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Update

Amendment to veterans' bill relieves some employer concerns

WASHINGTON—A draft amendment to a military veterans' re-employment bill would relieve many of the concerns employers have about the impact of the legislation on defined contribution pension plans.

Under the amendment, a returning veteran's retroactive savings plan contributions for the years he or she was in the military generally would have to be made within five years of re-employment. The bill, awaiting a Senate floor vote, currently would set no time limit on employee contri-

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Blues seek private initiatives to reform health care

By JERRY GEISEL

CHICAGO—All employers would be required to offer basic health care coverage to employees under a universal health and cost control proposal by the nation's largest private health insurer.

The Blue Cross & Blue Shield Assn., in a reversal of policy, also is proposing that employees be taxed on employer-provided health insurance above a basic level to help fund coverage for the uninsured.

Taxing very generous benefit plans to help fund coverage for the uninsured is good public policy to expand access, according to the Blues.



Mr. Tresnowski

Blues President Bernard Tresnowski describes the association's proposal as an effort to break the national gridlock on health care reform.

The plan would set new standards, to be enforced by the states, for health insurers to be licensed by the states as "Accountable Health Plans." Many of those standards also would apply to self-funded plans.

Insurers, among other things, couldn't deny coverage for those with pre-existing medical conditions and could not "cherry pick," refusing to cover certain employers or specific individuals in a group policy.

Managed care would get a big push from the Blues proposal.

The plan envisions the development of local managed care networks called "community care partnerships." These partnerships could be established by a wide range of groups, including hospitals and employers.

Partnerships would feature providers with records of high-quality, cost-effective care.

To be licensed as an "accountable health plan," insurers would have to move an increas-

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No market turn in sight

P/C industry resigns itself to another lackluster year

By JUDY GREENWALD

Property/casualty insurers are already writing off hopes for a market turn in 1992.

Reviewing first-quarter results, insurers and market observers say the industry is not yet ready to budge, and they now generally look to 1993 for a possible turn.

"I think the year is history already," said Dennis Busti, president of Reliance National Insurance Co. in New York. Mr. Busti said property/casualty insurers' first-quarter results "are not horrendous, but they're certainly not great."

In spite of first-quarter results, the market is even more competitive now than it was three months ago, with insurers still reducing their rates, Mr. Busti said. The only exceptions, he noted, are small pockets like marine, aviation and professional liability, where there has been some hardening.

It will probably be well into 1993 before there is any jolt that will turn the market around, he said. Although it admittedly is overcapitalized, the industry at some point must decide that its return on equity is "absurd," said Mr. Busti.

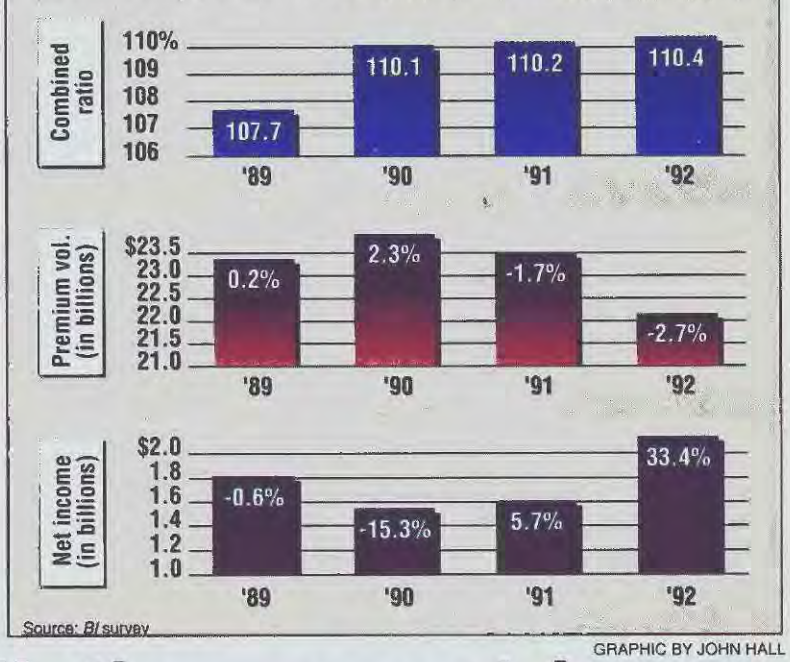
"I think everybody's writing 1992 off," agreed Joanne Morrissey, a principal with Firemark Consultants Inc. in Morristown, N.J.

"There's too much capital out there," she said. As a result, the

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Off to a sluggish start

Nothing in the first-quarter results gave property/casualty insurers reason to expect a turnaround in 1992. Rising net income was attributed mainly to non-operating factors like realized capital gains.



Source: *BI* survey

GRAPHIC BY JOHN HALL

Court broadens pollution cover trigger

By STACY GORDON

LOS ANGELES—A policyholder facing pollution-related claims can tap all of its general liability policies from the time the pollution first began until the liability is known, according to a California appellate court.

And, the policyholder has an unfettered right to pick which of the primary insurance policies triggered should respond first, according to the May 15 ruling.

The 3-0 ruling is the second time in three months that a California appeals court has adopted a "continuous trigger" of coverage in a pollution cleanup case. The earlier ruling involved Montrose Chemical Co. and Admiral Insurance Co. (*BI*, March 9).

The latest decision "is significant because it shows that *Montrose* was a correct statement of the law and not an aberration," said policyholder attorney David Steuber of Hill, Wynne, Troop & Meisinger in Los Angeles.

"This is another panel of judges looking at the same issues and coming out the same way as the Montrose court," said Tom Freeman, a policyholder attorney with Brobeck, Phleger & Harrison in San Francisco. "We are starting to see a consensus develop."

But insurer attorney Noel Beck of Proviser, Lichtenstein & Phillips in Southfield, Mich., disagreed.

"This is not the trend in California. California is still a strong jurisdiction for the manifestation trigger," said Mr. Beck, who represented Jefferson Insurance Co. of New York in the most recent case.

Under the manifestation trigger, only the policy or policies covering the risk when the damage becomes known are triggered.

The California Supreme Court will soon resolve the dispute. The court on May 20 agreed to review the Montrose case.

In the meantime, the May 15 ruling creates millions of dollars in coverage for the City of Palos Verdes Estates, a coastal town

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ERISA pre-empts New Jersey law

Judge strikes surcharge on self-insurers' hospital bills

By MICHAEL SCHACHNER

NEWARK, N.J.—A federal judge's ruling striking down New Jersey's hospital reimbursement system because it requires self-funded group health plans to pay for individuals who are not plan beneficiaries may not relieve those plans' cost burden for long.

New Jersey may now adopt a payroll tax on all employers in the state to help pay for uncompensated care provided by New Jersey hospitals.

However, the May 27 ruling sends a clear signal to other states that may be considering similar reimbursement systems that they will be pre-empted by federal law, attorneys say.

In his ruling, U.S. District Court Judge Alfred M. Wolin in Newark said that the Employee Retirement Income Security Act pre-empts a 12-year-old New Jersey law that imposes a surcharge on all inpatient hospital bills to fund care for the state's nearly 1 million uninsured.

New Jersey hospitals annually provide $750 million in free care to people without insurance or other means of paying their bills, according to the New Jersey Chamber of Commerce.

The 19.1% inpatient surcharge was challenged in a lawsuit filed last year against the state and more than 20 hospitals by 14 unions that participate in self-funded health plans.

As a result of the ruling, all employers that self-fund their health plans or participate in self-funded union health plans are exempt from paying the surcharge.

Self-funded plans also are now exempt from, among other things, hospital bill markups designed to help hospitals recover revenue they have lost due to insufficient Medicare reimbursement and to price breaks given to health care payers that offer open enrollment.

However, the judge declined to rule whether hospitals should have to reimburse payers for surcharges already collected.

Patients covered by insured health plans or Blue Cross & Blue Shield of New Jersey still are subject to the surcharge, though those covered by plans that offer open enrollment receive an 11% discount before the surcharge is levied.

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Update

Veterans' bill draft amendment

Continued from previous page
butions to defined contribution plans (*BI*, May 25).

In addition, the amendment, prepared by the Senate Veteran Affairs Committee staff for adoption on the Senate floor, also would generally define employee compensation as the employee's average salary in the 12-month period preceding military service.

Currently, the legislation, S. 1095, does not include a definition of employee compensation.

Benefit experts, though, say there is some ambiguity in the draft amendment on whether or not employers would be required—as the current bill would mandate—to make retroactive profit-sharing or matching 401(k) contributions on behalf of returning veterans.

State moves against comp fund

ST. PAUL, Minn.—Minnesota officials placed a state-run workers compensation fund under supervision last month after it reported investment losses since January equal to nearly half of its surplus at year-end 1991.

The State Fund Mutual Insurance Co. of Eden, Minn., the state's second-largest workers comp insurer, reported the value of its Federal National Mortgage Assn. securities fell $8.4 million since January. At year-end 1991, the fund's surplus was $17.3 million.

State Commerce Commissioner Bert McKasy on May 7 appointed Thomas Swain, a retired executive of The St. Paul Cos. Inc., as interim president of the fund. Its previous president, Andrew C. Meuwissen, had resigned May 6.

Directors of the fund were directed last month to take specific steps to strengthen the fund. They agreed to reduce the volume of premiums written to a level that could be supported by the company's surplus; renegotiate a $5.2 million loan from the state; develop a detailed investment policy that complies with Minnesota law; suspend dividends to policyholders; and cut expenses.

Annuity insurer disclosure

WASHINGTON—Employers terminating fully or overfunded defined benefit plans will have to tell plan participants in advance which annuity insurer or insurers will replace their benefits under a final rule issued last week by the Pension Benefit Guaranty Corp.

Participants will have to be notified no later than 45 days before any distribution of plan assets. If no decision has been made at that point, participants must be told which insurers are being considered.

The rule, which goes into effect later this month, was triggered by the 1991 collapse of Executive Life Insurance Co., which had sold annuities to dozens of employers terminating overfunded pension plans. Many participants, whose benefits were cut by 30% when the insurer collapsed, only learned that the annuities came from Executive Life after the deals were completed.

OSHA reform measure

WASHINGTON—The House of Representatives may vote on sweeping changes to the federal Occupational Safety and Health Act as early as this summer after last week's approval of an OSHA reform act by the Education and Labor Committee.

The committee approved H.R. 3160, the Comprehensive Occupational Safety and Health Reform Act, on a voice vote, despite Republican concerns that many of its provisions would actually discourage workplace safety.

The bill mandates the creation of workplace labor-management safety committees for employers with 11 or more full-time employees, imposes criminal penalties for "willful" safety violations that result in serious bodily injury, spells out employee responsibilities for following workplace safety rules, instructs the Occupational Safety and Health Administration to give inspection priority to high-hazard worksites and calls for the creation of a national commission to study the workers comp system (*BI*, May 25). The bill also extends OSHA's jurisdiction to public-sector workplaces.

The Senate Labor and Human Resources Committee has held hearings on a similar reform bill drafted by Sen. Edward M. Kennedy, D-Mass. No vote has been scheduled on S. 1622.

Vote set on claims handling bill

WASHINGTON—The House Education and Labor Committee is set to vote Thursday on a bill that would overturn a 1987 U.S. Supreme Court decision limiting the damages that can be recovered for mishandled group health insurance claims.

Some details of the bill, a substitute version of H.R. 1602, became available last week. The basis for the substitute looks much like a proposal circulating in Washington for months that would override the limits on recoveries for mishandled claims set by the Employee Retirement Income Security Act of 1974 (*BI*, March 9). But, unlike the proposal, the bill would allow punitive damage in some cases as well as "consequential damages," or damages indirectly caused by a mishandled claim. ERISA limits recoveries to claims costs and legal fees. The high court ruled in 1987 that insurers are immune from state sanctions, including punitive damages, under ERISA's preemption provisions.

The earlier version of H.R. 1602, which would have allowed state sanctions, including punitive damages for mishandled claims, was approved by the House Labor-Management Relations Subcommittee last year (*BI*, Sept. 30, 1991). Hearings have been held on a companion Senate bill, S. 794, but no vote has been scheduled.

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Health insurer redlining hurts small firms: Study

By CHRISTINE WOOLSEY

ANN ARBOR, Mich.—About 15% of small businesses are in industries that are routinely redlined—considered ineligible for health care coverage at any premium—by small-group health insurers, a University of Michigan study concludes.

In fact, seven out of the 10 largest small-group health insurers redline routinely, the study found.

For that reason, small-group health insurance market reforms should be aimed at eliminating the practice of redlining, not just making coverage more affordable, the study's authors say.

Currently, most of the private and public reform programs and proposals targeting the estimated 22 million full-time workers and their dependents who lack health insurance "rely on financial incentives designed to encourage employers to provide health benefits to their employees," according to Wendy K. Zellers, senior research associate, and Catherine G. McLaughlin, associate professor at the University of Michigan School of Public Health in Ann Arbor, Mich.

"Unfortunately, because of existing insurance company underwriting practices, incentive-based programs would miss a significant proportion of uninsured workers"—particularly those in small businesses, who are more susceptible to these practices, they say.

The researchers surveyed 45 insurers and 37 agents in July

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Chicago damage covered

Figuring business interruption losses slows claims payments

By SARA MARLEY

CHICAGO—Seven weeks after Chicago's underground flood, most insurers say they will treat the majority of property and business interruption claims stemming from the freak event as covered water damage.

But, only a fraction of claims have been settled, and a few policyholders complain that their insurers continue to drag their feet on determining whether their claims will be covered.

The flood began April 13 when a section of the city's underground freight tunnel system that ran beneath the Chicago River collapsed (*BI*, April 20). More than 250 million gallons of river water coursed through the turn-of-the-century tunnel system and into many Loop buildings before the breach was plugged days later.

Business in the affected area ground to a halt for days, and some buildings were closed for a week or more, mainly because of the problems in providing electricity to buildings.

Three weeks after the flood policyholders complained that many insurers still had not made blanket determinations on whether property and business interruption claims would be covered as water damage or denied under flood exclusions.

Insurers defended the delay, saying each manuscript policy in question could have different definitions of flood and water

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State alleges lawyer helped failed insurer evade detection

By DOUGLAS McLEOD

BATON ROUGE, La.—The Louisiana Insurance Department is suing a New Orleans lawyer, charging that he helped a now-insolvent workers compensation insurer inflate its surplus with "rented" assets for more than two years before the insurer collapsed.

The lawsuit alleges that attorney Gerald J. Daigle Jr. negligently advised Alliance Casualty & Reinsurance Co., which regularly rented millions of dollars of assets before filing quarterly and year end statements.

The insurer reversed these transactions shortly after filing, creating the impression it was solvent when in fact it was not, Louisiana regulators charge.

The suit, filed May 21 in state court in Baton Rouge, also names Attorneys Liability Assurance Society Inc. The Chicago-based

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Flex plans' cost savings fuel growth

By JERRY GEISEL

NEW YORK—Employers are now setting up flexible benefit plans primarily to control health care costs, according to a new survey.

Employers with flexible benefit plans report that total health care costs—including those for medical indemnity plans, health maintenance organizations and dental and vision care plans—rose 12.5% in 1991 to $3,644 per employee on average from $3,239 in 1990.

During the same period, total health care costs for employers without flex plans climbed 13.9% to $3,680 per employee on average from $3,231, according to the survey by A. Foster Higgins & Co. Inc. in New York. Both employer and employee contributions are included in the averages.

While the difference between those increases is small, even a slight improvement can mean big savings for employers with tens of thousands of employees, notes David Schorr, a managing consultant

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Inside

✔ The leadership of the Risk & Insurance Management Society deserves praise for endorsing a federal role in regulation, as does the IRS for easing pension non-discrimination rules, say editorials this week. **PAGE 8**

✔ Sedgwick Energy Ltd. and financial adviser Price Waterhouse are setting up a European oil and gas policyholder-owned insurance company as a solution to a huge capacity shortfall they expect by year end. **PAGE 29**

✔ A growing number of executives are plagued with dissatisfaction over the present health insurance system, but they believe a government-sponsored cure would be worse than the disease, a new survey finds. **PAGE 36**

✔ Realistic solutions to the nation's health care crisis must simultaneously address the problems of cost and access, says the American Assn. of Preferred Provider Organizations. **PAGE 37**

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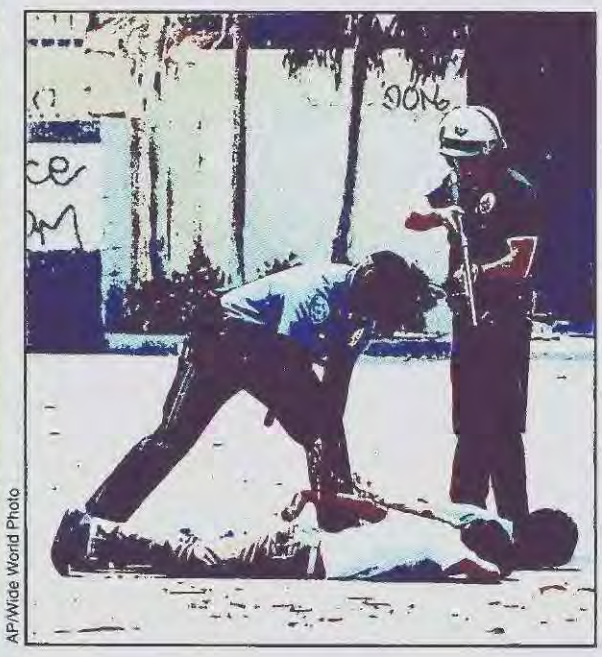
Public entity risk management

Minimizing liability from use of force by police

By LOUISE KERTESZ

ANAHEIM, Calif.—In the aftermath of the Rodney King trial, there will be increased scrutiny of the use of force by police as well as higher settlements for victims of brutality, experts predict.

But police department risk managers can "be wise" and learn from the experience of others to mitigate liability losses, said G. Patrick Gallagher, director of the Institute for Liability Management, a division of Gallagher Bassett Services Inc. in Leesburg, Va.



AP/Wide World Photo

Police officers arrest two looting suspects during the Los Angeles riots last month. Use of force by all officers is expected to come under more scrutiny.

Mr. Gallagher spoke at a session titled "Proactive Risk Management for Police" at the Public Risk Management Assn. conference held here recently.

"Law enforcement accountability is going up," agreed Michael A. Brave, an account executive and senior associate at the Institute for Liability Management. Mr. Brave, who is based in Eau Claire, Wis., also spoke at the session.

Two videos showing the use of force by police were featured at the session. The first video showed police vehicles chasing a small car down a busy highway. The car exited on an off-ramp and stopped. A police officer approached with gun drawn. The driver pointed a weapon at the officer, and the officer fired.

Mr. Gallagher explained that the driver, who was killed, had murdered a man earlier in the day and stolen his car. He then led police on a nearly two-hour high-speed chase from the San Joaquin Valley over the mountains and through Los Angeles. While police pursued the driver, the driver was firing a gun at them.

Shooting the driver was a justifiable use of force, because the police had no way of knowing whether the driver was out of ammunition, Mr. Gallagher said.

"We ask our police officers to put themselves between (dangerous individuals) and us, and we give them appropriate weapons," he said.

Then he showed another video of police officers hitting a young man repeatedly with their batons. The young man had been taunting the police verbally. At one point, an officer held the

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Public water parks not the safety threat they once were

By LOUISE KERTESZ

ANAHEIM, Calif.—Risk managers of the many public entities that are building water parks can ensure public safety by implementing safety programs stressing employee training and accountability.

Despite the number of water park swimmers that need help each year, a water park will not likely be a nightmare for a public risk manager who has implemented such a program, according to a public agency loss control expert and an aquatic safety consultant.

Water park safety programs have been significantly improved over the last decade, said the experts, who spoke at the Public Risk Management Assn. conference late last month in Anaheim, Calif.

Municipalities increasingly are interested in building water parks or taking them over when theme parks close. The water parks can replace many traditional flat pools that cities built in the 1950s and 1960s, which are of "archaic design," are costly to maintain and draw fewer users each year, said Betsy Kutska, executive director of the Park District Risk Management Agency, an Illinois risk pool.

Unlike the traditional flat pools, water parks include waterslides, where most lifeguard assistance is required; as well as infant pools and volleyball areas.

Attendance at water parks has been increasing since 1983, as have revenues for public agencies that operate them, Ms. Kutska pointed out.

As they have grown more popular, water parks also have grown safer.

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Living benefits popular, but concerns remain

By KAREN ARMAGANIAN

Employers increasingly are offering workers so-called living benefits as part of their life insurance benefits, but the option troubles some benefit consultants.

Living benefits sales have soared since the group life policy option was introduced in 1988.

Terminally ill or elderly workers and retirees typically are using these benefits to pay for catastrophic and chronic health care, like nursing home care. But these payments generally can be used for any purpose.

As a result, many beneficiaries are left without the life insurance benefits the coverage was designed to provide.

At the same time, questions remain regarding the tax status of living benefits.

In 1990, only two life insurers offered accelerated or living benefits as part of a group life insurance plan (*BI*, March 12, 1990).

Now, more than two dozen insurers will buy back life insurance policies from terminally ill or elderly policyholders and give them a portion of the death benefits—typically in a lump-sum cash payment.

Generally, individuals can collect living benefits if they have less than one year to live or are at least 80 years old. However, some insurers allow younger individuals to collect the benefit if they are permanently confined to a nursing home.

At the same time, some independent firms now specialize in purchasing life insurance benefits for a portion of their face value.

As of May 13—when the New York Insurance Department approved its regulations on living benefits sales—insurers can sell life insurance policies with living benefits in every state.

Approximately 1.1 million people have some type of living benefits option through a group

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States move against offshore insurer writing group health

By DOUGLAS McLEOD

HOUSTON—An offshore insurer writing group health insurance and other coverages has been ordered to stop underwriting by regulators in three states.

Anchorage Fire & Casualty Insurance Co. of the Turks & Caicos Islands was hit with cease and desist orders by Louisiana and Georgia regulators earlier this year after it was found to be soliciting group health business illegally in the states.

The Alabama Insurance Department issued similar orders last year when it found the insurer had offered to write health and medical malpractice risks without a license.

Anchorage never responded to the Alabama actions, but agreed with Georgia regulators in April that it would stop writing in the state.

Charles Matthews, the insurer's Houston-based vp and general counsel, told Louisiana regulators last month that Anchorage was unaware its name was being used by a Tennessee agency marketing an association health program in the state.

The agency, Stockmon Gillingham & Associates of Nashville, and the association program, Safe Harbour Inc., are also named in Louisiana's cease and desist order.

Mr. Matthews did not respond to questions about the regula-

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Surety market outlook

Premium volume up 4%, but underwriter warns recession's effects may be delayed

By SARA MARLEY

CHICAGO—Construction declines did not spell disaster for the surety bond industry in 1991, although underwriters caution that the effects of the recession on their results may only be delayed.

Direct written premium volume for surety insurers increased about 4% in 1991, reports the Surety Assn. of America. And, the industry's projected loss ratio improved to 25% from 30%, the Iselin, N.J.-based group said.

"Much to my amazement, 1991 turned out to be another very favorable year for the surety line of business," Lloyd Provost, president of the association, said at its annual meeting in Chicago May 14.

Surety companies reporting to the SAA wrote $2 billion in direct written premiums in 1991, up from $1.9 billion in 1990, Mr. Provost said. Volume for the entire surety industry is estimated at $2.25 billion, he said.

"Last year at this meeting I was a bit pessimistic in my forecast for the surety results for 1991. I was wrong," Mr. Provost said. "I also predicted that the fidelity experience would continue to erode in 1991. Again I was wrong."

'Most of the surety industry is more concerned about 1992 and 1993,' says Mark Fitzgerald.

Surety market observers warn, however, that the 1991 results could be misleading.

The construction industry, which is the major market for surety underwriters, tends to lag behind the general economy in both a downturn and recovery, surety observers say.

That "lag time" may now be ending, Mr. Provost cautioned. "First reports of contract bond losses are starting to come in. There are enough undercurrents in the market about losses to cause me to believe that contract bond experience will be worse for 1992 than it was in 1991, and worse yet in 1993. How bad remains to be seen."

Contract bonds guarantee the faithful performance of a construction contract and payment of bills by a contractor.

"This may be the tail end of the last expansion," said Mark Fitzgerald, vp and northeast regional surety coordinator for Johnson & Higgins in Parsippany, N.J. "Most of the surety industry is more concerned about 1992 and 1993."

"It was a good year considering the recession, but we go into a recession later and come out later," said Gerry Leach, vp of bond operations for Pinnacle

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N.J. surcharges

Continued from page 1

Because the ruling will severely disrupt the state's efforts to reimburse hospitals for uncompensated care, Judge Wolin stayed his decision until Friday.

The New Jersey Hospital Assn. and the state plan to appeal the decision to the 3rd U.S. Circuit Court of Appeals.

But Gov. James Florio's office and the president of the hospital association say they are appealing to give legislators time to develop an alternative to the surcharge rather than to get the decision overturned.

The hospital surcharge was set to expire at the end of this month. But state lawmakers recently voted to extend the surcharge until they could find a better way to care for the state's growing number of uninsured.

Gov. Florio had said that he was prepared to veto the surcharge extension.

Only two other states—Maryland and New York—impose similar surcharges on hospital bills to finance uncompensated care, according to the National Governors Assn.

The New Jersey decision, which follows similar ERISA pre-emption rulings, will be widely read by lawyers nationwide, predicted Kevin Jespersen, an attorney with Norris, McLaughlin & Marcus in Somerville, N.J.

"It's consistent with an obvious trend. There is already sweeping precedent for ERISA pre-emption. This ruling just falls in line and sends a warning to any state looking at add-ons as a means of redistributing resources."

"This sends a message to all states that a federal scheme will govern benefit plans, not state-by-state piecemeal plans," said Mark Arian, a legal consultant with Hewitt Associates in Bedminster, N.J.

'There is already sweeping precedent for ERISA pre-emption,' Mr. Jespersen says.

The immediate impact of the ruling is that self-insurers will save 19% on their hospital expenditures.

"The (surcharge) system as we know it is finished. There's maybe 20% of all payers left who are still obliged to pay the surcharge," said Albert Kroll, an independent attorney in Verona, N.J., who represented the AFL-CIO in the case, one of the 14 labor organizations and unions that sued the state.

William Healey, director-government relations with the New Jersey State Chamber of Commerce, noted that self-insured plans cover about 2.4 million workers in New Jersey and pay about 40% of all hospital bills.

"Previously, about 60% of all payers shouldered the burden of funding uncompensated care. Now it falls entirely on the commercial insurers," he said.

Self-insured employers may not get that break for too long.

Rather than extending the surcharge, the governor has indicated that he would support a flat payroll tax on all employers to finance the state's Uncompensated Care Trust Fund.

Though business and the Legislature have so far successfully fought the payroll tax, it now seems that one is likely, union and business leaders say.

"We have about 1 million indigent in the state. Without the surcharge, there's nothing short of a payroll tax that will provide funding for their care," said Martin Hahner, employee benefit manager for Public Service Electric & Gas, the state's largest utility, which self-insures its health care program.

"Health care in New Jersey is in very bad shape, and while this may be temporarily good for self-insurers, I expect that we'll have to pay for whatever alternative is decided upon," Mr. Hahner said.

"The legislators have no more time to stall. If it's a payroll tax they opt for, so be it," said Charles Marciante, president of the New Jersey AFL-CIO.

Mr. Marciante also predicted that as a result of the ruling, "we're finally going to see some real health care reform."

In his 46-page decision, Judge Wolin agreed with the unions that surcharges on their hospital bills forced them—in violation of ERISA—to pay for health care for non-union members.

The unions argued that "ERISA itself forbids benefit plans from paying benefits for anyone other than a plan beneficiary."

The judge also agreed with the unions that self-insured benefit plans were forced by the law to incur the health care costs of people who are not plan members as a result of:

- An 11% hospital discount given to patients covered by health plans written by insurers that offer open enrollment—like Blue Cross & Blue Shield of New Jersey and several health maintenance organizations.
- The fact that Medicare refuses to pay full diagnostic-related group rates. In New Jersey, each hospital's DRG rate consists of a weighted average of the cost incurred by that specific hospital to treat a particular illness and the average cost incurred by hospitals throughout the state to treat the condition.

Judge Wolin also said the current New Jersey hospital rate system cannot be enforced because the system does not allow patients who do not agree to pay the DRG rate to appeal their bills. Disgruntled payers must first pay the DRG bill and then appeal.

Judge Wolin wrote that this scenario creates a lack of parity among health care payers.

As the ruling currently stands, insurers, including BC/BS of New Jersey, must still pay the surcharge.

"Insured plans are untouched by this ruling because state insurance laws are not pre-empted by ERISA," explained Dennis Coleman, a partner with Kwasha Lipton in Fort Lee, N.J.

However, Jim Meehan, assistant general counsel with CIGNA Corp. in Hartford, Conn., said insurers are trying to determine whether the surcharge law also applies to insured plans.

The New Jersey law "isn't insurance regulation—it's hospital regulation. Thus, we're entitled to the same protection under ERISA as self-insured plans."

The ruling "doesn't make references as to whether insurers are exempted, and they should be," Mr. Meehan said.

"This issue is now being debated, and it's our belief that it does apply with equal weight to insured plans, he said. ■



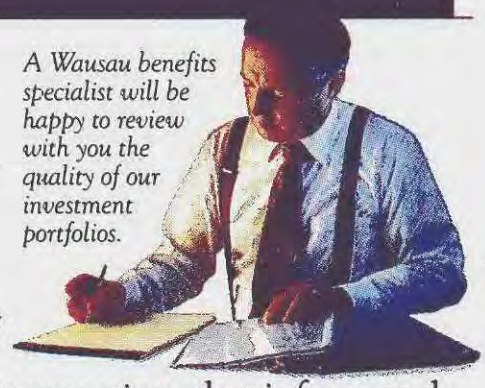
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We think business people have better things to do with their day than filing paperwork, completing complicated forms and worrying about what the market's doing to their group retirement fund.



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Opinions

Praise RIMS for taking stand

THE LEADERSHIP OF the Risk & Insurance Management Society Inc. deserves praise, not criticism, for its decision to endorse a federal role in the regulation of insurance.

Indeed, we've been waiting months for RIMS to speak out on this important insurance regulatory issue being debated in Congress and around the country by regulators and insurers. Input from the society representing the largest buyers of insurance was long overdue.

Finally, at its annual conference in April, RIMS' then-president Robert W. Esenberg announced that the society endorses federal regulation of property/casualty insurers writing coverage for "large commercial policyholders" (*BI*, April 6).

In response to that announcement, the Wisconsin chapter of RIMS wrote to current president Suzanne H. Crager demanding that RIMS revoke that position and obtain the support of its chapters before issuing a "policy statement of such proportion" (*BI*, May 18).

That demand to have individual chapters approve this policy statement, or any other, would cripple RIMS' ability to represent its members on public policy issues.

Policy decisions are made by RIMS' executive council, whose members are elected by the society's directors, who, in turn, are elected by each of RIMS' 89 chapters.

If the executive council had to consult its 89 chapters every time it issued a policy statement, RIMS would never take a timely stand on issues important to risk managers.

As one former RIMS chapter president so astutely observed, members who "have a problem" with RIMS' positions should "get involved" in how those policies are made by seeking election to the society's board of directors and in turn the executive council.



Our only criticism of RIMS' position on federal regulation of large commercial insurers is that it is too vague, lacking specifics on what constitutes a "large commercial policyholder."

But at least RIMS has entered the debate. We eagerly await more specifics, as we all try to decide the best method for regulating the insurance industry to ensure that affordable products, responsive to the needs of insurance buyers, are available from solvent insurers.

