

Business Insurance

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Georgia suspends St. Paul license

ATLANTA—Georgia Insurance Commissioner John W. Oxendine last week moved to suspend The St. Paul Cos. Inc.'s insurance license to write any admitted business in the state and ordered the insurer to renew 1,262 medical malpractice policies it had sought to non-renew.

The regulatory move came in response to St. Paul's recent announcement that it

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Patient rights bill gains momentum

Senate set to begin debate this week

By MARK A. HOFMANN

WASHINGTON—A long, hot summer for opponents of expanded liability for managed care



PHOTO: TOM WILLIAMS

Rep. Charles Norwood, R-Ga., recently endorsed the Kennedy-McCain-Edwards patient bill.

plans could begin this week.

The Senate, which now has a Democratic majority for the first time since 1994, is poised to begin debating a wide-ranging patients' bill of rights sponsored by Sens. Edward Kennedy, D-Mass., John McCain, R-Ariz., and John Edwards, D-N.C., on June 19. The debate over that measure, the Bipartisan Patient Protection Act of 2001, will play out in the face of a threatened presidential veto if the bill passes in its current form.

Meanwhile, Rep. Charles Norwood, R-Ga., the best-known proponent of the patients' bill of rights idea, formally broke with President Bush last week and embraced the Bipartisan Patient Protection Act. He also signed on as co-sponsor of companion House legislation sponsored by Reps. Greg Ganske, R-Iowa, and John D. Dingell, D-Mich. Rep. Norwood had initially held back his support, in the hope that President Bush—who wants strict curbs on health plan liability—would agree to a broader bill.

The bill would mandate a variety of coverage

See Patients on page 22

Ruling could spur greater coverage

Paying for the Pill

By JUDY GREENWALD

SEATTLE—While most major employers already offer their female employees coverage for prescription contraceptives, a federal court ruling in Seattle last week could encourage firms that still lag in offering the benefit to do so as well.

Observers say that two other factors in addition to the June 12 decision in *Jennifer Erickson vs. The Bartell Co.* may also lead employers to consider offering the coverage. They are:

- A recognition that, no matter what contraceptive coverage might cost, the costs associated with unwanted pregnancies are likely to be significantly greater.
- A basic sense of fairness for women, because many plans already cover Viagra, a drug used to treat impotence in men.

In addition to proposed federal legislation mandating coverage, 14 states have already approved legislation requiring insured health plans and health maintenance organizations that provide prescription drug coverage to cover contraceptives, with legislation

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PHOTO: RED DOT

Tropical Storm Allison dumped more than 30 inches of rain on Houston, flooding homes and businesses and causing millions of dollars in insured losses.

Allison losses in Houston top \$2 billion

By MICHAEL BRADFORD

Floodwaters from Tropical Storm Allison are draining insurers of hundreds of millions of dollars.

The lingering storm, which has been blamed for at least 24 deaths, resulted in more than \$2 billion in economic damages in Houston alone.

Property/casualty insurers are expected to pay at least \$500 million in claims from southern Texas and millions more from other Southern states. The National Flood Insurance Program, a federally funded program, is expecting at least \$300 million to \$350 million in claims from Texas and Louisiana.

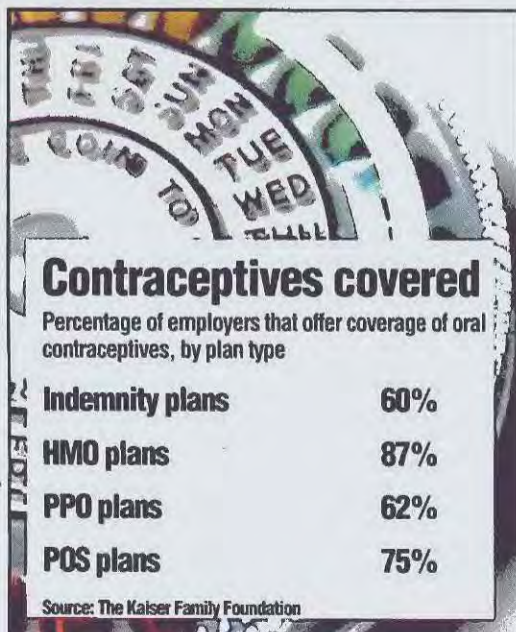
The lingering storm, which dumped about 35 inches of rain on Houston over several days, moved slowly across Louisiana, where it caused heavy flooding as far east as New Orleans.

The Louisiana Insurance Department late last week said its preliminary estimate is that Allison caused more than \$50 million in insured losses in the state. That figure is expected to rise.

Private insurers began handling claims from Alabama, Florida, Georgia and Mississippi last week as a still-potent Allison drenched the Carolinas.

Insurers are expecting

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Business Insurance (ISSN 0007-6864) Vol. 35, No. 25, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207. \$4 a copy and \$95 a year in U.S. \$114 in Canada and Mexico (includes GST). All other countries \$215 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Copyright © 2001 by Crain Communications Inc.

Ride Along Enclosed in Edition 10

UPDATES

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would cease writing medical malpractice insurance on an admitted basis in Georgia, which would allow it write the coverage on a surplus lines basis, free from having to follow approved rates that it contends are inadequate. The insurer said it may take similar action in other states where it is losing money on the business (BI, June 11). St. Paul's insurance license in the state would be suspended for three years, beginning Sept. 1, for all lines, except for the renewal of existing policies, the Insurance Department said. The department said it would keep St. Paul under close scrutiny. A St. Paul statement labeled Mr. Oxendine's move "an outrage" and said it would challenge the decision in court. The insurer said that for every \$1 it received in medical malpractice premiums in Georgia, it paid out \$1.79 in claims. Mr. Oxendine said last week that St. Paul had not requested a rate increase for medical malpractice business in the state since March 2000, when it received approval to raise rates by 9.2%.

► **FRENCH EXECS QUESTIONED** Claude Bebear, former chairman of French insurance giant AXA Group and one of the country's best-known business figures, was held overnight by police in Paris last week. Mr. Bebear was released on Thursday after being detained and questioned by police in connection with an investigation into possible tax evasion involving PanEuroLife, a Luxembourg-based life insurer that AXA formerly owned. Also held overnight and later released in connection with the matter



Mr. Bebear

was Henri de Castries, current AXA chairman. Neither man was charged with a crime, though both were placed under formal investigation. Under French law, placing a person under investigation launches a judicial probe into alleged criminal activity. The two men were questioned by the Brigade Financiere, the country's financial police, as part of a probe into PanEuroLife, which was owned by Union des Assurances de Paris, a French insurer that AXA acquired in 1997. UAP set up PanEuroLife in 1990 to sell life insurance following a European Union directive that eased regulations on life insurance sales. AXA sold PanEuroLife in November 1998, saying it did not fit in with the insurer's strategy. The buyer was a unit of Nationwide Mutual Insurance Co. of Columbus, Ohio. The police charge that PanEuroLife was used to evade taxes by channeling money from France to Luxembourg. So far, the investigation has resulted in charges of fraud, theft and money laundering against 18 people. Police also have questioned Jean Peyrelevede, chairman of the banking group Credit Lyonnais S.A. and former chairman of UAP. Mr. Bebear currently heads Paris' bid to host the 2008 Olympic Games.

► **MISSOURI STORM LOSSES** Severe storms that pounded Missouri in April caused an estimated \$700 million in insured damage, according to insurers in the state. Although the total economic loss has not yet been determined, the insured losses alone make the April 10 storm the largest insured storm loss in state history, said Calvin Call, executive director of the Missouri Insurance Information Service in Jefferson City. The previous record loss was an April 16, 1995, storm in Kansas City that resulted in more than \$95 million in insured losses. Much of the damage in the recent storm was caused by hail that hit St. Louis, Mr. Call said. Flooding caused most of the damage sustained elsewhere in the state, he said.

► **NARAB DEFEATED: NAIC** With more than a year to spare, supporters of state insurance regulation say they expect to easily meet the produc-

er licensing reciprocity requirements of the recent federal financial services modernization law. The 1999 Gramm-Leach-Bliley Act requires that 29 jurisdictions approve at least reciprocal agent licensing by November 2002 to avoid the creation of a federal clearinghouse for multistate producer licensing, known as the National Assn. of Registered Agents & Brokers.

NAIC

The law essentially seeks to allow a licensed agent or broker in good standing in his or her home state to be automatically granted nonresident license by other states, rather than having to seek state-by-state approval. So far, 35 state legislatures have passed such laws, though several of those measures are awaiting signature, the NAIC announced last week at its quarterly meeting in New Orleans. In addition, 10 additional states are expected to consider the matter this year, according to Colorado Insurance Commissioner William J. Kirven III, who is co-chair of the NAIC's NARAB Working Group. "It's a remarkable achievement for this many state legislatures to focus on any issue simultaneously as they have in working toward this national framework," Mr. Kirven said. Several industry trade association representatives point out, though, that reciprocity measures to date have been enacted primarily by states with small and midsized insurance markets. Some industry groups also question whether some reciprocity provisions enacted to date fully comply with the NARAB standard.

► **UNIVERSITY BENEFITS** The University of Minnesota will begin offering a self-funded defined contribution-style health plan to its 16,000 employees, beginning in 2002. The new plan, to be administered by Minneapolis-based Definity Health, will be one of four health benefit options the university will make available to its employees. In addition to Definity Health, the university will also offer employees a choice among plans provided by three other companies: HealthPartners, Patient Choice Health Care Inc. and PreferredOne. The university's decision to offer Definity Health came as a result of the board of regents' June 8 vote to withdraw from the Minnesota State Employees Group Insurance Plan and establish its own self-funded employee benefit program.

► **ILLINOIS BLUES SUED** In what may be the first governmental lawsuit in Illinois against a health maintenance organization for fraud, Cook County State's Attorney Richard A. Devine sued Blue Cross & Blue Shield of Illinois last week for denying coverage for a prescription headband that corrects cranial malformities in infants. The suit, filed in Cook County Circuit Court, charges that BC/BS of Illinois is violating the Illinois Consumer Fraud Act by routinely denying coverage for the Dynamic Orthotic Cranioplasty band. In one case, according to the suit, the Blues plan refused to cover the cost of the \$3,000 headband by claiming first that it was "investigational," though the device is approved by the Food and Drug Administration, and then that the band was solely for cosmetic purposes. In two other cases, the suit charges, BC/BS of Illinois claimed that the medical necessity of a DOC band had not been established, despite doctors' prescriptions. A spokesman for BC/BS of Illinois said he still had not seen the suit and could not comment.

► **WILLIS IPO** Willis Group Holdings Ltd. raised \$270 million, before expenses, in its initial public offering last Tuesday, which saw the broker's stock jump nearly 23% over the offer price. The IPO raised \$40 million more than had originally been projected in Willis' May filing with the U.S. Securities and Exchange Commission. The offer price for the shares was \$13.50, com-



pared with a range of \$10 to \$12 that was predicted in the SEC filing. On Friday, Willis' shares closed at \$16.45. They are traded on the New York Stock Exchange under the symbol WSH.



PHOTO: PICTUREDESK

The Rouge Complex Powerhouse explosion occurred in February 1999.

► **ROUGE STEEL CLAIM** Rouge Steel Co. has recovered a total of \$343.3 million from its property insurers for damages sustained after a 1999 explosion at one of its facilities in suburban Detroit. The steel producer was paid \$45.2 million by Factory Mutual Insurance Co., which represented the final payment from Rouge Steel's insurers relating to the February 1999 explosion, a Rouge statement said. The explosion took place at the Rouge Complex Powerhouse, which is 60% owned by Rouge Steel and 40% owned by Ford Motor Co. (BI, Feb. 8, 1999). One worker was killed in the explosion, and a dozen others were severely injured. Rouge Steel manufacturing operations were shut down for 11 days after the blast, and the company's primary operations were halted for nearly 100 days.

► **BRIEFLY NOTED** Asbestos claims will ultimately result in \$200 billion in settlements and related expenses paid to individuals in the United States, according to a recent study by Tillinghast-Towers Perrin. Of the \$200 billion in expenses, about \$78 billion, or 39%, will be paid by policyholders, said Michael E. Angelina, a Philadelphia-based consulting actuary with Tillinghast who co-authored the study with Jenni Biggs, a St. Louis-based Tillinghast consulting actuary. In addition, \$60 billion of the total will be paid by U.S. insurers, while \$62 billion will be paid by non-U.S. insurers, including the London market, Mr. Angelina said....Product liability reform advocate Victor Schwartz has joined the Washington office of the Kansas City-based law firm of Shook, Hardy & Bacon L.L.P. Mr. Schwartz, who is general counsel to the American Tort Reform Assn., was formerly with the law firm of Crowell & Moring L.L.P....Ohio Casualty Corp. is withdrawing from personal lines markets in several states and taking steps to reduce its workforce in an effort to improve its financial performance. The insurer plans to offer early retirement to 335 staff, or about 10% of its total workforce. In addition, it plans to withdraw completely from underwriting personal lines—mainly personal auto and homeowners lines—in Alabama, Connecticut, Louisiana, Minnesota, Mississippi, North Dakota, Virginia and Washington. Elsewhere, particularly in its standard commercial lines and specialty commercial lines divisions, the company said it will seek to raise rates as needed, which it said it hopes will have the effect of keeping premium volume steady. In a statement, Ohio Casualty acknowledged that it has reported a loss in seven of the past eight quarters....Richmond, Va.-based broker Hilb, Rogal & Hamilton Co. has agreed to buy Berwanger Overmyer Associates, a Columbus, Ohio-based broker with revenues of more than \$22 million. Terms of the stock and cash deal were not disclosed.

► 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.

Background seen as plus

Business hails OSHA pick

By MARK A. HOFMANN

WASHINGTON—The president's decision to tap an industrial safety professional to head the Occupational Safety and Health Administration is proving to be a popular one.

The nominee, John L. Henshaw, most recently served as director of environment, safety and health for St. Louis-based chemical company Astaris L.L.C. He previously held a similar post at Solutia Inc., which, along with FMC Corp., co-owns Astaris. Before that, he held a variety of health and safety positions with Monsanto Co. He is also a former president of the Fairfax, Va.-based American Industrial Hygiene Assn.

"We're encouraged that someone with real-life experience dealing with health and safety issues will head up OSHA" as assistant secretary of Labor, said Daniel Barry, director-government affairs for the Risk & Insurance Management Society Inc. in New York.

"With that background, we hope to work with the assistant secretary to develop practical solutions to make a safer workplace. The upcoming hearings



Mr. Henshaw

on ergonomics are a good opportunity for us to start building a stronger, more productive relationship with OSHA," Mr. Barry said, referring to Labor Secretary Elaine Chao's recent announcement that the department would hold three public forums on ergonomics this summer (*BI*, June 11).

A senior policymaker at one of the nation's most influential employer groups also foresees improved relations with an OSHA headed by Mr. Henshaw.

"We're comfortable with him.

We think Mr. Henshaw will have an open ear to our concerns, and that's all we ever asked for," said Randel Johnson, vp-labor and employee benefits for the U.S. Chamber of Commerce in Washington.

Not surprisingly, the AIHA also hailed the nomination of its former president. The group's current president, Henry B. Lick, praised Mr. Henshaw's "lifelong commitment in occupational safety and health" in a written statement issued after the White House made its announcement.

"AIHA believes that the way to progress in health and safety is through partnerships, coalitions and alliances—with business, labor, government, academia and the professions. John Henshaw possesses the critical skills to foster these actions," added Mr. Lick, who is president of the company he formed, Safety & Health Solutions, Ltd., in Grosse Ile, Mich.

And he'll need those skills, said Julie Gackenbach, director-government relations for the National Assn. of Independent Insurers in Washington. If the Labor Department follows

See **OSHA** on page 22

Planning helps renewals in firming market

By LEE FLETCHER ROSENBERG

CHICAGO—It's a challenge for public entities to find reasonable rates for property/casualty insurance in today's tightening market, but it can be done with some creative thinking and goal-oriented planning.

Sometimes, when thinking about an insurance purchasing strategy, it's best to "wipe the slate clean and think of alternatives. If you don't, you'll be left holding the bag," said Michael M. Kaddatz, managing director of Advanced Risk Management

Techniques Inc. of Lake Forest, Calif.

Although more and more policyholders are seeing rate increases, the market is not at the "panic stage that we had in the '80s," Mr. Kaddatz told public entity risk managers

during a session at the 22nd annual conference of the Public Risk Management Assn., held in Chicago June 10-13.

Risk managers need to seek out the creative people in their organizations and take some steps toward getting the best results in this tight market, the said.

One step, he said, is to set a realistic time schedule with some specific goals in mind.

"Sit down and back up from the renewal date and decide how we're going to do this—not at the last minute," Mr. Kaddatz said.

Mr. Kaddatz advised scheduling such an initial planning session at least 150 days prior to renewal; if large changes in coverage are expected, he said, allocate even more time.

The planning session should include topics such as coverage changes, initial rate targets and deductibles, as well as an evaluation of alternative programs, such as self-insurance or pools.

"We want to design a desired outcome—we may be vague in

See **PRIMA** on page 14



Continuing coverage of the **PRIMA** conference on page 14

Looking for the Best of the Web

BI unveils new competition for Web sites targeting buyers

Business Insurance is seeking entries for its first annual Best of the Web competition.

The Best of the Web Awards were created by *Business Insurance* to recognize and promote excellence in Internet-based services for corporate risk and employee benefit executives.

All Web sites that are designed primarily—though not necessarily exclusively—to serve the buyer of commercial insurance services may be submitted for consideration. Web sites will be judged on their functionality, interactivity, design, innovation and relevance to the buyer of commercial insurance services (i.e., risk managers and employee benefit managers).

To be considered, sites must fit into one of eight specified contest categories.

The risk management Web site categories are:

- Insurance services.
- Claims services.
- Risk management services.

The benefits management Web site categories are:

- Benefits management services.
- Health plan services.
- Claims services.

