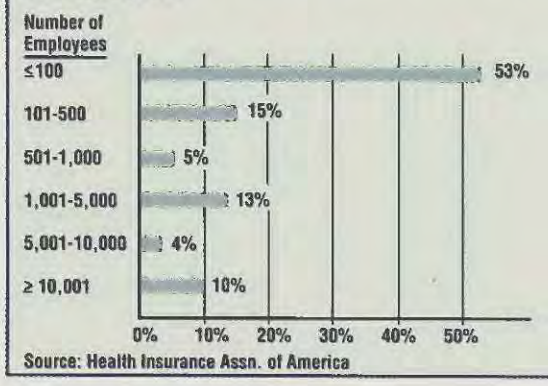
That fact and the aging of the working population are expected to increase employee interest in the benefit, they say.

"It's perceived as something you don't need until you're 70, so employees aren't clamoring for it," said Paul Forte, second vp in John Hancock Financial Services Inc.'s group insurance division in Boston.

See **LTC** *on page 39*

LTC purchasing

Percent of employers offering long-term care insurance, by company size



Source: Health Insurance Assn. of America

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NEWSPAPER

03

Building codes elevate debate over fire safety page 3

Midyear market report page 10

INSIDE

- The environmental insurance market is poised for growth as more policyholders begin to see a need for the products. PAGE 4

- The level of member satisfaction with New York HMOs was the same or slightly lower in 2000 compared with the year before. Doctors and nurses got higher marks in some cases, though, finds a study funded by the New York Business Group on Health and IPRO. PAGE 6

- The 11th U.S. Circuit Court of Appeals' ruling in the UPS captive case is rightly being cheered by captive owners and tax experts, this week's editorial says. PAGE 8



- Australia's High Court expands the liability exposure of government entities for failing to maintain public roads and sidewalks. PAGE 31

- U.K. employers likely will face additional costs following a European Court of Justice ruling that they must provide short-term workers with a paid vacation benefit. PAGE 31

- A House panel has passed a bill that would create an antifraud network to allow financial services regulators to share information about fraudulent activities. PAGE 34

DEPARTMENTS

Advertiser Index 38
Classifieds 34
Commentary 37
Datebook 33
Global Briefs 31
Insurance Services Guide 32
International 31
Letters 8
Opinions 8
Ticker 39

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UPDATES

Continued from previous page
did rule against the city on other matters and denied its motion for a new trial in *Katt vs. City of New York*, a sexual harassment case in which a terminated city employee was awarded $400,000 in compensatory damages and $1 million in punitive damages. Judge Gerard E. Lynch last week set aside the punitive damages award, ruling that interpretations of the law by the state's appellate court, as well as "compelling" public policies and the state of New York's "deeply rooted traditions" of sovereign immunity, "simply forbid authorization for punitive municipal liability." He upheld, however, the $400,000 compensatory award. The city is considering whether to appeal certain elements of the ruling, said Kevin J. Smith, New York's assistant corporation counsel.

CLASS ACTION REFORM BILL Reps. Bob Goodlatte, R-Va., and Rick Boucher, D-Va., last week unveiled class action reform legislation in the House of Representatives. The new Class Action Fairness Act of 2001 would hold that, under most circumstances, federal jurisdiction exists whenever any member of a plaintiff class is a citizen of a different state than any defendant, provided that the aggregate amount at issue is more than $2 million. The measure also includes a new "consumer class action bill of rights" that, among other things, would forbid the approval of settlements in which class members suffer a net loss.

P/C INSURERS' RESULTS SLIP Increased underwriting losses and lower investment gains combined to push down the profits and surplus of U.S. property/casualty insurers in the first quarter of 2001, according to the Insurance Services Office Inc. and the National Assn. of Independent Insurers. Profits for the first three months of this year were $5.6 billion, a 5.4% decline from the first quarter of 2000. Insurers' surplus fell to $303.7 billion, down 4.7%. Contributing to the lower figures were a 2.4% increase in underwriting losses, to $6.1 billion, and a 3.8% decrease in net investment gains, to $12.7 billion. Net written premiums were $81.9 billion, up 10.4%. The premium growth helped reduce insurers' first-quarter combined ratio to 106.2% from 107.2% a year earlier. Combined results are based on reports from insurers that account for 96% of the U.S. property/casualty insurance business, according to ISO and the NAII.



N.J. LEGISLATURE PASSES PATIENT BILL The New Jersey Legislature last week sent the governor a bill that would allow patients to sue their HMOs over coverage disputes. The bill gives patients the right to sue state-regulated HMOs for delaying or denying treatments, according to an aide to Assemblyman Steven Corodemus, R.-Monmouth, one of the bill's co-sponsors. The bill would not broaden liability for employers that sponsor health care plans, the aide said. The bill would place lawsuits into two different tiers, the aide explained. This would allow patients who suffer irreversible harm to sue immediately, while others would be required to go through a three-stage appeals process before filing a complaint. Many HMOs oppose the bill, the aide said, because they fear it would allow for frivolous lawsuits. But he noted that other states, such as Texas, have enacted similar bills and very few lawsuits have resulted. Acting New Jersey Gov. Donald T. DiFrancesco, a Republican, is expected to sign the bill.

OSHA SCHEDULES ERGONOMICS FORUMS The U.S. Department of Labor has chosen three locations for upcoming public forums on ergonomics. The department is seeking public comment on workplace-related musculoskeletal injuries before determining whether to begin work on a new federal ergonomics standard. The first forum will be held July 16 and 17 at the George Mason University Arlington Campus Professional Center in Arlington, Va. It will be followed by a July 20 forum at the University of Chicago. The final forum will be held July 24 at Stanford University in Palo Alto, Calif. Information about the forums can be found on OSHA's home page, *www.osha.gov*.

COLI PROGRAM A TAX DODGE: COURT A three-judge panel of the 11th U.S. Circuit Court of Appeals in Atlanta upheld a 1999 ruling by the U.S. Tax Court that Winn-Dixie Stores Inc.'s corporate-owned life insurance program was designed to be an illegal tax shelter. "No finding of the tax court suggests, furthermore, that the broad-based COLI program answered any real business need of Winn-Dixie, such as indemnifying it for loss of key employees," the 11th Circuit's opinion states. In 1993, Winn-Dixie began the contested COLI program, under which the Jacksonville, Fla.-based supermarket chain purchased life insurance policies for almost all of its 36,000 full-time employees. The company was the sole beneficiary of the policies and paid the premiums, according to the opinion. Winn-Dixie borrowed money from the insurer to finance the premiums and selected an 11% interest rate for repaying the loan. The company then reported as tax deductions the interest payments and administrative fees it incurred in running the program, according to the opinion. Many employers set up similarly structured COLI programs until the tax law was changed in 1996. Winn-Dixie terminated its program in 1997, according to the opinion.

HUB CONCLUDES KAYE PURCHASE Toronto-based insurance broker Hub International Ltd. completed its acquisition of New York-based broker Kaye Group Inc. for $129 million. Hub paid $14 in cash for each Kaye common share purchased. The broker funded the acquisition through a combination of cash, bank financing and convertible debentures. Toronto-based Fairfax Financial Holdings Ltd., which owns approximately 41% of Hub's outstanding shares, purchased $35 million in six-year 8.5% subordinate debentures, convertible into common shares of Hub at $17.00 Canadian ($11.16) per share, to help finance the deal. Zurich Insurance Co. also purchased $42.5 million Canadian ($27.9 million) of five-year 8.5% subordinate debentures convertible into Hub common shares at the same price. *Business Insurance* estimates that Hub International and Kaye, as a combined entity, would have $146.6 million in 2000 pro-forma brokerage revenues.

LOUISIANA TAKES OVER SAVANT Louisiana insurance regulators have taken control of the insurance operations owned by former state treasurer Ken Duncan. Mr. Duncan's Savant Insurance Co., a Baton Rouge-based workers compensation insurer, was declared insolvent May 30, as were related companies Savant Loss Indemnity Co. Inc. and Savant Insurance Services. The Louisiana Insurance Department is preparing a plan of rehabilitation for the Savant companies under an order issued June 20 by State District Court Judge Timothy Kelley. Mr. Duncan served as state treasurer in Louisiana from 1996 to 2000.

BRIEFLY NOTED Brian M. Kawamoto has joined broker **Lockton Cos. Inc.** in Kansas City, Mo., as an executive vp and managing director. Mr. Kawamoto previously was a director at Swiss Re New Markets Corp. in New York....The U.S. Supreme Court on Friday refused to hear **Brown & Williamson Tobacco Corp.'s appeal** of the $750,000 award to Grady Carter, a smoker who originally filed a product liability lawsuit in 1995 against the cigarette maker....Trading in **Frontier Insurance Group Inc.**'s stock was suspended by the OTC Bulletin Board market after Frontier announced that it would miss a June 15 deadline it had set for filing its first-quarter 2001 financial report with the Securities and Exchange Commission. The OTC market, which requires listed companies to maintain current SEC filings, will resume trading Frontier shares within three days after it files the report, which Frontier said it expects to do in early August....**USG Corp.** on June 25 filed for protection under Chapter 11 of the U.S. Bankruptcy Code. The Chicago-based holding company filed Chapter 11 petitions in the U.S. Bankruptcy Court in Wilmington, Del., because of growing asbestos litigation costs stemming from its U.S. Gypsum Co. subsidiary....With a vote of 285-143, the House of Representatives on last Tuesday passed—as an amendment to a $59.1 billion transportation spending bill—a measure to **prohibit Mexican trucks from crossing U.S. borders**. Supporters of the ban, including several U.S. insurers and consumer groups, are concerned that opening the borders may increase the number of hazardous trucks and unregulated drivers on U.S. highways. The Bush administration is opposed to the restriction....Hospitals will be required to tell patients when they have been harmed during their treatment under new **patient safety standards** from the Joint Commission on Accreditation of Healthcare Organizations. The new rules, which came partly in response to a 1999 report by the Academy of Sciences' Institute of Medicine saying medical errors kill between 44,000 and 98,000 patients annually, took effect July 1. The standards apply to all of the nearly 5,000 hospitals accredited by Oakbrook Terrace, Ill.-based JCAHO. BI



Mr. Kawamoto

To get breaking news as it occurs, visit Business Insurance's free online Updates at www. businessinsurance.com. All of the material in the Updates column, as well as other content in this week's issue, is generated from daily news postings that appeared on the Web site in the previous week.



Building codes elevate debate over fire safety strategy

By MICHAEL BRADFORD

Building code proposals are sparking a debate among builders, manufacturers and insurers over whether property and lives are best protected by sprinkler systems or by fire-resistant materials and other passive methods of fire control.

Special interests battling for market share in the construction industry are among those submitting proposals for revising the International Building Code and the National Fire Protection Assn.'s new NFPA 5000 Building Code, which is currently being drafted. Insurers interested in holding down claims from property damage and personal injury also are among the parties weighing in with recommendations on the two codes.

In the case of the IBC, which is revised annually, what have become known as "sprinkler trade-offs" are the target of a running battle. In such trade-offs, the code is revised so that the use of sprinklers is mandated for certain areas or types of structures. At the same time, requirements are eased for passive fire-control methods, such as the use of noncombustible materials.

The theory behind such trade-offs is that because sprinklers reduce the risk of a catastrophic fire, materials with lower fire ratings can be used in a structure.

Builders like the trade-offs because lower-rated materials are less expensive and the savings can make up for some of the cost of installing sprinkler systems. Producers of cement, iron, steel and wood products are divided over the trade-offs, though, because they change the demand for their products.

The NFPA began development of its own code after originally agreeing to work with the International Code Council, an organization that administers the IBC, but failing to come to agreement on a single, comprehensive code. State and local governments with jurisdiction over building codes will decide which of the codes should govern construction in their area.

The NFPA code, if approved by the fire safety group's membership, could be in place by fall of 2002. A vote on IBC annual revisions will be held later this year.

As the IBC is revised and the NFPA code is developed, a debate has developed over whether such fire-control trade-offs affect how property and lives are protected.

There are plenty of trade-offs already, according to some who have input and interest in how the codes are developed.

"Every time you think the time has come where you

See **Codes** *on page 38*

Earthquake unlikely to hit insurers hard

Peru tallies quake losses

By GAVIN SOUTER

AREQUIPA, Peru—Although the powerful earthquake that rocked southern Peru on June 23 killed more than 100 people and left thousands homeless, the disaster is not expected to be a major insurance catastrophe.

Most of the buildings damaged by the 8.1-magnitude quake were uninsured older buildings, loss adjusters and brokers say. They note that the majority of more recently constructed commercial buildings and newer homes withstood the quake and several powerful aftershocks. Although some industrial companies will file claims for damage, most of the costs are expected to be absorbed by deductibles or fall within lower-layer primary and facultative reinsurance coverages, adjusters and brokers say.

The earthquake struck the coast of southern Peru about 120 miles west of Arequipa, the largest city in the region, and about 375 miles southeast of Lima. Several large aftershocks followed, the largest of which had a magnitude of 6.8. Several landslides and a small tsunami also resulted from the quake.

The epicenter was located in an unpopulated area, and the quake occurred deep under the surface, which limited the amount of damage it caused, said Bob Healey, senior vp at EQE International, an engineering and risk management consulting company in Oakland, Calif.

See **Quake** *on page 37*

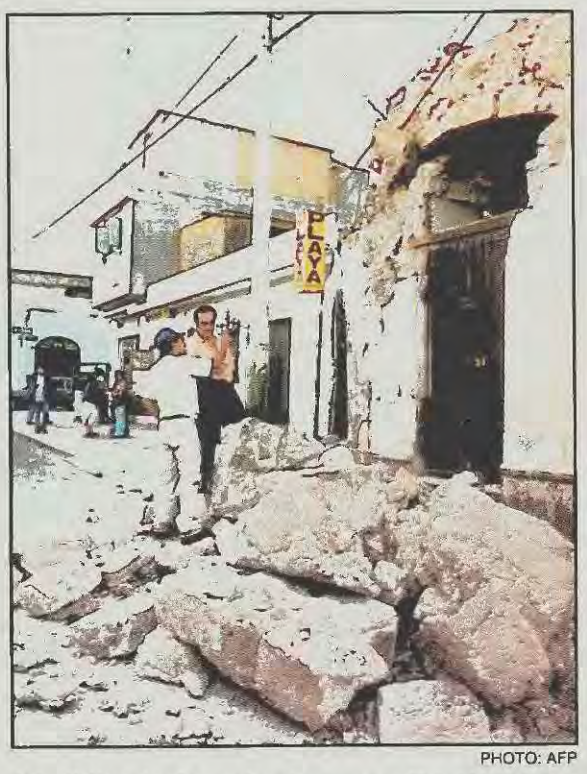


PHOTO: AFP

A building in Arequipa is among the structures damaged by the June 23 earthquake that shook Peru, as well as parts of Bolivia and Chile.

Pension reform revisited

New bill would clarify, and build on, recent changes

By JERRY GEISEL

WASHINGTON—Less than a month after President Bush signed into law the most comprehensive pension reform measure since the passage of ERISA, a new effort is under way to develop and pass yet another reform bill.

Business groups and congressional staffers already have begun discussions on what could be the elements of a new pension reform bill.

"We have spoken to outsiders and would like to put together later this year another bill. We have not solved all problems," said a staffer for Rep. Ben Cardin, D-Md., the co-sponsor, along with Rep. Rob Portman, R-Ohio, of a sweeping pension reform package that was largely incorporated in a big tax cut bill Congress approved in May.

"We are looking forward to the next round of pension simplification," said Angela Arnett, senior counsel-federal relations at the American Council of Life Insurers in Washington.

Business groups are asking their members to suggest provisions that should be included in a bill that already is being referred to as "Portman-Cardin II."

"We are in a brainstorming mode and now are determining what we will formally advance," said James Delaplane, vp-retirement policy at the American Benefits Council in Washington.

"Many issues still need to be resolved," added Mark Ugoretz, president of the ERISA Industry Committee in Washington.

While nearly half of the new tax law—known as the Economic Growth and Tax Relief Reconciliation Act of 2001—contains pension provisions, many other pension provisions were stripped from the bill, largely because of procedural problems.

For example, a packet of so-

See **Pension** *on page 35*

S&P issues U.S. insurer outlook

P/C rate hikes seen as inadequate to offset myriad problems

NEW YORK—A new analysis by Standard & Poor's Corp. suggests mixed prospects for the U.S. insurance industry in the near term, forecasting a negative outlook for property/casualty insurers and a stable outlook for health insurers.

The New York-based rating agency described property/casualty business as "the reddest flag on the insurance ratings horizon." S&P noted that, for many property/casualty insurers, increased premium rates in the current firming marketplace are insufficient to offset such problems as reserve deficiencies, increasing claims and an ongoing drive for market share.

In the first half of 2001, the property/casualty sector has seen 20 downgrades by S&P. During this same period, the rating agency has issued no upgrades for the sector. In some cases, property/casualty problems have even affected life companies, with four of eight life companies being downgraded as a result of problems with their property/casualty insurance affiliates.

In the health insurance sector, insurers have kept their rates ahead of cost trends, S&P said, contributing to the sector's stable outlook. There are some long-term concerns in the health sector, including medical-cost pressures, the aging baby boom generation, legislative measures and litigation. But, in the near term, the current stability will prevail, the rating agency predicted, "backed by a sustainable trend of premium rate increases through 2002 and a market demand that is prepared to pay a premium for quality."

The S&P report, "Negative Property/Casualty Outlook Highlights Uneven U.S. Insurance Industry Prognosis," is available on S&P's Web site, *www.standardandpoors.com*.

—By Rodd Zolkos

Environmental insurers urged to clean up their act

By GAVIN SOUTER

NEW YORK—The environmental insurance market is poised for growth as more policyholders begin to see a need for the products, according to two insurance industry executives.

To meet policyholders' expectations, however, environmental insurers must adapt their underwriting and claims practices, they said.

Environmental insurance should not be underwritten as a traditional long-tail casualty line, the executives said, and insurers should recognize that policyholders will expect prompt claims payments.

Environmental insurers have had their reputation tarnished over the past several years as they have fought with policyholders over coverage for Superfund site cleanups, said Kenneth Berger, executive vp-environmental at Zurich North America, a unit of Zurich Financial Services Group Inc. in New York.

Mr. Berger made his remarks at the Environmental Insurance Forum in New York last month, which was sponsored by the Middleton, Wis.-based Society of Environmental Insurance Professionals. SEIP was formed last year to promote awareness about the uses of environmental insurance. The group's founder, David Dybdahl, was previously the global environmental practice leader for Willis Corroon Corp.

The popularity of environmental insurance has been limited in part because policies often are not easily understood by policyholders, which has led to clashes with insurers over the extent of coverage, Mr. Berger said.

If the environmental insurance market is to grow significantly, insurers must make clear from the outset what is covered and what is not, Mr. Berger said.

"In the 1980s, we overpromised and underdelivered, and we have to reverse that," he said. "People are starting to do that, but we have a long way to go."

In addition, claims adjusters at insurers do not always have suitable experience for handling environmental claims, Mr. Berger said.

"Environmental insurance has emerged to be much more than a liability contract. It has a large first-party component, such as onsite cleanup, but the claims people are not property adjusters," he said.

Traditionally, policyholders expect first-party claims to be processed promptly, Mr. Berger said. "When they have a cost overrun, they need to be paid quickly," he said.

Additionally, underwriters who are accustomed to pricing long-tail casualty exposures need to re-evaluate how they price deals involving first-party coverage, because the investment income on the premiums is lower, as it accumulates over a shorter period of time, Mr. Berger said.

And buyers should recognize that underwriting environmental coverage takes time, he said.

> *'In the 1980s, we overpromised and underdelivered, and we have to reverse that.'*
>
> *— Kenneth Berger*
> *Zurich North America*

In particular, in negotiating environmental coverage for mergers and acquisitions, insurers are often expected to quote a rate in a short time, which does not allow for adequate inspection of multiple sites, Mr. Berger said.

"It's a viable market, but there are some scary things happening," he said.

The market for environmental insurance should continue to grow, said Adrienne Atwell, manager of the environmental liability department at Swiss Reinsurance America Corp. in Armonk, N.Y.

Unpolluted, or "greenfield," sites are expensive, so brownfield sites will continue to be redeveloped, she said.

And as the environmental insurance market grows, reinsurers are playing a bigger role, Ms. Atwell said. While the number of insurers in the sector has grown in the past several years, the number of reinsurers has remained stagnant, she said.

"You are going to see reinsurers have a bigger say in what happens, because they have a lot at stake," Ms. Atwell said. "We want to be partners at the table."

Reinsurers often expect to meet with policyholders as well as insurers when they negotiate reinsurance coverage, she said.

But even when reinsurers are involved in the insurance negotiations, there are limitations on the contracts they are prepared to back, Ms. Atwell said.

For example, even though 30-year multinational insurance contracts are available, "they are few and far between," she said. In most cases, reinsurers won't grant coverage for more than 10 years, as it is too difficult to predict what factors will affect a contract far into the future, Ms. Atwell said. BI

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Satisfaction with N.Y. HMOs has not increased: Study

By MICHAEL PRINCE

The level of member satisfaction with New York HMOs was the same or slightly lower in 2000 compared with the year before, while doctors and nurses gained higher marks in some cases, according to a new report.

Of the 22 health maintenance organizations analyzed, four—Aetna U.S. Healthcare Inc., Blue Cross & Blue Shield of Western New York, MD NY and Univera Healthcare Western New York—received lower average satisfaction ratings last year from plan members compared with 1999, while the remainder were rated as the same.

While none of the HMOs scored an increase in member satisfaction, three plans—Capital District Physicians' Health Plan Inc., United-Healthcare of Upstate New York and Vytra Healthcare of Long Island—won higher average satisfaction scores for their doctors and nurses in 2000. The remainder saw no change in satisfaction with doctors and nurses, and none saw a decrease in those scores between 1999 and 2000.

The annual New York State HMO Report Card was released last week. The report card was started two years ago by the New York State Health Accountability Foundation, a nonprofit group founded by the New York Business Group on Health, an employer purchasing coalition, and IPRO, an organization that evaluates health plan quality.

The report card examined all 22 commercial HMOs that operate in the state, evaluating members' satisfaction in seven service areas, as well as the plans' performance in 10 clinical quality areas. Members were asked to rate their plans and doctors on a scale of 1 to 10, with 10 being the highest possible score.

Despite the lower satisfaction marks received by four HMOs, New York plans still received a slightly better overall ranking from members than HMOs on average nationwide, according to the report card. Sixty percent of members in New York gave their HMOs a high overall rating—8, 9 or 10—compared with 57% on average nationally.

The report card also looked at issues of clinical quality, and found, among other things, that HMOs in New York have improved their use of beta-blocker drugs to combat heart disease compared with last year's report card. The report card says that 87% of heart attack patients in the 22 HMOs received a beta blocker—a proven treatment to prevent subsequent heart attacks—compared with 74% in last year's report card. The national average is 85%, the report card states.

The clinical quality information was derived from information the HMOs submitted to the National Committee for Quality Assurance and the New York Department of Health Quality Assurance Reporting Requirements in 1999 and 2000.

New York HMOs received a slightly better overall ranking from members than HMOs on average nationwide, according to the New York State HMO Report Card.

The New York-specific data is compiled "to give standardized performance measures to enable employers and consumers to make apples-to-apples comparisons" of health plans in the state, Dr. John McGrath, senior health policy adviser at IPRO, said at a press conference last week unveiling the report card.

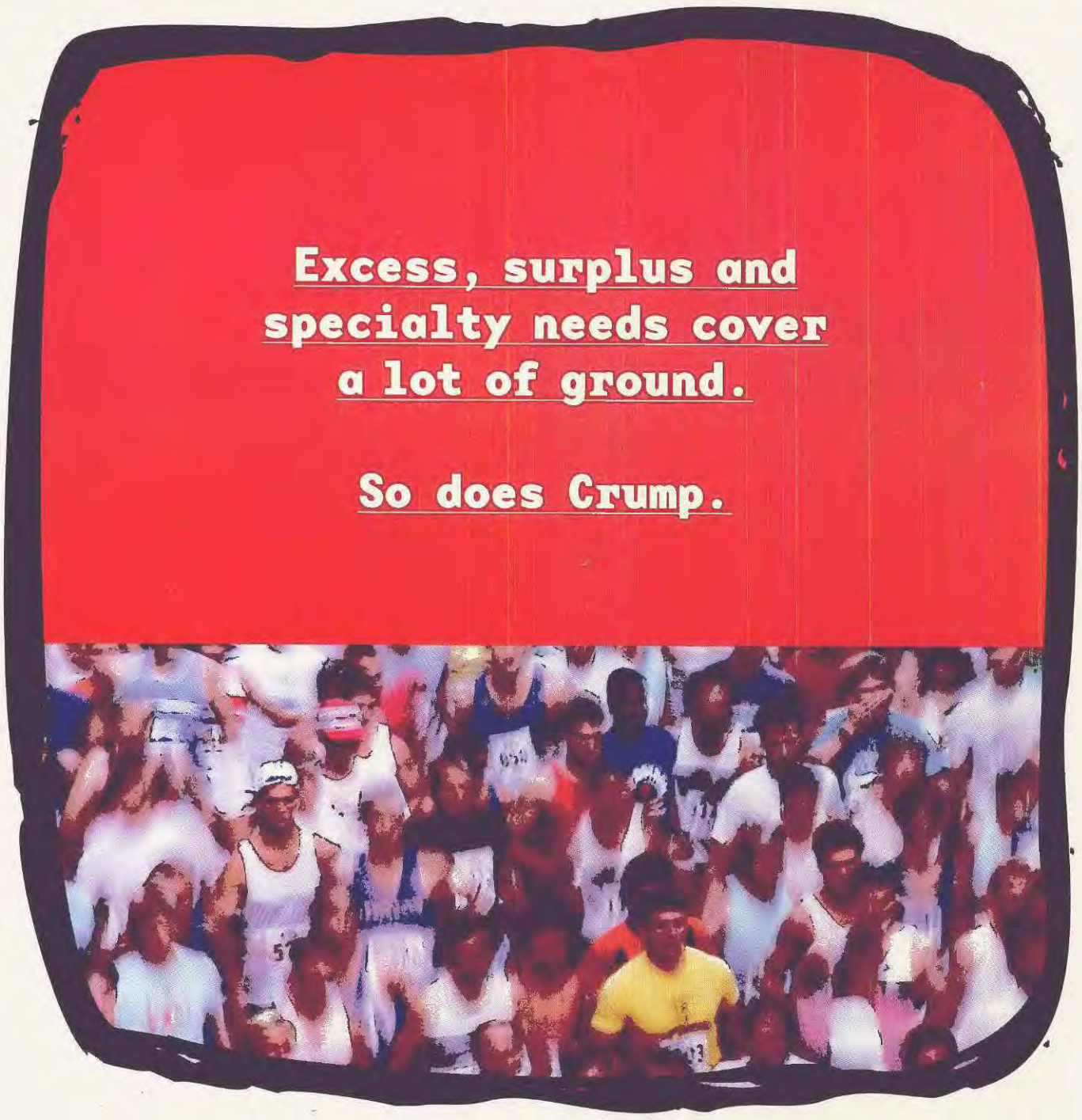
Looking at health care quality has become more important with employers, said Laurel Pickering, executive director of the New York Business Group on Health. More than 75% of NYBGH member employers the group has surveyed have used past report cards in selecting and evaluating their HMOs, she said. In addition, many employers have given the report card to employees to help them select an HMO, she said.