IRS finally sees the light

WE'RE GLAD TO SEE that the shining light of common sense has penetrated the murky recesses of the Internal Revenue Service.

The IRS, finally heeding the protests of employers, agreed last month to relax the service's complex non-discrimination testing rules for pension plans (*BI*, May 18).

In a brief announcement, the IRS said employers generally can run the non-discrimination tests required under Section 401(a)(4) once every three years.

The non-discrimination tests must be run more frequently only if there has been a significant change in an employer's pension plan provisions, workforce or compensation practices. Previously, non-discrimination testing was required annually.

The IRS also eased certain other non-discrimination testing rules to, among other things, make it simpler for an employer to determine who is a highly compensated employee, as well as to allow companies to use less precise data in running the non-discrimination tests.

Perhaps the most encouraging news in the IRS announcement is that the service is likely to unveil in the future more proposals to ease the non-discrimination rules, which currently are scheduled to go into effect in January.

Employers should be gratified that their long lobbying campaign to simplify the non-discrimination rules for pension plans is beginning to bear fruit.

As we have said many times before, when employers speak out, government eventually does respond.

It is regrettable, though, that so much time, effort and money on the part of both employers and government had to first be spent on what is a classic case of regulatory overkill.

We couldn't even fathom a guess of how much money employers have spent, both on consulting fees and expenses for their own staff's time, trying to understand a set of non-discrimination tests that now seem destined for the scrap heap in favor of new, presumably less-complex tests.

Surely the IRS attorneys who drafted the original set of non-discrimination rules—which are so convoluted it is doubtful anyone fully understands them—could have spent their time on more productive projects.

There is a lesson to be learned from this debacle. Instead of holding information so close to its vest, the IRS needs to consult more with employers and their advisers when drafting employee benefit rules and regulations.

As was painfully clear with Section 89, the infamous and now-repealed section of the Tax Code that set non-discrimination rules for welfare plans, the federal government simply lacks a sufficient understanding of how employee benefit plans work to put together sensible rules by itself.

At the same time, employers will have to respond to calls for help on how benefit programs operate to enable the government to produce rules that ensure pension benefits are available to a broad cross-section of workers without burdening employers with so many complicated tests as to discourage them from even offering a pension plan.

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Police liability

Continued from page 3

young man in a choke hold.

"You can't be proud of (those) police officers," Mr. Gallagher said. The young man was apparently only guilty of "mouthing off," he said. Yet the police responded with excessive force.

"In dealing with police liability, we have to think of doing things differently,' Mr. Gallagher asserted. Managing police liability requires "good supportive supervision, excellent management and leadership with vision and values," he said.

Mr. Gallagher outlined a "six-layered liability protection and leadership program" that can help mitigate police liability losses. The program is fully explained in his new book, "Risk Management Behind the Blue Curtain: A Primer on Law Enforcement Liability," which was recently published by PRIMA.

But for the program to be effective, a police force must have leaders who articulate their values and vision of appropriate police behavior. Instilling those values throughout a department requires constant repetition, he said.

The six steps in the liability protection program cover areas of a police department's operations that a plaintiff's attorney would likely attack following an incident of alleged police brutality, Mr. Gallagher said.

If the alleged victim's lawyer is thwarted in his or her attack on one area of the department's operations, he or she will proceed to the next until a point of vulnerability is found, he said.

"All of these (areas) are controllable. . .What you can't control is the interaction of police and citizen at 2 a.m.," Mr. Gallagher said.

The first area an attorney will attack is a department's policy, he said. A plaintiff's attorney will try to show that the policy did not provide adequate guidance to the officer alleged to have acted improperly.

The second area is officer training, both in police duties and in the department policies.

The third area that a plaintiff's attorney will try to find deficient is supervision, Mr. Gallagher said. It is important that supervisors practice "positive" supervision. "Find people doing things right," and let them know about it, he urged.

"Supervision should help people do a good job. It should not be a 'Gotcha' process," he quipped.

The fourth area is "performance management," which means recognizing an officer's actual performance. Most forms used to evaluate performance are "meaningless," he said. As a result, departments can wind up terminating for cause an officer once designated "cop of the year," he said.

The fifth area involves a department's review of data on officers' performance, including complaints, lawsuits and disciplinary actions. An attorney should not be able to find that a department's "action plans" disregard that data, he said.

Finally, a department should maintain "good legal counsel on an ongoing basis."

"I feel so positive that if we did more of the right things and did things right a lot more, we wouldn't be in the hole we're in," he said.

To be professional, police departments need risk managers, said Mr. Gallagher, urging risk managers to form "a solid relationship" with their department.

Mr. Brave also encouraged risk managers to be proactive in the face of increasing levels of police liability. He pointed out that since 1973, court decisions have widened the police department's responsibility for proper training in the use of force. But most departments' training requirements "are very low—they're pathetic," Mr. Brave said.

Department budgets—including allocations for training—are decreasing, just as violent crime is increasing, he said.

Police also labor under the public's increasing demand that they "avoid even the appearance of impropriety." No longer do police get the benefit of the doubt when they are accused of impropriety, and the media are increasingly critical of police.

To combat this, he suggested that officers be trained to "treat everyone as if he or she is from Beverly Hills" when making an arrest.

Mr. Brave turned to a table covered with equipment representing "levels of force available" to police.

It is important that an officer have a choice of equipment so that he doesn't have to choose between a gun—which is deadly force—and his or her bare hands, he said. And the officer should know how to use the equipment properly.

It is better to avoid using a gun, whenever possible, he said. For example, an officer facing an individual who is simply holding a knife is not justified in shooting. If the officer fires the gun and wounds or kills that individual, the officer and the department incur great liability.

Mr. Brave demonstrated the use of a disabling propellant spray, which is an effective weapon against a knife-wielding assailant and an alternative to a gun. The propellant is a pepper derivative and works better than Mace, he asserted.

Mr. Brave also demonstrated the use of a "ballistic baton," which fires a beanbag to stun assailants. But he cautioned that this weapon could seriously hurt someone's eyes.

Mr. Brave also warned that many police officers do not use handcuffs properly. If the cuffs are too tight, they can cause serious injuries, which can lead to lawsuits.

One man who had been handcuffed too tightly by police sued on the grounds of excessive use of force. The man, a neurosurgeon, alleged he suffered an injury similar to carpal tunnel syndrome as a result of the tight handcuffs. He settled out of court for $6 million, Mr. Brave said.

Besides training officers in the appropriate use of equipment, they also should be trained "in the constitutional parameters of the use of force," he added.

That includes training in "pursuit driving," which very few departments provide, he said.

Police also must know when it is illegal to detain an individual, when police actions may violate their "duty to protect" the citizenry and when police operations might violate the right to privacy.

Police departments need risk management, according to Mr. Brave.

A "marriage" should exist between risk management and the police chief or sheriff, he said.

Continued on page 16

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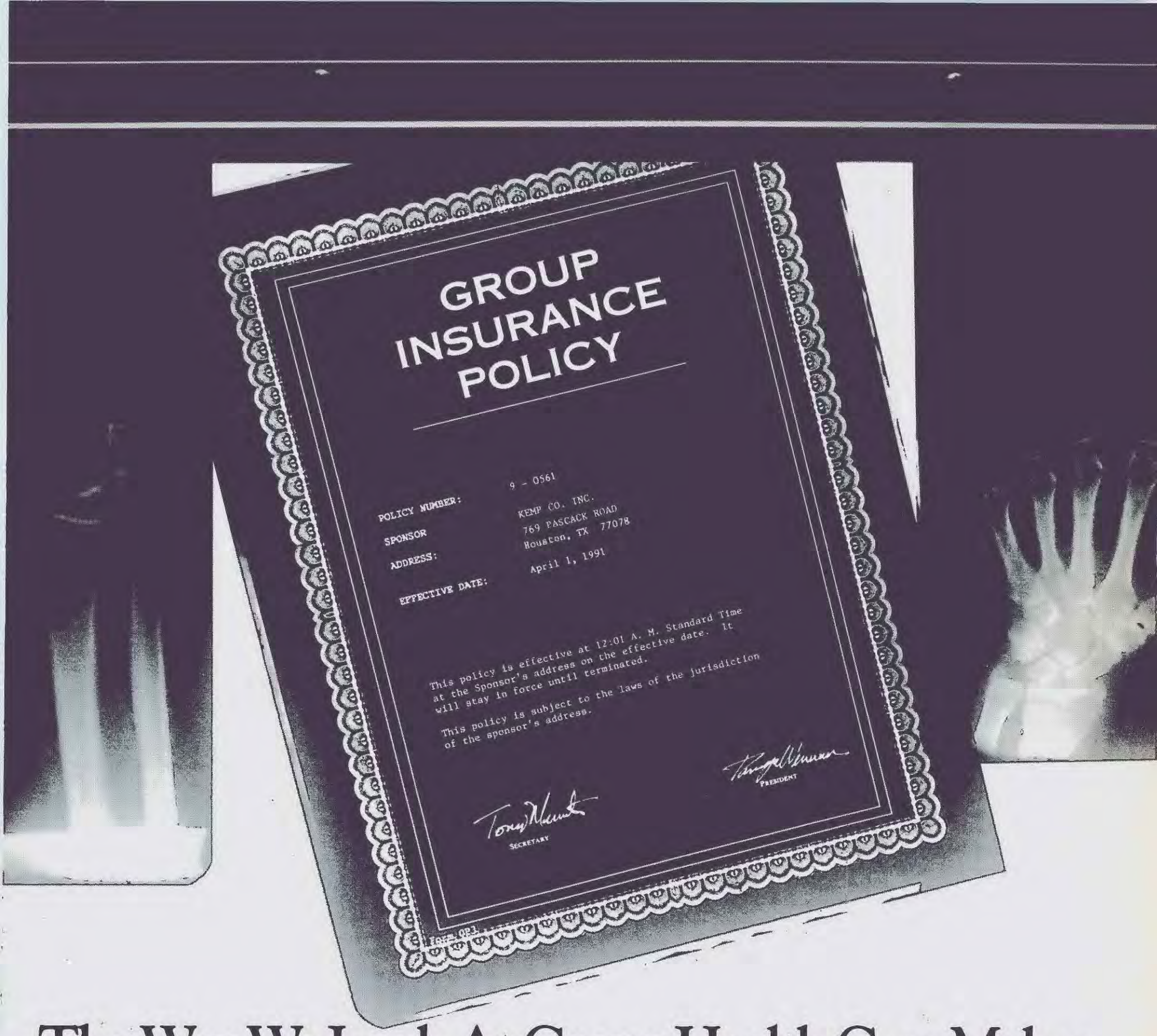
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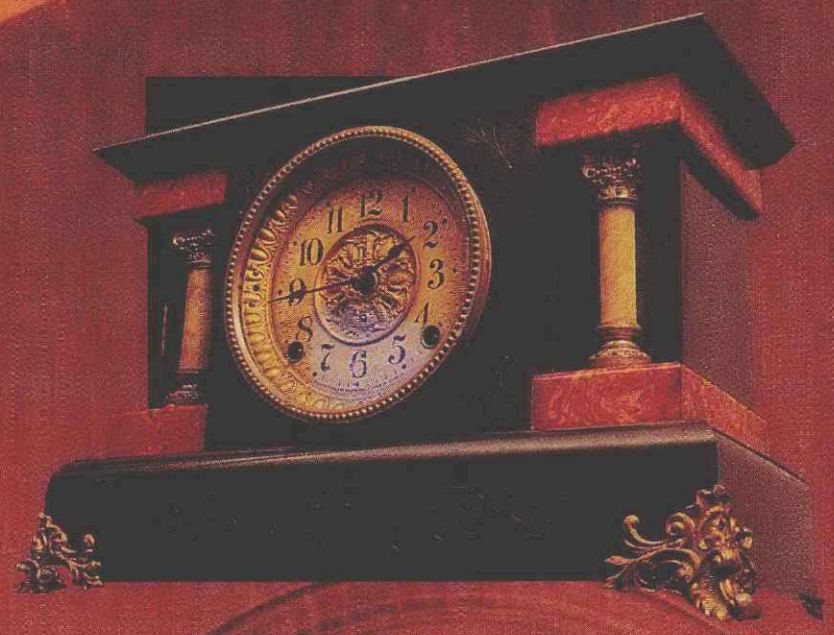
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Water parks

Continued from page 3

In 1983, there were 21 drownings in U.S. water parks, which drew 13.8 million users. By 1991, with 27.3 million users, there were only two drownings, according to Ellis & Associates Inc., an aquatic safety consulting firm in Kingwood, Texas.

As revenues climb and safety records improve, water parks will become even more attractive to the public sector.

So, "folks sitting in this room will have to manage the risk," said Jeff Ellis, an aquatic safety consultant and partner at Ellis & Associates.

But, because lifeguards at water parks are well trained, rescues of swimmers in distress are now common, he said. Because of training discipline, "water parks are now quite safe. I give you the green light" to build and operate a water park, he said.

Water parks "had a terrible reputation in the beginning, but all of those risks have been basically eliminated," Mr. Ellis asserted. Up to 98% of the accidents that occurred in the early years of water park use "were clearly caused by human error" —either by the operator or manager or, more often, by a patron pushing beyond the slide's intended use, he said.

The accidents definitely were not caused by design error, product malfunction or poor maintenance, Mr. Ellis stressed.

"There is literally only one way to deal with the human factor" as the cause of accidents: accountability and training, he said. The rash of early fatalities at water parks was due to "inadequate or no management," resulting in inadequate training for lifeguards and operators.

As part of its program of training lifeguards to recognize swimmers who need immediate help, Ellis & Associates uses a training film of swimmers actually in distress at water parks. "This is risk management, so lifeguards can see it and identify it before a fatality occurs," he pointed out.

Basic distress signs, including flailing arms and tightly closed eyes, "need to be memorized," because a lifeguard needs to get to the swimmer within 30 seconds, he said.

PDRMA members have adopted Ellis & Associates' safety concepts in their risk management programs, said Kevin J. Hoffman, PDRMA's loss control supervisor.

Ellis & Associates also trains lifeguards for PDRMA members that have water parks with waterslides, he said. One of the safety consultant's most effective training tools is unannounced video audits of lifeguards, which are conducted three times annually, Mr. Hoffman said. The video audits document lifeguards' rescue skills and can be used to evaluate their in-service training. PDRMA reimburses the $900 cost to members of the Ellis Associates video audits at the end of the aquatic season.

Public entities contemplating building a waterslide should "first get top management support on safety issues," Mr. Hoffman said. Significant water park loss exposures stem from poor management; staff parties where agency personnel, rather than the public, tend to use the waterslide without proper caution; inadequate maintenance and inspection practices; and inadequate control by lifeguards of the facility's use, he said.

Proper risk management controls for water parks begin with educated and experienced managers, Mr. Hoffman said.

Next, the staff should have continual safety training and be provided with a safety manual.

Good maintenance and safety inspection practices should be followed on a daily basis—as is done at Disneyland, Mr. Hoffman observed.

"One of our most serious losses occurred when the water park was rented the night before and wasn't inspected the next day," he explained. A child seriously hurt his foot on a rail that had been broken the night before.

The water park also should have adequate warning signs, including pictorial warnings that will be understood by all who use the waterslide.

Water park staff should have comprehensive emergency response plans, on the assumption that "something may go wrong at some time," Mr. Hoffman said. Staff should "practice the plans so they run smoothly and almost instinctively," he stressed.

And, a lifeguard audit system like Ellis & Associate's plan should be implemented. Lifeguards should not be permitted to read books or socialize while on the job, Mr. Hoffman said.

Ms. Kutska moderated the session. ■

Police liability

Continued from page 12

"Don't let them bully you. Work closely with them to understand their problems as much as possible without treading on their turf."

If necessary, he said, risk managers should use specialists for liability audits and assessments, policy and procedure reviews, training and consulting, and critical incident analyses.

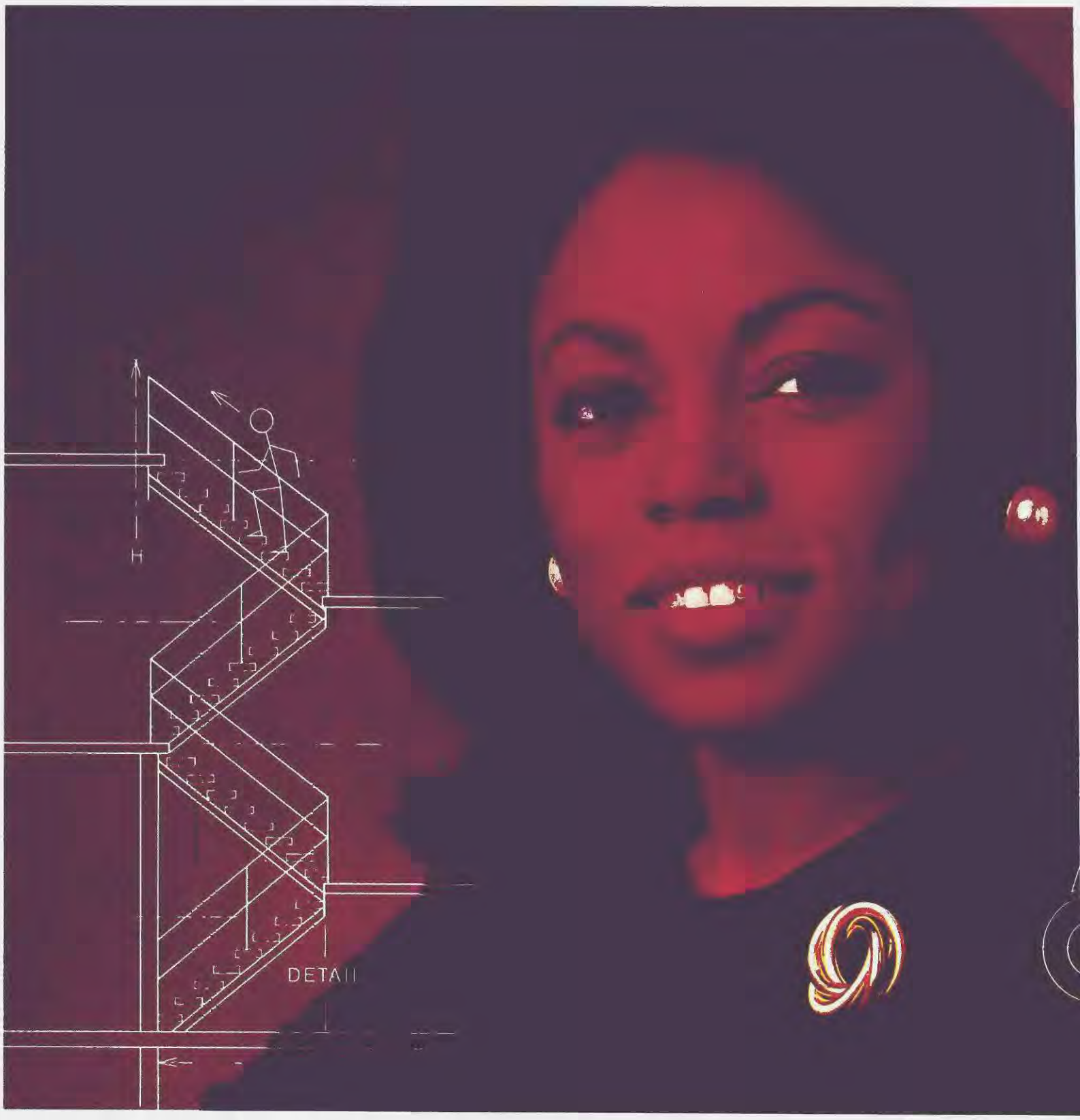
Most important, risk managers should make sure their police department has a clear policy on the use of force, he said.

In closing, Mr. Brave read from a confusing policy on the use of deadly force. Nevertheless, the policy stated: "This policy is not intended to create doubt in the mind of an officer."

The policy is that of the Los Angeles Police Department.

The session was moderated by Robert F. Healey, director-risk management department for Pima County in Tucson, Ariz. ■

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OLD PROS ON

A range of issues addressed at PRIMA

ANAHEIM, Calif.—Among other topics covered at sessions of the 13th Annual Public Risk Management Assn. conference May 17-20 were:

• **The Americans with Disabilities Act.**

Although the law has been in effect for public entities since January, efforts to comply in some areas are still hampered by confusion about the regulations.

The ADA is designed to prevent discrimination against disabled people in hiring (*BI*, Jan. 27).

Employers may gather information on an individual's workers compensation history, but only after a job offer has been extended, said Kathleen H. Courtney, an attorney and adviser with the Equal Employment Opportunity Commission in Washington, D.C.

If the worker has abused the workers comp system, the offer can be rescinded.

Other clarifications can be sought from the EEOC's ADA hot line at 800-669-3362.

The commission's enforcement efforts are "totally separate" from its advisory efforts, added Ms. Courtney.

John N. Shanks II, president of Indiana Public Employers' Plan Inc., and Yvonne Norton Leung, state risk manager for Nebraska, also spoke at the session.

Joseph L. Page, risk manager for the city of Plano, Texas, moderated the session.

• **GASB 10.**

Risk and financial managers should now be gathering disclosure information so that their public entity will be ready to comply with the Governmental Accounting Standards Board's Statement 10 by June 15, 1993.

The rule will require self-insured state and local governments other than risk-sharing pools to report the estimated cost of probable liability-causing events on an accrual basis (*BI*, Jan. 15, 1990).

Although compliance with GASB 10 is not mandated, entities that do not comply risk a negative bond rating, said Kathleen E. Howe, national pooling coordinator with Arthur J. Gallagher & Co. in Itasca, Ill.

Jeff Stevens, risk manager for Santa Ana, Calif., moderated the session.

• **Marketing risk management.**

Communicating risk management program performance to city management is becoming even more crucial with the current state of the economy.

Risk managers nationwide are losing their jobs because they are failing to do a good job or, more commonly, because they are failing to tell their superiors that they are doing a good job, suggested Thomas L. Vance, risk manager for Anaheim, Calif.

Risk managers must document and present the savings resulting from the insurance and safety programs that the department oversees, he said.

Ron Guilfoile, risk and employee benefits manager for St. Paul, Minn., and Michael M. Kaddatz, a principal with Advanced Risk Management Techniques Inc. in Laguna Hills, Calif., also spoke at the session.

The session was moderated by Stewart J. Ellenberg, risk manager for Fort Collins, Colo.

• **'Selling' the benefits.**

Successful risk management is a process of "selling" the benefits of risk management to other department staffs, said M. Roberta McCreary, a consultant for The Wyatt Co. in San Francisco.

Charles B. Rakoski, safety officer and risk manager for the public schools in Puyallup, Wash., starts "from the bottom," with a soft-sell to custodians on safety awareness.

Joseph J. Tonda, risk manager for Contra Costa County, Calif., works "from the top down," with an annual risk management report to the board of supervisors.

Doug Hicks, director of safety and health promotion for the Water and Sewer Insurance pool in Bellevue, Wash., tries to gain the confidence of the pool's 54 members "and move from there."

The session was moderated by Kenneth A. Horner, director of member services for the Cities & Villages Mutual Insurance Co. in Brookfield, Wis.

• **Benefit integration.**

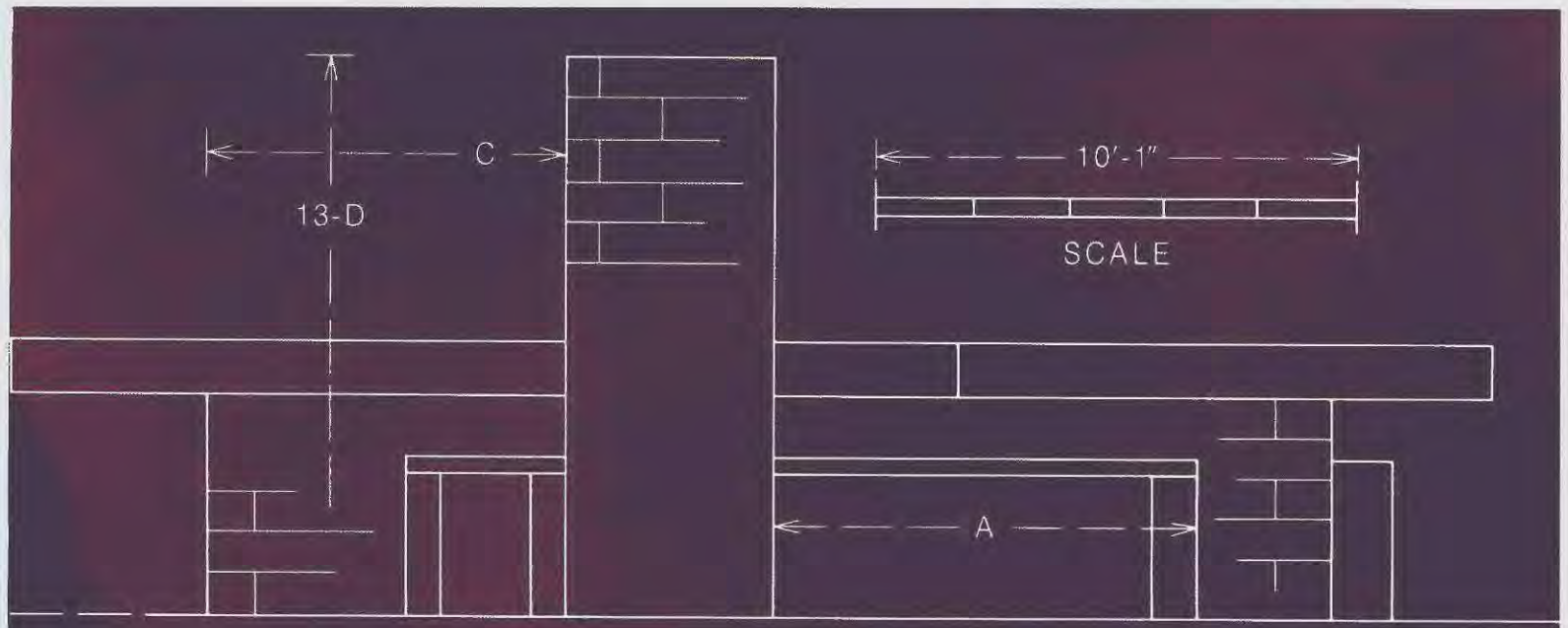
Integrating a company's group health and disability programs can keep medical costs down, said Catherine D. Johnson, vp of marketing and product development at Travelers Corp.'s Conservco unit in Tampa, Fla.

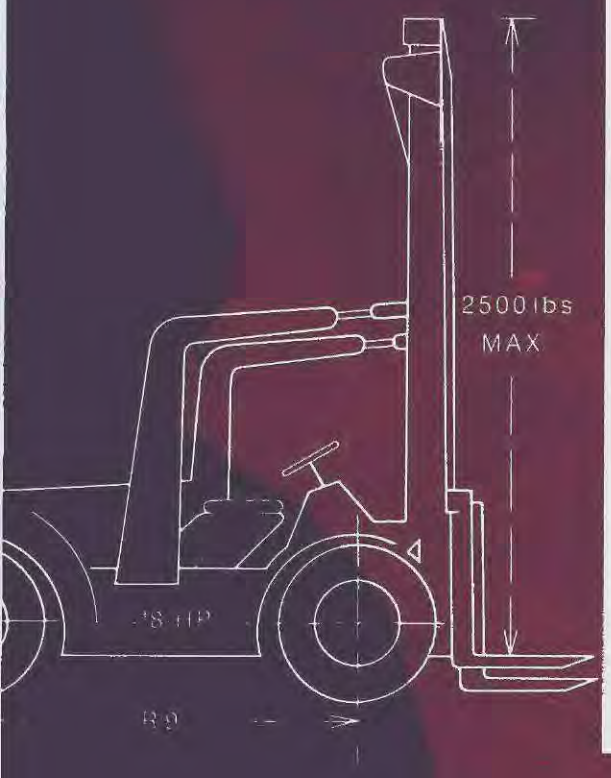
She said that in a pilot program Conservco designed for Bartlett & Co., a flour milling and cattle feeding company in Kansas City, Mo., a single entity coordinates group health, short- and long-term disability and workers compensation for Bartlett's 700 employees.

The program will eliminate cost-shifting and is expected to cut Bartlett's annual medical costs 10% to 15%, Ms. Johnson said.

Moderating the session was W. Taud Hoopingarner, risk management director for Dakota County, Minn. ■

E TODAY





Asst. VP for Big Thinking

Maybe it was something she learned from her father, a popular New Orleans jazz musician.

Or from having worked in a convent during college, helping disadvantaged young girls.

Wherever she learned it, Assistant Vice President Eileen Frank has an *uncanny* ability to motivate people, and spur them on to fresh, new thinking.

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Home Insurance

A NEW TEAM

Risk execs learn to tell strain from sprain

Education is key to controlling back injury costs: Doctor

By SARA J. HARTY

ANAHEIM, Calif.—An employee's disabling back injury can bewilder a workers compensation administrator trying to contain costs.

How long does it really take a lower back injury to heal? Is the treatment the worker is receiving appropriate or an indication that health care providers are trying to take advantage of the employer? Is there ever a place for chiropractic treatment?

Public entity risk managers addressed these questions at a session during the 13th Annual Public Risk Management Assn. conference May 17-20 in Anaheim, Calif.

Education can be the first defense for the risk manager trying to contain costs, said Robert K. Bush, a partner with the Chicago law firm Ancel, Glink, Diamond, Cope & Bush.

For instance, knowing what certain common diagnoses mean is important for the risk manager or claims administrator who may be questioning the treating physician, he suggested.

A strain means that the muscles have been stretched but did not tear, said Dr. Mary C. Hume of Orthopaedic Surgery Associates at the University of Southern California. Dr. Hume specializes in spinal disorders and surgery.

A sprain involves the tearing of some, but not all, of the muscle fibers. A rupture, on the other hand, is a complete tear of the muscle. All muscle tears heal with scar tissue, leaving a "lasting injury," according to Dr. Hume.

A herniated disc is probably the "most commonly used diagnosis that has something (major) behind it," she said. Each disc is a mass of jelly-like material that sits between the stacked bones in the spine, acting as a "shock absorber," she explained.

When a disc is herniated, "it is like spitting out a pit from a cherry," she said. This jelly-like material escapes from the thick tissues that normally contain it and pushes on nearby nerve endings, causing pain.

Employers may better understand the causes of a herniated disc if they realize that the tissue surrounding the disc may have small tears all around it from the employee's "high-school athlete" days or from other activities, according to Dr. Hume. In that case, lifting a box at work could be the straw that breaks the proverbial camel's back, she says.

If treated promptly, though, a herniated disc "won't cause pain indefinitely if it is treated appropriately," Dr. Hume said.

Public entity risk managers or workers comp claims managers who are concerned about unnecessary treatment should realize that unless there was a traumatic type of accident, there is "no need for any tests in the first week" after back pain begins, Dr. Hume said.

With back injuries, "80% or more get better in the first week," she said. Appropriate immediate care includes medication to get rid of the inflammation and strict bed rest for two to three days. Bed rest is never effective beyond that, Dr. Hume added.

After two to four weeks, if the worker is still having persistent pain indicative of more than a strain, it is "appropriate to get an X-ray" and to start a physical therapy program.

Most patients won't cooperate with a physical therapy program before this point, she noted.

Physical therapists should have specific goals that emphasize strengthening and flexibility, Dr. Hume said. They should focus on education and training, like teaching good posture and proper lifting techniques.

Some physicians may refer their patients to chiropractors for this type of therapy. In the area of back education, strengthening and training, some chiropractors can provide appropriate care, said Dr. William C. Neal, an orthopedic surgeon with a private practice.

However, therapies provided by either a physical therapist or chiropractor that focus on "heat and massage have a limited role for a limited time," Dr. Hume pointed out.