Combined Web site categories for the competition are:

- Legal services.
- Educational/professional services.

Detailed information about the eight categories and rules for the competition can be downloaded from the Events area of the *Business Insurance* Web site, www.businessinsurance.com.

The deadline for submitting completed entries to *BI* is July 30.

Web site sponsors from anywhere in the world may enter, though the sites must be accessible via the Internet and should be understandable to English-speaking judges. Sites that are not open to the general public must provide the judging panel with a sample account, user ID



and password—or other means of access as needed—for the duration of the judging process to be eligible for consideration. The access will be used only for judging purposes.

All contest entries will be screened by a panel of *BI* editors to ensure they fit the specific contest categories for which they are entered, and that they meet the criteria for entry. A panel of independent judges—knowledgeable in various aspects of risk management, benefits management, insurance and technology—will then score entries and select the highest-scoring candidates in each category as *BI*'s Best of the Web. The panel has the option to present additional Awards of Excellence in any category.

The winners will be announced and profiled in the Oct. 8 issue of *Business Insurance* and online at www.businessinsurance.com.

All entries, regardless of whether they win an award, will automatically be included at no charge in www.businessinsurance.com's links to industry-related Web sites.

To obtain an entry form and rules for the competition, visit www.businessinsurance.com, or e-mail Editor Paul Winston, pwinston@crain.com.

New group forms to cut drug costs

Aon unit organizes purchasing coalition

By JERRY GEISEL

A group of Fortune 500 employers is forming a new prescription drug purchasing coalition that could shave between 5% and 10% off the companies' roughly \$600 million annual tab for prescription drugs.

The new coalition is being organized by the Coalition Purchasing Group, which was recently acquired by Aon Consulting Inc. The drug purchasing coalition, known as the National Prescription Drug Coalition, expects to have formal commitments within a month from at least seven major employers.

The coalition program, which is expected to begin business on Jan. 1, is open to employers with at least \$10 million in annual prescription drug costs. If successful, it could become the nation's largest employer prescription drug purchasing coalition.

With the tremendous collective buying power of coalition

members, the coalition's prescription benefit manager, Merck-Medco Managed Care L.L.C. can win bigger discounts and other financial breaks from drug manufacturers, which it will pass on to members.

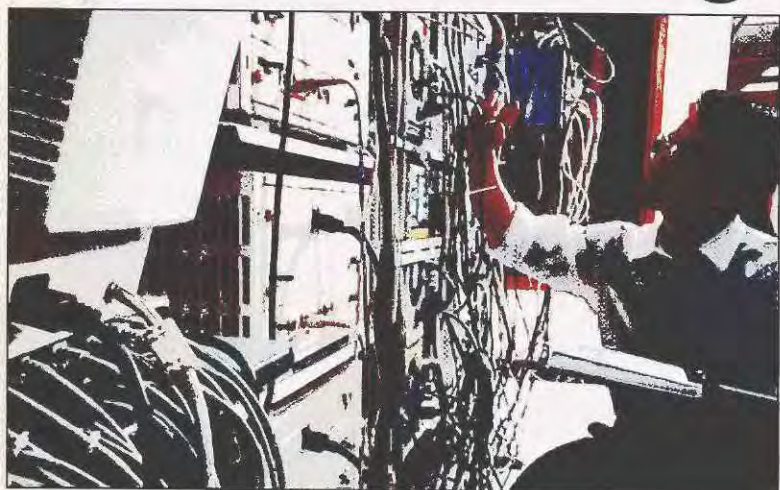
"We expect significant savings that companies could not get on their own. When you achieve a critical mass, you get leverage," said Gerald Smith, president of the Coalition Purchasing Group, or CPG, in Dallas and a former benefit executive with Mobil Oil Corp.

"There is great power in numbers," added Michael J. Gulotta, chairman of Aon Consulting's North America Employee Benefits and Compensation consulting in Somerset, N.J.

Indeed, the prescription drug coalition's organizers hope to replicate the success of a long-term care purchasing coalition, which they helped to organize in 1999 and has racked up premi-

See **Purchasing** on page 22

Underwriter weighs IT staff turnover in pricing



By ROBERTO CENICEROS

LANSING, Mich.—For the record, it's not concerns about the inherent security of Microsoft Corp.'s Windows NT software that will prompt J.S. Wurzler Underwriting Managers L.L.C. to boost the price for coverage it writes against hacker attacks to NT-based systems.

Rather, it's the turnover rate of customers' information technology staff that can lead the underwriting manager to increase the price of coverage by 5% to 15%, according to John S. Wurzler, president and chief executive officer of J.S. Wurzler in

Lansing, Mich. Wurzler underwrites a policy called Website & Internet Security Program, or WiSP, that protects companies from potential systems damage from internal and external sources, including hackers, viruses and other problems (*BI*, June 21, 1999).

So far, though, most brokers and insurers underwriting computer risks have relied largely upon assessments of companies' risk management approaches—rather than considering operating system types or staff turnover—in calculating prices for information technology system exposures.

The turnover rate of system ad-

ministrators at companies using Microsoft operating systems can exceed 33% annually, Mr. Wurzler explained. There is a shortage of systems operators who have the expertise to run Microsoft systems, which account for about half of the systems in use at the firm's policyholders, Mr. Wurzler explained. Because of the huge demand for such workers, they frequently get lured away by other companies, he said.

Mr. Wurzler recently gained attention when news stories implied he had said that he would raise rates on the products he underwrites for Lloyd's of London syndicates because of technical problems with Microsoft software.

"What I said is, 'We are now charging anywhere from 5% to 15% more for Windows NT configurations which do not meet our baseline standards,' " he explained. "The reason they are not meeting (the standards) has nothing to do with Microsoft. I think the Windows NT platform is a very fine platform when installed and operated properly."

But proper operation cannot be assumed, particularly in light of the high turnover rate among system administrators.

When a system administrator leaves, there often is a lag time before a qualified replacement can be found. As a result, newly released software security upgrades, or "patches," often are not properly installed, and other measures necessary to fend off hackers may also go by the wayside, Mr. Wurzler said. That increases the system's exposure to hacker attacks—and leaves underwriters holding more risk, he added.

In comparison, the turnover rate of administrators with expertise in other operating systems can be less than half of that for staff that is knowledgeable in the operation of Windows-based systems, Mr. Wurzler said. And, he said, sites using Windows-based systems experience a greater proportion of hacker breaches than non-Microsoft systems. That leads Mr. Wurzler to posit a correlation between the turnover rate and the number of system security breaches.

Operator turnover is just one factor that J.S. Wurzler evaluates when underwriting IT risks. In fact, policyholders can earn a discount of up to 20% from Wurzler's "baseline" price if they implement appropriate security policies and procedures, Mr. Wurzler said.

Underwriters are more interested in purchasers' attention to risk management and security policies and procedures than in the type of operating system the buyer has in place, said Emily Freeman, practice leader for broker Marsh Inc.'s eBusiness Risk Solutions division in San Francisco. Ms. Freeman said she does not know of any other underwriters who are "debiting" accounts or restricting coverage because of the type of operating system a client uses.

The security arrangements underwriters want in place include password management and measures aimed at thwarting internal threats posed by employees. They also include using firewall protection and monitoring systems to detect intrusions.

Many security problems reported
See **Staff** on page 21

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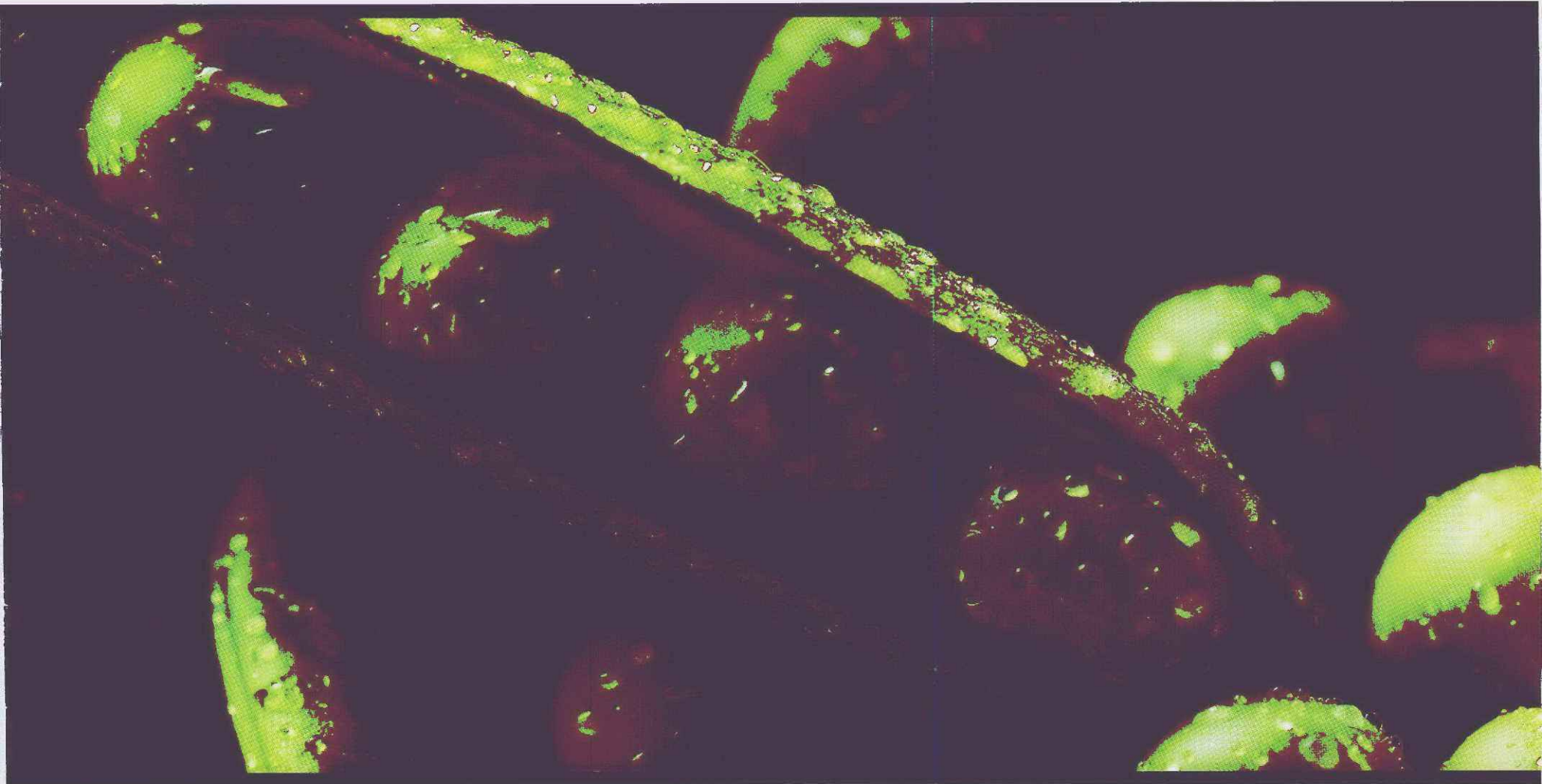
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Sears settles retiree insurance suits



PHOTO: AP WIDE WORLD

Marie A. George and other Sears retirees sued the company to recover life insurance benefits.

HOFFMAN ESTATES, Ill.—Sears, Roebuck & Co. has reached a settlement with its retirees regarding lawsuits they filed over a reduction in their life insurance benefits.

Details of the settlement reached last week, which involves about 84,000 retirees and must still be approved in federal court, cannot yet be disclosed, said Providence, R.I.-based solo attorney Peter N. Wasyluk, one of the lawyers representing the retirees. Sears said only that the agreement provides a process for retirees to apply for eligibility to obtain partial relief from the planned reduction in life insurance benefits.

In September 1997, Hoffman Estates, Ill.-based Sears amended its

group life insurance plan to reduce life insurance benefits to \$5,000 for each of the retirees, who previously had a maximum benefit of \$100,000 each. The change covered all employees who retired after 1977, or about 65% of all company retirees.

Last year, a federal judge in Chicago dismissed a class-action suit filed by the retirees, saying the company had reserved the right to change the plan in its summary plan document. Individual retirees were permitted, though, to pursue suits against Sears on other grounds.

"Some retirees felt disenfranchised by the company's change in its life insurance. Our retirees are an important constituency of the com-

pany. We believe this agreement is a positive step to further strengthen our relationship with them," said Sears Chairman and Chief Executive Officer Alan J. Lacy in a statement.

In his own statement, Everett L. Buckardt, the chairman of the National Assn. of Retired Sears Employees, the retirees' group, said, "I commend Sears management for their sincere efforts to bring the family back together. This agreement is a positive gesture and goes a long way toward doing just that. NARSE leadership strongly supports the agreement, which restores a solid relationship with the company. We are very pleased." **EI**

Ruling is a victory for HMOs

MIAMI—A federal judge in Florida has given seven health maintenance organizations a temporary victory in their attempt to fend off class-action litigation. At the same time, though, the ruling boosts the plaintiffs' cases by rejecting a legal theory heavily relied upon by the defendants.

In his opinion issued June 12, Judge Federico Moreno dismissed all the claims alleging a violation of the federal Racketeer Influenced and Corrupt Organizations Act against all the defendants except Humana Inc., saying the complaints lack specificity. Judge Moreno gave the plaintiffs until June 29 to file corrected complaints.

But the opinion also rejects a key element of the defendants' case. Judge Moreno states that a 2000 decision in a similar case in a federal appeals court does not apply. The case, *Maio vs. Aetna*, was dismissed on the grounds that injury to plan members was too speculative. That legal theory "should simply not be adopted," Judge Moreno wrote.

Judge Moreno is overseeing a collection of suits filed by both physicians and plan members against seven leading HMOs. Last week's ruling covers only the member suits, which allege that the plans misled their members by overstating the extent of the coverage they offered. As a result, the suits assert, the members received less-valuable coverage than they paid for.

The ruling also dismissed some of the plaintiffs' claims under the Employee Retirement Income Security Act, but once again allowed the plaintiffs a chance to file amended complaints. The court upheld, though, a key aspect of the ERISA claim, alleging misrepresentation by the HMOs, so the dismissal does not make much difference, said Marc Machiz, a partner with the law firm of Cohen, Milstein, Hausfeld & Toll in Washington and one of the plaintiffs' attorneys.

Overall, Mr. Machiz said, he was pleased with the ruling. "Anything that's wrong here can be fixed," he said, and "whatever can't be fixed doesn't matter."

A spokesman for Humana Inc. said the ruling is just a small step in the entire process. The spokesman pointed out that the judge scheduled a hearing for July 24 for the plaintiffs' request to attain class-action status, a ruling that could decide the future of the suits.

ERRORS & OMISSIONS

- A May 28 story on 401(k) plans misstated the matching percentage of salary for The St. Paul Cos. Inc. The St. Paul fully matches employees' 401(k) contributions up to 4% of salary.

"We reward our brokers who get up, get out and get the business.

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OPINIONS

Strive for best patient protection bill

IT'S EASY TO BE CRITICAL of the various patient protection bills introduced thus far in Congress.

While we support the goal of assuring patients that they can get a fair review of claims disputes, the legislative proposals to date would drive up health plan costs and, worse, would expose employers to new liabilities.

As unpalatable as that is, though, it is increasingly likely that some form of patient protection legislation will be enacted this year. Employers had better start lobbying now to help shape the outcome of the bill that is eventually passed. That way, they stand a better chance of winding up with a bill they may dislike but can live with, as opposed to one that causes them to reconsider offering any health plans at all.

As we report on page 1, the patient protection push gained new momentum last week when Rep. Charles Norwood, R-Ga., who has been the driving force behind these proposals in the House, signaled his support for the Bipartisan Patient Protection Act of 2001 legislation that was introduced earlier this year by Sens. Edward Kennedy, D-Mass., John McCain, R-Ariz., and John Edwards, D-N.C. Although this measure was promoted by its sponsors as a more moderate proposal than those sponsored by Rep. Norwood in the past, it still could expose employers to unlimited liability for the actions of the health plans they sponsor. The measure's sponsors contend that it is not their intention to make employers liable for plan decisions, but many business groups say the language in this and all proposals does not adequately shield them from this risk.

Until a few weeks ago, the Bipartisan Patient Protection Act didn't appear to stand much of a chance, in spite of its bipartisan backing. That's because President Bush signaled his opposition to the measure—threatening to veto it if it should arrive at his desk in its current form. Senate Republican leaders also oppose the measure.

Now, though, with the Democratic majority in the Senate, Senate Majority Leader Tom Daschle, D-S.D., has said that the measure would be next on the agenda after work on an education reform bill is finished.

Ironically, Sen. James Jeffords of Vermont, whose decision to leave the Republican Party and become a political independent caused the shift in the balance of power in the Senate, co-sponsored a more-moderate patient protection bill introduced in the Senate. While

that bill—the Bipartisan Patients' Bill of Rights Act of 2001—would still allow employers to be sued under certain circumstances, lawsuits could be filed only after independent external review of the claim had been completed, and it would cap damages and ban punitive awards (BI, May 21).

That bill has the support of President Bush, but not of many lawmakers beyond its sponsors. It has also received a cool reception from employers, who regard any expansion of liability for health plan decisions as unacceptable.

But given the new reality in Congress, steadfast opposition to any bill may have to give way to compromise.

If employers hope to obtain any relief from the liability contained in the Kennedy-McCain-Edwards bill or from Rep. Norwood's own proposals, they need to contact their lawmakers and educate them about what is at stake.

Health care costs would increase sharply with the expansion of litigation and liability. One reason is that we expect many claims newly brought under the legislation would come from those who oppose any denial of coverage, even if it were clearly within the rights and limitations of their health care plan to do so—not simply in cases where claims are mistakenly or egregiously denied. But as disagreeable as it may be to these claimants, to create a plan that they and their employers can afford, there must be restrictions in what can be covered.

Employer and health plan costs would increase, not only as the result of new litigation and potentially huge court awards but also through the mere process of defending against claims of improper denial of coverage, creating new review mechanisms and the like.

