JUNE 29, 1987

business insurance®

Reporting weekly for corporate risk, employee benefit and financial executives / $1.75 a copy; $68 a year
© Entire contents copyright 1987 by Crain Communications Inc. All rights reserved

update

Willis Faber, Stewart Wrightson halt stock trading in London

LONDON—Trading of Willis Faber P.L.C. and Stewart Wrightson Holdings P.L.C. shares was suspended on the London Stock Exchange late last week.

Rumors have circulated for a couple of months that Willis Faber, the world's seventh-largest broker, would merge with Stewart Wrightson, the world's 12th-largest broker. However, Stewart Wrightson

Continued on next page

Photo: American Recreation Coalition

Rising liability insurance costs are causing some recreational facilities to cancel white-water rafting excursions.

Rate hikes dampening summer fun in the sun

By MICHAEL BRADFORD

Summer vacationers looking to escape into the great outdoors are discovering that rising liability insurance costs have forced campgrounds and other recreational facilities to eliminate some activities and charge more for others.

However, insurance costs for one sector of the summer recreation industry, amusement parks, which have been hit with steep rate increases in the past several years, seem to have stabilized.

Some outdoor recreational facilities have discontinued outings, like horseback riding and river rafting trips, because skyrocketing liability insurance rates have eaten too heavily into profits.

And owners and operators report they are charging guests up to 20% more for activities that haven't been scrapped to help pay for increased

Continued on page 18

Appeals courts OK retirement windows

By STEPHEN TARNOFF

CHICAGO—Two federal appellate court decisions protect employers from allegations that early retirement window plans discriminate against older workers.

In *Henn vs. National Geographic Society*, the 7th U.S. Circuit Court of Appeals strongly upheld the validity of early retirement window plans, saying they are a benefit to employees and are not presumptively discriminatory.

And, in *Paolillo vs. Dresser Industries Inc.*, the 2nd U.S. Circuit Court of Appeals withdrew portions of its earlier opinion that presumed such plans were discriminatory and that made employers responsible for proving the plans are voluntary (*BI*, May 18).

However, under this revised ruling, which is more favorable for employers, the 2nd Circuit Court still is remanding the case to a U.S. District Court for trial to determine whether the early retirement window plan offered indeed was voluntary.

Attorneys and employee benefit consultants say both appellate court decisions are positive rulings for employers, which are increasingly offering early retirement plans in lieu of workforce reductions and are being sued more frequently by employees who enter into them.

"It is a major decision for employers, particularly coming after the first Paolillo decision," said Morgan Hodgson, who represented National Geographic in the Henn decision. "It should give a large measure of comfort to employers."

Under the decision, early retirement window plans are presumed to be non-discriminatory and employers that offer them without coercion will not have to prove that employees entered into them voluntarily, explained Ms. Hodgson, with the Washington, D.C., law firm of Steptoe & Johnson.

However, in light of increasing litigation in this area, "employers still have to be very careful about how they structure and implement early retirement plans," to ensure that they are voluntary, she added.

"It's very pro-employer," said Sandra E. Rapoport, attorney and managing consultant for consultant William M. Mercer-Meidinger-Hansen Inc. in New York, also referring to the Henn decision. "The big message is that an early retirement incentive offer is not an indication of age discrimination but is a benefit."

The attorney for the plaintiffs in the Henn case could not be reached for comment.

An attorney involved in the Paolillo case also said that decision was beneficial to employers.

"The new opinion clears the air with regard to the presumptive legality of a voluntary non-discriminatory early retirement plan," said Fred A. Freund, whose firm filed an amicus brief with the 2nd Circuit opposing the first Paolillo decision on behalf of the New York Chamber of Commerce and Industry.

"The cloud of the first decision has been removed," observed Mr. Freund, who is with the New York law firm of Kaye, Scholer, Fierman, Hays & Handler.

However, the attorney for the plaintiffs in the Paolillo case said it was "premature" to predict what effect the decision will have at the trial court level.

Although expressing disappointment with the revised decision, Philip Steele with the Hartford, Conn., law firm of Rogin, Nassau, Caplan, Lessman

Continued on page 35

Big employers endorse Kennedy bill

By JERRY GEISEL

WASHINGTON—Two Fortune 500 companies are throwing their support behind Sen. Edward Kennedy's drive to require all employers to offer group health care coverage.

At a Senate Labor and Human Resources Committee hearing last week, executives from Chrysler Corp. and Baxter Travenol Laboratories Inc. gave their enthusiastic blessing to mandatory employer-provided health insurance.

Chrysler and Baxter Travenol executives said a federal mandate proposed by Sen. Kennedy, D-Mass., requiring companies to offer at least minimal coverage, would ensure that health care costs are shared equitably by all employers.

They told the panel that big employers with health care plans currently must pick up the health care costs of uninsured workers when hospitals pass on these costs in the form of higher charges to insured patients.

"Given the competition we face, it is unfair that a minority of employers, usually those not facing foreign competition, can effectively let someone else pick up the tab for their employees' health expenditures," said Walter B. Maher, director of employee benefits for Chrysler in Highland Park, Mich.

"We believe that companies like Chrysler, which have already assumed a significant financial responsibility to provide employee health coverage, thereby alleviating pressures on public systems, should not be allowed to be a dumping ground for other companies' health bills," he added.

Karl D. Bays, chairman of Deerfield, Ill.-based Baxter Travenol, said mandating employer-provided health insurance coverage would be far more efficient than expanding government health care programs.

Continued on page 6

Photo: Ken Heinen

Robert L. Crandall, left, chairman and president of American Airlines, Walter B. Maher, director of employee benefits at Chrysler, and Karl D. Bays, chairman of Baxter Travenol Laboratories, testify in support of mandated health benefits.

Mandated health care benefits would hike labor costs: Study
Page 7

NEWSPAPER

update

Lloyd's broker merger hinted

Continued from previous page

Chairman David Rowland reiterated recently that they were only rumors (*BI*, June 22).

If the brokers merge, the combined brokerage could nose out Frank B. Hall & Co. Inc. as the fifth-largest broker in the world. Willis Faber's and Stewart Wrightson's combined revenues in 1986 totaled 264.8 million pounds ($391.9 million). Hall reported gross revenues of $390.9 million in 1986.

Stock analysts believe that a merger between Willis Faber and Stewart Wrightson would not disrupt the close business ties between Willis Faber and Johnson & Higgins, the No. 3 U.S. broker.

Neither company would comment on a possible merger.

California stifles rating groups

SAN FRANCISCO—Property/casualty insurers will not be allowed to use advisory rates from insurance rating organizations in California beginning Jan. 1 under a directive issued last week by California Insurance Commissioner Roxani M. Gillespie.

The action also calls upon the Insurance Services Office to develop a plan by Sept. 15 to provide its members with projected loss costs only, not suggested rates.

"We have determined that advisory rates are simply not compatible with California's competitive rating system," Ms. Gillespie said in a statement. "When times are tough, insurers tend to adopt the ISO advisory rate, rather than use their own expense or loss experience to develop rates. The result has been some horrendous price increases to the consumers."

While rating organizations may provide projected loss costs, each insurer should determine its own expenses and investment income, among other things, she said.

The change in department policy initially affects rates for commercial general liability, but soon will be applied to other commercial and personal lines.

Bum machine saves tort reform

BATON ROUGE, La.—A malfunctioning voting machine gave lobbyists enough time to save tort reform legislation from defeat in the Louisiana Senate, while two other states passed tort reforms last week.

In Louisiana, H.B. 841, which modifies joint and several liability, passed 20-19. Earlier this month, the Senate appeared deadlocked because the voting machine of Sen. Ben Bagert, D-New Orleans, failed to record his no vote and counted him as absent.

The legislation, which was awaiting Gov. Edwin Edwards's signature last week, limits to 50% the amount of an award a defendant can be forced to pay when other liable defendants are insolvent. Current Louisiana law allows for a defendant to pay an entire award, regardless of liability, if other defendants are insolvent.

The New Jersey Legislature last week approved one bill that makes it more difficult to pursue product liability suits and another that eliminates joint and several liability for tavern owners.

Gov. Thomas Keane signed the bill for tavern owners Friday and is expected to sign the product liability bill.

The product liability bill states a manufacturer is not liable if a product contains an adequate warning or if harm is caused by an inherent characteristic that would be recognized by an ordinary person.

The bill also states punitive damages can be awarded only if the injury was the result of actual malice or "wanton and willful disregard" of the product users' safety.

The legislation eliminating joint and several liability for tavern owners prohibits a patron from suing a tavern owner if he leaves the bar in an apparently sober condition, becomes drunk elsewhere and is then hurt.

The Rhode Island Legislature last week approved legislation that

Continued on page 33

errors & omissions

• The page reporting "Brokers' Revenues Boom" was the intended cover of the June 22 issue, but due to a printing error it was not. Because of this error, several paragraphs of the story about Harcourt Brace & Jovanovich Inc.'s directors and officers liability insurance were covered by mailing labels. Here are those paragraphs:

The plan, which would increase HBJ's debt to about $3 billion and place more than 30% of the company's voting stock in hands friendly to the company, would block British Printing's efforts to take over HBJ.

British Printing Chairman Robert Maxwell had offered $44 per share to HBJ shareholders of May 18, but withdrew it after HBJ initiated its recapitalization plan, which was announced on May 26.

Also named in the suit, which was filed in U.S. District Court for the Southern District of New York, are investment banker First Boston Corp., affiliate First Boston Securities Corp. and 15 HBJ directors.

Among HBJ's directors are former Minnesota Sen. Eugene J. McCarthy; former Vassar College President Virginia B. Smith; and Marta Casals Istomin, artistic director of the John F. Kennedy Center for the Performing Arts.

• Frank B. Hall & Co. Inc. incorrectly reported its number of employees in 1986 and 1985 to *Business Insurance* for the annual Agent/Broker Profile issue by including the number of employees in discontinued operations while revenues from these operations were not included in gross revenues (*BI*, June 22). The correct employee figures are 5,505 in 1986 and 5,527 in 1985 and the correct revenues per employee are $71,000 in 1986 and $65,227 in 1985.

Prepare for assaults on tort reforms: ATRA

By DEBORAH SHALOWITZ

WASHINGTON—Despite dramatic gains this year, tort reform advocates must gear up to mount defensive campaigns to stave off counterattacks waged by opponents of new tort laws, says the president of a national tort reform association.

This year "was a far more successful year than people predicted" it would be for tort reform, declared James K. Coyne, president of the American Tort Reform Assn.

Some form of tort reform legislation was passed in 13 states in the first half of 1987, according to ATRA (*BI*, June 8; April 20). And at press time, two more states—New Jersey and Rhode Island—passed tort reform legislation.

However, tort reform "is going to be a long-term battle"—even in states that have passed such laws—because of efforts by trial lawyers to invalidate or weaken the reforms, Mr. Coyne stated.

Furthermore, both businesses and consumers will have to wait years to see the effects of the tort reforms now being enacted.

Mr. Coyne explained that tort reforms apply to events that occur after the laws become effective, not pending cases.

Because of the time lag between when an accident occurs, when a case is filed and when the case is decided, the effects of tort reform on jury awards won't be seen until 1989 at the very earliest, he said.

It will also take some time to see the effects of tort reforms on the pricing of insurance, said Mr. Coyne.

He estimated "the tort system represents about a 60% factor in the pricing of insurance." So "over time, (with) all other things being equal, insurance rates will come down" as a result of tort reforms, he predicted.

Also, the marketplace will drive down insurance rates because of expectations of lower damage awards, he added.

ATRA, which works with tort reform coalitions in each state, compiled a state-by-state analysis of tort reforms passed in 1986 and through mid-June of 1987. Mr. Coyne last week summarized the group's findings and speculated on where tort reform legislation will and will not be enacted in 1988.

The toughest states for tort reform advocates next year will be Pennsylvania and North Carolina, where state legislators have been staunch opponents of any reforms, said Mr. Coyne.

The most promising prospects for passage of tort reform in 1988 are Tennessee, Kentucky, Louisiana, Oregon and Massachusetts (see related story, page 26), he speculated.

Mr. Coyne said he is also "quite optimistic" about tort reform in Mississippi, especially if tort reform becomes a regional issue and some of the state's neighbors, such as Louisiana and Tennessee, lead the way. Alabama, which shares Mississippi's longest border, already has enacted "the best package" of tort reforms in the nation, he said (*BI*, June 15).

Florida and California, which passed some tort reforms in 1986, probably will pass more statutes or refine their existing ones, he speculated.

Mr. Coyne said ATRA's key legislative initiative has been the elimination or modification of joint and several liability, under which a defendant can be forced to pay an entire damage award even though it was only partially liable but co-defendants cannot pay their share.

Five states now do not have joint and several liability laws and 22 states have modified their statutes in the last 18 months, according to ATRA.

Continued on page 4

Two directories on surplus lines

Business Insurance will publish two directories in the Aug. 10 issue, which will contain a spotlight report on the excess/surplus lines insurance market.

One directory will list underwriting managers, managing general agents and surplus lines brokers; the other will list surplus lines insurers.

There is no charge to be included in either directory. However, companies that wish to be listed must fill out and return a questionnaire provided by *Business Insurance*.

Underwriting managers, managing general agents, surplus lines brokers and insurers that have not yet received a questionnaire should contact Marilou Jones, Directory Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5280.

The deadline for returning completed questionnaires to *Business Insurance* is July 6.

96% of PCW names accept Lloyd's offer

By STACY SHAPIRO

LONDON—Ninety-six percent of the members of the loss-riddled Lloyd's of London non-marine syndicates formerly managed by PCW Underwriting Agencies Ltd. are accepting Lloyd's offer of 103 million pounds ($164.8 million) and immunity from further losses, says Lloyd's Chairman Peter Miller.

However, the 60 PCW members who have refused to accept Lloyd's offer have until July 8 to change their minds, said Mr. Miller. This includes six PCW members who live in the United States, whose combined losses from the syndicates total only 57,000 pounds ($91,200), he said.

If the members do not accept the offer, they may sue Lloyd's and 37 other parties to recover their losses and for damages for negligence and mismanagement.

However, Mr. Miller says he believes that litigation against Lloyd's "is extremely unlikely" and predicts "only a handful" of PCW members will refuse the offer by July 8.