As in past report cards, this year's data show wide variations in quality benchmarks among New York HMOs. Each HMO is assigned a grade—average, below average or above average—based on each of the seven service measures and 10 clinical quality areas, and the results are presented in a report card format.

For example, in terms of service measures, Capital District Physicians' Health Plan Inc. scored above-average grades in five categories and average in two others, while Health Insurance Plan of Greater New York scored below average on four measures and average on three others.

For clinical quality benchmarks, Blue Cross Blue Shield of the Rochester Area received above-average grades for nine of the areas and below-average on the remaining one, while CIGNA HealthCare of New York scored below average on six areas, average on three and above average on one.

See **NY HMOs** *on page 39*



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OPINIONS

Shift in the wind for captive owners?

U.S. COMPANIES MAY BE WINNING the battle to prove that captive insurance arrangements serve a legitimate business purpose beyond providing tax benefits.

Captive owners last month won another victory in this ongoing campaign, when a federal appeals court overturned a controversial 1999 U.S. Tax Court decision that had labeled a UPS of America Inc. captive reinsurance program a "sham" and a tax dodge. The Tax Court had ruled that the shipping company funneled hundreds of millions of dollars to a Bermuda-based captive reinsurer, Overseas Partners Ltd., primarily to avoid U.S. income tax, rather than to finance the coverage for damage to customers' packages.

The 2-1 decision by a panel of the 11th U.S. Circuit Court of Appeals that the Tax Court erred is being cheered by captive owners and tax experts, who had feared that the earlier ruling would be cited by the IRS more frequently in challenging other captive insurance arrangements.

Although the UPS case has been remanded to the Tax Court for a determination of whether the premiums were appropriate, we are hopeful that the 11th Circuit's finding that the arrangement itself is legitimate will prove far more influential with the tax agency.

This decision comes only a few weeks after an IRS ruling that the agency would abandon the long-held position that premiums paid to wholly owned captive insurer are not deductible under the theory that the captive is part of the same "economic family."

Although the captive insurance industry protested that narrow view—and no court had ever fully accepted the IRS stance—the agency stubbornly clung to that theory on captive premiums for 24 years.

Both that reversal and the 11th Circuit's ruling strike us as overdue acknowledgment that a captive insurer, simply because it provides tax benefits to its parent, should not automatically be regarded as a deception for evading taxes. In spite of provided tax benefits, captives are no less legitimate in their ability to fund losses than are traditional insurance companies.

Under the UPS decision, the 11th Circuit not only broadly found that the captive served a valid business purpose, but also upheld the structure of the package insurance program, in which a fronting insurer—American International Group Inc.—reinsured 100% of the risk with the UPS captive.

That finding alone was an important victory for



captive owners, many of which use similar arrangements to fulfill regulatory requirements while still taking advantage of this alternative risk financing tool.

As we said after the IRS dropped its economic family theory, the timing of these developments is favorable for businesses that are facing hardening rates in the traditional insurance marketplace. Removing any regulatory doubts about the feasibility of forming captives will go a long way toward ensuring that companies have valid risk financing alternatives should they wish to turn in this direction, as so many businesses did in the wake of the last hard market.

Pharmacy wins in parity case, too

To the editor: I read with interest the June 25 editorial opinion, "Parity Ruling Hits the Mark," regarding the recent U.S. District Court ruling on the case that was brought against the Bartell Drug Co.

I must say that I agree with your opinion regarding the appropriateness of the decision. One should, however, question who the real winner is in this particular case.

Bartell Drug Co. is likely to reap far greater financial benefit from prescription contraceptives being a covered cost than it will incur by funding this for their eligible employees.

I would label this particular endeavor a shrewd business practice by a regional pharmacy chain, rather than disregard for their obligation to provide equitable coverage.

Richard A. Bryan
Puyallup, Wash.

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MIDYEAR MARKET REPORT

REINSURANCE REPORT PAGE 14

LONDON MARKET REPORT PAGE 22

SURPLUS LINES REPORT PAGE 24

Buyers face firming in most P/C lines

Rates rising, but capacity adequate

By ROBERTO CENICEROS and MARK A. HOFMANN

For the first time in more than a decade, market conditions at midyear are definitely hardening by varying degrees for most lines of commercial property/casualty insurance, U.S. risk managers report.

Rates for property insurance, in particular, are rising about 20% on average, while risk managers with property in catastrophe-prone areas say they are paying even higher rates.



Liability rates are increasing, too, though not as sharply as property, risk managers are finding. One exception is commercial auto, where the cost of coverage for fleet risks is up sharply, several risk managers report.

While the firming is broad, the size of rate increases is nowhere near as dramatic as those of the mid-1980s, they say.

"It's a choppy market, with an ongoing push to increase the rates. There's a tendency to try to make up all of the rate shortfall of the last 10 years all in this year, which is irritating as hell," said Richard S. Betterley, president of Betterley Risk Consultants Inc. in Sterling, Mass., who handles renewals on behalf of many small business clients.

In general, rates for standard property/casualty risks are going up 10% to 15%, he said. "I attribute that to the carriers' belief they can get that without losing the customer," said Mr. Betterley.

In addition, a lot of larger clients "have come to the end of their three-year rate guarantees, and it's their first exposure to the hardening market," the consultant said.

Several buyers pointed to property coverage as the line where firming is most evident.

"We found significant hardening," said Jeff Moore, vp of an insurance subsidiary operated by Unified Western Grocers Inc., a wholesale grocery distribution cooperative in Covina, Calif. "Anybody who is going to be renewing property and difference-in-conditions insurance can expect an adventure," he said.

Unified purchases $60 million in property coverage, primarily for warehouses. With the exception of one facility in Oregon that has a flood exposure, its remaining properties are located in California, with some sitting on fault zones.

Even though it had no losses and

See **Buyers** *on page 16*

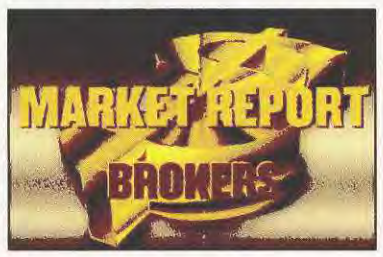
Brokers the bearers of bad pricing news

Price hikes mean increased workload

By MICHAEL BRADFORD and LEE FLETCHER ROSENBERG

Brokers are preparing risk managers for more sticker shock.

Insurance prices are continuing to rise, and, in many cases, are going up significantly. Brokers, for their part, are delivering the bad news and hoping their clients understand why they have to pay more. Unfortunately for the intermediaries, some buyers just don't seem to get it.



"Our customers have a hard time trusting the industry," said Jim W. Henderson, vp-marketing division with Brown & Brown Inc. in Daytona Beach, Fla. And big premium increases provide "fuel for them to doubt that the system does work," he added. "If they've not had claims, they're certainly oblivious to what industry problems exist" and cause prices to rise.

"We shock them about every 10 years, and we're doing it again," Mr. Henderson said.

Although many risk managers at large companies are aware that market forces and the cyclical nature of the insurance business drive price increases, middle-market insurance buyers—often treasurers or chief financial officers—may not understand the cycle, according to Mark Angers, executive vp with Lockton Cos. Inc. in Kansas City, Mo. "They're perplexed as to why they are singled out for price increases when they have had good loss experience," he said.

The bearers of bad news in a hard market, brokers are delivering insurers' price hikes of as little as 10% on accounts with few losses in not-too-difficult risks to as much as 300% for such hard-to-cover operations as nursing homes and trucking outfits. A few vestiges of competition remain

See **Brokers** *on page 28*

Rate hikes gradual, but insurers say they will last

By DAVE LENCKUS

Hardening market conditions during midyear property/casualty insurance renewals show that insurers are mustering the resolve that industry executives have long said they need to turn around poor results due to years of inadequate pricing.

Even though many insurers are not negotiating the price hikes they want, insurance buyers renewing coverage this summer face double-digit premium increases in most lines of coverage and overall tougher market conditions, according to insurer executives.



To somewhat mitigate premium increases, insurers are encouraging buyers to retain more risk through higher deductibles or self-insured retentions.

And, risk managers are responding, insurer executives said.

"We're seeing a lot of clients move to higher deductibles across the board," observed Dennis P. Kane, president of Kemper Casualty Co. in New York. Kemper is a subsidiary of Kemper Insurance Cos.

The largest accounts are negotiating lower-than-average premium increases, but the firming market poses other challenges for all property/casualty insurance buyers.

Another significant development is that buyers have to line up more markets to put together the same amount of limits they had previously.

Insurer executives caution that the market will continue firming for a couple of years before insurers start realizing reasonable returns that make up for years of inadequate pricing.

"There's more work to be done," said Doug Elliott, president and chief executive officer of the commercial lines property/casualty operations of Travelers Insurance Co. of Hartford, Conn. "We're not at the edge of a forest; we're in the middle of a journey."

Insurer executives say the good news for buyers is that the market is firming gradually. Insurers also are attempting to minimize market shock for buyers by informing them individually well in advance to brace for rougher renewals.

Among all lines of coverage, directors and officers liability

See **Insurers** *on page 29*

Health insurance rates keep pace with soaring costs

By JERRY GEISEL and MICHAEL PRINCE

Health insurance rate increases are going from bad to worse, with no relief for employers on the near horizon.

Health maintenance organizations and other managed care plans are boosting rates this year by between 10% and 17%, while proposed rate hikes for 2002 are averaging more than 17%, according to a new survey by Hewitt Associates L.L.C.

"There's a bit of mess out there. Costs are a runaway train," said Ken Sperling, a consultant in Hewitt's Rowayton, Conn., office.

"What's emerging is not pretty," said Ken Jacobsen, national health practice leader in the Atlanta office of The Segal Co.

"It is very ugly," concurred Mary Case, a principal with Unifi Network, a unit of PricewaterhouseCoopers L.L.P. in New York.

The latest round of rate increases—with perhaps greater hikes still to come—overshadows the 7% to 12% rate increases of a year ago and is in dramatic contrast to the long period of rate stability that health plan purchasers enjoyed during the mid- and late 1990s.

A return to that era of stable pricing is not imminent.

"No one is willing to say when things are going to get better," said Harvey Sobel, a consulting actuary with Buck Consultants Inc. in Secaucus, N.J.

While many employers are grumbling about rate increases that generally have been in the low to mid teens, some employers have been hit with far larger increases.



Segal's Mr. Jacobsen, for example, said one employer was hit with a 43% rate increase. While this was an exceptionally high increase, he said that many more employers this year have been slapped with jumbo rate increases compared to previous years.

Still, not all employers have been hit with astronomical rate increases.

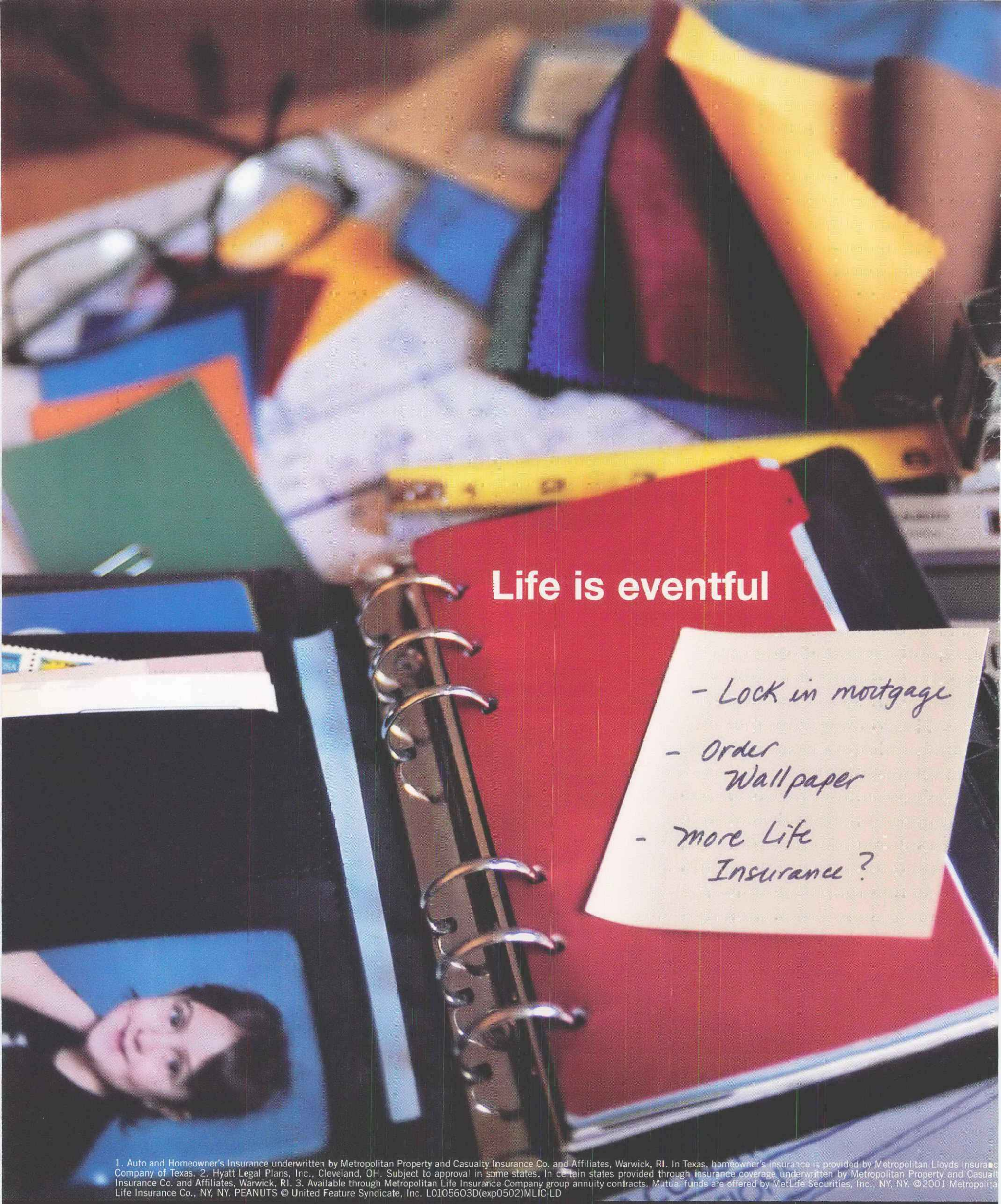
Mike Pikelny, benefit consultant and corporate actuary for Hartmarx Corp., said rate increases in April from HMOs that

See **Health** *on page 26*



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SPOTLIGHT

Reinsurance market tightening in specific lines

By CAROLYN ALDRED and DOUGLAS McLEOD

The property/casualty reinsurance market is continuing to tighten, though in a calmer way than in previous hard market cycles, reinsurance executives and brokers say.

Unlike the catastrophe reinsurance market turn of the early 1990s and the hard market of the 1980s, U.S. ceding insurers this year are not facing capacity crises or drastically higher prices.



Property retrocessional capacity remains tight, but catastrophe reinsurance coverages are in many cases bringing only single-digit rate increases and little other tightening of terms and conditions, brokers and reinsurers say.

Casualty reinsurance tightening continues to target particular lines, including workers compensation, commercial auto and managing general agency programs, these sources say.

Outside the United States, market conditions vary widely, from rapidly rising property reinsurance prices in Latin America to relatively mild increases in the United Kingdom.

While previous tightening markets have featured dramatic withdrawals of capacity and skyrocketing prices, this one so far has been driven largely by reinsurers' determination to turn around years of poor operating results.

"This turn is an income statement turn rather than a balance sheet turn," observed Sean Mooney, senior vp and chief economist for Guy Carpenter & Co. Inc. in New York. "In other words, there is product available at a price."

The hardening market this time "is not being driven by demand and supply dysfunction," agreed Neil Maidment, a Lloyd's of London underwriter. "It is not a case of limited suppliers of reinsurance—more a dire need to increase prices."

Continuing the trend of the Jan. 1 renewals, the property retrocessional market remains one of the most difficult for ceding companies at midyear.

Catastrophe retrocessional programs are typically seeing 10% to 15% rate increases overall, and capacity, while still available, is getting more expensive as ceding reinsurers fill out various layers of their programs, Mr. Mooney said.

Rather than pay high rates to complete the last 20% or 25% of a layer, some cedents are leaving the top layer unfilled, effectively increasing their retentions, he said.

"The tightening in the retro market began Jan. 1, 2000, but a lot of people were on three-year deals. There have been serious leaps (in prices) this year," said Matthew Paskin, underwriting director for Lloyd's syndicate 1003/2003, managed by Catlin Underwriting Agencies Ltd.

U.S. catastrophe reinsurance renewals, meanwhile, are seeing continued gradual price increases.

"What we see in the U.S. is a big improvement both in the primary market and the reinsurance market," with catastrophe reinsurance prices rising 10% to 15% generally and even more for large industrial risks, said Jerome Faure, president and chief executive officer of SCOR U.S. Corp. in New York.

Steven Bolland, senior vp with intermediary Gill & Roeser in New York, likewise reports 10% to 20% rate hikes, with the biggest increases hitting ceding insurers with large cat exposures that also saw big rate cuts in recent years.

An issue driving pricing in the United States is rising wealth and property values, said Nick Bonnar, underwriter for Lloyd's syndicate 588, managed by XL Brockbank Ltd. "Some of the catastrophe-prone states, such as Florida, California, the Carolinas and south Texas, still are seeing huge increases in exposures," he said. "As a result, there needs to be a continued rise in pricing over a number of years to balance with the increased exposures in these states."

Flood risk is another concern of underwriters, especially given that there are no good modeling methods for predicting flood losses and that floods have already produced some large claims, said Russell Merrett, treaty underwriter at Hiscox P.L.C. syndicate 33 at Lloyd's.

"One U.S. cedent company currently has a $250 million net loss for flood on the eve of renewing its cat program, and it won't be alone," Mr. Merrett said.

As with retrocessional programs, some ceding insurers are choosing not to completely fill out some layers of their programs, as a way of containing rising costs, Guy Carpenter's Mr. Mooney said.

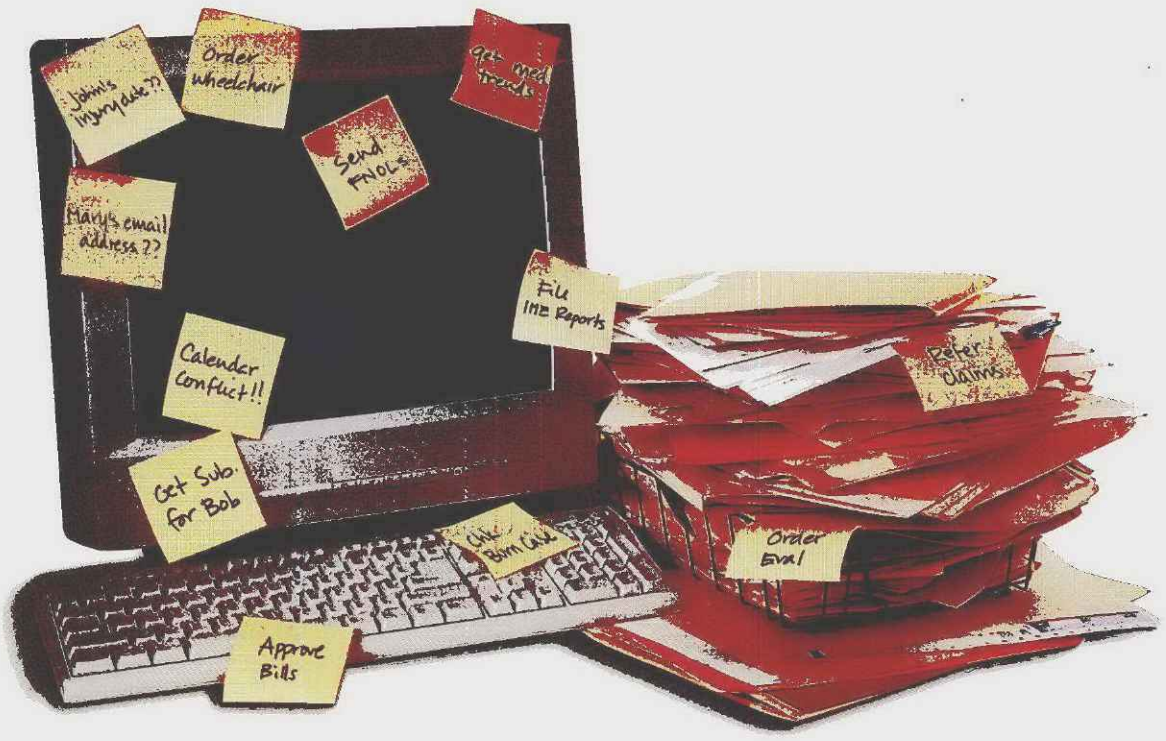
Several brokers and reinsurers agreed there has been no widespread tightening of other terms and conditions in midyear catastrophe renewals. But some changes may be in the works.

An exposure increasingly worrying insurers and reinsurers is "cybercatastrophe" risk, in which—for

See **Reinsurers** *on page 16*



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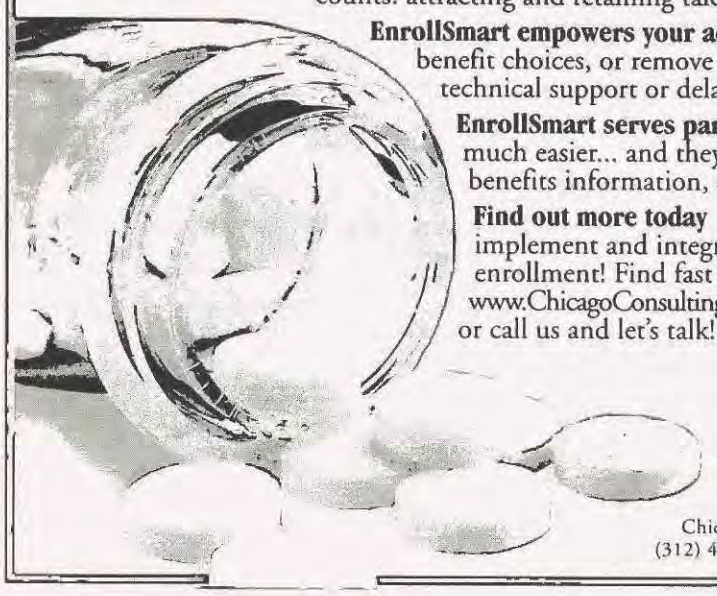
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Reinsurers

Continued from page 14

example—several large policyholders might be hit by the same destructive computer virus, leading to a massive aggregation of losses on property cat coverages that were never intended to respond to that type of loss, Mr. Merrett explained.

Prudent insurers are making it clear that property policies will not automatically cover these losses, and insurers and reinsurers are introducing sublimits or exclusions for this type of risk, he said. Reinsurers are also developing clauses that will prevent aggregations of such losses on cat coverages.

"There is no great consistency between markets in addressing the cybercat issue, but none of us can afford to pick up this kind of loss," Mr. Merrett said.

As catastrophe reinsurance markets continue to harden, ceding insurers will increasingly look at alternatives, including capital markets and financial reinsurance products, some predict. But the market may not have reached this point quite yet, said Gill & Roeser's Mr. Bolland.

"It's a lot easier to pay 10% more for (traditional) reinsurance," he observed. "I don't believe a 10% or 15% rate increase is enough to push people to alternatives." Nevertheless, three or four years of annual 10% or 15% increases "may be another story," he added.

Outside the United States, catastrophe market conditions have been a mixed bag.

U.K. midyear programs are seeing underlying increases of 15% to 20%, and while this still makes them underpriced, it is hard to justify bigger hikes because there have been few cat losses in the United Kingdom in the past few years, Mr. Merrett said. In France, however, winter storm losses of the past couple of years have helped force prices up, he said.

Caribbean and Latin American risks are also seeing steep rate hikes, and in some cases renewal rates are doubling, reinsurers say. Rates in these regions had fallen sharply while market capacity was plentiful, but reinsurers are now pulling back from these regions, Messrs. Merrett and Bonnar agreed.

Like the cat coverage market, the market for property treaty and facultative reinsurance is also tightening, though not dramatically for U.S. ceding insurers, observers say.

Terms for proportional treaties in particular are tightening, with reductions in the ceding commissions reinsurers pay cedents for the business, SCOR's Mr. Faure noted. "There's definitely more scrutiny in the coverages," as reinsurers examine risks and coverage terms more closely, he added.

"Prices are up, but there's plenty of capacity," Guy Carpenter's Mr. Mooney said.

Changes in the casualty reinsurance market continue to follow the lead of the property market, reinsurers and brokers say.

Capacity has become somewhat more restricted for workers compensation coverages, a continuing reflection of the fallout from the 1999 collapse of the Unicover Managers Inc. workers comp reinsurance pools, Mr. Mooney said. Commercial auto risks and some specialty business—such as nursing home programs—also face possible capacity problems and double-digit rate increases, he added.

Reinsurers are also shying away from MGA-produced books of auto and other types of business where the insurer is acting only as a fronting company, ceding 100% of the risk, Mr. Faure said.

Still, the tightening in both property and casualty markets is a far cry from hard market cycles of the recent past.

"Now, there is much more selection," said Thomas Holzheu, senior economist with Swiss Reinsurance Co. in New York. "If the results have been very bad over the last (few) years and exposures are out of proportion to the premium, then the (rate increases) are higher." BI

Buyers

Continued from page 10

paid 15% more for its coverage in 2000, Unified was hit with an increase of about 20% when it renewed its all-risk property policy in April, Mr. Moore said. Unified also experienced an additional 20% increase for its DIC coverage.

More excess insurers, however, were needed to obtain the same limits as last year. In 2000, nine insurers were needed to "layer out" $50 million in excess coverage above the first $10 million layer provided by Factory Mutual Insurance Co. This year, it took a dozen insurers to obtain similar limits above $10 million, Mr. Moore said.

"It's not pretty," said another risk manager who renewed a property policy April 1, and saw a 25% increase in rates. A concentration of properties around California harbors didn't help, the risk manager said. The risk manager asked not to be identified because his company is privately held.

On the other side of the continent, Edward Holden, senior director of risk management and benefits for Anchor Glass Container Corp. in Tampa, Fla., said he expects a 20% increase when he renews his property coverage Oct. 1.