If those costs were to go up significantly, many employers—especially smaller companies—would drop their health care plans, while others would be reluctant to begin offering health care benefits. Proponents of patient protection legislation claim that's a hollow threat. It is up to employers to make clear to lawmakers that it is not.

But as we have said, it's unlikely that employers will see passage of legislation that would not provide for new liabilities.

Employers, therefore, need to push for legislation



that would set reasonable curbs on that liability, rather than expose them to the risk of unlimited damages for pain and suffering and huge punitive awards. In situations where a plaintiff shows that he or she was harmed after a plan improperly denied a claim and refused to revise its position—even after review—access to the courts is warranted. But to expose all plans and the employers that sponsor them, to unlimited liability is unwarranted.

With patient protection legislation moving rapidly to the front of the agenda of the Democratic-controlled Senate, employers have to redouble their involvement now—and be willing to compromise—if they are to ensure that the legislation that is enacted achieves its goals without harming them in the process.

LETTERS TO THE EDITOR

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Published weekly at 740 N. Rush St., Chicago, Ill. 60611-2590, Fax 312-280-3174, E-mail: biweb@crain.com. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax 212-210-0704, CRAIN.COM NYK: 473 Fairfield Ave., Gretna, LA 70056, Fax 504-364-1337, Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax 202-638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947, Fax 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax 408-774-1155; New Garden House, 78 Hatton Garden, London EC1N 8LD England, Fax 207-457-1440; 8157 N. Torrey Way, Tucson, Ariz. 85743, Fax 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214; Fax 303-733-2244. \$4 a copy and \$95 a year in U.S. \$114 in Canada and Mexico (includes GST). All other countries \$215 a year (includes expedited air delivery). Don Mierendorf, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 888-446-1422 or 313-446-0450, Fax 313-446-6777. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: KAREN BROWN TUCKER, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312-280-3174.



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INSURANCE IN TOUCH WITH BUSINESS

**Questionable claims
getting past courts
page 12G**

PERSPECTIVES

State lawmakers must drive regulatory reform

12B / June 18, 2001, Business Insurance

INSURER TOPICS

Cedents find information, interaction at reinsurers' educational seminars

By GAVIN SOUTER

As insurance coverages and claims become increasingly complex, several reinsurers are stepping up their efforts to provide educational resources to their cedents.

By communicating with cedents outside of formal business meetings, reinsurers can help them deal with emerging concerns and can themselves glean information from the cedents, reinsurers say. And the educational efforts—conducted both in person and over the Internet—are excellent marketing aids and provide a relaxed and informal way to exchange ideas.

St. Paul Re, the New York-based reinsurance arm of St. Paul Cos. Inc., invites reinsurance managers from international ceding companies to New York each spring for a week of educational sessions.

The meeting allows St. Paul Re to meet with cedents and provide information to them in a low-key atmosphere, said Peter R. Aubrey-Smith, executive vp at St. Paul Re.

"Normally, when we meet our customers, we are negotiating with them, and there is always some selling or buying going on. This meeting allows us to share our expertise with them in a less-stressful atmosphere," he said.

Nevertheless, the event, which is in its fifth year, does help the reinsurer to strengthen business ties with its customers, Mr. Aubrey-

Smith said.

"We find it a very valuable marketing tool; it helps build relationships," he said.

The sessions also provide St. Paul cedents with a better understanding of the risks they face and the options available to deal with those risks, Mr. Aubrey-Smith said.

"We hope that it gives them a better understanding of what their needs are, as our best customers are usually our best-informed customers," he said.

At this year's meeting, held last month, 25 managers from ceding companies attended 15 sessions on a variety of subjects, including pricing, e-commerce, return on equity, health care, alternative risk transfer, securitization, crop and hail coverage, risk-based capital, and space and satellite insurance and reinsurance.

The ART session included a discussion of enterprise risk management and the ways to cover a blend of traditionally insured risks and other business risks, Mr. Aubrey-Smith said.

"Everybody has been hearing about enterprise risk for some time, but it is often hard for the typical insurance buyer to grasp, because they have not been involved in the other disciplines," he said.

The sessions provide information on reinsurance topics, but, equally importantly, the event allows delegates to meet with other reinsurance buyers around the

world and exchange ideas, said Gerhard Book, head of reinsurance at Westfaelische Provinzial Insurance, a Munster, Germany-based insurer, who attended the

'Our best customers are usually our best-informed customers.'

— Peter R. Aubrey-Smith
St. Paul Re

meeting.

"I get an impression of the reinsurance business in the United States, the United Kingdom, Asia and elsewhere, and we exchange ideas," he said.

For example, the concept of risk-adjusted capital is just being introduced in Germany, but in the United States it is a well-established way of managing insurance companies, Mr. Book said.

Staff in the reinsurance department at CGNU P.L.C. attend several reinsurer-sponsored educational conferences as part of their ongoing training, said Craig C. Patterson, head of group reinsurance operations at the London-based multiline insurer, who attended the St. Paul Re seminar.

Mr. Patterson said the session on securitization and finite coverage was particularly useful and pertinent for an insurer such as

CGNU, which is the product of several large-scale mergers.

"As insurers go through mergers and consolidations, their programs become larger and larger, and it's important that the different solutions are reviewed," he said.

Swiss Re America Corp. also offers educational seminars to its cedents, said Urs Nussbaum, chief e-business officer at the Armonk, N.Y.-based reinsurer.

This fall, Swiss Re will invite cedents to attend a one-day seminar on online risks, he said.

The seminar will discuss online risks and how related losses can constitute property damage, Mr. Nussbaum said.

The seminar will involve a panel discussion, with cedents, Swiss Re underwriters, government officials, and representatives from technology companies all taking part, he said.

The seminars are valuable for clients because the events allow them to "benchmark" their own underwriting policies against those of their peers, Mr. Nussbaum said. "And it is an opportunity to exchange views with people who have a similar function," he said.

The clients can also access the extensive research-and-development resources of Swiss Re in a nonbusiness environment, Mr. Nussbaum said.

Swiss Re benefits from the exchange of ideas with clients, which allows the reinsurer to



show cedents that it is working with them on risk analysis issues, he said. In addition, the forum "allows us to get an understanding of how much coverage the clients are willing to give, so we can get a sense of where the market is going," Mr. Nussbaum said.

Swiss Re also offers educational material to its cedents through the publication of its "sigma" research studies, as well as a wide range of publications and other information that the reinsurer makes available over the Internet, he said.

Employers Reinsurance Corp. has been increasingly using the Internet in the educational services it provides to cedents, said Robert Reader, e-business leader for property/casualty in the Americas, at the Overland Park, Kan.-based reinsurer.

Employers Re launched its *myreinsurance.com* Web site last June to offer facultative reinsurance and small reinsurance treaties online.

"In addition to the transactional services, we include supplemental

See **Educate** on page 12D

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Insurance training mines Denver's employee prospects

By SALLY ROBERTS

If asked to name a leading insurance center, individuals who would automatically mention Hartford, Conn., or Hamilton, Bermuda, would not be likely to place Denver in the same category.

But the Mile High City hopes to boost its stature within the insurance industry by creating a workforce that is trained and ready to step into insurance jobs. The way Denver Mayor Wellington Webb's Office of Economic Development and International Trade sees it, if the city builds a capable and ready workforce, insurance companies and agencies will come.

With this goal in mind, Mayor Webb's office created the Colorado Insurance Development Group, which in 1998 turned to the Professional Independent Insurance Agents of Colorado and the Rocky Mountain Insurance Information

Assn. for help. What resulted was InVEST of Colorado.

InVEST, which stands for Insurance Vocational Education Student Training, is a 30-year-old nonprofit national educational program that can be tailored to suit the needs of an individual communities. Administered by the Independent Agents of America Inc., InVEST classes are taught in high schools and community colleges and prepare students for insurance industry jobs.

According to the national InVEST program, based in Alexandria, Va., roughly two-thirds of those graduates who have participated in the InVEST program secure jobs within the insurance industry.

With that statistic in mind, the Colorado Insurance Development Group was sold on InVEST.

"We wanted to make sure we had a strong financial and insurance industry in Denver, and we wanted to provide as much infrastructure as possible to make the industry



strong, said Mary Beth Vaught, economic development specialist for Denver's Office of Economic Development and International Trade. "One component of that is the workforce," Ms. Vaught said.

"We see (InVEST) as a means to

See **InVEST** on page 12D

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their full potential.*

*Imagine a profitable
partnership taking root.*

*Imagine fostering a relationship
with somebody you can depend on.*

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INSURER TOPICS

InVEST

Continued from page 12B
strengthen the workforce of the insurance industry in Denver."

Denver is not alone in establishing its own InVEST program—more than 230 schools in 25 states are operating InVEST programs—but it is unique in that the insurance industry is working with the local government to promote the effort, said Barbara Miller-Richards, executive director of the national InVEST program.

"It's so smart," Ms. Miller-Richards said. "When you look at companies relocating to a new city, they look at local schools not only for their employees' children but also for potential workforce. Companies are not going to relocate their business to a place they cannot recruit folks."

Both new and well-established companies in the insurance industry find recruiting talented individuals in Denver to be a big challenge.

"We consider it a crisis situation," said Carole Walker, executive director of the Rocky Mountain Insurance Information Assn. "We have one of the lowest unemployment rates in the country. Insurance companies and agencies cannot get the quality people power to fill these jobs."

Educate

Continued from page 12B
information to help customers," Mr. Reader said.

The articles and information that Employers Re makes available cover a wide range of casualty topics, such as casualty claims, directors and officers liability, errors and omissions, industry-specific news and research, and information on how to buy reinsurance, he said.

Each topic is broken down into "knowledge" and "focus" areas. The knowledge area provides information that is typically more detailed than that which is widely available, Mr. Reader said. For example, it may include case studies on a given casualty issue.

The "focus" area provides tools to help cedents underwrite, such as templates for claims processing or best-practices information, he said.

The Web site also includes an "Ask the Experts" section, through which cedents can submit a query, and an Employers Re specialist will respond within 24 hours, Mr. Reader said.

The Web site has proved popular with cedents, he said.

"The most popular is the professional liability section. That is an emerging area where there is a lot of claims activity, but it is not so well defined by court rulings," Mr. Reader said.

The information and services available on the Web site can be accessed by all Employers Re cedents. **B**

Supporters of InVEST of Colorado hope the program will make a difference.

Beginning in the 1999/2000 school year, InVEST classes were offered as an elective to students in four Denver public high schools, all of which have diverse student bodies. Approximately 40 seniors elected to take the InVEST class that first year. During the 2000/2001 school year, 43 seniors from three Denver high schools participated in the program.

The education program has a hands-on curriculum. Students form and operate model auto insurance agencies and an insurance company home office in the classroom. The students rotate through various positions in the home office and engage in insurance business activities that include processing applications, rating, accounting, loss control and claims handling.

In addition to learning the ins and outs of an auto insurance agency and company, students are given a broad-based introduction to all aspects of the insurance industry and a general business education, said Barbara D. Fidler, executive vp of PI-IAC and chairman of InVEST of Colorado.

"When we talk to the kids about insurance, we talk to them in a broad sense" about career opportunities, Ms. Fidler said. The students

are told that such areas of study as law, accounting, science and nursing are all applicable to the insurance industry.

Students also receive hands-on experience through internships and visits to local insurance companies and agencies.

'If nothing else, we educate kids on why they need insurance and, hopefully, the kids take that home to their parents.'

— Carole Walker
Rocky Mountain
Insurance Information Assn.

In March, for example, InVEST of Colorado hosted its first "job shadowing event," Ms. Fidler explained. Nearly 20 students from three Denver public high schools visited Pinnacle Assurance, Van Gilder Insurance Group or Hilb Rogal & Hamilton and shadowed insurance professionals for the day to learn more about what their jobs entail.

In addition to providing information about the insurance industry, InVEST also awards scholarships to

graduating seniors interested in studying business in college. During its first school year, InVEST of Colorado awarded one \$1,000 scholarship to a graduating senior, and the national InVEST program awarded another \$1,000 scholarship to a Denver senior, Ms. Fidler said.

This year, InVEST of Colorado granted two \$1,000 scholarships to two graduating seniors who also received one \$1,000 and one \$5,000 scholarships from the national program, she said.

But the program does not come without challenges.

InVEST of Colorado is funded solely through contributions from insurance companies, agencies, foundations and other organizations.

"It's a huge commitment on the part of the industry to get the program going," Ms. Walker said.

Thus far, the industry has given generously, donating computers, textbooks, time and money. This year, for example, the Surplus Lines Assn. of Colorado committed \$5,000 in scholarship money to InVEST of Colorado, Ms. Fidler said.

Although it is too early to determine whether InVEST of Colorado will achieve its goals, industry participants have expressed enthusiasm.

"I'm optimistic to the point where I'm realistic," said Mark Jenkins,

president of Jenkins Insurance Agency Inc. in Englewood, Colo. Although most of the program's courses are taught by full-time teachers, Mr. Jenkins, who obtained an adjunct teaching license, has been teaching an InVEST class at Englewood High School every other day for three years.

Mr. Jenkins established the insurance class at Englewood High School prior to the formation of InVEST of Colorado; his class now makes up part of InVEST's program.

"There is great demand for people in insurance," Mr. Jenkins said, adding that he is optimistic that some InVEST students will eventually assume jobs in the field. "I'd be happy if one student goes into the industry," he said, noting that two students at Englewood High are interning at his independent agency.

The Rocky Mountain Insurance Information Assn.'s Ms. Walker pointed out that even if students never enter the insurance industry as a profession, the program is still valuable.

"It's a nice way to address the issue of lack of awareness in insurance in general in lower-income urban neighborhoods," Ms. Walker said. "If nothing else, we educate kids on why they need insurance and, hopefully, the kids take that home to their parents." **B**

Talk of federal insurance regulation becoming louder in Washington

By MARK A. HOFMANN

A topic once rarely discussed in polite circles in Washington is now being debated with increasing vigor in the offices of lobbyists and the halls of Congress.

The topic is an increased federal role in insurance regulation. The subject was once nearly taboo because the McCarran-Ferguson Act of 1945 formally gave states the right to oversee the business of insurance. But increasing dissatisfaction with the way states regulate insurance—along with the 1999 enactment of the Gramm-Leach-Bliley Act to lower barriers that had kept separate the insurance, banking and securities industries since the Great Depression—has given new impetus to advocates of an larger federal regulatory role.

In fact, the House Financial Services Committee plans to begin discussing optional federal chartering of insurance companies this fall, according to the chairman of one of the panel's subcommittees. But right now, Congress is focusing on improving the way states license agents and brokers.

The announcement that lawmakers will consider federal chartering came as the House Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises heard testimony on state efforts to avoid the creation of a new National Assn. of Registered Agents and Brokers. The NARAB would oversee a national clearinghouse for producer licensing, streamlining what many producers regard as a cumbersome, duplicative and expensive state-based

system. While NARAB is favored by some in the producer community, it is opposed by the National Assn. of Insurance Commissioners.

'The NAIC has been working for 130 years to achieve some form of regulatory uniformity. I wish they could have solved the problem, but they clearly have not.'

— Rep. Sue Kelly
R-N.Y.

The subcommittee's chairman—Rep. Richard Baker, R-La.—stressed that though the committee would discuss optional federal chartering it would not necessarily consider legislation to bring it about. Currently, insurers are chartered and regulated by individual states, and the development of federal chartering proposals has divided underwriters as much as the creation of NARAB has divided producers.

At the May 16 hearing, members of the subcommittee heard testimony concerning states' enactment of laws that allow reciprocity in agent licensing, resulting in treatment of non-resident agents equal to that granted to in-state agents. The Gramm-Leach-Bliley Act requires

that at least 29 states enact reciprocity by Nov. 12, 2002, to preclude the creation of NARAB.

By the time of the hearing, 21 states had approved such legislation, though it isn't clear whether all of the laws actually meet the Gramm-Leach-Bliley requirements. Witnesses representing state regulators and producers alike said they believe the deadline would be met, though brokers are concerned that the country's largest states would not enact the legislation and, consequently, would not be bound by reciprocity requirements.

But it was evident at the hearing that reciprocity, even if it were to apply to all states, would not be enough to satisfy the critics of state regulation. That much was clear from the opening comments of Rep. Sue Kelly, R-N.Y., the guiding force behind NARAB. Rep. Kelly testified before the panel about the desirability of true uniformity in the state licensing of producers.

"Let me begin by reading to you a quote which demonstrates both the desire of state regulators to achieve the uniform licensing standards and the impediments to it," Rep. Kelly said.

"The commissioners are now fully prepared to go before their various legislative committees with recommendations for a system of insurance law which shall be the same in all states—not reciprocal but identical, not retaliatory but uniform," she read.

Rep. Kelly said the statement she read had been made by former New York Insurance Commissioner George W. Miller, the founder of the NAIC, at the group's first meeting in

Continued on next page

Continued from previous page 1871. "Since then," Rep. Kelly said, "the NAIC has been working for 130 years to achieve some form of regulatory uniformity. I wish they could have solved the problem, but they clearly have not."

Rep. Kelly said that states should enact true uniformity before the end of the decade. "As evidenced by the states' continuing effort to avoid NARAB implementation, the states will act if we give them the right incentive," she said. Rep. Kelly said uniformity would ensure that producers "can focus on providing the best insurance service at the lowest cost to consumers—not continuing to hire extra staff to attempt to comply with the staggering complexity of 50 insurance regulatory standards."

A former chairman of the Washington-based Council of Insurance Agents & Brokers underscored the costs associated with the current licensing system as he fielded questions from the panel.

Albert R. Counselman, president and chief executive officer of Baltimore-based Riggs, Counselman, Michaels & Downes—the largest independent agency/brokerage in Maryland—said his agency spends about \$100,000 a year to meet state licensing requirements. Mr. Counselman noted that he had testified on the matter before Congress four years ago; he said that though he wished he could report that the situation had improved dramatically, "unfortunately, that is just not the case."