Lloyd's offer became unconditional on June 19 after 90% to 92% of the PCW members notified Lloyd's that they agreed with the terms of the settlement, said Mr. Miller. By June 24, the day of Lloyd's annual general meeting, the acceptance figure had increased to 96%. This includes:

• Nineteen PCW members who have pleaded hardship to Lloyd's

Continued on page 12

inside

- Hogg Robinson Group P.L.C. is splitting its insurance brokerage and travel services division into two separate companies and has called off merger talks with Fenchurch Insurance Holdings Ltd. **PAGE 4**
- Proposed Internal Revenue Service regulations for implementing the health care continuation provisions of COBRA are yet another example of the damage Congress can wreak when it hastily passes benefits legislation, this weeks editorial laments. **PAGE 8**
- Rates charged by health maintenance organizations rose less in 1985 than in 1984, trailing the medical inflation rate, reports a survey by the Group Health Assn. of America Inc. **PAGE 13**
- In Speaking Out, Howard C. Alper, president of Audit-Rate Inc., writes an open letter to property/casualty insurers urging them to quit worrying about the next soft market and, instead, try to prevent it. **PAGE 21.**
- Connecticut Gov. William A. O'Neill will push for legislation that will encourage employers to include long-term care coverage in employee benefit plans. **PAGE 24**
- A majority of Massachusetts residents believe that the current civil justice system is unfair, according to a survey conducted by Cambridge Reports Inc. for several industry associations. **PAGE 26**

departments

A.R.M. exercises 22
Classifieds 30
Comings & goings: buyers 31
Insurance services guide 34
Legal briefs 22
Letters 8
London 15
Opinions 8
Perspectives 21
Speaking out 21
Ticker 35
Washington 27

Vol.21, No.26—*Business Insurance* (ISSN 0007-6864) is published weekly at 740 N. Rush St., Chicago, Ill. 60611-2590. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to *Business Insurance*, Circulation department, 965 E. Jefferson Ave., Detroit, Mich. 48207; 313-446-1611. Copyright 1987 by Crain Communications Inc.

Syndicate 553 quits U.S. risks after big loss

By CAROLYN ALDRED

LONDON—Huge underwriting losses on North American liability business cost an underwriter for Lloyd's of London syndicate 553 his job and the market more capacity.

Lloyd's non-marine underwriter Cyril Warrilow resigned last month following the discovery that syndicate 553, managed by C.J.W. (Underwriting Agencies) Ltd., suffered estimated 1984 underwriting losses of nearly 78 million pounds ($115.4 million at year-end 1986 exchange rates).

And, the syndicate stopped writing North American liability business.

Syndicate 553's 1984 results are the worst of any that have been released, sources at Lloyd's say. Lloyd's syndicates are currently closing their 1984 accounts under Lloyd's three-year accounting system.

About 70% or 54.6 million pounds ($80.8 million) of the syndicate's underwriting loss resulted from North American liability claims, said Mr. Warrilow in the syndicate's annual report, which was published this month.

Much of the North American losses resulted from increases in reserves by U.S. insurers that ceded business to the syndicate.

Besides stepping down as underwriter, Mr. Warrilow also resigned from C.J.W. Underwriting, where he was a director.

Immediately following Mr. Warrilow's resignation, C.J.W. Underwriting declared that syndicate 553 would stop writing North American casualty business and instead focus on non-U.S. liability risks and personal accident insurance. The syndicate, however, has already written about 20% of its 1987 capacity—or 2.7 million pounds ($4.3 million at current exchange rates) in North American business this year.

The syndicate shows an overall deficit of 16.4 million pounds ($24.3 million) for 1984, net of reinsurance, reserves carried forward from the previous accounting year and investment income. That deficit must be paid in cash by the syndicate's 1,452 members, according to the report.

Each member will be asked to pay roughly half of his or her premium income capacity committed to the syndicate for 1984. For example, for every 30,000 pounds of premium underwritten, a member will pay a loss of 15,045 pounds ($22,267), according to the syndicate report.

Members will be asked to pay one-quarter of the loss, 4.09 million pounds ($6.1 million), this year, while the remainder will be collected over the next three years "subject to a thorough review of the 1984 account's position at subsequent audits," said C.J.W. Chairman Peter Maitland.

The 16.4 million pound net loss is more than five times greater than the 3.89 million loss suffered by the syndicate for the 1983 underwriting year.

"What may well prove to be one of the worst ever underwriting years for U.S. casualty insurance has helped to turn a bad year into a serious loss. One particular area that deteriorated seriously and in the last quarter was the U.S. casualty reinsurance account," says Mr. Maitland in the syndicate's report.

Because of the "seriousness of the loss, the late surge of new or increased claim advices and the need therefore to establish substantial specific

Continued on page 25

The Windy City was host to the Summer National Meeting of the National Assn. of Insurance Commissioners last week.

NAIC/Chicago

Commissioners amend model risk retention law

By MEG FLETCHER

CHICAGO—New amendments to the National Assn. of Insurance Commissioners' model risk retention law encourage states to take more control over risk retention and purchasing groups.

The amendments emphasize the authority of individual states to require prior approval of purchasing groups' rates and forms. In addition, they incorporate state standards for the licensing of agents and brokers who place coverage with purchasing and risk retention groups.

The NAIC's final amendments did not incorporate most of the suggestions made by the buyers and agent representatives who participated in an advisory group established in late April after they complained that they had been left out of the deliberations over the amendments (*BI*, April 27).

Some insurance buyers complain that the proposed amend-

Continued on page 33

Govs. Thompson, Clinton defend state regulation

By LINDA J. COLLINS

CHICAGO—The McCarran-Ferguson Act should not be repealed because regulation of the insurance industry works best at the state level, two state governors say.

The two governors, speaking at the opening session of the National Assn. of Insurance Commissioners' Summer National Meeting in Chicago last week, said they do not believe federal regulation of insurance would improve the industry.

"The strength of our 120-year-old state regulatory system of insurance is readily apparent. When compared with other financial services in the nation and in the world, the insurance industry is in good shape," said Illinois Gov. James R. Thompson, a Republican.

"Only 56 insurers nationwide became insolvent last year, and the system . . . is in better shape than either the Federal De-

Continued on page 31

Expect shorter cycles: Insurers

By JUDY GREENWALD

NEW YORK—Executives of three major insurance and reinsurance companies agree that while the property/casualty insurance market has already turned, the next soft market will not be as bad as the last one.

"I think that the next down cycle will not be anywhere as severe, nor as long, as the last cycle," said Michael Fitt, chairman and chief executive officer of Employers Reinsurance Corp. in Kansas City, Mo.

Mr. Fitt spoke at a dinner sponsored by First Boston Corp. in connection with the Assn. of Insurance & Financial Analysts' insurance symposium earlier this month.

William C. McCormick, chairman, president and chief executive officer of Fireman's Fund Insurance Cos. of Novato, Calif., and Edward B. Jobe, president of American Re-Insurance Co. of New York, who participated in a panel discussion during the symposium, agreed with Mr. Fitt.

"I also predict this cycle will not be as severe," said Mr. McCormick.

"We're always going to have cycles," said Mr. Jobe, but "I hear, I see, I can smell a commitment to manage the cycle that is really without precedent."

Both Mr. McCormick and Mr. Jobe cited the development of more sophisticated management information systems as among the reasons for their optimism.

In his address Mr. Fitt said the property/casualty insurance in-

Continued on page 27

Canadian work comp act under attack

Map: Amy Palmer

By TONY THOMPSON

ST. JOHN'S, Newfoundland—Canadian employers could face vastly increased liability for workplace injuries following a Newfoundland Supreme Court decision that strikes down the province's workers compensation system as the exclusive remedy to injured employees.

The court currently is reviewing the case and is expected to rule in July or August whether the province's workers compensation act is unconstitutional under the nation's 1985 Charter of Rights because the act takes away individuals' rights to sue employers to recover for damages.

Newfoundland Supreme Court Chief Justice Alexander T. Hickman ruled last fall that the Newfoundland workers compensation act was unconstitutional under the Charter of Rights, which is similar to the Bill of Rights in the U.S. Constitution.

The panel of five Newfoundland Supreme Court judges rehearing the case also will rule on whether employees who filed workers comp claims before 1985 also can sue their employers.

But whichever way the court rules, it is expected the case eventually will be heard in the Supreme Court of Canada to provide a definitive ruling for all workers compensation boards in the country.

All 10 Canadian provinces and the country's two territories currently have no-fault workers compensation laws that bar employees from suing their employers for workplace injuries. The laws date back to Ontario's 1915 workers compensation act.

If the original Newfoundland Supreme Court decision stands, it is "certainly going to cost employers a lot of money in liability insurance," predicted Guy Jobin, vp-employee benefits at Johnson & Higgins Willis Faber in Toronto.

"This will be particularly tough in British Columbia, where lawyers are allowed, as in the U.S., to take cases on a contingency basis," Mr. Jobin said. In the other Canadian provinces and territories, plaintiffs must pay up-front legal fees to bring their cases to trial.

"The decision strikes at the very heart of the Canadian system," said Ken Harding, executive director of the Assn. of Workers' Compensation Boards of Canada and a 40-year veteran of workers compensation boards.

"Mr. Justice Hickman went behind the evidence to arrive at his decision," contended Mr. Harding, who was called as an expert witness during the hearing.

The battle over the constitutionality of the exclusive remedy provision of Newfoundland's workers comp law began following the electrocution death on July 20,

Continued on page 14

Tort reform efforts

Continued from page 2

This is "a tremendous accomplishment," declared Mr. Coyne.

Although elimination or modification of joint and several liability will continue to be an ATRA priority during 1988, Mr. Coyne noted the remaining 23 states "are going to be tougher."

ATRA's second key legislative initiative, both over the last 18 months and in the future, is modification of the collateral source rule, so that payments made to plaintiffs from sources like health insurance or workers compensation may be introduced as evidence and/or used to reduce a damage award.

Many states' collateral source rules, pointed out Mr. Coyne, do not even allow a jury to know if a plaintiff has or will collect anything other than the defendant's award.

Ten states revised the collateral-source rule in 1986 and another four revised it in 1987, according to ATRA.

However, "trial attorneys have identified this as a strong priority to fight" next year, noted Mr. Coyne.

Punitive damage reform is the third legislative initiative on which ATRA and state tort reform coalitions are focusing.

Nine states passed punitive damages reforms in 1986 and another nine passed such reforms in 1987.

Reform of product liability laws is one of ATRA's objectives for next year, Mr. Coyne pointed out.

Although ATRA supports the uniform federal product liability legislation proposed by Rep. Bill Richardson, D-N.M. (*BI*, March 2), "the states seem to be moving more aggressively" toward product liability reform than the federal government, said Mr. Coyne

And the opposition to product liability legislation from Senate Commerce Committee Chairman Ernest Hollings, D-S.C., "is formidable," conceded Mr. Coyne. However, Mr. Coyne quipped that Sen. Hollings "will not be the chairman of the Commerce Committee forever."

In the meantime, Mr. Coyne predicted that product liability reform is "almost a certainty next year" in Michigan.

Also, state tort reform coalitions next year will "shift strategy from the offensive to the defensive," as efforts by those opposing tort reform attempt to overturn or invalidate newly enacted laws.

Mr. Coyne said that trial lawyers are using three major tactics to halt or repeal tort reform: public referendums concerning the laws, court challenges to the constitutionality of tort reforms and introduction of new legislation to weaken or replace tort reforms previously passed by state legislatures.

ATRA and state tort reform coalitions plan to file amicus curiae briefs in states where the constitutionality of tort reforms are being challenged.

Even after tort reforms have been enacted and no longer are challenged, the state tort reform coalitions plan to remain active, pointed out Mr. Coyne. The groups are "permanently in place to provide oversight of the judicial branch" of the government, he explained.

ATRA is a Washington, D.C.-based coalition that was formed in January 1986 and has a membership of more than 400 organizations representing approximately 35 million people. Members include trade and professional associations, large and small businesses, non-profit groups and individuals.

Among ATRA's members are such organizational giants as the American Red Cross, the Boy Scouts of America the National Assn. of Manufacturers, Sears Roebuck & Co., Safeway Stores Inc. and Time Inc. ■

EMPLOYEES WITH BENEFIT QUESTIONS CAN NOW BUZZ THE METLIFE SHOWCASE BENEPHONE.

METLIFE Showcase®

MetLife SHOWCASE just got better. Because now, BenePhone is here to answer personal benefit questions. In fact, companies can choose to offer BenePhone by itself, or with the MetLife SHOWCASE Benefit Centers.

People can call MetLife SHOWCASE BenePhone anytime, 24 hours daily, from any touch-tone phone. They just punch in their ID numbers, and they can find out about their employer-sponsored financial accounts, retirement benefits, and insurance coverages. Right over the phone.

To help employees get in touch with their benefits, benefit managers should get in touch with us. Call 1-800-847-8285.

GET MET. IT PAYS.

Metropolitan Life AND AFFILIATED COMPANIES

© 1987 Metropolitan Life Insurance Company, NY, NY

SNOOPY: ©1958 United Feature Syndicate, Inc.

Hogg Robinson to split broker from travel unit

By STACY SHAPIRO

LONDON—Hogg Robinson Group P.L.C., which last week broke off merger talks with rival London broker Fenchurch Insurance Holdings Ltd., will split its insurance brokerage and travel services divisions into two separate companies.

Following three months of negotiations between Hogg, Fenchurch and Fenchurch's parent company, Guinness Peat Group P.L.C., merger talks failed early last week, said Hogg Chairman Albert Wheway, who would not elaborate.

Fenchurch Managing Director Roger Earl said there were questions about the existing liabilities of Hogg's brokerage division, as well as how the merged company's management would be structured.

"The two companies are well-matched, and we are disappointed," said Mr. Earl.

Following the split of Hogg Robinson into two companies, its brokerage activities will continue to be owned by current Hogg Robinson Group shareholders, but the name of the company will be changed to that of its Lloyd's of London brokerage, Hogg Robinson & Gardner Mountain P.L.C.

Hogg Robinson & Gardner Mountain will include U.S. subsidiary Republic Hogg Robinson Inc., said Christopher Price, chief executive of Hogg's brokerage division.

Hogg Robinson's travel, transport, financial and property services—which include Robinson Group's personal lines insurance, pensions and employee benefits services—will be transferred to a new holding company called Hogg Robinson P.L.C.

Stockholders will receive one share of the new company's stock for every ordinary share of Hogg Robinson Group stock owned. Initially, 90% of the company's stock will be held by existing shareholders and 10% by Hogg employees.

"By clearly being in the broking industry, we are very clearly putting up the flag that we are insurance brokers," said Mr. Price. The brokerage has 34 offices in the United States and 12 in Britain.

The division between Hogg's brokerage and travel divisions will make both companies "much more attractive to possible predators," according to Lee Coppack, stock analyst for stockbroker Sheppards in London.