"The overall hardening market is hitting us," Mr. Holden said. He bases his estimate of a 20% increase on an initial meeting with his incumbent property insurer, Industrial Risk Insurers.

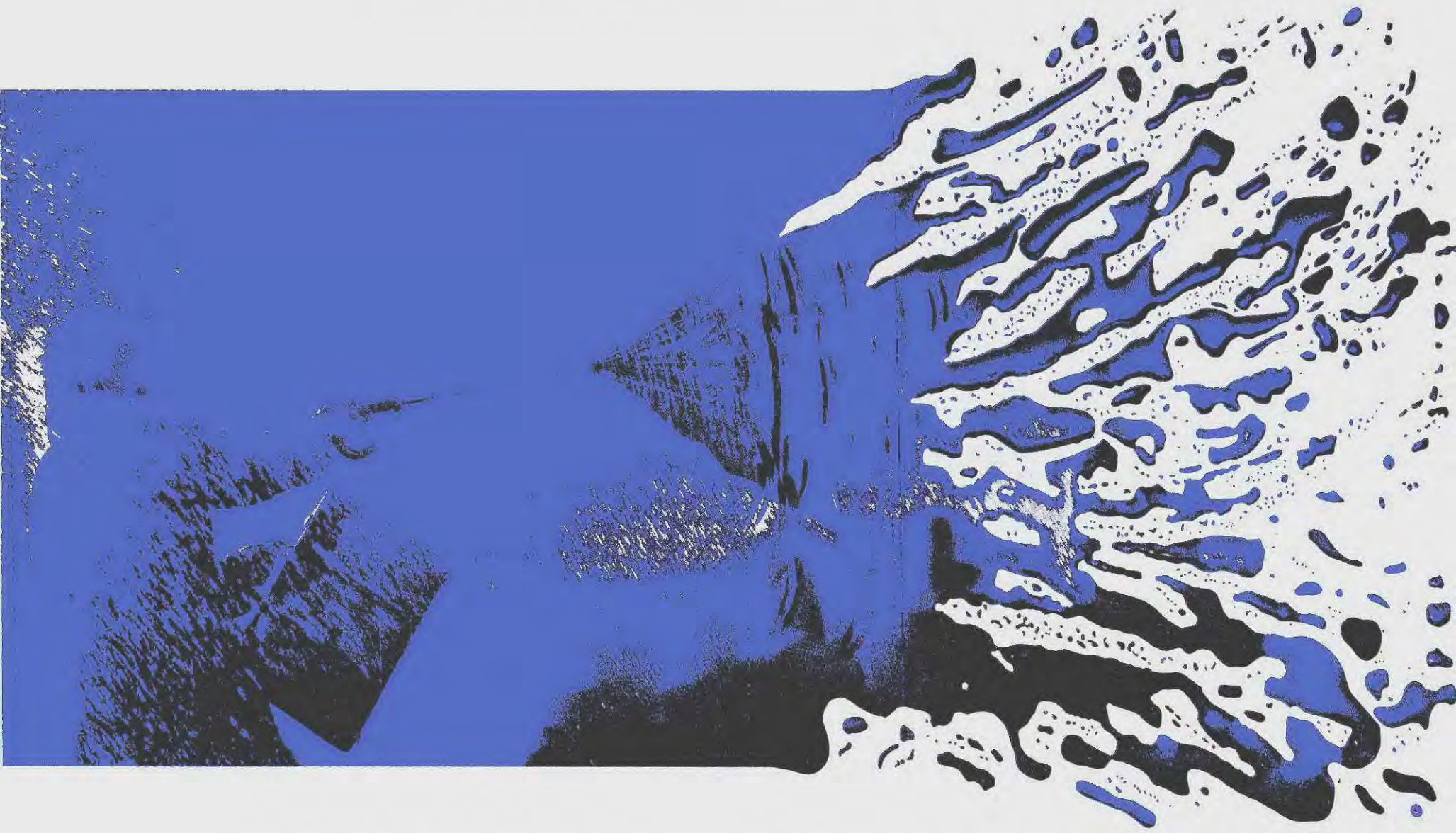
"They are indicating their reinsurance treaties are going up in the neighborhood of 20%, so I guess they are laying the groundwork for at least a 20% increase in premiums," Mr. Holden said. Anchor Glass owns manufacturing plants nationwide, but only one, located in Jacksonville, Fla., has a significant catastrophe exposure.

In comparison to many renewal experiences, Gary A. Baxter, assistant treasurer and director of insurance for Federal Way, Wash.-based Weyerhaeuser Co., said he expects the company's Aug. 8 property renewal to be relatively stable.

"We had a 10% increase last year and it looks like we are going to have 10% again, which I am very comfortable with," Mr. Baxter said. "We are finding as we go through most of the different lines of coverage, for us 10% is the norm for just about everything. Whether we are talking marine, aircraft or whatever, that

See **Buyers** *on page 21*

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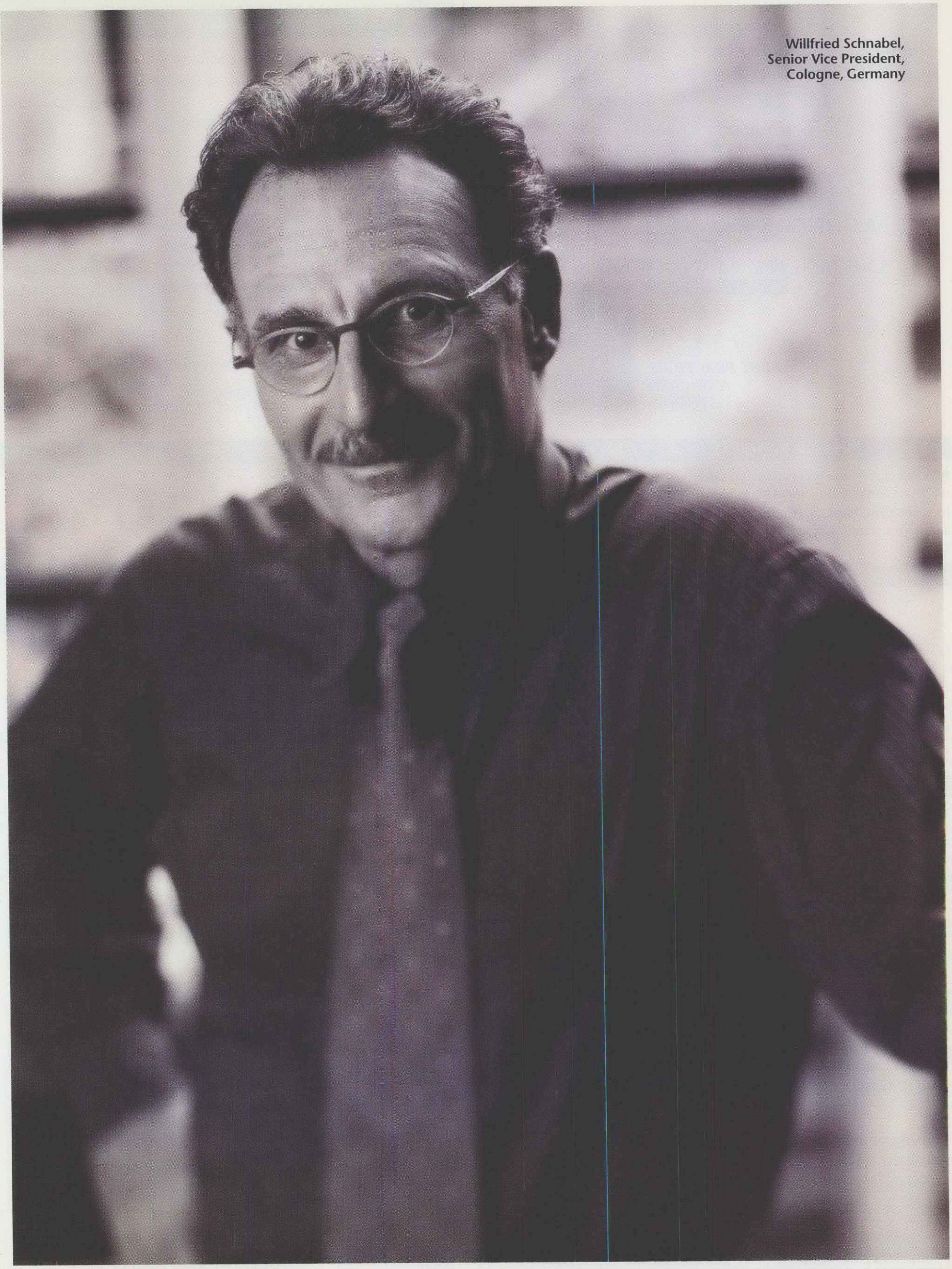


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Inside:

Kemper campaign examines insurer's values page 20B

Targeting sales at Hispanic clients in the U.S. page 20F

ACORD, WISe team to work on e-biz standard page 20H

Understanding clients through testing page 20D

Microsoft crafting XML-based data tools page 20G

Broker makes inroads in Chinese market page 20H

Kemper brand image stresses core values

By RODD ZOLKOS

When executives at Kemper Insurance Cos. sat down to consider what the company wanted out of a new advertising campaign, they decided the goal was to communicate the company's core values to all of its constituents.

That means reaching Kemper's customers with the brand message, of course. But the insurance company also is seeking to drive its brand message home to its employees and to the agents and brokers that handle its products.

"We've gone through a significant amount of change here at Kemper," said David B. Mathis, chairman and chief executive officer of Long Grove, Ill.-based Kemper. "Most of it positive, in the sense that we have added some 16 or so new product lines and really diversified the breadth of our product lines to our customer base, meaning agents and brokers and, ultimately, the buyers themselves."

"We've also had significant change internally," Mr. Mathis said. "You can almost look at us as if we were a new company in the context of a lot of new people—in many instances, groups of people—coming from different companies."

The new branding campaign replaces the familiar "Kemper Cavalry," a brand message that Mr. Mathis described as "more of a corporate identity tool than it was anything else," adding, "it served its purpose well."

"But as we looked at our business and the changes, both in terms of product line and in terms of people, we said, 'We ought to support all this change in terms of brand image,' " the chairman and CEO said.

In doing so, though, Kemper executives felt it was important to craft the new campaign not on the basis of what they thought of the company but on how it was perceived in the marketplace.



"We needed to make this not just directed from us and what we thought it should be," Mr. Mathis said.

Instead, the insurer decided to survey its customers, employees and other constituents to determine how they felt about Kemper, he said.

"We went out and tried to understand what were the brand equities that Kemper has," said Joel R. Borgardt, vp-corporate marketing at Kemper.

In the company's research, Kemper talked to its customers, agents and brokers. "And when we did that, we just looked for common themes: what we do well and how we stand out in their minds as a market," Mr. Borgardt said.

> *'As we looked at our business ... we said, "We ought to support all this change in terms of brand and image." '*
>
> *— David B. Mathis*
> *Kemper Insurance Cos.*

Responsibility, quality and integrity emerged out of the company's research as Kemper's three core values. And, in the new campaign, the company seeks to communicate those values not just to customers but also to its employees and the agents and brokers with which the insurer works.

"Clearly, it came out nice," Mr. Mathis said. "What we heard was pretty good, and it allowed us to really try to reinforce what we had established in terms of the reputation and build on those kind of values with a new identity."

Also welcome was that the company's recent business experience reinforced the survey findings.

"We did a whole lot in the last four or five years to change the products we offered and how we offer them," said William D. Smith, Kemper's president and chief operating officer. "The thing we tried not to change was our claims engineering and service capability, because those have always gotten very high marks. There was a whole culture there that we wanted to make sure stayed intact."

See **Kemper** *on page 20D*

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Kemper

Continued from page 20B

While the company received considerable attention last year for picking up 140 large-risk accounts that previously had been written by Reliance National Insurance Co., significant in the context of the new brand campaign were the 100 new large-risk accounts Kemper wrote in 2000, Mr. Smith said.

"As you talked to those customers, it was all about the responsiveness of the Kemper organization, the fact that we were a company with integrity," he said. The surveys done for the new marketing campaign reinforced what the company saw in its business, "so that's really the basis of our campaign," Mr. Smith said.

Work on the new campaign began last year, after Kemper executives decided to craft a new brand image, with the effort moving forward in earnest after the company selected a new advertising agency last spring.

The new campaign includes three television ads, as well as print ads that will run in business-to-business and insurance trade publications beginning in July. The campaign will run through the end of this year and into 2002.

Each of three commercials follows up on one of the core tenets that Kemper identified. The pieces seek to communicate these ideas with a great deal of warmth, making use of short stories involving a new student and teacher, a basketball coach and injured player and a hard-nosed rodeo rider and rodeo clown.

The commercials aim to evoke an emotional response in the viewer related to one of three themes—anticipating, understanding and responding—with each ending with a new tag line, "The policies that matter."

By using vignettes of real-life situations, the company hopes to create emotional metaphors for how Kemper does business.

"The ads tend to be focused on getting an emotional response, which isn't really an outburst," Mr. Mathis said.

"Our real issue today across most of our agency and broker-based competitors, is how important brands are becoming in an e-commerce world," Mr. Smith said. "It makes it very important to us to have a brand identity, where, historically, that hasn't been very important, except with our agents."

"A couple years ago—when we looked at 'what's our brand identity?' —it was wonderful with our agents. We had huge brand identity, and they knew what the brand stood for," Mr. Smith said. But, he said, "we went to the general population, and we were unknown. So that now becomes the challenge, because it's going to be a different world in terms of how people get to the agent."

Mr. Smith noted that some ads the company had done in the past might have evoked a more-dramatic immediate response from viewers but didn't achieve the desired long-term goal of brand identity.

"When we ran the humorous ads, people really remembered them. They just didn't remember it was us. And it didn't tie to anything; it didn't tie to what our core values were. So we're trying to get over both those hurdles here," he said.

"I think that's the beauty of (the use of stories in the new commercials). It draws people in, and they want to stay and see what the payoff is, who's behind it," Mr. Borgardt said. "It's not really a hard sell; it's more subtle."

The commercials were launched the weekend of May 26 and 27, during broadcasts of the Kemper Insurance Open golf tournament on CBS.

The company believes the core values expressed in the commercials distinguish Kemper in the marketplace.

"You really do hear it," Mr. Borgardt said. "It's a good rallying point for the employees, and agents and brokers can relate to it as well." BI

Market testing key to understanding customer base

By Michele Fitzpatrick

In marketing—and, more specifically, direct marketing—the process of continual testing makes the discipline measurable, accountable and, consequently, useful. But such testing can be a challenge to do well, and savvy insurance marketers will seek out and follow proven methods and practices.

Even when using proven approaches, how does one avoid the many traps and pitfalls of market testing? First, a marketer must establish clear objectives before conducting a test. Second, he or she should learn from the experiences of others.

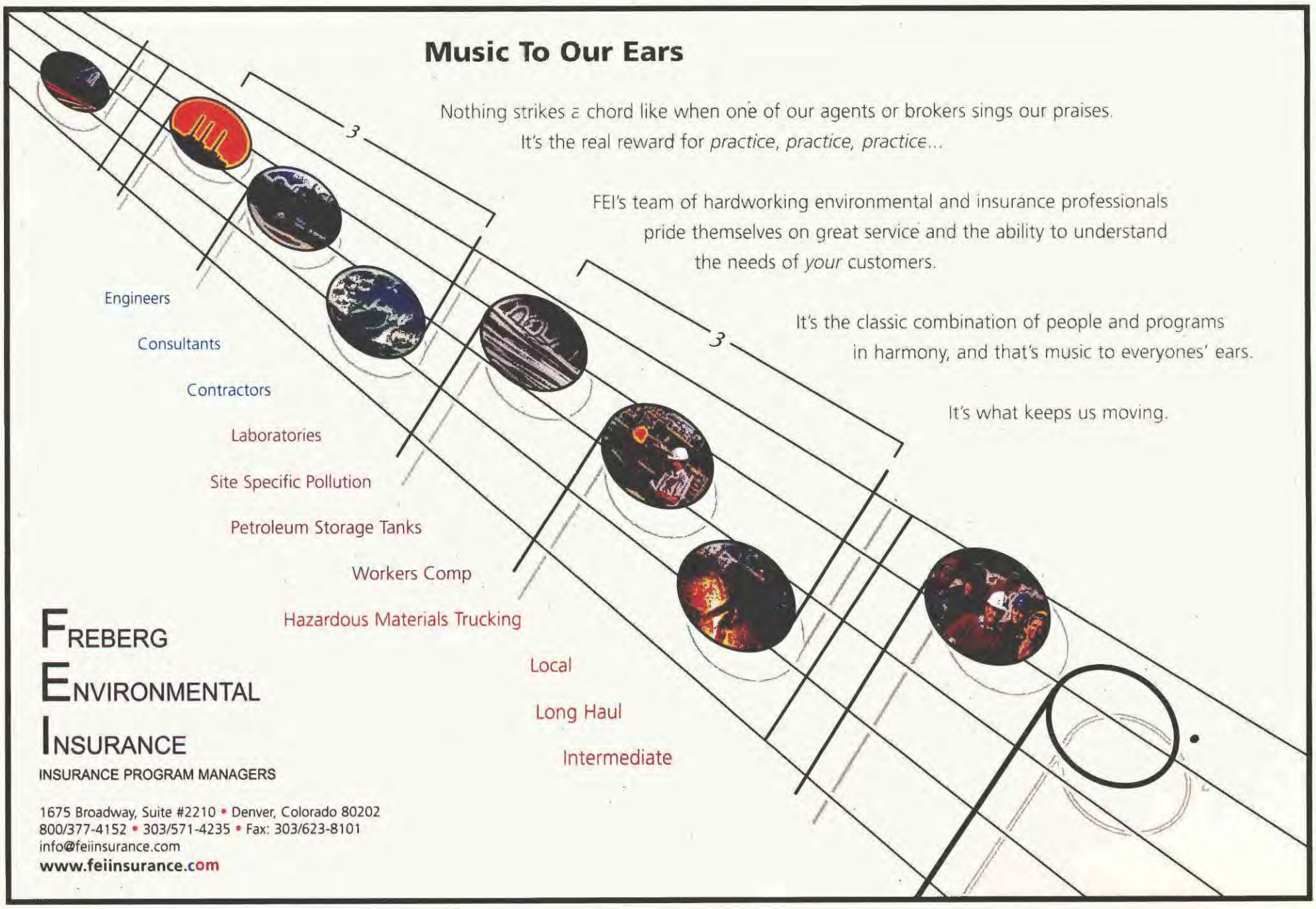
To that end, what follows are several points that offer lessons learned through many years of hands-on experience conducting insurance and financial services market testing.

Control groups

While it may sound elementary, it's critical to ensure that control group characteristics match those of the group with which they're being compared; the two must mirror one another. This presents a particular challenge when conducting extended tests. Long-term testing offers marketers two choices—maintain the initial composition of each group throughout the course of the test, or change the composition of all groups simultaneously and by the same proportion.

For instance, when testing the long-term effects of a term-life offer, new names should not be added to the mail pool unless additional new names are added to the "no mail" control group. The objective is to

See **Testing** *on page 20F*





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Testing

Continued from page 20D
develop a baseline measure of how a group will act or respond.

Rollouts

If a marketer mails to his or her entire universe initially, believing that to be the best approach, it may turn out to be a waste of money. One solution is to start with a smaller—but statistically valid—test mailing. For example, if the goal is to introduce a new insurance program to more than 1 million prospects, limit risk by starting with 25,000 names.

Analyze the responses. If the program's objectives are met, continue the testing rollout by mailing and analyzing responses from 125,000 names, then 1,250,000, and so on.

Test size

Sample groups, or test cells, should be large enough to produce statistically valid results. It is often tempting to skimp on the size of test cells in an attempt to minimize costs, but don't be swayed by that.

A common rule of thumb suggests that smaller cells should include no fewer than 5,000 to 10,000 names. However, your projected, or estimated, results will drive the sample size, so be sure to take advantage of statistical tests to determine an appropriate sample size that provides the confidence you seek.

Variables

Another common mistake that direct marketers make is testing too many variables concurrently. Either test one element at a time or test everything. For example, an insurance marketer may test one variable—such as a change in the approach used in copy—or every element by testing the response to a completely redesigned package. Testing a few elements can result in confusion. Major advances generally come from testing all variables at once, whereas incremental gains may result from single-component testing. Many factors can contribute to the success of a direct mail program, including source(s) of names, the composition of the group targeted to receive the mailing, the offer, the creativity of the message and the timing of the offer. It's important to understand the impact of each of these on both your program and your business objectives.

External factors

Failing to account for unavoidable or uncontrollable factors can prove disastrous. Such factors include changes in the economy or market, the political environment, as well as geographical issues, such as major weather events. Conducting tests in multiple geographical areas can help minimize the effects of such factors. But it is important to remember that tests must be conducted simultaneously to be valid. Otherwise, rollouts will behave differently.

Expectations

When rolling out after a test, it's important to understand and manage expectations. Consider what differences may exist between the test and the rollout audience. To meet a specific mail quantity, it may be necessary to loosen selection criteria, thereby diluting the response.

Another common mistake is to get caught up in the excitement of the test, and then pay less attention to critical details during the rollout phase. Generally, it is best to subtract the test percentage of response when projecting the rollout response; a 15% deduction is safe, though this figure may vary depending on the groups being targeted or the type of mail being sent. One should monitor responses over time to establish the right deduction.

Consider the example of an insurance marketer who tested a mail piece in September, for which the response was quite high. By the time the company determined what to roll out, however, it was December. Because the piece would be competing with an overall increase in mail volume around the holidays, it was important for the marketer to be aware that the package would probably generate a much lower response rate than what was anticipated during the test.

Response tracking

It may sound rudimentary, but mail and marketing pieces should be coded accurately and responses recorded distinctly. Without a code, it may be impossible to determine the offer to which a customer is responding, or from which list the customer name came.

This is not always as easy as it may seem. If, for instance, two similar packages are mailed to a prospect—perhaps an initial mailing and a follow-up piece—coding will help determine which of the two mailings the prospect actually answered. Both response rates and the initial list source should be recorded into the marketing database, along with the package code. In addition, this data should be "carried through" to sales in order to determine the cost of sales and the true effectiveness of distinct offers.

What to test

The three most important variables—the list, the creative approach and the offer—should be tested. Test every variable within these categories, including products or services, media selection and mix, copy, format, timing and positioning. The costs of the test and the benefits of what may be learned by doing it must be considered when deciding what to test and which findings will be useful.

At the end of the day, the success of market testing is directly linked to the establishment of clearly defined business objectives. Before developing a test program, answer the important questions: "What are we trying to learn about our customers?" and "What do our customers want, need and value?" Be certain that the customer is at the heart of every answer you seek. Remember to first decide what you want to learn, and then develop a strategy backward from there.

It is also important to work with a direct marketing agency, consultant or partner that can demonstrate the breadth and depth of their testing experience. Find out what lessons they've learned and what pitfalls they may have encountered. BI

Michele Fitzpatrick is chief marketing officer for Harte-Hanks Direct, a direct- response advertising agency subsidiary of San Antonio-based Harte-Hanks Inc.

Targeting the Hispanic market

By ROBERTO CENICEROS

Hispanic individuals in the United States represent a potentially large market for insurance products, but insurers and producers must understand how best to reach that market, two speakers told attendees at the 78th Insurance Marketing Communications Assn. annual meeting.

There are now more than 35 million Hispanics living in the United States, representing 12.5% of the nation's population, said Karina R. Ellemberg, senior project director in New York for Rieger Research Inc., which specializes in Hispanic market research.

And those marketing to Hispanics must understand that there is considerable diversity within that population, including differences in individuals' preference for speaking Spanish or English, the speakers said at the IMCA meeting, held June 24-27 at the Paradise Point Resort in San Diego.

Age is one factor that can play a role in some Hispanics' use of language. Those under 20, for example, are likely to be bilingual but generally prefer to speak English. Those between 21 and 39 may also be bilingual, speaking English mostly at work, but they are likely to prefer Spanish-language media. There are also the "truly bilingual," who communicate well in both languages and do not have a preference, Ms. Ellemberg said.

The challenge is to determine which sector marketing efforts will target, she explained.

"I've seen many ad campaigns really fail because they have not targeted the right language," Ms. Ellemberg said. "Who has decision power, and what is the language they are using to communicate? That definitely needs to be taken into account when you are targeting the market."

Education level and socioeconomic factors also should be considered, Ms. Ellemberg said, noting that the makeup of the Hispanic population is changing in regard to such factors. Previously, she said, many Hispanic immigrants to the United States were of lower economic status. But now, she explained, many middle-class Hispanics are immigrating to take advantage of educational and professional advancement opportunities they can't find in their home countries.

"We see a whole different range of people," Ms. Ellemberg said. "The challenge is to be prepared for those people and be prepared for their needs."

While there are many differences within the Hispanic population in the United States, there are also common factors that can help focus a targeted marketing program, the speakers said.

One such factor is a desire to establish trust and intimate relations before conducting business, said Josefina M. Garza-Zavaleta, vp-U.S. operations in Houston for Comercial America Insurance Co., a unit of Mexico City-based Seguros Comercial America.

"We do not do business in our first meeting, in our second meeting or in our third meeting," Ms. Garza said. "We like to see how much we can trust you, how much you know, how much you want to get into the business. It's a different story here altogether. Trust is very important."

Some insurers targeting the Hispanic market are diversifying their own workforces so they can better understand the market, Ms. Garza said. But there is still a need for more innovation and the development of Spanish language insurance marketing materials.

And the materials must be well crafted, so that they can help build the necessary trust and emotional connection, she said.

"It is not only the language (used in those materials), but it is also how you say it, when you say it and the way you say it," Ms. Garza said.

One current hindrance to penetrating the Hispanic market is the limited diversity among agents, Ms. Garza said. Some producers she has met insist they are targeting the Hispanic market, but many actually know little about that population.

Insurers and agents need to cooperate to address these marketing issues, she said. They can also work together to develop products and services and improve their efforts to explain to Hispanics what the insurance industry has to offer. Immigrants don't always understand the products being sold, because purchasing insurance is not compulsory in some countries, including Mexico, Ms. Garza said.

Innovation is also necessary to meet the needs of the changing Hispanic market, she said. Because some Hispanics are climbing the economic ladder, they will need better, more sophisticated products.

"Go after the needs and wants of that market," Ms. Garza said. "Do not give them too many things that they don't need, they don't want and they don't even know what they are. Just give them what they need and what they want." BI

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Barriers to information exchange lessening

By ROBERTO CENICEROS

A new computer platform under development by Microsoft Corp. will allow the easy exchange of information among all computer devices, regardless of differences in hardware, software or brand names, a Microsoft executive told the Insurance Marketing Communications Assn.

Whether using cell phones, laptops, public kiosks or even old mainframe computer systems, customers will be able to transfer information readily over the Internet. They won't have to be "human synchronizers," adjusting their computer devices or software to accept data transmitted in formats that differ from their own, said Kevin S. Kelly, worldwide insurance industry manager for Microsoft in Redmond, Wash.