Clues to inappropriate therapy include:

- Physical therapy that begins immediately after an injury.
- Programs that do not have documented goals or diagnosis-directed therapy. If the same treatments are prescribed for all patients, that is a red flag.
- The use of hot packs and ultrasound without an additional focus on education and strengthening.
- Therapy that goes on for more than six months, which is "crazy,' Dr. Hume said.

After six to eight weeks, strains and sprains have healed, according to Dr. Hume. If the worker is still experiencing pain, the provider should do everything necessary to make a diagnosis.

Should surgery be necessary, "results are much better if the doctor can operate within the first three months of the onset of pain," she said. This necessitates a prompt diagnosis.

Diagnostic tests might include a magnetic resonance imaging scan, which gives a good three-dimensional image of the disc, bone, nerves and muscle.

The drawback to MRIs is that 40% of the population will have some abnormality show up even if the patient is not experiencing any pain. This is where the "art of medicine" comes into play, according to Dr. Hume. The physician must determine whether the MRI findings are related to the pain.

Some diagnostic tests that should act as a red flag to the workers comp claims administrator, Dr. Hume said, include computerized strength and mobility measurements, which are a "gimmick," and thermography.

"Thermographic changes are affected by so many things that they are worthless," Dr. Hume said.

Risk managers should do all they can to prevent back injuries from ever occurring, said Dr. Neal.

For instance, he said, workers should be monitored for efficient postures; workers who must stand for long periods should be given a foot rest so that one foot can be lifted off the ground; and workers doing manual work that involves lifting or pushing should take regularly scheduled breaks every hour. Breaks are more effective before the "employee is tired or has pain," Dr. Neal noted.

Finally, psychological tests, which identify those workers who are unlikely to return to work for their own reasons, should routinely be done after an injured employee has been out of work for a long period, Dr. Hume said.

The session was moderated by Alan Jenkins, the risk management administrator for Farmington, N.M. ■



PRIMA names new board members

ANAHEIM, Calif.—More than 1,100 people attended the 13th Annual Public Risk Management Assn. conference, held here May 17-20.

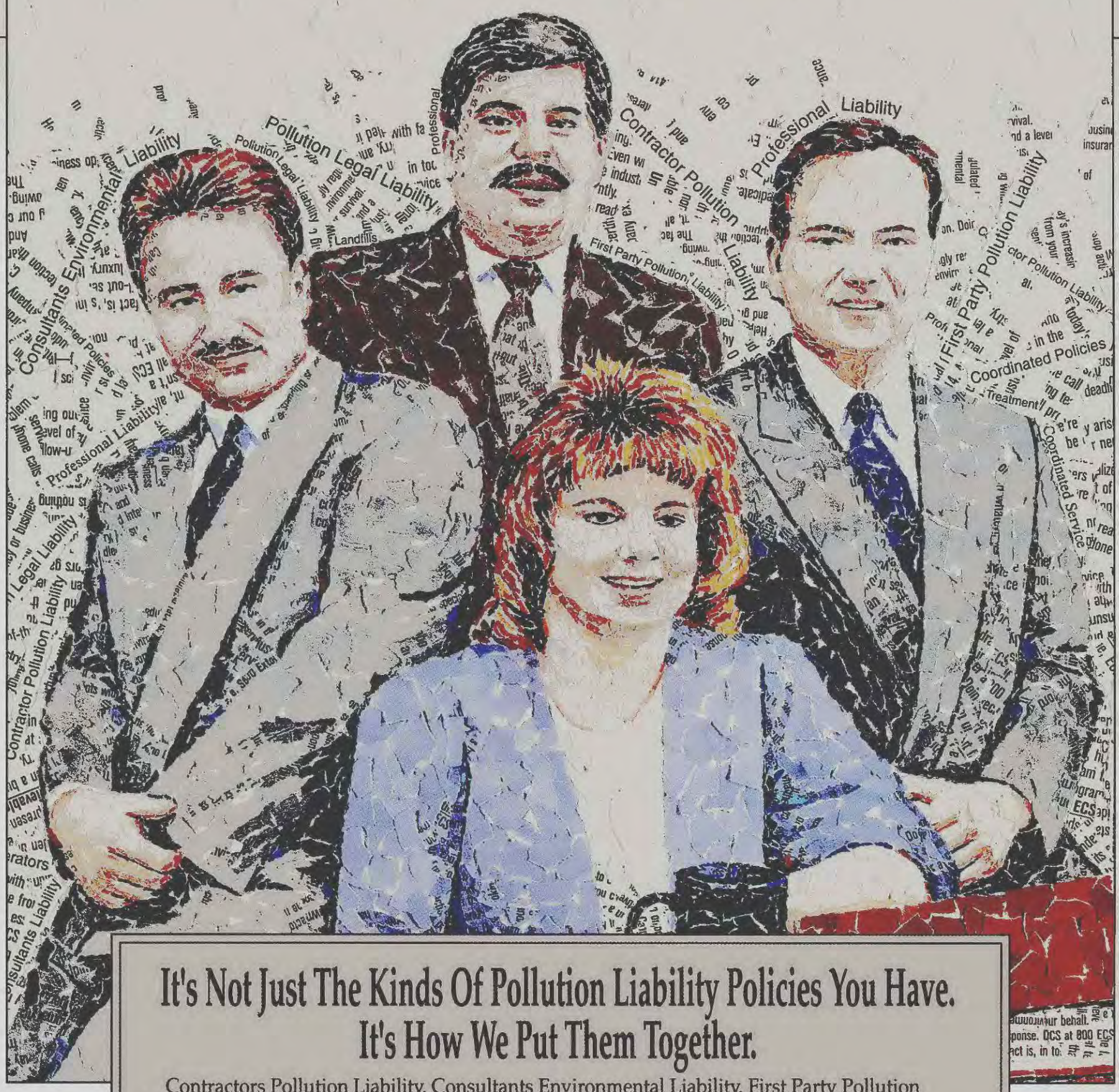
PRIMA's 1992-1993 board of directors was announced during the conference.

James P. Garrison, risk management administrator for the city of Phoenix, was elected president, succeeding Michael Burch, risk manager for Larimer County, Colo.

Raymond F. Sibley, risk manager for Washoe County, Nev., was elected vp of Region 1. Abigail S. Hudgens, risk and benefits manager for the city of Knoxville, Tenn., was elected vp of Region 5, and Sharon Rodebaugh, risk manager for Grand Prairie, Texas, will be the new vp for Region 6.

Remaining on the board are Mr. Burch, past president; Larry Weston, executive director of the Water and Sewer Risk Management Pool in Issaquah, Wash., as vp of Region 2; Annese Ashton, risk manager of Genesee County, Mich., as vp of Region 3; Elizabeth D. Puddington, executive director of the New Hampshire School Board Insurance Trust as vp of Region 4; Piper Price, assistant director of bus services for the school district of Springfield, Mo., as vp at large; and Richard Maddalena, administrator of the Special District Risk Management authority in Sacramento, Calif., as president of the pooling section.

Next year's conference is scheduled for May 16-19 in Cincinnati. For more information, contact PRIMA, 1117 N. 19th St., Suite 900, Arlington, Va. 22209; 703-528-7701. ■



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closing: June 3
demographic section: Insurer Topics: Government Relations/Coalitions

issue: June 22
closing: June 10

issue: June 29 — Bonus Distribution: SHRM — Reader Service
closing: June 16
editorial feature: Agent/Broker Profiles
Directory: Agents & Brokers

issue: July 6 — Bonus Distribution: NAIC
closing: June 24
demographic section: Agent/Broker Topics: Compensation & Incentives

issue: July 13
closing: June 30
editorial feature: Risk Management: Mid-Year Market Report
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Business Insurance
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Teamwork cuts down claims litigation costs

By SARA J. HARTY

ANAHEIM, Calif.—Public entity claims administrators and their attorneys need to work together to control litigation costs.

Careful review of prospective law firms can result in a better working relationship between the claims administrator and the public entity's attorneys, say two public entity claims administrators.

And, by maintaining contact with attorneys throughout a case, the claims manager can monitor the development of the claim, offer input on the claim's resolution and control ultimate litigation costs, they say.

When choosing a law firm, the claims administrator should avoid putting too much emphasis on the firm's reputation, warned Dan Salk, director of claims administration for the Intergovernmental Risk Management Agency in Oakbrook Terrace, Ill. A good reputation must be backed with appropriate experience, he said.

If the entity is taking a hardline position on claims and plans to litigate them to the finish, an attorney who is skilled at negotiating settlements will not be well suited to the entity's needs, Mr. Salk said during the 13th annual Public Risk Management Assn. conference held May 17-20 in Anaheim, Calif.

Other questions to ask of an attorney, he said, include how current the attorney's trial experience is and in which cities or counties he or she litigates.

Claims managers should meet with prospective counsel in person, Mr. Salk suggested.

Items of discussion at this meeting should include the entity's settlement philosophy, required preapproval for certain legal procedures and guidelines for bill review.

For instance, the public entity may want to review the billing for each suit when it reaches $2,500 or after six months, whichever comes first.

"Let counsel know that you scrutinize each bill," Mr. Salk said. The time billed should be consistent with the time originally estimated to complete the claim.

The claims manager should require that attorneys bill their work in six-minute increments. "Larger increments are weighted in their behalf," Mr. Salk said.

Litigation management should begin as soon as the entity receives notice of a lawsuit, another claims administrator said.

The claims administrator should promptly review each suit and prepare an analysis of what needs to be done, said Michael O. Wilson, claims manager for the Colorado Intergovernmental Risk Sharing Agency in Denver. Telling the attorney "to do the necessary" is woefully inadequate, he said.

The adjuster's analysis should be sent to the attorney for further review and input. The two should then be able to reach an agreement on the critical issues: cost estimates, target due dates and follow-up dates for various elements, Mr. Wilson said. The adjuster should be kept informed of changes in cost estimates, he added.

"You must maintain control," Mr. Wilson said.

One way to encourage a law firm to be open to input from the entity's claims administrator is to provide the firm with a significant amount of work.

Each law firm that does work for the public entity should receive enough business so that the entity gets some "clout" in return and is considered a "preferred customer," Mr. Salk said.

Eugene F. Berrodin, director of risk management for the Michigan Municipal League in Ann Arbor, moderated the session. ■

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Agent/Broker Topics

A monthly editorial section sent exclusively to agents and brokers

Taking the pulse of Congress

Before they can start wheeling and dealing, agent/broker lobbyists will need to sort through the chaos on Capitol Hill

By LAURA MAZZUCA

WASHINGTON—If Americans take their disgust with elected officials to the polls this November, the insurance industry will have its work cut out for it over the next four years.

Mad as hell over the House Bank scandal, congressional pay raises and the savings and loan debacle, voters have shown little reluctance in the primaries to take out their frustrations on incumbents.

Add to that the uncertainties of the lingering recession, dissent in Democratic ranks over the presidential nomination and House seat vacancies created by redistricting and retirements, "and you have the beginning of political chaos on Capitol Hill," said Robert A. Rusbuldt, one of the higher-profile insurance industry lobbyists.

"Members are terrified of their upcoming elections. It's an anti-incumbent mood that I haven't seen in my lifetime," said Mr. Rusbuldt, the director of federal affairs for the Independent Insurance Agents of America in Alexandria, Va., who has worked on Capitol Hill for more than 12 years.

LEGISLATIVE ISSUES

That mood is not lost on Capitol Hill, as agents learned at the annual IIAA legislative conference in March. House members who met with some of the 600 or so people attending the conference showed little interest in discussing insurance issues, recalled Mr. Rusbuldt.

Instead, they wanted to defend themselves and ask the question on everyone's mind: How is the House Bank scandal playing in the districts?

Not well.

Primaries already have claimed two notable casualties, both previously considered untouchable. Richard L. Thornburgh, the former attorney general, lost his bid for the Senate in Pennsylvania, and Sen. Alan Dixon, D-Ill., a veteran member of the banking committee and longtime friend of the insurance lobby, was ousted in Illinois.

Insurance lobbyists spend years cultivating relationships with such strategically placed members—and, almost more importantly, their staffs (*A/BT*, June 3, 1991). Such massive turnover will mean more work on the Hill, as lobbyists try to realign their power base within congressional committees.

For now, the insurance trade groups are just trying to figure out where candidates stand on insurance issues.

Several of the groups are developing a candidate questionnaire focusing on issues now before Congress.

This uncertainty and the diversity among candidates will make agents' grass roots lobbying more important than ever, said Ken A. Crerar, executive vp of the National Assn. of Casualty & Surety Agents. Many of the candidates challenging incumbents already are familiar to local association members, he pointed out.

But Barbara Haugen, director of federal affairs for the National Assn. of Insurance Brokers in Washington, warned that it will take time to sort out the players even after the election.

Because many incumbents who survive the bloodbath will be moving into committee or subcommittee chairmanships, a lot of jockeying will be going on before anything is settled, she said.

Members who might have served on other committees, for example, might want a crack at seats on the House Ways and Means Committee. Or those remaining members might become eligible through seniority for several chairmanships, and they'll have to choose one, she said.

And, of course, committee appointments also will depend on whether the presidential choice is a Republican or a Democrat—or neither, if H. Ross Perot has his way.

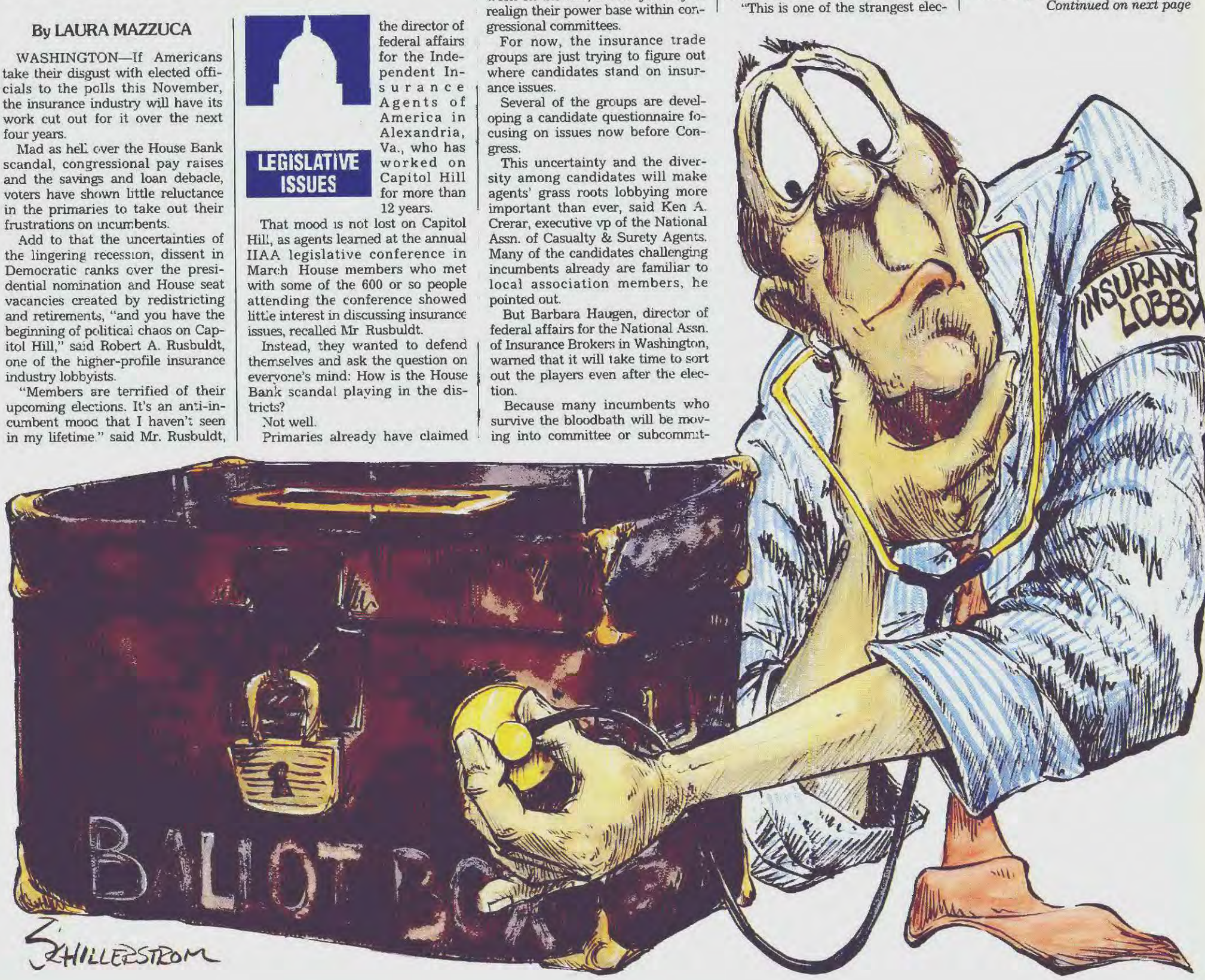
"This is one of the strangest election years I've ever looked at. But it's also interesting, and it'll be a challenging new Congress," Ms. Haugen added.

If it's handled correctly, the big turnover can be a boon to insurance, Mr. Rusbuldt said.

"If we can educate new members on the importance of (insurance) issues, that is a benefit, especially if they replace an incumbent who supported banks or trial lawyers," he said.

Securing new supporters like Sen. Dixon will not be easy for special interest groups like the insurance

Continued on next page



Lobbyists

Continued from previous page
industry. "Clearly, it will strain every lobby and lobbyist in D.C.," Mr. Rusbuldt added.

Getting out before the storm

Not since the Watergate-tainted elections of 1974 has the mood toward incumbents been this negative, Washington insiders say.

"This has been an ugly year in Washington," said Mr. Crerar, who has worked on Capitol Hill since 1978. "I haven't seen such a heavy-handed mood on the Hill in a long time."

This political miasma, composed of fears about House banking disclosures, the possible third-party presidential bid by H. Ross Perot and stagnation in Congress, is driving many senior members into retirement, he said.

As of May 8, 55 House members and seven senators had announced their retirement, according to *Roll Call*, the Capitol Hill daily newspaper. That's about double the level of 1990, when 30 members were retiring as of May, or 1988, when 27 were retiring.

Lobbyists consider the election of 20 new members of Congress typical for each two-year election cycle. But retirements, combined with incumbent losses at the polls, could produce nearly 125 new faces in the House and Senate when the smoke clears in November, observers say.

Even the Watergate backlash of 1974 wasn't that dramatic. That year, which had 43 retirements, produced only 92 new members.

Moreover, the 1992 turnover is coming in vital areas.

A quarter of the House Ways and Means Committee's 36 members are on their way out, and a number of others are under the gun for writing bad checks at the House Bank.

This may mean "a new ball game on regulatory issues," including proposed insurer solvency regulation from John D. Dingell, D-Mich., said Ms. Haugen. New members may not be inclined to back Rep. Dingell or support the industry on other issues.

Few tears are being shed in the insurance industry over the coming retirement of one nemesis, Sen. Jake Garn, R-Utah. But the loss of Rep. Chalmers P. Wylie, R-Ohio, a longtime backer of insurance interests, is "a major hit," according to Ms. Haugen.

Congressional turnover in 1992 represents a "monumental change" in the committee power base, said Mr. Crerar.

And it's not just the volume of newcomers or the shift in power that will be a challenge to lobbyists.

While this represents "a lot of power moving around," another critical issue is the loss of an "institutional memory" in Congress, Mr. Crerar said.

As many of the "Watergate babies" elected in 1974 retire or otherwise leave office, newer members elected during the mid-1980s will move up faster on various committees, he explained.

These junior members haven't been in office long enough to have a memory of the "big issues" like banking, which come up in legislation every 10 years or so, he said.

Because insurance is such a complex issue in the first place—with a "glaze factor" of about 10 minutes, he quipped—lobbyists will have a harder time explaining industry positions to inexperienced members.

And it's more important than ever for that position to be communicated, said Patricia A. Borowski, vp-government and industry affairs for the National Assn. of Professional Insurance Agents in Alexandria, Va.

Since the 1980s, federal interest in insurance issues has picked up. This requires far more sophisticated lobbying, both with members of Congress and their staffs, she said.

While pushing their own agendas, agent lobbyists must also keep in mind members' agendas, she said.

With House members distracted by re-election campaigning, issues like antitrust reform and banking regulations that don't play well with most constituents are liable to remain "inside the Beltway ballgames," she said.

On the other hand, an issue like health care, which has been prominent in presidential and congressional campaign debates, may push other insurance issues to the forefront, noted Coletta I. Kemper, director of industry and public affairs for National Assn. of Casualty & Surety Agents.

As far as federal legislation is concerned, "the plate can't get any fuller," with the solvency proposal, antitrust reform, health insurance and banking issues, Mr. Crerar said.

Pre-election preoccupation

But he and other Capitol Hill regulars say nothing much will be accomplished before the November elections.

With a target date of early October for Congress to adjourn, the July 4 recess in the wings and candidates traveling back and forth to their districts before the election, "it's getting pretty late" to do anything, Ms. Haugen said.

And while it may be easy to debate public policy issues in an election year "because everybody's ears are open," getting laws passed is another story, Mr. Crerar noted.

Rep. Jack Brooks, D-Texas, may amend his proposal to reform the McCarran-Ferguson Act, but it's unlikely that many members will want to deal with it, Ms. Haugen noted.

Even the Dingell solvency proposal is not likely to go beyond the discussion stage, although it could be debated in the House and Senate before the election, she added.

It's in no one's interest to resolve major issues before the election, said Ms. Borowski of the PIA. Both Democrats, who "smell blood" in the presidential election, and Republicans, who hope to gain in Congress, want to take advantage of any "political sores" that might be blamed on the other party, she said.

Agent lobbyists say they are wary of any election-year promises, unless the member has a proven track record on insurance issues, said Ms. Borowski. For their part, lobbyists generally don't play the issues any differently during an election year than at any other time, she said. While "we don't whip out some kind of threat," lobbyists do emphasize the importance of "little hands pulling little levers" on a state-by-state basis. Collectively, those individual voters are a force to be reckoned with, despite what big-interest campaign support may want, she said.

Follow the money

Agent and broker money is going into races in which strategic committee seats are up for grabs and in states where trade associations have a lot of members, like California, said Ms. Haugen.

For example, NAIB's political action committee supported Sen. John Seymour, R-Calif., in his bid for re-election, she said.

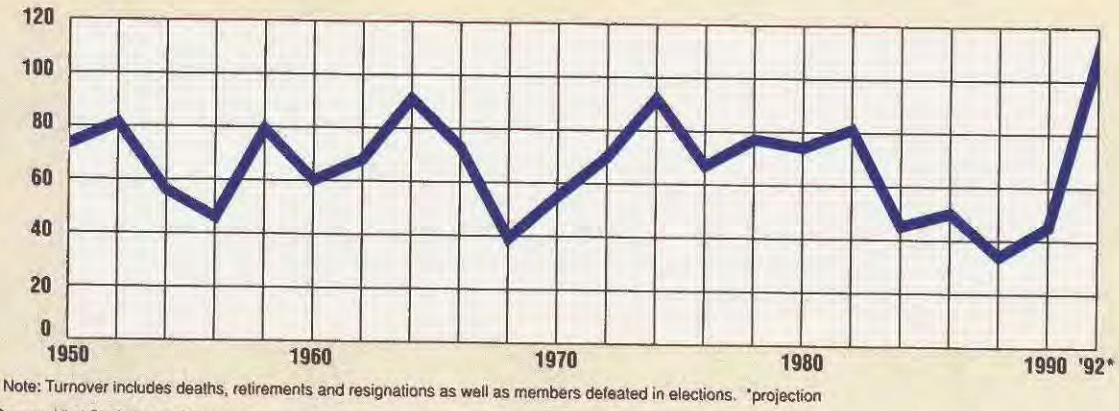
Similarly, the IIAA, the biggest of the agent and broker lobbies, is backing Sen. Alfonse M. D'Amato, R-N.Y. As a member of the Senate banking committee, the group says, he has toed the insurance industry line, voting against the interests of one of his more notable constituents: Citicorp.

And Earl Pomeroy, former insurance commissioner of North Dakota, has the support of "the whole industry in town" in his shot at the House seat being vacated by Byron L. Dorgan, D-N.D., who is shooting for the Senate, Ms. Haugen said.

"You make friends wherever you can, but you can't tell where they'll end up," she said. ■

Turnover tumult

Recent elections in the 435-member House have had historically low turnover levels. In fact, not since the Watergate-tainted 1974 elections, has the turnover been anywhere near what observers are forecasting for 1992.



Note: Turnover includes deaths, retirements and resignations as well as members defeated in elections. *projection

Source: Vital Statistics on Congress

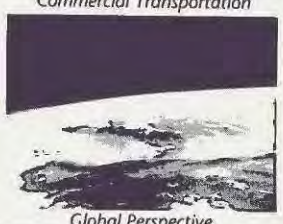
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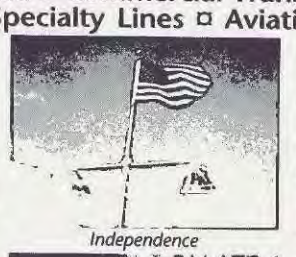
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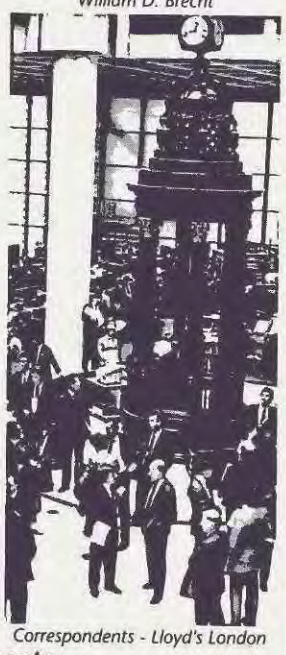

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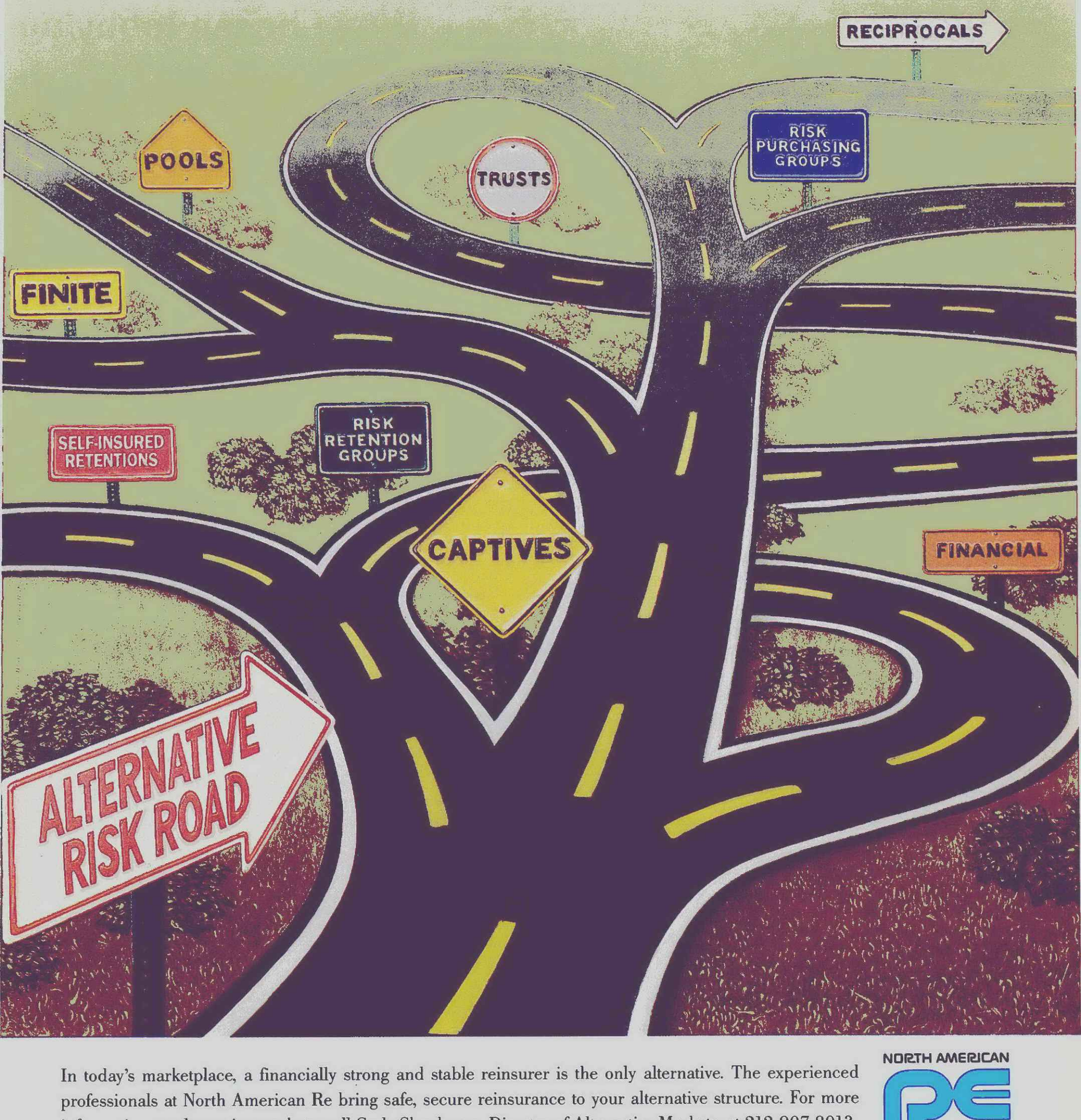
Retirement has looked appealing to more and more Senators and Representatives over the last few election years. Retirement figures are as of May each year.



Source: Roll Call

GRAPHIC BY A.TRANCHITA

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Agent/Broker Topics

Lobbyists await new faces in Congress

WASHINGTON—Lobbyists for agents and brokers expect to have their hands full making pitches to dozens of—perhaps more than 100—new members of Congress this fall.

Here is what they intend to tell new legislators about the big industry issues before Congress:

Banking

The banking reform bill that failed in Congress last year was too "narrow," agent groups say.

Any future legislation, they feel, should include restrictions on two exemptions from New Deal-era prohibitions on insurance sales by banks: a Delaware law that allows nationwide sales by banks chartered in the state and the "small-town exemption," which pertains to banks in towns of fewer than 5,000 people.

Antitrust reform

Foremost among the efforts to repeal or modify the McCarran-Ferguson Act is H.R. 9, which was introduced by Rep. Jack Brooks, D-Texas, chairman of the House Judiciary Committee.

The bill would remove several of insurers' key exemptions from federal antitrust laws. A second bill, S. 430, sponsored by Sen. Howard Metzenbaum, D-Ohio, is similar to H.R. 9.



Insurance interests generally oppose both measures. Small insurers especially say they would stand to lose if the antitrust exemptions were taken away.

Still, some groups, including the American Insurance Assn., have proposed an alternative to the Brooks bill. The AIA favors eliminating insurers' exemptions from antitrust law, but allowing them to have "safe harbors," such as standardized forms, pooling of loss data and other shared industry information.

Consumer groups could well seize on the issue of antitrust reform in their efforts to cut insurance costs and cure solvency and availability problems.

Federal solvency regulation

Insurance interests are split on federal regulation.

Life insurers and small insurers oppose any federal involvement; large insurers, represented by the AIA, propose virtual preemption of many state regulations; and agent and broker associations, including the National Assn. of Insurance Brokers and the National Assn. of Casualty & Surety Agents, support some form of federal regulation.

The Risk & Insurance Management Society Inc. has come under fire from one state chapter for its support of a federal role (*BI*, May 18).

The key regulation proposal now before Congress is H.R. 4900, introduced by Rep. John Dingell, D-Mich. It would create dual federal-state regulation.

Intangible asset taxes

For years, insurance trade groups and the Internal Revenue Service have argued about whether agencies should be allowed to amortize their expiration lists.