While Mr. Counselman said that the number of licenses that the firm

must maintain has dropped to 90 from the 100 it had to hold four years ago, he said the licensing process has improved only slightly. Some states still do not accept the uniform nonresident licensing application developed by the NAIC, he said, and some retain protectionist policies. Citing an example, Mr. Counselman said that even though he secured a nonresident license in Texas, he is not permitted to solicit business from any Texas resident.

Mr. Counselman praised the NARAB provision for its "Bunsen burner effect" in getting states to act on reform. He also saluted the

NAIC for urging further reform, but he made clear that the CIAB believes the pace is still far too slow.

Even a witness opposed to the creation of NARAB called for reform of the system.

"Despite our longstanding support for state regulation and effective licensing laws, we feel that the current licensing system does not operate as efficiently as it should," said Ronald A. Smith, a past president of the Alexandria, Va.-based Independent Insurance Agents of America and the agent group's current state government affairs chairman. Mr. Smith, who is president of

Smith, Sawyer & Smith Inc. in Rochester, Ind., also testified on behalf of the National Assn. of Insurance & Financial Advisors and the National Assn. of Professional Insurance Agents.

Like Mr. Counselman, Mr. Smith advocated uniformity. While stressing the IIAA's continued commitment to state—rather than federal—insurance regulation, Mr. Smith also called on the Financial Services Committee to use its oversight to encourage reform.

Colorado Insurance Commissioner William J. Kirven, testifying on behalf of the NAIC, tried to assure

the House subcommittee that the NAIC sought regulatory homogeneity as well. "Our long-term goal is uniformity," Mr. Kirven said.

Rep. Kelly asked him when that goal would be achieved.

"I don't know why we couldn't reach uniformity within another three years," Mr. Kirven replied.

At the end of the hearing, Rep. Kelly told Mr. Kirven to deliver a one-word message to the NAIC—"uniformity." If the state regulators couldn't bring about uniformity, Rep. Kelly said, Congress would be quite willing to help them. BI

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ACORD strategy simplifies data sharing for insurers

By MICHAEL BRADFORD

Data swapping within the insurance industry could become much simpler if ACORD's vision becomes reality.

ACORD, or the Assn. for Cooperative Operations Research, is embarking on a strategy it calls eMerge, which is aimed at integrating existing data standards for insurance companies, intermediaries and reinsurance companies into a single shared standard.

The common standard also would be available for use by those companies' partners in other industries and could simplify the amount of work it currently takes for all parties to enter data required for a transaction.

In a related move, ACORD is expanding internationally to assume responsibility for standards developed by WISE, a non-profit, indus-

try-owned organization based in London that is backed by the world's leading insurers, reinsurers and brokers. WISE was formed in June 1999 through the merger of the Reinsurance & Insurance Network, the London Insurance Market Network and the Worldwide Insurance Network. ACORD will open offices in Brussels, Belgium, and London as it expands to service the WISE standards and work to develop its global eMerge concept.

The globalization of the insurance market and the convergence of financial services have made it necessary for companies to be able to communicate easier and faster, according to Tana Sabatino, assistant vp of standards at ACORD, based in Pearl River, N.Y. "The lines and the silos that we've operated in really are becoming quite blurred," she said at ACORD's recent technology conference.

"We're at a point now where

we're all connected and there truly is a need to communicate" with common data standards, Ms. Sabatino said. She said eMerge is a "global framework" for all businesses to use, and not one "that is unique to insurance. This is a key component of this



plan."

Ms. Sabatino said that making the standard available to all businesses gives insurance-related businesses "many more options than they would have if they had an insurance-specific platform."

ACORD plans to test the standard in a pilot project that is scheduled for completion in November 2002. The organization is partnering with other standards bodies so that its resulting

standard can accommodate the needs of different types of businesses, according to Ms. Sabatino.

Gregory Maciag, president and chief executive officer of ACORD, said during a presentation at the conference that the organization has had a relationship with WISE since that group's formation in 1999. Like ACORD, it is a non-profit organization that develops and promotes data standards. "WISE" stands for "worldwide insurance e-commerce."

Mr. Maciag said the groups would begin working together on July 1.

The convergence of the two groups "reflects the change in our business and the globalization of the marketplace," said John Leonard, chairman of ACORD's board of directors and president of Maine Employers Mutual Insurance Co.

Rob White-Cooper, chairman of WISE's board of directors and a senior director with Marsh Inc., said during the conference that the "op-

portunity to integrate the standards activities of WISE and ACORD will be a very exciting breakthrough for e-commerce in our industry." Combining the two groups' efforts "will give the industry an extremely powerful force for change," he said.

Ms. Sabatino said that agents and insurers need not worry about the fate of their current efforts to implement ACORD's XML—or extensible markup language—standard for exchanging electronic data in light of the organization's new direction. She said ACORD would continue to support the XML standard "as long as the market demands."

XML is similar to hypertext markup language, but unlike HTML, XML lets those who exchange data over the Internet the ability to define data in specific ways.

XML will be a cornerstone of the eMerge platform, Ms. Sabatino said, and she called eMerge a "natural evolution" of the XML standard. **EI**

Reinsurance transactions gain foothold on Internet

By MICHAEL BRADFORD

Reinsurance transactions over the Internet, while not yet widespread, are gaining momentum.

The amount of business written through online methods is "slowly starting to pick up speed," said William R. Ludwick, vp and manager of Am Re-Solutions, a unit of American Re-Insurance Co. in Princeton, N.J. Business is being "submitted, quoted and bound online," he noted.

Mr. Ludwick and other participants in a panel discussion held last month at the ACORD Technology Conference in Lake Buena Vista, Fla., agreed that while Internet transactions are increasing, reinsurers are lagging behind other financial services companies in taking their business online. They continue to struggle with how best to serve their clients over the Web.

"There are a number of issues going on," said Paul Henriod, president of eReinsure.com in New York. "This is going to be a gradual, evolutionary process."

Mr. Henriod said he believes proprietary platforms, cedent-driven solutions and new marketplaces will be created to handle online reinsurance transactions. eReinsure, he explained, is "a neutral platform" that will provide a place where each party in a facultative reinsurance transaction can come together to complete the deal in an efficient manner.

That neutral space is preferable to participant-owned platforms, he stated, because "cedents, consumers and brokers will all feel uncomfortable in an environment created by the others."

The idea behind a neutral platform is to provide access to "all providers of capacity," Mr. Henriod said. As reinsurers increasingly take to the Internet, it becomes harder for cedents to reach them all, he noted. "Our job is to provide a bridge between all of them."

eReinsure frequently hears from insurers that are not interested in doing the work it takes to access all of their reinsurers' proprietary sites, Mr. Henriod said.

He said eReinsure has begun han-

dling transactions between insurers and reinsurers in a "test environment" and the Internet platform expects to be generating business between the parties within the next few months.

Another Internet operation is considering a different approach to handling reinsurance transactions.

inreon Ltd. wants to "significantly simplify the process," said Andrew K.L. Duxbury, head of marketing at London-based inreon, an online project backed by Munich Reinsurance Co., SCOR S.A., Swiss Reinsurance Co. and other companies.

inreon's developers are considering a platform that in its initial form would allow a reinsurance buyer to enter a request for a property reinsurance quote on a single template. The seller responds with the quote in what Mr. Duxbury described as a "very straightforward process that requires no negotiation."

There would, however, be an opportunity for the buyer to ask for a better price, he explained.

But while it sounds simple, Mr. Duxbury conceded that a hesitant and somewhat skeptical marketplace isn't

quite ready for such a platform. Inreon's developers continue to work with reinsurers, brokers and insurers to iron out an approach that could be used by such an "independent Internet-based exchange," he said.

Mr. Ludwick said American Re's "job is to make sure that we are ready to accept business in any way the client sees fit."

He said he believes the Internet landscape will be populated with proprietary systems, independent platforms and solutions developed by reinsurance clients. Reinsurers will have to be ready to respond to whichever method the client chooses to use, Mr. Ludwick emphasized.

Panelists pointed out that insurers and brokers have some concerns with doing business over the Internet, particularly when it comes to the issue of the traditional face-to-face transaction.

Online reinsurance transactions at eReinsure are "not going to replace the foundation of negotiation of two parties in long-standing relationships," Mr. Henriod stated. "Here, we're in a place where each of the

constituent parties brings value to the transaction. The direct models work effectively, the broker models work effectively. Our job at eReinsure is to sustain the existing business workflows, not to reinvent them. Process improvements and cost reductions must coexist with market relationships. Successful technology won't undermine existing relationships, instead it will sustain and strengthen them."

Mr. Henriod said "any platform that is successful will have to support the ability to negotiate" and not just provide a quote.

Mr. Duxbury said inreon's developers are staying busy explaining to underwriters with decades of experience how an Internet platform can reduce that expertise to a computerized template. Some in the industry worry that their jobs will disappear if Internet transactions take hold, he noted.

Also on the panel was Janet S. Johnston, assistant vp and director of client services at Lincoln National Reassurance Co. in Fort Wayne, Ind. The session was moderated by Frank Nutter, president of the Reinsurance Assn. of America in Washington. **EI**

1,600 attend conference

Brush fires clouded the skies around the Walt Disney World's Dolphin Resort but didn't dampen the enthusiasm at ACORD's Technology Conference held there.

Attendees got used to the smell of smoke from fires that burned hundreds of acres in central Florida. The fires didn't threaten the resort but did produce a haze over the area.

This year's conference, held

May 20-22, drew about 1,600 attendees to hear presentations by technology experts and others who discussed topics including ACORD's new eMerge single-standard initiative, privacy issues that agents face, Internet trends, various e-business issues and other topics.

Next year's meeting, scheduled for May 19-22, again will be held at the Dolphin. Information is available from ACORD at 1-800-444-3341 or at www.acord.org.

Making sites click with clients

Corporate sites must keep up with technology, customers

By MICHAEL BRADFORD

Do it fast and in more than one language. And while you're at it, take a look at what everyone else is doing. That's some of the advice an Internet consultant offers to insurance companies and agencies that are looking to boost the performance of their Web pages.

Speaking at the ACORD Technology Conference last month at

Walt Disney World in Lake Buena Vista, Fla., Russ Haynal urged insurance industry companies to stay current on Internet trends. "This is a new form of literacy that your customers will be speaking, your business and trading partners will be speaking. We have learned how to read, write and speak," said Mr. Haynal. "Now we have to learn to surf."

Mr. Haynal, an independent Internet consultant based in Ashburn, Va., suggested that insurers and

agents consider posting their Web pages simultaneously in languages other than English. "Historically, you could get away with publishing your page in English because the majority of your customers spoke English," he said.

But as the U.S. population becomes more diverse, with residents who speak other languages, and as business becomes more global, it is increasingly important to reach non-English speakers who are po-

See **ACORD** on next page

Questionable claims finding some success in court

By Gregory D. Hopp

We all know that people have a remarkable ability to suspend their moral faculties when dealing with insurance companies. That is the reason that law books are full of cases involving people who "forgot" about their last bypass surgery when they applied for life insurance.

But this conduct is hardly limited to individuals. Some of America's largest companies have shown the same tendencies, if not when applying for insurance, then at least when making a claim.

Claims are only getting bolder, even if this trend is not altogether new. Johnson & Johnson sought insurance recovery for the costs of withdrawing Tylenol from the market after a tampering incident in the 1980s—even though the company had decided not to purchase product recall insurance. Procter & Gamble Co. sought insurance recovery of the office overhead and salaries paid to its in-house lawyers—arguing those were defense costs in connection with the toxic shock syndrome litigation the company faced in

the '80s. And recently, companies such as Nike Inc. have sought insurance recovery for Y2K remediation expenditures—even though these expenses were incurred voluntarily, to avoid paying claims that would not have been covered under most first-party policies anyway.

To some extent, this behavior has been encouraged by the courts. Just last year, an Arizona federal court in *American Guarantee & Liability Insurance Co. vs. Ingram Micro Inc.* (BI, June 12, 2000) ignored clear language in a first-party policy requiring that the policyholder sustain direct physical loss to make a claim. Instead, the court determined that "physical damage" must include a mere "loss of functionality." Why? Because, the court explained, "computer technology dominates our professional as well as personal lives."

This is a dramatic example of some courts' willingness to rewrite policy language, but the exercise is common enough that courts even have a widely used euphemism for it: "the doctrine of reasonable expectations."

Perhaps emboldened by this view, as well as by court

IT PERSPECTIVE

decisions involving coverage for asbestos and environmental liabilities, policyholders have increasingly sought to obtain coverage under their liability insurance for even intentional business torts.

Companies sometimes allege that claims arising out of any business conduct that involves

advertising (and what business conduct does not?) is covered under advertising injury liability. They allege that the company's hardball litigation tactics, giving rise to class action claims, resulted in personal injury caused by "malicious prosecution." Or they allege that antitrust conduct results in personal injury caused by economic "discrimination."

These claims matter to the insurance industry because of the size of the exposure they represent. While runaway product liability verdicts command more media attention, last year's biggest verdicts included a \$324 million verdict in a patent infringement claim, a \$233 million verdict in a securities fraud case, and a \$181 million verdict in a

See **Claims** on next page

ACORD

Continued from previous page
potential customers, he said. U.S. organizations that are publishing pages simultaneously in Spanish are experiencing increased sales, Mr. Haynal noted. "As you publish your content on the Internet, you may want to look forward to having alternative language versions up there."

He said figures compiled by Global Reach, a marketing company in San Francisco, show there are around 20 million Spanish-speaking Internet users worldwide and that number is expected to grow to about 60 million by 2003. The biggest increase will be in Chinese-speaking Internet users, from 40 million worldwide today to 160 million projected by 2003.

When users do find a Web page, they want a quick response, according to Mr. Haynal.

As more Internet users move to high-speed access, they are losing patience with pages that don't quickly load, Mr. Haynal noted. "When they click on that link...they expect to see something now."

There have been many studies on how long users will wait for a page to download, Mr. Haynal pointed out, and if a page takes a laggy 10 to 20 seconds to appear, studies show that users will

bail out and go elsewhere. Or, if they are trying to pull up information from a page and that amount of time goes by with no results, they may turn to the toll free number instead. That means either a lost sales opportunity or increased support costs, he said.

Mr. Haynal said companies can use the Internet to keep an eye on competitors by using a service called Company Sleuth at www.companysleuth.com.

By designating a number of competitors to be watched by Company Sleuth, users can receive daily reports that give a sizable amount of information on certain of the competitors' activities, Mr. Haynal said. The reports reveal lawsuits filed against a company, trademarks the competitor is seeking, domain names it has registered, whether it is mentioned in investor reports, press announcements it has issued and other information.

To illustrate how the service works, Mr. Haynal called up a report on domain names registered by Lucent Technologies. The lengthy list of names gave some hints as to what new communications services the company might be planning to unveil. Such information can be useful to the company's competitors, he suggested, and agents and insurers can use the service to look for similar clues as to where their competition is headed. **BI**



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Claims

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breach-of-contract suit. Moreover, punitive damages are awarded frequently in commercial cases, and when they are awarded, the sky's the limit. Remember the Pennzoil-Texaco litigation?

Luckily, most courts have rejected this new wave of claims for coverage of business torts. But the unfortunate consequence of the nationalization of the law business is that opinions out of an obscure trial court—such as the Arizona federal court last year—can spread like a virus with the proper backing of policyholder lawyers. So, despite the insurance industry's success to date, claims involving business torts must be resisted with all available means.

Following are the three main categories of claims for business torts that insurers have faced.

Advertising injury

Advertising injury liability coverage is perhaps the favorite focal point of litigation seeking coverage for business torts. The Liggett Group, for example, has made a claim for its tobacco liabilities, despite the fact that those liabilities are largely based on a 40-year conspiracy to conceal the health risks of smoking, and an illegal effort to market cigarettes to minors.

USX Corp. made various coverage claims, including

advertising injury, in connection with a nearly \$600 million verdict for participating in a 20-year conspiracy to violate state and federal antitrust laws. On a smaller scale, Medline Industries Inc., a closely held manufacturer of medical supplies, last year sought a defense from its commercial general liability insurer for litigation alleging that the company had stolen a business plan from another company with which it did business.

Perhaps there is some basic appeal to the simplistic claim: We advertised, and therefore we have advertising injury liability cover. At least in the case of the claims by Medline and USX, however, the trial courts rejected this oversimplification of the coverage.

They adhered to the increasingly well-established test for advertising injury liability coverage, which requires the widespread dissemination of promotional material, underlying allegations that fit within the policy's "enumerated offenses"—such as the "misappropriation of advertising ideas or style of doing business"—and an injury sustained "in the course of" (not merely incidental to) advertising activity. Yet these claims have not gone away, and as the litigation piles up, the potential for bad law grows.

Malicious prosecution

Many policies also provide

coverage for liability on account of personal injury caused by various offenses, including "malicious prosecution." To date, courts have defined the offense of malicious prosecution narrowly, requiring that the litigation be brought "without probable cause." Courts also require that malicious litigation activity cause "special injury" to the litigant—something more than the burden and cost of responding to legal proceedings.

'Insurers' success in defeating these claims depends in large part on their success in keeping the courts focused on the public policy implications of allowing coverage in such circumstances.'

Still, these substantial limitations have not forestalled creative efforts to obtain coverage.

A number of years ago, several retailers got into trouble for persuading bankrupt consumers to sign debt reaffirmation agreements that were neither disclosed nor approved by the bankruptcy court. This

corporate conduct spawned quasi-criminal investigations; fines were paid. Still, the managers of several large credit card operations submitted these costs to their insurers, alleging that the liabilities arose from personal injury caused by "malicious prosecution."

Similarly, a drug company sought "malicious prosecution" coverage for class-action litigation that alleged that the company had filed baseless patent infringement litigation intended to delay the introduction of a generic competitor to one of the company's own drugs.