The new platform is based on extensible markup language, or XML, and it will take Internet-based business applications far beyond the point at which they are stuck today, Mr. Kelly told the IMCA's 78th annual meeting, held June 24-27 at the Paradise Point Resort in San Diego.

For the insurance industry, the new system will simplify business transactions and permit the easy flow of information that is now widely scattered, stored in systems that currently cannot communicate.

"A remote device reporting a first report of injury or first report of loss might pass an XML screen onto a claims system," Mr. Kelly explained. "It might pass an XML screen into a reserve allocation system. It might get some medical information off a smart card or off a cell phone or from a doctor's office application."

For Microsoft, "this is really a massive revolution we are about to undergo," Mr. Kelly said. It will shape "the next version of the entire company," and the way the company builds future applications.

He said the new direction is as revolutionary as that shaped by Microsoft's 1975 mission statement promising to help put a computer on every desk and in every home.

"In 1975, that vision was way out there," he said. "This is equally as out there: the ability for us to say we are going to provide a platform and an infrastructure so that people can get access to their personal and business information any time, anywhere and on any device."

At first, Internet systems merely provided a static-page view of electronic marketing brochures, Mr. Kelly said. Then online systems permitted simple consumer transactions. But that is where most businesses are "stuck today," merely using a Web browser that is "glued to an old system," he said.

Rather than really running business applications on the Web, Mr. Kelly said, most companies are just "gluing a Web browser on the front end of traditional legacy application or a client server application."

That is "fakery," Mr. Kelly said, improvised to rush to market an e-commerce business product. But such systems won't survive, he predicted. They aren't designed to handle millions of users exchanging data coming from a wide variety of devices. They cannot automatically determine the computer screen and device configurations necessary for varied user systems.

"While it works, it requires extra maintenance," Mr. Kelly said. "It requires a lot more code management and manipulation than developers want. Before the Internet, developers already thought they had too much code management and too much maintenance. So the Web hasn't improved anyone's life. It has given people the ability to show a few demonstrations and get a pat on the back for allegedly having an e-commerce strategy. But most of that is falling apart now."

The failure of many dotcom companies indicates the extent to which the current platform's ability has been overestimated, he said. More dotcoms might still exist if current systems were easier to use and truly allowed the development of successful business models.

Yet the current systems have made people eager to access information any time, anywhere, through a wide variety of devices. To meet that demand, Microsoft is developing .Net—pronounced "dot net"—a new platform for writing applications that use the XML standard.

By using XML, systems will be able to exchange data without having to use the same underlying coding in different applications. Instead, Mr. Kelly said, XML allows even complex information to be "tagged," or labeled so it can be understood by all computer databases when passed over the Internet.

Microsoft's .Net platform will permit the true integration of multiple software and hardware systems; that will result in improved workflow and better service for and collaboration with customers, said Mr. Kelly. But it will require companies to adopt the XML standard.

He didn't say when .Net would be available. BI



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AGENT/BROKER TOPICS

Merger seen as step toward global e-commerce body

By SARAH VEYSEY

The transatlantic merger of two groups working to develop e-commerce standards for the insurance industry will pave the way for a global industry standards-setting body, according to the two organizations.

The merger involves the e-commerce standards arm of the Pearl River, N.Y.-based Assn. for Cooperative Operations Research & Development and the Worldwide Insurance E-commerce group, a nonprofit organization based in London that is backed by the world's leading insurers, reinsurers and brokers.

ACORD Chairman John Leonard said the merger, expected to take effect July 1, "creates a strong platform to provide standards for insurance business processes, from quotation to settlement—and for various classes of business." He said that the newly combined body would be able to forge e-commerce standards for commercial lines, surety business, life insurance and reinsurance, as well as for personal lines.

"Working together as a worldwide community to handle standards makes a whole lot more sense," said Greg Maciag, president and chief executive officer of ACORD. The two groups said that they had been working together for some time and that a merger of their standards-development activities seemed a natural step. "We are confident of the benefits integration will bring," Mr. Maciag said. "In combination, we bring greater momentum and focus to the standards process."

Rob White-Cooper, chairman of WISe, said the move represented a breakthrough for e-commerce in the insurance industry. "Standards provide the industry with a framework that allows exploitation of the latest technologies. Standards reduce the cost of exchanging information with business partners, eliminate duplication, support straight-through processing of information, avoid confusion and protect investment in technology," he said.

On July 1, company members of WISe that aren't already members of ACORD in the United States will automatically become members of the financial industry standards developer. The newly enlarged ACORD will operate out of offices in New York; Brussels, Belgium; and London, where a new base will be opened in the London Underwriting Centre. Lloyd's of London, as a current shareholder in WISe, will automatically become an ACORD member. And WISe has been in close discussions with the London-based International Underwriting Assn., which represents the London company market, said Kathrine Huelster, chief operating officer of WISe. The newly enlarged group will have a strong international team and will be able to provide local language support to its members, she said.

> *'Working together as a worldwide community to handle standards makes a whole lot more sense.'*
>
> — *Greg Maciag*
> *ACORD*

In addition, three international executives will join the ACORD board, the two groups announced. These executives will be representatives of a global broker, an insurer and a reinsurer.

The ACORD board will also appoint four new executives from global companies to its global standards strategy committee. This committee is charged with ensuring the coordination of all of the organization's standards activities across all lines of business.

ACORD said it would also create a reinsurance and large-commercial steering committee. "Those serving on this new steering committee will be engaged in the international market," ACORD said in a statement. "The steering committee essentially establishes the standards-setting agenda and priorities for specific subcommittees and work groups that actually do the work and vote in the standards," it added. ACORD already has a property/casualty steering committee and a life steering committee.

Including reinsurers in the efforts "closes the circle," said Mr. Maciag. "We now have everyone from consumers to retrocessionaires involved in setting the standards." The committee will support new participants from the group's joint-venture community currently managed by WISe, ACORD announced. This joint venture community, created in 1992, comprises the Reinsurance Assn. of America, the Brokers & Reinsurance Markets Assn., IVANS and WISe.

The enlarged group will also set up an international advisory council, which will be headed by Mr. White-Cooper. This council, the two groups said, would "provide input to the ACORD board and global standards strategy committee on key issues and trends affecting the global insurance industry." Both senior business executives and industry associations will be invited to take part in the council.

"The international advisory council will enable us to get thoughts (from other geographic regions) and maintain a truly global dialogue," said Mr. White-Cooper. "What is important for our industry is to reach out to all corners of the globe and all sectors of the industry. We will be looking to make sure that all sectors of the market are represented (on the council). And it is very important that local associations feel part of the process."

ACORD and WISe said the merger is a good fit because of the complementary nature of the two operations.

According to Ms. Huelster, while WISe traditionally has concentrated on formulating standards for large commercial insurance and reinsurance, ACORD generally has worked to develop standards for small commercial insurance and personal lines. The merger, she said, would enable ACORD to work on developing much broader standards.

"There is a lot of work to do on this," she said. But ACORD has been working on a project called e-merge, which aims to ensure that all ACORD standards are built on a common data dictionary, she explained.

An announcement will be made in the coming weeks on the future of WISe's London-based e-commerce services arm, a WISe spokesman said. Meanwhile, that side of the business remains under the charge of WISe CEO Kevin Ashby, he added. BI

Partnership gives broker foothold in China

By SHIRLEY HENRY

An Illinois-based broker hopes to make inroads in China's insurance market through its partnership with the U.S.-based subsidiary of a Chinese company.

The Horton Insurance Agency Inc., based in Orland Park, Ill., formed a joint venture with Wanxaing America Corp. to provide insurance brokerage services to U.S.-based companies in Asia, and Asian-based companies' subsidiaries in the United States. The new company, Wanxiang-Horton Insurance Group, plans to open an office this summer in Shanghai, China.

"China's insurance industry has exploded within the last five years," said Glenn Horton, president and chief executive officer of Horton Insurance. "We had an opportunity to link up with the second-largest industrial company in China."

Mr. Horton said he believes his company's marketing strategy will prove successful in China's insurance marketplace.

"We provide Fortune 500 services to midsized companies (and) have large staffs for our size," he said. Horton Insurance has about 300 employees and more than 200 specialize in risk management, property/casualty insurance and employee benefits services, said Mr. Horton. The company has twice as many staff members on its loss control and claims management teams than many other companies its size, he said.

> *'China's insurance industry is opening up ...from communism to capitalism through joint-venturing (with foreign companies).'*
>
> — *Glenn Horton*
> *Horton Insurance Agency Inc.*

Mr. Horton said his company places an average of $300 million in annual insurance premiums, which he said puts it among the largest privately held insurance brokers in the Midwest. The company reported $24.8 million in gross revenues and $24.6 million in brokerage revenues in 2000.

Wanxiang America Corp., in Wood Dale, Ill., is a subsidiary of Wanxiang Corp., based in Xiaoshan City, China. The parent company, which manufactures and markets automobile parts and agricultural and financial service products, has annual sales exceeding $1 billion in China and $100 million in the United States, said Mr. Horton.

He said insurance companies in China find it difficult to sell insurance because the society is not accustomed to the idea of insurance and risk management practices. Licensed insurance companies are, "all dressed up and ready to go, but no brokers to sell (the insurance),"he commented.

Only a few insurance brokerages have opened in China—primarily large brokerages that cater to large companies, he said. The joint venture offers Wanxiang-Horton the competitive advantage of being one of the first brokerage firms to cater to an underserved market—midsized companies employing from several hundred to 5,000 employees.

Currently, China has no established guidelines for selling insurance, he said. Twenty years ago, China's insurance industry was controlled by its government. Now the industry is a privately owned enterprise and the people have privately owned property. However, "China's insurance industry is opening up gradually...from communism to capitalism through joint-venturing (with foreign companies)..." he said.

In April 2000, the United States signed a trade agreement with China, but the deal contained no provisions to permit foreign insurance intermediaries to operate there without the involvement of a local partner (*BI*, Feb. 19). Additionally, China requires that all insurance be bought and sold in China so the joint venture will play an important part in Horton Insurance obtaining a license in China—a process that can take years to complete.

Wanxiang America's contacts in China make the deal mutually beneficial. As part of the deal completed on April 14 at Wanxiang America's headquarters, Wanxiang America made an undisclosed investment in Horton Insurance, giving it a 10% stake in Horton. Lin Sheguo, mayor of Xiaoshan, attended the April meeting with a delegation from the city.

Agent/Broker Topics

ADVERTISER INDEX

Issue of July 2

ADVERTISER	PAGE #
AXA Nordstern Art Insurance	20C
Compliance & Filing Solutions	20F
Distinguished Programs Group	20B
FEMA	20E
Freberg Environmental	20D
ISG International Inc.	20G

Buyers

Continued from page 16

number—or something close to it—keeps coming up."

After years of soft market conditions, in which Weyerhaeuser saw rate decreases, the new increases by insurers are fair, Mr. Baxter said. This is especially true considering that many insurers are running loss ratios well above 110%, he added.

"Turnabout is fair play. In a long-term relationship, no problem," Mr. Baxter said. Weyerhaeuser believes in cultivating stable relationships with insurers, some of which span decades. Those ties are playing a role in limiting Weyerhaeuser's rate increases, he said.

"I think people that either have a bad loss experience or have taken the opportunity of the soft market to change carriers because they saved a nickel here and a dime there, they are the ones who are going to pay the piper," Mr. Baxter said.

Good loss experience still counts in the current market firming, said Wayne Salen, director of risk management for First Niagara Financial Group, a Lockport, N.Y.-based financial services holding company. But even for good risks, rates are climbing, terms and conditions are tightening, and insurers have little interest in negotiating, he added.

"Obviously, that is being dictated by the reinsurers," said Mr. Salen, who said he expects to see a 15% to 20% increase when he renews a property policy in August. He also expects reduced sublimits for catastrophe coverage, even though all the company's properties are within New York state.

"Trying to get that rolled in as a true all-risk policy where we have flood and quake—it is getting tougher to get," he said. "I haven't talked to anybody in the last three or four months who hasn't had a hike. If they didn't have any rate change, it was only because they increased retentions or they lost some coverage terms."

Bethesda, Md.-based Marriott International Inc. experienced firsthand the hardening property insurance market for its locations with catastrophe exposures, such as hurricane, flood and particularly California earthquakes, said Bradley Wood, vp-risk management.

"Despite our favorable loss experience, we received some nonrenewal notices, and many carriers we know have pulled back on their limits," he said.

General liability rates also are increasing, though hikes are not as consistently high as are those for property coverage.

Georges Balcer, director-risk management for Bowater Inc., a timber products company in Bowater, S.C., said that he saw a "slight increase in rates, barely double digits," on his general liability insurance program, which renewed July 1.

"The most serious increase was in umbrella and excess layers, despite good experience. Our cost went up by about 60%," or about a 40% net increase after adjusting for an increase in its exposure, he said.

"This was the first time in a long time that I had not seen a decrease in rates for liability lines," Mr. Balcer said.

"We didn't face that significant increases" in liability insurance rates, said Steve Giddens, vp and risk manager for SunTrust Banks Inc. in Atlanta. The bank renews its programs in March and April. The bank also owns Madison Insurance Co., a captive that writes primary layers for many of its parent's liability programs.

"Fortunately for us, we put together a three-year umbrella program last year, and we were told by brokers we probably would have faced an increase in the neighborhood of 15% to 20%" if the bank had been in the market for umbrella coverage this year, he said.

Ted Jeske, risk manager for Historic Tours of America Inc. in Key West, Fla., called the market pricing "much tougher," for excess umbrella liability coverage. He renewed $10 million in excess umbrella on March 31 for what he'd paid for $25 million in limits a year earlier.

One liability line that several buyers cited as hardening this year is commercial auto liability.

The crunch in commercial auto was already evident in the spring, said HTA's Mr. Jeske. He noted that in the past, HTA would be approached each renewal season by several brokers and underwriters wanting to place or write the entertainment company's commercial auto because of its favorable loss and safety record.

This year, HTA itself approached 25 insurers and received quotes from only four, said Mr. Jeske. He ultimately paid a 20% increase.

The company's general liability rates, on the other hand, increased only by the single digits, said Mr. Jeske, which he said reflects HTA's good loss experience.

Mr. Betterley related the experi-

See **Buyers** *on next page*



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SPOTLIGHT

Failures prompt scrambling, soul searching in London market

By EDWIN UNSWORTH and SARAH VEYSEY

London market commercial insurance business at midyear has been dominated by the collapse of two high-profile insurers. The failures, widely regarded as resulting from inadequate pricing, have big implications for future capacity and rates in the market.

In March, Sydney, Australia-based insurer HIH Insurance Ltd. went into provisional liquidation after losses totaling $1.3 billion Australian ($726.4 million) for the 18-month period to the end of 2000. The company had said that profitable Australian operations were not sufficient to sustain losses from discontinued business in the United States and Britain.

A more-recent collapse is that of Independent Insurance Co. Ltd., a 14-year-old London-based company that ran into difficulties when it moved outside its traditional personal lines business into commercial risks and employers liability. By the time it went into provisional liquidation in mid-June, it had some 40,000 commercial clients. Britain's Serious Fraud Office has been asked to investigate (*BI*, June 25).



While Independent's commercial business was predominantly in the United Kingdom, it also covered risks in Ireland and Australia.

The collapse has resulted in a scramble among brokers and insurers to provide new coverage for Independent's clients. Also, apart from helping to soak up a little of the market's excess capacity, Independent's troubles have sounded a somber warning to commercial concerns to look closely at the security of their insurers.

David Margrett, chief executive officer of HLF Insurance Holdings Ltd. in London, predicted the collapse of Independent will have a mixed effect on the market. While insurers may be pleased with firmer rates, he said, they will regret the damage done to their reputation.

"Clearly, at any time of market upheaval, there is a lot of work created for us to go round and look after those clients that we have in some of those troubled markets. I think that will lead, long term, to further increases in pricing, as, inevitably, the market realizes it can underwrite the business again," Mr. Margrett said.

He added, though: "We see both

Continued on next page

Buyers

Continued from previous page

ence of one client with about 400 employees renewing what he termed "plain-vanilla fleet liability."

The proposal started with an increase of 110% from the existing insurer. The client's broker got the increase down to 80% and presented it to Mr. Betterley and his client. "We were aghast," he said. The insurer said that the increase wasn't due to the client's loss experience. "We groaned and said we can't go with this," he said, and they got the increase reduced to 50%. "We're considering at this point to see what other carriers want," he said.

First Niagara's Mr. Salen said other risk managers he has spoken with report that their automobile fleet rates are going up 15% to 30%, depending on the account size and loss history. Insurers no longer give away that coverage in order to retain a client's other business, he said.

While many companies are paying more for their auto liability coverage, some risk managers are still able to buck the trend.

"We are quite pleased," said Thomas R. Lowe, assistant vp-risk management for Atlas Van Lines Inc. in Evansville, Ind. Even with a favorable loss experience Mr. Lowe was apprehensive about renewing reinsurance coverage for an automobile fleet policy that is insured by the company's captive insurer.

Mr. Lowe said he had heard that the market for commercial automobile coverage was drying up and that insurers were getting 50% to 100% increases. "We were expecting a lot more than 10%," he said, but that is what Atlas received for its recent renewal.

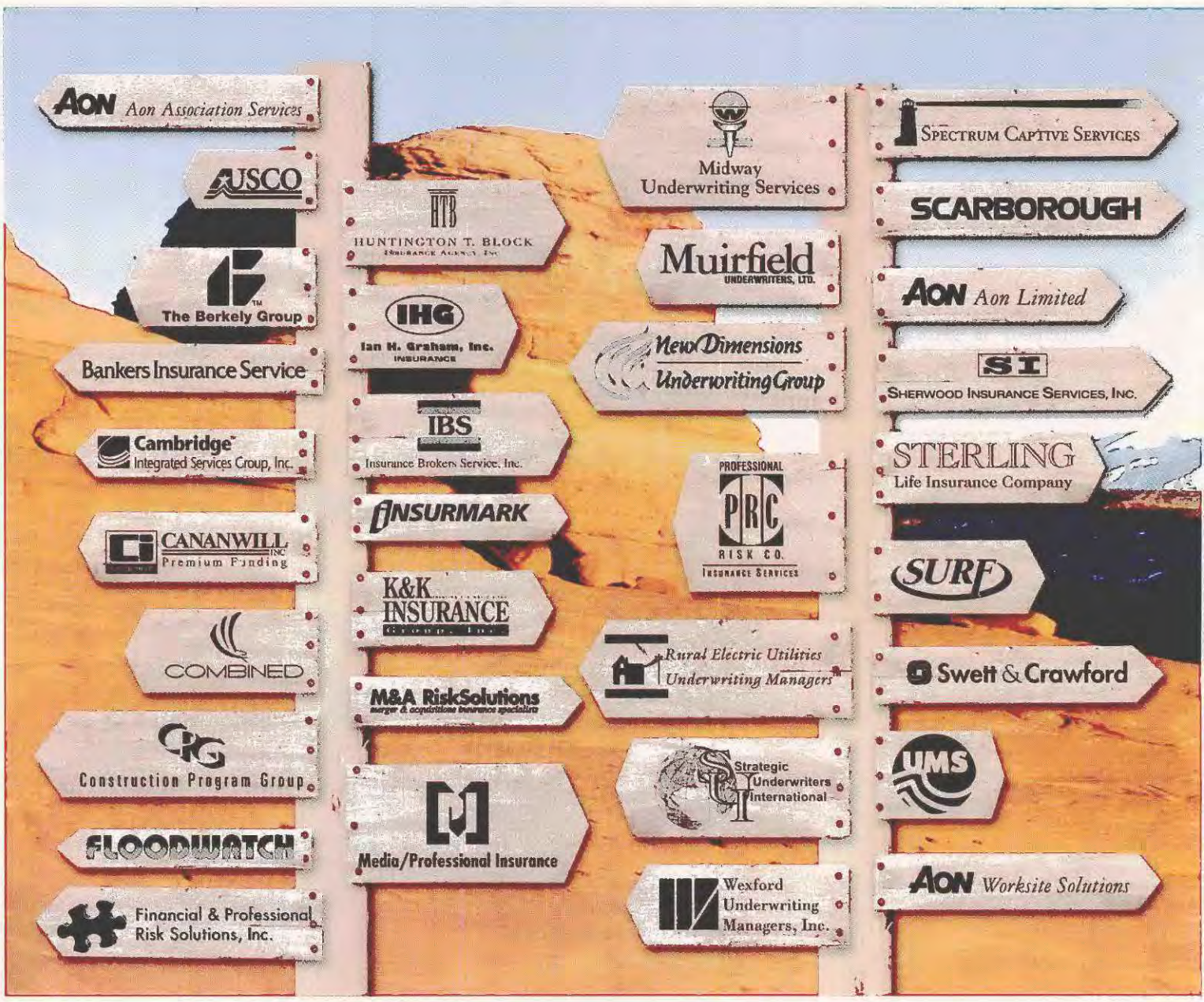
"Everyone is predicting gloom and doom," he said, "but we are saying maybe we got this one under the wire."

Not all risk managers report rough liability renewals—a few are still seeing decreases for some risks.

Westaff, a Walnut Creek, Calif.-based temporary staffing company, recently renewed a directors and officers liability policy, said Jeffrey W. Pettegrew, vp-risk management and insurance. The company got a small price reduction and improved terms on a claims-made D&O policy with $10 million in limits.

That may be because the company is still seeing reductions from 1996, when it made an initial public offering and D&O rates were at their peak, Mr. Pettegrew said. "But in a tight market where I hear a lot of crazy things, it hasn't been bad." BI

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Continued from previous page
the Independent and HIH collapses as really very bad for our market. Some people sit here and tell you, 'That is just what the market needed.' I don't think any market needs collapses on that scale and the difficulty and the reputational damage that causes."

Key players in the London market agree, though, that, quite apart from the two well-publicized collapses, commercial insurance rates at midyear were already moving up.

Andrew Beazley, director of underwriting agents Beazley Furlonge Ltd. in London and the underwriter on Lloyd's of London syndicate 623, predicted rate increases will continue. For U.S. business coming to London, which consists mainly of coverage for surplus lines and catastrophe risks, "rates are still rising quite dramatically," he said.

Mr. Beazley said rate increases in London tend to lag behind those in the United States, but that the rising rates that started about 12 months ago in the United States are being seen in London now.

Typically, he said, surplus lines, which gets a lot of business coming from the United States, tends to show the first rises, followed by more-general rate rises.

Mr. Beazley said he is pushing for further rate increases "on a selected basis." Renewal business always gets preferential treatment, but new business certainly is being priced up. For dislocated business, such as the fallout from HIH or Independent, rate hikes are "quite severe," he said.

About Independent's collapse, he said, "There is a bit of a scramble going on at the moment to find cover on certain lines. But there is lots of capacity in the market, so that will be soaked up. But what is going to be difficult for buyers is that they don't realize what a good price they had before. ...(They're) going to find rate increases quite steep."

One sign of confidence that the market is turning better for insurers is that some companies and syndicates at Lloyd's are increasing their capacity. Mr. Beazley said that capacity at Beazley Furlonge was stagnant for six years, until 1999, but then it increased by 30% for 2000 and by 70% for 2001 to £215 million ($303.8 million). "And I suspect that we will again up it quite substantially for next year," he said.

More recently, insurer American International Group Inc. announced in June that it is investing £100 million in setting up a Lloyd's syndicate. The planned AIG syndicate will underwrite marine, nonmarine and reinsurance risks.

The level of rate increases being seen by Lloyd's businesses varies greatly from class to class, said David Shipley, lead underwriter of M.A.P. syndicate 2791.

Speaking at the Assn. of Lloyd's Members annual conference in London last month, Mr. Shipley said certain U.S. risks coming to Lloyd's, particularly commercial property, "are moving quite strongly." He said that U.S. specialty lines business is also seeing an upturn in rates.

Mr. Shipley said that, on the accident and health side, U.S. medical expenses coverage was a "very tight market at the moment," seeing rate increases of 40% to 50%.

U.S. catastrophe business is seeing rate increases in those areas hit by Midwestern storms, Mr. Shipley said. He added that M.A.P was finding the property risk excess market "very promising at the moment."

But other classes of business are not yet experiencing large rate increases, Mr. Shipley said. "Marine is still very, very poor," he said, citing the modest increases in that class.

"The D&O market stinks," he said, noting that it is running a 200% loss ratio.

Mr. Shipley said his syndicate currently is not writing very much aviation business, finding the class to be too risky, and he called rate increases in the E&O market "slow."

Stephen Cane, CEO of London-based Alea London Ltd., said "the market is still improving quite nicely across the board."

The degree of rate increase depends somewhat on the claims history of the customer, but more so on the class of the coverage, he said.

While property treaty rates are going up across the board, they are rising faster for European risks than for American risks, said Mr. Cane, who last month was elected chairman of the London-based International Underwriting Assn.

In regard to North American property treaty renewals, "it would be fair to say that rates, by and large, you're looking at 10% increases. But if you look at property treaty ex-U.S.A., you're looking at 20% upwards—I'm talking multiples of 20%-based." The reason for this is the delayed impact of European windstorms at the end of 1999, which were too late to be factored fully into Jan. 1, 2000, renewals. A major Turkish earthquake in late 1999 is also reflected in current catastrophe property rates.

"There was quite a correction to be made, and it's being made, but we'd still like to further improvement. ...There's still a lot of capacity available," Mr. Cane said.

Also sharing the view that rates are clearly hardening across most markets is HLF Insurance Holdings' Mr. Margrett.

"Australia obviously has gone through complete upheaval, but rates elsewhere are hardening fairly consistently, although at different percentage increases. Quite a lot of our Latin American business is carrying large increases. There is a reduction in capacity available. Our North American excess and surplus lines business is performing extremely well and has shown dramatic revenue growth," he said.

The main exception, on a geographic basis, is the Far East, Mr. Margrett said. "It's still fairly messy in the Hong Kong, Singapore and Malaysian markets," he said.

On a product basis, Mr. Margrett said international wholesale property still needs to harden further. "I suspect, as the year develops, particularly in the Lloyd's market, where they run against their income limits, we will see a dramatic restriction on capacity," he said.

Mr. Margrett also said that the professional indemnity and financial risk coverage "is probably going to flatten out slightly rather than carry on increasing." BI



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SPOTLIGHT

Transportation takes biggest hit in hardening market

By JOANNE WOJCIK



An insurance broker had come to Seaboard Underwriters Inc. trying to find coverage for a trucking liability risk that had ridden through three years of rough experience, yet saw its premiums fall every year.

When the original insurer decided not to renew the program this year, the broker had begun shopping it around, but soon found that "he had virtually no place to put it," said Joe Hutelmyer, president of the Burlington, N.C., managing general agency.