A clearly identified brokerage company will be easier to merge with other companies, Ms. Coppack said. Until now, Hogg has had difficulty finding merger partners because other brokers were not familiar with the travel business, she noted.

Hogg Robinson last week also announced that gross revenues for the year ended March 31 increased 11.8% to 148.5 million pounds ($239.1 million) from 132.9 million pounds ($196.7 million) in fiscal 1985-86 (*BI*, June 22).

Nearly 53%, or 78.1 million pounds ($125.7 million) of the company's gross revenues, excluding investment income, was derived from insurance brokering, Lloyd's agencies and other activities, while travel services and related business produced the remaining 47% of revenues.

Pretax profits increased 18.4% to 20.6 million pounds ($33.2 million) from 17.4 million pounds ($25.8 million) in 1985-86. Insurance brokering accounted for 9.9 million pounds ($16 million), or 48%, of the company's pretax profits, down 3.9% from 10.3 million pounds ($15.2 million) of pretax profits in 1985-86. ■

Satisfied customers generate new customers. It works for Scott Paper. It works for Wausau.

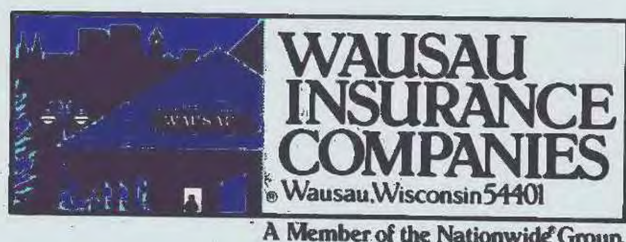
Renewing sales to satisfied customers and gaining the confidence of new customers has made Scott Paper Company the world's largest seller of sanitary tissue products and one of the largest of coated papers. Scott's proven ability to meet the public's changing needs has earned their leadership position.

Wausau Insurance has worked with Scott for nearly 40 years. "Renewing that long relationship so many times clearly indicates Wausau's dependability," says C. R. Lindahl, Scott's Director of Risk Management. "And despite the inevitable turnover of people in that length of time, the quality of Wausau's services has been consistent."

A big part of Wausau's job for Scott is providing claims and loss control services. "We look to Wausau as being the people who have the skilled work force and geographic spread to protect our interests throughout the country," Mr. Lindahl says.

Retaining the confidence of policyholders like Scott Paper Company year after year is our greatest source of pride — and source of new policyholders.

WAUSAU WORKS.



A Member of the Nationwide Group.

Kennedy bill

Continued from page 1

"Benefits (under the Kennedy bill) do not have to come from Washington. I like that," said Mr. Bays, who last week was named chairman of IC Industries Inc. "Money spent on health care works hardest when it follows the shortest possible route from the payer to the point of patient care."

The top executive at American Airlines, the first large corporation to endorse mandatory employer-provided health care coverage, last week urged the business community to support the Kennedy legislation to ensure that no company can gain a competitive advantage over another by slashing or eliminating health care benefits.

"If you are opposed to those practices and don't want them to spread to other industries, you should pass this legislation," said Robert L. Crandall, chairman and president of the airline.

Support for universal employer-provided health insurance from American Airlines, Baxter Travenol and Chrysler is an extraordinary development, given big business' philosophical opposition to benefit mandates.

And more employers, resentful they are indirectly paying the health costs of uninsured workers employed by competitors through both cost-shifting and higher taxes to support public health care programs, are beginning to recognize that philosophy may carry a price they no longer can afford, observers say.

This support, coupled with backing from unions, health care providers and consumer organizations, means the concept of mandatory employer-provided health insurance will receive serious consideration by Congress.

But not all elements of the business community think the legislation is such a good idea.

The most serious opposition comes from small employers, which are least likely to offer a health care plan or which would be most likely to have to upgrade plans to meet minimum standards.

Indeed, small business representatives warned at last week's hearing that mandated health care coverage would be a financial disaster for some employers.

Paying for a health insurance plan "could well be the fatal blow to many companies teetering on the edge of failure," contended Gerald Rudd, chairman of the benefits council of the Food Marketing Institute, a Washington-based organization composed primarily of independent supermarket operators.

Robert Patricelli, president of ValueCare Inc. an Avon, Conn.-based managed health care company, warned that a federal health care benefit mandate "is not a free lunch. Jobs will be lost."

Mr. Patricelli, who spoke on behalf of the U.S. Chamber of Commerce, said that once a federal health care benefit mandate is enacted, Congress would add benefits year after year.

"This will be the start of add-ons. Don't start down the road of mandates," he implored.

Some committee members also are worried that a bare-bones health care mandate would be constantly expanded by a Congress that wouldn't know how to say no.

"Congress will show no restraint in adding benefits later on," said Sen. Strom Thurmond, R-S.C. A federal benefit mandate "will keep expanding and expanding."

But even opponents of Sen. Kennedy's bill, like Sen. Orrin Hatch, R-Utah, who is the committee's ranking minority member, said Congress will look for ways to increase health care coverage.

"We can't ignore the problem. I think we have gaps to fill," Sen. Hatch said.

The Kennedy legislation, S. 1265, is a significant departure from many of the mandatory health insurance proposals of the 1970s, under which employers would have been forced to provide a lush array of benefits.

Sen. Kennedy describes the minimum requirement in his bill as bare-bones, adding: "It is not a Cadillac plan, but a small Ford."

In scaling back his proposal from ones he and other legislators made years ago, Sen. Kennedy says his bill is trying to "thread the needle," a reference to making a minimum plan rich enough to provide meaningful benefits without being so expensive as to endanger its chances of passage.

Yet, the Kennedy bill would have an enormous effect on the health care delivery system.

By requiring all employers to offer health care coverage to employees and their dependents, the number of individuals without health insurance would drop to about 13 million from 37 million. Coverage would be extended to all workers employed more than 17.5 hours per week.

But companies currently without health care benefits would face a major new benefit cost. Sen. Kennedy estimates the cost of the minimum benefits he proposes would be $1,136 per employee.

Companies with very modest health care plans would face cost increases if they must upgrade their plans to meet the minimum federal standards.

Under Sen. Kennedy's plan, annual deductibles for hospital and physician services generally could not exceed $250 per person or $500 for family coverage.

Employers, though could charge higher deductibles if employees receive services outside of a preferred provider network.

Copayments for covered services generally could not exceed 20%, with a maximum annual out-of-pocket expense of $3,000 per year. However, employers could increase copayments for employees who do not comply with health care plan management techniques specified under their plans, such as mandatory second surgical opinions.

Employers generally would be required to pay 80% of the premium for individual and family coverage. In the case of low-wage workers—those earning less than 125% of the federal minimum wage—employers would have to pay the full premium.

However employers would be allowed to alter benefit provisions as long as the overall value of the plan is not reduced. For example, a company could impose higher deductibles if it paid a higher percentage of the premium.

In addition, employers that are less than 2 years old and have fewer than 10 workers would have to provide only a catastrophic health care plan that covers expenses exceeding $3,000 annually.

Self-employed individuals would be allowed to deduct 80% of their health insurance premiums, compared with the 25% deduction currently allowed.

And, under a provision to which no one at the hearing objected, the legislation would pre-empt hundreds of state laws requiring companies to offer certain benefits.

Critics of the legislation, like Sen. Thurmond, said while big companies might not be hurt by a federal benefit mandate, small companies could be.

"I'm concerned about the little companies that are not financially sound," he said, wondering if new small firms could succeed if they had to offer health insurance.

But American Airlines' Mr. Crandall said he didn't see how a company would be adversely affected as long as all employers have to provide coverage.

"All companies would be in the same competitive posture," added Chrysler's Mr. Maher.

Continued on next page

It can get pretty lonely out there when you're looking

Somewhere out there, one of your clients has an immediate need for coverage. You have to get a fast, reliable quote. *Now.* This is when many brokers start getting that lonely feeling with quote delays and head office referrals by many insurers. But not with Commonwealth.

Commonwealth Insurance Company has been providing brokers with fast, competitive quotes for many years. We've grown with the oil, gas and petrochemical industries to become one of North America's top five property insurers in these sectors.

We'll supply you with competitive quotes for all types of resource projects, whether it's onshore in Alberta or offshore in Zaire. How fast? Within 48 hours! You'll discover that our underwriters are knowledgeable and you'll find

Commonwealth Insurance Company

Commonwealth Insurance Company is a member of the Home Group, Inc.

Continued from previous page

In addition, Mr. Bays said the cost of health insurance for a small manufacturer or health care provider is much less of a problem than finding affordable product liability or medical malpractice coverage.

Sen. Dan Quayle, R-Ind., said increasing employers' costs through a federal health care mandate would damage the nation's ability to compete overseas.

But United Auto Workers Union President Owen Bieber disagreed, contending that Sen. Kennedy's legislation actually would help U.S. companies that compete in world markets.

Mr. Bieber said most exporters already provide generous health care benefits. If all companies were required to offer a health insurance plan, taxes that exporters and other employers now pay to support public health care programs could be cut, he said.

Some witnesses came not primarily to support or oppose the Kennedy bill, but to offer suggestions to make the legislation more palatable.

Carson Beadle, a managing director with William M. Mercer-Meidinger-Hansen Inc. in New York, said employers should be allowed to wait up to six months before offering coverage to a new employee.

"A waiting period of as little as 30 days for new employees creates an intolerable burden for employers with high turnover in the first few weeks of employment," Mr. Beadle said on behalf of the Assn. of Private Pension & Welfare Plans.

In addition, Mr. Beadle said coverage should only have to be extended to workers employed at least 20 hours a week—rather than the 17.5-hour standard in the bill—and that prorating of either cost or coverage should be allowed for part-time workers.

"This approach would prevent burdensome health coverage costs from being a disincentive to hiring part-time employees," he said.

Critics of the legislation, such as the Food Marketing Institute's Mr. Rudd, who also is senior vp for human resources at Albertson's Inc. in Boise, Idaho, said grocers would not consider the bill so onerous if only employees who worked 30 hours a week were entitled to coverage.

One witness, recalling the grief employers have suffered trying to comply with hastily enacted legislation like the health care continuation provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, recommended that the effective date of the Kennedy legislation should be delayed until one year after regulations are published.

"As we have learned repeatedly over the past few years and are now experiencing with COBRA. . .there is mass confusion and major unnecessary expense incurred when a law becomes effective before its regulations are provided," said Willis Goldbeck, president of the Washington Business Group on Health. ■

Kennedy bill would hike labor costs: EBRI study

By JERRY GEISEL

WASHINGTON—Employers that do not offer group health care plans and employ many low-wage workers would be hit with substantial labor cost increases if Congress passes legislation requiring all companies to provide health care coverage, a research organization asserts.

Legislation introduced by Sen. Edward Kennedy, D-Mass., mandating that companies offer a minimum health care plan could boost some employers' labor and compensation costs by at least 12% for low-wage uninsured workers, says the Employee Benefit Research Institute, a Washington-based benefits think-tank, in an issue brief released this month.

Sen. Kennedy has estimated the cost of his minimum health care plan at $1,186 per employee.

Under the Kennedy legislation, S. 1265, employers generally would have to pay 100% of the cost of health care coverage for workers earning less than 125% of the federal minimum wage and 80% of the premium for other workers (see story, page 1).

The current federal minimum wage is $3.35 an hour, so employers would have to pick up the health care premiums of employees earning $4.19 an hour or less—or $8,400 annually or less—under the Kennedy legislation.

Paying the full cost of coverage for low-wage workers would add billions of dollars in benefit costs to companies not currently providing health coverage, EBRI says.

In 1985, 8.3 million uninsured workers, or 50.4% of all uninsured employees, reported average annual earnings of less than 125% of the federal minimum wage, according to EBRI.

In addition, 5.9 million workers who earned less than 125% of the minimum wage in 1985 were covered under employer health care plans. However, it is not known what percent of insured low-wage workers were covered under plans in which the employer paid the full premium.

While employers might lay off some low-wage workers if they are forced to offer health care coverage, mandatory employer-provided health care coverage would remove millions of people from the ranks of the uninsured.

For example, if all employers were required to offer a health care plan, two-thirds of the uninsured would gain coverage.

Approximately 34.8 million people lacked health insurance in 1985, EBRI estimates.

Sen. Kennedy puts the number of the uninsured at 37 million. However, in his estimate, Sen. Kennedy includes some workers excluded by EBRI in its analysis, such as farms workers.

In an effort to reduce the cost of coverage for small employers, Sen. Kennedy is proposing that companies with fewer than 25 employees be allowed to buy minimum health care coverage through regional insurance pools. Insurers would compete to provide health care coverage through these insurance pools.

By buying coverage through pools, small employers might pay between 20% and 25% less compared with the cost of each employer negotiating health care coverage individually, Sen. Kennedy estimates.

This lower cost would be possible because of the reduced administrative costs that would be possible through a pool arrangement, according to Sen. Kennedy.

But EBRI questions whether pooling small employer groups would substantially reduce the per-employee cost of health insurance for small companies. EBRI noted that average employee turnover in small firms is higher than among larger employers, while the expected lifetime of the firm is shorter.

"Greater movement in and out of the plan increases administrative cost and potentially the difficulty of underwriting even a large group of small firms," EBRI says.

At the same time, the administrative cost associated with billing and record keeping for a group of small employers might not be significantly less than for small employers individually, the study added. ■

for a fast, reliable quote on your energy risks.

our service personal. We can provide you with an inclusive package or a portion of the coverage you need.

So next time you're feeling somewhat lonely waiting for a fast, reliable quote for one of your clients . . . call Commonwealth, where we'll always give you fast service as a policy, not a premium.

CALL BOB SMITH AT
1-800-663-1709 FOR A
48 HOUR RESPONSE.

715-Two Bentall Centre,
Vancouver, B.C. Canada
V6B 4A6
Telecopier: 683-8968
Telex: 04-54621

opinions

COBRA's deadly venom

PROPOSED INTERNAL Revenue Service regulations for implementing the health care continuation provisions of the Consolidated Omnibus Budget Reconciliation Act are yet another example of the damage Congress can wreak when it hastily passes employee benefits legislation.

Under those regulations, a corporation would lose its entire tax deduction for health care expenses for a full year if one affiliate failed to extend group coverage to just one COBRA beneficiary.

At the same time, all highly compensated employees of companies under common ownership would have the cost of their employer-provided health care expenses added to their taxable income if just one subsidiary does not comply with COBRA.

And, it also appears that in collectively bargained multiemployer welfare plans, all employers would lose their tax deductions if just one employer, or the plan administrator, failed to comply with the legislation.