Agents want to be able to take tax deductions against the value of their customer lists; the IRS says those lists are more akin to goodwill and cannot be amortized.

President Bush in March vetoed an omnibus tax package that included an intangibles measure.

Two bills now before Congress would settle the matter. H.R. 1456 would permit the amortization of expiration lists; and H.R. 3035, sponsored by Dan Rostenkowski, D-Ill., would establish a uniform 14-year depreciation schedule for all intangible assets.

The Supreme Court recently agreed to rule on a case that would determine whether intangible assets have a depreciable value, which will set national precedent (*A/BT*, May 4). No hearing date has been set.

—By Laura Mazzuca

A/BT perspective

One principal's view from the grassroots: Why I began lobbying

By DAVID F. WILSON

TODAY, MORE THAN ever before, the insurance industry is under the watchful eye of federal lawmakers. This scrutiny is not focused on any one particular area, but is spread over a range of industry concerns.



Evidence of this scrutiny can be found in efforts to repeal the industry's limited antitrust exemption granted by the McCarran-Ferguson Act of 1945; a move to give banks unfettered, nationwide insurance sales powers; a push to reform the troubled health care delivery system and replace it with a government-run program; and attempts by John D. Dingell, D-Mich., chairman of the House Energy and Commerce Committee, to create a direct federal role in insurer solvency regulation.

It is because of these issues and other threats to the stability and future of the insurance industry that I became involved in the Independent Insurance Agents of America's government affairs efforts. I felt concern for the future prospects of my agency, the independent agency system, the insurance industry and the millions of consumers who rely on us each day to protect their lives and possessions.

At the time, I believed it was extremely important for me to play a proactive role in the IIAA government affairs program, and I still feel that way today.

Any business owner—whether a florist, a neighborhood grocery store operator or an independent insurance agent—must sacrifice part of his time, expend energies and, in some cases, devote personal resources to the betterment of his industry and the people he serves.

With the insurance industry under attack from many fronts, it has become extremely important for independent agents to redouble their efforts.

To be successful in this endeavor to protect your livelihood, you must make your voice heard by the decisionmakers—your elected representatives in the state capital and in Washington.

You should also work for causes and candidates that contribute to the success of your business. I have used my agency as the campaign headquarters for office-seekers I believed were friendly toward the insurance industry. To this day the agency has not been hurt by this political activity. In fact, I feel that it has helped us.

These are all activities that I participate in, both as part of my official duties and responsibilities as IIAA Government Affairs Committee chairman and, more importantly, as a concerned business owner in Chula Vista, Calif.

My personal involvement in the IIAA government affairs program is more than a case of self-advocacy, although my agency unquestionably benefits. My chief goal is to look out for the benefit of all my clients.

For more than 21 years, I have been involved in government affairs activities, first at the local and state levels, and then at the national level. Throughout, I have enjoyed being a part of the political process—witnessing how it operates and influencing the legislative process for the good of my industry and its clientele.

My first contact with association government affairs, beyond grassroots involvement, was in 1971 as a member of the Independent Insurance Agents and Brokers of California Government Affairs Committee. I had been involved with local and state politics through the years, and this appointment was a natural extension of my deep-rooted interest, so I jumped at the opportunity.

Continued on next page

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Agent/Broker Topics

Continued from previous page

I followed this up by serving three years—from 1989 to 1991—as the chairman of a lobbying coalition that represents seven producer groups in California. In September 1991, then-IIAA President A. William Bailey Jr., himself a past IIAA Government Affairs Committee chairman, named me to that committee's top post.

I can honestly say that this marriage has been nothing other than satisfying. Sure, the political climate is no longer the give-and-take it used to be, but it's still gratifying to see how my involvement and the participation of thousands of IIAA agents have preserved the insurance industry and the agency system.

Involvement in political activity is not detrimental to the success of an agency. Actually, it pays to be involved in your community, both as a business owner and through political activities. My involvement with IIAA's government affairs efforts has had a net positive effect on my agency by solidifying my place in the community and the business world.

Many times I've had to balance my role as committee chairman and co-principal of my agency. I often travel across the country in my capacity as chairman and, while on the road, my attention inevitably wanders to what may be going on at the agency.

But these short periods of worry are for naught. In a business like an independent insurance agency, it helps to be a close-knit organization that comes together and works harder when an obstacle arises. This is the case for Wilson-Cox Insurance Agency, where the agency staff works together to make sure no problem goes unchecked when I am out of town.

I have a great partner, Ron Cox, and the entire staff is highly professional. This gives me the peace of mind to go about my duties and responsibilities as IIAA Government Affairs chairman, protecting the future of my agency, creating a stable insurance marketplace and preserving the agency system.

IIAA agents from Portland, Maine, to Portland, Ore., excel at involvement in grassroots activities and politics at all levels. Through the collective dedication of countless agents, this association is able to safeguard the promises we have made to our customers and to protect them from unfair competitors.

For instance, the IIAA has led the charge to maintain the separation of banking and insurance and to institute consumer safeguards for state-chartered banks that possess insurance sales powers.

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David F. Wilson, co-owner of Wilson-Cox Insurance Agency in Chula Vista, Calif., is chairman of IIAA's Government Affairs Committee.

Broker, insurer execs plan for survival

Companies disclose strategies for confronting hurdles that face insurance industry

By LAURA MAZZUCA

PEBBLE BEACH, Calif.—As big changes continue to rattle the commercial property/casualty insurance industry, brokers and insurers say they are focusing on their most profitable niches while also diversifying into new sources of revenue.

"At Marsh & McLennan, we look at change as both a challenge and an opportunity," said David D. Holbrook, co-chief executive officer of Marsh & McLennan Inc. in New York.

Mr. Holbrook and six other broker and insurer executives spoke here last month during a panel discussion at the 58th annual National Assn. of Insurance Brokers conference.

The changes facing the industry include the growth of alternative risk financing markets, worsening loss ratios in workers compensation and the prospect of federal regulation of parts of the insurance industry. The NAIB, in fact, expressed support for a federal regulatory role at its annual meeting (*BI*, May 11).

The executives agreed that these and other changes will continue to confront the industry, and each panelist delineated his or her corporate plan to address the most trying issues.

In the U.S. market, M&M is concentrating on its most profitable market segments; reviewing the pricing of fee-based services like risk management consulting services; and reducing expenses by eliminating inefficiencies through technology, Mr. Holbrook said.

American International Group Inc. is focusing on a more diversified earnings base in response to market changes, said Maurice R. Greenberg, chairman and chief executive officer of the New York-based insurer.

Focusing on market share "in a risk business is a dumb strategy, especially when you're in the kind of a cycle that we're in now," he said. "If you lose underwriting integrity in a risk business, it won't be many years before you lose your business."

To counterbalance the "violence" of market shifts on the domestic property/casualty side, AIG is concentrating on its foreign business and financial services, Mr. Greenberg said.

"We've built a balance to our earnings stream," he added.



Peter T. Pruitt believes brokers need to forget their "prepackaged and predetermined ideas" to respond to their clients' actual needs.

Over the past five years, The Home Insurance Co. has withdrawn from personal and small commercial lines "that Home didn't do well," to concentrate on specialty business and large commercial lines, said James J. Meenaghan, chairman, president and chief executive officer of the New York-based insurer.

Internally, The Home handles "managing in trying times" by concentrating on maintaining financial strength to ride out the soft market; focusing on domestic and international marketing plans; training personnel to provide top service to policyholders, agents and brokers; and keeping an eye on expenses and cost structures, he said.

At Frank B. Hall & Co. Inc., management focus is on quality customer service, said Peter T. Pruitt, president and chief operating officer.

Several years ago, the New York-based broker launched its "Signature Service" program, using focus groups of risk managers and financial officers to determine what they wanted in a broker, Mr. Pruitt said.

"One thing that came over absolutely loud and clear is, 'My broker doesn't listen,' " he said.

Brokers need to forget their "prepackaged and predetermined ideas" to respond to clients' actual needs, he said.

Willis Corroon P.L.C. underwent great changes over the past 19 months because of its global merger, said Chief Executive Richard M. Miller, who is based in New York.

Corporate reorganization at Willis Corroon centered on "flattening out" the brokerage "to get people closer to clients and eliminate levels of management that were impediments," he said.

Willis Corroon also is upgrading its personnel and focusing on targeting markets in which it performs well, he added.

"We're focusing on what we're good at, getting qualified people in place and eliminating the deadwood," he added.

Despite the reorganization effort, Willis Corroon's expenses rose only about 4% last year, according to Mr. Miller.

Like M&M, Willis Corroon is providing more services than it did 10 years ago, with 25% of its worldwide business now generated by fees, Mr. Miller said. And, he agreed with M&M's Mr. Holbrook that brokers must adequately charge for those services.

However, AIG's Mr. Greenberg expressed concern about duplicate services being offered by both insurers and brokers.

"We will never abdicate the services of our clients to somebody else," he said.

Nonetheless, Mr Meenaghan remarked that most brokers are "smarter than most companies at this," because the brokers are closer than insurers to the clients.

Broker and insurer executives also are concerned about appropriate personnel training, especially for underwriters.

"We must be doing something right (in training underwriters), because everyone recruits from us," said Mr. Greenberg.

He added, though, that there is too much emphasis among insurers on recruiting the "best and the brightest."

Although it's important to hire economists, engineers and other experts with a qualified background, they also must be trained in the basics of the insurance business, he said.

Underwriting is the basis of the learning process in insurance, he said. But if a novice underwriter is overqualified for the job, he or she may consider it to be beneath him or her, he said.

Instead of only recruiting from Ivy League schools, insurers also should recruit from the College of Insurance in New York, as well as from other sources, he said.

"We don't need Harvard MBAs at our underwriting desks," agreed The Home's Mr. Meenaghan.

Insurers must be both realistic and selective in hiring and training, particularly in that crucial first year of an underwriter's career, he said, adding that the old "implied contract" attitude between employee and company, which assumed that a "paternalistic" employer would take care of the worker indefinitely, is gone. Younger workers realize that "life is a hell of a lot less predictable," he said.

This new attitude "forces companies to go back and raise our sights of what we have to pay the

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Survival tactics

Continued from previous page

front-line people," especially underwriters, in order to attract and retain them, he said.

Another insurer executive said attracting good recruits now may be easier than it was in the past.

"Our image isn't as bad as we've felt it's been," said Gerald L. Maatman, chairman and chief executive officer of Kemper National Insurance Cos., based in Long Grove, Ill.

Mr. Maatman, who lectures at business schools, said he finds that students are more interested in getting into the insurance field than in years before.

In addition, basic demographics dictate that more women and minorities will be entering the workforce over the next 10 years, he observed.

Unfortunately, insurance companies today are not in a good position to "assimilate" these prospects into the system, and this must be rectified, he said.

Mr. Holbrook of M&M agreed that the insurance industry lags behind other businesses in hiring minorities and also recommended the College of Insurance as a hiring source.

"It's an exciting business; we just need to expose more people to it," said Willis Corroon's Mr. Miller. The broker emphasizes training and recruiting, he said, citing its new Nashville, Tenn., training center.

Moderating the panel was Philip F. Petronis, a managing director of M&M Inc. ■

NAIB plans to sell services

New president details next step in evolution to trade association

By LAURA MAZZUCA

PEBBLE BEACH, Calif.—The National Assn. of Insurance Brokers is gearing up to offer a new dimension of providing services to its members, according to its new president.

"During the coming year, I hope to be both an instigator and a witness to the beginning—and I emphasize 'beginning'—of the third dimension of the NAIB," said Alan G. Page, senior vp and director of Johnson & Higgins in New York.

Mr. Page was named president of the National Assn. of Insurance Brokers at its 58th annual conference, held here last month.

As an NAIB member, "I would like to buy services from the NAIB in addition to paying dues," Mr. Page said. "I am looking to have a strong, permanent staff that is in tune with our joint economic needs. I want the NAIB to excel, independent of which firm or individual is in a leadership position. In short, I would like to institutionalize the NAIB."

Adding this third element of services to the trade group's existing work in the social and public policy areas would round out its ability to offer members the tools to reach common economic goals, Mr. Page said.

The NAIB already has taken several steps toward the "institutionalization" of the association, including:

- Scheduling a long-range planning session, to be held June 9-11 in Chicago, "to write a mission statement and redefine our deliverables from the NAIB," which could include providing licensing assistance to members, monitoring market security guidelines and tracking policy litigation, Mr. Page said. The session will be open to all past and present NAIB members.
- Hiring Carl Modecki as executive director. Mr. Modecki, who has served as president of the Consumer Bankers Assn. and president of Meritor Savings Bank in Arlington, Va., has worked extensively with other trade associations. He is "a leader who knows how to find common economic ground within our membership," Mr. Page said.

The NAIB also contracted with Hales & Associates, a consulting firm based in Westchester, Ill., to assist Mr. Modecki in this process.

- Considering the feasibility of "outsourcing" with other entities for certain member services, like licensing assistance, market security guidelines, policy litigation tracking and monitoring changes in policy wording.
- Undertaking a study on how brokers price their services.

"We must outline, for the benefit of the industry, the ongoing shift from agency-based commission remuneration to service fees directly charged clients and what that means for clients, brokers and insurers," Mr. Page said.

These initial steps should begin to make clear how the NAIB can move toward becoming a full-fledged "trade association," Mr. Page said.

In a subsequent interview, Mr. Page explained that the impetus for the proposed change in the NAIB's structure comes from listening to members, who need services "on a day-to-day basis" in addition to the association's social value and public policy involvement.

For example, members need information on licensing because of the "crazy quilt" of differing state positions, Mr. Page said. The NAIB could offer a guide and assistance to members with multistate operations, especially smaller brokerages that do not have the internal staffing to track such data, he said.

After assessing the cost of such services, NAIB would charge a separate fee rather than increase membership fees, Mr. Page said.

He also suggested that while the NAIB's popular annual conference would still be the association's centerpiece, smaller, "section-type" meetings revolving around a single topic could supplement it.

Mr. Page compared the NAIB's future development into a trade association to the evolution of the National Assn. of Casualty & Surety Agents, which has begun offering its members seminars and other services. Although membership differs between the two organizations, NACSA "has set a good direction" and has demonstrated "that you can do a lot with a trade association," Mr. Page said. ■

JULY — **Compensation & Incentives**

Issue: July 6
Ad Closing: June 24

Can employee compensation at independent agencies continue to increase faster than revenues during the current recession and soft market? *BI's Agent/Broker Topics* section will focus on this critical issue, reporting on how agencies can attract and keep qualified personnel without going overboard on compensation. What perks and benefits are being offered as an alternative to big raises?

AUGUST — **Marketing & Sales Promotion**

Issue: August 3
Ad Closing: July 22

The recession and the soft property/casualty insurance market are delivering a two-fisted punch to most agencies' budgets. Yet, now more than ever, agencies need to spread the word about their services. *BI's Agent/Broker Topics* section will look at how agents promote themselves considering the slimmer margins under which they're operating and will examine what types of sales promotion are the most cost-effective.

SEPTEMBER — **Most Productive Agencies**

Issue: September 7
Ad Closing: August 25

What sets the most productive agents and brokers apart from the pack? *BI's Agent/Broker Topics* section will once again rank the most productive U.S. agents and brokers and examine how these agents rose to the top of the class. Agency executives will explain how to use niche marketing, automation and producer incentives to maximize staff productivity.

Agent/Broker Topics

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* An Audience Profile of the Business Insurance 'Agent/Broker' Subscriber, 1990.

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Broker sees silver lining in layoffs

By LAURA MAZZUCA

LOS ANGELES—A Los Angeles brokerage is banking on the fear of layoffs to develop a new line of business.

James Econn & Co., which specializes in real estate, has developed a new "layoff insurance" product. Marketed to home builders and developers, the coverage protects the first-time home or condominium buyer by paying the total monthly mortgage payment if he or she becomes unemployed because of a layoff or plant closure.

The coverage, underwritten by RLI Insurance Co. of Peoria, Ill., covers the buyer for the first two years after closing for up to $5,000 per month in mortgage payments, said James Econn, president of James Econn & Co., exclusive dealer of the coverage.

Layoff insurance is designed to spark property sales by assuaging buyers' fears about the increasing number of layoffs, Mr. Econn said.

Economists and some politicians claim that the economy is improving, but the message isn't getting through to consumers, who are afraid to buy big-ticket items—especially homes—for fear of losing their jobs.

This fear has cost developers and homebuilders money. One especially hard hit area is Orange County, Calif., where the once-booming real estate market has slumped in the wake of massive layoffs and cutbacks in defense and other industries in the region, Mr. Econn said.

Business casualties in the area this year include the merger of Bank of America Corp. and Security Pacific Corp., which resulted in layoffs; Lockheed Corp.'s decision to move its Orange County plant to Georgia; and layoffs at Northrop Corp. and McDonnell Douglas Corp., he said.

Until March, Volkswagen A.G. marketed a similar product with its new cars. Its coverage met the car payments of buyers who were laid off after purchasing a Volkswagen.

So far, only The Irvine Co., one of the largest builders in Orange County, has purchased layoff insurance policies. Premiums are included in a one-time charge to the home buyer that is folded into the total purchase price.

The developer buys policy certificates for the coverage, which are sold in groups, and then allocates the certificates to individual home buyers, Mr. Econn explained.

Buyers have premium options of 12 or 24 months' coverage during a layoff; and six or 12 months' coverage after being called back from a layoff, Mr. Econn said.

Premiums are set at about 3.4% of principal and interest, taxes, fees and all other expenses. The premium generally ranges between $400 and $700 for the typical home in the area, he added.

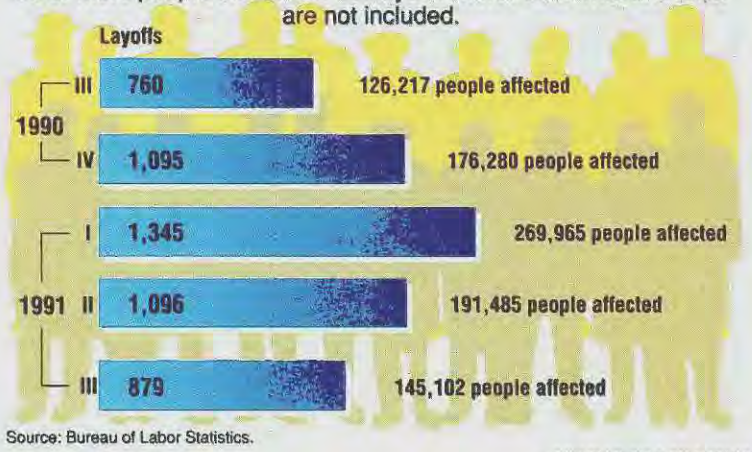
The coverage can be customized and marketed to large residential real estate brokerage firms for their clients or to banks and lenders, Mr. Econn said.

He added that the brokerage uses a direct mail program targeting developers and real estate firms through the California Builders & Contractors Directory.

Although he will not say how many policies have been sold, Mr. Econn said that brokers and developers from all parts of the country have called seeking more information on the coverage. ■

The time may be right

With hundreds of thousands of people laid-off recently, layoff insurance may find a ready market. Figures refer only to layoffs of 50 or more people that lasted 30 days or more. California and Ohio are not included.



Source: Bureau of Labor Statistics.

GRAPHIC BY A.TRANCHITA

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Agent/Broker Topics

NAMIC video seeks to drum up agent support

By MARK A. HOFMANN

INDIANAPOLIS—Larry Forrester is no Madonna, but the National Assn. of Mutual Insurance Cos. hopes that he can help put its new non-music video on the list of top 10 videos among independent insurance agents.

NAMIC, an Indianapolis-based trade group representing more than 1,240 mostly small to medium-sized property/casualty insurers, released "Perception '92—Impact on the Agent" last month. The 20-minute video, narrated by Mr. Forrester, NAMIC's president, discusses two pieces of federal legislation that would affect the insurance industry. Those proposals pose a threat to independent agents' ability to make a living, the association believes.

One of the bills in question is H.R. 9, drafted by House Judiciary Chairman Jack Brooks, D-Texas. It would eliminate many of insurers' key exemptions from federal antitrust law under the McCarran-Ferguson Act (*BI*, Feb. 3; Nov. 25, 1991).

The other bill is H.R. 4900, drafted by Rep. John Dingell, D-Mich., which would create a dual system of federal and state solvency regulation (*BI*, April 13).

Although NAMIC joins with the insurance industry's unanimous opposition to restrictions on its antitrust law exemptions under McCarran-Ferguson, NAMIC differs from several trade associations —most notably the Washington-based American Insurance Assn.— that support the idea of federal solvency regulation. NAMIC's video was produced before Rep. Dingell introduced his bill April 10, so the bill is not named in the video.

The video, which is aimed at agents, makes clear that NAMIC's members see nothing good in either piece of legislation and seeks to enlist agents' help in blocking the two bills.

The Brooks bill "could be devastating to the agents," contends Mr. Forrester in the opening minutes of the video. Under H.R. 9, the Federal Trade Commission could "potentially regulate" matters like sales practices, advertising, claims procedures, underwriting and rating classifications, policyholder services and consumer complaints, he says.

And because agents engage in these activities, it would appear that they could be regulated by the federal government, he says.

Turning to the Dingell bill, Mr. Forrester notes that "initial drafts" of the measure had the support of large national insurers and brokers. In the video, he asks Al Cooper, NAMIC's director of legislative services and a former deputy insurance commissioner of Indiana, what can be done to foster insurer solvency.

Mr. Cooper responds by praising the National Assn. of Insurance Commissioners' accreditation program, whereby state insurance departments are rated on the basis of having sufficient qualified personnel, carrying out timely financial examinations of insurers and several other criteria before receiving accreditation.

Mr. Forrester then asks Mr. Cooper about federal regulation in general, to which the former state regulator replies that he doesn't think the federal government has "shown any strength" in the regulation of industry.



NAMIC President Larry Forrester outlines concern over two bills affecting insurers and agents.

A system of dual regulation of insurance companies, therefore, is "the worst thing" that could happen, says Mr. Cooper.

A trio of insurer executives from NAMIC member companies then offer their assessment of the impact of the two bills.

If common forms are banned under the Brooks bill, H.R. 9, small insurers could only compete in one or two lines of coverage rather than a dozen or so, says David E. Hosler, president and chief executive officer of Old Guard Mutual Insurance Co. of Lancaster, Pa.

The McCarran-Ferguson Act "is a good deal" for consumers, he adds.

In addition, "I think it will clearly be difficult" for consumers to identify the company that best meets their needs if dual regulation is introduced by the Dingell measure, Mr. Hosler contends.

The Brooks bill is a "very ambiguous" piece of legislation, comments James I. Taylor, president and chief operating officer of Pennsylvania National Mutual Casualty Insurance Co. of Harrisburg, Pa.

"H.R. 9 is probably the most serious threat" facing regional companies, he says. A 'federal solution to problems in Kansas" may not be best for the Kansas consumer, he says.

Jim Ketcherside, chief executive officer of Farmers Alliance Mutual Insurance Co. of McPherson, Kan., expresses doubt that large national insurers that survive the fallout from the Brooks bill could adequately serve rural America. Rural residents and agents "need the regional insurance company," he says.

Like Mr. Forrester, Mr. Ketcherside also believes that the bills could subject agents to federal regulation. That opens "another Pandora's box," from which will fly more litigation, he says.

Mr. Forrester ends the video by reinforcing to viewers the message that "it's essential" to maintain the current regulatory system, and he urges them to communicate their views to members of Congress.

"We'll see you on Capitol Hill," he says.

NAMIC shot the video at its headquarters and at its February "CEO Roundtable" meeting in Mesa, Ariz., according to Jim Badger, NAMIC's director of communications. Mr. Badger said the video, which is sponsored in part by PEMCO Mutual Insurance Co. of Seattle, cost less than $10,000 to produce.

•

Copies of "Perception '92—Impact on the Agent" can be ordered from NAMIC. The charge is $40 for member companies and $60 for non-members. Bulk discounts are available. For further information, contact Jim Badger at 317-875-5250.

Kansas agent groups to vote on a merger

TOPEKA, Kan.—The governing boards of the Professional Insurance Agents of Kansas and the Independent Insurance Agents of Kansas recently voted to approve a consolidation plan for the two associations and their subsidiaries.

The plan, which took six months to develop, is subject to a membership vote on July 14 in Salina, Kan. Members who cannot attend may vote by proxy.

If the plan is approved, consolidation would be set for Sept. 1, making Kansas the sixth state to approve consolidation of the two organizations, said IIAK President Bill McBride.

The new organization, which will be known as the Professional Independent Insurance Agents of Kansas, will have 729 member firms across the state, a significant increase over each association's individual strength, according to PIAK President Jerry Sullivan.

The complete staffs of the two associations will be blended in the IIAK headquarters in Topeka. Larry Magill, current executive vp of IIAK, will be executive vp of the new group.

A/BT briefs

Agent cooperation

NEW ORLEANS—Independent and exclusive insurance agents should join forces to address market issues, according to an independent agency representative.

"The new insurance marketplace reveals a new truth: independent and exclusive agents have more in common than keeps us apart," said Daniel J. Blum, president of the National Assn. of Professional Insurance Agents, at last month's annual meeting of the National Assn. of State Farm Agents.

"Rather than competing with each other for our share of the economic pie, we should work together to make the pie grow," he said.

Retrenching insurers, regulatory action against rising rates and consumer demands for more service at less cost are three market elements that bring independent and exclusive agents together, according to Mr. Blum. Those forces affect both types of agents, who are also concerned with auto insurance market problems, solvency regulation, bank insurance powers and the agent's public image, he added.

As the focal point of the insurance transaction, agents have tremendous potential to jointly influence the industry by working for reforms that will benefit insurers and consumers equally, Mr. Blum said. But these agents must surrender the "outdated stereotypes that have kept us apart," he noted.

PIA and the National Assn. of State Farm agents already have worked together on issues affecting agency profitability, loss control, industry competition and insurer solvency.

Mr. Blum pledged to seek even more opportunities to work with State Farm and other exclusive agents on issues of mutual interest.

—By Laura Mazzuca

Are You Leaving Your Asbestos Abatement Clients Overexposed?



Most policies made available up to now provide little and often meaningless coverage. As a result your client may be unprotected and your agency exposed to a major E & O lawsuit.

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Make lawyers your partner: Risk manager

By LOUISE KERTESZ

ANAHEIM, Calif.—Risk managers and their litigation teams need to learn to act as partners, rather than adversaries, a risk manager and a defense attorney agree.

"I'm a little bit of an idealist in that I think risk managers and attorneys can work together," said Bryce McEuen, executive director of the Utah Risk Management Mutual Assn., a liability insurance pool.

Mr. McEuen, who also is an attorney, spoke at the 13th Annual Public Risk Management Assn. conference held here May 17-20.

Mr. McEuen began by taking issue with the description of the session printed in the PRIMA conference program. According to the program, the session would focus on questions like "Do you feel like you really manage your litigation team or are you simply monitoring the process?"

"The description of managing a litigation team is erroneous," Mr. McEuen asserted. "You are forming a partnership with your attorneys. They are bringing a lot of skills to the table."

No matter how confident a corporation may be about winning a suit, "The court is full of real people. . . .Anything can happen," Mr. McEuen warned. "You need a good attorney" in the same way that a person with cancer needs a good doctor, he said.

"Don't look at (defense attorneys) as people you manage and control," Mr McEuen urged.

"How do you feel when you get a memo from your boss full of 'thou shalts?' " he asked. "Do you like it? Use your head. These people want to be treated like professionals," Mr. McEuen emphasized.

"I don't deal real well with ultimatums. They're going to be counterproductive," agreed David J. LaBrec, a partner with Strasburger & Price in Dallas.

"A lot of the criticism we get is well deserved." But the blame for unsuccessful litigation "is not all on defense attorneys. A considerable part of it is sitting right out in this audience," he charged.

"You can't solve the problem by shooting the messenger," he added. Yet, often risk managers treat their defense attorneys like adversaries, which is counterproductive.

"Up-front communication" is all-important in a risk manager-attorney relationship, Mr. McEuen continued.

"A good attorney will listen to you. They want you to voice your concerns," about costs and other litigation matters, according to Mr. McEuen.

"Ask them to give you their analysis of the cost of litigation and to break it down. Clients rarely think that process through," he said.

It is best for a company to have "very carefully thought out" litigation guidelines, formulated with input from its defense attorneys, he said.

When problems arise, a risk manager needs an attorney fast and it is then too late to establish guidelines.

"Discuss your expectations of any given case" and ask defens attorneys what they think wil happen and what are the "pro babilities of a specific case in specific courtroom," Mr. McEue suggested.

Risk managers also need on going communication on a case by-case basis. "Either you or th claims people in your office hav to keep on top of the case. . . These things are living, breath ing animals," according to Mr McEuen.

If risk managers do not stay i touch with the progress of a case "don't expect to be treated as partner," he warned. "Don't jus butt your nose in every once i a while."

The conference session wa moderated by Patti Canaday risk manager of the Washingto Cities Insurance Authority i Tukwila, Wash. ■

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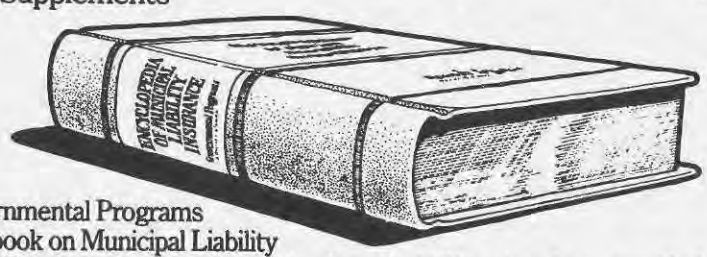
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Before first fireworks, risk managers given tips on special events

By SARA J. HARTY

ANAHEIM, Calif.—Whether organizing an event or merely providing the facilities, public entity risk managers are gearing up for another season of outdoor concerts, Fourth of July fireworks, parades and summer festivals.

Public risk managers who allow their facilities to be used by various organizations for special events may want to consider a program that offers coverage to facility users at no cost to the public entity, an insurance wholesaler suggests.

On the other hand, if the public entity is actually organizing the event, the risk manager should realize that special events have a dynamic of their own and require special risk analysis, a special events consultant says.

These issues were discussed at a session of the 13th Annual Public Risk Management Assn. conference held here May 17-20.

One way public entities can attract special events to a public venue is to make coverage available to the sponsors of these events, said Albert Reider, senior vp with Aon Corp.'s Aon Entertainment Ltd. Insurance Services unit in Universal City, Calif.

For instance, Aon Entertainment offers a tenant user lessee liability insurance program. The general liability policy is available to all short-term users of facilities named on the policy. If users choose to buy the coverage, they pay the premium and receive a certificate of insurance. The user, or tenant, is the named policyholder, and the public entity is automatically named as an additional policyholder, explained Mr. Reider.

This is a "sales tool" to fill facilities at no cost to public entities, Mr. Reider said.

Each entity can arrange for the policy to provide the limits of its choice, he explained. Liability limits of up to $10 million are available from Aon, with general aggregates applied separately per event per user, he said.

Certain classes of events—like amusement parks and carnivals—are excluded. Other classes of events and coverages—like waterslides, public pools and liquor legal liability—are excluded but can be submitted for an individual evaluation by an underwriter, Mr. Reider said.

Meanwhile, performing a risk analysis for a special event can be tricky for risk managers, a consultant says.

By nature, special events are chaotic, making it hard to tell whether it is "business as usual for special events or if a dangerous situation exists," said Alexander Berlonghi, president of Event Risk Management in Dana Point, Calif.

Another complication is that conditions are constantly changing as planning progresses, he said. Two or three people may start planning an event that will eventually have perhaps 1,000 workers—many of them virtually untrained volunteers, he said.