After reviewing the risk, Mr. Hutelmyer determined that "it should have been priced at $4.5 million, but the expiring price was less than $1 million."

"It didn't have good experience, it didn't have good drivers. In fact, the prior carrier had not done any (motor vehicle record) checks whatsoever," he explained.

But as the renewal date approached, the broker was afraid to tell his clients, fearing they would hire another broker when they found out how high the premium would be.

"This guy was literally in my office in tears," Mr. Hutelmyer said. Because more than half of the broker's annual income was derived from this lone trucking risk, "he said he didn't know how he was going to make his house payment or pay for his kids' private school."

Unfortunately, Mr. Hutelmyer could do little to help the broker.

"We have been warning agents for the past year," Mr. Hutelmyer said.

Even trucking liability risks with good experience are seeing rate hikes averaging between 15% and 35%, and the number of insurers willing to take such risks has dwindled from 127 four years ago to just 31 as of April 30, he said.

While the crying broker story may have involved a transportation risk, it is indicative of market conditions in many other sectors of the excess and surplus lines industry.

Other risks returning to the surplus lines market include property coverage for vacant buildings, apartments and other habitational structures; and liability coverage for bars, loggers and lumberers, roofers, residential contractors, artisan contractors and "new business ventures of all types," said Gary Tiepelman, vp-underwriting at Scottsdale Insurance Co. in Scottsdale, Ariz.

While most property catastrophe risks, such as coastal windstorm and earthquake, had remained in the excess, surplus and specialty lines market throughout the soft market, "there was some appetite for light catastrophe exposures in the standard market," recalled Marshall Turner, executive vp of ACE U.S.A.'s Westchester Specialty Division in Atlanta.

But now, "risks with catastrophe exposure and and risks with poor experience or with more losses than would be expected are finding their way back to the specialty market," he said.

And the delineating point for determining whether coastal property is high risk or low risk has moved further inland, so that risks as far as 10 miles inland are being underwritten in the excess, surplus and specialty lines market, Mr. Turner said.

"Our area that we can write tends to be farther inland," said Scottsdale's Mr. Tiepelman.

"The whole state of Florida" is now considered a catastrophe-prone area being passed on to the surplus lines market, said Andy Dutczak, senior vp-marketing at Near North Insurance Brokers Inc. in Chicago.

And with the recent flood losses in Houston from Tropical Storm Allison (*BI*, June 18), many of which will be covered by difference-in-conditions policies underwritten by standard carriers, "it will be interesting to see what happens" with July 1 property renewals, said Max Williamson, Scottsdale's president.

In fact, "some markets are pulling back on quoting until after they assess the damage from the Houston floods," said Mr. Dutczak.

While property capacity still seems to be plentiful, many insurance buyers in catastrophe-prone areas are buying less coverage because of its increased cost, Westchester's Mr. Turner and others report.

For example, accounts that had purchased deductible buyback coverage now "are taking large deductibles because the premiums are higher. There's no money left to buy down the deductibles," Mr. Turner said.

While just about everyone in the surplus lines industry agrees that the transportation market is definitely hard, other liability lines are simply "hardening," experts say.

With the exception of transportation, "we're not in a hard market yet. We're in a hardening market," observed John Latham, president of Colony Insurance Co. of Richmond, Va.

Among the lines tightening the most are products liability, umbrella liability, contractor liability and nursing home liability, insurers and

See **Surplus** *on page 26*

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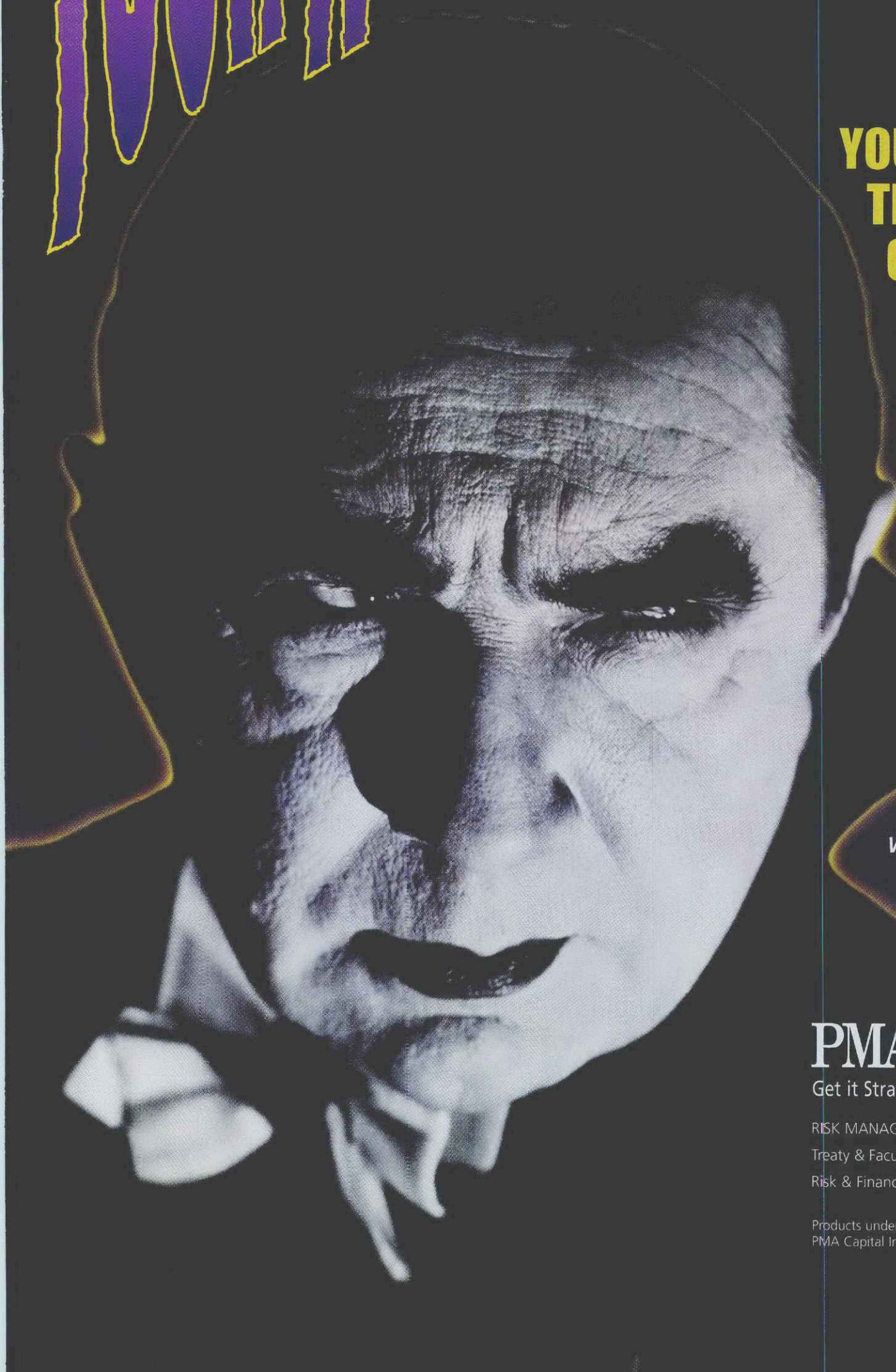
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SPOTLIGHT

Surplus

Continued from page 24
brokers say.

"We're beginning to see more product liability accounts that were on the borderline, with a little more exposure than the standard market was willing to write," said Westchester's Mr. Turner.

Among those product liability risks are health care, chemical, automotive and pharmaceutical products and "anything with an occupational disease exposure, like insulation and cell phones," said Tom Nazar, vp-marketing for Near North.

Because insurers are paying more to renew their excess casualty reinsurance treaties, they are passing on the cost in the form of higher premiums for umbrella liability coverage, according to Rob Giles, president of R.W. Scobie Inc./Midwest General Agency in Eau Claire, Wis.

In fact, one brokerage specialist in Mr. Giles' Minnesota office that had written a $100 million umbrella policy last year could only sell the client $50 million in limits, because of the high cost of the additional capacity and the unwillingness of insurers to provide larger layers, Mr. Giles said.

"He said he never worked so hard in his life to get those layers in place," Mr. Giles added.

Near North's Mr. Nazar concurred. "Some carriers that had provided $50 million are now providing $25 million or only $10 million, so we have to use more markets," he said.

Besides having to use more insurers to obtain desired limits, buyers are being forced to pay significantly more for umbrella coverage, especially if they have heavy auto or transportation exposures, Mr. Nazar added.

"Minimum premiums were $500 per million, but now I don't know if any are below $1,000 per million," he said.

The market for contractors liability insurance, which had been tightening for several years in the fast-growing Western states, is now becoming a problem in other parts of the country, according to Tim Pedersen, president of Travis-Pedersen & Associates Inc. in Chicago.

"Standard markets are losing their appetite for contractors as a general statement," he said. And the rate hikes are higher for residential contractors and artisan contractors, such as cabinetmakers, he said.

Nursing homes and assisted-living facilities are seeing their premiums surge, according to Letha Heaton, vp of sales and marketing at underwriting manager Shand Morahan & Co. Inc., a unit of Markel Corp. in Deerfield, Ill.

While hikes vary in size, no liability line is immune to the hardening market this renewal season, surplus lines industry experts said.

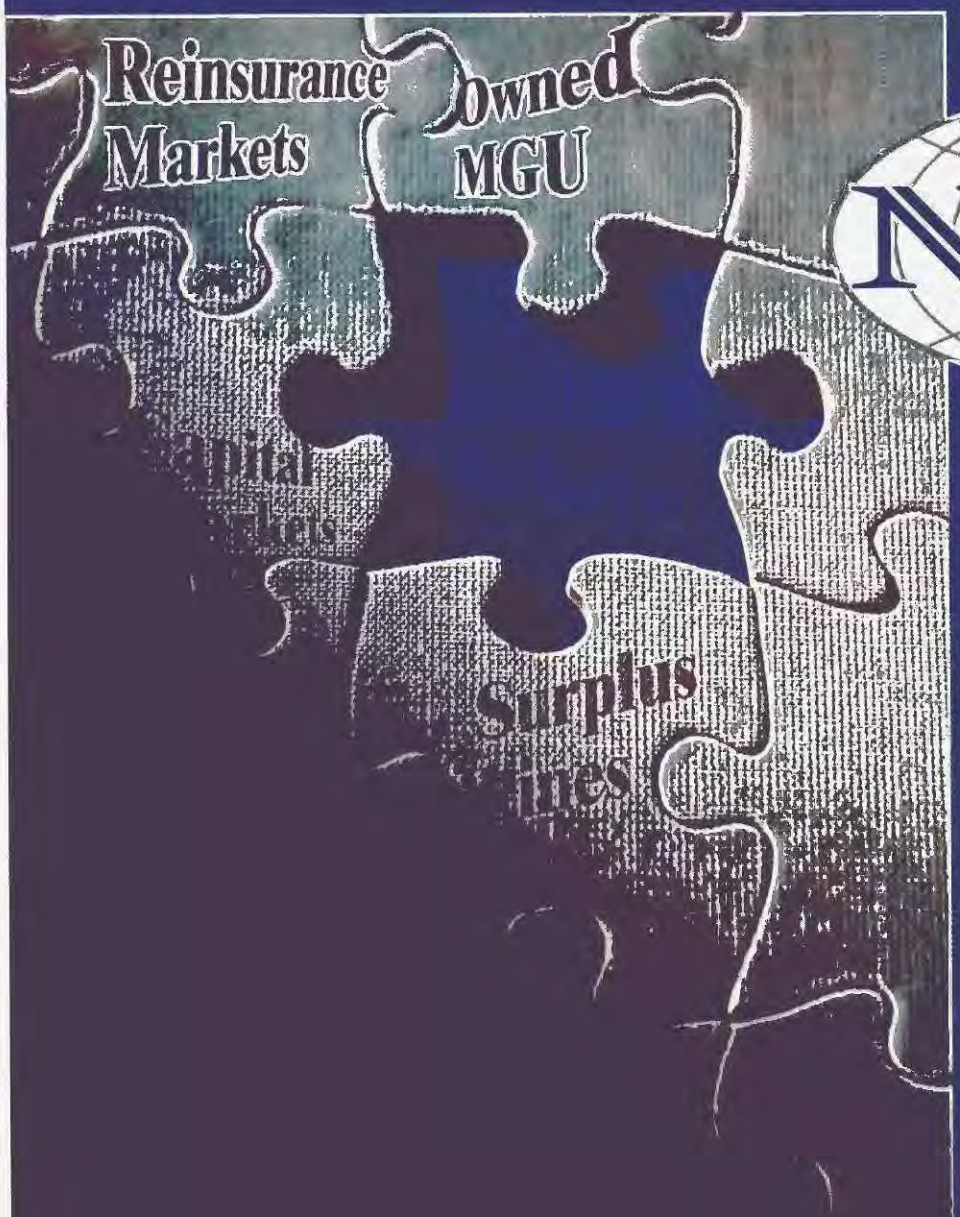
"Last year, if people said it was spotty, now it's pretty much widespread as far as reunderwriting and repricing goes," said Scobie's Mr. Giles. "Everybody is telling us 'We want more than last year'."

Generally, premiums for most liability lines are increasing anywhere from 25% to 60%, and, "as we get closer to July 1, they're going up even more," said Kevin Kelley, president of Lexington Insurance Co. in Boston, a unit of American International Group Inc.

He said transportation risks are seeing rate hikes in the 100% to 200% range, while nursing homes are seeing 150% rate hikes for liability coverage.

In addition, medical malpractice risks are seeing price hikes between 25% and 75%, depending on the specialty, and contractors are seeing 50% to 100% rate increases, Mr. Kelley noted. BI

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Health

Continued from page 10
the Chicago-based clothing manufacturer selected averaged about 9%.

Numerous factors, including bigger and more successful demands from hospitals, soaring prescription drug costs and greater use of health care services, are the chief culprits behind the latest round of health insurance rate increases.

With hospitals merging into bigger and bigger health care systems, the ability of HMOs and other managed care plans to hold down provider demands for more money is vanishing.

> *'With hospitals merging, the leverage the managed care industry has to negotiate price increases is eroding.*
>
> *— David Snow*
> *Empire Blue Cross & Blue Shield*

"With hospitals merging, the leverage the managed care industry has to negotiate prices is eroding," said David Snow, president and chief operating officer of Empire Blue Cross & Blue Shield in New York. "Take Long Island. There used to be 20 hospitals out there. Today, there are two major health care systems. With that, you don't have the same ability to get competitive pricing," he said.

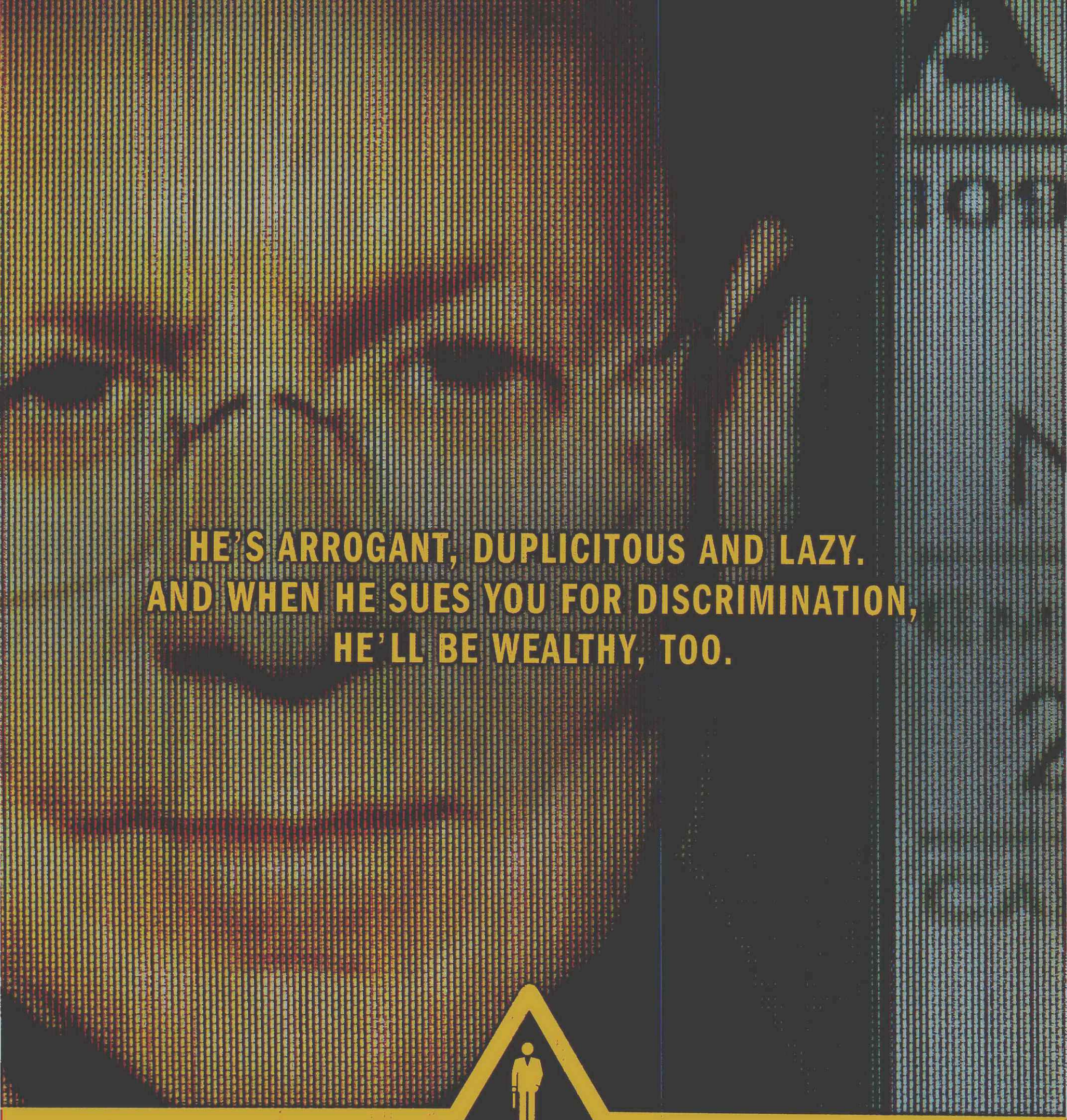
Hospitals "definitely have more leverage and sometimes they can negotiate better deals," said Joe Driscoll, president and chief executive officer of Private Healthcare Systems, a provider network in Waltham, Mass.

As hospitals and doctors demand higher pay, health plans have no choice but to charge employers higher premiums, said Bob Pures, senior vp and chief financial officer at Horizon Blue Cross & Blue Shield of New Jersey in Newark.

At the same time, providers are less inclined to give bigger discounts to larger managed care firms.

Providers are saying, "'No special deals,' If that trend continues, we see less underlying cost differences between health plans," Mr. Sperling said.

See **Health** *on page 28*



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SPOTLIGHT

Health

Continued from page 26
clout, however, HMOs and other managed care firms still have the ability to win some discounts from providers.

"The discounts they can secure are real and significant," Mr. Sperling said.

Just as providers have begun to win more money from health plans, the plans also have had to contend with a problem that started about four years ago and continues to worsen: higher prescription drug costs.

Drug cost increases, which now are rising at an annual rate of between 17% and 23%, are being driven by higher utilization and the use of more expensive drugs.

"Americans have an insatiable appetite for these products," said Stephen Booma, executive vp for sales and marketing at Blue Cross & Blue Shield of Massachusetts in Boston.

In reaction, more employers are implementing three-tiered prescription drug plans with the lowest copayments for generic drugs, a higher copayment for brand-name drugs on an employer's formulary and the highest copayments for brand-name drugs not on the formulary.

Some employers also are considering a more radical approach to controlling prescription drug costs: replacing small employee copayments with coinsurance, in which employees pay a flat percentage of the total cost of a prescription.

With a coinsurance approach—which few companies have yet implemented—employees would have greater awareness of drug costs and likely be more careful about their choices, said Buck's Mr. Sobel.

Others, though, aren't convinced that coinsurance is the right approach to control prescription drug costs.

"You end up penalizing those with the greatest need for prescription drugs," said Empire Blue Cross & Blue Shield's Mr. Snow.

It isn't only prescription drugs where utilization is increasing, though. Employees also are going to the doctor more and using more medically related services.

For example, at Anthem Health & Life Insurance Co., a New York-based PPO, doctors visits are up 15% this year with imaging visits up 15% and laboratory procedures up by 10%.

"It is all driven by increased visits to the doctor," said Anthem President Carmine Morano.

Part of the reason health plan participants are going to the doctor more is that managed care plans—under public pressure—have eased restrictions on utilization, such as allowing enrollees in certain cases to go directly to some specialists.

"The HMOs have become kinder and somewhat more gentle," said Randall Abbott, client strategies leader in the Philadelphia office of Watson Wyatt Worldwide.

"We have a new generation of consumer that wants choice and is insisting on choice," said Anthem's Mr. Driscoll.

Still, amid rising costs and utilization, employers have been reluctant to shift more of the cost to employees via significantly higher deductibles and copayments. While the economy has slowed in recent months, the labor market has not yet cooled enough for employers—without risk of employees leaving to join other companies—to significantly shift costs.

"We are working with an unemployment rate of 3% here. There is a reluctance to move aggressively because of the employment situation," said Mr. Booma of Massachusetts Blue Cross & Blue Shield.

"Employers are caught between a rock and a hard place," said Watson Wyatt's Mr. Abbott, referring to the need of employers to shift more costs to employees with the risk of losing those employees.

Nonetheless, more cost-shifting to employees is inevitable.

"Certainly, by next year you'll see more" costs passed on to employees, said Blaine Bos, a principal in the Chicago office of William M. Mercer Inc.

"We will look at different alternatives," said Dennis Nirtaut, managing director of compensation and benefits at Arthur Andersen L.L.P. in Chicago.

Some say that if health care costs ever are to be controlled, more radical steps by employers are needed.

Hewitt's Mr. Sperling, for example, said that employees, because of the generosity of health plans, might be too financially insulated from the consequences of their decisions, citing, for example, the often small employee cost sharing differentials between generic and brand name drugs.

On the other hand, he added, "If an employee has to pay $15 for a generic drug and $300 for a brand name, employees will react to that kind of a differential."

Others say the answer may be for employers to give employees a fixed amount of money and let employees decide how to spend those dollars for health care services.

"We're coming to the point for the employee to have the kind of choices they demand and for the company to maintain some kind of control, it will say to the employees, 'Here is your money. Here are your choices. Spend it as you like,'" said Charlene Edwards, vp-employee benefits at Lend Lease Real Estate Investments Inc. in Atlanta.

For now, ironically, the best hope for an immediate easing of health care costs may rest with the federal government. That is because Congress soon will consider legislation that would add a prescription drug benefit to Medicare. With prescription drugs amounting to about 60% of retirees' health care costs, any costs picked up by Medicare would have a significant positive financial impact on employers that provide retiree health care plans.

"Sooner or later there will be a Medicare prescription drug benefit. There is a fair amount of momentum," according to Mr. Sperling. BI

Brokers

Continued from page 10
in certain lines or geographical regions, but rate increases are the norm, observers say.

"Whether they admit it or not, most insurers are looking for across-the-board increases because their entire book of business has been underpriced," said Craig M. Van der Voort, president-commercial division with Arthur J. Gallagher Risk Management Services in Itasca, Ill. "Targeting only the problem accounts will not get them where they need to be any time soon."

Brokers note that policyholders with few losses can expect price hikes to average around 20% for both property and liability lines, apart from the problematic exposures that insurers are avoiding.

And Mr. Van der Voort said insurers are more willing this year to walk away from business when the buyer balks at the premium or has a poor loss history. Policyholders that don't implement loss control programs or are in classes of business that are considered too risky also may see underwriters heading for the door, he noted.

Insurers in some cases simply can't handle the workload that a hard market produces, brokers point out.

Some insurers "are being bombarded, so they are addressing only what they see as superior submissions," said Tom Nazar, vp in Chicago-based Near North Insurance Brokerage Inc.'s marketing division.

Brokers, too, face the demands of an increased workload. "Workloads are almost doubled," said John Wright, principal with Johnson, Kendall & Johnson Inc. in Langhorne, Pa. He explained that clients are asking that more insurers be contacted in search of better prices and terms. "The amount of work occurring internally in our firm is an added stress factor. We worry about doing the best we can for our clients."

There are other signs that the marketplace is constricting.

Mr. Angers said that while an account with a bad loss history could secure coverage two years ago at a reasonable price, "those accounts are the ones seeing the biggest correction."

In some cases, coverage costs are so high that there's little point in buying insurance. In Florida, for example, nursing homes would merely be swapping dollars for liability coverage, according to Mr. Henderson. "You can probably purchase insurance," he said, "but it would be almost dollar-for-dollar based upon exposure and premium. You'll spend $3 million for $3 million worth of coverage."

Buyers in Florida, Texas and Pennsylvania that can get nursing home liability coverage at increases of less than 200% to 300% will be lucky, Mr. Henderson said. "Outside of those states, you may be dealing with double-digit" increases, he said, meaning 10% to 20%, depending on where the risk is located and the policyholder's loss experience.

On the West Coast, buyers are facing a crisis of pricing and availability in the workers compensation market.

"There's been a tremendous constriction in the marketplace," said Michael Flynn, president of Diversified Risk Insurance Brokers in Emeryville, Calif. Among the remaining insurers, "there is a mixed bag of ones willing to entertain the risk and ones that aren't. The ones that are willing to entertain it can pretty much name their price if there is any loss experience."

Coverage costs have risen in a range of around 20% to a staggering 300% for workers comp coverage in California, Mr. Flynn noted.

Umbrella and excess liability coverage costs are rising right along with primary insurance prices.

Trucking risks, nursing homes, pharmaceutical exposures and construction risks are among those for which excess layers cost significantly more at this renewal, said Bob Peretti, New York-based managing director and head of Marsh Inc.'s global broking casualty operation. "It's hard to predict what the increases will be," he said. "There's no average increase."

Policyholders that don't belong to that group of risks can expect excess liability costs to rise an average of 15% to 20%, according to Mr. Peretti. "Those are significant increases, but they are coming off rates that were depressed. Most clients are not thrilled about it, but they understand that there has to be some correction."

Mr. Peretti said the facultative reinsurance market is driving increases in the cost of excess coverage for automobile liability risks with 500 to 1,000 vehicles. Insurers are particularly interested in handing off the first $5 million layer excess of primary coverage, and "facultative costs for auto liability are expensive," he pointed out.

Duncan Ashurst, executive vp and managing director-risk management and consulting services practice at Near North, said that poor results are prompting reinsurers to tighten capacity. "The July 1st renewals will be a challenge," he predicted.

Mr. Flynn of Diversified Risk said that directors and officers liability underwriters are requiring higher deductibles and retentions. Rates for nonpublic companies are up as much as 20%, public companies are paying 50% to 100% more, and nonprofits can expect to see prices that are doubled for the coverage, he noted.