Discrimination

Finally, companies have used the "discrimination" element of personal injury coverage to seek indemnity for their intentional business conduct under the notion of "economic discrimination." For example, Microsoft Corp. has filed suit against a number of its insurers, contending that private antitrust litigation filed against the company involves allegations of "discrimination."

Similarly, another major pharmaceutical company two years ago submitted a claim in connection with prescription drug antitrust litigation that alleged that the drug companies charged retail pharmacies more for their products than they charged health maintenance organizations.

Unfortunately, there is

precedent for these claims, in the form of a decision by the 7th U.S. Circuit Court of Appeals in *Federal Insurance Co. vs. Stroh Brewing Co* (BI, Sept. 21, 1998).

In that decision, a denial of coverage, a defense duty and the "reasonable expectations" doctrine led the court to accept the suggestion that discrimination can be economic, as well as employment-related. Whether in the guise of advertising claims, malicious prosecution claims or discrimination claims, these attempts to shoehorn intentional business torts into liability coverage share one essential characteristic: They represent an attack on the fundamental nature of the CGL form.

Insurers' success in defeating these claims depends in large part on their success in keeping the courts focused on the public-policy implications of allowing coverage in such circumstances. In the words of the court in *USX*, shifting the loss from a willing participant in a conspiracy to restrain trade to an insurer "is the type of pernicious mischief which Pennsylvania public policy prohibits."

This good moral sense has prevailed to date, but the battle lines have been drawn. **BI**

Gregory D. Hopp is a member of the Cozen & O'Connor law firm in Chicago.

Tools offer automated claims processing online

NEW YORK—Management and technology consulting firm Accenture has introduced a new suite of component-based solutions that can be customized to help property/casualty insurers improve claims processing efficiency and reduce loss costs.

Called Claim Components, the tools allow property/casualty insurers to automate claims processing via the Internet. Claim Components is in use at five leading property/casualty insurers, according to Accenture.

According to a recent Accenture study that looked at more than 7,000 settled claims from throughout North America and Europe, new technology and workforce training can reduce insurance companies' claim settlement costs by up to 15%.

Claim Components' features include:

- Claim Folder, a database in which handlers can document claims. Claim Folder permits individuals to collaborate on claims via the World Wide Web.

- Claim Task Assistant, which generates automated to-do lists based on the individual features of a claim, and assigns tasks to the appropriate individual.

IT BRIEFS

- Claim Contacts, which holds all names, addresses and contact information for every individual involved with a claim and allows insurers to manage vendors and track customer-service commitments.

- Claim Financials, which manages all the financial transactions necessary to replace existing legacy claims systems, including reserving, payments, receipts, transaction authority, statistical coding, transfer of transactions across claims and financial balancing, as well as the administrative functions required for financial processing.

- Claim Utilities, which provides the user with the means to communicate with all parties involved in a claim and to document actions taken.

The Accenture Claim Components are built on an existing technical architecture known as Internet Component-Based Architecture for Microsoft, or I-CBA/M, designed to meet the scalability needs and flexibility requirements of large claims processing applications.

Zurich exec honored

SCHAUMBURG, Ill.—Frank Colletti, director of E-business solutions for Zurich North America's enterprise risk business unit, was named a Premier 100 Information Technology Leader by Computerworld.

The list, which appeared in the weekly newspaper's March 26 issue, honored IT executives with a proven ability to meet customer needs through innovative uses of technology. Mr. Colletti was chosen from a field of several hundred IT nominees. He was recognized for exceptional technology leadership, innovative approaches to business challenges, and effective execution of comprehensive IT strategies.

Schaumburg, Ill.-based Zurich North America is a member of the Zurich, Switzerland-based Zurich Financial Services Group.

Transamerica expands site

CHARLOTTE, N.C.—Transamerica Reinsurance has renovated its Web site,

www.transamericareinsurance.com, to provide more information about the company's products.

The site categorizes its products by type and product area, and it features a library of articles on a variety of topics written by Charlotte, N.C.-based Transamerica Reinsurance experts. The site also answers frequently asked questions and provides key contacts by product line, in addition to company news and market information.

Managing equity cover risks

NEW YORK—Tillinghast-Towers Perrin and Annuity Systems Inc. have formed an alliance dedicated to developing risk management solutions for companies providing equity-based insurance products, including variable annuities, equity-indexed annuities, segregated funds and unit-linked products.

Through the alliance, Tillinghast-Towers Perrin and ASI will jointly provide the tools and techniques needed for complete risk management solutions. RisQ, a risk management system using technology developed by ASI, monitors and manages the exposure from guarantees provided on

equity-based insurance products on a real-time basis, with a live feed to the capital markets. Tillinghast-Towers Perrin will provide the risk management consulting services and expertise needed to integrate this system into a life insurer's risk management process.

Risks addressed in this context include the economic risks from payouts under the guarantees and the loss or volatility of revenue, accounting exposure and operational risks. **BI**

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The ambulance took a risk transporting the pregnant woman.

The hospital took a risk admitting the pregnant woman.

The manufacturer took a risk developing diagnostic equipment for the pregnant woman.

The ob-gyn took a risk attending to the pregnant woman.

The pharmaceutical firm took a risk producing fertility drugs for the pregnant woman.

And Marsh solved all these risks.



PRIMA

Continued from page 3

the initial planning, but at least it gets the ball rolling," Mr. Kaddatz said.

Another important part of planning is identifying the data needed for an insurance coverage submission and determining how the data will be gathered.

"We're seeing underwriters demand five or 10 years of loss data history, and they want it valued within 60 days, so they know the loss reserve is decent," Mr. Kaddatz said.

When determining which broker services are important, Mr. Kaddatz said, a public sector organization should evaluate a

broker's marketing abilities and his or her ability to service insurance policies.

Risk managers must ensure desired coverage terms 'are present during the bidding.'

— **Michael M. Kaddatz**
Managing Director
ARM Tech

After a risk manager evaluates a broker's qualifications and has an understanding of the organization's service needs, Mr.

Kaddatz said he or she must weigh the choice between using a large national firm or a regional firm, and between using one broker or two.

He reminded risk managers that they can split their insurance business. "One can do liability and the other can do property, or you can send them both to the market," he said.

Mr. Kaddatz said that although a risk manager may want to present his or her organization in the best possible light when assembling renewal data, it's important to be creative but careful, complete and truthful.

"Don't eliminate a few of those 'odd claims,'" he warned. "It hurts you—for every time

you get away with it, three times you'll get caught. It will lessen your (number of) proposals."

When purchasing coverage, Mr. Kaddatz said that it's also important to recognize all of the entities involved in an insurance placement.

"There are several levels of insurers and intermediaries and reinsurers that, if you know, it can help you save money," Mr. Kaddatz said. He warned, though, not to eliminate the brokers from the process.

Mr. Kaddatz warned risk managers to "make sure the wanted coverage terms are present during the bidding" and to ensure that they aren't buying coverage they don't need.

Additionally, Mr. Kaddatz

said that, when negotiating improvements, risk managers must remember that few quotations are presented on a take-it-or-leave-it basis. "Try to go back and get the improvement you want, or at least try to move toward it," he said.

Finally, Mr. Kaddatz said that while not all long-term relationships are good, there can be benefits to those relationships.

"Let them get to know you and get to know them. Some brokers will remember the profits they made in a different market," he said.

Moderating the session was John R. Sallade, managing director for the County Commissioners Assn. of Pennsylvania in Harrisburg, Pa. **BI**

AGRIP taking hold of government risks

CHICAGO—The Assn. of Governmental Risk Pools held its third annual meeting during the Public Risk Management Assn. conference last week in Chicago.

Prague, Okla.-based AGRIP was formed in 1998 as the successor to PRIMA's Pooling Section.

Incoming AGRIP President Ken Horner introduced two new board members at the meeting: David Hayasaka, executive director of the Washington Schools Risk Management Pools; and Eileen Terwilliger, executive director of Alaska Municipal League Joint Insurance Assn. Inc.

Mr. Hayasaka and Ms. Terwilliger will replace John

Crawford and Paul Genovese, both of whom did not seek reelection.

In other actions at the AGRIP meeting:

- The Michigan Municipal Risk Management Authority received recognition for being in compliance with AGRIP's advisory pooling standards. It is the 19th pool to be so recognized since Jan. 1, 1999.

- Claire Reiss, director of grants and research for the Public Entity Risk Institute, announced a grant program designed to help public risk

pools become compatible with the Public Risk Data Project's Liability Claims Data Standard.

Ms. Reiss explained that the grants would help fund the costs of modifying a pool's liability claims system so that it is compatible with the PRDP. The standard is intended to help risk managers benchmark and compare

their claims performance. She said the total grant fund for 2001 is \$250,000. Because grant recipients are expected to partner with PERI to fund the conversion, grant awards

won't exceed 50% of the actual costs of system modifications or a maximum award of \$10,000. Grant program applications are due by Sept. 1 and can be obtained from www.riskinstitute.org.

- AGRIP Chief Executive Officer Harold Pumford announced the results of an online 2001 Membership Satisfaction Report in which 28% of AGRIP members said they were "more than pleased" with the organization, 42% said they were satisfied, and 30% reported being very satisfied.

Mr. Pumford said the report is "comforting, but it's not any reason to let up (on our efforts)."

Additionally, Mr. Pumford

reported an increase in AGRIP membership, with 118 risk-sharing members, representing 40 states. When it was formed in 1998, AGRIP represented 109 risk-sharing members in 38 states.

- Mr. Pumford encouraged members to support three upcoming events: the AGRIP Institute for Management & Leadership on Aug. 6-8 in Sault Ste. Marie, Mich.; the AGRIP Governance & Leadership Conference Oct. 17-19 in New Orleans; and the AGRIP Spring Conference March 13-15, 2002, in Savannah, Ga.

For more information about these events, or AGRIP, visit www.agrip.org.

—By Lee Fletcher Rosenberg

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Give claim control a stable footing

Slip and fall claims can be reduced

By LEE FLETCHER ROSENBERG

CHICAGO—Because slips, trips and falls—and the resulting claims—occur every day at the facilities of public entities, their risk managers must learn how to reduce the number of accidents and how to handle

them when they take place.

At the 22nd annual conference of the Public Risk Management

Assn., held June 10-13 in Chicago, two risk management experts discussed ways to prevent some leading liability claims.

Marc Glickman, loss control manager for public-sector services at St. Paul Fire and Marine Insurance Co. in St. Paul, Minn., said that nearly one-quarter of St. Paul's public entity general liability claims arise from slips, trips and falls.

Mr. Glickman said that solving such a big problem takes communicating with co-work-

ers, educating them about what to do when they take a fall or witness an accident.

Mr. Glickman said that employees are "your best identifiers and best correctors." He noted that employees typically travel throughout a public entity's facilities every day, and risk managers must encourage them to take note of any potential safety problems.

Furthermore, Mr. Glickman said, public entities must maintain proper housekeeping practices. He said risk managers must continually train the cleaning staff to be aware of certain hazards and how to handle them.

"Ask them if they know about different applications for different products. They need to know what material is good for the type of surface you have," he said.

Another large part of the solution, Mr. Glickman said, is to conduct thorough accident investigations. The knowledge gained from such investigations can reveal the deficiencies in a fall prevention program and lead to their correction.

See Falls on next page

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GLOBAL BRIEFS

New York-based **American International Group Inc.** is buying Uruguay-based **ITT Hartford Seguros de Vida S.A.** **AIG Life Insurance Co.** will purchase the life insurer from **Hartford Financial Services Group Inc.** and **Grupo Financiero Galicia**. **ALICO** has operated in Uruguay since 1997 via Montevideo-based **ALICO Compania de Seguros de Vida S.A.**...London-based multiline insurer **CGNU P.L.C.** has acquired Melbourne, Australia-based **Fortis Australia Ltd.** **CGNU** bought the Australian operations of Belgian-Dutch **Fortis Group** for \$293 million Australian (\$155.1 million). **FAL** recorded net written premiums of \$269 million Australian (\$150.3 million) for 2000....The U.K. financial services regulator, the London-based **Financial Services Authority**, has published a list of proposals to tackle regulatory risks associated with e-commerce. The **FSA** said that its discussion paper, "The **FSA's** approach to the regulation of e-commerce," has three objectives: ensuring firms and markets have adequate information technology systems and controls to address the risks in their businesses; making sure consumers have access to relevant information about obtaining financial services via e-commerce channels; and ensuring that the **FSA** adapts its regulation to developments in e-commerce....Paris-based **Assurances Generales de France**, the French subsidiary of Munich-based **Allianz A.G. Holding**, has increased its capital in Paris-based credit insurer **Euler S.A.** **AGF** has purchased a 5.07% stake in **Euler** from Paris-based reinsurer **SCOR S.A.** The purchase increases **AGF's** stake in **Euler** to 58.6%....London-based **Moody's Investors Service Ltd.** has upgraded the performance rating of **Lloyd's of London-based Omega Underwriting Agents Ltd. syndicate 529** to C+, from C-. **Moody's** said the move followed **Omega's** recent announcement that its non-marine account for 2002 will be written on a predetermined split-stamp basis with **Omega syndicate 958**....The **Assn. of Lloyd's Members** named the winners of its inaugural **Lloyd's Awards** last week. **ALM** Chairman **Michael Deeny** said the awards are intended to recognize some of the people and businesses making **Lloyd's** attractive to private capital. Winner of the award for **Managing Agency of the Year** was **Atrium Underwriters Ltd.** The **Underwriter of the Year** award went to **Brian Caudle**, retiring active underwriter of syndicate 780, while **Michael Meacock**, active underwriter of syndicate 727, was named **Lloyd's Personality of the Year**....London-based multiline insurer **Royal & SunAlliance P.L.C.** has announced a deal that allows it to offer renewals on **GE Frankona Re's** primary U.K. cargo and freight liability insurance business. Under the terms of the agreement, 25 members of the **GE Frankona Re** underwriting and claims staff will transfer to **RSA**, the group said....**Oldwick, N.J.-based** ratings agency **A.M. Best Co.** has placed its A financial strength ratings of Mexican insurer **Seguros Comercial America S.A.**, and its surety subsidiary **Fianzas Comercial America**, under review with developing implications. **Best** said the move followed the announcement that **Amsterdam-based ING Groep N.V.** is buying a controlling interest in the company.

Lloyd's exploring structural changes to right its course

By SARAH VEYSEY

LONDON—Lloyd's of London is undergoing a strategic review that could result in significant changes to the way the market is structured, Lloyd's Chairman **Sax Riley** says.



PHOTO: MICHAEL MARCOTTE

Mr. Riley

Mr. Riley told the **Assn. of Lloyd's Members'** annual conference last Tuesday that the review, which the **Council of Lloyd's** will consider in October, will result in a blueprint for structural change in the market. He described **Lloyd's** results since the 1997 underwriting year as "nothing short of diabolical," adding that the review was prompted in part by the need to improve profitability. For the 1998 year of account—the most recent year to close under **Lloyd's** three-year accounting system—the market reported a loss of £1.06 billion (\$1.58 billion); for 1997, **Lloyd's** recorded a £176 million (\$284 million) marketwide loss (*BI*, April 2).

Mr. Riley, who became **Lloyd's** chairman last year, said that if he had been chairman of a publicly listed company that had returned such poor results, he would have been ousted. He assured names that he viewed them as shareholders in **Lloyd's**.

See **Lloyd's** on page 20

Independent suspends writing amid questions

By CAROLYN ALDRED

LONDON—Just days after it suspended trading of its shares in the face of financial difficulties, U.K. commercial insurer **Independent Insurance Co. P.L.C.** last week announced it will "temporarily suspend" writing new or renewal business.

In a statement issued last Thursday, **Independent** also said its board is investigating the insurer's troubles, which stem from concerns over its reserves and certain complex reinsurance arrangements.

"The board, together with its advisers, is conducting a thorough investigation into the appropriate level of technical provisions as well as into the reinsurance position" of the company, according to the statement.

Independent said its

founder, **Michael Bright**, who stepped down as chief executive officer in April, resigned last Tuesday without compensation as nonexecutive deputy chairman of the board.

Independent, which specializes in liability lines, particularly commercial liability, wrote £830.1 million (\$1.15 billion) in gross premiums in 2000. Of that total, £318.3 million (\$442.4 million) was commercial liability premiums.

In a February announcement of its preliminary results for 2000, **Independent** issued a profit warning and said it needed to increase its stop-loss reinsurance protection on its commercial liability business. In March, **Independent** said it obtained additional reinsurance cover-

See **Independent** on page 20

Future of risk management debated

By SARAH VEYSEY

BIRMINGHAM, England—Delegates at the 2001 conference of the **Assn. of Insurance & Risk Managers** were treated to a fierce debate when three well-known risk professionals took to the stage to tackle the theme "Managing the risk—is it the market, the system or the people?"

Tony Benson, vp of **AIRMIC** and formerly global risk manager at **Guinness P.L.C.** and **Glaxo Wellcome P.L.C.**; **Paul Bawcutt**, chairman of the London-based consultant **Risk & Insurance Research Group Ltd.**; and **D. Hugh Rosenbaum**, risk management consultant to **Tillinghast-Towers Perrin** in London and a retired principal

of **Towers Perrin**, took part in the debate in Birmingham, England, which was moderated by **David Ovenden**, acting chief executive officer of the **Institute of Risk Management**.

Mr. Rosenbaum argued that risk managers must make better use of systems to take control of risk. "Insurers put it about that they own risk, that they are the ultimate risk takers," he said. "But what they are really about is investment income."

Because of this reluctance on the part of insurers and reinsurers to take risks, Mr. Rosenbaum said, some companies began to "think they could do it themselves, via captives, and own their own risk." But he

See **Risks** on page 19



PHOTO: COURTESY OF AIRMIC

Outgoing **AIRMIC** Chairman **Alan Fleming**, left, passed the chairmanship to **Philip Thomas** at this year's conference.