As the day of the event approaches, there are "more things to do, more people climbing on board that may not be trained very well," Mr. Berlonghi said.

In addition, the nature of the event itself may change.

Suddenly it's "not just fireworks, but helicopter rides and bungee jumping," he said.

When assessing the risks involved in events, one single characteristic can change the whole nature of the event, Mr. Berlonghi cautioned.

For instance, a basketball or football game between archrivals like the University of Southern California and the University of California at Los Angeles "is a different event than USC vs. anyone else," he noted.

Likewise, the risks involved in an indoor concert, where the average age in attendance will be 23, alcohol will be served and the capacity of the facility is 3,000, are made dramatically different if prepaid tickets are required or if admission is free.

Bruce Birdwell, risk manager for Irving, Texas, moderated the session. ■

Malaysian insurance

Opening of markets to foreigners does not extend to insurance

By Douglas N. Smith

IN THE 1980s, the Pacific Rim Basin was one of the true success stories in terms of the U.S. government's goal to promote the adoption of free market principles, economic growth and, in general, liberalization of global commercial, industrial and financial sectors.

From an economic growth perspective, one of the bright stars of the region through most of the decade and into the 1990s has been Malaysia. With a population of roughly 18 million and only slightly larger than the state of New Mexico, Malaysia has achieved remarkable levels of economic prosperity in recent years. Malaysia has an economic policy aimed at stimulating growth through the development of manufacturing and light industries, an increase in oil production and expanded trade.

Following a severe 1985-1986 recession, the Malaysian economy saw real output grow by 8.8% in 1989 and 10% in 1990, led by tremendous growth in exports and the expansion of oil production. Direct foreign investment by U.S. firms and, more recently, from Taiwanese and Japanese corporations, has been substantial and continues to increase.

Malaysia's commitment to expanding its manufacturing and high-technology industry is clearly showing results. In the last two years, Malaysia has become the world's third-largest producer of semiconductor devices (following the United States and Japan) and the world's largest exporter of semiconductor devices. However, the Malaysian government's active support of manufacturing and export-related foreign investment has not been met with a commensurate liberalization of financial services and, specifically, the insurance industry.

Malaysia has an economic policy aimed at stimulating growth through the development of manufacturing and light industries, an increase in oil production and expanded trade.

We continue to see a strong regulatory hand that oversees virtually all facets of the Malaysian insurance industry. Although there are indications that movement toward liberalization of financial services may come about soon, in the short term insurance buyers in Malaysia will face an active and interventionist regulatory environment.

The issue of liberalization of financial markets vs. government regulation to protect indigenous players and to build a thriving local insurance market is a theme that will continue to surface as developing countries struggle to join an increasingly competitive global economy. Although many developing countries have seen the benefits of economic liberalization and growth in free trade in goods, strong domestic interests in some countries continue to thwart U.S. efforts to liberalize trade in services. A better understanding of current conditions in the Malaysian market may help to understand the situation and better predict future trends.

The latest published figures indicate that in 1990, the Malaysian insurance market reported total property and casualty premiums of approximately $700 million. As Malaysia's economy has continued to expand—and awareness of insurance products has increased—insurance premiums have grown, particularly in life business, which in 1990

International issues

expanded more than 10% to approximately $9.5 billion. Reform of the industry, initiated in May 1988, contributed to an almost $30 million net gain in underwriting income between 1989 and 1990.

In May 1988, Bank Negara, the central bank of Malaysia, assumed responsibility for supervision of the insurance industry. Following this change, the industry as a whole has come under intense supervision as the bank has promoted strict underwriting principles, increased professionalism and management, and the financial health of insurance organizations.

The bank has also implemented or proposed new controls regarding reinsurance, insurer operations, staff training and maintenance of adequate loss reserves.

The bank's insurance regulatory department has conducted extensive reviews of all insurance companies and intermediaries to target potential problem areas and correct any irregular practices. As a result of these inspections, the insurance associations have issued a "code of conduct" outlining acceptable ethical standards for all members.

Bank Negara continues to reserve the right to deny or grant approval to any company that wishes to change its structure or the composition of its board, or to make management appointments.

The bank's tight control over insurance activities was reinforced by amended legislation in February 1991, when a new insurance law dictated that the director general of insurance may require insurance companies to take any steps he chooses—including stopping some activities or dismissal of employees—if it is determined that non-compliance with insurance regulations has occurred.

Under the amended law, penalties for non-compliance range up to jail terms of five years or fines of $2 million.

Further legislation regarding the Malaysian insurance market was passed in November 1991, with a 5% service tax on all insurance policies effective Jan. 1, 1992. The tax, which is paid by the policyholder, is applicable to all insurance policies issued to business organizations when the risk commences on or after Jan. 1, 1992.

Most recently, a new Revised Fire Tariff, which replaces the Green Fire Tariff, came into effect April 1, with the approval of Bank Negara. The RFT provides guidelines and further controls on many areas related to the underwriting of property insurance policies. Risks have been re-rated based on several classifications. Under the RFT:

- Difference in conditions policies will no longer be permitted; existing DIC policies will be permitted to run up to expiry dates, after which such policies will be discontinued.
- A standard industrial all-risks policy will now be the norm.
- New rates are based on pure losses by industry/trade type and by town and construction classification.
- Agent and broker commissions are now limited to 15%, regardless of rating structure.
- If the increase in a corporation's existing premium exceeds 35% due to the application of the RFT, the increase will be staggered over three years.

In general, there will be restrictions on a policyholder's flexibility in determining which policy wording is best suited to their risks. The RFT will also limit competition both on pricing and program structure.

The Malaysian government's increased control over the insurance industry extends to foreign insurance companies that desire to expand their interests in the country. Malaysia continues to encourage international insurance companies that have wholly owned branch offices in Malaysia to reduce their equity position and allow Malaysian partners to participate in the equity. At least 30% to 40% Malaysian equity is desired and this percentage is expected to increase. License issuing has been restricted and foreign insurers intent on entering the market will probably be forced to do so through equity participation in an existing Malaysian company.

Market capacity within Malaysia has remained static, although there is more emphasis on maximizing location retention on all placements before accessing the reinsurance market. It appears that this strategy dovetails with Malaysia's long-term goal of having a strong national

Malaysian interest in building a strong 'national' insurance industry will preclude any immediate opening of the insurance industry to foreign companies.

insurance industry. The goal is to increase market capacity by encouraging insurers and reinsurance brokers to use available local retentions first. This strategy could affect policyholders with captive programs by limiting captive cessions.

Malaysia has proposed the island of Labuan as an offshore financial center and domicile for captive insurance companies to promote the formation of local captives and maximize premium inflows into the national insurance market. Labuan will offer an alternative to the Singapore market, and Malaysia is currently marketing the island to attract North American and European business (*BI*, March 30).

For the foreign investor, Malaysia presents a contradictory picture from an insurance purchasing perspective. Intent on maintaining its position as a leader in the export of high technology devices, oil and light industry, Malaysia has opened its doors to foreign investment. It has been a leader in the privatization process frequently discussed in the print media and on television. Many government industries, particularly in the areas of infrastructure and transportation, are now or soon to be privatized.

However, unlike other insurance markets in the region and around the world that are opening up and eliminating tariffs, Malaysian interest in building a strong "national" insurance industry will preclude any immediate opening of the insurance industry to foreign companies. For the multinational corporation buying insurance in Malaysia, increased professionalism and better service will come about through Malaysian reform, not as a result of open competition. And as long as Malaysia pursues its course of building a national insurance industry, insurance buyers will not be able to obtain the most competitive insurance programs possible. ■



Douglas N. Smith is senior vp and manager of the International Department of Johnson & Higgins in New York. His column appears the first Monday of every month.

Living benefits

Continued from page 3

or individual life insurance plan, said a spokeswoman for the American Council of Life Insurers in Washington.

The payout for such policies can be relatively small, she said. For example, some insurers offer only 25% of the death benefit for early payment. The remaining 75% of the policy is forfeited to the insurer.

Many insurers, including The Home Life Insurance Co., Metropolitan Life Insurance Co. and Travelers Life Insurance Co., will pay up to 50% of the death benefit.

Some insurers may even pay the entire death benefit to an individual who is expected to die very shortly, according to the ACLI spokeswoman.

Most employers should be able to afford to offer a living benefits option to employees, said Janet Shepherd, a consultant with Hewitt Associates in Lincolnshire, Ill. Insurers are actively marketing the product and are starting to include it in group life insurance policies for a minimal cost, she said.

A living benefits option generally adds less than 1% to the cost of life insurance premiums, said Tom Pelly, director of managed care and employee benefit operations for Travelers.

For policyholders with fewer than 50 employees, some insurers even will include the living benefits option at no additional charge.

Mead Corp. of Dayton, Ohio, is one of many employers that have added living benefits options to their group life insurance plans in the last two years. Mead added a living benefits rider in 1990 to its plan, underwritten by Travelers, to give employees another benefit option, said Dave Howng, manager of welfare plans.

Mead does not offer a long-term care package that would cover nursing home expenses, and the living benefits rider was an inexpensive way to offer that benefit at slightly more than 1% of the original premium, he said.

Bentonville, Ark.-based Wal-Mart Stores Inc. also chose to offer living benefits with its optional group life plan.

Dave Lehenbauer, director of benefit administration, said the discount retail chain considered long-term care coverage too expensive.

Boston-based John Hancock Mutual Life Insurance Co., which wrote Wal-Mart's life coverage in 1991, helped design the rider.

Philadelphia-based CIGNA Corp. now underwrites the chain's life insurance.

Long-term care insurance was not the best choice for Wal-Mart, which has high employee turnover, Mr. Lehenbauer said.

Long-term care premiums are expensive for employees, and Wal-Mart did not want to overburden its workers with high-cost insurance products they probably would not end up using, he explained.

"Living benefits is a way we can provide some coverage to guard against the high costs of care in the case of terminal illness," Mr. Lehenbauer said.

Allied-Signal Inc., a Morristown, N.J.-based manufacturer that does not offer long-term care coverage, decided to offer living benefits because of the flexibility the option offers to workers, said Gary Yeaw, director of group insurance.

Living benefits "give employees a means to use their policy in more ways than one," he said. It also is an affordable method of providing for employees who are worrying about their future and the risks of catastrophic illness, Mr. Yeaw said.

'Employers would like to be able to clearly tell employees if the income will be taxed,' says Bob Zilg.

The program has been popular: 44% of the company's 75,000 employees have elected the option—many more than the company had first anticipated.

But consultants warn benefit managers not to misinterpret the purpose of living benefits.

Benefit managers should not confuse living benefits with long-term care, cautioned Joann Mathieu, director of long-term care products for Aetna Life Insurance Co. of America in Hartford, Conn.

Living benefits should be seen as catastrophic care coverage, Travelers' Mr. Pelly agreed. The option is designed to accompany, not replace, long-term care benefits, he said.

"With the high incidence of (catastrophic) diseases that hit at any age, such as AIDS and cancer, a cash payment can be useful," Mr. Pelly said.

Long-term care coverage is more suitable for persons with chronic illnesses, like diabetes, which is a long-term illness but is not necessarily fatal, Mr. Pelly said.

In addition, living benefits are not recommended for retirees, because life insurance benefits are generally reduced when people retire, Aetna's Ms. Mathieu said.

A term life insurance policy guarantees a certain death benefit for as long as the person is actively employed at a company. Upon retirement, benefits are greatly reduced.

"A living benefit paid out after retirement won't give much, because the amount of the actual benefit is very minimal," she said.

Consultants say benefit managers also should consider the moral implications of allowing employees or retirees to deplete funds intended for beneficiaries after their death.

"This benefit is something employers should go ahead and offer, but they should realize and communicate that people are using up money intended for something or someone else," advised Gary Lake, a consulting actuary in the Washington office of The Wyatt Co.

In addition, the tax status of accelerated benefits is still uncertain, experts say.

Federal law specifies only that life insurance death benefits paid out to beneficiaries are not taxable.

But Sen. Bill Bradley, D-N.J., and Sen. Lloyd Bentsen, D-Texas, have introduced legislation that would permit terminally ill individuals to receive death benefits tax-free (*BI*, March 12, 1990).

"Employers would like to be able to clearly tell employees if the income will be taxed," said Bob Zilg, director of product development, competitive and marketing research at Met Life.

"Until legislation is passed, it's just a messy gray area," he said. "Employers are forced to say, 'Here's the money. We can't say if you have to pay taxes on it or not.' " ■

Fraud law boosts claim scrutiny

SAN FRANCISCO—California insurance companies referred a record number of suspected fraudulent workers compensation claims to government agencies for investigation in the first quarter of 1992, according to the California Workers Compensation Institute.

A poll of 30 insurance companies that write about two-thirds of the state's $8.4 billion in workers compensation premiums shows 977 referrals since a new anti-fraud law took effect Jan. 1. That is far more than were reported during the previous 12 years combined, reported the San Francisco-based institute.

The anti-fraud law, drafted by Sen. Robert Presley, D-Riverside, guarantees insurers immunity from civil liability for reporting suspected fraud. The law also provides for a minimum of $3 million a year, funded by employer assessments and fines, to go to state agencies to investigate and prosecute workers comp fraud.

Half that money is administered by the Insurance Department; the other half goes to local district attorneys.

—By Joanne Wojcik

Around the states

Oil spill liability law

JUNEAU, Alaska—The Alaskan Legislature has passed a bill clarifying the liability of insurers or other parties supplying financial responsibility certificates to tanker owners in the event of an oil spill.

The legislation, which is expected to be signed by Gov. Walter J. Hickel, was necessary because insurers have interpreted Alaskan statutes to imply insurers had unlimited liability regardless of stated coverage limits, explained Janice O'Dair, assistant commissioner of environmental conservation.

This has made it difficult for tanker owners to obtain liability insurance in Alaska, she said.

Under S.B. 405, insurers' liability would be limited to the "type of risk assumed and the amount of coverage specified in the proof of financial responsibility furnished."

The state's financial responsibility requirements vary based on the type of cargo shipped and the storage capacity of the vessel that is used, according to Ms. O'Dair.

—By Joanne Wojcik

N.Y. assessments

The New York Insurance Department has announced it will assess insurers a total of $30 million, or $7.5 million per quarter, in fiscal 1992 for the state's Property/Casualty Insurance Security Fund.

New York's fund is the only property/casualty guaranty fund in the nation that prefunds its liabilities. The fund is required by law to maintain a minimum balance of $150 million. If the fund's balance falls below that level, insurers are assessed.

The fund assessed insurers about $100 million in fiscal 1991, ending April 30.

That shortfall occurred in spite of a court victory for insurers last year that required the state to return at least $87 million—plus interest—that the Legislature had appropriated from the fund in 1982 (*BI*, April 8, 1991).

—By Douglas McLeod

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Datebook

JUNE

JUNE 8-10. Practical Environmental Regulation Course in San Diego, sponsored by Executive Enterprises Inc.; $1,090. **Also June 15-17** in East Rutherford, N.J., and Memphis, Tenn.; **June 17-19** in Indianapolis; **June 22-24** in Albuquerque, N.M.; Baltimore; and Oklahoma City; **June 30-July 2** in Pittsburgh; **July 8-10** in Boston; **July 15-17** in Washington, D.C.; Dallas; **July 20-22** in Minneapolis; Atlanta. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

JUNE 8-10. 1992 Retiree Health Care Benefits Conference in Boston, sponsored by the International Foundation of Employee Benefit Plans; $555 for IFEBP members; $600 for non-members. IFEBP, Registrations Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

JUNE 8-10. Fundamentals of Risk Financing seminar in Denver, sponsored by The Risk & Insurance Management Society, Inc.; $700 for RIMS members; $800 for non-members. RIMS Education Department, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017.

JUNE 8-12. The Fundamentals of International Employee Benefits conference in Brookfield, Wis., sponsored by the International Foundation of Employee Benefits; $1,050 for IFEBP members; $1,175 for non-members. **Also Oct. 12-16**. IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

JUNE 9. Alternative Methods of Resolving Disputed Claims seminar in Irving, Texas, sponsored by the Society of Chartered Property & Casualty Underwriters and the Dallas Chapter; $85 for society members; $95 for non-members. Bonnie Kinsley, Continuing Education Coordinator, The Society of CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355; 215-251-2735.

JUNE 10-12. Techniques of Risk Management seminar in Montreal, sponsored by the Risk & Insurance Management Society, Inc.; $700 for RIMS members; $800 for non-members. RIMS Education Department, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017.

JUNE 10-12. Claims Management seminar in Seattle, sponsored by The Risk & Insurance Management Society, Inc.; $700 for RIMS members; $800 for non-members. Seattle. RIMS Education Department, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017.

JUNE 11-12. Michigan Self-Insurers' Assn. Spring Conference in Traverse City, Mich.; $175 for MSIA members; $210 for non-members. MSIA, c/o Earl Forsyth, Karmazin Products Corp., P.O. Box 126, Wyandotte, Mich. 48192; 313-282-3776.

JUNE 15-16. Managing the Workers Compensation Crisis: Effective Cost Reduction Strategies seminar in Atlanta, sponsored by the American Management Assn.; $1,200 for members; $1,380 for non-members. **Also Sept. 14-15** in New York; **Sept. 21-22** in Los Angeles; **Oct. 29-30** in Chicago; **Nov. 16-17** in New York. American Management Assn., P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

JUNE 15-19. Preventive/Predictive Maintenance for Facilities: The Infrared Solution course in Dallas, sponsored by American Risk Management Corp.; $1,295 for five days; $1,195 for four days; $995 for three days. **Also July 20-24** in Sacramento, Calif.; **Sept. 21-25** in Atlanta. ARMC, 1 Independent Place, Suite 500, 4807 Rockside Road, Cleveland, Ohio 44131; 216-447-1600.

JUNE 17-19. Environmental Regulation Course in Indianapolis, sponsored by Executive Enterprises Inc.; $1,090. **Also June 30-July 2** in Pittsburgh; **July 8-10** in Boston; **July 15-17** in Washington, D.C. and Dallas; **July 20-22** in Minneapolis and Atlanta; **Aug 3-5** in Portland, Ore., and Las Vegas; **Aug. 10-12** in Charleston, S.C.; **Aug. 11-13** in Baltimore; **Aug 17-19** in San Francisco; **Aug 24-26** in Birmingham, Ala.; **Sept. 9-11** in Novi, Mich., San Diego, Calif., Chicago, and Washington, D.C. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

JUNE 22-24. 1992 Institute for the Construction Industry in Brookfield, Wis., sponsored by the International Foundation of Employee Benefits; $600 for IFEBP members; $675 for non-members. IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

JUNE 22-24. Insurance Accounting Institute in Chicago, sponsored by Executive Enterprises Inc.; $1,090. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

JUNE 23-24. Illinois Environmental Regulation seminar in Dallas, sponsored by the Institute of Business Law at California State University; $795; some discounts available. Department L-CH, Institute of Business Law, California State University, Los Angeles, P.O. Box 3488, Santa Monica, Calif. 90408; 213-450-0500.

JUNE 27-JULY 1. Society of Insurance Trainers & Educators Annual Conference in Seattle; $475 for SITE members; $525 for non-members. Hank Drewes, Executive Director, Society of Insurance Trainers & Educators, P.O. Box 513. Cary, Ill. 60013; 708-516-1921.

JUNE 29-30. Managed Care Solutions conference in Tampa, sponsored by The Institute for Employee Benefits Training; $700. **Also Sept. 10-11** in New York City. The Institute for Employee Benefits Training, Seminar Division, 1926 Arch St., Philadelphia, Pa. 19103; 215-567-4000.

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Redlining

Continued from page 2

and August 1991 to test the accuracy of largely anecdotal data about barriers small employers face because of health insurers' underwriting practices. The researchers interviewed 10 of the largest national small-business health insurers and a sample of other health insurers and agents in: Tucson, Ariz.; Tampa, Fla.; Flint, Mich.; and Denver and Boulder, Colo.

The university study covered locations that were among nine areas where The Robert Wood Johnson Foundation, a Princeton, N.J.-based health care philanthropic organization, gave grants to local communities to develop a health insurance plan designed to be affordable and accessible to small businesses, the authors said. The communities then contracted with various health insurers to market the plans. The university had earlier surveyed small businesses—those with two to 25 employees—in those locations as part of a larger evaluation of the foundation's program.

The new study found barriers to health insurance for small businesses are quite pervasive and based on more than price. "The overwhelming majority of company representatives—91%—and agents—73%—that we interviewed indicated that small businesses face problems when trying to purchase a health benefit plan," the authors note.

For example, about two-thirds of the insurers and nearly all of the agents said their companies exclude certain industries. Several respondents gave general categories of excluded industries, like "high risk" and "hazardous." However, 57 of the insurers and agents named more than 24 industries as examples of those ineligible for small-group health coverage by their company. The most frequently mentioned were law firms—considered to be litigious—and physician groups—considered high utilizers.

"In addition to examples provided in the interview, 13 of the plan descriptions that we received included specific types of businesses considered either ineligible or restricted," the authors note. "The types of businesses most frequently excluded illustrate the underwriting practices of most insurers."

For example, hair salons were cited as ineligible by 16 respondents. "Hair salons were described to us as representing a 'triple threat'—high employee turnover with little interest in long-term employment, a high proportion of women of child-bearing age and a high proportion of homosexual men," the survey authors said.

Twelve respondents said their companies consider bars, taverns and liquor stores ineligible for group health coverage. Those establishments "are perceived as bad risks because of high employee turnover and hazardous or unhealthy working conditions," the authors point out.

"One company writes health insurance policies for bakeries and confectioners, but considers them ineligible for dental coverage," the authors found.

Businesses considered "restricted" are often subject to sizable surcharges or coverage limits, or can only purchase health plans with high employee copayment options, the study authors report. Some insurers restrict employee eligibility, making coverage available only to management or office and clerical workers, for example.

Explicit underwriting guidelines are not the only barriers small employers face, the study indicates. There is an implicit reluctance on the part of insurers and agents to market health plans to certain small firms. "Several respondents made the distinction between offering a plan and marketing a plan," the authors say. And, "agents pointed out that quoting an exorbitantly high premium was one way to eliminate undesirable applicants without having to deny coverage."

The high cost of coverage is often cited by small businesses as the major impediment to offering health insurance to workers. "We've had complaints from small employers about the cost of coverage," said Sherry Bradish, executive vp of the Flint Area Chamber of Commerce in Flint, Mich. "But I haven't heard reports that the product is not accessible or available."

Reform efforts are under way at the state level aimed at prohibiting insurers from redlining or restricting coverage based on plan participants' health status, said a spokesman for the Health Insurance Assn. of America. As of April, 17 states have passed small-business health insurance market reforms, backed by the HIAA, which guarantee that small employers can buy health insurance regardless of the health of their employees or industry classification. Premiums for high-risk businesses can not be more than 15% of low-risk businesses with the same demographics, the HIAA said.

The University of Michigan researchers note that 80% of agents and 67% of insurer representatives cite health problems or pre-existing conditions as a reason why small businesses have difficulty obtaining health insurance.

Respondents mentioned several conditions that could result in denial of coverage for an individual or firm, including acquired immune deficiency syndrome and AIDS-related conditions, certain cancers, heart disease and degenerative nerve disorders, the survey said.

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Free reprints of "Small-Business Health Insurance: Only the Healthy Need Apply," published in the Spring 1992 edition of Health Affairs, are available from Catherine McLaughlin, associate professor, University of Michigan School of Public Health, Department of Health Services Management & Policy, 1420 Washington Heights, Ann Arbor, Mich. 48109, 313-764-5433.









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Flexible benefits

Continued from page 2

nd national flexible benefits ractice leader with Foster Higins in Princeton, N.J.

With flex plans helping, if only lightly, to slow health care cost ncreases, a majority of employ-rs now are citing health care ost containment as the major eason for implementing the pro-rams.

Last year, 53% of surveyed em-loyers said cost containment vas the primary reason they es-ablished a flex plan, up from 6% in 1990.

And, 24% of employers in 1991 said they adopted flex plans to meet the needs of a demographically diverse workforce, down from 28% in 1990.

These findings are included in the new Foster Higgins survey of 1,236 employers, including 334 employers with flex plans. Surveyed employers all employed at least 1,000 workers.

"Flexible programs, initially developed as a better way to deliver benefits to an increasingly diverse workforce, are now being viewed as a cost management tool," Mr. Schorr said.

Mr. Schorr explained that flex plans make it easier for employers to implement cost-shifting and cost management measures to control health care costs.

For example, about 75% of the surveyed employers with flex plans attribute cost savings to reduced benefits or increased employee contributions. About 75% also reported cost savings because employees elected more cost-effective options. And, 45% achieved cost savings because employees waived dependent or all health coverage and instead used flex dollars or credits for other benefits or converted the credits into cash.

Deductibles or coinsurance levels could be raised in a traditional program. But such cost-shifting is more palatable to employees in a flex plan, Mr. Schorr said. That is because employees can, for example, use pretax dollars contributed to a flexible spending account to pay for uncovered health care expenses, like those that fall within a deductible.

A flex program also allows employers to offer many health care plans with widely differing employee cost-sharing options.

By allocating flex dollars provided by their employers, employees can choose a plan and decide how much out-of-pocket costs they are willing to absorb.

"Employees have a choice of how they want benefit dollars to be spent," Mr. Schorr said.

Last year, though, employers did not rush to set up new flex plans. Twenty-seven percent of surveyed employers said they offered a flex plan, the same percentage as last year.

Mr. Schorr cites the recession as a key reason for that lack of growth. "In the deepest part of the recession, employers are less likely to make the necessary capital investments to implement a flexible benefit program."

But, with the recession now apparently lifting in many parts of the country, employer interest in flex plans is increasing again.

"We probably have seen more requests" for bids to establish flex plans during the first quarter of this year than in all of last year, Mr. Schorr said.

"With health care costs still rising sharply, employers feel they have got to do something now," he said.

For a long time, high administrative costs and the complexity of flex plans discouraged employers from establishing them, but these are much less of an issue today.

'Employees have a choice of how they want benefit dollars to be spent,' says Mr. Schorr.

For example, just 23% of employers cited administrative burdens, like upgrading computer systems, as the chief deterrent from offering a flex plan, down sharply from 47% in 1987.

"The proliferation of administrative software and third-party administrative services, as well as price reductions on both software and powerful PC systems, have greatly reduced administrative barriers to flex," according to the study.

Other survey findings include:

- Eighty-five percent of employers with flex plans offer health care FSAs, and 89% offer FSAs for dependent care expenses.

Fifteen percent of employees made contributions to their health care FSAs in 1991, and the average contribution was $657 per employee.

Just 4% of employees participated in dependent care FSAs, but the average contribution was $2,741 per employee.

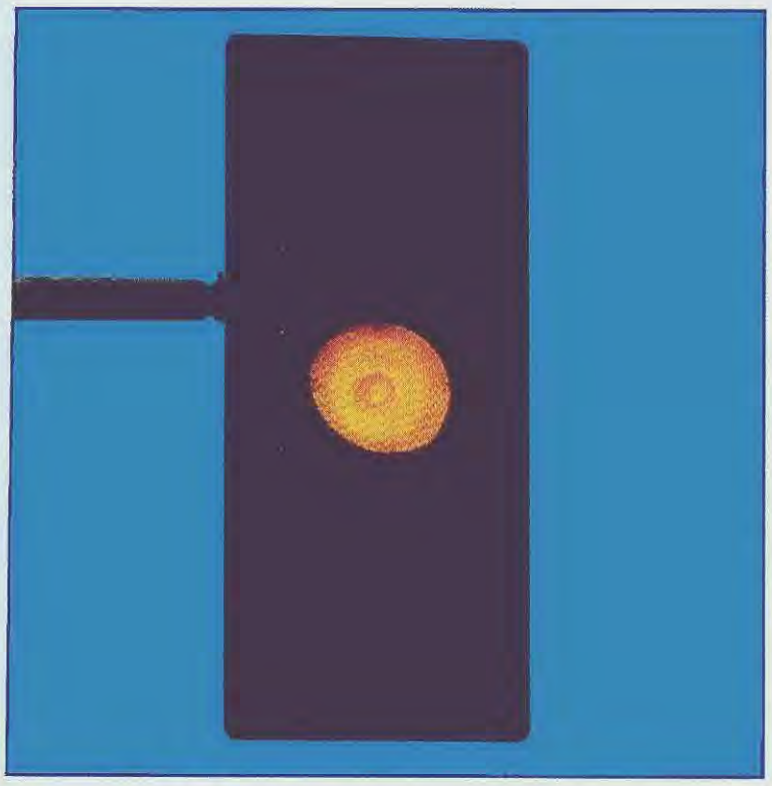
- The prevalence of flex plans varies by industry and size of company.

For example, 46% of financial services companies said they offer flex plans compared with 19% each for companies in the mining/construction and wholesale and retail trade industries.

In addition, 38% of employers with between 20,000 and 39,999 employees and 34% of those with more than 40,000 employees offer flex plans. By contrast, 22% of employers with between 1,000 and 2,499 employees offer flex plans.

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Copies of "1991 Flexible Benefits Programs" are available for $100 each from Sheila Lynn, Foster Higgins Survey and Research Services, 212 Carnegie Center, Princeton, N.J. 08543; 609-520-2695. Prepayment is requested.









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Surety market

Continued from page 3

Insurance Co., a surety bond underwriter in Carrollton, Ga. "The industry will see some losses down the road for business written today. The full impact of the recession has not been felt yet."

"The industry expects 1992 to be a flat year," said John Huss, assistant vp-fidelity and surety at Baltimore-based United States Fidelity & Guaranty Co. "I don't expect to see any growth overall this year."

Contract bonds were the strongest segment of the surety industry in 1991, accounting for more than 60% of total premiums. And volume among companies reporting to the SAA was up 4% in 1991 to $1.25 billion.

A projected loss ratio of 30% for contract bonds is only a fraction below 1990's ratio, but it will be the lowest loss ratio in 20 years, Mr. Provost said.

The picture was not as bright last year for fidelity bonds. Premium volume fell 4% to $950 million, the fourth consecutive decline, the SAA reported. However, the loss ratio improved to 46% in 1991 from 48.5%.

And premium volume for financial institution bonds was down 3% to just under $500 million, although the loss ratio widened to 60% last year from 53%. After reinsurance, however, the net loss ratio for fidelity bonds was 30%, according to the SAA.

"This strongly suggests that London picked up a good piece of the fidelity losses, making the domestic carriers' overall result a very impressive one," Mr. Provost said. However, "1991 improved fidelity results may be an aberration to the recent unfavorable trend the line has shown since 1987. I suspect results will once again slip in 1992, as there is no indication the soft market is drawing to a close."

A recovery in construction in states like Colorado, Louisiana, Nevada and Texas in 1991 helped boost construction bonds, Mr. Provost said. In addition, infrastructure work went on throughout the country, as did expansions of hospital and university building projects.

Much of the new construction work, though, is geared "more toward repair and less toward vast interstate jobs," according to Donald E. Spickard, a Seattle surety consultant and retired bond company executive.

In addition, any increase in federally funded construction projects may depend on states coming up with matching funds, Mr. Huss of USF&G said.

"The outlook for 1992 and 1993 is more pessimistic because the construction industry itself is in the doldrums. Some contractors might be reaching the end of their ropes," said J. Martin Huber, executive vp of the National Assn. of Surety Bond Producers, a Washington-based group of agents and brokers.

Like Mr. Spickard, Mr. Huber says most construction projects are smaller because of the recession.

As a result, small contractors are doing well and buying bonds, he said. However, "medium-sized (construction) companies continue having more difficulty. They are forced out of their geographic area or into types of contracting they are not familiar with," he said.

NASBP considers contractors with less than $2 million in annual sales small, while most medium-sized contractors are in the $30 million to $50 million range.