"Reinsurance is a factor," in the increases in D&O and other coverage prices, Mr. Flynn remarked. "The reinsurance market has constricted as well."

On the property side, California earthquake risks are seeing quotes that are 50% to 70% higher, according to Mr. Flynn. And, he added, "capacity for Florida and Caribbean windstorm is more constricted than for earthquake. They're seeing rates that are up as much as 200%."

Gene Rak, a marketing representative at Near North, said insurers are commonly excluding coverage for computer viruses in property policies as heavy losses have made underwriters wary of the exposure.

Coverage for highly protected risks is significantly more expensive in some cases, according to Mr. Wright of Johnson, Kendall & Johnson. Some of those risks didn't actually meet insurers' strict standards for the classification when the accounts were written in the past, and as insurers "get back to underwriting fundamentals, some of those risks are getting squeezed."

There are, however, some pockets of competitiveness in the insurance marketplace, according to Mr. Wright.

"Where we are seeing competition is on accounts with strong loss ratios...those that are $75,000 and up in premiums," Mr. Wright said. In such cases, some insurers "are saying, 'We can take a shot on this.' Several companies looking to write good business might get caught up" in competing for an account, he said.

Mr. Wright said managing general agents are fueling some of the competition that has remained despite the tightening. "MGAs with reinsurance backing" make up a group "that we are still seeing as an active competitive force," he pointed out. "They are looking to niche-penetrate the marketplace."

In addition, the Southwest has seen some rate decreases in workers comp and general liability coverages, according to Mr. Henderson.

And, insurers remain somewhat competitive on casualty coverages for some Fortune 500 accounts, according to Near North's Mr. Nazar.

In most cases, competition doesn't mean prices will go down, but it is holding increases in check, brokers say. "It is rare to see price decreases without significant changes in terms, conditions, limits and deductibles," said Mr. Van der Voort of Gallagher. There are lines of business that insurers place a priority on writing, he said, "but reductions from expiring premium terms are still rare."

As the U.S. market hardens, the firming is slowly encroaching on its neighbor to the north.

In Canada, rates are going up, but not as quickly as has been seen in the United States.

"That would indicate that the worst is yet to come here," said Bob Nicholls, vp at Lorenzetti & Associates Inc. in Toronto. "We tend to trail what is going on in the States."

Canadian insurers are "holding the fort," Mr. Nicholls said, with 10% price hikes on risks with favorable loss histories. "There are those special cases where you've got a tough class and bad loss experience," he pointed out, those in which the expiring insurer may decide not to renew or ask for a huge increase "knowing no one wants to venture forward and compete with them."

Underwriting behavior seems to indicate that a hard market is forming, Mr. Nicholls said. Insurers in Canada have made some "half-hearted" attempts to raise prices in the last few years, he said, "but there was always someone to undercut them. Now, there seems to be a pretty wide consensus in the marketplace that something is going to happen." BI

Insurers

Continued from page 10

insurance—particularly for publicly traded companies—is undergoing the most significant market changes. Risk managers face higher costs, the return of co-insurance—or predetermined allocations—for securities-related claims, and reduced capacity.

Premium increases for primary coverage generally range from about 10% for pristine accounts to 50% for those in high-risk industries, such as technology—especially telecommunications—financial services and health care, insurer executives say.

Volatile accounts, including those that have experienced stock-price swings, face larger increases of as much as 200%, said David R. Bradley, an executive vp and the head of the specialty lines operation at Hartford Financial Services Group Inc. of Hartford, Conn.

Excess insurers now command as much as 60% of the underlying premium for comparable limits, compared with 40% a year ago, said Gary Tully, president of Kemper subsidiary Kemper Financial Protection in Berkeley Heights, N.J.

'The industry's results for property just continue to get worse....I don't know of a carrier making money on property.'

— Judy Blades
Hartford Financial Services Group Inc.

Because of significant rate cuts since the mid-1990s and increasingly severe losses, underwriters have fallen into "a terrible hole," said Tony Galban, vp and worldwide D&O underwriting manager for Chubb Specialty Insurance in Simsbury, Conn. Chubb Specialty is a unit of Chubb Corp.

One round of price increases will not fix the problem, insurer executives warned. Policyholders should plan on two or three years of price hikes, they said.

D&O underwriters also plan to reduce a coverage expansion that they blame in large part for fueling losses. They said that offering full coverage to executives and creating entity coverage has encouraged policyholders to settle claims quickly rather than fight them.

Asserting that the current hikes alone will not come close to correcting coverage pricing, D&O underwriters are attempting to reintroduce co-insurance, or predetermined loss allocations, for securities-related D&O claims.

Mr. Tully said that Kemper has negotiated 5% and 10% co-insurance provisions with a few policyholders. "But it's growing," he said.

Chubb considers the issue of getting policyholders "reinvested" in the effort to curb claims costs so important that it is offering a 20% premium discount to policyholders that accept a 20% predetermined allocation on securities-related claims, Mr. Galban said.

"We'll get more money back through fewer losses than by getting more rate. That's the bet," Mr. Galban said.

Meanwhile, a tightening reinsurance market is forcing insurers to reduce the limits they will write for a single D&O account by 50% to 75%, to around $25 million. Still, plenty of capacity remains available, but policyholders likely will have to seek out more markets to obtain all of the coverage they want, insurer executives said.

Policyholders also should expect some tighter coverage terms and conditions, Mr. Galban said. For example, insurers are requiring additional premiums to cover the new exposures that some acquisitions pose.

They also are adding more specific language regarding when policyholders must report claims.

While the D&O liability insurance market may be one of the toughest for risk managers, other renewals pose significant challenges as well because of insurers' underwriting losses, according to insurance executives.

"The industry's results for property just continue to get worse," said Judy Blades, executive vp of business insurance for Hartford. "I don't know of a carrier making money on property."

As a result, primary property insurance premiums typically are up 10% to 20% this summer, many insurer executives said.

Prices are climbing as much as 35% for insurance buyers that are not taking large deductibles, said Kemper Casualty's Mr. Kane.

Property policyholders with wind and earthquake risks face price hikes of 20% or more.

As insurers boost premiums, they also are more stringently underwriting contingent business interruption and Internet-related risks, said Gregg Springer, an executive vp with ACE USA in Philadelphia.

Insurers no longer are including business interruption as "a throw-in" coverage, but instead are underwriting and pricing for the risk, Mr. Springer said.

Meanwhile, insurers are "trying to come to grips" with Internet-related risks, he said. Over the next several renewals, insurers will continue sorting out how to define those risks, how to price them and whether to cover them at all, he said.

Premium increases for primary general liability coverage range

Continued on next page

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Insurers

Continued from previous page

from 8% or 9% to 35%, depending on industry, loss experience and location, according to insurer executives.

The risks facing the steepest premium increases are pharmaceutical companies, nursing homes and contractors, especially organizations located in the litigious markets of California, Illinois and New York, insurance executives said.

Umbrella and excess insurance costs are climbing even higher and are outpacing the price hikes policyholders faced in January, said Kemper Casualty's Mr. Kane. He estimated that premiums are increasing by 25% to 50%.

Another problem for insurers that underwriters likely will address soon is the relatively low points at which excess coverage is attaching, Messrs. Kane and Bradley said. Increasing loss severity means excess coverage has become more like a working layer of coverage, they explained.

Lead umbrella and excess insurers "need to attach excess of $2 million," and underwriters likely will insist on that attachment point by January, Mr. Bradley said.

Although overall market capacity is not shrinking, many umbrella and excess insurers are beginning to feel a reinsurance capacity pinch, insurer executives explained. As in the D&O market, excess insurers largely are offering about $25 million in limits, forcing policyholders to seek out more insurers to obtain adequate limits.

Automobile coverage is one area where insurance buyers may find insurers are taking different approaches from one another.

For example, Hartford's Ms. Blades said that as a result of reduced loss frequency and insurers' success in curbing repair costs by establishing preferred provider-type relationships with body shops, "most carriers are enjoying good results." That means many policyholders should expect either no rate hikes or 3% increases at most.

But policyholders with other insurers that are trying to improve their results by imposing across-the-board rate hikes may see steeper increases, Ms. Blades said.

At Long Grove, Ill.-based American Manufacturers Mutual Insurance Co., a Kemper subsidiary, the middle-market auto book is outperforming the industry's, according to President Robert Lindemann.

American Manufacturers policyholders with good loss experience face price hikes of less than 10%, he said. Other risks will face bigger increases.

Rate hikes also will vary by jurisdiction, Mr. Lindemann said.

Policyholders will pay 15% to 20% higher premiums for auto coverage, estimated Joe Gilles, an executive vp for the group of insurers affiliated with Liberty Mutual Insurance Co. of Boston.

An important concern for many insurers is their increased exposure to uninsured and underinsured motorists risks in Ohio as a result of state Supreme Court rulings over the last two years.

For example, auto coverage results are "looking pretty good" for Warren, N.J.-based Chubb, which typically covers the risk as part of a commercial lines package, said Steve Pozzi, chief underwriting officer for commercial lines for the Chubb group of insurers. But Chubb will remove auto coverage in Ohio if it considers its exposure too high, he said.

Insurers are taking a much more consistent approach to long-haul trucking operations: They do not want to cover the risk.

Market capacity for long-haul truckers has dwindled as many insurers have withdrawn from the market or reduced their participation, observed Steve Lilienthal, executive vp for U.S. insurance operations at the St. Paul Cos. Inc. of St. Paul, Minn. Insurers that have continued to underwrite the business are commanding "significant" rate hikes, he said.

Insurers are boosting workers compensation premiums by 15% to 20% in general. Despite employers' success in reducing claim frequency, loss severity continues to deteriorate, insurer executives report.

Employers with good workers comp loss experience can limit their premium increases to 8% to 15%, while those with poor experience will pay at least 25% more, said Liberty Mutual's Mr. Gilles

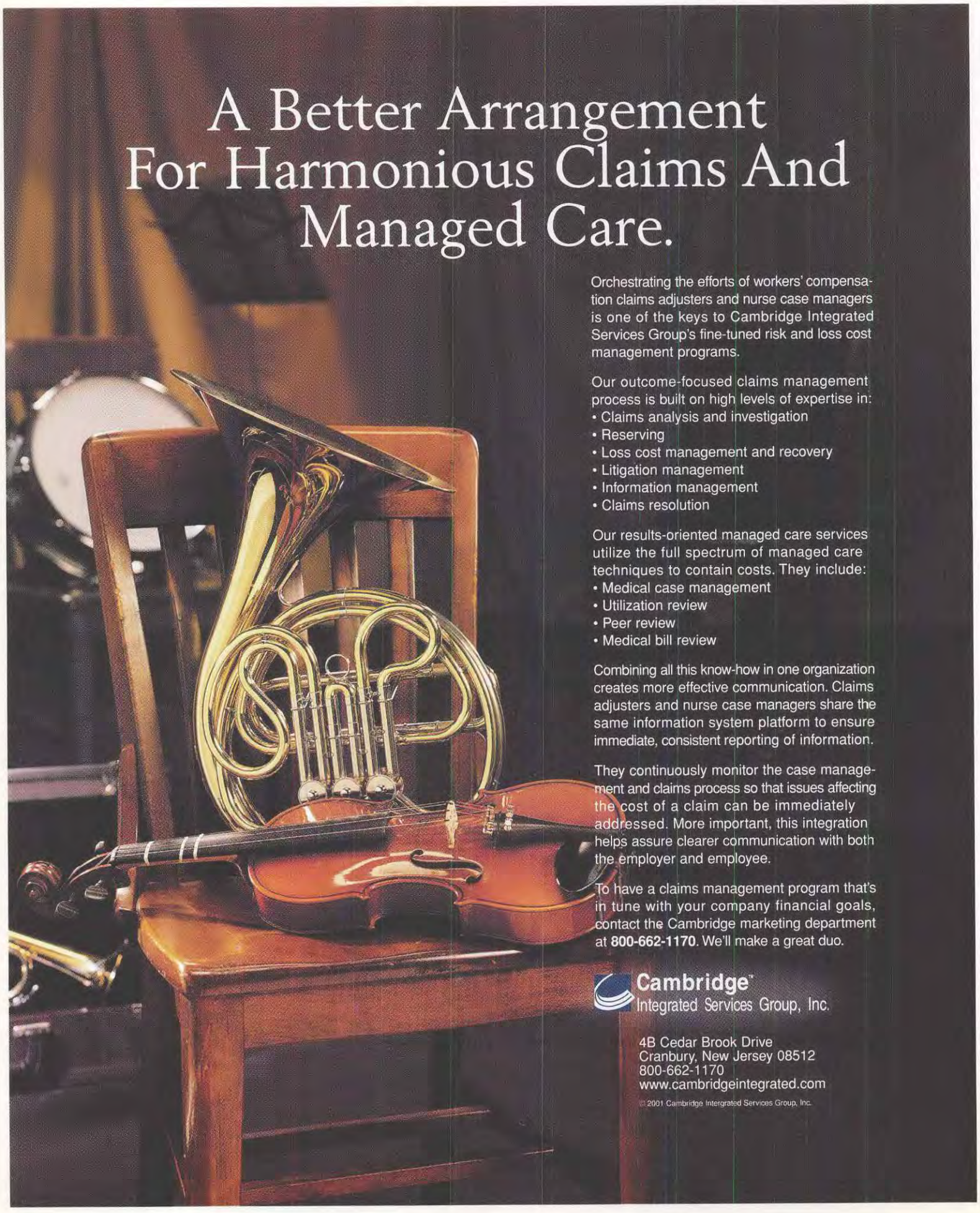
Employers with guaranteed-cost plans may pay as much as 50% more, depending on where they are located and their loss experience, ACE's Mr. Springer said.

On average, employers in California and Texas should expect steeper premium hikes, said American Manufacturers' Mr. Lindemann.

Policyholders may face easier workers comp renewals with insurers that are not broad players in the market. An example is Chubb, which Mr. Pozzi said was especially careful with its workers comp book of business in the late 1990s. As a result, Chubb is keeping the percentage increases in workers comp premiums down to the "high single digits to the low double digits," he said.

While the market poses significant challenges for all industry professionals, it also has made the industry more exciting, Kemper Casualty's Mr. Kane observed. "To me, the story line here is that professionals get to exercise their technical skills—whether you're a risk manager, a broker or an underwriter," he said.

"It's more exciting than it was a few years ago, when you were just looking to cut prices." BI



GLOBAL BRIEFS

London-based **inreon Ltd.** has acquired Risk Transfer Exchange Inc., which, like inreon, is an independent, Internet-based exchange for reinsurance products. Inreon Chief Executive Officer Rob Bredahl said the two companies complement each other geographically, with inreon concentrated on Europe and Risk Transfer Exchange focused on North America. Risk Transfer Exchange has offices in New York and Stamford, Conn. Chip Adams, CEO and joint founder of Risk Transfer Exchange, said the combination would "ideally position us to provide an advanced and attractive platform for the management of risk placement." inreon was launched last year by several companies, including Munich Reinsurance Co. and Swiss Reinsurance Co., to allow brokers and insurers to place risk online....Australian insurer **QBE Insurance Group Ltd.** plans to increase its Lloyd's of London underwriting capacity for 2002. The QBE syndicates have total capacity for 2001 of $2.3 billion Australian ($1.19 billion), of which 72.5%, or $1.8 billion Australian ($929.2 million), is provided by QBE. The Sydney, Australia-based insurer said it plans to raise its Lloyd's underwriting capacity for 2002 by 10%, to $2.0 billion Australian ($1.03 billion). QBE's syndicates are managed by Limit P.L.C., which QBE acquired last year. QBE said that it plans increase its underwriting capacity on profitable Lloyd's syndicate 386, a specialist non-U.S. liability underwriter, and on specialist syndicates aligned to 386. QBE, however, will withdraw capital from aviation and property syndicate 318 and plans to sell Limit's right to manage the syndicate....A.M. Best Co. has assigned a financial strength rating of A to **CGU Insurance Co. of Canada** and to its sister company Elite Insurance Co., both based in Scarborough, Ontario. Best also assigned an A- financial strength rating to Scottish & York Insurance Ltd. and to Traders General Insurance Co., both of Scarborough, which are subsidiaries of CGU Group Canada Ltd. In addition, Oldwick, N.J.-based Best has assigned an A group rating to Victoria Reinsurance Ltd. of Barbados. Victoria Re reinsures the risks of affiliate subsidiaries of CGU Group Canada Ltd. Best said the ratings reflect CGU's position as the largest property and casualty insurer in Canada, its good capital position, sound underwriting leverage, large asset base and diversified independent broker network. CGU is a subsidiary of U.K. multiline insurer CGNU P.L.C....**Aon Consulting Ltd.** in London has hired David West as a senior consultant in its international benefits practice. Mr. West, who has spent most of his 20-year career in benefits consulting with companies that are now part of William M. Mercer Inc., will advise major multinational corporations on all aspects of benefits consulting, including global benefits strategy, international benefit audits, and merger and acquisition due diligence. In addition, Mr. West will establish and manage expatriate packages and the pooling of insured benefit programs....**AXA Corporate Solutions**, the large-risk unit of Paris-based AXA Group, will open an aviation underwriting office in New York. AXA has recruited a team of three aviation underwriters for the operation, which will be headed by Vp Karl Jorda, who was previously with U.S. Aircraft Insurance Group....Pan-European insurer **Eureko B.V.** has bought the 10% it did not already own of its fund management operator, F&C Group (Holdings) Ltd., from Foreign & Colonial Investment Trust P.L.C. F&C is the holding company of investment manager F&C Management Ltd.

Aussie municipal liability grows

Governments fear High Court rejection of 'highway immunity' will spur litigation

By DAMIEN TOMLINSON



CANBERRA, Australia—Australia's highest court has pierced state and local governments' shield of immunity from liability for failing to maintain public roads and sidewalks.

The decision by Australia's High Court expands the liability exposure of government entities, and could lead to new legislation that would reinstate governmental immunity if the number of lawsuits soars.

In a majority decision delivered May 31, the High Court abolished the court's longstanding "highway immunity" rule of law, also known as the "nonfeasance immunity" rule. The rule, which had been part of English law adopted by Australia, held that government entities had no duty to maintain roads, sidewalks and road shoulders under their control. It also granted them immunity from claims of injury or damage, provided the entity did not cause the problem through negligent construction or repair.

The Sydney-based Australian Local Government Assn. warned that the decision would increase local governments' liability premiums, due to more frequent negligence judgments awarded against local governments and other Australian authorities responsible for the maintenance of roads, sidewalks and other public surfaces.

"In my view, this leaves councils wide open," ALGA President John Ross said. "The worst implication for local governments is that councils will begin to close roads, as they will not be able to afford the risk of having them open," he said.

John Wright, a partner at Sydney-based law firm Bartier Perry, said the decision will require local councils to be more aggressive in correcting defects in their roads and sidewalks.

"The result would seem to be that the floodgates have been opened by the High Court, and that flood is about to arrive," Mr. Wright said.

The ruling has sparked calls for uniform legislation among all of Australia's states and territories to limit the liability of public entities for road accidents.

Australian Prime Minister John Howard hosted a June 8 meeting in Sydney of the Council of Australian Governments on the ruling. Political leaders attending called on the Canberra-based Australian Transport Council to monitor the impact of the decision, according to ALGA Chief Executive Ian Chalmers. He said the ATC will "monitor the effects, and if there is an outbreak of litigation, it will report to COAG

See **Roads** *on next page*

Court says U.K. law inconsistent with E.U. mandate

U.K. vacation eligibility to expand

By SARAH VEYSEY

LUXEMBOURG—U.K. employers likely will face additional costs following a European Court of Justice ruling that they must provide short-term workers with a paid vacation benefit or its cash equivalent.

In its decision last week, the European Court of Justice in Luxembourg ruled that the U.K. government in 1998 had improperly implemented the European Union's working time directive. That directive guarantees workers the right to four weeks annual paid leave. Under U.K. law, though, workers are not eligible for leave until they have worked for their employer for at least 13 weeks.

But in a test case brought by the U.K. Broadcast, Entertainment, Cinematograph & Theatre Union, the European court ruled that the U.K. statute was in breach of E.U. law and that all workers should be eligible for the leave or comparable payment.

BECTU, which has about 30,000 members, had argued that because many of its members frequently could not satisfy the 13-week condition, they were not getting any paid annual leave.

A spokeswoman for the Confederation of British Industry said that it was too soon to judge how much the ruling might cost employers or how many workers would be affected. She said that the figures would only be known after the government had conducted an assessment on the ramifications of the ruling and implemented changes to U.K. law.



"The government will be consulting urgently on draft regulations and guidance, which will bring the working time regulations into line with the terms of this judgment," Employment Relations Minister Alan Johnson said in a written statement issued by the Department of Trade and Industry. "As part of the consultation, we will be proposing a system of accrual in the first year of employment, providing one-12th of the annual entitlement in each month, rounded to the nearest full day. This would mean that a full-time employee could take two days after one month."

Mr. Johnson added that the government would issue guidance to employers on how to manage the new rules.

See **Leave** *on next page*

Australia sets agenda for HIH probe

State Supreme Court judge appointed to oversee sweeping investigation

By DAMIEN TOMLINSON

CANBERRA, Australia—Australia's prime minister has named a state Supreme Court judge to oversee a royal commission charged with investigating the collapse of Sydney-based insurer HIH Insurance Ltd.

Western Australia Supreme Court Judge Neville Owen, a specialist in commercial litigation and corporate insolvency, was chosen for the job by Prime Minister John Howard.

The commission will investigate all factors surrounding the collapse, including the actions of HIH directors and officers as well as those of federal and state insurance regulators, and whether legislative changes are need to avoid similar collapses in the future, according to Mr. Howard. The commission's inquiry will commence on Sept. 1 and is due to report its findings by June 30, 2002.

Mr. Howard said the royal commission would cooperate with an investigation currently being undertaken by the Australian Securities and Investments Commission.

The Sydney-based Insurance Council of Australia welcomed the commission's proposed agenda.

ICA Executive Director Alan Mason said the group is glad the commission will also investigate insurance regulation, as there are "considerable" inefficiencies and, therefore, increased costs to consumers "because of the duplication of regulation, licensing and control of the industry."

"It is imperative that the causes of this collapse, which has caused significant hardship for such a significant number of people, be clearly identified so that everything possible can be done to try to ensure that it does not happen again," Mr. Mason said. "ICA believes this will go a long way to strengthening the insurance industry, but the royal commissioner may also identify other areas for improvement to ensure the ongoing stability of the industry."

Roads

Continued from previous page

members."

"The ALGA is concerned about the potential liabilities for local councils, but that is purely speculative at this stage," Mr. Chalmers said.

Graeme Jeffries, risk manager with Sydney-based insurance broker Jardine Lloyd Thompson Pty. Ltd., agreed that the full impact of the decision will not be known until it is "given time to settle."

He noted that courts previously have found ways around the government immunity rule.

Nonfeasance—or failure to perform a duty—"was always a gray area of the law. Judges could always rely on other parts of the law to bypass the rule," he said.

Mr. Jeffries said the decision will likely increase government entities' costs.

"In light of this decision, councils will have to prioritize their spending and devote more effort to the upkeep of public surfaces," he said.

Mr. Jeffries downplayed the ruling's effect on insurance prices, however.

While rates may increase for public entities, this is only because the market is hardening, he said.

Most public entities in Australia obtain their liability coverage from self-insurance pools, especially since 1997, when HIH Insurance Ltd. withdrew from the market. HIH is now in provisional liquidation (*BI*, March 26).

Graeme Lemmer, manager for Melbourne, Victoria-based Civic Mutual Plus Pty. Ltd., said that the local government pool has not imposed any immediate rate hikes on its 106 members, which include most local government councils in the states of Victoria and Tasmania. CMP has circulated a notice to its members alerting them to the decision, though, and urging them to implement risk management strategies to minimize their exposure, he said.

Dennis Williams, legal and risk manager with Wollongong City Council, south of Sydney, predicted that the High Court's decision will "cost councils money."

He said, however, that the nonfeasance rule was introduced "in another world," when local councils were trying to avoid the obligation of maintaining gravel roads, which required more maintenance than modern sealed surfaces.

"Responsible councils should not have relied on the nonfeasance rule. They should be managing their road liabilities the same as any of their other risks," he said.

> *'Councils will have to prioritize their spending and devote more effort to the upkeep of public surfaces.'*
>
> *— Graeme Jeffries*
> *Jardine Lloyd Thompson Pty. Ltd.*

Four of the seven High Court judges agreed in a majority opinion that the immunity rule was outdated and should be abolished. The United Kingdom, from which Australia's law was derived, abolished a similar rule from its laws in 1961. The dissenting judges generally argued that the federal government, and not the court, should be responsible for changing the law.

The High Court's ruling came after hearing two cases that challenged the rule. The High Court had agreed to hear both cases together, because of their legal similarity.

The High Court remanded one case, *Brodie vs. Singleton Shire Council*, to the New South Wales Court of Appeal for a rehearing, in light of the High Court's finding that the council, in northern New South Wales, could be liable for negligence if nonfeasance immunity did not apply.

In the case, truck driver Scott Brodie sued the council for injuries he sustained in August 1992, when a 50-year-old bridge, which had a maximum load limit of 15 tons, collapsed after he drove a 22-ton truck onto it.

Singleton Shire Council had repaired the bridge before the accident, but had failed to conduct simple tests that would have revealed that girders were rotting, and that the bridge's effective load limit had been reduced to as low as nine tons, the High Court was told.

Mr. Brodie's lawyers argued that the council was negligent for failing to detect the rot and fix the bridge. The council's lawyers relied on the nonfeasance immunity, saying the council had no responsibility to inspect and repair the bridge, and that the repairs it had performed did not make the bridge more unsafe.

The High Court judges were unanimous in dismissing the other case, *Catherine Ghantous vs. Hawkesbury Shire Council*. Ms. Ghantous, 63, sued the council for injuries sustained after tripping on a sidewalk. According to court filings, she had stepped aside to allow other pedestrians to pass and tripped on a two-inch height difference between the concrete sidewalk and an adjacent grass border, or verge.

The court decided that, irrespective of whether the highway immunity should remain law, Ms. Ghantous failed to establish negligence on the council's part.

Writing for the unanimous court, Judge Ian Callinan said, "It is not unreasonable to expect that people will see in broad daylight, what lies ahead of them...as they walk along. No special vigilance is required for this. There was no negligence on the part of the (council) either in the construction of the footpath or in not keeping the concrete strip and verges level."

Michael Down, a partner with Sydney-based law firm Phillips Fox who represented Hawkesbury Shire Council, said that councils and road authorities can take comfort from strong statements delivered by the court in his client's case that road users have some responsibility for their own safety.

However, "I am extremely concerned the court has abolished this important defense for councils" by removing the nonfeasance immunity, he said.