Governance push spurs risk audits

By SARAH VEYSEY

BIRMINGHAM, England—A growing reliance on internal audits is helping to boost the visibility and importance of risk management within U.K. companies.

The internal audit profession—which generally evaluates the efficiency and effectiveness of a business' risk management, controls, and governance—has picked up over the last few years, according to **Richard Gossage**, head of risk at Edinburgh-based **Royal Bank of Scotland P.L.C.**

"More and more emphasis is being put on the opinion of the internal auditor," said Mr. Gossage. In a presentation at the

Assn. of Insurance & Risk Managers in Birmingham, England, earlier this month, Mr. Gossage outlined to delegates the benefits to businesses of carrying out internal audits.

The role of the internal audit at the **Royal Bank of Scotland** is two-fold, he explained. One of its functions is to continually assess how risks are being managed and controlled throughout the company and to report regularly to the company's executive committee and audit committee on the results of those assessments. Additionally, he said, the audit has a role in influencing continual improvement of risk management and controls through the sharing of

best practices.

"For an internal audit to really do its stuff, it must be independent," Mr. Gossage stressed.

The 1999 **Turnbull Report**, which was commissioned by the **London Stock Exchange**, calls for publicly traded U.K. companies to analyze and disclose to shareholders any hazards they face.

That report "upped the ante" for internal audit as well as risk management professionals, Mr. Gossage said. "People have latched onto **Turnbull**," he said, adding that the process of evaluating risk has value for an organization as well as satisfying regulatory requirements.

Increased emphasis on **Turnbull** and its requirements has brought internal audit and risk management to the fore, he said.

See **Audits** on page 20

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
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If you are a creditor of the Company and have not received a Claims Statement you should contact the Company at Dorchester House, 7 Church Street, Hamilton HM11, Bermuda (facsimile number 441-295-1242) or Plumtree Court, London EC4A 4HT, England (facsimile number 44-207-212-6121). Claims Statements (or any revisions to Claims Statements) must be returned as soon as possible and in any event not later than 30 September 2001 5:00 pm (Bermuda time or GMT respectively) in order to ascertain the value and entitlement of a creditor to vote at a meeting of Scheme Creditors to be convened in due course. A copy of the proposed Scheme of Arrangement and a copy of the Explanatory Statement required to be furnished pursuant to Section 100 of the Companies Act 1981 of Bermuda and the Form of Proxy for use at the meeting will be forwarded to you in due course and thereafter will be available from the Company's offices at the above addresses: Peter C B Mitchell, Joint Liquidator Christopher John Hughes, Joint Liquidator Aneco Reinsurance Underwriting Limited - In Liquidation c/o PricewaterhouseCoopers, F.O.Box HM 1171, Hamilton HM EX, Bermuda 4 June 2001

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INTERNATIONAL

Risks

Continued from page 17

pointed out some captives are now trying to undertake unrelated business. "If they carry on like that, they will get like insurers, become concerned with investment income and then not necessarily own their own risk," he said.

Mr. Rosenbaum warned that risk managers must think about the ultimate customer—the consumer. "E-technology, for want of a better word, could be the answer for getting to the ultimate customer," he said.

Systems such as new technology could be the secret to managing risk in the future, Mr. Rosenbaum suggested.

Mr. Benson argued that many current systems are ill-equipped to manage risk. "Systems generally generate a corporate risk-averse culture," he said. "Risk management programs are still massively insurance-led. When insurers manage risk, they are protecting their balance sheet, not yours. They are managing their own risk. When you move to a holistic interpretation of risk, these systems handle risks very badly."

Of the three categories—the market, the system and the people—Mr. Benson said he considered people to be the most important. "People, in my opinion, are the key to the management of risk," he said. "You, as risk managers, have to manage peo-

ple, and very few of us have the skills or training to do this well."

Mr. Benson argued that risk managers have to manage people downward, laterally and upward. They have to manage downward—vis-à-vis their staff—and laterally—vis-à-vis their peers, he argued. "And, most critically, you have to manage upwards," he said. "You have to manage your board."

"If you don't have these skills, your systems will fail you and the insurance market will fail you," Mr. Benson said. "My advice to risk managers is, acquire those skills."

Mr. Bawcutt said businesses must do more to encourage good risk management. "It does seem to be that very little effort is made to manage risk, and there is very little incentive to do so," he said. "In some cases, CEOs are even paid bonuses when things go wrong, so where is the incentive (to manage risks)?"

"In my view, there has been a smoke screen—corporate governance—to cover up inactivity. What do corporate governance statements actually mean? There is a lot of pretentious talk about integrated risk management and corporate governance, etc.," he said. "The Bawcutt law is that the more companies pontificate about corporate governance, risk management and the rest of it, the less likely they are to be doing anything about it. It is important to stop painting the picture, the myth, that good risk management is the norm. It isn't."

Business rarely does anything to

support staff, Mr. Bawcutt argued. He cited the example of businesses' negative reaction to proposals to change the law on corporate manslaughter (*BI*, Feb. 5, 2001). "Some AIRMIC risk managers publicly supported their employers and said they were (against) the proposals," he said. "There was also opposition to the minimum wage, despite the fact that a happier workforce is a safer workforce."

Mr. Bawcutt said he concurred with Mr. Rosenbaum's theory that it is the customer who bears the ultimate risk. "I support the Rosenbaum view that risk is created by business but actually taken by the customer and the society," he said.

Mr. Benson challenged his colleagues and took a more-optimistic view. "As far as I can see, you are hearing two defeatists saying that risk ain't going to be managed," he said. "I'm saying, if you want to change that, you need a kind of missionary zeal. If you start from this defeatist position, you will get nowhere."

But Mr. Benson said that risk managers must increase their profile and become more influential within their organizations. "Risk managers have lost ground in the battle to be big influences in risk," he said.

"The debate (on risk) was more intense, fervent and better in the 1970s. That was because we had big problems and issues—it was the time of breaking and busting of tariffs, the beginning of the debate

about captives," Mr. Benson said. "But we are not today discussing big issues. There is an apathetic air, and I think we have lost our way for the minute."

"We need to be more down to earth," Mr. Bawcutt said. "The sort of things that we are talking about bear no relation to what is happening in most people's lives."

Speaking of the 1999 Turnbull Report, which called for companies traded on the London Stock Exchange to disclose more information about risks and risk controls, Mr. Bawcutt called it "an example of people being forced to do what they wouldn't have otherwise." "It has put risk management on the agenda," he said.

But Mr. Bawcutt expressed con-

cerns about the notion that one person in a company could be responsible for risk. "There is still a perception that one person can 'head' risk. That is why this idea of the chief risk officer worries me."

Mr. Rosenbaum said he thinks that things are getting better on the risk management front. After all, he argued, good risk management is good business management. "I think consumers are going to require businesses to be more explicit about their risks," he said.

"Education is absolutely critical," Mr. Bawcutt said. "You need to educate your bosses, because you have the problem of trying to persuade your bosses to spend money on things that are pretty much intangible."

Good e-coverage is hard to find: Survey

By SARAH VEYSEY

BIRMINGHAM, England—Risk managers in the United Kingdom are unable to find adequate insurance coverage for reputation risks, even though this is a key exposure for them, according to a survey of AIRMIC members.

A survey of the Assn. of Insurance & Risk Managers' 40-person e-commerce special-interest group revealed that members considered loss

of reputation, intellectual property loss and fraud to be the greatest potential risks arising from their companies' e-commerce operations. But AIRMIC said that respondents ranked intellectual property and reputation loss as the most-difficult areas for which to obtain insurance coverage.

AIRMIC said that members surveyed had expressed concern that

See **E-commerce** on next page

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INTERNATIONAL

Lloyd's

Continued from page 17

A major problem for Lloyd's results, Mr. Riley said, had been the poor performance of the bottom quarter of syndicates, coupled with "incompetent" underwriting in certain market segments. Lloyd's is addressing this situation, he said, noting that five underwriters have been suspended from underwriting so far this year.

"If Lloyd's wants to be a successful business, then we have to make sure disciplines are in place to get rid of the people who are dragging the market down," Mr. Riley said.

When asked whether the market might return to the system in which

underwriters must financially support the syndicates for which they write business, he said this was one idea under consideration.

Mr. Riley said that once a proposal had been approved by the Council of Lloyd's, the market's governing body, implementation would take six to nine months. The changes would then take effect for the 2003 underwriting year, he said.

The last major review of the market's structure, undertaken by Lloyd's in the 1990s following huge long-tail losses, resulted in the 1996 reconstruction and renewal program. That program permitted corporate investment in Lloyd's for the first time and created Equitas Ltd., the runoff reinsurer for the market's pre-1993 long-tail liabilities. **BI**

Independent

Continued from page 17

age of £278 million (\$383.1 million) through three reinsurance contracts placed with "highly rated European reinsurers" for premiums totaling £110 million (\$151.6 million).

In a statement issued June 8, Independent said it is seeking capital "potentially to provide alternative funding to replace certain of the reinsurance arrangements as a result of new information concerning additional alleged reinsurance arrangements." The company would not

comment on which contracts may have to be replaced.

Confusion remains among market observers, including one of the company's main reinsurers, about what is meant by those "alleged reinsurance arrangements."

"We do not know what the company is referring to when it talks about 'alleged reinsurance.' We are very unclear about what the message is," said a spokesman for Employers Reinsurance Corp. in Overland Park, Kan.

The spokesman confirmed that Employers Re's Dublin-based subsidiary, Irish Euro-

pean Reinsurance Co. Ltd., is one of the reinsurers providing the Independent's additional reinsurance coverage of £278 million.

"As far as we are concerned, there is no problem with those contracts or their validity," he said.

A.M. Best Co. announced Thursday that it had downgraded the financial strength rating of Independent to B-, with developing implications, from B++. Standard & Poor's Corp. reduced Independent's insurer financial strength rating to BBB+ from A- in late May, and the ratings remain on CreditWatch.

Guidelines for risk management released

By SARAH VEYSEY

BIRMINGHAM, England—The U.K. Assn. of Insurance & Risk Managers has unveiled a new set of risk management guidelines to help companies comply with new corporate governance rules.

The guidelines, set forth in "The AIRMIC Guide to Developing a Risk Management Process," were unveiled at the association's annual conference in Birmingham, England, earlier this month.

A special-interest group headed by Clive Smith, risk manager for the London-based communications company Orange P.L.C., developed the guidelines. AIRMIC said in a

statement that the guidelines are "aimed at taking some of the mystique out of risk management and showing the discipline as a systematic business process offering real benefits to businesses that fully embrace it."

"The whole notion of risk and how it is managed has undergone a sea change within the risk management community," Mr. Smith said. "It is no longer set in the context of an insurance-buying function but has become an explicit management issue."

The new guidelines include:

- Recommendations about risk forecasting, identification and assessment.

- Suggestions about how to apply risk management to all aspects of an organization.

- Steps to improve the communication of risk management information.

Mr. Smith described the guidelines as "a route map for AIRMIC members to see how (risk management) works for their organization." He said the development of the guidelines was prompted by the implementation of the 1999 Turnbull Report, or Combined Code, on corporate governance, which recommended that all publicly traded companies disclose their risks to shareholders. "Our objective as risk managers is to develop a robust process by which organizations can both comply with the Combined Code and establish a culture of taking the right risks for organization-

al success," Mr. Smith said.

Mr. Smith said the guidelines likely would be updated every few years. "The intention is to share best practices," he said. "In bringing together best practice and evolving risk management thinking, we have developed a risk toolbox which can be adapted to fit into the way organizations go about the development of risk information for decision-taking."

Meanwhile, AIRMIC continues to work with the Institute of Risk Management and the Assn. of Local Authority Risk Managers to develop an international standard for risk management approved by the British Standards Institute, said AIRMIC Executive Director David Gamble. That project was launched last year (*BI*, May 8, 2000).

The proposed standard will soon be made public for general consultation, Mr. Gamble said. During the consultation period, organizations such as the U.K. associations for internal auditors, corporate treasurers and accountants will be asked to comment on the proposals, he said.

Mr. Gamble said that the process of developing the draft standard has been a difficult one and has taken longer than the three organizations had expected. "But we have had great feedback—especially from the U.S.," he said.

The guidelines are available free of charge to AIRMIC members at www.airmic.com. Nonmembers may buy the guidelines for £30 (\$41.45) per copy via the Web site or by phoning 44-207-480-7610.

airmic

Audits

Continued from page 17

Mr. Gossage said that the U.K. Financial Services and Markets Act 2000 also increased the need for internal audits. Under this legislation, he said, the Financial Services Authority requires the appointment of "approved persons" within an organization to handle risk reporting.

Mr. Gossage added that the Basel II Capital Accord also would help raise the profile of internal auditors. The accord, which will come into force at the end of this year, is a set of standards set by the central bankers of the G-10 countries addressing capital adequacy and the behavior of international banks.

Mr. Gossage explained that the accord would enable well-managed banks to hold less money in re-

serve—currently all international banks are required to keep vast sums of cash on hand to pay account holders and creditors in the event of bankruptcy. "The less money you have to hold back, the more you can put out to market," he said.

Among other things, Basel II will encourage banks to have very good risk management processes, said Mr. Gossage. Basel II emphasizes

the management of operational risk. "This stirs a lot of interest in the concept of operational risk and its development," he said of the accord.

"Internal audit and operational risk are really brother and sister," said Mr. Gossage.

Mr. Gossage said that while some organizations have merged their internal audit and risk management functions, he believes that, in gener-

al, it is best to keep the two separate. "I think internal audit adds more value by being independent," he said, noting, though, that some companies may not be able to afford to maintain two separate departments. Although separate, he added, the internal audit department should use the same risk management model as the risk management department to encourage consistency. **BI**

E-commerce

Continued from previous page

while e-commerce continues to grow, few people fully understand the risks involved.

"Risk managers who responded to the survey said that neither employee users nor management boards understand the risks associated with e-commerce/IT," AIRMIC said in a statement.

While about two-thirds of respondents said that e-commerce had expanded their customer base, half of those companies use a separate brand name for their e-commerce activities—"possibly an indication of their awareness of potential risks to the company's reputation," according to the AIRMIC statement.

Stuart Martin, chairman of AIRMIC's e-commerce special-interest group and group insurance manager for Balfour Beatty P.L.C., said that while the group's members believe that all sectors of business can benefit from e-commerce, there is a great deal of work to be done before

the risks involved are fully understood—particularly by information technology users and their bosses.

"There is also a belief that the insurance market does not fully understand the risks, which is backed by the contention from our members that they are unable to obtain adequate insurance cover for them," he said.

The survey also found that three-quarters of respondents would like to see more legislation relating to e-commerce in the United Kingdom.

"We would like to see movement toward the development of criminal and civil laws, giving both the company and police the ability to prosecute or obtain compensation with respect to hackers, corporate espionage—theft of intellectual property, or fraud," Mr. Martin said. "Along with this there should be coordination of international law, especially when dealing with products or services that may be considered offensive in some countries," he said.

Meanwhile, AIRMIC members operating in the retail sector do not

consider so-called e-tailing—or buying and selling goods online—to be a significant threat to their businesses, according to a survey of members of the AIRMIC retailers special-interest group.

"While the overwhelming majority of our members believe their companies can benefit from using e-tailing, the view at this moment is also that more-traditional methods of buying and selling are not under threat," said Paul Howard, chairman of AIRMIC's retailers special-interest group. But he said that the success of companies such as Internet-based bookseller Amazon.com prove that e-tailing could become a key part of many areas of the retail sector.

Companies that make up AIRMIC's 23-member retailer group were asked to detail the main risks faced by companies selling goods via the Internet. Respondents listed loss of reputation, falling customer service standards and fraud as the major threats to e-tailers, though they also ranked competitor activity as a major threat to retailers' suc-

cess.

Respondents also pointed to the United Kingdom's growing compensation culture as a major concern. Seventy percent of respondents "said that 'compensation culture' had become more evident in the retail sector in the past year," which AIRMIC said in a statement could dampen a movement to online sales. "More than 90% regarded the

trend toward 'blame and claim' as either a medium or a major risk to e-tailers," the statement said.

Mr. Howard added that while most members of the retailers group said that e-tailing risks are beginning to be managed within their own organizations, "there is some frustration at the lack of development in insurers' products in such a key area." **BI**

Conference draws 500

BIRMINGHAM, England—More than 500 delegates converged in the International Convention Centre in Birmingham from June 4-6 for the 2001 Assn. of Insurance & Risk Managers' annual conference.

The theme of the conference, chosen by outgoing Chairman Alan Fleming, was "Risk Management—A Virtuous Circle," and speakers and delegates included risk managers, insurers, brokers, attorneys and consultants.

During the conference, Mr. Fleming, risk manager at Railtrack

P.L.C., handed over chairmanship of the association for the coming year to Deputy Chairman Philip Thomas, risk manager at Bass P.L.C.

Next year's AIRMIC conference will take place June 16-18, again at the International Convention Centre in Birmingham.

For additional information, contact the AIRMIC secretariat at 6 Lloyd's Ave., London, EC3N 3AX; phone: 44-207-480-7610; fax: 44-207-702-3752; or e-mail: enquiries@airmic.co.uk. **BI**

COMMENTARY

Readers teed off over golf column

I should have known better than to poke fun at something that so many other people in the insurance industry revere and take seriously.

I should have expected that I would be subjected to reader ridicule, scorn and abuse for voicing my opinion about such a sensitive subject.

I should have listened when people warned me that, next to actuarial science, there is nothing the industry takes as seriously as...golf.

Of course I am referring to my recent commentary about the Casey Martin ruling by the U.S. Supreme Court. I hesitate to repeat it, but for those who didn't read my earlier comments, I applauded the majority opinion's finding that the PGA Tour Inc.'s refusal to allow Mr. Martin the use of a cart for his disability was a violation of the Americans with Disabilities Act.