COBRA is the federal law that requires employers to offer group health care benefits to former employees and employees' widowed, divorced or separated spouses.

Given the fact that an employer may have to extend COBRA coverage to tens of thousands of employees and their dependents during a year, it is almost certain an employer could make an inadvertent error and thus lose its tax deduction for health care expenses.

For a Fortune 500 company, one COBRA error, regardless of the cause or how quickly it was corrected, could mean the loss of hundreds of millions of dollars in tax deductions for health care expenses.

Benefit experts are outraged that the regulations propose the same penalty for an employer that inadvertently denies coverage just once and an employer that willfully and repeatedly violates COBRA.

While the outrage is justified, the anger ought to be directed at Congress, not the IRS. The IRS regulations, as one of its officials explained, only follow the parameters of the law passed by Congress.

Indeed, in rushing the COBRA legislation through Congress without a single public hearing, legislators failed to specify how penalties should vary depending on the circumstances and how many times an employer violates COBRA. It isn't the IRS's fault that Congress didn't spell out appropriate penalties for different types of COBRA violations.

Since Congress created the mess in the first place by passing the COBRA legislation without public comment, it is up to senators and representatives to fix the problem.

Just as Congress now is considering a technical corrections bill to clean up some of the drafting errors made in the Tax Reform Act of 1986, legislators also should consider a technical corrections bill to repair obvious problems in COBRA.

At a minimum, such legislation should establish a sliding scale of penalties for COBRA violations. Obviously, a one-time failure to comply with COBRA should not trigger the same penalty as repeated violations.

Or, if legislators choose not to lay out penalties in detail, then Congress should give IRS the authority to develop penalties that differentiate between inadvertent violations and willful denial of benefits that the COBRA legislation is intended to protect.

While it will take congressional action to make major changes in the COBRA regulations, employers can also take some action. The IRS has requested comments from employers and others on the regulation. Comments, which are due by Aug. 14, can be sent to the Commissioner of Internal Revenue, Attention CC:LR:T(EE-143-86), Washington, D.C. 20224.

By voicing your opinion to the IRS, you also will send another message to Congress that COBRA's venom is deadly indeed.

letters

Purchasing group criticism is not fair

To the editor: *Business Insurance* and reporters Jerry Geisel and Laura Mazzuca have been doing a great job reporting in recent months on the Risk Retention Act of 1986 and its repercussions with insurance brokers, state commissioners, the business community and Congress. One cannot help but get the impression that the National Assn. of Insurance Commissioners is vehemently opposed to the act. *BI* recently reported on the progress of the NAIC's model risk retention act, which has a change requiring risk purchasing groups and risk retention groups to be properly admitted in each state. Why then, pray tell, did Congress pass the Risk Retention Act of 1981 and 1986, specifically "freeing them from multiple-state regulation" as S. David Childers, Arizona's director of insurance, told the National Assn. of Insurance Brokers (*BI*, June 8)?

The recent article by Ms. Mazzuca reporting on the NAIB and the address to it by Mr. Childers brings out some of the objections commissioners are finding with the Risk Retention Act of 1986. If the majority of NAIC members are basing their objections on the points emphasized by Mr. Childers, their adversarial position is more understandable. Mr. Childers questions solvency problems of purchasing groups and of risk retention groups and whether legislators could react quickly enough.

Would an Arizona-chartered purchasing group's solvency be pertinent if the admitted Arizona-domiciled insurer it is buying from is solvent? Wouldn't Arizona insurance regulations monitor the solvency of Arizona's own insurers whether or not they sold insurance to a purchasing group? Couldn't other states accept the Arizona insurer's policies bought in Arizona by members of an Arizona-based purchasing group without solvency problems? Couldn't the superintendent of insurance in New York call Mr. Childers if an Arizona-domiciled company wasn't paying claims in New York? Wouldn't Mr. Childers react to the New York complaint? If not, isn't this an NAIC problem, not a purchasing group regulatory inadequacy?

In fact, aren't Mr. Childers' insolvency concerns actually only related to risk retention groups and not to purchasing groups? If so, isn't it time for insurance departments and motor vehicle divisions to ease up on policies issued by any authorized state admitted insurer to members of bona fide purchasing groups and admit such polices are exempt from state discrimination by federal law?

Finally, why would Mr. Childers or any other state commissioner be concerned by the "vagueness of the term 'located,' used to determine the state in which the group must file"? Let me quote from the Risk Retention Act, Sec. 4(D)1:

"A purchasing group which intends to do business in any state shall furnish such state such notice. . .

(a) Shall identify the state in which such group is domiciled;

(b) Shall identify the insurance company from which the group intends to purchase insurance and the domicile of such company; and

(c) Shall identify the principle place of business of (a purchasing) group."

Now, honorable state insurance commissioners, what is vague about the above section of the Risk Retention Act of 1986 as regards "the location" of risk purchasing groups?

Thomas S. Duck Sr.
President
Swanco Insurance Co.
Tucson, Ariz.

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

PBGC premium plan has another booster

To the editor: The article "Variable PBGC Premium Gains Business Backing" contains a glaring omission in discussing various private sector support for the risk-related premium (*BI*, June 15).

In no less than three outings before congressional panels, as well as numerous other forums, the Assn. of Private

Continued on page 10

business insurance®
Reporting weekly for corporate risk, employee benefit and financial executives

Publisher: Alfred Malecki *(New York)*

Editor: Kathryn J. McIntyre, A.R.M. *(Chicago)*
Managing Editor: James M. Burcke *(Chicago)*
Assistant Managing Editor: Dave Lenckus *(Chicago)*
Graphics Editor: Holly E. Seguine *(Chicago)*
CHICAGO: Stacy Adler *(Assistant Copy Editor)*
Linda J. Collins *(Agent/Broker Editor)*
Donna DiBlase *(Associate Editor)*
Meg Fletcher, A.R.M. *(Associate Editor)*
Karen Huelsman *(Copy Editor)*
Marilou Jones *(Directory Editor)*
Amy Palmer *(Graphic Artist)*
Cali Sangalis *(Assistant to the Editor)*
Roger Schillerstrom *(Editorial Cartoonist)*
Stephen Tarnoff *(Associate Editor)*
Paul Winston *(Assistant Copy Editor)*
Joanne Wojcik *(Copy Editor)*
DALLAS: Michael Bradford *(Associate Editor)*
LONDON: Stacy Shapiro *(International Editor)*
Carolyn Aldred *(Associate Editor)*
LOS ANGELES: Robert A. Finlayson *(Bureau Chief)*
Steve Taravella *(Associate Editor)*
NEW YORK: Douglas McLeod *(Bureau Chief)*
Judy Greenwald *(Associate Editor)*
Avra Wing *(Insurer Topics Associate Editor)*
WASHINGTON: Jerry Geisel *(Washington Editor)*
Deborah Shalowitz (Associate Editor)
Corporate: H.L. Stevenson *(Corporate Editor)*

Advertising Director: Donald A. Walsh *(New York)*
Midwest Sales Manager: Robert L. Niesse *(Chicago)*
CHICAGO: Deborah D. Neale *(District Manager)*
Margaret Hikido *(District Manager/ Classified Sales)*
Elmer Kerstowske *(Production Manager)*
LOS ANGELES: Michael J. Sharpe *(District Manager)*
NEW YORK: Charles A. Horvath *(District Manager)*
Jack Forrest *(District Manager)*
Martin J. Ross *(District Manager)*
Courtney Bauer *(District Manager)*

Director of Communications: Ronnie I. Drachman *(New York)*
Corporate Marketing Manager: Alice Sieloff *(Detroit)*

EDITORIAL: Chicago: 312-649-5398
Dallas: 214-363-1066
London: 01-404-4228
Los Angeles: 213-651-3710
New York: 212-210-0100
Washington: 202-662-7200
ADVERTISING: New York: 212-210-0133
Chicago: 312-649-5276
Los Angeles: 213-651-3710
COMMUNICATIONS: New York: 212-210-0132
CIRCULATION: Detroit: 313-446-1611

Published by Crain Communications Inc., Chicago
G.D. CRAIN JR.
Founder (1885-1973)
MRS. G.D. CRAIN
Chairman
KEITH E. CRAIN
Vice chairman
S.R. BERNSTEIN
Chairman-executive committee
RANCE CRAIN
President
MARY KAY CRAIN
Treasurer
MERRILEE P. CRAIN
Secretary
WILLIAM A. MORROW
Senior Vp-operations

Published weekly at 740 Rush St., Chicago, Ill. 60611, Telex 6871241, Cable CRAINCOM. Offices: 220 E. 42nd St., New York, N.Y. 10017, Telex 640207 CRAIN COM NYK; 1 Northpark, East Suite 114, 8950 N. Central Expressway, Dallas, Texas, 75231; Suite 814, National Press Building, Washington, D.C. 20045; 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 20-22 Bedford Row, London WC1R 4EB, England. $1.75 a copy. $68 a year in U.S. Canada and all other foreign add $16 for surface mail. Europe and Middle East only add $47 for air delivery. First-class mail to U. S. and Canada only, add $48. Bermuda only, $105 per year expedited delivery. WILLIAM STRONG, vp-circulation. BARBARA KISCH, circulation manager. JOHN HUFFMAN, fulfillment director. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 965 E. Jefferson Ave., Detroit, Mich., 48207, or phone 313-446-1611. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: ART MERTZ, The Crain Syndicate, 740 Rush St., Chicago, Ill. 60611, 312-649-5303. For reprints or reprint permission contact: Reprint Department, *Business Insurance*, 220 E. 42nd St., New York, N.Y. 10017, 212-210-0229.

BPA Member of Business Publications Audit of Circulation ABP

What price, quality health care?

Less than you might think. The CNA Insurance Companies understand the need to demand quality health care while containing employee benefit costs. That's why CNA developed CURE PLUS.

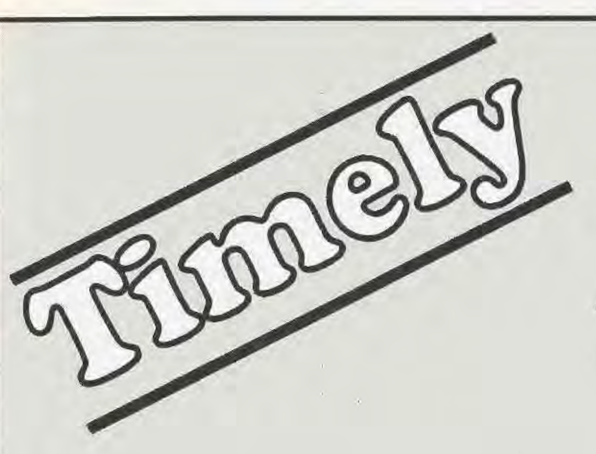
CURE PLUS assures the efficient delivery of quality health care through advanced utilization review and case management programs. In addition, CURE PLUS offers our clients access to one of the first national PPO networks–available soon in 40 major cities. Our PPO providers must meet rigid standards in order to ensure quality care throughout the network.

CNA also negotiates maximum savings with our PPO providers since we've joined forces with eight major insurers to form Private Healthcare Systems. By combining our resources, we represent over $5 billion in group health premiums, rivaling the largest carriers.

CNA's CURE PLUS program emphasizes quality health care but still holds the line on costs. Contact your CNA group representative or insurance broker for more information.

For All the Commitments You Make®

Coverage provided by Continental Assurance Company, one of the CNA Insurance Companies.



NEW YORK:
220 EAST 42ND STREET/NY 10017/(212) 210-0133
CHICAGO:
740 RUSH STREET/IL 60611/(312) 649-5276
LOS ANGELES:
6404 WILSHIRE BOULEVARD/CA 90048/(213) 651-3710

business insurance Update

Risk Management Information Systems

Info Systems Directory

Indepth focus on state-of-the-art information systems and how they are used by risk management departments.

publishing: July 13
ad closing: June 30

letters

Continued from page 8

Pension & Welfare Plans has expressed its support for the risk-related concept, each time refining further where we disagreed with details of the PBGC proposal and, similarly, each time we reinforced the association's support for the conceptual basis of risk-related premiums.

The most recent the APPWP testimony was presented by Keith J. Goodell of United Technologies Corp. on May 18 before the Senate Finance Subcommittee on Private Retirement Plans and IRS Oversight.

At that time, Mr. Goodell told the committee, "While we do not agree with all of the components of the PBGC's variable rate premium proposal, we do agree with the concept of assessing the costs of the risk of future losses on the plan sponsors who are most likely to terminate underfunded plans.

"Among those sponsors, it appears reasonable that the amount of underfunding in the plan should be correlated to the level of the premium . . . . We are opposed to a premium increase on a flat-rate basis."

The APPWP finds the variable rate premium as ultimately supportive of defined benefit plans. We have been equally unequivocal in our views that consideration of the PBGC premium must include proposals to strengthen the minimum funding rules.

As the group representing the broadest scope of employee benefits professionals, we find the omission of the Association of Private Pension & Welfare Plans' views in this timely and supposedly comprehensive examination of business views regrettable.

Stuart J. Brahs
Executive Director
Assn. of Private Pension & Welfare Plans
Washington, D.C.

Adams Brothers not lead broker

To the editor: In the June 1 issue of *Business Insurance*, there is a long article in connection with contingency insurance coverage on various sporting events, "Sporting Events Devour Contingency Cover," which incorporates certain comments alleged to have been made by Geoffrey Fox, a director of Adams Brothers Contingency Ltd.

Unfortunately, there seems to have occurred a misunderstanding over what which was said by Mr. Fox or inferred from his discussion over the phone about the placing of coverage for the 1988 Winter Olympic Games at Calgary, Alberta.

Although Adams Brothers Contingency Ltd. has indeed been involved, they have been working in close association with C.T. Bowring Reinsurance Ltd. and both companies have been acting upon the instructions of the broker to the organizers: Faugere & Jutheau of Paris.

J.J.P. Hine
Director
Adams Brothers Contingency Ltd.
London

Attorney resents horse comparison

To the editor: I have written many fan letters to you because, as you know, I am a 100% supporter of *Business Insurance*, and look forward to each week's issue of the magazine.

However, I was somewhat taken aback by your article on William M. Graham, "Animal Claim Investigator Sits Hard on Horse Killers" (*BI*, June 1).

According to the article, Mr. Graham is a credit to the insurance industry by preventing fraudulent insurance claims involving livestock.

For this I compliment him and hope that Mr. Graham keeps up the good work in stopping thievery in the industry and needless death of innocent animals.