"This decision interferes with councils' abilities to determine policy and the best use of their resources," he said. "Councils are there to provide facilities, but they do not have the resources to maintain millions of miles of roads and sidewalks."

Mr. Down said he expects the court decision will accelerate the introduction of legislation to reinstate the immunity rule. BI

Leave

Continued from previous page

The British Chamber of Commerce said that the change would cause difficulties for employers, particularly those that employ working parents. It said that many employers that take on short-term staff to cover paid maternity or paternity leave absences will now have to provide additional compensation to those temporary employees.

The CBI said it was disappointed with the ruling. "Employers believe it is reasonable to have a qualification period before employees become entitled to holiday pay. This is a common practice in many E.U. states, including Germany, Belgium and Greece," said Susan Anderson, the CBI's director of human resources policy.

"The ruling will be an inconvenience for employers and employees," she added. "Employers who employ people on short contracts of three or four weeks will want staff available to work the whole duration of the contract.

"Planning for holidays will cause disruption and inconvenience. Employers often pay a premium for this flexibility, and many employees prefer having extra pay in lieu of holidays. Now, they will not always have the option." BI

Allianz expands role in Russia

MUNICH, Germany—Allianz A.G. Holding plans to "significantly" expand its activities in Russia by acquiring a 45% stake in one of the country's largest insurance companies, Moscow-based Rosno.

The deal, which was announced June 27, comes with an option for Allianz to subsequently raise its stake.

Rosno underwrites both life and property/casualty business. According to Allianz, Rosno's gross premium volume totaled $311 million in 2000, while its assets were $324 million. Its clients include Russian companies, international companies and individuals.

Allianz is acquiring the shares in Rosno from the financial and industrial holding company Sistema, based in Moscow, and from other shareholders.

Financial details of the deal, which is subject to regulatory approval, were not disclosed.

Allianz has had a presence in Russia since 1991 through Ost-West Allianz, an insurance company that specializes in large industrial clients. Allianz said its stake in Rosno will allow it "to participate more significantly in the local corporate clients market and the market for personal lines."

The announcement from Allianz said that although OWAZ will remain an independent company, the two companies will attempt to position themselves as a leading insurance group in the Russian insurance market. That market, the announcement said, has "enormous growth potential" and plays an important role in the Commonwealth of Independent States—a loose confederation of former Soviet republics, including Russia.

—By Edwin Unsworth

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DATEBOOK

July

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

JULY 15. 25th National Symposium on Workers' Compensation in Chicago, sponsored by Michigan State University Workers' Compensation Center; $695. WCC, 517-432-7721; fax: 517-432-7723; *www.lir.msu.edu/wcc.*

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

JULY 26-27. Products Liability Course in Boston, sponsored by the American Law Institute and the American Bar Assn.; $895. ALI-ABA, 4025 Chestnut St. Philadelphia, Pa. 19104-3099; 800-253-6397; fax: 275-243-1664; *www.ali-aba.org.*

August

AUG. 5-8. Benefit Communication and Technology Institute in Seattle, sponsored by International Foundation of Employee Benefit Plans; $840 for members and $990 for nonmembers. IFEBP, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 262-786-8670; fax: 262-786-8670; *www.ifebp.org.*

AUG. 6-8. Construction Industry Benefits Conference in Hershey, Pa., sponsored by International Foundation of Employee Benefit Plans; $840 for members and $990 for nonmembers. IFEBP, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 262-786-8670; fax: 262-786-8670; *www.ifebp.org.*

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

AUG. 13-15. Canadian Employment Practices for U.S. Corporations in Canada Program in Toronto, sponsored by International Foundation of Employee Benefit Plans; $975 for members and $1,050 for nonmembers. IFEBP, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 262-786-8670; fax: 262-786-8670; *www.ifebp.org.*

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

AUG. 27-30. 17th Annual National Voluntary Protection Programs Participants' Assn. Conference in New Orleans, sponsored by VPPPA; $375 for members and $575 for nonmembers before April 11; $475 for members and $675 for nonmembers by July 25, and $575 for members and $775 after that date. VPPPA; 703-761-1146; fax: 703-761-1148; *www.vpppa.org.*

September

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

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

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

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

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

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

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

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

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

SEPT. 24-25. Insuring E-Business Conference in Hartford, Conn., sponsored by World Research Group; $1,495 before July 25 and $1,695 after. Liz Smith, 16 E. 40th St., New York, N.Y. 10016; 212-869-7231, ext. 21; fax: 212-869-7309.

October

OCT. 2-3. 12th Annual PricewaterhouseCoopers Executive Conference in New York; $1,200. The Conference Group Ltd., 1 Resource Square, 10925 David Taylor Drive, Suite 100, Charlotte, N.C. 28262; 504-541-2800.

OCT. 2-5. Reinsurance Course in New York, sponsored by Reinsurance Assn. of America; $1,695. RAA, 1301 Pennsylvania Ave. N.W., Suite 900, Washington, D.C. 20004; 202-638-3690.

OCT. 3-5. Self-Insurance Institute of America 21st National Conference and Exposition in Chicago; $675 for members and $995 for nonmembers. 12241 Newport Ave., Suite 100, Santa Ana, Calif. 92705; 714-508-4920; fax: 714-508-4904; *www.siia.org.*

OCT. 5-10. 47th Annual Employee Benefits Conference in San Francisco, sponsored by International Foundation of Employee Benefits Plans; $795 before Aug. 22 and $870 after. IFEBP, 18700 W. Bluemound Road, P.O Box 69, Brookfield, Wis. 53008-0069; 262-786-6700; fax: 262-786-8670.

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



Antifraud measure clears House panel

Bill would ease info sharing

WASHINGTON—The House Financial Services Committee last week approved a bill that would create an antifraud network to allow financial services regulators—including insurance regulators—to share information about fraudulent activities.

Under the Financial Services Antifraud Network Act, introduced by Rep. Mike Rogers, R-Mich., regulators themselves would determine which information to share. The bill would require no new information to be collected, and it does not call for the creation of a new database. In addition, no information about consumers would be collected or shared within the proposed network.

The measure also includes strict privacy protections for the financial professionals under review. In addition, a separate provision would allow the FBI to run a fingerprint check of applicants for insurance licenses through its national fingerprint database, if the agent's home state enacts a uniform or reciprocal agent-licensing law.

The bill's backers say the measure was in part inspired by the activities of Martin Frankel, who was able to enter the insurance industry after being banned from the securities industry, allegedly swindling hundreds of millions of dollars from insurance companies he controlled. Mr. Frankel was recently extradited from Germany to face fraud charges.

"The bill is an important advance, because it views financial services as one industry," said House Financial Services Committee Chairman Michael G. Oxley, R-Ohio. "In the future, con artists will no longer be able to exploit the gaps that exist among the 50 states and among banking, securities and insurance regulators."

The measure, which enjoys bipartisan support, passed the Financial Services Committee last Wednesday.

—By Mark A. Hofmann

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LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING-UP) 1999: No.87
IN THE MATTER OF THE COMPANIES ACT 1981
AND IN THE MATTER OF
SEABOARD ATLANTIC RE, LTD. - IN LIQUIDATION
NOTICE TO CREDITORS OF INTENTION TO A DECLARE DIVIDEND

NOTICE IS HEREBY GIVEN that a dividend is intended to be declared in the above matter.
Creditors who have not yet proved their claims are advised that unless their claims are submitted to the Joint Liquidators by Wednesday 18 July 2001, they will be excluded from participating in the above dividend. Creditors who have not yet proved their claims are requested to submit their claims to the Joint Liquidators by no later than 5.00 pm (Bermuda Time) on Wednesday 18 July 2001.
Any Creditor who wishes to receive a claim form should contact the Joint Liquidators in writing at the following address: Seaboard Atlantic Re, Ltd.- In Liquidation, PricewaterhouseCoopers, P.O. Box 1171, Hamilton HM11 EX, Bermuda.
Furthermore, creditors are advised that following the payment of the above dividend it is the intention of the Joint Liquidators to apply to the Court for their release.
PETER C B MITCHELL *Joint Liquidator*
21 June 2001

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Pension

Continued from page 3

called ERISA provisions were pruned from the bill in conference committee because of objections raised by some legislators that the provisions had no impact on federal revenues and thus could not be part of a tax bill.

Those provisions relating to the Employee Retirement Income Security Act, to which there were no substantive objections, could become part of Portman-Cardin II.

"I would hope all of the ERISA provisions find another vehicle," said James Klein, president of the American Benefits Council.

Some of those stripped, but noncontroversial provisions would:

- Allow employers terminating defined contribution plans to turn over to the Pension Benefit Guaranty Corp. the burden of finding participants whom employers cannot locate.

A similar missing partici-

'Employers are willing to follow reasonable rules. But we need to know what those rules are. A state of uncertainty does not help anyone.'

— Kyle Brown
Watson Wyatt Worldwide

pants' program now exists for defined benefit plans. The PBGC has located about 7,900 participants and has or will pay a total of $25 million to those participants.

Those participants typically are former employees who quit before retirement and haven't informed their former employer of where they live.

Employers, based on plan terms, provide the PBGC with funds needed to pay the participants what they have earned. After that, the employer is relieved of the responsibility of trying to locate the missing individuals.

- Reduce flat-rate PBGC premiums for small employers starting new pension plans. The House version of the pension bill would have set the PBGC annual premium rate at $5 per participant for the first five years after employers with 100 or fewer employees start new plans. The current premium is $19 per plan participant.
- Give the Secretary of Treasury authority to develop rules that would allow employers to prove through "facts and circumstances" that their pension plans did not discriminate in favor of higher-paid employees even if the plans failed other federal non-discrimination tests.

But benefit experts want the next pension reform bill to go beyond what was stripped from the recently enacted law. Indeed, a top priority, many say, is to correct problems inadvertently created by the new law.

One big problem area involves make-up contributions. Under that provision of the new law, employees age 50 and older can each contribute—assuming they already have made the maximum contributions allowed under law—an extra $1,000 to their 401(k) plans.

While this provision sounds simple on paper, "It can be very complicated to administer. Vendors have identified myriad migraine headaches they will face in the administration of catch-up contributions," said Ethan Kra, chief actuary with William M. Mercer Inc. in New York.

Beyond fixes, experts also would like to see the new bill address such areas as:

- PBGC premiums. With a nearly $10 billion surplus in its insurance fund—used to pay benefits of participants in underfunded pension plans the PBGC has taken over—Congress can, experts say, safely lower premiums employers with defined benefit plans pay the PBGC. Those premiums help to fund the insurance program.

"The insurance program is funded quite well and insurance premiums, at least for well-funded plans, can certainly be reduced," said Larry Sher, a principal in Teaneck, N.J., with Unifi Network, a unit of PricewaterhouseCoopers L.L.P.

- Hybrid pension plans. Benefit experts say Congress needs to provide more certainty on rules employers must follow in setting and administering hybrid plans, such as cash balance plans, that combine elements of defined contribution and defined benefit plans. The absence of such rules has led to a plethora of litigation involving such issues as whether the way benefits are earned in the plans discriminates against older employees.

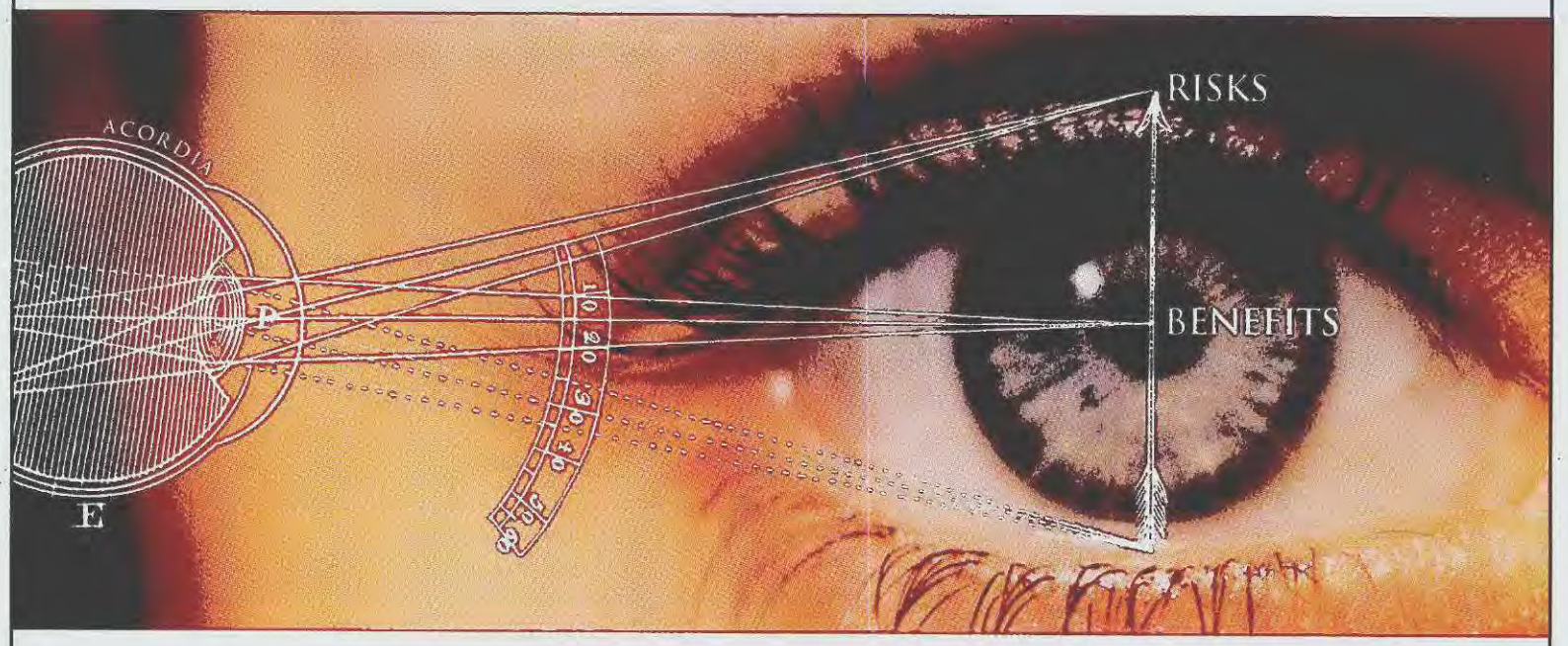
"Employers are willing to follow reasonable rules. But we need to know what those rules are. A state of uncertainty does not help anyone," said Kyle Brown, an attorney with Watson Wyatt Worldwide in Washington.

- Retirement security. Some benefit experts, concerned that employees taking their pension benefits as a lump sum might run out of funds they will need at retirement, say more incentives are needed to encourage employers to take their benefits as a lifetime annuity.

"How many employees have the financial wherewithal to manage a big lump sum? By contrast, with an annuity, you have a guaranteed stream of income for life," Mr. Brown said.

One way that legislators could encourage pension plan participants to take their benefits as an annuity would be to tax the monthly payments at the 20% long-term capital gains rate. Annuities now are taxed as ordinary income, which generally is taxed at a higher rate than capital gains. BI

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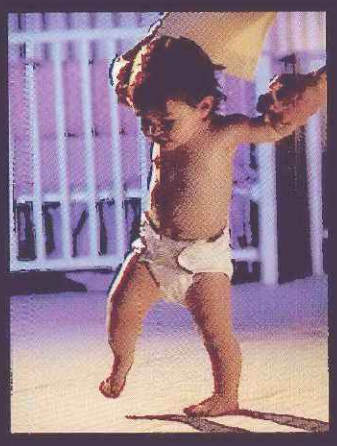
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May 28	Benefits: Pensions/Retirement Plans *Directory: 401(k) Plan Administrators*		May 16
Jun 4	*Distribution: AIRMIC; IASA*	ABT Employee Recruiting & Training	May 23
Jun 11	Government Risk Management *Distribution: AAHP; NAIC; PRIMA*		May 30
Jun 18		IT Employee Recruiting & Training	Jun 6
Jun 25	Benefits: Balancing Work & Life *Directory: EAPs & Dependent Care Resource & Referral Services* *Distribution: IMCA; SHRM*		Jun 13
Jul 2	Midyear Market Report: Property/Casualty & Health Care	ABT Marketing Strategies	Jun 20
Jul 9			Jun 27
Jul 16	30th Annual Agent/Broker Profiles *Directory: Agents & Brokers*	IT Marketing Strategies	Jul 3
Jul 23			Jul 11
Jul 30	Risk Management Services *Directory: Risk Management Consultants*		Jul 18
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COMMENTARY

Public safety at a crossroads

U.S. automobile insurers have introduced exclusions for any accidents that occur in intersections recently identified as the 10 worst in the country in 2000. Policyholders have been warned to avoid the intersections or face the consequences. Accidents that occur elsewhere will be covered as normal, unless the area is later deemed too dangerous.

Of course, I'm only joking, so relax. We all know the insurance industry would never go out of its way to limit coverage or avoid claims for known or expected hazards, no matter how fortuitous.

The news about the nation's 10 worst intersections comes courtesy of State Farm Mutual Automobile Insurance Co., which last week released a list of intersections that saw the greatest frequency and severity of auto crashes among State Farm's policyholders in 2000. The insurer also made available a database on its Web site, *www.statefarm.com*, so people who do not have the dubious honor of living near one of these dangerous crossroads can find the most dangerous intersections in their state. Equipped with this knowledge, they can try to avoid these hazards— which is sensible personal risk management—or drive through them repeatedly in a small sports car to see whether they survive, which might be a stunt worthy of an upcoming MTV television program.

The nation's 10 most dangerous intersections in 2000, in descending order, were:


Paul D. Winston

- Flamingo Road and Pines Boulevard, in Pembroke, Fla.
- Red Lion Road and Roosevelt Boulevard in Philadelphia.
- Grant Avenue and Roosevelt Boulevard in Philadelphia (do I detect a pattern?).
- Seventh Street and Bell Road in Phoenix.
- 51st Street and Memorial Drive in Tulsa, Okla.
- 71st Street and Memorial Drive in Tulsa, Okla. (more patterns?).
- 19th Avenue and Northern Avenue in Phoenix.
- State Highway 121 and Preston Road in Frisco, Texas.
- Clearview Parkway and Veterans Memorial Boulevard. in Metairie, La.
- Fair Oaks Boulevard and Howe Avenue in Sacramento, Calif.

Those of you who have never passed through these intersections, or who did so and lived to tell the tale, consider yourselves lucky. Any of you who have to pass through these intersections regularly should expect to find them under construction or with new stop signs real soon.

That's because State Farm's annual list seems to have the salutary effect of prompting these safety hazards to be fixed. Only one of 1999's most dangerous intersections—the one in Sacramento—also appears on the 2000 list. To their credit, most public entities that had any of 1999's most dangerous intersections within their jurisdiction have since sought federal grants and taken other steps to determine where the hazards lie and, in at least three instances, to correct them. These 1999 sites and the actions they took are also listed on State Farm's Web site.

That indicates that public entities, once apprised of the threat, took appropriate steps to eliminate the hazard and boost public safety. No doubt it also protects the public entity from facing a big liability for possible negligence in allowing a known hazard to continue. Whatever the reason, State Farm truly is performing a public service.

(Wouldn't it be nice if such useful loss information were made available publicly to commercial policyholders to avoid potential hazards and risks?)

State Farm's site also makes available additional interesting information from its study of U.S. intersections. In a bid to upstage rival auto insurer—and a leading purveyor of irreverent research—Progressive Corp., State Farm has identified the five "funniest" intersections:

- Grin and Barrett in West Chester, Ohio.
- Bland and Gore in Pueblo, Colo.
- Ho and Hum, in Carefree, Ariz. (I presume no auto claims have ever come from here).
- Antonio and Banderas in Rancho Santa Margarita, Calif.
- Hickory, Dickory and Dock in Harahan, La.

Keep up the important research, State Farm, and may others follow your lead.

Meanwhile, for those of you who read this column for golf news, the Supreme Court announced that it has agreed to hear a case arguing that the Senior PGA Tour discriminates against younger golfers. Doesn't the court have more important matters to attend to than wrecking the game of golf? OK, such a claim doesn't exist, but who knows what the future may hold? Thanks to so many of you for your feedback on my Commentary regarding the Casey Martin verdict by the U.S. Supreme Court (*BI*, June 18; June 4). All of your comments were thought provoking and appreciated, but I think a third column on the topic would be akin to nine-putting a par 3 hole.

Editor Paul D. Winston's commentary appears fortnightly and online at www.businessinsurance.com. *He can be reached at* pwinston@crain.com.

Syndrome

Continued from page 1

Clarke Stevens. The neurologist, now at the clinic's Rochester, Minn., headquarters, is the lead author of the study, which was published last month in Neurology, the official journal of the St. Paul, Minn.-based American Academy of Neurology.

In addition to determining the incidence of carpal tunnel syndrome, the study also found that among those workers with the disorder, two-thirds of them had "very mild" cases.

Carpal tunnel syndrome results from compression of the median nerve, which passes through the carpal tunnel at the wrist and into the palm, where it sends out branches that control feeling to the thumb, index, middle and part of the ring fingers. Symptoms include numbness, tingling and pain in the hand.

"The major risk factors for developing carpal tunnel syndrome are being female and middle-aged," said Dr. Stevens. In addition, known causes of carpal tunnel syndrome include wrist trauma, diabetes, rheumatoid arthritis or pregnancy, according to the researchers.

Previous studies have shown that meat-packing plant workers and jackhammer operators may get carpal tunnel syndrome from their work, Dr. Stevens said.

The study prompted a wide range of assessments about its impact on ergonomics regulation and workers comp claims.

One of the strongest supporters of the study is Eric Oxfeld, president of UWC Inc., a Washington-based association representing business interests. "The study not only casts doubt on the OSHA ergonomics regs, it also casts doubt on (employers') liability for workers compensation claims based on carpal tunnel syndrome," he said.

"Proponents of the OSHA ergonomics standard and conventional wisdom would have you think that work is the cause of many painful conditions, but it is clear from the study that the science to support that contention isn't there," Mr. Oxfeld said. The study really raises questions and "may prove to be another arrow in the quiver of an employer's defense strategy in fighting workers compensation claims for CTS," he said.

Chicago-based attorney Michael E. Rusin, who defends employers in workers comp cases, also is excited about the study's findings.

"This is the first time that a study proved that repetitive motion is probably not repetitive trauma and doing this work doesn't increase the likelihood of getting carpal tunnel syndrome," he said. "I have been arguing this point for years and the (Illinois) Industrial Commission—which adjudicates claims—has sneered at such an unsubstantiated position," said Mr. Rusin of Rusin Patton Maciorowski & Friedman Ltd. "This study supports our contentions and should certainly be used by our (independent medical examiner) doctors to bolster their testimony on causation issues," he said. "I think it will definitely have an effect on cases involving office workers," Mr. Rusin added.

Other employer or insurer representatives, however, were less enthusiastic about the study's pro-employer impact, because of the nature of states workers compensation adjudicatory systems.

"It probably places more of an evidentiary burden on a claimant trying to make a case," said Bruce C. Wood, assistant general counsel with the American Insurance Assn. in Washington.

Nationally, however, most state systems award benefits if a job contributes to or aggravates a worker's condition and does not require that it be the sole cause of it, he said.

The impact of the study on workers comp cases is diminished by the comp system's evidentiary standards, which are lower than those found in tort cases, said Nancy Schroeder, assistant vp-workers compensation with the National Assn. of Independent Insurers in Des Plaines, Ill.

The higher burden of proof in tort cases in most states is one reason why keyboard manufacturers have won most of the class-action product liability lawsuits against them, she said. In fact, the study's findings could bolster keyboard manufacturers' defenses, she added.

From the National Assn. of Manufacturers' point of view, "this Mayo Clinic study reinforces the conclusion reached by the National Academy of Sciences earlier this year (*BI*, Jan. 22), that the science surrounding ergonomic-related complaints is far from complete and that more research is warranted and more accurate statistics are needed on the exact causes of such complaints," said Jenny Krese, the NAM's director of employment policy.

From labor's perspective, though, "the study doesn't tell you a whole lot," due to limitations including sample size and a lack of control group, said Peg Seminario, director of safety and health for the AFL-CIO in Washington. Unfortunately, "it's something that is being hyped that really shouldn't be hyped," she said.

In addition, a spokeswoman for the Communications Workers of America challenges the conclusions of what she termed a "very limited" study. "It shouldn't be used to make any changes in programs like workers compensation," she said.

•

A copy of the study is available by calling the American Academy of Neurology at 651-695-2763.

Quake

Continued from page 3

Cities hit by the quake include Arequipa, Peru's second-largest city and the site of numerous colonial-era buildings; Moquegua, a southern provincial capital; and Camana, a coastal town. Camana was hit by a tsunami that flooded houses and killed more than 20 people.

Late last week, local authorities reported a total of 115 dead, nearly 1,400 injured and about 50 people still missing.

Most of the property damage in the quake was sustained by uninsured older residential buildings, according to loss adjusters and brokers in Peru.

"According to the information we are gathering, the losses are mainly in areas that are not covered by insurance," said Guillermo Carrillo, chairman and chief executive officer of Delphos Re, a reinsurance broker in Lima.

Earthquake damage is covered under riders in about 90% of the property policies written in the affected areas, but most of the residential buildings damaged likely carried no insurance at all, he said.

Arequipa does have an industrial park, but most of its buildings withstood the quake, and losses will likely be light or fall within policy deductibles, Mr. Carrillo said.

Based on early damage estimates, no local insurers in Peru expect quake losses to hit their catastrophe excess-of-loss coverages, he said.

A major energy company and several mining companies suffered losses that will likely lead to claims for property damage and business interruption, said Alfredo De Cossio, managing director and CEO of Marsh Peru, a unit of Marsh Inc. He would not reveal the names of the policyholders.

One of the major concerns for mining companies is that several area roads have been blocked, which may lead to business interruption claims, Mr. De Cossio said.

Those suffering losses will likely have transferred most of the risk under facultative reinsurance contracts with international insurers, Mr. De Cossio said.

"But, overall, I don't think it will be a major loss," he said.

New York-based Southern Peru Copper Corp. had to shut down its mines immediately after the quake, but it resumed operations last Monday, a New York-based spokesman for the company said. The mine produces about 900 tons of copper per day, he said.

The quake also damaged the company's railroad, which will take about three weeks to repair, he said. Although that delay likely will disrupt the company's copper deliveries, it is unlikely to lead to a significant financial loss for the company, the spokesman noted.

Loss adjuster Cunningham Lindsey International Ltd. is working on several claims from the quake, but the losses likely won't be catastrophic for insurers, said Ben Price, the London-based coordinator of Latin American operations for the adjuster.