"I see a real slowdown in 1992 and 1993 because of a lack of public money," said George McClellan, senior vp at Chubb & Son in Warren, N.J., and 1991 chairman of SAA.

Any public money that is spent is going to construction jobs that exceed $50 million each, which is hurting contractors that can't perform projects that large, Mr. McClellan said.

For example, New York City is taking advantage of the depressed construction market by accelerating its sewer and street repairs, noted Ed Van Name, senior vp of Sedgwick James in New York.

Construction-related projects overall declined 11% in 1991, compared with 1990, but heavily bonded work showed smaller declines or, in some cases, posted gains, according to Mr. Fitzgerald of J&H. For example, heavy construction projects were down only 3% last year, transportation was level and educational building rose 12%.

Doubt about the construction industry's recovery is leading to some competition among surety writers, especially for contracts in the $500,000 to $3 million range. However, surety writers say this competition has not caused underwriters to slash rates or standards.

"There was more competition among sureties for small contractors in 1991 than 1990," confirmed Steve Gaines, president of Contractors Bonding & Insurance Co. in Seattle, which specializes in small contracts.

However, Mr. Spickard said, "There isn't much pressure for cutting rates. There are always one or two companies who are willing to cut rates and relax underwriting standards, but that doesn't go on too long."

He believes raising bond rates is necessary to ensure the industry's health.

"The premium rates at which businesses are bonded are not as high as they ought to be for the risks involved," Mr. Spickard said. "The whole industry could write much more safely if they doubled rates," he said. An average of $1.20 in premium per $1,000 in contract is "very cheap."

Declines in construction projects mean there is also more competition for work among contractors, making bonds riskier for underwriters, Mr. Spickard noted. The winners are probably "bidding at cost, if that," he said.

The duration of a recession also places contractors—and their bond writers—in jeopardy.

"Contractors can survive well into a recession, but as it gets longer, it is more and more difficult for them to survive," J&H's Mr. Fitzgerald said.

Ironically, recovering from a recession can also be difficult for contractors, because in a recovery demands are made on capital that has been drained by the recession, he added.

Despite the decline in construction projects, most bond underwriters are not seeking out new markets.

Premium volume for non-contract bonds grew only 3% last year, which Mr. Provost called "disappointing."

"I'd like to see it at least ahead of inflation," he said.

Significant premium producers in non-contract bonds are surface mining, court, fiduciary, notaries public and workers compensation self-insurance, he noted. All showed favorable loss ratios in 1991, except self-insurance bonds, which had a loss ratio of 69% on premium volume of $31 million.

Instead of targeting non-contract bonds, surety writers may push to bond more private contracts and to expand specialty contract bond markets, like asbestos abatement contractors, said Mr. Leach of Pinnacle.

Environmental cleanups are one specialty market that has not produced as many bonded projects as the industry desired. Mr. Fitzgerald of J&H attributes this in part to the fact that actual cleanups account for only about 10% of the money spent under the Superfund law, formally known as the Comprehensive Environmental Response, Compensation and Liability Act. Administration and litigation costs account for most Superfund spending, he said.

Reliance Surety Co.'s premium growth largely mirrored that of the industry in 1991, although its "increase through other sureties was greater than through construction" bonds, said George Holbrook, president of the bond writing unit of Reliance Group Holdings Inc. in Philadelphia.

Meanwhile, some surety markets are affected by legislation at the state and federal level.

For example, some states have eliminated certain bond requirements, like notary public bonds in Colorado, Mr. Provost noted.

Of primary concern to SAA is a potential amendment to the federal Miller Act, which requires bonding of all federal construction projects. The proposed amendment would raise the limit on federal projects that do not require bonds to $100,000 from $25,000.

That amendment could be introduced as early as next session, Mr. Provost said. ■

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Business Insurance

INTERNATIONAL

Energy facility seeks policyholder owners

By STACY SHAPIRO

LONDON—A $400 million to $500 million expected shortfall in insurance capacity for energy risks at the end of this year has prompted Sedgwick Energy Ltd. and financial adviser Price Waterhouse to set up a European oil and gas policyholder-owned insurance company.

To get off the ground, the as-yet-unnamed insurer will need a minimum of 15 oil company owners with European and North Sea assets. Many U.S. oil companies would be eligible to participate.

So far, Sedgwick and Price Waterhouse are "optimistic" about support from oil and gas companies, said Chris Mundy, marketing and strategic planning director for Sedgwick Energy.

Discussions continue with prospective owners, so details of the coverage the insurer will offer have not been set, Mr. Mundy said.

Sedgwick Energy and Price Waterhouse have set a minimum total capitalization target of $50 million. If that capitalization level is attained, the insurer would offer a total of $100 million in coverage, he said.

The more interest in the insurer, the more coverage it can offer, Mr. Mundy observed. Within four to six weeks, after discussions with prospective owners, a more specific proposal will be published, he said.

The coverage is expected to be in excess of a minimum of $150 million to $200 million.

The new insurer, whose domicile has not yet been selected, would complement capacity from the oil industry's existing captives and Oil Insurance Ltd., a group captive set up in Bermuda during the last major capacity crisis in the energy industry.

"We have been studying the feasibility of a mutual since late last year," said Sedgwick Energy Chairman Richard Titley.

"Recently it has become evident that the insurance market will not be able to provide all the capacity necessary to cover major European oil, gas and petrochemical risks," he said. "A mutual seems to be the most effective solution."

The idea for a policyholder-owned insurer follows a grueling 1991 year-end renewal season for energy-related companies with risks in Europe and the North Sea and their continued struggle in the first half of this year to find property/casualty insurance programs, Mr. Mundy said.

But, capacity first contracted following a slew of offshore losses from 1988 to 1991, including the $1.4 billion Piper Alpha North Sea platform explosion in July 1988.

According to Ken Ross, president of loss adjusters Rush Johnson Associates of London, offshore losses during that time totaled $3.9 billion, excluding claims for business interruption. This includes $2.3 billion for claims from 48 production facilities, $503.44 million for 48 mobile units, $301.7 million for 44 pieces of subsea equipment and $808.6 million for 44 wells.

Capacity also dried up because of the massive contraction in the London excess-of-loss reinsurance market following billions of dollars in non-energy related ca-

Continued on page 31

Broad redrafting urged of catastrophe policies

By GAVIN SOUTER

MADRID—The catastrophe reinsurance market will not emerge from its current crisis on the back of large rate increases alone, a Lloyd's of London underwriter says.

The changing nature of the insurance and reinsurance industries over the past 50 years requires a redrafting of policy wordings and clauses to reflect the current litigious environment, he says.

Only then will insurers and reinsurers be able to limit their claims payments to the risks that they actually intended to cover when they issued a policy, says George Lloyd-Roberts, chairman of the Lloyd's Underwriters Non-Marine Assn.

If the industry does not face up to the policy changes that are necessary, it will continue to be plagued with claims that would once be deemed absurd but are now regarded as legitimate, he said.

Capacity for catastrophe coverage in London has been halved over the past 18 months, Mr. Lloyd-Roberts observed at the combined First World Insurance Encounter and the 23rd Hemispherical Conference on Insurance held in Madrid May 10-14.

The problem was, he said, previous rates were so low that, after incurring large losses, the

Continued on next page



Photo by Luis Castaneda/The Image Bank

Madrid, home of the Plaza de Cibeles, hosted the joint conference.

E.C. still refining regulatory framework

By GAVIN SOUTER

MADRID—Insurers and consumers in the European Community will enjoy a secure yet liberal regulatory regime thanks to existing E.C. insurance legislation, according to an E.C. official.

Further development of insurance regulations will ensure a fair system throughout the community, he said.

And the inclusion of services in worldwide negotiations on trade should lead to greater freedom in the insurance business around the globe, said James Currie, director of regional programs for the European Commission.

Mr. Currie spoke at the combined First World Insurance Encounter and the 23rd Hemispherical Conference on Insurance held here last month.

However, the liberalization of the insurance industry should not be achieved at the expense of ensuring security for consumers, a German insurer warned.

The pace of work on crafting a sound regulatory framework for insurance has increased over the last 18 months, and the Third Non-Life and Life directives are now near completion, said Mr. Currie.

Two crucial steps toward a single market were the Accounts Directive and the Insurance Committee of the European Commission, both of which were established in December, said Mr. Currie.

The Accounts Directive introduces the same structure for insurers' annual financial accounts in all member states.

"Comparability of accounts is of paramount importance in a single market to enable not only shareholders and investors, but also intermediaries and policyholders, to compare the financial situation and results of companies from different countries," he said.

It also sets down the rules for the calculation and definition of technical provisions for non-life insurance, he said.

The Insurance Committee brings together high-level representatives of the supervisory and regulatory authorities of the member states to advise the commission on future legislation.

But more importantly, it establishes contact among the regulators in all E.C. countries, Mr. Currie said. "This is essential to avoid gaps developing in the supervisory framework which we have created," he said.

However, the regulations alone will not ensure fair and free movement of insurance services throughout the European Community, Mr. Currie said.

"It is one thing to open up markets for insurance companies, but it is not of much help if intermediaries are hampered in their cross-border activities,"

Continued on next page

Reserving curbs ACE underwriting profits

By ROGER SCOTTON

HAMILTON, Bermuda—Underwriting profits at ACE Ltd. fell off sharply to $3 million for the six months ended March 31 from $13 million for the same period last year.

Chairman and Chief Executive Officer Walter A. Scott attributed the lower profits to the company's decision to raise loss reserves by $109 million, bringing the company's total provision for claims and claims expenses to $443 million, compared with an $85 million increase in loss reserves during the same period last year.

Despite strong premium growth—premiums written grew by 25% to $160.4 million and net premiums earned rose 11% to $128.3 million—Mr. Scott said the company has seen a continuing trend of adverse development in previous years' claims.

Observing that it has paid out more than $200 million in claims and related expenses since its 1985 inception, Mr. Scott said ACE has "seen the emergence of greater frequency of claims with the potential severity to penetrate ACE's attachment point."

Mr. Scott said the rise in premium income levels was due to an increase in new accounts and a rate hike for excess liability policies that was announced last July.

That rate hike, its first ever, ranged from 3% to 54% for individual accounts (*BI*, June 17, 1991).

Excess liability business rose to $92.4 million during the first six months of this year from $81.1 million during the same period last year, and directors and officers liability premium income increased by more than $2 million to $38.5 million.

Mr. Scott said ACE, which offers general liability limits of $200 million excess of a minimum attachment point of $100 million and D&O limits of $50 million excess of $25 million, added 30 new accounts during the six-month period—18 excess and 12 D&O accounts.

"New policyholders have included our first Spanish account, as well as three new Scandinavia-based risks," Mr. Scott said. "In March alone, there were six new excess liability policies written covering a broad spectrum of industrial operations."

Mr. Scott predicted that this trend will continue through the second half of the company's financial year, as excess liability capacity contracts in other markets.

"This reduction in capacity, while most dramatic in the energy-related industries, has had repercussions throughout the insurance-buying world," he explained. "Concern over general stability and the financial security of some insurance markets compounds the effect of the loss of capacity. These factors, in addition to our increased marketing efforts, have impacted ACE favorably."

He stressed that the Bermuda-based insurer is committed to maintaining consistent availability of excess liability capacity at an equitable premium. Demand for ACE's products has increased worldwide, he said.

Investment income from ACE's $1.8 billion portfolio of securities during the six-month period was $54 million, compared with what the chairman said was an "unusually high" level of $60.2 million last year.

Half-year net income finished at $89 million, compared with $109 million last year, while shareholders equity grew by $99 million to $1.17 billion and assets rose to $1.84 billion from $1.51 billion. ■

Policy wording

Continued from previous page
underwriters' return period on an annual premium "was 100 years."

Underwriters previously found a solution to the insufficient returns by retroceding their catastrophe risks, but the retrocessional market has now "disappeared" as underwriters have voluntarily—and involuntarily—quit the market due to the huge catastrophe losses of the past five years, Mr. Lloyd-Roberts said.

"Now we are trying to rate the risks over a 12-month period. This has led to increases in (rates for) Japanese business, for example, of eight times what they were paying before," he said.

Japanese insurers were hard hit by catastrophe losses in 1991, particularly Typhoon Mireille (*BI*, Dec. 2, 1991; Oct. 7, 1991).

But underwriters need to address more than insufficient rates; policy wordings need to be altered to reflect changes in business practices and policyholders' expectations, Mr. Lloyd-Roberts said.

Gradually, since the end of World War II, investors in all companies, including insurers, have demanded better returns from their investments, and now companies are expected to make a profit at any cost, he said.

This results in "a culture that, when adopted by the insurance industry and policed by the legal profession, produces an explosive material worthy of Nagasaki," Mr. Lloyd-Roberts said.

During the 1950s, in the interests of maintaining their earnings per share, insurance companies began to seek to recover anything they legally could from their reinsurers, he said.

And reinsurers found themselves paying claims for risks that they did not believe had been covered, Mr. Lloyd-Roberts said.

The problem of definition of an insured event is made worse by policyholders' preference for occurrence policy wording over claims-made wording, which allows more precise definitions of coverages, he said.

The disputes that have dogged the market over past decades led to new wordings but some wordings are still ambiguous, Mr. Lloyd-Roberts said.

For example, he said, the widely used hours clause in catastrophe coverage limits "the duration and extent of any loss occurrence" to 72 hours. This has no clear meaning, he said.

"Neither a sum of money nor a collection of damaged property can be said to have any duration in time, nor for that matter in any meaningful sense and 'extent,' " Mr. Lloyd-Roberts said.

Liability reinsurers have been equally troubled with claims that they did not intend to cover when they issued their policies, he said.

Again the determination of an actual event under policy wordings has caused many problems, Mr. Lloyd-Roberts said.

"In an age of limitless expectation, is an event the inhalation of asbestos dust or the dumping of waste over a number of years? This is a situation not considered by either client or insurer at the time the contract was struck," he said.

Insurers and reinsurers also now face bizarre claims, he said.

For example, a woman successfully sued a manufacturer for damages after she burned her hair when she lit a cigarette while using hairspray. The court determined that the flammable warning on the hairspray container should have been qualified with the word "highly," he said.

"What are we doing? The game has gone so far that (reports of an incident) no longer contain an outraged disbelief in the unreasonableness of the plaintiff's expectation," Mr. Lloyd-Roberts said.

As long as policies continue to contain words such as "all risk" and "event," underwriters will continue to face losses for which they have not collected a premium, he said.

"Perhaps we should define an event explicitly in terms of losses that have occurred in the past. If we want to give cover for the uncertainty associated with generic terms such as 'all risks' and 'event,' we should consider giving it separately," and at least make it subject to an aggregate limit.

Underwriters should return to the days of limited coverage defined and rated by experience, he said. ■

E.C. regulation

Continued from previous page
he said.

With the increase in the number of products and services available, customers will need expert advice from intermediaries, Mr. Currie said.

Consequently, the commission has recommended that member states encourage minimum qualifications for intermediaries; clarity in the distinction between dependent and independent intermediaries; registration of all intermediaries; compulsory professional indemnity insurance; and adequate financial capacity for the types of business being transacted by intermediaries, he said.

If member states fail to heed these recommendations, legislation forcing them to do so may be enacted, Mr. Currie warned.

This gradual and careful approach to E.C. legislation ensures that the liberalization of the markets will not lead to a surge in security and solvency problems for insurers and their customers, he said. "We have built up the legislation bit by bit, and we have built into every piece of legislation protective legislation."

In addition, the commission has been flexible in its approach, allowing some countries to maintain restrictions on insurance, he said.

Italy, for instance, is allowed to maintain its ban on kidnap insurance, since this is deemed to be for the "general good" of the country, Mr. Currie said. Also, authorities in countries that demand certain kinds of motor or professional indemnity insurance will be able to ask for prior notification of policy conditions, he said.

The commission also will soon issue details of certain industry-wide agreements that will be allowed to protect the interests of consumers, like the pooling of mortality tables, Mr. Currie said.

Generally, though, such agreements will not be allowed.

"We start from the basic position that any industry agreements should be forbidden, unless they are specifically allowed. The onus, in other words, is upon the industry to justify any exceptions," Mr. Currie said.

Throughout the world, insurance markets should be growing more liberal now that services are included in the Uruguay round of talks on the General Agreement on Tariffs and Trade, Mr. Currie said.

The negotiations will concern transport insurance, reinsurance, brokerage and other auxiliary services, he said.

The European Community has two key objectives in the negotiations, Mr. Currie said.

First, it wants a clear commitment not to introduce any new restrictions on foreign insurers.

Second, there should be an agreement to eliminate restrictions affecting foreign insurers operating in countries with sizable markets, he said.

"I do not expect the Uruguay round to achieve liberalization of insurance markets overnight. But for the first time, the services agreement will impose multilateral disciplines in the form of a legally enforceable international treaty," Mr. Currie said.

However, growing liberalization should not come at the expense of security, according to Lothar Meyer, a member of the board of management at Cologne Reinsurance Co.

"The European Community will have the most liberalized system in the world, yet at the same time, markets like the United States are tending toward more regulation because of the growing number of insolvencies," he said.

The increased competition and lower prices that can be achieved by total liberalization could be paid for by a rise in the number of European insurer failures, Mr. Meyer said.

Liberalized markets also mean fewer restrictions on insurer investments. "This will lead to higher risks, because insurance companies will look for higher returns," Mr. Meyer said.

Solvency is the core of all business, and insurers should be particularly wary of the risk of insolvency because of the large time spans they have to cover. For example, liability insurers have to pay claims on incidents that took place more than 40 years ago, he said.

"Total liberalization is incompatible with insurance, and if it happens in Europe, we will have to reregulate in the 21st century," Mr. Meyer said.

Also speaking at the session was Pedro Aspe, secretary of the treasury and public credit of Mexico. ■

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INTERNATIONAL

South American markets changing

MADRID—Liberalization of insurance and reinsurance has already brought enormous change to South American markets, and the pace is not about to slacken, two reinsurance executives say.

Upheavals in the reinsurance markets of Europe and North America are not bypassing the Latin American countries, so the going will not get any easier, they said.

The Latin American companies that survive will be those that are flexible in their reaction to the huge changes, they said.

Insurance and reinsurance in most South American countries traditionally has been largely state controlled, but over the past 10 years private companies and foreign companies have been granted a much freer rein, said Ernesto Jutzi, a general manager of Swiss Reinsurance Co. of Zurich.

"Insurance in South America will follow the worldwide trends of deregulation, which will be good for insurers and reinsurers, but it cannot be attained without high reconstruction costs," Mr. Jutzi said.

Increased competition from domestic companies that determine their own rates and from foreign companies that are now allowed to trade in the market will push some companies out of the market and drag down prices, he said.

Mr. Jutzi was speaking at the combined First World Insurance Encounter and the 23rd Hemispherical Conference on Insurance held in Madrid May 10-14.

"It will be the consumers that benefit as they will be able to demand more competitive prices and more products," Mr. Jutzi said.

Insurers and reinsurers will also have to improve their scientific know-how to assess risks more accurately, said Gerhard Hoelzel, executive manager for Latin America at Swiss Re.

"They will need real underwriters, not risk acceptors who base their decisions on feeling," Mr. Hoelzel said.

The pace of change in the South American markets will eventually slow; however, insurers will never achieve the margins they were accustomed to under the state and virtual state systems, he said.

—By Gavin Souter

Energy insurance

Continued from page 29

tastrophe claims.

Alarm bells first rang about a year ago when London brokers could place only 40% of the London Master Energy Line Slip, which had until then offered a maximum of $650 million in total property and casualty coverages (*BI*, July 22, 1991).

During year-end renewals, major oil and gas companies found it difficult to buy enough property/casualty insurance at any price. Oil and gas companies also had to buy separate insurance programs for offshore, onshore and liability risks. In some cases, this tripled their insurance costs (*BI*, Jan. 6).

British Petroleum P.L.C. decided to boost its self-insured retentions rather than spend the approximately $100 million it normally spent on its entire insurance program (*BI*, Nov. 4, 1991).

"Having gotten through a difficult 1991-1992 renewal season, there is still a gap in capacity, particularly for the high-capacity North Sea risks," Mr. Mundy said.

With Lloyd's of London expected to report a massive loss for 1989 at the end of this month, Mr. Mundy believes Lloyd's underwriters will take a further stand at the end of the year against writing energy-related risks.

That anticipated action by underwriters is the basis for projecting a $400 million to $500 million insurance capacity shortfall for the 1992 year-end renewals for oil companies with European and North Sea assets.

"We don't believe it will be easy to rally new capacity into energy risks" from the insurance industry, Mr. Mundy said. "We can do it, but this (new insurer) would be a long-term solution.

"Knowing there will be a capacity problem, the only solution we and Price Waterhouse think is needed is for oil companies to contribute to the capacity" via a policyholder-owned insurer. ■

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Summary of major property/casualty insurers' first-quarter results

Ranked by change in net income. All amounts in thousands of dollars.

Rank 1992	Corporate: Consolidated revenues 1992	Corporate: Net income 1992	Corporate: Percent increase (decline) 1991-1992	Property/casualty operations: Combined[1] ratio 1992	Property/casualty operations: Combined[1] ratio 1991	Property/casualty operations: Net premiums written 1992	Property/casualty operations: Percent increase (decrease) 1991-1992	Property/casualty operations: Pretax underwriting income (loss) 1992	Property/casualty operations: Percent increase (decline) 1991-1992	Property/casualty operations: Pretax investment income 1992	Property/casualty operations: Percent increase (decrease) 1991-1992	Property/casualty operations: Policyholders surplus 1992	Property/casualty operations: Percent increase (decrease) 1991-1992
1 Reliance Ins. Co. & subs.	799,467	18,839	625.6	108.2	108.7	449,691	1.1	(28,511)	6.8	37,882	(25.5)	795,206	(8.7)
2 Royal Group (U.S. subs.)[2]	N/A	37,900	294.8	119.1[3]	126.4[3]	381,100	(0.5)	(73,800)	24.4	85,000	1.2	N/A	N/A
3 Lincoln National Corp.	1,924,800	101,300	157.1	110.1[2]	112.3[2]	521,400	(8.7)	(50,600)	17.5	70,900	3.8	1,376,400	(0.1)
4 CIGNA Corp.	4,648,000	106,000	120.8	117.3	117.8	1,268,000	(4.3)	(224,000)	5.9	196,000	(10.1)	1,944,000	(4.2)
5 The St. Paul Cos. Inc.	1,099,209	182,271	116.5	106.3[2]	105.1[2]	754,607	0.9	(41,227)	(0.2)	159,838	(0.3)	1,728,441	12.1
6 USF&G Corp.	941,000	4,000	107.3	113.8[2]	114.7[2]	714,000[2]	(19.3)	(100,000)	23.1	123,000	7.0	1,447,000	10.7
7 SAFECO Corp.	874,277	85,029	53.7	100.1	110.2	433,763	1.7	(536)	98.8	69,969	(2.8)	1,220,210	9.5
8 Aetna Life & Casualty Co.	4,781,600	207,200	50.8	116.1	116.5	1,263,800	(15.9)	(211,600)	10.5	220,200	(3.0)	2,222,900	(14.3)
9 Home Insurance Co.	609,000	41,000	46.4	106.5[2]	111.6[2]	440,000	(3.3)	(38,000)	30.9	71,000	(4.1)	925,000	21.6
10 Continental Corp.	1,356,100	54,300	40.3	114.4[2]	115.0[2]	1,036,000[2]	1.2	(140,100)[2]	6.7	172,900	(4.1)	N/A	N/A
11 General Re Corp.	849,700	207,800	38.2	105.4[2]	99.7[2]	599,200	4.6	(38,500)	(737.0)	187,500	0.2	3,345,400	7.2
11 Old Republic Int'l	323,953	34,397	38.2	111.6[2]	107.3[2]	154,650[2]	(8.9)	(19,213)[2]	(29.6)	44,431[2]	7.2	931,622	17.0
13 Ohio Casualty Corp.	443,775	23,565	32.2	108.9[2]	103.2[2]	387,402[2]	4.6	(31,244)	(202.5)	49,467	6.4	630,709	17.4
14 Fremont General Corp.	137,658	8,278	28.4	105.4	105.4	103,947	(9.6)	(5,067)	14.1	15,772	3.7	159,586	10.0
15 Crum & Forster Inc.	869,700	54,100	11.8	118.4	115.1	542,300	(15.4)	(105,600)	(9.1)	147,200	(0.8)	1,555,800	10.9
16 Chubb Corp.	1,152,100	143,100	11.5	98.1[2]	98.8[2]	752,300	2.0	11,100	37.0	118,100	1.4	1,689,100	13.8
17 American International Group	4,363,488	413,852	10.2	100.1[2]	99.7[2]	2,265,786	1.2	(697)	(102.8)	308,937	9.2	N/A	N/A
18 Transamerica Ins. Group	536,293	12,459	8.1	112.1	113.1	440,537	(6.1)	(57,748)	9.2	61,019	(4.4)	1,116,885	4.9
19 Argonaut Insurance Co.	104,217	22,323	2.0	99.7[2]	106.1[2]	78,678[2]	(27.9)	(632)[2]	92.6	28,938[2]	(2.9)	495,885	18.2
20 CNA Financial Corp.	2,720,000	114,500	(2.6)	117.6[2]	114.4[2]	1,670,000[2]	(5.1)	(298,000)[2]	(13.1)	314,100[2]	5.1	3,890,000	16.5
21 Sentry Insurance Cos.[2]	404,559	11,573	(5.5)	105.8	105.9	353,599	8.7	(24,528)	(10.8)	43,300	10.4	777,694	13.0
22 Hartford Insurance Group	2,448,000	128,000	(5.9)	112.5	107.3	1,605,000	0.9	(194,000)	(48.1)	330,000	20.9	3,021,000	8.4
23 Hartford Steam Boiler	163,330	17,942	(13.0)	93.8	88.2	85,298	0.8	5,274	(44.2)	9,570	(5.4)	404,797	6.5
24 Berkshire Hathaway Group	177,858	46,608	(19.4)	153.4	138.2	218,120	34.0	(46,788)	(45.4)	90,479	(0.9)	N/A	N/A
25 Travelers Corp.	2,808,600	63,100	(32.2)	111.3	112.6	1,094,000	(2.7)	(132,300)	11.7	183,100	(3.5)	1,541,000	(20.9)
— Nationwide Mutual Ins. Co.[2]	N/A	N/A	N/A	105.2	107.1	1,642,697	10.3	(90,922)	14.7	207,823	6.6	3,807,052	10.9
— Kemper National P/C Cos.[2]	N/A	N/A	N/A	107.0	102.9	947,289	3.5	(89,241)	(51.7)	93,471	8.1	1,823,156	15.9
— Commercial Union Ins. (U.S.)	N/A	N/A	N/A	107.1[3]	112.7[3]	397,200	11.5	(31,500)	31.1	45,800	8.1	716,300	24.0
— Liberty Mutual Ins. Co.[2]	N/A	N/A	N/A	115.5	115.9	1,559,632	(12.5)	(213,049)	16.1	290,034	3.6	2,838,860	7.7
Cumulative	34,536,684	2,139,436	33.4	110.4	110.2	22,159,996	(2.7)	(2,271,029)	1.7	3,775,730	2.4	40,404,003	6.5

[1] After dividends [2] Statutory [3] Before dividends N/A—Company did not provide data

Insurer results

Continued from page 1

market will not turn until it is really hit by losses, she said.

"For all intents and purposes, the year '92 is in the bag," said J. David McDonald, senior vp and chief underwriting officer for the Royal Insurance Group in Charlotte, N.C. "You're not going to see, I believe, much change that would affect the '92 results at this juncture," he said, noting insurers are now writing August and September renewals. "I don't see anything on the horizon right now to suggest that we're going to see a tighter market."

There is still a lot of excess capacity in the property/casualty business, "but beyond that I don't think that we're going to see a return to the cycles that we've seen in previous years," when every two or three years the market would harden for 18 months, Mr. McDonald said.

Royal, he added, is conducting its business as though the market will indefinitely continue as it has been. "We're not sitting around waiting for the market to turn."

For the first quarter, the 29 commercial property/casualty insurers surveyed by *Business Insurance* reported a 110.4% combined ratio, a slight deterioration from the 110.2% reported for the comparable period a year ago. It was an improvement, however, from the 111% reported for all of 1991 (*BI*, April 6).

Other first-quarter results posted by the insurers surveyed by *Business Insurance* show that:

- Underwriting losses declined 1.7% to $2.27 billion from $2.31 billion for the comparable period a year ago. This compares favorably with a 4.7% increase in underwriting losses to $9.73 billion at year-end 1991.
- Net written premiums decreased 2.7% to $22.16 billion from $22.78 billion as rate competition continued. For all of 1991, premiums decreased 1.8% to $88.66 billion.
- Slowing cash flow and low interest rates led to a modest 2.4% increase in investment income—to $3.78 billion from $3.69 billion. This is down from the 3.9% increase to $15.14 billion reported at year-end.
- Policyholder surplus for the 25 insurers who reported that data increased 6.5%, to $40.4 billion from $37.93 billion.
- Net income—boosted in part by realized capital gains, other non-operating factors and by businesses other than commercial property/casualty—jumped 33.4% to $2.14 billion in the first quarter from $1.6 billion for the comparable period a year ago. This compares with a 30.3% increase in net income to $6.79 billion reported for year-end 1991.

Insurers' first-quarter results gave analysts little to cheer about.

"I am amazed and surprised because so many of the companies have reported good results and I don't know why," said Firemark's Ms. Morrissey.

"From a net income perspective, it looks like it's been a great quarter, and I don't believe it. There has not been a turn, we are not seeing changes in pricing yet, we're still seeing all the competition out there.

"I haven't see anything substantial in the marketplace that should make the results look as positive as they are," she said.

Some insurers' improved results reflect non-operating gains.

For instance, Reliance Insurance Group reported $18.8 million in net income in the first quarter of 1992, compared with a $3.6 million loss for the comparable period a year ago. But the company posted pretax realized gains on sales of investments of $28.9 million for the first quarter, more than six times greater than the $3.9 million in realized gains reported during 1991's first quarter.

General Re Corp. saw its stock fall after it announced that operating income in the first quarter fell 13.8% to $116.5 million from $135.1 million. But because of realized gains and the cumulative effect of an accounting change during the quarter, its net income in fact increased 38.2% to $207.8 million from $150.4 million.

Others also pointed to capital gains as a factor in first-quarter earnings.

"There were significant capital gains that helped the capital position of the industry," said Michael Lewis, first vp with Dean Witter Reynolds in New York.

Looking at operating results, however, Mr. Lewis noted that Lincoln National Corp., SAFECO Corp. and Continental Corp. did better than expected, while General Re did worse. The General Re operating result "was the biggest surprise in the quarter," he said.

Investment income and stock market capital are "the only things that saved our lunch" said Keith Like, executive vp in charge of the commercial lines group at Kemper National Insurance Co. of Long Grove, Ill.

Kemper's higher combined ratio—107% in the first quarter of 1992 vs. 102.9% in the 1991 quarter—reflects its decision to include its anticipated burden from workers compensation assigned risk plans in the quarter, Mr. Like explained. Kemper previously accounted for its entire first-half assessments solely in the second quarter. As a result of this change, Kemper's second-quarter results will look a lot better than last year, but its first-quarter results look a lot worse, he said.

"It was a pretty good quarter actually," said Gloria Vogel, first vp with Lehman Bros. in New York. "The problem is, I don't know when they're going to see a quarter like that again."

For the rest of the year, she said, "I think we're going to see some deterioration. The pricing situation isn't getting any better," plus with interest rates and cash flow down, investment income is "pretty sluggish."

"The numbers are horrendous. Pitiful doesn't describe it," said Myron Picoult, senior vp at Oppenheimer & Co. in New York. "This is beyond anything reasonable."