However, I do not think Mr. Graham should have allowed himself to be quoted as comparing a horse killer with an attorney.

This is a cruel and unjustifiable remark and personally I was hurt by it, especially since I work in the same industry as Mr. Graham and have on numerous occasions fought the good battle regarding fraud.

Alan Jay Martin
Abrams & Martin P.C.
New York

To move ahead, an insurance company needs a bank with financial services that set the pace domestically and internationally.

And to a growing number of insurance markets, the bank of choice is Irving Trust.

We have developed the full complement of quality services international insurance companies and brokers need and expect. From American Depositary Receipts, securities lending, investment management and reinsurance trust to global securities trading and foreign exchange.

Our network of more than 2,200 correspondent banks in over 150 countries speeds problem-solving and the exchange of both information and funds on a global scale.

Our insurance bankers focus on the highly specialized needs of the industry and are committed to personalized, customized service for each client.

For more information, contact an insurance banking center in: New York, London, Frankfurt, Tokyo or Miami.

Irving Bank Corporation

Irving Trust

CONTRARY TO POPULAR BELIEF, THIS IS NOT HOW INSURANCE RATES ARE DETERMINED.

How insurance rates are set is perhaps the least understood part of what an underwriter does.

Actually, the process is quite straightforward.

The rate covers the projected cost of future claims, the insurer's anticipated expenses and a reasonable profit.

In addition, it reflects conscientious efforts made by the policyholder to minimize losses.

Quantifying the unknown future. Insurers must properly price their product so they can pool the premiums of many to pay the claims expenses of a few. To estimate the cost of claims and expenses, the underwriter analyzes past loss experience for a given type of risk and projects socioeconomic trends that may affect the future cost of the risk being covered.

The unpredictability problem. If an insurer can't predict the cost of risks, it has no way of knowing if its rates are adequate.

So when unpredictable factors enter the equation, the straightforward practice of rate setting becomes more complicated.

That's why we at AIG have spoken out to alert society to the liability crisis in our civil courts. No other factor has contributed more unpredictability to rate setting than the growing number and dollar value of liability awards granted to so many in our increasingly litigious society.

It's not just an insurance industry crisis. Insurance is simply a mechanism for spreading the costs of risk. When risks cost more, everyone pays more.

That's why it's a problem for society as a whole, not just the insurance companies.

Do we want to continue to allow this problem to undermine society's ability to secure much needed protection from the unknown?

Or do we want to work together to make certain that insurance is readily available and affordable for all? The future course of insurance depends on society's answers to these questions.

AIG AMERICAN INTERNATIONAL GROUP OF INSURANCE COMPANIES

Our Policies Are Your Best Insurance.

When it counts...

...does your company or insurance carrier have the resources to adequately service the claim? NCS does.

Since 1925, we've been investigating, adjusting and administering claims for insurance companies, self-insureds, brokers, and underwriters at Lloyd's. Our nationwide staff has the expertise and resources to respond quickly and professionally to your property and casualty claims.

With our affiliate, North American Claims Management Company, we provide complete claims management, including adjusting, investigation, subrogation, consultation and audit services.

When disaster strikes, call:

National Claims Service INC.

P. O. Box 6641, Richmond, VA 23230
(804) 273-1444 • 1-800-368-3013

In New England, contact:

GORDON BOYD & Company, Inc.
148 State St., Boston, MA 02109
(617) 742-2222 • 1-800-422-2693

SPECIALIST SOLUTIONS

Belvedere Insurance provides a wide range of financial reinsurance solutions to difficult reinsurance problems.

For loss portfolio transfers, surplus relief, prospective aggregate and other specialised covers, Belvedere offers experience and flexibility.

We respond efficiently and competitively to the broker market and offer excellent security for all transactions.

Belvedere - the specialist

Call Colin O'Connor, President on 809-295-3656

BELVEDERE

Reid House, Church St. PO Box 1643 HM GX, Hamilton, Bermuda
Telephone (809)295-3656 · Fax (809)295-8035 · Telex 3592 BELVE BA

PCW settlement

Continued from page 2

and cannot pay. Lloyd's is currently reviewing these cases. These members only owe around 50,000 pounds ($80,000), said Mr. Miller.

• Twenty-two members who owe around 350,000 pounds ($560,000), who do not wish to continue to be members of Lloyd's and can use their deposits at Lloyd's to pay their PCW losses.

In its offer to the 1,547 members of PCW non-marine syndicates, proposed in early April (*BI*, April 13), Lloyd's agreed to contribute 45 million pounds ($72 million) from its Central Fund to a 134 million pound ($214.4 million) reinsurance premium that would close the PCW syndicates' accounts.

The premium—a discounted figure for the syndicates' estimated net loss of 235 million pounds ($376 million)—will be paid to a new syndicate 9001, whose members are Mr. Miller, Lloyd's Senior Deputy Chairman Murray Lawrence and Junior Deputy Chairman Alan Parry.

The syndicate in turn will cede all its business to a new Lloyd's subsidiary: Lioncover Insurance Co. Ltd.

In addition, Lloyd's will cover any syndicate losses exceeding the current estimate.

Thirty-seven other parties—including 26 Lloyd's members' agencies, accountants, law firms and brokers—will contribute 55 million pounds ($88 million) to the reinsurance premium, according to the settlement. These companies include Minet Holdings P.L.C., PCW's parent; Sedgwick Group P.L.C.; and Alexander & Alexander Services Inc.

PCW members who accepted Lloyd's offer will pay 34 million pounds ($54.4 million) toward the settlement.

However, the reinsurance premium is expected to be prorated based on the value of the contribution of the members who have accepted the offer and therefore may be reduced from 134 million pounds to 120.6 million pounds ($193 million), according to a Lloyd's spokesman.

So far, the 96% of the members who have accepted the offer account for between 85% to 90% of the 134 million pounds the members were to contribute, Mr. Miller said. Therefore, the reinsurance premium at the moment will only reach up to 90% of 134 million pounds or 120.6 million pounds, said a Lloyd's spokesman.

Last week, Minet announced that it had agreed to pay a cash agreement of 10.5 million pounds ($16.8 million) as part of the settlement, though it could reach as much as 12.5 million pounds ($20 million) if more PCW members accept the offer.

Minet took an exceptional charge of 12.2 million pounds ($18.1 million at year-end 1986 exchange) against 1986 earnings for its contribution (*BI*, June 22).

Lloyd's will try to claim the rest of the money from those members who refuse to accept the offer, said a Lloyd's spokesman.

Members who accepted the Lloyd's offer relinquished their rights to sue Lloyd's and have transferred to Lloyd's their right to sue other parties involved in the PCW affair.

Lloyd's does not plan to sue companies involved in the settlement, according to Mr. Miller. But, Lloyd's will actively pursue the "malefactors" in the PCW affair, he said.

Lloyd's is trying to recover a 1 million pound ($1.6 million) fine from expelled Lloyd's member Peter Dixon, former chairman of PCW, who is living in Virginia.

Also, Lloyd's will be taking over legal action against Peter Cameron-Webb, former PCW underwriter, for the payment of PCW claims that are "potentially enormous," said Mr. Miller. "We feel very strong about this and we will pursue (the action against Mr. Cameron-Webb) vigorously."

The Lloyd's Council is expected to announce this week who will head Additional Underwriting Agency No. 4 Ltd., which will manage syndicate 9001 and Lioncover. London sources have said Ivor Binney, retired deputy chairman of C.T. Bowring & Co. Ltd., will be appointed to head AUA4.

Meanwhile, Mr. Miller announced to throngs of people who gathered last week in the new Lloyd's building for Lloyd's annual meeting that "the long nightmare is over . . . . The PCW affair had characteristics and a dimension which render it unique. It involved not only large and genuine underwriting losses, but also the theft of monies by the managing agents by improper use of certain reinsurances."

Although much of the misappropriated money was recovered, "we were left to cope with the results of the perhaps inevitable chaos which surrounds any fraud and certainly applied to to the financial affairs of the PCW syndicates.

"It was this deadly combination which made it unavoidable that the society's own monies—the monies of the other members of the society, that is to say—would become involved, in apparent conflict" with Lloyd's basic doctrine that each syndicate stands alone and is not responsible for the losses of other syndicates.

The offer relieved the PCW members of 75% of their potential losses, he said.

The PCW affair presented a set of "unique circumstances" that were "highly damaging to the wider interests of the society," said Mr. Miller. This rendered Lloyd's position "inevitable if the matter is to be settled."

However, "this must never be allowed to happen again. Of course no policyholder has suffered or has ever been likely to suffer. Our capital base, our names, however, surely have the right to expect that in a well-regulated society—while they may be exposed to the hazard of insurance risk—they should not be exposed to the hazard of theft of their own monies."

Aside from PCW, Mr. Miller said at the annual general meeting that:

• Lloyd's continues negotiations with the Inland Revenue about the tax status of reinsurance-to-close premiums. The British government has proposed allowing tax deductions for these premiums only if they are based on adequate data, similar to deductions taken by insurers for loss reserves.

A change in tax rules for reinsurance-to-close premiums would be a disincentive for new memberships in Lloyd's and would seriously reduce Lloyd's membership and capital base, Lloyd's contends.

"It is not too fanciful to describe it as a matter of life and death for Lloyd's," said Mr. Miller.

• Divestment of all Lloyd's underwriting management agencies from Lloyd's brokers has been completed, according to the requirement in the Lloyd's Act of 1982. "We now have an underwriting agency system which is independent . . . "

• Eighteen of the 70 recommendations made by a special government committee report led by Sir Patrick Neill have been implemented, including the appointment of four additional non-Lloyd's members to the Council of Lloyd's (*BI*, Jan. 26).

The other recommendations will be examined and implemented, but Mr. Miller added: "I would make a plea for patience."

• He is determined to start the re-registration of brokers under new Lloyd's rules "by the end of this year." ■

Rate increases at HMOs trail medical inflation rate: Survey

By DEBORAH SHALOWITZ

WASHINGTON—Rates charged by health maintenance organizations rose less in 1985 than in 1984, trailing the medical inflation rate, an HMO trade association says.

This is good news for employers, who paid an average of 83% of their employees' HMO premiums in 1985, according to the group.

However, in their quest to control health care costs, businesses are challenging HMOs to show how they set their premium rates and how they save employers money.

More than 90% of the HMOs responding to a survey conducted by the Group Health Assn. of America Inc. said they had received requests from businesses for specific data on employees' medical utilization and costs of services. Employers also requested quality assurance and financial performance data, survey respondents said.

The GHAA survey is based on data collected in 1985 from 203 HMOs with a combined enrollment of more than 14 million members. The survey, which focussed on HMOs with more than 10,000 members, received a 52% response rate.

The GHAA, based in Washington, D.C., represents more than 150 organized, prepaid health care systems nationwide.

HMO premiums rose an average of 4.7% in 1985, compared with 9.3% in 1984. In contrast, the medical care cost component of the Consumer Price Index increased 6.2% in 1985.

The average monthly HMO premium in 1985 was $77 for a single HMO coverage and $206 for family coverage, according to the GHAA survey.

On average, employers paid about 90% of individual plan members' premiums and 77% of family plan premiums.

Because of this expense, employers increasingly want to know how HMOs are setting their rates, according to the survey.

Federally qualified HMOs—which represent the majority of HMOs—are required to use community rating. There are two types of community rating: standard rating, in which premiums are based on the cost of providing services to the entire HMO enrollment; or community rating by class, which factors in demographic characteristics of the membership such as age, sex, marital status or occupation. In addition, federally qualified HMOs may use experience rating in addition to community rating.

Of all the HMOs responding to the survey, 86.5% used some form of community rating, 5.7% used experience rating, and 7.8% used both methods.

Of the HMOs using community rating, 63.7% used standard rating, 16.5% used community rating by class and 19.8% used both community rating methods.

For federally qualified plans, 66% used the standard community rating only, 15% exclusively used community rating by class and 19% used both.

For non-federally qualified plans, 55% used standard community rating only, 21% used community rating by class and 24% used both.

An HMO is more likely to experience-rate if it is insurer-owned, according to the survey.

Almost 48% of insurer-owned plans offered experience rating as an option, and 32% offered experience rating as the only option.

On the other hand, only about 6% of multistate firm-owned or independent HMOs offered experience rating as an option.

Private employer groups were the mainstay of HMO business, according to the survey, representing nearly 60% of a typical HMO's enrollment. The second-largest enrollment group was government employees, which total 22% of an average HMO's enrollment.

Medicare beneficiaries and Medicaid recipients each represented an average of 5% of a typical HMO's enrollment. Medicare beneficiaries comprised no less than 6% and no more than 9% of total enrollment among most of the responding HMOs, according to the survey.