Although Cunningham Lindsey often sends 30 to 50 adjusters to areas hit by major earthquakes, it seems so far that the adjuster will need to send only a handful to the Peruvian quake zone, Mr. Price said. BI

Rights

Continued from page 1

lawsuits when patients are severely injured by coverage decisions made by HMOs and other employer-sponsored health-care plans. Without such protection, many employers would be forced to cut back or drop coverage for their workers, say immunity proponents. But a total employer immunity amendment was defeated, as was an unrelated motion that would have sent the bill back to committee for further review.

Under the Snowe amendment, the health insurer underwriting an employer plan would automatically become the designated decisionmaker and would bear all liability if a participant sued for denial of health coverage. Self-insured plans that don't self-administer their plans would enjoy protection from liability if the employer can prove that it did not directly participate in a medical decision. In addition, a last-minute compromise would exempt employers with self-administered, self-insured plans from federal suits brought over contractual questions and would allow them to further immunize themselves by appointing a designated decisionmaker, Sen. Edwards told his colleagues shortly before they voted on the measure.

The amendment would also require that a designated decisionmaker certify at least annually that it can meet its potential financial obligations and that it carry insurance or make other arrangements to meet those obligations. The amount of insurance or other funding would be determined actuarially on an individual basis, according to the amendment.

> *When designated decisionmakers receive a claim, 'if it is even close, they are going to pay it. Pay it. Pay it.'*
>
> *— Sen. Don Nickles*
> *R-Okla.*

This approach, while diminishing the prospects that an employer would be held liable for a plan's medical decisions, could still increase employer costs, said Helen Darling, senior health care consultant in the Stamford, Conn., office of Watson Wyatt Worldwide.

"Uncertainty is worrisome but my concern would that under the umbrella of compromise there will still be very high additional costs for employers because they will have to pay for the designated decisionmaker and all the service around that including their liability protection," Ms. Darling said. "It's a different kind of cost shift—the employers won't be paying so much directly but they will be paying a lot more indirectly because they will have to have agents in place to do things that they didn't have to do before," she said.

"There is certainly some modest value. It provides some relief for some of the liability under the Kennedy-McCain bill," James A. Klein, president of the American Benefits Council in Washington, said of the amendment. He noted, however, that while the amendment "certainly is well-intentioned," it does nothing to deal with other legal concerns of employers.

For example, Mr. Klein said, it does not address the possibility of class-action lawsuits brought under the bill and did not include a requirement that participants exhaust all external reviews of coverage disputes before they seek legal redress, he said.

The Senate on Friday voted 98-0 in favor of an amendment that restricts participation in a class-action lawsuit brought under the act to employees of one company or participants in one plan.

"It's better to have an option than nothing. But anyone deluded into thinking this isn't going to cost a lot of money is missing the key facts," said Watson Wyatt's Ms. Darling.

Ms. Darling added that when the "usual risk averse behavior of insurance companies" is factored into the equation, the costs would rise considerably. She pointed that such additional costs will come on top underlying cost trends, which are already high.

One of the four senators to vote against the amendment—Sen. Don Nickles, R-Okla.—made a similar point during the debate.

Faced with liability "if things don't work out," designated decisionmakers "are hardly ever going to say no," he said. When the designated decisionmakers receive a claim, "if it is even close, they are going to pay it. Pay it. Pay it," he said.

"The net result is that this designated decisionmaker that some people think is going to exonerate employers will show that this is a very expensive provision, and the cost of this bill, the cost of medicine, the cost of health care and therefore, ultimately the number of uninsured will rise dramatically as a result of this bill and because of this provision," said Sen. Nickles.

Earlier in the week, the Senate had defeated by 56 votes an amendment that would have totally sheltered employers from liability.

The amendment—which was offered by Sens. Phil Gramm, R-Texas and Kay Bailey Hutchison, R-Texas—was based on Texas' state patients' bill of rights law.

Meanwhile, President Bush has been meeting with House Republicans, who have prepared their own patient protection act—which enjoys some Democratic support—as a counter to the House version of Kennedy-McCain-Edwards. The House GOP bill would allow lawsuits over coverage disputes to be brought against employers under some circumstances. BI

Codes

Continued from page 3

can't find another trade-off, someone dreams up another one," said Jim Messersmith, coordinating manager, regional code services with the Portland Cement Assn. in Richmond, Va. "I feel like there's enough in the code now."

Proposals to reduce or eliminate passive methods of fire control, such as fire-rated gypsum board, ceiling tiles and corridors, fire doors and other systems, in exchange for increased use of sprinklers raises serious safety questions, according to Richard Licht, business manager of Minnesota Mining & Manufacturing Co.'s specified construction products department in St. Paul, Minn.

Mr. Licht, who was unavailable to comment on the code proposals, said in a white paper he released earlier this month that sprinkler systems used without such passive measures as fire-rated and smoke sealed stairwells and hallways create a danger to occupants. Without the proper barriers, smoke can move unabated through a structure and threaten the people inside.

Current code proposals "serve to roll back the level of public safety and reduce the level of protection that has been achieved in structural fire safety over the past several decades...," Mr. Licht said in the paper.

"Pressure is being applied," Mr. Licht wrote, by special interest groups to "move away from proven and tested life safety practices" in the codes "for reasons of economy."

When trade-offs are instituted, it "changes the competitive situation," Mr. Messersmith acknowledged. For example, when restrictions are relaxed governing to what height combustible materials can be used, it benefits wood producers who are able to put more of their products in a structure, he said.

That benefit comes only if the fire-rating requirement for wood drops low enough, argues Kenneth Bland, director of codes and standards with the American Wood Council in Washington. Otherwise, the competition is heaviest between cement and iron and steel producers, he claimed.

The wood industry, Mr. Bland said, "benefits from sprinkler systems, obviously." And making the systems affordable involves some trade-offs in the code, he emphasized.

"Studies done to date all support automatic suppression," Mr. Bland stated. "It seems to be well-substantiated from a technical standpoint that automatic systems are very reliable."

Passive protection is needed in some large multi-story structures, but the risk of a catastrophic fire can be controlled by sprinklers alone in some smaller environments, he noted.

Mike Pfeiffer, vp of codes and standards at the Building Officials & Code Administrators International, a Country Club Hills, Ill.-based code-making body that was a co-founder of the ICC, acknowledged that there is a move toward more sprinkler requirements in the code. "That is correct. And there have been some sweeping provisions."

Enacted earlier in the IBC is a provision that all residential structures, except single-family dwellings, be sprinklered, he said. "I think you will find that commercial buildings will also have a higher degree of sprinkler protection" than in the past, Mr. Pfeiffer noted.

But Mr. Pfeiffer claimed trade-offs are not automatic. "Occasionally, what you will see is that someone will submit a code change to trade something off," he said. "They are evaluated case by case."

Mr. Messersmith said the NFPA might be missing its chance to come up with a more rigorous code for protecting lives and property. "I thought when the process started, there was an opportunity for NFPA to come up with a code that was more stringent than the IBC. The way the code is headed now, it will be less stringent," he said, because of trade-offs that weaken it.

Dick Davis, senior engineering specialist with FM Global in Norwood, Mass., said that "it's probably not fair" to assume the NFPA 5000 Building Code "favors sprinkler protection over passive protection at this time...They are still writing it."

But there could be some pressure to do so, he acknowledged.

Mr. Davis, who is on the standards and construction committee involved in putting the code together, said the IBC did relax a lot of its previous requirements for passive protection in lieu of sprinkler protection. And, he noted, "admittedly, you do have some of the same people that go to the NFPA hearings."

As an insurer, Mr. Davis said he feels sprinkler protection should be strongly emphasized for most buildings. "However, we don't dismiss passive protection," he remarked.

"Smoke damage is a very critical issue," Mr. Davis said. "You need a combination of sprinklers and passive protection to control the fire and limit non-thermal damage."

"You need to have both," agreed Pete Willse, research consultant with Industrial Risk Insurers in Hartford, Conn., and chairman of the NFPA construction committee working on the code. When and how to use sprinklers and passive systems depends on the type of occupants and the structure that is being protected, he explained.

"One of the things to keep in mind is that both can fail and they complement each other," said Ken Linder, assistant vp-technical services at IRI. Sprinklers are intended to put a fire out or keep it small, he said. If they fail for some reason, passive barriers provide a backup.

"We feel very strongly that automatic sprinklers are good solid first line of defense," Mr. Linder said. They use far less water than a fire hose and cause less water damage, he emphasized. "We are also high on passive protection," he said, because there is "always the potential that something could go wrong" with a sprinkler system.

Passive systems are important, but "if I had to lean towards one, personally, it would be the active system," said Joseph Young, director of engineering at AIU Engineering, a unit of American International Group Inc. "Statistics show that one sprinkler head controls 90-plus percent of all fires."

Mr. Young pointed out that AIU recommends a combination of active and passive systems depending on the type of property. With regard to the code provisions, AIU prefers to see requirements for both, he added. BI

Kemper, Aquila cover power risk

LONG GROVE, Ill.—Kemper Insurance Cos. has joined forces with power wholesaler Aquila Inc. to offer buyers or sellers of electric power coverage for unexpected spikes in the price of replacement power.

Kemper's Power Generation Protection policy indemnifies policyholders for the difference between the predetermined price and the cost for replacement power bought during an unplanned outage of a generating unit.

Potential users of the coverage include generator owners that have fixed delivery commitments and power traders or users that are forced to make purchases in the market during an outage.

Policyholders also may opt for the physical delivery of replacement power through Aquila, a Kansas City, Mo.-based electricity and natural gas wholesaler.

In a statement, Aquila President Ed Mills said, "The experience of the last two years has underscored the increased volatility of power prices in the deregulating marketplace, and the increased risks power generators and their customers face from unplanned outages of generating units."

—By Sally Roberts

ADVERTISER INDEX

Issue of July 2

ADVERTISER	PAGE #
Acordia Inc.	35
Aon Specialty Product Network	22,23
Business Insurance	20,36
Cambridge Integrated Services	30
Carvill America Inc.	16
Chicago Consulting Actuaries	16
Chubb Group of Insurance Cos.	17
CNA Re	4
Corvel Corporation	15
Crump Insurance Services	6
Delta Dental	20R
First Health	11
First State Management Group	33
GE Financial Assurance	29
GeneralCologne Re	18,19
Health Affairs	21
Kemper Insurance Companies	7
Lexington Insurance	27
Liberty Mutual	9
Metropolitan Life Ins. Co.	12,13
Napco	26
PMA Reinsurance Corp.	25
Royal & SunAlliance	40
SBPA Systems, Inc.	32
Swett & Crawford Group	5
The Travelers P/C Ins. Co.	24
XL Reinsurance America	14

LTC

Continued from page 1

But "it's not something that just affects the elderly," Mr. Forte said, pointing to statistics from the Washington-based Family Caregiver Alliance that show 43% of people with long-term care needs are under the age of 65.

"Most people think of long-term care as being caused by a debilitating illness that occurs in old age. But you also have injuries that occur to people at any age," such as strokes and automobile accidents, Mr. Forte said.

Employers also are pretty much in the dark about the benefit, said Sandra Timmermann, director of Metropolitan Life Insurance Co.'s Mature Market Institute, based in Westport, Conn.

"Many employers don't think of LTC as a 'now' benefit," Ms. Timmermann said.

According to LTC experts, participation in employer-sponsored LTC insurance plans averages between 2% and 10%, depending on demographics. Employers with older workforces generally have higher participation rates. The average age of a group LTC insurance purchaser is 42.

But, "that will change," predicts George Peacock, a senior vp at Mullin Consulting Inc. in Washington.

"LTD wasn't an institutional benefit until the '70s," Mr. Peacock said, referring to group long-term disability coverage. Today, though, 40% to 60% of employees enroll in supplemental disability plans, and when employers make a contribution, that figure surges to 70% to 90%, he said.

"LTC will have the same sort of growth rate, becoming a more-standard, accepted benefit. The aging population is going to make this issue generally more visible. It almost invariably comes down to personal experience," Mr. Peacock said.

Indeed, participation rates usually increase over time, as employees share experiences with each other, said Frolly Boyd, senior vp of group insurance at Aetna Inc. in Hartford, Conn.

"There's a natural connection between elder care and long-term care insurance," said MetLife's Ms. Timmermann. "When an employee is caring for an aging parent, the next logical thing is to think about what they should be doing for themselves."

And, as baby boomers age and prepare for retirement, "there may be more interest in long-term care insurance as a form of asset protection," she said.

Education will be the key to increasing participation rates, Ms. Timmermann said.

"People have to be educated about what long-term care is. A lot of people erroneously believe their long-term care needs will be covered by Medicare," she said.

Hancock's Mr. Forte predicts the fact that employers can now deduct premiums as a business expense also may spur group LTC insurance sales.

"There has been a significant increase in the number of employer sponsors that have made subsidies over the past 18 months," he said.

Issaquah, Wash.-based Costco Wholesale added LTC insurance as a benefit option in 1999 after a change in federal law allowed employers to pay the premiums without them being added to employees' taxable income, said Jay Tihinen, assistant vp-benefits. Costco had been offering an elder care resource and referral program since 1998.

> *'When an employee is caring for an aging parent, the next logical thing is to think about what they should be doing for themselves.'*
>
> *— Sandra Timmermann*
> *Metropolitan Life Insurance Co.*

To help promote the program, Costco offered to buy each employee who had worked for the company at least 10 years a basic policy that provides $1,000 per month in coverage and includes inflation protection with a three-year facility benefit. The policy, underwritten by UNUM Provident Corp., covers nursing home care and assisted living care at 60% and will pay up to 50% of home care costs, according to Mr. Tihinen.

Ten-year employees have the option of adding to the coverage, paying the additional premium themselves. And all of Costco's 52,000 benefit-eligible employees in the United States are also invited to participate in the program on an employee-pay-all-basis. Employees also can buy coverage for their parents, in-laws and even their grandparents. The average age of Costco's employees is 32 years old.

Mr. Tihinen, who buys an augmented LTC policy himself, is a strong advocate of the coverage.

"I think more companies should be doing this," he said. Unlike other ancillary benefit programs, such as prepaid legal or concierge services, LTC is a higher priority, he said.

"It's a need that's out there. By contrast, prepaid legal is nice, but it's not essential," he said.

With annual nursing home costs averaging $50,000 today and climbing, according to estimates from the Health Insurance Assn. of America, the employees who would be hurt the most financially are those in the middle class, Mr. Tihinen pointed out.

That's because low-wage earners can qualify for government assistance for long-term care needs and high-wage earners have the resources to pay for their own care, he said.

Home care also is becoming more expensive. The HIAA projects that assistance provided by a home health aide, which costs now $15,743 annually for five visits per week will cost $68,000 in 2030.

Similarly, the American Council of Life Insurers predicts the cost of long-term care will more than quadruple within the next 30 years.

Executives and small-business owners seem to realize this. The fastest growing market for LTC insurance is among small employers.

According to the 1999 LTC survey conducted by the HIAA, 53% of companies with 100 or fewer employees offer LTC insurance. This compares with 15% of companies with 101 to 500 employees, 5% of companies with 501 to 1,000 employees, 13% of companies with 5,001 to 10,000 employees, and 10% of companies with 10,001 employees or more.

Many small-business owners usually seek the coverage for themselves and then supply it to employees to lower their premiums and to make the premium tax-deductible, said Rich Lavis, director of long-term care marketing for Gallagher Benefit Services in Pleasanton, Calif.

"We're also seeing a lot of executive carve-outs," Mr. Lavis said.

A group LTC policy with a 90-day waiting period that provides $100 per day nursing home or assisted living care coverage and a 50% home care reimbursement costs a 40-year-old just $12.60 per month, or $151.20 per year, according to Aetna's group LTC insurance rates. The same policy underwritten in the individual market would cost about $80 per month, other insurer sources estimate.

Hancock's Mr. Forte also predicted that the implementation of the Long-Term Care Security Act of 2000, which creates a private LTC insurance program for federal civilian employees, will stir awareness, if not interest in the benefit.

"It will send the message to Americans that Medicare and Medicaid will not be expanded to cover long-term care," he said.

This could be the impetus for employees to start seeking long-term care coverage from their employers, Mr. Forte said.

"The time is right for LTC insurance to be in the forefront," said MetLife's Ms. Timmermann. "It is the greatest unprotected risk that Americans have today. The last decade was the decade of child care. This is the decade of elder care." BI

NY HMOs

Continued from page 6

This year's report card added four new measures of clinical quality: whether patients diagnosed with depression have follow-up doctor visits, whether asthma patients are prescribed the appropriate medications, whether patients receive cholesterol screening following heart attacks, and whether diabetic patients have their blood sugar levels tested.

While Dr. McGrath cited the increased use of beta blockers among New York HMOs as good news, he said the low level of plans that perform follow-up with patients diagnosed with depression is surprising.

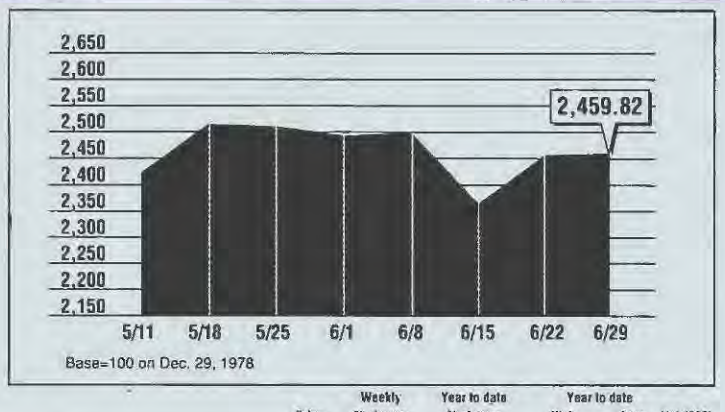
For all HMOs in New York, only 32% of patients with depression had three follow-up doctor visits within three months of their diagnoses, which he said is the accepted benchmark of care. While this figure exceeded the national figure of 21%, it was still, by far, the lowest score for any of the 10 clinical quality areas.

"It's a matter of concern," Dr. McGrath said.

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Copies of the New York State HMO Report Card are available at www.abouthealthquality.org. Copies are also available by calling the New York State Health Accountability Foundation, at 516-326-7766, ext. 588.

BI Stock Index - 6/29/2001



		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
BROKERS							
Aon Corp.	NYS	35.00	-0.60	2.19	42.31	28.13	5955
Brown & Brown	NYS	41.99	3.42	19.97	46.10	23.72	292
Clark Bardes Holdings	NDQ	22.60	9.98	123.21	24.64	7.25	261
E.W. Blanch Holdings Inc.	NYS	13.50	0.00	-22.58	29.50	6.70	0
Gallagher Arthur J. & Co.	NYS	26.00	-5.63	-18.27	34.25	20.06	2445
Hilb, Rogal & Hamilton	NYS	43.75	4.04	9.72	44.16	33.75	207
Marsh & McLennan	NYS	101.00	-6.65	-13.68	135.69	80.30	5905
Willis Group Holdings Ltd.	NYS	17.75	1.54	6.93	18.50	16.00	1784
BROKERS	AVERAGE		0.76	13.44			
INSURERS/REINSURERS							
ACE Ltd.	NYS	39.09	4.27	-7.89	43.94	27.13	5149
Accel International Corp.	NDQ	0.07	0.00	-76.42	0.69	0.06	0
Acceptance Insurance Cos.	NYS	5.25	-4.02	0.00	6.94	3.70	83
AEGON N.V.	NYS	28.40	1.79	-31.46	43.00	25.92	567
AFLAC Inc.	NYS	31.49	-2.96	-12.75	37.47	22.53	7882
Allmerica Financial Corp.	NYS	57.50	4.64	-20.69	74.25	46.30	914
Allstate Corp.	NYS	43.99	0.71	0.98	45.90	22.25	13452
Ambac Financial Group	NYS	58.20	-0.90	-0.19	64.00	36.16	2371
American Financial Group	NYS	30.00	5.45	12.94	30.00	18.69	442
American General	NYS	46.45	-0.54	13.99	47.39	30.50	9027
American Intl Group	NYS	85.01	-0.01	-13.75	103.75	72.64	32165
American Safety Insurance	NYS	10.05	2.87	64.08	10.25	3.25	22
Argonaut Group	NDQ	20.10	9.78	-4.29	21.25	13.50	314
AXA-UAP Group	NYS	28.17	-0.77	-21.55	40.47	24.58	1114
Baldwin & Lyons Inc.	NDQ	21.00	-3.00	-9.68	28.75	15.25	59
Berkley W.R. Corp.	NDQ	41.42	2.02	-12.22	48.75	18.13	662
Berkshire Hathaway Inc.	NYS	69400.00	3.58	-2.25	74600.00	51600.00	2
Capitol Transamerica Corp.	NAS	15.23	0.93	22.45	15.69	10.31	183
Chubb Corp.	NYS	77.43	-0.15	-10.49	90.25	60.44	4117
Cincinnati Financial Corp.	NYS	39.50	-1.62	-0.16	42.92	31.00	1446
Citigroup	NYS	52.84	-1.05	3.48	59.13	39.00	55470
CNA Financial Corp.	NYS	39.45	-0.05	1.81	41.94	32.06	733
CNA Surety	NYS	14.00	1.38	-1.75	14.50	10.38	156
EMC Insurance Group Inc.	NDQ	15.26	1.40	29.87	15.86	8.50	65
ESG Re Limited	NDQ	3.03	-14.65	64.34	4.13	1.72	22
Everest Reinsurance	NYS	74.80	5.74	4.43	74.80	32.13	1792
Fremont General Corp.	NYS	6.50	3.83	131.11	6.97	1.50	941
Gainsco Inc.	NYS	1.23	-10.22	-53.14	5.06	1.10	224
Harleysville Group	NDQ	29.75	13.81	1.71	30.63	16.31	537
HCC Insurance Holdings	NYS	24.50	4.93	-9.05	29.66	17.63	1707
ING Groep N.V.	NYS	65.87	1.62	-17.79	83.94	55.84	545
IPC Holdings Ltd.	NDQ	23.66	3.32	12.67	25.05	12.63	631
Hartford Financial Services	NYS	68.40	-0.26	-3.15	80.00	53.50	5254
John Hancock Financial Serv.	NYS	40.26	0.70	7.00	42.00	20.63	58266
Lincoln National	NYS	51.75	0.66	9.38	56.38	35.63	3759
MAIC Holdings Inc.	NYS	15.64	1.23	-6.28	18.50	10.50	88
Marke Corp.	NYS	196.50	0.46	8.56	207.47	133.50	210
MBIA Insurance Group	NYS	55.68	1.03	12.67	56.74	32.13	2107
Meadowbrook Insur. Group	NYS	3.25	2.52	-60.00	8.38	2.45	36
MetLife	NYS	30.98	1.41	-11.49	36.63	19.00	7526
Mutual Risk Mgmt. Ltd.	NYS	8.90	12.80	-41.40	23.75	3.40	1160
Navigators Group	NDQ	18.90	-0.53	41.97	20.86	8.75	6
NYMagic Inc.	NYS	19.80	-1.74	4.90	22.70	13.00	97
Ohio Casualty Corp.	NDQ	12.95	5.28	29.50	13.44	6.13	1732
Old Republic Int'l	NYS	29.00	1.22	-9.38	32.06	16.50	3065
Partner Re Ltd.	NYS	55.40	1.37	-9.18	62.50	34.81	1032
Penn-America Group Inc.	NYS	10.00	-0.99	31.15	10.60	6.69	2
PMA Capital Corporation	NDQ	18.05	6.18	4.64	19.00	15.19	86
Philadelphia Cons. Holding	NDQ	34.78	13.29	12.65	35.00	15.63	329
PXRE Corp.	NYS	19.50	5.98	15.56	20.10	12.50	52
RenaissanceRe Holdings Ltd.	NYS	74.05	0.89	-5.44	84.19	42.50	322
RLI Corp.	NYS	44.92	5.40	0.52	46.16	33.63	56
St. Paul Cos.	NYS	50.70	-1.84	-6.65	57.00	33.75	5483
SCOR	NYS	44.70	2.17	-11.04	53.75	39.75	22
SAFECO Corp.	NDQ	29.50	2.47	-10.27	35.88	19.69	3362
SCPIE Holdings Inc.	NYS	20.20	1.51	-14.50	31.40	17.78	NA
Seibels Bruce Group	NDQ	2.00	8.11	255.56	3.25	0.53	40
Selective Ins. Group	NDQ	26.68	4.38	10.02	28.22	15.25	207
Tokio Marine & Fire	NDQ	46.51	-1.57	-18.40	61.00	45.10	55
Torchmark Corp.	NYS	40.21	2.16	4.61	41.19	24.06	1876
Transatlantic Holdings	NYS	122.51	-0.96	15.71	126.25	80.38	74
Trenwick Group Ltd.	NYS	22.92	6.01	-7.63	27.13	13.38	272
Unico American Corp.	NDQ	6.40	3.23	8.94	7.75	5.27	3
United Fire & Casualty	NDQ	29.22	7.70	47.95	34.52	15.50	111
Unitrin	NYS	38.40	-1.54	-5.48	41.94	27.19	241
UNUM Corp.	NYS	32.12	-1.62	19.52	33.75	19.25	4172
Vesta Insurance Co.	NYS	10.95	19.02	116.30	10.95	4.13	2553
XL Capital Ltd.	NYS	82.10	3.40	-6.04	89.25	53.81	2119
Zenith National Ins.	NYS	27.00	0.75	-8.09	30.70	20.00	107
INSURERS/REINSURERS	AVERAGE		2.06	6.97			
MANAGED CARE COMPANIES							
Aetna Inc.	NYS	25.89	-0.38	-36.95	42.69	23.02	3324
CIGNA Corp.	NYS	95.82	1.40	-27.57	136.75	86.88	3871
Health Net Inc.	NYS	17.40	-1.14	-33.56	26.94	13.00	3624
Humana Inc.	NYS	9.85	0.00	-35.41	15.81	4.88	4542
Oxford Health Plans	NYS	28.60	3.62	-27.59	42.75	21.44	4024
Pacificare Health Sys.	NDQ	16.30	-2.28	8.67	68.69	9.81	2862
Sierra Health Services	NYS	7.00	8.36	84.21	7.16	2.44	2429
United HealthGroup	NYS	61.75	0.95	0.61	67.40	39.06	9670
Wellpoint Health Networks	NYS	94.24	5.12	-18.23	121.50	70.38	2743
MANAGED CARE COMPANIES	AVERAGE		1.74	-9.54			
ALL COMPANIES			1.52	3.62			

Top advancing issues: Vesta Insurance Co., Harleysville Group, Philadelphia Cons. Holding. Leading decliners: ESG Re Ltd., Gainsco Inc., Marsh & McLennan. Most active issue John Hancock Financial Services. The *BI* Index increased 0.1%; the Dow Jones 30 Industrials decreased 1.0%; the S&P 500 went down 0.1%, and the NYSE Composite dropped 0.6%. Average P/E: Brokers, 24.8; Insurers/reinsurers, 27.2; and managed care companies, 15.1.

Source: *CNET Investor* (investor.cnet.com) Boulder, Colo.

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