It is almost a footrace to see who winds up in bankruptcy court first, he said.

Insurers are either putting up fewer reserves or taking down reserves to make their combined ratios and earnings look better, Mr. Picoult charged.

There is "more than meets the eye" when it comes to reserves, agreed Ms. Vogel. There is evidence some insurers are taking down what they consider to be redundancies from 1989 and 1990, and not adding much for the current period because they feel they do not need as much in reserves, she said.

Joyce Culbert, an analyst with Chicago Corp., noted that a study she has done of insurer reserves found a direct relationship between profitability and reserve strengthening. "When they had the money, they put it into reserves, and when they didn't, they didn't," she said.

The current reserve situation is unlikely to lead to a turn in the market, said Harry Fong, an analyst with Conning & Co. in Hartford, Conn. He described allegations of companies pulling down reserves as "conventional thinking."

When looking at loss reserves, the general feeling is the industry is short by 10%, said Mr. Fong. But back around 1984, shortly before the market turned sharply, the industry was short by 30% to 35%, he noted. "The reserve position is not anywhere near the level it was last time, before the turn occurred."

In addition to insurers' reserve adequacy, another factor to be considered is investment income, Ms. Vogel said.

Lower interest rates mean insurers' realized gains likely will not be as high in the future, and income growth will slow, she said. "It's investment income that has cushioned underwriting losses for the industry for a long period of time," Ms. Vogel explained, but that will likely occur to a lesser extent in the future.

Given the current interest rate environment, and with premiums flat to modestly down, observers should not be surprised at the level of investment income, said Conning's Mr. Fong.

But this factor will be insufficient to turn the market, he said.

The cycle has historically turned because companies have felt constrained cash flow, and investment income is only one component of this, Mr. Fong pointed out.

Cash flow, while declining, appears to be acceptable, "and not yet at a level that would cause me to think a turn is likely to happen anytime soon," he said.

"We're not seeing anything changing" in commercial prop-

Continued on next page

Continued from previous page

rty/casualty, said George Conker, assistant comptroller at SAFECO Corp. in Seattle. "I just don't see anything that's happening right now that's really going to create (a turn)," he said. "I have no real feel for it."

Current conditions will continue for the foreseeable future, agreed Dean Witter's Mr. Lewis. There is just not enough evidence that "bottom line results are poor enough, or capital conditions constrained enough" for a big change, he said.

"The rates are distinctly inadequate" he said, and even though insurers are more selective about where and how they write, and are cutting expenses, "we would still look for adverse continuing property/casualty underwriting results."

Many insurers today are focusing altogether on products or services rather than price as competitive tools, commented Michael J. Crall, president of Argonaut Insurance Co. in Menlo Park, Calif. If there is a turn in the market, he said, it "will be a marginal tightening of capacity that allows the best performers to do even better" and gives the worst performers a brief respite.

"The industry is still reporting results that are better than one would expect," given all the concerns about pricing and competitive conditions, said a CIGNA Corp. spokesman.

But even though cash flow and investment income growth are slowing, "we don't see any of the signs that one would hope for to turn the market," he said.

Unless there is a truly major catastrophe, or Lloyd's of London "implodes," there is "really no reason to expect any kind of turn in pricing" in the near future, said Barbara Stewart of Stewart Economics in Atlanta. Perhaps the best companies can look forward to right now is that prices just stop declining, she said. "The fundamentals are just not there for anything to happen," she commented.

Catastrophes, in fact, were unusually light during the first quarter, but that can hardly be said of the second quarter.

During the second quarter, the industry has been hit by the Los Angeles riots, the Chicago flood and a Texas hailstorm, "and we're only halfway through the quarter," noted Dean Witter's Mr. Lewis. Even these sizable losses, however, are not expected to have a significant impact on the soft market (*BI*, May 11).

Conning's Mr. Fong said if pushed to predict when the market will turn, "we're probably looking at late 1993 at the earliest."

But Lehman Bros.' Ms. Vogel said, "I think there's still a good shot" of a turn in the market by January 1993.

Marvin Shulman, an analyst with Moody's Investors Service Inc. in New York, said the market will turn late this year at the earliest, "and more likely '93."

The question being asked is not when it will happen, but what it will take, commented Oppenheimer's Mr. Picoult. "The only ones that know are the companies themselves," he said.

"They're the ones who are going to make the decision." It will happen "when the boards (of directors) begin to exert the responsibility they're supposed to show," he said. ■

Combined ratio up for U.S. reinsurers

WASHINGTON—U.S. reinsurers' first-quarter combined ratio deteriorated to 106.5%, from 105.8% for the year-earlier period, according to the Reinsurance Assn. of America.

Net premiums increased 6.9%, to $3.09 billion from $2.89 billion, according to a survey of 62 reinsurance companies and reinsurance departments by the Washington-based trade association.

The reinsurers reported $978.4 million in underwriting expenses, for a 31.7% expense ratio.

Premiums earned during the first quarter totaled $2.98 billion, while loss and loss adjustment expenses totaled $2.23 billion, for a 74.8% loss ratio.

Policyholder surplus totaled $13.61 billion.

—By Judy Greenwald

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Pollution ruling

Continued from page 1

southwest of Los Angeles.

A property owner sued the city in 1981 for negligence, nuisance and inverse condemnation—or wrongfully taking away or destroying property—for failing to properly maintain its storm drain system.

This resulted in a landslide that effectively destroyed his property in 1981.

A jury awarded Michael T. Papworth a total of $3.1 million: $1.2 million for negligence and $1.9 million for inverse condemnation. But he then accepted the city's offer to settle the dispute for $1.6 million in return for the city not appealing the verdict.

The city paid $350,000 of the settlement.

Jefferson Insurance, which wrote $300,000 in primary comprehensive general liability insurance for the city from Nov. 1, 1975, until Nov. 1, 1978, paid $300,000 toward the settlement.

And, Stonewall Insurance Co., which wrote $4.7 million in excess coverage from Nov. 1. 1976, to Nov. 1, 1977, paid the remaining $950,000.

Nine other primary and excess liability insurers for the city from 1971 to 1981 refused to participate in the settlement.

The other primary insurers from 1971 to 1982 are Admiral Insurance Co., Canadian Indemnity Co., Central Mutual Insurance Co. and Fireman's Fund Insurance Cos., which each wrote between $300,000 and $1 million in limits.

The other excess insurers are Central National Insurance Co. of Omaha, Employers Reinsurance Corp., Maine Bonding & Casualty Co., Midland Insurance Co. and Puritan Insurance Co., each of which wrote between $5 million and $10 million in limits.

The city subsequently sued all 11 of its liability insurers from 1971, when the plaintiff purchased his property, until 1981, when that property was effectively destroyed.

The city sought to recoup the $300,000 it contributed to the Papworth settlement. It also sought damages for bad faith.

The trial court divided the lawsuit into two phases. The first addressed the issue of the insurers' liability for the settlement. In the second phase, which has not yet been tried, the court will consider the bad faith claims.

The trial court, interpreting a state law concerning claims against governments, ruled in the first phase of the trial that only those insurers on the risk from Nov. 1, 1976, until July 1, 1980, were liable for the settlement.

The city appealed, and the 2nd District Court of Appeals reversed in part and affirmed in part. The appellate court ruled that:

- All policies covering the risk from the time the damage first began until it was discovered are triggered.
- The policyholder has the right to select which primary policies will cover the risk.
- A risk is insurable as long as the amount of the liability remains unknown.

In determining that there was a broad trigger of coverage, the appeals court relied on the Feb. 27 Montrose ruling made by a different panel of judges from the 2nd District Court of Appeals.

And, the appellate court looked at the CGL policy, which defines occurrence as "continuous or repeated exposure to conditions which result in property damage."

"The definition of 'occurrence' in the relevant policies including as it does 'continuous exposure' led the city to reasonably expect that the insurance policies of all the insurers here involved would cover loss from occurrences in their respective policy periods," Judge Robert Thompson wrote for the appeals court.

Including 'continuous exposure' in the definition of 'occurrence' led the city 'to reasonably expect that (all its policies) would cover loss from occurrences in their respective policy periods,' writes Judge Robert Thompson.

The city's conduct, which caused the landslide and erosion, resulted in "repeated and continuous damage through the period from 1971 until the Papworth property was effectively destroyed," the court said.

"The insurer parties here involved could have avoided the exposure created by their policies by writing them in the claims-made form, but they did not and presumably calculated reserves and premiums accordingly," the court said.

The appellate court also held that the city has the right to select which of the triggered primary policies will respond first to the loss.

"The city is entitled to select for indemnity any of the primary insurance policies on the risk sufficient to cover the indemnity obligation," the court said.

"The insurance or insurers whose policies are selected will then be entitled to equitable subrogation and contribution from other insurers on the risk," the court said.

The main benefit of this portion of the ruling is that it allows the policyholder to select those policies with the lowest deductibles, explained policyholder attorney Mr. Steuber.

"This portion of the ruling goes a couple steps further than the Montrose opinion," he said. "Thus, it is a very important victory for policyholders.

This portion of the ruling, though, was criticized by insurer attorney Mr. Beck.

"Nothing in the policy says the policyholder can pick an choose," he said, noting that Jefferson Insurance will seek to appeal the decision.

The court also rejected the insurers' contention that the damage at the Papworth site was an uninsurable "known loss."

Under the known loss doctrine coverage is barred when a loss is known or apparent before a policy is issued.

The appeals court, again following the Montrose case, interpreted this doctrine to bar coverage only when the policyholder knows what its liability is.

Thus, even if the policyholder knows of a pending claim but does not know for certain what its liability will be, the claim is insurable, the court ruled.

"To be insurable the event must be either contingent or unknown," the court said.

"In the context of liability insurance, it is the unknown liability of the insured for past exposure that is relevant."

So, even though the city was aware of problems on the Papworth property and had attempted to abate the erosion, it did not know the full amount of its liability until the Papworth property was destroyed, the court explained.

The case will be remanded to trial court to determine which insurers must contribute to the settlement and how much.

•

Stonewall Insurance Co. vs. City of Palos Verdes Estates, California Court of Appeal Second Appellate District; No. B023805; B045183.

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* Source Business/Occupational breakdown of qualified circulation, November 25, 1991 issue, as submitted to BPA for December 1991 BPA Publisher's Statement.

Private investors back new IIE syndicate

Prime Syndicate Inc. has joined the Illinois Insurance Exchange in Chicago as the first member to sell shares to non-industry investors through an investment firm.

Prime Syndicate, the IIE's 13th syndicate, was formed through Hamilton Investments Inc., a Chicago financial services company headed by Gordon L. Teach, the chairman of the IIE Board of Trustees. Mr. Teach is not an investor in the new syndicate.

Mercury Management Inc., the manager of First Mercury Syndicate Inc., will provide underwriting services.

Prime Syndicate is capitalized at approximately $6.5 million, according to James M. Skelton, president and chief executive officer of the IIE. New syndicates are required by the exchange to have at least $5 million in capital.

Prime Syndicate shares were offered in 60 units of $250,000, half in cash and half in letters of credit. Some half units were sold. The offering has closed, but Prime may reopen investment in the future to expand its underwriting capacity.

IIE syndicates realize an average return of 32% on capital. Prime Syndicate expects 15% to 20% returns annually, according to Douglas P. McConnell, vp of Hamilton Investments.

Prime is the second syndicate to join the Illinois Insurance Exchange this year.

In January, ERIC Syndicate Inc. was formed by ERIC Environmental Risk Insurance Co., a risk retention group domiciled in New Mexico and affiliated with ERIC Group Inc. of Englewood, Colo.

ERIC Syndicate Inc., which was the first to join the exchange since the Agora Syndicate in 1989, will underwrite environmental coverage, including asbestos abatement liability and property transfer products with limits of more than $5 million.

As a member of the exchange, ERIC Syndicate will operate on an excess and surplus lines basis in 42 states.

The syndicate wrote $10.3 million in gross premiums in 1991 and had a $5.6 million surplus.

Risk Sciences Group

Crawford & Co. has elevated its Risk Sciences Group to a strategic business unit.

The information systems vendor previously fell under the Atlanta-based company's Risk Management Services business unit.

Risk Sciences, headed by President and Chief Executive Officer Richard F. Denning, is broadening its focus from corporate markets to now include information services and client links for insurance companies, medical cost containment firms, risk control consultants, actuaries and law firms.

FAS 106 compliance

Travelers Corp. has formed a new department within its managed care and employee benefits division to help employers comply with Financial Accounting Standard 106.

The new department will offer liability valuation, plan design, prefunding analysis, insurance and investment products and plan administration services.

Under FAS 106, employers are required to accrue as an expense against earnings non-pension retiree benefit liabilities from the date employees are hired until they become eligible for benefits (*BI*, Dec. 17, 1990). Companies can take a one-time charge against earnings or amortize the expense over up to 20 years.

The new products are designed to cover a broad salary range, including high-paid executives. The plan includes executive carveout universal life, group universal life and group long-term care.

AIG investment unit

American International Group Inc. has consolidated its European investment management operations into AIG Investment Corp. (Europe) Inc. in London.

Patrick Dempsey has been appointed managing director of AIGIC Europe and will serve as AIG's chief investment officer for the European Community. He continues as managing director of AIG affiliate Dempsey & Co. International.

Kevin McLoughlin, previously responsible for invested assets of AIG member companies UNAT S.A. and ALICO S.A., will serve as AIG senior investment officer in Europe.

Niall Sommerville has been promoted to senior country officer for the AIG financial services companies in Dublin, Ireland, the global service center for AIG's offshore fund management.

New RBH unit

Rollins Burdick Hunter has formed Rollins Technology Brokers in San Francisco to service high-technology accounts worldwide.

The Palo Alto, Calif., division of RBH, an Aon Corp. unit, is scheduled to merge with Rollins Burdick Hunter/Curtis Day & Co. in San Francisco early this month.

New environmental firm

Environmental Audit Inc. of Exton, Pa., and VISTA Environmental Information Inc. of San Diego have merged.

The new company, VISTA Environmental Information, is headquartered in San Diego and is expected to generate $10 million in gross revenues this year, according to James Mauch, senior vp of EAI.

Both firms maintain data bases of environmental risk information, such as locations of landfills and underground storage tanks, companies that handle hazardous waste and companies cited for environmental violations. The information is primarily used by property owners.

EAI has a large share of business with environmental consultants while VISTA has more corporate and financial customers, Mr. Mauch said. Additionally, EAI is more service oriented, while VISTA has made technological developments in information delivery systems.

Tom Gay, who had been chairman of VISTA, is president and chief executive officer of the merged company. Martin Kahn, who had been EAI's chairman, is chairman of the new company. All other staff remained, Mr. Mauch said.

Stewart Smith

McAlear of Illinois will change has changed its name back to Stewart Smith Mid America Inc. to reflect its relationship to parent Stewart Smith Group Inc.

McAlear of Illinois was known as Stewart Smith Mid America until 1989. Stewart Smith Group Inc. is a group of U.S.-based excess and surplus line brokerage operations ultimately owned by Willis Corroon P.L.C.

New offices

Fireman's Fund Insurance Co. will open a commercial insurance branch in Spokane, Wash., in August. The office will provide services in commercial underwriting, claims, loss control and excess and special risks for businesses in eastern Oregon, eastern Washington, Idaho and Montana.

C.E. Heath Compensation and Liability Insurance Co. has moved to 2150 River Plaza Drive, Suite 250, Sacramento, Calif. 95833; 916-920-5800.

GAINSCO Inc., a property/casualty insurer, has moved to 500 Commerce St., Fort Worth, Texas, 76102; 817-336-2500; fax 817-335-1230.

Two ITT/Hartford Group Inc. units, **First State Insurance Co.** and **New England Reinsurance Corp.**, have moved to 150 Federal St., Boston, Mass. The move reflects the elimination of the companies' former management company, Hartford subsidiary Cameron & Colby Co. Inc.

Reliance Reinsurance Corp. has moved to 1 Penn Center Plaza, 12th Floor, Philadelphia, Pa., 19102.

Marine Index Bureau Inc. has moved to 67 Scotch Road, Ewing, N.J. 08628; 609-882-8909; fax 609-882-9282. Claims should be sent to Claims Processing, P.O. Box 77325, West Trenton, N.J., 08628. For preemployment screening services call 609-882-5999.

Applied Risk Insurance Services Inc. has moved to 31441 Santa Margarita Parkway, Suite A-227, Rancho Santa Margarita, Calif. 92688; 714-459-1870; fax 714-459-1871. ■

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Health care dissatisfaction grows

But a national plan is no cure: Survey

By DEBORAH SHALOWITZ

Although a growing number of human resources executives are dissatisfied with the present system of employer-sponsored health insurance, they believe government-sponsored national health insurance would be worse, according to a survey released last month.

And, fewer executives now favor national health insurance than did three years ago, the survey results indicate.

Seventy-six percent of the human resources executives surveyed in March by Buck Consultants Inc. said they do not believe that the present system delivers quality health care at a reasonable cost.

In a similar Buck survey conducted in 1989, 47% said they did not believe employer-sponsored health insurance delivered quality health care at a reasonable cost.

Employers' "frustration really comes from paying more, receiving less and hearing more complaints about it," commented Henry von Wodtke, a benefit consultant with Buck in New York and an author of the survey.

However, 83% of the 131 human resources executives who responded to the written survey said they do not believe the government would be able to manage health care costs more effectively than the current private health care system. Eighty-three percent of the 271 human resources executives who participated in a telephone survey three years ago gave the same response.

And, nearly three-quarters of those surveyed—74%—said they thought the quality of health care would deteriorate under a national health insurance program. Eighteen percent thought health care quality would remain the same an 4% thought it would improve. Fou percent had no opinion.

National health insurance wa defined as "a comprehensive na tional health insurance prograr administered by the federal gov ernment and financed through ei ther corporate or personal genera tax revenues designed to give a citizens access to health care."

Only 21% of the executives sur veyed support the concept of na tional health insurance, compare with 30% three years ago.

Nonetheless, more than half o the executives surveyed—57%– think a national health insuranc program will be implemente within 10 years, according to th survey. Three years ago, 62% of th executives surveyed thought a na tional health insurance progran would be enacted within the nex 10 years.

Beliefs that a national health in surance program will be enacte "ebb and flow," Mr. von Wodtk commented.

In the current survey, 11% o the executives said a nationa health insurance program woul never be implemented, 7% sai such a program would be imple mented within the next 15 years 1% said a program would be im plemented in more than 15 years 22% said they did not know anc 2% had no opinion.

Three years ago, 15% of those surveyed thought a national health insurance program would never be implemented, 14% thought such a program would be implemented within the next 15 years, 7% said they did not know, 1% said a national program would be implemented in more than 15 years and 1% had no opinion.

Although one of the goals of national health insurance is to provide universal access to health care, only 60% of those surveyed this year and 62% of those surveyed three years ago believed that health care would be accessible to all citizens under a national health insurance program.

If a national health insurance program were enacted, half of the respondents said they would favor funding it through an unspecified combination of taxes. Eleven percent of the respondents said they did not know which funding alternative was most appropriate, 9% favored increased personal income taxes, 8% favored a national sales tax, 7% had no opinion, 7% supported a value-added tax, 4% favored increased corporate taxes and 4% favored other, unspecified alternatives.

More than one-third of those surveyed—35%—believe a national health insurance program would hurt their companies' competitiveness in global markets, according to the survey. Forty-one percent said there would be no change 13% had no opinion and 11% thought it would make their companies more competitive.

Three years ago, only one-quarter of respondents thought a national health insurance program would hurt their global competitiveness. Forty-eight percent thought there would be no change 14% had no opinion and 13% thought it would help.

"This change in overall corporate opinion may, to some degree be attributable to recent economic problems and discord over foreign trade policies," Mr. von Wodtke commented.

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The survey, "National Health Insurance—A Survey of Corporate Opinion," is available for $25 from Carolee Martin, Buck Consultants Inc., 500 Plaza Dr., Secaucus, N.J. 07096-1533; 201-902-2555.

The IRI Difference:

Agents and Brokers Play a Vital Role in Servicing Your Needs

"One of the unique aspects of The IRI Difference is the overall service an insured gets from *two* organizations—your agent or broker *and* IRI," said Gail Norstrom, Jr., IRI Senior Vice President—Operations. "Our challenge is to provide superior service to our producers so that *together* we can satisfy your needs.

"Agents and brokers have one job—making sure your insurance needs are met. They're your insurance consultants. They help you identify your coverage and service requirements and they find the most financially stable insurer able to provide the right services and products for you. Many producers also have loss prevention specialists to help you protect your facilities. Others have claim specialists to represent you in the claims adjusting process.

"And all producers offer you a current awareness of the marketplace, which is invaluable when balancing needs and costs," he said.

"IRI appoints a team to work with your agent or broker, and you, on every account," Mr. Norstrom added. "This team includes an account executive, an underwriter, a loss prevention representative and, in many cases, a claims adjuster. Their job is simply to provide the best of the services your agent or broker and you have decided to purchase.

"IRI insureds have two teams of insurance professionals representing their interests," he said. "This kind of extraordinary service is a key component of The IRI Difference."



Gail Norstrom, Industrial Risk Insurers

IRI℠

can make a difference

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Blues' proposal

Continued from page 1

ıg percentage of enrollees into he community partnerships. ınd employers, to receive a full ax deduction for health care exenses, would over time be reuired to enroll workers in the artnerships.

The Chicago-based associaion, comprising 73 member ılans and 75 million enrollees, oins an ever-growing list of asociations and legislators with ırescriptions for curing the two ıiggest ills in the nation's health :are delivery system: the huge ıumber of Americans—36 milion—without health insurance ınd the soaring costs that are ıutting coverage out of reach for :mployers and individuals.

But the Blues' proposal is :trikingly different from many ıther reform proposals now leadlocked on Capitol Hill.

It does not call, as do many of :he "play-or-pay" proposals, for :he creation of a large public ıealth plan to cover the uninsured. Instead, employers would ɔe required to buy coverage from private insurers, while nonworkers also would secure coverage, with the help of federal subsidies, from private insurers.

In addition, a number of reform proposals would have the federal government set limits on health care spending and fees charged by physicians and hospitals, while the Blues' proposal eschews that type of federal involvement. Instead, the plan relies on the community partnerships and their focus on managed care to keep costs in check.

The Blues' Mr. Tresnowski says reform of the nation's health care delivery system, including the marketing practices of health insurers, is essential if health care is to continue to be offered primarily through the private sector.

"We are on the brink of a medical meltdown. We can't continue business as usual," he says.

Health care is becoming unaffordable, he warns.

And some insurers, through restrictive underwriting practices, are concentrating more on what he describes as "risk selection" to control costs rather than risk management. That practice has to stop, he said.

Mr. Tresnowski adds that he is confident that community partnerships and their networks of high-quality, cost-effective practitioners can bring soaring costs under control.

The Blues contend that the proposal "would work better than any of the proposals suggested so far. We would reform the system from the ground up. Our proposal has the essential ingredients of cost control and universal coverage. And, it results in a private insurance system more responsible and responsive to the public."

Health care observers, including those who don't necessarily agree with all aspects of the Blues' proposal, commend the association for staking out a position and trying to preserve the role of the private sector in providing health care.

"It is an attempt at a private sector solution," said Kenneth Sperling, a consultant in the Rowayton, Conn., office of Hewitt Associates.

"They are to be applauded because their proposal aims for universal coverage largely through the private sector. They share our belief that the private sector can deliver quality care in a more cost-efficient manner than could a public program," said Ellen Goldstein, director of health care policy at the Assn. of Private Pension & Welfare Plans in Washington.

"The Blues are saying that the system has to be reformed, and that certainly is positive," said Dr. Roger Taylor, national practice leader for health care consulting at The Wyatt Co. in Washington.

Still, key aspects of the Blues' proposal—mandated employer coverage and the approach to controlling costs—are drawing fire from some groups and raising questions from others.

Under the Blues' proposal, employers with 25 or more employees would have to offer basic health care coverage, with the company paying at least 80% of the premium for individual coverage and 50% of the premium for family coverage.

Small employers only would be required to offer a health care plan with basic benefits and would not have to pay a specific percentage of the costs.

However, if a small employer did not pay at least 40% of the cost of basic coverage for employees, it would face a payroll tax of about 3% to cover part of the cost.

Small firms, depending on their profitability, would be eligible for federal tax breaks to offset part of the cost of offering a health care plan.

Those tax revenues, along with revenue raised from taxing workers on their health care benefits, would be used by the federal government to provide subsidies to workers at or below the federal poverty level to fully offset their portion of the premium contribution. Employees with an income near the poverty level would be subsidized based on a sliding scale.

Subsidies also would be available to non-workers, enabling them to purchase health insurance from private insurers. Regardless of income, they would be eligible for a federal subsidy of at least 40% of the cost of basic coverage. Those below the federal poverty level would have the entire cost of coverage subsidized.

Mr. Tresnowski says the 3% payroll tax "is the very least of what should be expected of the small employer."

But small employer trade groups question the motives behind the proposed employer mandate.

"It seems very self-serving since (the Blues) would be the ones who would profit. If the Blues are concerned with America's health care, they should come out with proposals to cut current high costs, not ensure their profits," said a spokesman for the National Federation of Independent Business in Washington.

Others question if the Blues' approach to cost control—through community care partnerships comprising high-quality, cost-efficient providers—may be unrealistic.

"The cost control elements of the plan are not very compelling," said Tom Billet, a principal with A. Foster Higgins & Co. Inc. in Stamford, Conn.

Mr. Billet notes, for example, that evaluating provider practice patterns is a field still in its infancy, making it very difficult to identify the high-quality, cost-efficient providers crucial to the partnerships.

And commercial insurers say that requiring insurers to make coverage available to all buyers would be unfair to companies that specialize.

"If an insurer specializes, say, in writing coverage for ministers, it should not have to open its doors to all comers," said Ed Neuschler, director of policy development and research with the Health Insurance Assn. of America in Washington. ■

Managed care is a key element in PPO group's reform proposal

CHICAGO—Realistic solutions to the nation's health care crisis must simultaneously address the problems of cost and access, says the American Assn. of Preferred Provider Organizations.

And managed care should be a key element in any health care system restructuring, the AAPPO maintains.

The Chicago-based managed care trade association recently released a position paper outlining the steps it would like to see taken in the area of health care reform.

The AAPPO is opposed to reforms that would introduce government controls on the U.S. health care system and thereby "restrict the strengths of the competitive free enterprise system." The group also opposes proposals that would allow the government to ration patient care without "realistically addressing the causes of and cures for the cost spiral."

Control over skyrocketing health care costs and efficiency in the U.S. health care system can be achieved by a "broader implementation of managed care principles," said Jim Kent, chairman of the AAPPO's legislative committee.

Mr. Kent said the AAPPO's membership of 1,000 PPOs and other managed care organizations favors the following:

- Full federal pre-emption of state health insurance mandates.

The more than 800 state mandates significantly increase the cost of health care coverage and medical services, the AAPPO says. Freeing all insurance policies of these mandates would lower costs and increase access for all businesses and individuals.

- Pre-emption of state laws that restrict managed care.

Many states have passed laws and regulations that, among other things, restrict utilization review activities and limit payers' ability to selectively contract with providers.

Anti-managed care laws and regulations increase costs and hinder competition among managed care companies, the AAPPO says.

- Underwriting reform.

The special needs of small employers should be taken into account by reforms, the AAPPO says. Insurers' underwriting practices too often exclude small employers whose workers have significant health problems. "The small business market is almost unapproachable unless everyone is 100% healthy," Mr. Kent explained.

- Medical malpractice liability reform.

"Federal tort reform would reduce the need for costly defensive medicine," the AAPPO claims.

- Full tax deductibility of health insurance premiums for all businesses, even partnerships and sole proprietors.

If the federal tax code provides equal tax treatment to all businesses, smaller companies would have a greater incentive to obtain or expand health insurance for their employees and dependents.

- Consumer education to make individuals more responsible for their health care purchases.

"A competitive health care marketplace will not occur unless patients behave like educated consumers who. . .have a responsibility to make good health care decisions," the AAPPO says. The group therefore favors the development and dissemination of health care data, including outcomes research, practice protocols and hospital ratings.

- Control of health care cost increases.

"Incentives must be provided for government, providers and private insurers to aggressively pursue innovative purchasing and managed care techniques," the AAPPO says.

- Expanded managed care in public sector programs like Medicaid and Medicare.

—By Christine Woolsey

Offshore insurer

Continued from page 3

tory actions and the company's operations. Anchorage President Randy D. Glad could not be reached.

Anchorage has undergone repeated changes of name and ownership since it was incorporated in the Turks & Caicos in 1986 as SentRe Insurance Ltd.

Formed with $5,000 in share capital, the company was initially owned by Robert H. Garwood and Robert H. Garwood II, according to an Anchorage corporate profile and financial statements obtained by *Business Insurance*.

Central Pacific Assurance Co. Ltd., a Marshall Islands insurer headed by Milton R. Polland, acquired a minority stake in SentRe in 1987 and assumed full ownership of the insurer in July 1990, documents show. Central Pacific has since changed its name to Pacific Casualty Insurance Co.

Three months after acquiring SentRe, Central Pacific sold it to Tri-Global Financial Services Inc., a Nevada corporation headed by Mr. Glad. SentRe's name was changed to Global Capitol Assurance Co. Ltd.

Global Capitol was then sold in March 1991 to Global International Indemnity Inc., a Utah corporation headed by Anthony J. Hicks. Global International Indemnity's shareholders included Central Pacific, Mr. Polland's Marshall Islands company.

Last October, Global Capitol's name was changed to Anchorage Fire & Casualty.

Mr. Hicks was initially president of Anchorage but said in an interview that he became a "vp and consultant" to the insurer in January, when Mr. Glad became president.

Mr. Polland says he no longer has anything to do with Anchorage.

In an unrelated matter, his new company, Pacific Casualty, acted as a reinsurer of Physicians Benefit Plan, a self-funded group health plan shut down by California regulators last month (*BI*, May 18). Mr. Polland said in an interview that Pacific Casualty terminated its coverage of Physicians Benefit Plan April 30 for non-payment of premium.

Meanwhile, Anchorage hired Coopers & Lybrand last year to audit its 1991 financial statement. *Business Insurance* was unable to obtain a copy of this statement.

But an Aug. 31, 1991, financial statement reviewed by Duane V. Midgley, an accountant in Salt Lake City, reported that the insurer—then known as Global Capitol—held a total of $51.3 million in assets. These included:

- $28.2 million in German government bonds held in trust in a European bank not identified in the statement. The insurer acquired the bonds in exchange for stock and other assets also not identified in the statement.
- $14 million in common and preferred stock. These holdings included all of the outstanding preferred shares of UniMed Corp., a Virginia corporation that the statement says owns 2,200 residential lots in Colorado valued at $17.3 million.
- $7 million deposited in a San Francisco bank as a trust account for U.S. policyholders. The $7 million represents the proceeds of a loan secured by $4 million of the German government bonds and $3 million of the UniMed stock, the statement says.

The insurer's revenues as of last Aug. 31 totaled $2.6 million, including premiums written, interest income and fees and commissions, according to the statement.

An Anchorage corporate profile, however, says it wrote about $3 million over a period of several months ending last Aug. 31.

The total consisted of $1.6 million in accident and health premiums and about $1.4 million written in several other lines, including commercial general liability, garagekeepers liability and home inspection and real estate agents' errors and omissions coverage, according to the profile.

However, Anchorage canceled most of these property/casualty programs last November, according to Mr. Hicks, the consultant to the insurer.

Anchorage's only remaining property/casualty business is a liability program for California-based trucking firms, he said.

The trucking program is reinsured by Sphere Drake Insurance P.L.C., which has assumed a combined single limit of $750,000 excess of $250,000 through Sphere Drake Underwriting Management (Bermuda) Ltd., confirmed Jonathan Crawley, the Bermuda company's president.