Continued on next page

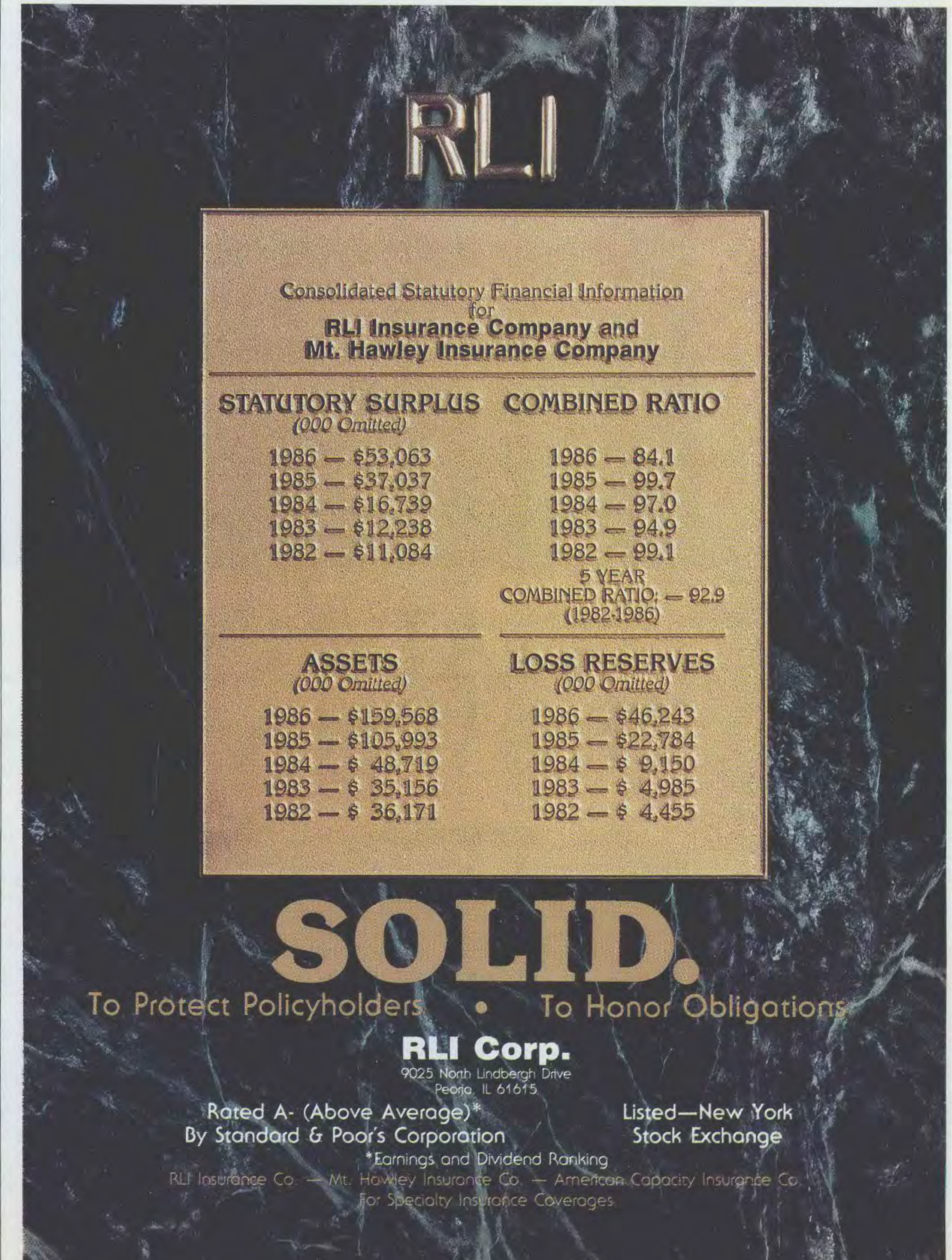
RENT-A-CAPTIVES AVAILABLE

"THE ANSWER TO THE 1986 TAX REFORM ACT"

FINANCIAL TECHNOLOGY INC.

Consultants specializing in Captives, Risk Retention Groups, Cash Flow, Self-Funded, Loss Portfolio Transfer Programs, Feasibility Studies, Formation and Management.

1888 Century Park East, Suite 910, Los Angeles, CA 90067
(213) 879-3991



HMO survey

Continued from previous page

Although private employers accounted for the largest enrollment group, state/municipal workers, on average, comprised the single-largest account for 37% of the responding HMOs.

According to the survey, the average state/municipal account included 12,694 enrollees, compared with 6,430 enrollees in the average private employer group.

HMOs were operating during 1985 in every state except Alaska, Mississippi, Montana and West Virginia. California reported the largest number of HMOs, with 61, followed by Florida with 50, Ohio with 44, Illinois with 43 and Texas with 40.

Overall, HMOs estimated they enrolled about 13% of their service areas. West Coast HMOs estimated the highest market penetration, at 22%, followed by Wisconsin and Minnesota, with a combined market penetration of 20%.

New England HMOs reported that 70% of their membership came from private employers, the highest percentage of all the regions. The East Central region, including Wisconsin and Michigan in the North and continuing south to Mississippi and Georgia, reported the lowest percentage of private employer group membership at 54%.

GHAA found that private employer groups represent a decreasing percentage of an HMO's enrollment as the plan ages.

As a percent of total enrollment, corporate accounts ranged from 57% to 63% for HMOs operating 15 years or less. In those plans between 16 and 25 years old, employer groups dropped to 53% of total enrollment. For the handful of HMOs operating 26 years or longer, employer accounts as a percent of membership dropped to as low as 37%.

On average, enrollment increased five-fold between an HMO's first year of operation and its second and third years of operation.

As HMOs mature, the distinctions between HMOs and other managed health care programs are becoming increasingly cloudy, noted the GHAA study.

For example, more than half of all HMOs at the end of 1985 were contemplating or already had diversified their product lines.

Overall, 31% of responding HMOs reported they offered or planned to offer a preferred provider organization, and 24% offered or planned to offer an indemnity plan. About 32% of the HMOs offered dental packages or other separately marketed benefits.

Even though the HMO industry is changing and expanding, most HMOs are financially strong, said the GHAA.

Nearly 60% of responding HMOs reported a profit or operating surplus in 1985, and more than half of the HMOs that weren't profitable still reported a positive net worth, noted the group.

The financial analysis of profitable and unprofitable HMOs, performed for the GHAA by the Chicago office of Deloitte Haskins & Sells, found that profitability is directly related to an HMO's enrollment size and age.

According to the report, the majority of plans with a minimum of 20,000 enrollees that were at least 4 years old turned a profit, while plans with fewer than 20,000 enrollees and operating for less than four years tended not to be profitable.

In addition, unprofitable HMOs' administrative costs as a percentage of total revenues were nearly double that of profitable plans, according to the financial analysis. Administrative expenses in unprofitable plans constituted 21.6% of total revenue, while profitable plans' administrative costs as a percentage of total revenues amounted to just 11.6%.

Unprofitable HMOs also generate less premium revenue than profitable plans, the survey showed.

On average, unprofitable plans took in less than $61 per member per month in premiums, which constituted 93% of total revenue, while profitable plans took in more than $62 per member per month in premiums, which constituted 95% of total revenues.

The financial analysis found no relationship between financial performance and ownership or location.

•

Copies of "GHAA's 1987 Survey of HMO Industry Trends" are available to GHAA members for $105 each, plus $3.50 shipping and handling, or to non-members for $210 each, plus $3.50 shipping and handling, from the Group Health Assn. of America Inc., 1129 20th St. N.W., Suite 600, Washington, D.C. 20036; 202-778-3200.

Canadian ruling

Continued from page 3

1984, of Samuel Piercey at General Bakeries Ltd. in St. John's.

Mr. Piercey's widow was awarded $37,600 Canadian ($28,211 at current exchange rates) in early 1985 from the Newfoundland Workers' Compensation Commission, but she filed a lawsuit to overturn the Newfoundland workers compensation statute in an effort to sue her husband's employer.

Justice Hickman ruled in a strongly worded judgment that employers could be sued under the Charter of Rights.

Justice Hickman said that prohibiting injured employees from applying to the courts for a remedy from their employers was "unreasonable" and stood out as "an intolerable blot upon the legislative landscape of a free and democratic nation."

He also noted that workers compensation laws in the United Kingdom and Australia appear to work well despite the fact that workers in those jurisdictions can sue for compensation above workers compensation awards.

However, Mr. Harding observed, "The difference between the British system and that in Canada is that in Britain compensation rates are very low, whereas in Canada, the employee receives a good settlement."

Justice Hickman also ruled, however, that Mrs. Piercey could not sue General Bakeries, because her husband's death occurred before the Charter of Rights was enacted by the Canadian Parliament on April 17, 1985.

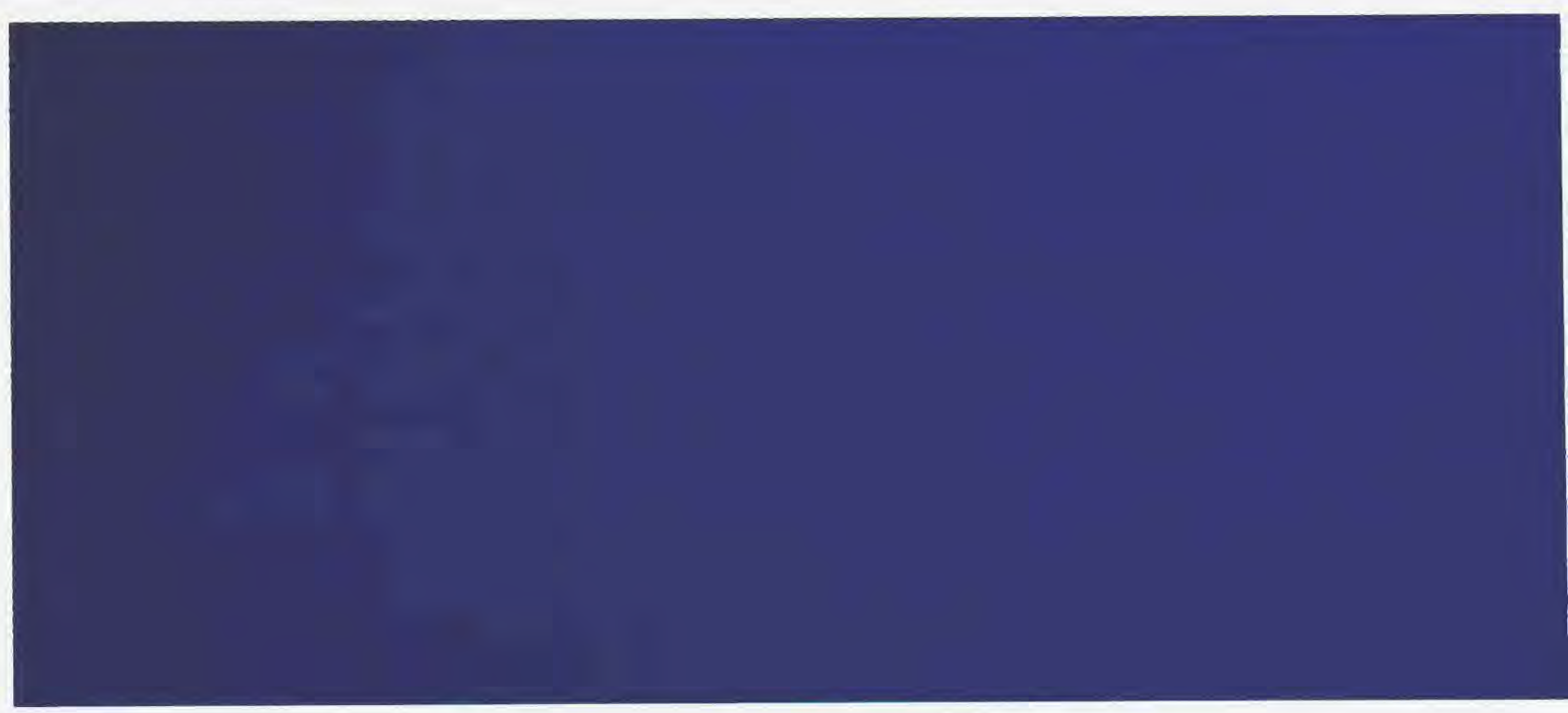
Mrs. Piercey is now appealing to the Newfoundland Supreme Court for the right to sue General Bakeries, arguing that Justice Hickman's ruling on the unconstitutionality of exclusive remedy should be applied retroactively to her case.

Several Newfoundland employers, national labor and unionized employee associations, as well as provincial and territorial governments, will be allowed to testify at the ongoing Newfoundland Supreme Court hearing of Mrs. Piercey's appeal.

Mr. Jobin pointed out that if Justice Hickman's ruling is applied retroactively, employers with pre-1985 workers compensation liabilities would face even greater, uninsured liabilities.

In addition, "If employees have the right to sue, then I don't think too many employers would be anxious to take part in a government insurance scheme," said Leeann Montgomery, legal counsel for the Newfoundland Workers' Compensation Commission.

Legal experts believe it could be at least two years before the matter is resolved by the Supreme Court of Canada. ■



To A Lot Of Insurance This Was A Stop Sign.

Most insurance companies view heavy construction as a risky business. And when R. E. Hazard Contracting Company applied for liability and workers' compensation coverage three years ago, insurers saw Hazard the same way. Trouble, waiting to happen.

But Argonaut took a closer look and saw something more.

One of the best safety records in the industry.

And we've been insuring Hazard ever since.

To provide workers' comp and liability coverage for a construction project that employs dozens of trades takes flexibility and resourcefulness. It takes a company like Argonaut.

Opren plaintiffs receive legal aid offer

london

By CAROLYN ALDRED

LONDON—An anonymous benefactor is offering to help pay legal costs for 500 alleged victims of Opren, an anti-arthritis drug manufactured by Eli Lilly & Co. of Indianapolis.

Some 1,500 Britons are suing Eli Lilly, subsidiary companies and the British government agencies responsible for licensing drugs in the United Kingdom for injuries allegedly caused by the drug.

However, about 500 of the plaintiffs are not entitled to legal aid from the British government and were considering dropping their case in the British courts following a June 3 decision by the Court of Appeals upholding a London High Court ruling that all 1,500 British plaintiffs must share court costs equally if the court rules for Eli Lilly (*BI*, June 15).

The plaintiffs' lawyers had argued that estimated court costs of between 3 million and 6 million pounds ($4.7 million to $9.54 million at current exchange rates) should be borne only by the 1,000 plaintiffs entitled to legal aid.

Now, however, a "fairy godparent" has "potentially revolutionized their position" by offering to provide "very substantial sums of money to fund the actions of the non-legally aided plaintiffs," said Justice Hirst in the High Court last week.

The judge recessed the case until the end of September to allow a benefaction plan to be drawn up. Also, applications to continue from any of the plaintiffs who had already dropped their action would be considered, he said.

The identity of the benefactor and details of the donation probably will be announced this week, according to a spokesman for the plaintiffs.

Persian Gulf losses

More than 100 ships in the Persian Gulf were attacked last year in the fighting between Iran and Iraq, reports The Salvage Assn., a worldwide marine surveying organization.

The association, which has an office in Dubai, has surveyed damage to 68 of the 105 ships that were damaged.

So far this year, 44 ships have been attacked in the gulf, of which The Salvage Assn. has surveyed damage to 24, Chairman Alan Birch said at the association's annual meeting earlier this month.

Losses in the Persian Gulf are inevitable because ships are largely unprotected, he said.

"Many are well-operated vessels with good crews who have been properly briefed on the added hazards of trading in the gulf. Unfortunately, however, this cannot be said of other vessels where the standard of both crew and ship is low. When such vessels are hit, an owner is probably not going to be enthusiastic about repairing an ill-maintained ship and would much prefer a constructive total loss settlement from insurers or payment for unrepaired damage," Mr. Birch said.

In addition, some of the claims of losses are suspect and inflated claims from Persian Gulf losses are still being submitted, he said, noting the depressed state of the shipping industry. For example, one ship repair claim of $250,000 was submitted to the association when it should have been for only $50,000, he added.

Willis Faber acquisition

Lloyd's of London broker Willis Faber P.L.C. is acquiring a one-third interest in health and safety consultant Hinton & Higgs (Developments) Ltd. for between 1.8 million pounds ($3 million) and 2.2 million pounds ($3.5 million).

Hinton & Higgs employs 100 people and has offices in Abingdon, England, and Cardiff, Wales.