My reasoning was basically threefold: one, why would Congress make it illegal to deny access to people with disabilities in virtually every area other than the playing field? Two, why should professional or amateur sports be allowed to bar access to a disabled competitor when they are, in general, barred from barring competitors on the basis of race, gender and religion? And three (and this is where I really was pilloried), why should walking be regarded as a fundamental aspect of golf?

It was as if I had written that a policyholder needn't prove a loss before an insurer had to pay out on a claim. The reaction was swift and harsh. If I were writing for a Taliban insurance journal, no doubt I would now be learning to swing a three wood one-handed, practicing what I preached, so to speak.

The main argument against the position espoused by the Supreme Court majority and me is that golf, by virtue of being a sport, is intended to celebrate athletic excellence. As such, opponents argue, there is no room for accommodating physical shortcomings—even ones that otherwise would prevent an individual from competing.

A public entity risk management specialist wrote: "The very purpose of the PGA Tour is to run an athletic competition whose very nature is to discriminate among players on the very basis of their physical

ability. If you read 'ability' here to be synonymous with 'lack of disability,' then the notion of forcing an accommodation here becomes even more disturbing. You may think that Martin not being able to compete because of his disability is unfair, but does this mean that all physical competition should be judged as unfair to the disabled and, thus, potentially discriminatory? Or merely rendered meaningless by a series of reasonable accommodations?"

This sentiment, voiced by several others, suggests that golf is a sport of athletic prowess and endurance, like the decathlon or pentathlon, rather than one of skill. I beg to differ. Some golfers, such as Greg Norman and David Duval, are in great shape, but it doesn't seem to help them win any more than, say, John Daly or Craig Stadler or Jumbo Ozaki.

This attitude of golf as a game played by athletes reminds me of a story about former first baseman John Kruk, who was not well known for his healthy appearance. On one occasion, when Kruk was playing for the Phillies and standing on the steps of the dugout, smoking a cigarette, a fan chastised him for setting a bad example with his overweight, slovenly appearance and smoking, admonishing him that children look up to athletes. "I'm not an athlete, lady, I'm a ballplayer," he replied.

Just as some people apparently feel that the game of golf is rigid and unalterable, allowing no room for the introduction of carts, others seem surprised that the law is open to interpretation, flexibility and, yes, change.

A claims management company executive wrote: "We all wish to help the less fortunate, but we can't do it by ignoring the law. We may not all agree with all aspects of the Constitution, but we have to follow it. You seem to have the attitude that many judges have—that the law can be manipulated. Because of these judges and because of a naive acceptance of an encroaching judiciary, I am fearful about the future of our society."

I'm fearful that this person thinks the Constitution governs the game of golf.

A risk manager wrote: "Being asthmatic, I am overjoyed at the recent Casey Martin decision. Now I can force sports organizations to accommodate me by calling a timeout so that I can walk down the field or court instead of having to run. The downside, of course, is that employees can make my company make similarly difficult (and silly) accommodations. But heck, as long as no one is refused their every desire because of a little thing like physical ability, who cares what it costs....damn the implications!"

Thank goodness for one broker who wrote to me.

"Although my initial reaction to the case was in support of the PGA, I have to say that I agree with the ruling and agree with your column. The art of golf is making the shot, not walking up the hill to get to your ball. I am sure that most of your mail will disagree with you, so I wanted to give you one that agreed."

You're right, it did; so thank you for writing. It's nice to know that not all of my shots wound up in the woods.

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

Allison

Continued from page 1

about 100,000 personal and commercial lines claims that will amount to approximately \$500 million in south Texas, according to Jerry Johns, president of Southwestern Insurance Information Service in Austin, Texas.

The National Flood Insurance Program said last week that its early prediction is for about 18,000 claims from Louisiana and Texas. "It's still very early," a spokeswoman for the program warned.

President Bush last week signed disaster declarations that will allow Texas counties and Louisiana parishes to receive federal aid.

Allison's toll has been horrific in some cases. Among those killed was a woman who drowned when an elevator lowered her into the flooded parking garage of a downtown Houston office building. At Baylor Medical Center in Houston, approximately 30,000 research animals, mostly mice and rats, perished in a flooded lower floor.

The Harris County Appraisal District said last week that economic damages had topped \$2.14 billion in Houston. That included \$960 million in damage to at least 526 commercial buildings and \$122 million in damaged inventory. Not included in that total are damage to the contents of private homes, damage to medical, government and arts buildings and damage to property outside the city limits.

Parts of Houston were flooded when water rushed through a series of air-conditioned tunnels that snake through the city, providing pedestrians with shelter from the city's muggy summers. The water ruined underground restaurants and crept into businesses connected by the tunnels.

"Everybody's got clients with problems," said Joe Williams, chairman and chief executive officer of Houston-based brokerage Wisenberg Insurance + Risk Management. Particularly hard hit were small retailers and storefront offices that lost their entire inventory on ground floors, Mr. Williams said. Many of these losses to small businesses will be uninsured, though, he said.

Downtown high-rise buildings saw significant damage from flooded basements and lower floors. Many large com-

mercial risks are better protected than smaller businesses, because manuscripted property policies bought by larger companies often are written to cover flooding.

"Under manuscripted policies" coverage is available, said John Hinz, general manager in the Houston office of GAB Robins N.A. Inc.

GAB, with a team of about 25 staffers in Houston, expects to handle several hundred property claims that amount to hundreds of millions of dollars, Mr. Hinz said.

Tom Simoncic, San Francisco-based manager of GAB's executive loss adjusting division, said last week that GAB already was aware of about 75 claims that each would exceed \$1 million.

Mr. Simoncic pointed out that property owners and insurers could be facing another problem after Houston dries out. Claims for damage related to mold are on the rise, he noted. "The mold issue," he said, is "on all the adjusters' minds and those who are involved in the restoration."

Apart from property damage, business interruption losses will be "extremely heavy," Mr. Hinz said.

A spokeswoman for Six Flags AstroWorld said the Houston amusement park was scheduled to reopen late last week after being closed for a week. "The rides came out okay," she said, but "two theaters have extensive damage and a few of the shops are being gutted" after flooding damaged them. Warehouse offices also were heavily damaged.

The complex of hospitals at the Texas Medical Center was among Houston's worst commercial losses. Eight to 10 feet of water forced the evacuation of 540 patients from Memorial Hermann Hospital and swamped the facility's atrium and cardiac laboratories. A spokeswoman for the hospital said damage would total "in the tens of millions of dollars." The spokeswoman said that coverage is in place to respond to the claims.

Some property owners fared better amid the flooding. Of the 31 stores that Domino's Pizza L.L.C. operates in Houston, only one was shut down by the flood, said Bob Boik, director of risk management for the Ann Arbor, Mich.-based chain. The location was gutted to replace drywall and other material ruined by the water. Coverage written by Lib-

erty Mutual Insurance Co. will respond to the claim, Mr. Boik said.

A spokesman for Houston Mayor Lee P. Brown said city property sustained an undetermined amount of damage. He said insurance for the city is written with a \$1 million deductible and carries varying limits depending on whether the property is located within a flood plain.

Personal lines underwriters are seeing the most claims activity. State Farm Mutual Automobile Insurance Co. last week had counted about 28,000 homeowners and automobile claims in south Texas and about 6,000 more in Louisiana. Allstate Corp. said it had received 19,436 claims from the Houston area, with 11,759 of those filed by automobile owners. Farmers Insurance Co. reported about 7,500 claims, mostly for auto losses. None of the personal lines insurers had compiled dollar amounts for the claims.

Commercial losses are "spread throughout the commercial insurance industry," said Robert Barnett, Los Angeles-based assistant director of loss adjuster McLarens Toplis Inc.'s executive management division. Claims were still being recorded late last week, but McLarens already had totaled about \$250 million in losses from 112 locations.

CNA Financial Corp. said last week that it had received about 80 claims from the Houston area and another 30 from Louisiana. One of those losses exceeds \$2 million, and another is approximately \$230,000, said John Rawlings, vp of property claims at CNA in Chicago.

Mr. Rawlings said CNA estimates that its total liability from Allison will not exceed \$10 million, "simply because the majority of our commercial policies do not have flood coverage."

Liberty Mutual said it doesn't expect a significant number of claims from commercial policyholders, but it has sent a catastrophe team to south Texas to handle any that do arise. The insurer had received about 1,000 personal lines claims last week for flood damage to homes and about 500 from auto owners.

Hartford Steam Boiler Inspection & Insurance Co. does not release claims figures, but a spokesman for the insurer said it does not expect problems from the flooding because its policies include flood exclusions. **[B]**

Staff

Continued from page 4

in the press as Microsoft-specific issues do not occur because of vulnerabilities inherent to Microsoft systems, Ms. Freeman said. Instead, she said, they are the result of a lack of attention to basic security practices on the part of users.

Because Microsoft systems generally are easier to use than competing products, administrators operating those systems may, in some cases, not have as much technical and security expertise as their counterparts running other types of

systems, said Philip S. Pierson, vp-technology products for e-Sher Underwriting Managers in Irvine, Calif.

But regardless of what operating system is used, his company's main concern is whether certain risk management processes are in place, Mr. Pierson said. "Because of that view, we are not interested in creating a separate price hike for NT."

e-Sher, a unit of Sherwood Insurance Services, underwrites coverage for a Lloyd's syndicate and for CNA Financial Corp. The security practices e-Sher wants to see include appropriate system configuration, round-the-clock

monitoring of systems for hacker intrusions, and a staff member dedicated to implementing and monitoring security measures.

Not surprisingly, after Mr. Wurzler drew attention for his recently published comments, one of the calls he got came from Redmond, Wash.-based Microsoft itself. He explained to the software giant what he had meant by his remarks and that the situation raised awareness about an underwriting concern.

"It caused some consternation," he said. "But, at the same time, it caused companies to understand the situation." **[B]**

Patients

Continued from page 1
guarantees, such as emergency care access and continuity of care for ongoing health care needs. Employers, though, have criticized the measure as providing little more than handouts to the plaintiffs' bar because it would permit lawsuits against managed care plans—and in some cases the employers that sponsor them—in disputes over coverage. It also would require that coverage disputes undergo external review before a plaintiff could go to court—except in cases where death or serious injury occurs before completion of the appeals process.

States with broader patient protection laws could continue to enforce those laws. Cases involving medically reviewable decisions, such as traditional malpractice claims, would remain in state courts, with awards—including punitive damages—dependent on individual state laws.

The measure calls for federal courts to hear cases involving administrative decisions. It would ban the awarding of punitive damages in such cases but would allow the imposition of a civil monetary penalty of up to \$5 million in cases in which a plan acted with bad faith and flagrant disregard of a patient's rights.

Supporters of the measure have said repeatedly that they do not

intend to subject employers to liability except under the most limited circumstances. They hold that employers would only be held liable for monetary damages in coverage disputes if they directly participated in making the decision and the decision resulted in personal injury or death. According to supporters, direct participation would not encompass such acts as selecting a plan or choosing what benefits the plan would cover.

Employer groups remain unpersuaded that they would escape liability. For example, the Washington-based American Benefits Council issued a paper late last week that said the bill would not only allow employers to be sued directly under some circumstances, but also would open "the door for expansive employer liability in many other ways based on other provisions that are unclear until they are interpreted by the courts on a case-by-case basis." Such suits could include those brought to determine whether an employer did indeed have direct control over a coverage decision or could be brought against a plan's fiduciary, which could have the same effect as a suit against the employer, according to the paper.

Looking toward this week's debate, "a lot is riding on the White House's position and their adherence to the very clear and appropriate principles that the president laid out several weeks ago,"

said James Klein, president of the American Benefits Council in Washington. He referred to a series of principles that President Bush said must be the basis of any bill he would sign (*BI*, Feb. 12). At the time, the president said he could not support a bill "that encourages unnecessary or frivolous litigation" and called for protections for employers. He also said he could not sign the Bipartisan Patient Protection Act, a position that has been restated by the president's representatives numerous times since February.

"I think we're really at a point now that the details will matter so much, how provisions will be crafted and whether the external review process is workable, and whether or not people must exhaust external review before being able to go into court—currently you don't under Kennedy-McCain," Mr. Klein said. "I think the devil is in details."

Mr. Klein's concerns are shared by the property/casualty insurance industry as well.

"Obviously, we're very concerned with anything that extends liability, particularly to employers," said Melissa Shelk, vp-federal affairs at the American Insurance Assn. in Washington. "This legislation has vast expansion of liability and basically allows for suits to be brought five ways for the same alleged wrong. We're not against patient protections; our whole focus has been on the liability

and the cost that will flow from that." Ms. Shelk noted that managed care plays a role in workers compensation "and anything that impacts managed care will have a residual effect."

Still, "the bottom line is, the president has said he would veto Kennedy-McCain in its current state and that has not changed," she said.

"We're playing with live ammunition in this Congress. We have a president who wants to sign a bill and I think that's going to add a new dynamic to this debate and I think this is the opening act to what likely is going to be a continuing debate. Much as we would like to be out of the 'Groundhog Day' scenario, I see no ready exit from that debate," said Neil Trautwein, director-employment policy for the National Assn. of Manufacturers in Washington.

Mr. Trautwein played down the importance of Rep. Norwood's actions.

"I think Norwood supporting the Ganske-Dingell bill in the House is like a dog biting a man or the sun coming up in the morning. I don't think it changes the dynamics. I think the only remarkable thing would have been if Rep. Norwood had finally sought to enact a reasonable patients' rights bill rather than the outrageous bills that he has supported in the past and now once again."

Mr. Trautwein also played down the effect of the recent decision of

Sen. James Jeffords, I-Vt.—a co-sponsor of a competing, less-intrusive patients' bill of rights backed by the White House—to leave the GOP, thereby turning over control of the Senate to the Democrats.

"I think none of the personnel shifted when Jeffords shifted to an Independent. We still have the same number of senators that we had going into this mess. So I'm looking for an extensive debate, lots of amendments and spirited debate in the way that only the Senate can," he said.

"You have a lot of activity obviously coming up here—I think we're seeing some structure to the debate," said Kate Sullivan, director-health care policy for the U.S. Chamber of Commerce in Washington. She said she doesn't know if the Democratic majority will extend the debate to other health care matters, such as the cost of prescription drugs.

In the meantime, Rep. Norwood's move means that employers will have to make their case to Republican members, some of whom are already drafting a measure that would embody the president's principles.

"A lot of members look to Charlie as to where they're going," she said.

"We're going to have to talk to those Republican members and ask them: Are you going to line up with Norwood or are you going to back the president?" **BI**

OSHA

Continued from page 3
through on its plan to revisit the ergonomics issue through the July forums and then devise its official approach by September, Mr. Henshaw won't have much time for on-the-job training, she noted. But given his experience, that should not be a problem, she added.

"He's a technical person—he comes from the health and safety side. It's kind of telling that the unions are not opposing him," Ms. Gackenbach said, referring to the fact that the AFL-CIO and some of its member unions have praised the nomination.

"At the same time, the leading opponent of the failed ergonomics standard—(Sen.) Kit Bond—recommended him. I think that everyone looks at him as professional. He's a consummate professional. He has the technical expertise to handle not only ergonomics but the other work/safety issues that are going to confront the agency, everything from needlesticks to various other issues," Ms. Gackenbach said. "He's going to be able to hit the ground running."

Sen. Kit Bond, R-Mo., who had suggested in January that President Bush consider Mr. Henshaw as a candidate for the OSHA job, welcomed the nomination and used the occasion to take an indirect swipe at the policies of the previous OSHA head, Charles Jeffress.

Mr. Jeffress had drawn sharp criticism from employers, risk managers and insurers for promulgating an ergonomics standard in mid-November despite opponents' contentions that the

standard was vague, overly expensive to implement and lacked an adequate scientific basis. The controversy ultimately led Congress to rescind the standard by using its powers under the 1996 Congressional Review Act for the first time.

"It is imperative that OSHA get a new assistant secretary as soon as possible, so that the process of restoring that agency to respectability can begin," Sen. Bond said in a statement released the evening before the White House's official nomination of Mr. Henshaw, made June 13. He said Mr. Henshaw "has a solid vision about restoring the credibility and integrity" of OSHA.

Keith Lessner, vp-safety and environment for the Alliance of American Insurers in Downers Grove, Ill., noted that the AIHA—which Mr. Henshaw used to head—has supported the need for an ergonomics standard in the past, although it did not back the standard OSHA promulgated last year. He said the business community will be watching very closely during Mr. Henshaw's confirmation hearings to see where he stands on the issue.

In addition, the group has not endorsed bipartisan legislation that calls upon the Labor Department to produce a new standard, although the group does agree with goals of that measure, which was introduced by Sen. John Breaux, D-La., in the Senate and Rep. Chris John, D-La., in the House, according to an April 16 letter sent to both lawmakers by AIHA's then-President Steven P. Levine, a professor of industrial health at the University of Michigan in Ann Arbor. **BI**

Purchasing

Continued from page 3
um savings of roughly 12% to 18% through policies written by Metropolitan Life Insurance Co.

Being in the LTC coalition "has been a very positive experience. It allowed us to offer this benefit and at less cost compared to doing it on our own" said Gayla Coffelt, benefit plans manager with American Airlines Inc. in Fort Worth, Texas.

"We do have a lot of purchasing power, but joining with other employers made this an even better deal," Ms. Coffelt said of the LTC program.

Prescription drug coalition members say that winning bigger price discounts, while important, especially at a time of soaring drug costs, is not their only motivation in banding together.

Through quarterly meetings, benefit managers in the coalition say they hope to learn from each other about how to run their prescription drug benefit programs better and more efficiently.

"Many heads are better than one head. We want to see who has a new idea that is working well," said Christopher O'Flinn, vp-human resources at AT&T Corp. in Basking Ridge, N.J., which is a member of the coalition.

Aon declined to identify—until commitments are finalized—the six other employers that are expected to join the coalition.

The prescription drug coalition, while easily the most significant, could be just one of several coalitions that Aon, through its new CPG unit, will launch in the months ahead. Other employer coalitions now being developed by CPG involve group legal benefits and group homeowners and

automobile insurance.