While the trucking business was expected to generate more than $500,000 per month in gross written premiums, it has only produced about half that because of competition from other markets, Mr. Hicks said.

He added that there have been no regulatory objections to the trucking program.

Anchorage's group health underwriting, though, is another story.

The Alabama department issued a cease and desist order against Global Capitol, the predecessor to Anchorage, last Sept. 23 after finding it was offering health insurance in the state, according to Elizabeth Bookwalter, associate counsel.

A similar order was issued against Anchorage Dec. 6 after the company solicited medical malpractice business, Ms. Bookwalter said, adding that the company did not contact the Insurance Department about either order.

Meanwhile, the Georgia department issued its own cease and desist order against Anchorage Jan. 7, after finding the insurer had bound group health coverage for 11 Georgia employers, including several nursing homes and rehabilitation centers.

The coverage was sold under the

Continued on next page

Update

Interstate guaranty fund

BROOKFIELD, Wis.—A subgroup of the National Conference of Insurance Legislators recommends that states agree to establish a commission to oversee a new interstate guaranty fund protection for policyholders of all types of insurers.

NCOIL's State-Federal Relations Committee plans to seek support for the concept at an Aug. 6 meeting of the group's executive committee, said New York Sen. Donald M. Halperin, D-Brooklyn, committee chairman. A vote by the full membership will probably be sought later this year.

The committee has been considering a guaranty fund proposal since last year (*BI*, Dec. 9, 1991; Aug. 5, 1991). An earlier version recommended establishing a commission under an "interstate compact" to oversee a broader range of insurance issues, including insurer capitalization, accounting and investment requirements.

The new proposal would limit a commission's authority to overseeing guaranty funds. Details, like whether there should be a single fund for all insurers or separate property/casualty and life/health funds, still must be worked out, Sen. Halperin said.

McCarran reform talks tabled

WASHINGTON—Talks between the American Insurance Assn. and the House Judiciary Committee chairman's staff regarding revision of the McCarran-Ferguson Act are tabled, probably at least until next year, says AIA President Robert E. Vagley.

The AIA broke off talks last week with the staff of Rep. Jack Brooks, D-Texas. Mr. Vagley called the talks a "fruitless exercise," saying Rep. Brooks' staff would not consider including safe harbors for standardized policy forms, risk pooling and collection of basic data in H.R. 9. The bill, approved by the House Judiciary Committee, would eliminate some key insurer exemptions from federal antitrust law (*BI*, Feb. 3; Nov. 25, 1991).

The AIA began talking to Rep. Brooks' staff in early 1991 in an attempt to work out a compromise on antitrust reform. Talks initially broke off last November after Rep. Brooks said he wanted a vote on the bill before Thanksgiving (*BI*, Nov. 18, 1991).

Even if Rep. Brooks brings the bill to the House floor, it probably will not be passed in 1992, Mr. Vagley said. He left open the possibility that talks between the two sides could resume next year.

Court to view claimant priority

WASHINGTON—The Supreme Court will determine whether the federal government has priority over policyholders and other creditors of an insolvent insurer's estate.

The justices agreed to hear a case from the 6th U.S. Circuit Court of Appeals, which upheld an Ohio law that allowed regulators to establish creditor priorities. The federal government, which was fifth on the list, argued that a federal statute gave it priority to recover from American Druggists' Insurance Co., which was declared insolvent in 1986 (*BI*, Aug. 19, 1991).

The 6th Circuit found that liquidation of insurers is part of regulation of the "business of insurance," which is governed by the states under the McCarran-Ferguson Act. But both the 4th and 9th Circuits have ruled in favor of the federal government.

"We strongly believe" that McCarran-Ferguson "governs liquidation" and that "the order of priority was designed to protect claimants and policyholders, not the federal government," said Lenore S. Marema, the vp of legal and regulatory affairs for the Alliance of American Insurers.

The high court will rule in the case late this year or early in 1993.

Briefly noted

The 3rd U.S. Circuit Court of Appeals has dismissed a suit charging **Merck & Co. Inc.** with failing to warn the parents of a measles vaccine recipient of the vaccine's potential dangers. The Centers for Disease Control—which administers the vaccine in school immunization programs—was required to notify all vaccine recipients of possible side effects and risks. . . .The House Subcommittee on Commerce, Consumer Protection and Competitiveness has sent questionnaires to numerous regulatory, insurance and consumer groups soliciting comments on the insurance regulation bill introduced in April by **Rep. John D. Dingell** (*BI*, April 13). Hearings on the bill are scheduled for later this year. . . .A Florida judge has refused to grant class-action status to a **passive smoker lawsuit** filed on behalf of 60,000 non-smoking flight attendants against the major tobacco companies (*BI*, Nov. 11, 1991). . . .The first completed independent loss review into **troubled Lloyd's of London syndicates** recommends that Lloyd's review the spiraling effect of syndicates reinsuring risks that they already cover, sources say. The review of stop-loss syndicates managed by Mackinnon Hayter & Co. Ltd. was sent to members last week. . . .A federal appeals court rejected an **appeal by the Comptroller of the Currency** to rehear a case in which it ruled that banks don't have the authority to sell insurance in small towns (*BI*, Feb. 17). . . .California Insurance Commissioner John Garamendi has given property insurers until July 20 to settle claims from last fall's **Oakland Hills fire** or provide a detailed explanation to the Insurance Department. . . .Mercury General Group of Los Angeles last week became the second major California insurer to agree to make **Proposition 103 refunds** to its policyholders. Mercury will refund $46 million, or $172 per policyholder on average. . . .American International Group Inc. is reorganizing and cutting staff at subsidiary **New Hampshire Insurance Co.**, which markets property/casualty insurance to mid-sized businesses. The insurer will focus on "business activity through brokers" instead of the 1,400 agents it now uses.

Offshore insurer

Continued from previous page

trade name "TG-2000 Group Benefit Plan" through Current Benefit Systems Inc., an Atlanta agency, Insurance Department documents say.

Anchorage initially requested a hearing on the order. After a postponement, though, the insurer's president, Mr. Glad, instead signed a consent order April 17 agreeing that Anchorage would not act as an insurer in Georgia or violate state laws.

The agreement also provided that Anchorage would pay valid claims on the business, either directly or by reimbursing National American Life Insurance Co. of Pennsylvania, which assumed coverage of TG-2000 participants.

Anchorage also agreed to a $5,000 fine and to pay state premium taxes on the $527,350 in health premiums it collected.

On April 29, Anchorage was also hit with a cease and desist order by the Louisiana department, which charged it was soliciting group medical business through Nashville agent Stockmon Gillingham as well as Safe Harbour, a trucking association group medical program.

In a May 8 letter, the insurer's vp and general counsel, Mr. Matthews, denied that Anchorage had received any premiums through the Safe Harbour program. Mr. Matthews also said Anchorage was unaware its name was being used to market the association program in Louisiana "or, for that matter, anywhere."

Safe Harbour is not a MEWA, and that's what 'Louisiana doesn't understand,' says Mr. Stockmon.

He conceded, though, that for a "brief period" ending May 1, Anchorage had acted as a reinsurer of an entity known as Covenant Trust, "and through that relationship Anchorage was brought into this morass."

Brooks Stockmon, president of the Nashville agency, Stockmon Gillingham, described Covenant Trust as a "tool" through which Safe Harbour and many other group health plans gain access to reinsurance coverage.

Covenant Trust—also identified by regulators as Covenant Pro-Life Multiple Benefit Trust—is administered by John L. Roach III, an official of Evergreen Brokerage based in Lebanon, Ohio, Mr Stockmon confirmed.

Mr. Roach could not be reached for comment.

Mr. Stockmon said participants in Safe Harbour self-fund the first $50 per person of medical coverage, paying $4 per person per month into separate trust accounts set up for each employer. Participants then buy reinsurance coverage through Covenant Trust, he said.

Reinsurers previously used to cover other Covenant Trust programs have included Winston Hill Assurance Co., a Turks & Caicos insurer barred from underwriting in two states and now in liquidation in U.S. Bankruptcy Court in Houston.

Safe Harbour was not reinsured by Winston Hill, and dropped Anchorage as a reinsurer after the cease and desist order was issued, Mr. Stockmon said. Anchorage was replaced with a Netherlands-based reinsurer he would not identify.

He added that Safe Harbour is not a multiple employer welfare arrangement—since each employer has a separate trust account—and that the program is exempt from state regulation under the Employee Retirement Income Security Act of 1974.

"That's what Louisiana doesn't understand," he observed. ■

Members of UNISON sell shares

LONDON—Johnson & Higgins and Jauch & Huebener are teaming up to acquire stakes in their French and Swedish partners that are in the UNISON brokerage network.

New York-based Johnson & Higgins and Jauch & Huebener of Mulheim, Germany, will jointly set up a holding company, probably in the Netherlands, to purchase between 10% and 12% of Gras Savoye S.A. of Paris and 25% of AB Max Matthiessen of Stockholm, Sweden, J&H Chairman David A. Olsen said last week.

"Both companies have undergone some restructuring recently and felt that if they were to sell shares, they would rather sell them to other UNISON members," Mr. Olsen said.

Neither Gras Savoye nor Max Matthiessen could be contacted late last week due to public holidays in France and Sweden.

The joint holding company is unlikely to later seek majority stakes in the brokers, Mr. Olsen said.

"We want to maintain the private national feeling of all members in UNISON," he said.

In addition, J&H plans to set up a joint venture with Max Matthiessen in Stockholm to offer captive management services, Mr. Olsen said. Swedish companies are increasingly using captive insurers, he noted.

—By Gavin Souter

Chicago flood claims

Continued from page 2

damage, making assessments difficult (*BI*, May 4).

The estimated insured property damage from the flood remains at $300 million, said Gary Kerney, director of catastrophe services for the Property Claim Services division of the American Insurance Services Group Inc. in Rahway, N.J.

The estimate is based on reports by 47 of 103 insurers the division polled in May on claims the insurers had paid or anticipated would be paid (*BI*, May 11). Another poll will not be conducted for at least two weeks.

The organization expected that "several thousand claims would be filed," Mr. Kerney noted.

Most insurers and policyholders contacted by *Business Insurance* now say the flood-related claims will be covered—in full or partially—but few claims have been settled.

ITT/Hartford Group Inc. of Hartford, Conn., expects that it will cover most of its 64 claims.

"We are covering it as unexcluded water damage," a spokeswoman said.

But, only five claims have been settled in full, she said. The remainder are business interruption claims, and the insurer is waiting for information from policyholders to complete the claim settlements, she said.

Hartford reported an $8.8 million loss from the flood prior to taxes and reinsurance.

Kemper National Insurance Cos. also expects that it will cover claims filed by 19 policyholders.

"We are not invoking the flood exclusion," said Don Pence, property claims manager for the Long Grove, Ill.-based insurer. "We don't feel this event met the definition of flood."

But, only two claims have been settled, Mr. Pence said.

One of Kemper's claims is for property damage only, two are for business interruption only and the remainder are for both, Mr. Pence said.

The insurer expects a $9.2 million loss before reinsurance.

ITT/Hartford Group has settled in full only five of its 64 claims, according to a spokeswoman.

Traveler's Corp. of Hartford, Conn., also is not considering the event a flood and expects it will cover most of its 16 claims. But, none of the claims has been settled.

The insurer suffered $475,000 in losses after taxes and reinsurance, a spokesman said. The bulk of those losses are attributable to three claims, he said.

Continental Corp. of New York, which has settled 10 of 15 claims under all-risk policies, expects to cover nearly all losses by policyholders, said Hugh McNeil, director of policy claims.

One of the 15 claims is for property only, and the remainder are for business interruption, contingent business interruption and extra expense. Only the property claim is a "substantial loss" of greater than $100,000.

Policyholders with named-peril policies will not be covered for their losses because the event does not fall under any of the perils specified in the policy, Mr. McNeil explained.

CNA Insurance Cos. of Chicago has settled 29 of its 86 claims—28 of them from dentists covered under an association program written by the insurer, a spokeswoman said.

Of the remainder, some claims under various policies have been denied because policy language specifically excluded coverage.

Policyholders agree that they now have a better idea from their insurers on what losses will be covered.

"So far, I don't see any problem" collecting on a $3 million claim filed with American International Group Inc. of New York, said Marilyn Kangas, project manager of the Pittsfield Building. The building contains offices for doctors, dentists, psychotherapists and jewelers.

The insurer is considering the event water damage, not a flood, she said.

"Substantial advance payments have been made," an AIG spokesman said.

Continued on next page

Chicago flood claims

Continued from previous page

The building took in 37 feet of water and was closed for 17 days while fire pumps, elevator motors and electricity panels were restored. The building still has no heat or air conditioning, Ms. Kangas said.

Chubb Corp. "is covering all of our loss," which has not been determined, said Thomas Hamilton, partner with the law firm Hinshaw & Culbertson, a tenant in one of the flooded buildings. "They are not raising any issue of flood."

Lawyers returned to their offices in that building on May 4, three weeks after the "flood."

"We are very happy with the way Chubb has responded," Mr. Hamilton said.

The Warren, N.J.-based insurer had determined soon after the flood that the flood exclusion in its commercial property policies would not apply.

Another Chubb policyholder, LIT America Inc., a trade processor at the Chicago Board of Trade, will be meeting with the insurer this week to determine how much insurance it will recover, said Stephen Balsamo, chief financial officer.

The firm's broker, Marsh & McLennan Inc., "seems optimistic that certain aspects will be covered," Mr. Balsamo said.

LIT America anticipates that direct costs of moving staff and computing operations to an alternative site and overtime pay for workers who helped move the firm will be covered.

Less clear is whether LTT America will be reimbursed for revenue lost because the Board of Trade operated on a reduced schedule for a week. "The interruption we were hurt by wasn't to our business directly, but to the operation of the exchange itself," Mr. Balsamo said. He estimated that 70% of the firm's business is dependent on operation of various trades.

Filene's Basement, which is insured by Protection Mutual Insurance Co., is still documenting its property damage and business interruption loss, said Doug Shapiro, risk manager.

But, it has received an advance and numerous phone calls from the insurer, he said. "They are being more aggressive than we are."

Other policyholders are still waiting for a response from their insurers.

Dave Kalish, the manager of a 19-story office building, has not heard definitively from Allstate Insurance Co. whether his claim will be covered.

But, he notes that Allstate informed him that it is not considering the event a flood. As a result, he expects Allstate will cover the costs of repairing the building's electrical system, boilers and air conditioners.

John Catanese, the manager of family-owned John's Popcorn, was still waiting for word last week from Employers Mutual Insurance Co. of Des Moines, Iowa, on whether his yet undetermined business interruption claim would be covered.

"After a month and a half, they could have told me 'no' by now," Mr. Catanese said. "They know how the flooding happened. If it takes this long to tell me 'no,' that's a poor way of doing business."

He hopes the insurer was waiting for the store to reopen, which it did last Tuesday, so a final calculation for lost business could be determined.

"We are still investigating the facts and circumstances," said Mick Riley, claims manager at the insurer's Oak Brook office. "I know he has two locations and quite a bit (of paperwork) to get together" for the insurer.

A second location of John's Popcorn was closed for three days due to the power outage.

Employers Mutual is denying coverage to its only other policyholder that filed a flood-related claim. The policyholder has a standard Insurance Services Organization Inc. business owner's policy, a property/casualty program offered to small retailers that excludes damages caused by "underground water," Mr. Riley said.

However, John's Popcorn has a standard commercial property policy that may or may not cover losses from the flood. Mr. Riley said he did not know when a decision would be made or why it has not been made yet. ■

Eight Chicago flood lawsuits consolidated

CHICAGO—Eight lawsuits filed by many small businesses and others against the city of Chicago and a bridge contractor whose work is believed to have caused the freak underground Chicago flood have been consolidated.

All of the suits seek class-action status. One estimated that 8,000 to 10,000 businesses were affected.

Another suit estimated that the actions of the city and the contractor caused $2 billion in damages.

All of the suits named as defendants the city and Great Lakes Dredge & Dock Co., the contractor that installed bridge pilings late last summer in the Chicago River over a section of the city's underground freight tunnel system that collapsed April 13.

The pilings are believed to have caused the freight tunnel's roof to collapse, allowing river water to rush through the tunnel system and into the basements of several buildings in the downtown business district.

A consolidated complaint must be filed by the end of business today, said independent plaintiffs' attorney William J. Harte, who was named lead counsel by the court.

The defendants will then have 42 days to answer.

The cases were consolidated into a case filed May 4 by Jolie Mome Inc., a hair salon. That case also names as defendants Great Lakes parent Blackstone Group, a New York-based investment banker, and former Great Lakes owner Itel Corp. of Chicago.

One suit also named city employees as defendants. It alleged that they knew about the damage to the tunnel from the piling installation work before the breach occurred, failed to notify the contractor about the tunnel's location and failed to inspect the completed work.

Another suit named electricity utility Commonwealth Edison Co., which cut off electricity to the area after the flood occurred. Electricity was restored to most non-flooded buildings within three days.

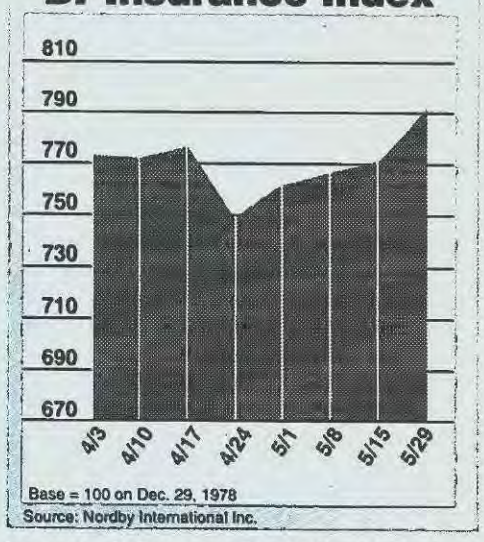
The vast majority of the plaintiffs are owners of small-businesses that did not suffer property damage but were shut down due to the resulting power outage.

Some of the plaintiffs are insured for their losses, but others are not, according to Mr. Harte.

One plaintiff, Edwin J. Mills, is a New York attorney who was in Chicago on business at the time of the flood. He alleges economic damages after he was evacuated from his hotel room and forced to find alternative lodgings.

—By Sara Marley

BI Insurance Index



Insurance industry stocks continued to climb last week, as the *Business Insurance* Index rose 8.1 points to 790.4 on May 29 from 782.3 on May 22. Advancing issues for the week were led by Liberty Corp., up 11.8%; Frank B. Hall, up 10.3%; and GAINSCO Inc., up 9.7%. Declining issues for the week followed Harleysville Group, down 5.1%; Re Capital Corp., down 5.0%; and Chandler Insurance, down 4.6%. The most active issue was U.S. Healthcare, 3.0 million shares traded. The *Business Insurance* Index was up 1.0%; the NYSE Composite was up 0.3%; the Standard & Poor's 500 was up 0.3%; and the Dow Jones 30 Industrials rose 0.3%.

British Issues

May 28 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Comml Union	494	N/M	31.5	6.4	501	494
Genl Accident	483	N/M	35.7	7.4	494	483
Gdn Royal Exch	145	N/M	10.0	6.9	154	145
Royal	236	N/M	15.0	6.4	239	236
Sun Alliance	302	N/M	19.0	6.3	311	302
Brokers						
Bradstock	152	17.1	6.3	4.1	152	152
CE Heath	410	27.0	34.5	8.4	415	410
Hogg Group	162	10.8	10.9	6.7	162	161
JIB Group	200	14.7	10.0	5.0	200	200
Lloyd Thompson	252	25.2	6.0	2.4	255	252
Lowndes Lmbrt	319	13.3	17.3	5.4	319	319
PWS Holdings	52	5.7	5.3	10.2	52	52
Sedgwick Grp	222	17.4	16.0	7.2	222	220
Steel Birl Jones	298	14.9	17.7	5.9	300	298
Willis Corroon	265	17.2	17.6	6.6	265	262

Source: Philip Olsen, Insurance Industry Analyst, London

BI Industry Stock Report

MAY 26, 1992 THROUGH MAY 29, 1992

		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
BROKERS												
Alexander & Alexander	NYS	20.75	1.84	1.22	23.38	18.00	196	1.00	4.82	130	9.77	2.12
Gallagher Arthur J. & Co.	NYS	23.25	-0.53	3.91	25.25	19.00	14	0.64	2.75	18	5.88	3.95
Frank B. Hall	NYS	4.00	10.34	-5.88	5.50	3.13	96	0.00	0.00	-3	-5.24	-0.76
Hilb, Rogal & Hamilton	OTC	12.75	2.00	-3.77	17.25	11.00	208	0.40	3.14	21	3.56	3.58
Marsh & McLennan	NYS	77.63	1.47	-4.61	83.75	70.00	191	2.68	3.45	18	14.77	5.26
Poe & Associates	OTC	14.25	0.00	18.75	16.00	10.00	11	0.40	2.81	16	2.82	5.05
BROKERS	AVERAGE		2.5	1.6					2.4	29		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W.R. Corp.	OTC	32.75	1.55	7.38	36.25	23.50	31	0.36	1.10	12	23.89	1.37
Berkshire Hathaway Inc.	NYS	9100.00	0.00	0.55	9100.00	254.69	0	0.80	0.01	29	4612.00	1.97
ITT (Hartford Group)	NYS	63.25	-2.13	9.52	70.63	50.00	1041	1.84	2.91	11	64.01	0.99
Sears (Allstate)	NYS	43.63	-1.41	15.18	48.00	32.50	2071	2.00	4.58	12	37.38	1.17
CONGLOMERATES	AVERAGE		-0.5	8.2					2.2	16		
INSURERS/REINSURERS												
AEGON N.V.	NYS	67.50	0.00	-3.57	71.75	54.75	4	2.30	3.41	6	N/A	N/A
Aetna Life & Casualty	NYS	42.13	3.69	-4.26	47.00	31.88	864	2.76	6.55	8	64.23	0.66
Allied Group Inc.	OTC	20.13	-0.62	18.38	23.00	16.00	34	0.64	3.18	7	19.85	1.01
American General	NYS	47.00	0.00	5.62	48.25	37.50	818	2.08	4.43	11	37.14	1.27
American Heritage Life Ins.	NYS	29.13	3.56	-4.90	30.00	20.05	5	0.84	2.88	15	N/A	N/A
American Indemnity/Fin'l	OTC	8.00	1.59	68.42	9.25	4.50	1	0.08	1.00	6	12.93	0.62
American International	NYS	84.50	-2.45	-14.10	99.38	78.63	1622	0.48	0.57	11	45.34	1.86
Aon Corp.	NYS	42.75	-1.16	7.89	45.25	34.75	159	1.68	3.93	11	18.50	2.31
Argonaut Group	OTC	26.25	0.96	10.53	31.50	21.75	133	0.84	3.20	8	48.26	0.54
AVEMCO Corp.	NYS	27.00	3.85	8.00	28.00	19.63	22	0.40	1.48	24	9.55	2.83
Baldwin & Lyons Inc.	OTC	28.00	-1.75	8.74	28.50	22.75	4	0.28	1.00	7	24.29	1.15
Belvedere Corp.	ASE	6.13	-2.00	88.46	6.25	2.88	1	0.04	0.65	17	7.65	0.80
Chandler Insurance	OTC	5.25	-4.55	61.54	6.00	2.13	27	0.00	0.00	48	5.95	0.88
Chubb Corp.	NYS	67.13	0.00	-12.82	78.00	60.75	643	1.60	2.38	10	35.19	1.91
CIGNA Corp.	NYS	51.50	2.49	-15.75	61.75	41.25	571	3.04	5.90	11	73.15	0.70
CNA Financial Corp.	NYS	84.00	-1.03	-14.29	104.50	75.50	46	0.00	0.00	9	70.23	1.20
Continental Corp.	NYS	27.88	0.00	0.90	30.38	23.25	297	2.60	9.33	24	37.83	0.74
EXEL Ltd.	NYS	34.50	3.37	-8.00	40.25	27.38	328	0.92	2.67	7	N/A	N/A
Fund American Corp.	NYS	69.25	0.36	-0.89	70.25	62.00	169	0.68	0.98	23	36.11	1.92
Fremont General Corp.	OTC	21.50	0.00	-11.79	26.00	17.00	83	1.00	4.65	5	19.13	1.12
Frontier Insurance Group	NYS	36.63	-3.62	35.65	39.50	20.91	51	0.60	1.64	13	11.20	3.27
Gainsco Inc.	ASE	15.63	9.65	11.61	15.63	9.25	69	0.04	0.26	17	3.37	4.64
General RE Corp.	NYS	81.63	-0.46	-19.88	104.75	77.50	523	1.80	2.21	11	37.50	2.18
Guaranty National Corp.	NYS	14.75	-0.84	1.72	17.00	12.63	71	0.48	3.25	10	N/A	N/A
Hanover Insurance Co.	OTC	36.25	-0.68	1.40	42.75	27.13	67	0.44	1.21	9	37.44	0.97
Harleysville Group	OTC	18.75	-5.06	-11.76	23.25	16.75	41	0.64	3.41	8	22.99	0.82
Hartford Steam Boiler	NYS	53.50	-0.47	-6.96	62.00	45.13	124	2.00	3.74	16	17.05	3.14
Kemper Corp.	NYS	25.25	-0.98	-33.77	46.13	23.75	211	0.92	3.64	7	34.20	0.74
Lawrence Insurance Group	ASE	7.63	-1.61	-31.46	11.13	7.63	2	0.48	6.30	17	4.71	1.62
Liberty Corp.	NYS	30.75	11.82	38.98	30.75	19.50	92	0.48	1.56	14	23.86	1.29
Lincoln National	NYS	57.50	0.44	5.02	61.00	45.38	335	2.92	5.08	10	45.16	1.27
Markel Corp.	OTC	25.88	-1.90	17.61	28.25	17.13	74	0.00	0.00	7	3.22	8.04
Mutual Risk Mgmt. Ltd.	NYS	30.75	2.50	-12.46	37.75	17.00	69	0.12	0.39	21	-	-
NAC Re Corp.	OTC	26.00	1.96	-17.46	33.00	21.75	29	0.16	0.62	12	18.90	1.38
National Re Holdings Corp.	NYS	18.88	-1.31	N/A	23.63	17.00	43	0.12	0.64	10	N/A	N/A
Navigators Group	OTC	34.50	1.47	-15.85	48.25	29.50	4	0.00	0.00	20	13.52	2.55
Nobel Insurance LTD.	OTC	5.00	-2.44	25.00	6.00	3.38	11	0.00	0.00	3	7.76	0.64
NWNL Companies	NYS	36.00	-1.03	15.66	38.50	18.63	59	1.48	4.11	11	42.73	0.84
Ohio Casualty Corp.	OTC	55.25	1.61	11.62	58.25	43.50	73	2.68	4.85	9	36.38	1.52
Old Republic Int'l	NYS	19.63	-4.27	10.56	21.13	13.75	159	0.36	1.83	7	33.09	0.59
Orion Capital Corp.	NYS	31.00	-3.13	-1.98	34.25	27.00	40	0.92	2.97	5	29.68	1.04
Phoenix RE Corp.	OTC	11.13	1.14	5.95	11.75	8.50	79	0.20	1.80	27	13.30	0.84
Provident Life	OTC	21.25	-0.58	-8.60	24.25	16.75	75	1.00	4.71	9	25.88	0.82
Re Capital Corp.	ASE	14.38	-4.96	0.00	18.25	13.13	27	0.24	1.67	15	15.05	0.96
Reliance Group Holdings	NYS	5.50	0.00	33.33	6.13	3.50	76	0.32	5.82	3	5.61	0.98
RLI Insurance Corp.	NYS	19.50	0.65	18.18	20.38	11.88	9	0.48	2.46	9	14.41	1.35
St. Paul Companies	NYS	70.00	0.00	-3.95	75.75	57.13	306	2.72	3.89	7	52.00	1.35
SAFECO Corp.	OTC	49.13	-0.25	0.77	50.13	35.50	809	1.64	3.34	11	31.50	1.56
SCOR U.S. Corp.	NYS	16.38	2.34	6.50	18.88	11.63	4	0.28	1.71	10	11.19	1.46
Seibels Bruce Group	OTC	5.75	2.22	4.55	8.75	4.00	143	0.36	6.26	-3	7.35	0.78
Selective Ins. Group	OTC	20.00	5.26	19.40	20.00	13.75	91	1.12	5.60	8	18.91	1.06
Statesman Group Inc.	OTC	5.50	7.32	-4.35	6.88	2.63	713	0.00	0.00	3	2.48	2.22
Tokio Marine & Fire	OTC	38.75	-2.52	-24.76	55.25	32.25	3	0.00	0.00	-	70.93	0.55
Torchmark Corp.	NYS	57.50	-1.50	-0.65	61.50	46.50	218	1.60	2.78	12	16.70	3.44
Transamerica	NYS	42.63	-0.29	6.90	46.75	31.25	449	2.00	4.69	29	36.56	1.17
Transatlantic Holdings	NYS	33.13	5.16	-14.79	39.63	29.00	68	0.24	0.72	10	18.38	1.80
Travelers Corp.	NYS	20.00	0.00	-7.51	25.00	17.25	973	1.60	8.00	8	41.44	0.48
Trenwick Group Inc.	OTC	26.50	-3.20	-7.02	30.75	23.00	78	0.72	2.72	9	21.71	1.22
United Fire & Casualty	OTC	57.50	0.66	27.78	62.00	42.00	2	1.48	2.57	11	35.39	1.62
USF&G Corp.	NYS	11.75	8.05	62.07	11.75	5.63	1900	0.20	1.70	-7	11.96	0.98
UNUM Corp.	NYS	38.00	-2.25	-6.17	40.63	28.81	888	0.64	1.68	12	37.25	1.02
USLIFE Corp.	NYS	47.38	3.55	-1.04	47.88	38.50	103	1.68	3.55	10	60.34	0.79
Unitrin	OTC	34.38	0.36	-3.85	39.00	31.00	729	1.00	2.91	14	30.70	1.12
USLICO Corp.	NYS	18.13	-1.36	-2.03	21.00	17.00	40	1.00	5.52	-15	29.44	0.62
Washington National	NYS	18.75	-0.66	18.11	20.63	13.38	50	1.08	5.76	-32	26.86	0.70
Zenith National Ins.	NYS	17.75	0.00	5.19	18.50	13.75	77	1.00	5.63	8	13.14	1.35
INSURERS/REINSURERS	AVERAGE		0.4	5.1					3.4	11.8		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	OTC	17.00	0.74	19.30	27.00	9.88	462	0.00	0.00	16	5.44	3.13
HMO America Inc.	OTC	11.00	-1.12	-34.33	24.88	9.63	1461	0.00	0.00	12	0.61	18.03
Pacificare Health Sys.	OTC	55.50	1.37	40.51	62.50	21.50	220	0.00	0.00	20	6.55	8.47
Safeguard Health Enter.	OTC	12.25	2.08	30.67	14.75	5.13	22	0.00	0.00	18	3.53	3.47
Sierra Health Services	ASE	19.63	1.29	6.08	27.50	12.38	22	0.00	0.00	10	1.78	11.03
United Healthcare Corp.	NYS	88.75	6.29	19.13	93.00	40.25	399	0.03	0.03	34	3.76	23.60
United Medical Corp.	ASE	7.38	-3.28	5.36	10.88	5.88	6	0.20	2.71	28	8.79	0.84
U.S. Healthcare	OTC	54.00	4.60	30.12	57.75	21.25	2955	0.56	1.04	24	3.38	15.98
HMOs	AVERAGE		1.5	14.6					0.5	20		
ALL COMPANIES	AVERAGE		1.0	7.4					2.8	14		

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