Willis Faber and Hinton & Higgs began working together in 1983 when they formed Willis Faber Hinton (Loss Control) Ltd. as a joint venture.

"We see the provision of advice on health and safety playing a more important role within the risk management service which we offer to our commercial and industrial clients. The closer association with Hinton & Higgs will complement Willis Faber's existing risk management capabilities," said Adrian Gregory, chairman of Willis Faber & Dumas (U.K.) Ltd.

Ferry disaster

The British government will not prosecute anyone in connection with the March disaster in which a Townsend Thoresen Ltd. ferry capsized off the Belgian coast, killing at least 182 people.

Richard Stone, counsel to the British Department of Transport, told an official investigation into the disaster: "I am instructed to say that it is not the intention of the department to prosecute in this case as in any case where there is a formal investigation."

However, survivors and relatives of victims still will be able to file claims in British civil courts, a spokesman from the Department of Transport confirmed.

Victims also may file claims in Belgian courts, although this is thought to be unlikely by lawyers.

So far no litigation has been filed anywhere as a result of the disaster, said a spokeswoman for Townsend Thoresen. However, many potential plaintiffs may be waiting for the result of the British government's official investigation to be published before deciding whether to sue, she added.

That report is expected to be published in the "next few months," according to the Department of Transport. The report will be written by Justice Sheen, the High Court judge who chaired the seven-week investigation that ended June 12.

Product liability

The European Community's product liability directive, which is designed to impose strict liability on producers, importers and retailers, could result in "forum shopping" by plaintiffs, says a London broker.

"The impact of legislation (will) be heaviest on those organizations which (do) not have well-established and defined product policies and strategies for dealing with claims," said Richard Porter, divisional director of Alexander Stenhouse U.K. Ltd. at a recent seminar

Continued on next page

Companies,

Argonaut looks at the company, not the category. The specifics, not the stereotypes.

Because every customer is unique. And every situation demands the responsiveness and flexibility that a company of our size and resources is ideally equipped to provide.

Call (415) 326-0900 and talk to our president, Michael Crall. He just might get you what a quick once-over won't:

The high sign. Argonaut

Our loss control plan makes your project a safety zone.

To get more projects off the ground, we look at your company not your category.

london

Continued from previous page

on the British Consumer Protection Act, which enforces the EC directive.

Mr. Porter said he regretted that the British legislation "had been rushed through Parliament" before the national election.

The British act contains a development risk or state-of-the-art defense which is much broader than that contained in the EC directive, observers say (*BI*, June 15).

The EC defense, which states that a producer shall not be liable if "the state of scientific and technical knowledge at the relevant time was not such as to enable the existence of the defect to be discovered," is one of three options that EC member states may include in their legislation.

The British law states a producer shall not be liable if "the state of scientific and technical knowledge at the relevant time was not such that a producer of products of the same description as the product in question might be expected to have discovered the defect if it had existed in his product while they were under his control."

This is "going to give rise to some concern in interpretation," said Mr. Porter.

"In the early days legal decisions might be fairly complex. Overseas litigation will also be a problem as 'forum shopping' occurs when the plaintiff decides on the best venue to bring his claim—particularly if the opportunity arises to bring a claim in a country which has no development risk defense," he added.

In addition, the British act fails to fully define several issues, said Oliver Prior, managing director of Holmes Johnson Lessiter Ltd., an affiliate of Alexander Stenhouse.

"The essence of the directive is that the producer shall be liable for damage caused by a defect in his product," he said. But nowhere is the meaning of "product" fully defined in the act, he added.

The act says a product is a " 'good' but does not define this," he explained.

"These are all things that we've got to see interpreted by the courts over the next two or three years," he added.

Polygon capital

Polygon Insurance Co. Ltd., the Guernsey-based aviation insurance company owned by several European airlines, last month increased its capital to 10 million pounds ($16.1 million) from 7.5 million pounds ($12.1 million).

The aviation insurer rolled most of last year's profit of 2.6 million pounds ($3.8 million at year-end exchange rates) into the insurer's capital and surplus, said Ian Daish, general manager of Polygon's manager, Transglobe Underwriting Management (Guernsey) Ltd. in Guernsey.

Last year, Polygon wrote just less than 18.8 million pounds ($30.3 million) in net premiums. The insurer did not release its gross premium volume.

Polygon's principal shareholders are KLM Royal Dutch Airlines, Scandinavian Airline System and Swissair.

Sedgwick sale

Sedgwick Group P.L.C. is selling its two Belgian underwriting subsidiaries to Groupe AXA-Belgium S.A., part of the French AXA Group.

The largest Lloyd's of London brokerage company is selling its 50% interest in Lloyd European Compagnie d'Assurances et de Reassurances S.A. and its 100% interest in British Continental Office—Wigham Poland Belgium S.A. for a total of 900 million Belgian francs ($23.4 million).

The sale is "part of our policy of reducing our commitment to underwriting. We are primarily insurance and reinsurance brokers and underwriting is not our core business," said Sedgwick Secretary George Hilton.

Lloyd European is a Belgian insurance company specializing in automobile insurance and made a pretax profit of 197 million Belgian francs ($5.1 million) in 1986.

British Continental Office is Lloyd European's underwriting agent in Belgium and produced pretax profits of 1.6 million Belgian francs ($42,000) in 1986.

Sedgwick has no "immediate plans of selling" River Group Ltd., its main underwriting operation, which includes River Thames Insurance Co.

London goes on-line

The London insurance market plans to introduce its first intermarket electronic network system, which will cut down on paperwork and cut the time it takes to place policies and pay claims.

The London Market Network Management Group has announced that the electronic network will begin in the fall under a three-year contract with IBM U.K. Ltd.

The management group operating the network consists of the Corp. of Lloyd's Lloyd's Insurance Brokers' Committee, the Institute of London Underwriters and the Policy Signing & Accounting Centre, an accounting center for non-marine underwriters at 122 London insurance companies. The group's combined membership represents about 1 000 insurance organizations in the London market.

Users of the network, which initially will include brokers, insurance companies and Lloyd's syndicates, will be linked through an IBM computer center.

However, the group hopes to extend the network worldwide and to serve other branches of the financial services industry.

"The electronic network will reduce the considerable use of paper (and improve) the flow of information within the London Insurance Market," the group says.

The network also will save users money, the group contends.

London listing

Hafnia Invest, parent of Hafnia Insurance, Denmark's second-largest insurance company, is seeking a listing on the London Stock Exchange.

The London listing follows the company's listing on the Frankfurt, West Germany, exchange.

"Apart from broadening the international nature of our share register—currently approximately 15% of our shares are held outside Denmark—the London and Frankfurt listings will support our commercial strategy internationally," said President Per Villum Hansen.

The group's profit for the year ending Dec. 31, 1986, increased to 251 million kroners ($36.9 million) from 212 million kroners ($35.4 million) in 1985, according to the group's annual report.

"Hafnia's strategy in Denmark is to reinforce its position as an important national player with a broad range of financial products and services," said the statement.

"Outside Denmark, Hafnia's strategy is one of gradual and carefully monitored expansion, building on its existing presence outside Denmark, which will be aided by a London and Frankfurt listing."

Approximately two-thirds of Hafnia insurance's business comes from property/casualty insurance, marine insurance and reinsurance activities. The remaining one-third is life insurance. ■

States should craft model tort reforms: GAO

By DEBORAH SHALOWITZ and JERRY GEISEL

washington

WASHINGTON—The federal government should work with states to develop model tort reforms in an effort to reduce the costs of medical malpractice insurance, says the General Accounting Office.

The GAO, the investigative arm of Congress, recommended that the secretary of the Health and Human Services Department and the U.S. attorney general work with states to develop model tort reforms.

In the agency's fifth and final report on medical malpractice, the GAO also suggested a number of tort reforms that could be especially helpful in eventually reducing the costs of medical malpractice insurance. These include:

- Shortening the statute of limitations for filing claims, which could reduce claims frequency.
- Revising joint and several liability rules to require a defendant to pay damages commensurate only with his or her share of the fault that contributed to the injury, which could be more equitable to defendants.
- Reducing malpractice awards by collateral source payments, such as health insurance, which could preclude plaintiffs from being compensated more than once for the same loss.
- Limiting attorneys' contingency fees to provide a greater proportion of awards or settlements to the injured parties, which could reduce legal costs associated with malpractice cases and encourage plaintiffs' attorneys to settle larger cases sooner.
- Requiring periodic payment of awards over the life of the injured party or period of disability rather than lump-sum payments, which could better assure that funds are available when medical costs are incurred and wages are lost.
- Placing "reasonable" caps on awards for non-economic damages, such as pain and suffering, which could limit and bring more predictability to these "highly subjective" and "controversial" damages that are "not susceptible to easy quantification."

The GAO report also recommended that states, health care providers and others take steps to eliminate the conditions that lead to medical malpractice lawsuits.

These steps include:

- Enacting legislation to prohibit physicians whose licenses have been revoked in any state from participating in Medicare and Medicaid programs.
- Requiring health care providers to participate, as a condition of licensing, in risk management programs.
- Increasing the aggressiveness of physicians and other health care providers in assuring that members of their professions are adequately trained, supervised and, where appropriate, disciplined.
- Determining if state insurance regulators have sufficient data and effective analysis procedures to make decisions about insurance rates and insurer solvency.
- Educating patients, with the help of HHS and other groups, about what their expectations should be from the health care system.

Rep. John Porter, R-Ill., who requested the GAO's medical malpractice investigations, said: "These reforms, especially sensible caps on highly destabilizing 'pain and suffering' awards, will help restore predictability and insurability to the system without compromising an injured person's right to recover reasonable damages."

He added that "the insurance industry must also help to alleviate the malpractice liability problem, by maintaining appropriate reserves and adhering to sound investment practices."

Rep. Porter also advised state insurance regulators to "ensure that insurance rates are not excessive or discriminatory."

The GAO study was endorsed by the American Tort Reform Assn., a Washington, D.C.-based coalition of more than 500 trade associations, large and small businesses, professional groups and non-profit organizations.

The GAO study, "Medical Malpractice: A Framework for Action," is available from the U.S. General Accounting Office, P.O. Box 6015, Gaithersburg, Md. 20877; 202-275-6241. The first five copies of the report are free; additional copies are $2 each.

Part-time benefits

Legislation requiring employer-provided health and pension benefits for part-time and temporary workers was introduced in the Senate and the House by the Congressional Caucus for Women's Issues.

The Economic Equity Act of 1987 is an omnibus package of legislation containing 17 separate provisions designed to improve the economic status of women.

It was introduced in the House by Reps. Patricia Schroeder, D-Colo., and Olympia Snowe, R-Maine, and in the Senate by Sens. Alan Cranston, D-Calif., and Dave Durenberger, R-Minn.

The legislative package has 80 original co-sponsors and is endorsed by 51 national organizations, including the AFL-CIO, the American Assn. of Retired Persons, the United Auto Workers and the Communications Workers of America, according to the caucus.

An Economic Equity Act has been introduced in each session of Congress since 1981. Successful provisions of past bills include the health insurance continuation laws of the Consolidated Omnibus Budget Reconciliation Act of 1985 and the private pension system reforms of the Tax Reform Act of 1986, said the caucus.

This year's Economic Equity Act is divided into two sections: work and family. Some of the specific bills have been introduced in previous sessions of Congress, while others are new.

One new proposal, sponsored by Rep. Schroeder, would require employers to offer health insurance benefits to part-time and temporary workers on a pro rata basis if the employer provides such benefits to full-time workers.

The bill, H.R. 2575, also would reduce to 500 hours from 1,000 hours the minimum number of hours an employee must work per year to receive credit toward vesting requirements under employer-sponsored pension plans. This requirement is part of the Employee

Continued on next page

Hartford Life Companies, Hartford, CT 06115 © 1987. The Hartford Insurance Group

Until May 1987, only seven insurers had over $50 billion of Group Life volume in force.

Now there are eight.

When you need us most, we're at our best.

Leisure activity coverage

Continued from page 1
insurance costs.

"I don't think it's going to stop camping, but it will stop a lot of activities that normally go on in a campground," said Bill Lenssen, owner of a Kampgrounds of America franchise in Daytona Beach, Fla.

Mr. Lenssen's property/casualty insurance premiums have risen to $34,000 this year from $18,000 in 1984. And he now has only $2 million in umbrella coverage underwritten by CIGNA Corp., compared with a $5 million policy in 1984.

The campground has reported only a few small claims since 1984, he said.

Higher insurance costs have forced Mr. Lenssen to raise camping rates $2 per night, bringing the charge to $17 for an overnight stay. That has cut down on the number of guests at his campground, he noted.

In addition, the pool at Mr. Lenssen's campground no longer has a water slide, and horseback riding is a thing of the distant past. The KOA facility cut that out in 1980 when liability coverage costs reached $5,000 per year and eliminated the chance to profit from riding, he said.

Jerry Taylor, vp of franchise services for Kampgrounds of America Inc. at the company's national headquarters in Billings, Mont., said a few KOA locations have been shut down in the last few years partly because of high insurance costs.

"I can say excessive premiums have contributed to a few closing down," said Mr. Taylor. "It's getting to be a high percentage of cost."

Earlier this month, the Mount Rushmore KOA campground in Hill City, S.D., still did not have liability coverage for its water slide, but expected to secure coverage soon.

Al Johnson, vp and campground operator of De Smet, S.D.-based Satellite Cable Services Inc., the owner of the Mount Rushmore KOA, said the facility expected to purchase at least $500,000 in liability insurance from Golden Eagle Insurance Co. in San Diego to cover operation of the slide. In previous years, coverage had been written by Pine Top Insurance Co., a Schaumburg, Ill.-based insurer that was declared insolvent last year.

While he did not have figures on the cost of the coverage, Mr. Johnson said Golden Eagle is proposing to write the insurance at a rate that is about 20% higher than last year's price.

James K. Coyne, president of the American Tort Reform Assn. in Washington, D.C., said insurers appear to have developed a fear of water with regards to their underwriting practices for recreational activities.

"The areas most impacted involve water," he said, including boat rentals, water slides, white-water rafting and other aquatic activities.

"Water is all of a sudden a terrifying thing," said Mr. Coyne. "We've been able to deal with men and women diving into water and swimming for 5 million years, but now we can't."

ATRA is attempting to ease the insurance problem for outdoor recreation facilities by continuing its push for changes in the civil justice system.

Continued on next page

washington

Continued from previous page
Retirement Income Security Act.

Another new bill, introduced by Rep. Barbara Kennelly, D-Conn., would limit the practice of integration to only 50% of a recipient's pension benefit.