CPG's Mr. Smith says the group legal benefits coalition, which so far has commitments from six employers, was able to obtain excellent rates and plan design features that coalition members would not have been able to gain on their own. The legal benefits are being provided by Hyatt Legal Services.

"We negotiated fantastic arrangements," he added.

'A coalition can achieve a level of negotiation with a provider that a single company, even one the size of AT&T, could not achieve.'

— Christopher O'Flinn
AT&T Corp.

Aon's Mr. Gulotta says employee benefit purchasing coalitions bring advantages to employers and providers. For employers, by banding together, they have a buying and negotiating clout they lack on their own, a point with which benefit managers at even the largest companies concur.

"A coalition can achieve a level of negotiation with a provider that a single company, even one the size of AT&T, could not achieve," Mr. O'Flinn said.

In addition, at a time when the size of many corporate benefit staffs have been slashed, banding

together through a coalition and having its professional staff and outside experts do much of the work, can put resources on a project that companies lack.

"It can be tough to get the job done with shrinking corporate resources," Mr. Gulotta added.

For providers, doing business with a single bloc of big employers can mean a significant reduction in marketing and administrative expenses, with a savings passed on to customers.

"We were able to achieve a lot of efficiencies," Jodi Anatole, vp-product development and strategic initiatives at MetLife's long-term care group in Westport, Conn., said of the insurer's participation in the LTC coalition.

Under the coalition mode CPG organizes coalitions and acts as their advocate in negotiations with suppliers, while providing support services. Coalitions that are formed, though, are not legal entities and benefit plan contracts are between members and suppliers. **BI**

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Coverage

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pending in another 16. These state laws, though, do not apply to self-insured employer plans.

But some employer and insurer groups argue that they remain opposed, in principle, to the concept of mandated benefits.

U.S. District Court Judge Robert Lasnik ruled last week in the *Erickson* case that excluding coverage for prescription contraceptives violates Title VII of the federal civil rights law, as amended by the Pregnancy Discrimination Act of 1978.

Excluding a class of prescription drugs used only by women from a generally comprehensive drug plan discriminates against women by providing them with less coverage than is offered to men, Judge Lasnik ruled.

"Although the plan covers almost all drugs and devices used by men, the exclusion of prescription contraceptives creates a gaping hole in the coverage offered to female employees, leaving a fundamental and immediate health care need uncovered," the judge wrote in his decision.

Ms. Erickson, a pharmacist, is the lead plaintiff in a class-action lawsuit filed against her employer, The Bartell Co., a self-insured drugstore chain based in Seattle. A trial is scheduled for Oct. 1 in the same court in which plaintiffs are seeking still-unspecified reimbursement for the cost of their contraceptives.

The court ruling follows a December ruling by the Equal Employment Opportunity Commission, which also held that an employer health plan that excludes contraception violates the Pregnancy Discrimination Act. But that ruling, which involved two unidentified employers, does not have the force of law.

Historically, many employers did not originally cover prescription contraceptives because they were not considered a "medical necessity" under the terms of their health plans, observers note. But this notion has since changed, and many major employers now cover prescription contraceptive drugs. The courts have "caught up with what has become an increasingly prevailing practice," said Helen Darling, a senior consultant with Watson Wyatt Worldwide in Stamford, Conn.

A national survey last year of 1,887 employers by the Menlo Park, Calif.-based Henry J. Kaiser Family Foundation breaks this down by benefit plan type. A total of 87% of companies with coverage through HMO plans, for instance, provide for oral contraceptives. Among conventional plans, 60% offer contraceptive coverage, while 62% of preferred provider organization plans and 75% of point-of-service plans cover contraceptives.

Ken Jacobsen, Atlanta-based national health practice leader for The Segal Co., said the consulting firm had already been encouraging employers that still do not provide the coverage to consider doing so in the expectation that the courts would move in this direction.

This decision is likely to encourage those who do not al-

ready offer the coverage to do so.

Mary Beth Mulligan, an associate who specializes in women's health issues at William M. Mercer Inc. in New York, said that shortly after the decision was issued she received a call from a client that had already been considering it and has "decided they didn't want to fool around with it any more. I think we'll probably see a number of employers who are going to be looking at this a lot more carefully and, hopefully, they'll take it into consideration," Ms. Mulligan said. Employees' attorneys now have a legal precedent to call upon, she said.

Julie Gonen, director of family health at the Washington Business Group on Health, said, "I think that if you add this to the EEOC decision, as well as to the various state-level insurance mandates around this, it will add just a little bit more momentum to maybe pushing employers toward offering the coverage."

Joanne Sica, assistant vp and pharmacy benefits consultant for Aon Consulting in Philadelphia, said she received numerous

'Doesn't it seem folly to not promote contraception to avoid unwanted pregnancy?'

— Ken Drummer
Watson Wyatt Worldwide

telephone calls from employers about the issue following the EEOC ruling. Now that the court has also ruled in favor of coverage, it is "probably really going to pave the way for companies to move in that direction," Ms. Sica said.

"There's still going to be some that say, 'Absolutely not, we're not going to do it until someone holds our feet to the fire,'" Ms. Sica said. But for employers who had been considering it anyway, she said, "this might provide that impetus to push them to start covering it."

Two other factors encouraging the introduction of the benefit are the comparatively low expense and a sense of fairness, observers say.

According to data compiled in May by The Segal Co. of New York, oral birth control pills, the most commonly used prescription contraceptives, have an projected total annual retail cost of \$300 per user.

Observers say, though, that this expense is far outweighed by the total cost to an employer of an unwanted pregnancy, in terms of lost time, reduced productivity, turnover and medical costs, and an increasing number of employers now recognize this. If the use of birth control pills saves a pregnancy, particularly a high-risk pregnancy, the drug costs are not particularly relevant, Ms. Darling said.

Ken Drummer, practice leader for group and health care in Watson Wyatt's San Francisco office, said, "Prescription costs are one of the main components

of trends that employers are wrestling with. Having said that, it would seem that there's room for a more-enlightened approach for a company that is interested in getting a real handle on its cost of doing business, and the cost of doing business doesn't stop at the health insurance door. The cost of doing business has to do with productivity and the actual health of the worker," he said.

"Doesn't it seem folly to not promote contraception to avoid unwanted pregnancy?" Mr. Drummer asked. The unwanted pregnancy is an expense not just in terms of health insurance but in lost productivity. "A planned pregnancy might result in a quicker return to work, because you've got all your ducks lined up; you're financially able to support the child and the child care that goes with it." Conversely, he said, women will often leave the workforce to care for the children born of unwanted pregnancies.

There is also a fairness element involved, observers say. The development of Viagra threw the issue in "high relief," Ms. Darling said.

Most health plans cover almost all drugs and devices used by men but may exclude contraceptives, Ms. Sica said. That inequity, she said, was cited by the judge in his ruling.

Ms. Sica noted that, ironically, many employers that do not offer coverage for birth control pills as a pregnancy preventive measure pay for the pills when they are prescribed in response to a medical necessity. For example, birth control pills are also used for some types of acne, as well as for certain medical conditions in women such as cystic ovaries and as a hormonal replacement for menopausal women, she said.

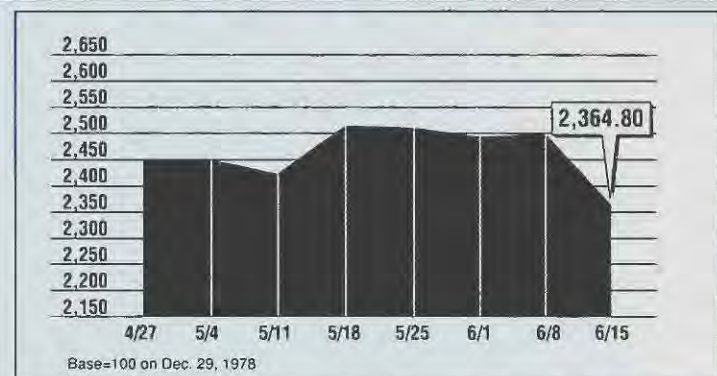
Employer and insurer groups say that though they may not have any problem with the argument that prescription contraceptives should be covered per se, they object, in principle, to the concept of mandated benefits. "Our members prefer to make their benefit decisions voluntarily," said WBGH's Ms. Gonen.

James Klein, the president of the Washington, D.C.-based American Benefits Council, noted that the benefit is offered to the council's own employees, but he said that injecting the concept of sex discrimination into the discussion is "somewhat of a narrow view, when, in fact, these kinds of benefits are valuable" to both men and women.

"I think the real issue here, from an employer's reaction to it, is that every benefit that is mandated, whether it is mandated by Congress or the state legislature or the courts, adds an incremental cost to the provision of health benefits. And for every 15% increase in health care costs, 300,000 people in this country lose their health care coverage entirely."

Mr. Klein said that while some may champion this decision, "I think they just need to appreciate that these things don't happen without some costs elsewhere in the benefits system and some other valuable benefit also being potentially curtailed." **BI**

B/Stock Index - 6/15/2001



	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol. (000)
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BROKERS

Aon Corp.	NYS	34.85	-0.57	1.78	42.31	28.13	3776
Brown & Brown	NYS	40.95	0.12	17.00	46.10	23.72	116
Clark Bards Holdings	NDO	20.49	0.20	102.37	24.64	7.25	311
E.W. Blanch Holdings Inc.	NYS	13.50	0.00	-22.58	29.50	6.70	0
Gallagher Arthur J. & Co.	NYS	27.74	-2.97	-12.80	34.25	18.31	1153
Hibb, Rogal & Hamilton	NYS	42.73	0.23	7.16	44.16	33.69	138
Kaye Group Inc.	NDO	13.85	-0.36	78.71	13.95	5.25	3
Marsh & McLennan	NYS	102.78	-2.38	-12.15	135.69	80.30	3634
Walis Group Holdings Ltd.	NYS	16.45	2.36	-0.90	16.70	16.00	14666
BROKERS AVERAGE			-0.37	-17.62			

INSURERS/REINSURERS

ACE Ltd.	NYS	38.55	-2.80	-9.16	43.94	25.94	3768
Aceel International Corp.	NDO	0.07	0.00	-76.42	0.69	0.06	0
Acceptance Insurance Cos.	NYS	5.59	1.64	6.48	6.94	3.70	52
AEGON N.V.	NYS	27.20	-3.72	-34.36	43.00	25.92	500
AFLAC Inc.	NYS	33.50	1.70	-7.19	37.47	22.53	6838
Allmerica Financial Corp.	NYS	54.30	-1.27	-25.10	74.25	46.30	629
Allstate Corp.	NYS	43.79	-0.16	0.52	45.90	21.94	12179
Ambac Financial Group	NYS	55.86	-0.68	-4.21	64.00	33.66	2652
American Financial Group	NYS	28.60	0.70	7.67	29.00	18.69	418
American General	NYS	45.25	0.82	11.04	46.38	29.40	9249
American Intl Group	NYS	81.85	1.35	-16.96	103.75	72.64	19451
American Safety Insurance	NYS	9.75	-2.99	59.18	10.25	3.25	12
Argonaut Group	NDO	18.34	0.77	-12.67	21.25	13.50	148
AXA-UAP Group	NYS	27.20	-6.21	-24.25	40.75	24.58	1877
Baldwin & Lyons Inc.	NDO	21.53	0.94	-7.40	28.75	15.25	78
Berkley W.R. Corp.	NDO	42.65	-2.76	-9.62	48.75	18.13	287
Berkshire Hathaway Inc.	NYS	65000.00	-4.13	-9.45	74600.00	51600.00	1
Capitol Transamerica Corp.	NAS	14.95	4.69	20.20	15.69	10.31	32
Chubb Corp.	NYS	79.00	3.43	-8.67	90.25	60.44	4243
Cincinnati Financial Corp.	NYS	41.30	-0.51	4.39	42.92	31.00	1514
Citigroup	NYS	49.30	-3.24	-3.45	59.13	39.00	56552
CNA Financial Corp.	NYS	39.50	0.25	1.94	41.94	32.06	588
CNA Surety	NYS	13.95	-1.48	-2.11	14.50	10.38	115
EMC Insurance Group Inc.	NDO	14.05	14.23	19.57	14.05	8.00	48
ESG Re Limited	NDO	3.51	0.29	90.37	4.13	1.72	104
Everest Reinsurance	NYS	71.00	1.88	-0.87	74.75	31.69	1286
Fremont General Corp.	NYS	6.62	-2.07	135.38	6.97	1.50	913
Gaisco Inc.	NYS	1.46	-6.41	-44.38	5.13	1.10	119
Harleysville Group	NDO	26.00	-0.57	-11.11	30.63	16.13	271
HCC Insurance Holdings	NYS	24.25	-1.34	-9.98	29.66	17.63	912
ING Groep N.V.	NYS	62.30	-3.34	-22.25	83.94	55.84	372
IPC Holdings Ltd.	NDO	23.16	0.70	10.29	24.50	12.63	110
Hartford Financial Services	NYS	67.15	-0.94	-4.92	80.00	49.44	3996
John Hancock Financial Serv.	NYS	38.88	-2.80	3.34	42.00	19.63	3244
Lincoln National	NYS	49.98	-1.58	5.64	56.38	35.44	3306
MAIC Holdings Inc.	NYS	15.64	0.58	-6.28	18.50	10.50	99
Market Corp.	NYS	199.50	0.63	10.22	207.47	133.50	121
MBA Insurance Group	NYS	53.27	-0.58	7.80	55.86	32.13	1944
Meadowbrook Insur. Group	NYS	3.83	0.00	-52.86	8.38	2.45	63
MetLife	NYS	29.90	-5.02	-14.57	36.63	18.13	8266
Mutual Risk Mgmt. Ltd.	NYS	7.78	-8.15	-48.77	23.75	3.40	992
Navigators Group	NDO	20.25	-2.41	52.11	20.86	8.75	13
NYMagic Inc.	NYS	21.10	-2.45	11.79	22.70	13.00	11
Ohio Casualty Corp.	NDO	11.48	19.96	14.80	11.75	6.13	4057
OK Republic Int'l	NYS	28.55	-2.23	-10.78	32.06	16.50	1825
Partner Re Ltd.	NYS	56.82	2.10	-6.85	62.50	34.81	512
Penn-America Group Inc.	NYS	10.10	0.00	32.46	10.60	6.69	5
PMA Capital Corporation	NDO	17.12	1.30	-0.75	19.00	15.19	58
Philadelphia Cons. Holding	NDO	31.23	-3.28	1.15	33.00	15.63	404
PXRE Corp.	NYS	18.54	7.67	9.87	20.10	12.50	304
RenaissanceRe Holdings Ltd.	NYS	72.05	1.30	-8.00	84.19	42.38	286
RLI Corp.	NYS	41.55	-0.20	-7.02	46.16	33.50	31
St. Paul Cos.	NYS	51.65	4.18	-4.53	57.00	33.75	6235
SCOR	NYS	44.63	1.43	-11.18	53.75	39.75	14
SAFECO Corp.	NDO	29.02	3.83	-11.73	35.88	19.69	5958
SCPIE Holdings Inc.	NYS	20.25	5.09	-14.29	31.40	17.78	NA
Seibels Bruce Group	NDO	2.55	-15.00	353.33	3.25	0.53	27
Selective Ins. Group	NDO	25.65	1.54	5.77	26.94	15.25	143
Tokio Marine & Fire	NDO	46.20	-6.76	-18.95	61.00	45.25	140
Torchmark Corp.	NYS	38.54	-0.21	0.27	41.19	24.00	1677
Transatlantic Holdings	NYS	120.75	-1.67	14.05	125.00	80.38	102
Trenwick Group Ltd.	NYS	22.83	-1.38	-7.99	27.13	13.13	320
Unico American Corp.	NDO	6.00	0.00	2.13	7.75	5.27	2
United Fire & Casualty	NDO	29.59	-1.73	49.82	34.52	15.50	35
Unitrin	NYS	37.80	-2.33	-6.95	41.94	27.19	0
UNUM Corp.	NYS	31.58	-1.40	17.51	33.75	18.38	3601
Vesta Insurance Co.	NYS	8.99	0.03	77.58	9.98	4.13	539
XL Capital Ltd.	NYS	80.90	-0.75	-7.41	89.25	52.38	2387
Zenith National Ins.	NYS	26.45	-1.67	-9.96	30.70	20.00	49
INSURERS/REINSURERS AVERAGE			-0.34	6.44			

MANAGED CARE COMPANIES

Aetna Inc.	NYS	26.10	0.38	-36.44	42.69	23.02	3801
CIGNA Corp.	NYS	92.25	-2.70	-30.27	136.75	66.88	3518
Health Net Inc.	NYS	17.61	-8.19	-32.75	26.94	12.31	3011
Humana Inc.	NYS	10.15	-1.07	-33.44	15.81	4.75	4658
Oxford Health Plans	NYS	27.02	-6.57	-31.59	42.75	21.44	3199
Pacificare Health Sys.	NDO	16.38	-2.56	9.20	72.31	9.81	4628
Sierra Health Services	NYS	6.88	0.15	81.05	7.16	2.44	562
United HealthGroup	NYS	57.14	-1.67	-6.90	67.40	38.94	9659
Wellpoint Health Networks	NYS	87.82	-2.17	-23.80	121.50	70.13	3041
MANAGED CARE COMPANIES AVERAGE			-2.73	-11.66			

ALL COMPANIES -1.15 4.13

Top advancing issues: Ohio Casualty Corp., EMC Insurance Group, PXRE Corp. Leading decliners: Seibels Bruce Group, Health Net Inc., Mutual Risk Management Ltd. Most active issue: Citigroup. The B/Stock Index decreased 5.4%; the Dow Jones 30 Industrials dropped 3.2%; the S&P 500 went down 4.0%, and the NYSE Composite decreased 3.1%. Average P/E: Brokers, 22.9; Insurers/reinsurers, 25.9; and managed care companies, 14.5.

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

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