Under current law, pension benefits accrued before 1989 can be reduced and in many cases completely eliminated by Social Security benefits received.

The Kennelly bill, H.R. 2613, also would eliminate completely integration of Simplified Employee Pension plans used by small employers, and integration of all other pensions after 1999.

Another provision in the bill would reduce the vesting requirement of multiemployer pension plans from 10 years to five.

Insurance deduction

Self-employed individuals would be allowed to deduct 80% of the cost of health insurance for themselves and their dependents under a bill proposed by Senate Small Business Committee Chairman Dale Bumpers, D-Ark.

Under the 1986 Tax Reform Act, self-employed individuals can deduct 25% of health insurance costs for themselves and their dependents through 1989.

Sen. Bumpers explained to Congress that "the 80% deduction proposed by this legislation is consistent with the allowable deduction under the 1986 (Tax Reform Act) for business meal and entertainment expenses."

The bill, S. 1370, "will be a step forward, placing the self-employed on the same tax footing as employees of large corporations who enjoy excellent health benefits without incurring taxation," said the senator.

According to the Joint Committee on Taxation, said Sen. Bumpers, the legislation would cost about $1 billion in lost revenue—"a small price to enable a significant portion of our nation's uninsured to be encouraged to insure and better protect themselves and their families."

IRA, Keogh assets

The amount of Individual Retirement Account and Keogh plan assets has topped the $300 billion mark for the first time.

At the end of 1986, IRA and Keogh plan assets climbed to $303.9 billion, up from $230.4 billion in 1985, a 31.9% increase, according to the Employee Benefit Research Institute in Washington.

Of those $303.9 billion in assets, some $262 billion were held by IRAs and $42 billion were held by Keogh plans in 1986, EBRI estimates. A comparison of IRA and Keogh plan assets for 1985 is not available.

The growth rate of assets held by IRAs, however, probably will taper off this year, experts believe, because of changes in the tax treatment of IRAs. ■

We saved you a seat.

Continued from previous page

In a press conference last month to emphasize its support for reforms like abolition of joint and several liability and capping noneconomic and punitive damage awards, ATRA presented several recreation risk "horror stories"—case studies submitted by owners and operators of outdoor recreation sites—to illustrate how it believes the civil justice system is contributing to the liability crisis.

Among the examples:

- The Nantahela Outdoor Center in the Great Smoky Mountains of North Carolina has eliminated rock-climbing and bicycling programs to keep insurance costs down. The center reports that despite only one claim in 15 years of operations, its liability insurance was canceled without explanation. Replacement coverage was found that would cover some activities at five times the cost.
- The Colorado River Outfitters Assn. in Englewood, Colo., which offers white-water rafting trips, reported that insurance was unavailable for night trips. The company predicted rafters this summer would pay $1.50 to $2 more per day to make up for the increase in insurance costs for daytime activities and estimated that premiums would rise 5% to 10% next year.
- Coachman Horse Drawn Carriages in Great Falls, Va., discontinued all public tours and suspended its carriage rides in "areas where contact with the public or motorized vehicles is likely."

Coachman now only offers services for private promotions for which organizers are responsible for liability coverage.

The company reported that property insurance coverage on its horse-drawn vehicles and $1 million in liability insurance had cost $1,200 per year from 1981 to 1986. But, despite only one small claim during its eight years of operation, Coachman said it could only find coverage from one insurer that would have cost $6,000 and covered only those events between 1 p.m. and 4 p.m. on Saturdays.

- Camp Coast to Coast in Washington, D.C., a network of 450 recreational vehicle resorts, has discontinued activities including animal rides, go-kart rides, swimming from rafts and rifle ranges. Insurance costs for Camp Coast to Coast surged 35% in 1985 and 15% last year. The cutback in activities held the 1987 premium increase to around 5%.

In response to the liability insurance crunch for water-related summer recreation activities, many alternative risk financing facilities are springing up, according to consultant Bob Hanson and others.

However, "in my mind from a legitimate coverage standpoint, I don't think there's a lot (of coverage) available," said Mr. Hanson, director of Recreation Underwriting Management Corp. in Wellesley, Mass. Mr. Hansen also is director of Aquatic Recreation Insurance Co., a Barbados captive that provides about 40 water parks nationwide with $1 million liability limits.

Another market for water park liability coverage, newly licensed T.H.E. Insurance Co. of Metairie, La., a subsidiary of Allied Specialty Holding Co. of St. Petersburg, Fla., began offering $1 million in liability coverage for water parks and other amusement facility risks last year.

Charles Landrum, director and general manager of the insurer, said T.H.E. has a reservoir of experience that allowed it to begin writing amusement-related risks. "We got in it based on the resources and talent we have," he remarked, "not because it is a quick-buck market."

Mr. Landrum said T.H.E. relies on the experience of "individuals related to our organization that have been actively engaged in this class for 20 years."

The insurer has collected about $7.5 million in premiums for amusement risks this year.

However, while insurance prices for many summer recreation sites are spiraling, rates appear to have stabilized for amusement parks, following several years of market constriction (*BI*, July 16, 1984).

Phil Coulson, a principal with Haas-Wilkerson & Associates, a managing general agency in Kansas City, Mo., said liability coverage for some amusement risks his company writes on behalf of CNA Insurance Cos. went up as much as 65% between 1985 and 1986, after a 75% jump the year before.

But compared with last year, 1987 rates have not risen much, he pointed out.

Haas-Wilkerson's method of calculating rates, however, has changed. "We went to a loss-sensitive program this year and it's working extremely well," he said. "The more claims you have, the more premiums you pay."

Haas-Wilkerson also has increased the limits it offers amusement parks to $3 million from $1 million previously.

Joe Yungel, president of Associated Underwriters of St. Petersburg, Fla., noted that rates for some smaller parks have leveled out "to a great degree because parks are taking larger deductibles."

And there is more coverage available for amusement parks this year, according to the president of a new insurer writing amusement park risks.

"This year, there's more available if only for the fact that we're here," said Bruce Esselborn, president and chief executive officer of United Capital Insurance Co. in Atlanta.

The surplus lines insurer is a subsidiary of United Capital Holding Co. It was formed last year when the holding company purchased the licenses of Great Southwest Fire Surplus Lines Insurance Co. from Sentry Insurance Group and renamed the shell (*BI*, Aug. 11, 1986).

Mr. Esselborn said the insurer writes some coverage for carnivals, circuses and other amusement-related risks, but he pointed out that the business—which amounts to "a few million in premiums—represents less than 5% of United Capital's book of business.

The insurer offers liability limits of up to $1 million and has written coverage for both small and large parks, he said.

However, parks that haven't yet secured coverage will have a hard time finding it now. Any amusement risk looking for coverage at this date is probably a bad risk, he noted. "All the ones that should have been placed, have been placed." ■

No matter what size policy we write, we're more than accommodating when it comes to service. That's why brokers are starting to see Appalachian and Affiliated from a different perspective.

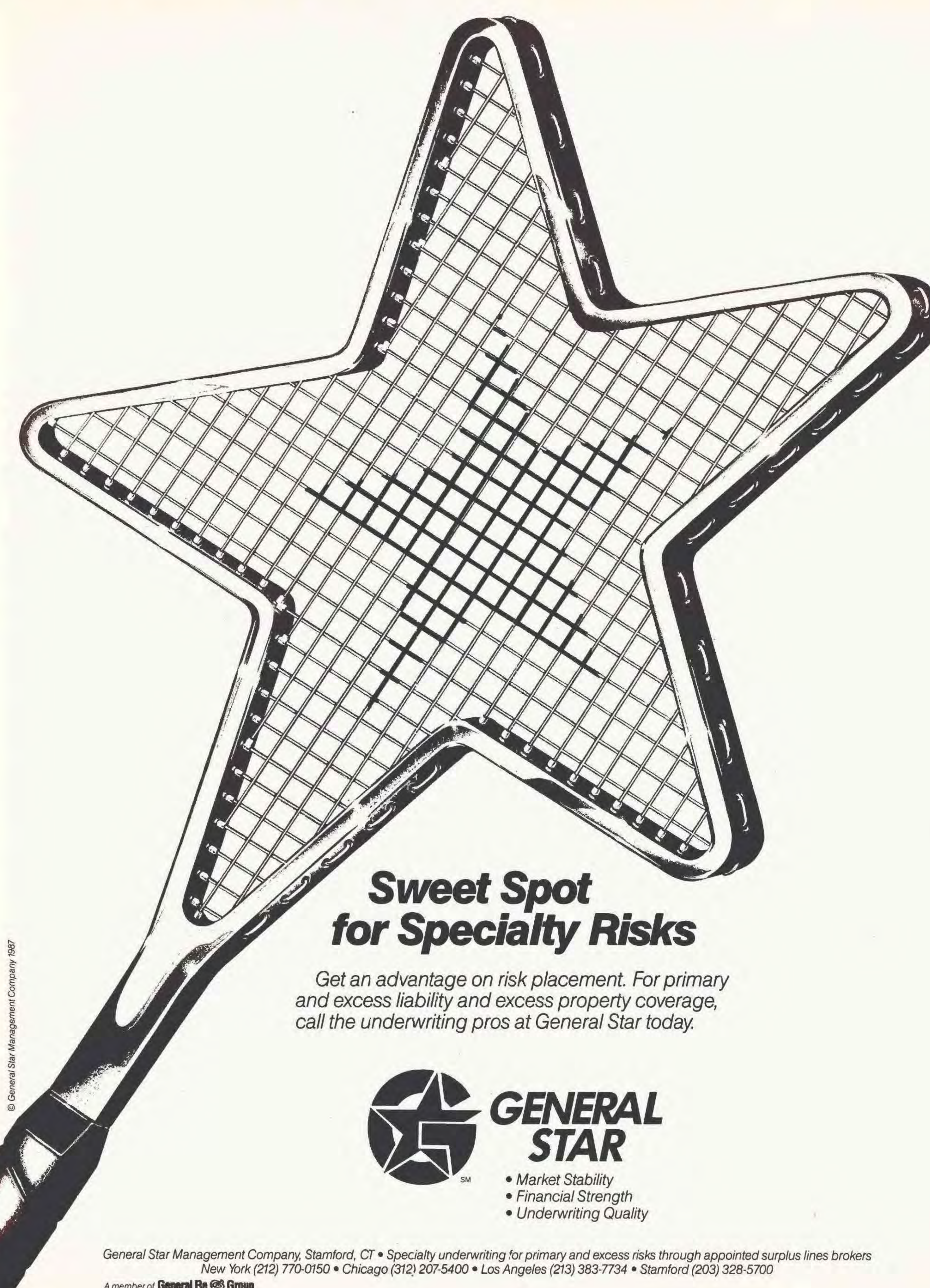
We have the proven capacity to write policies for companies of all sizes. Large and small. It's one of the reasons we've earned Best's A+ property insurance ratings.

Appalachian and Affiliated offer a complete product line—including an "all risk" policy that's simple, comprehensive, and flexible. We have a proven track record of serving brokers who require fast, competitive, and complete service. We put you directly in touch with our underwriters for fast responses. And, our claims settlement and paperwork response is just as fast, just as efficient, and certainly, fair. We've even been known to hand deliver a policy in a pinch.

We can also make available the expertise of Factory Mutual engineering—expertise helpful in reducing or controlling property losses for your clients.

So, if you want insurers who provide capacity, coverage, and service, talk to Appalachian and Affiliated. We'll help give you a new perspective on property insurance.

Affiliated FM Insurance Company
Appalachian Insurance Company
Associated with Allendale Mutual Insurance Co.
Allendale Park, P.O. Box 7500, Johnston, RI 02919.
Telephone (401) 275-3000.


Sweet Spot
for Specialty Risks
Get an advantage on risk placement. For primary and excess liability and excess property coverage, call the underwriting pros at General Star today.
GENERAL STAR
SM
• Market Stability
• Financial Strength
• Underwriting Quality
General Star Management Company, Stamford, CT • Specialty underwriting for primary and excess risks through appointed surplus lines brokers
New York (212) 770-0150 • Chicago (312) 207-5400 • Los Angeles (213) 383-7734 • Stamford (203) 328-5700
A member of General Re Group
© General Star Management Company 1987

From the desk of . . . Howard C. Alper

An open letter to property/casualty insurers

By Howard C. Alper

YOU'LL CERTAINLY acknowledge that the biggest problem in our industry is the pricing cycles. You may even feel that it's the agent's or the policyholder's fault—there's no loyalty and there's too much emphasis on price.

As is true in most business or personal decisions, people react according to how you treat them. You can get them to react almost any way you want—it's up to you.

The problems that have befallen the life insurance industry in recent times are well known. Life insurance was a very stable product. The life insurance industry planned it that way, and the policyholder did anything necessary to retain the policy.

That stability rapidly disappeared in the past several years. There were major improvements in mortality tables and interest factors, and most life insurance companies did not significantly reflect these new favorable factors on existing policies. . . but they certainly did on new policies.

A new discount for non-smokers was offered on new policies, but not on old policies. Many policyholders ultimately realized that a new policy was more attractive than an old policy and canceled their old policies. So their loyalty disappeared. The retention factor of a life insurance policy has dropped from approximately 7.5 to 4.5 years, just since 1982. That's a 40% reduction in retention!

Do you still have in force the personal life insurance policies you wrote years ago? If so, consult your life insurance agent.

The real truth is that the life insurance companies did not take care of their existing policyholders as well as their new policyholders. The message to their policyholders was clear.

So what did they get? Very few old policyholders and lots of new policyholders, along with the costs of re-underwriting, new commissions and market churning.

The disability income insurance field has very high retention of policyholders (11 to 12 years). Several companies give an extra benefit (10% more coverage) for annual premium payments (as opposed to monthly, quarterly or semiannually). When a new broadening of coverage is developed, most disability income companies automatically add an appropriate endorsement to all outstanding policies. However, more important, they do not increase the rates as the risk goes up!

That's totally foreign to property/casualty insurance companies, but the disability income insurers keep insuring a person at the original issue rate, even as they grow older very year. They take care of their old policyholders, and they keep them.

How many times have you or your underwriter said, "Price it so we don't leave money on the table." That phrase indicates that you're trying to get as much as possible, irrespective of equitable pricing.

Your underwriters also often say, "What price do you need?" This says you don't know what the price should be and also indicates your desire to get the business from your competition with little consideration for price.

These attitudes indicate a very

speaking out

unprofessional approach and indicate that you don't know your business well enough to price your product or don't have the good business sense to adhere to sound pricing. And certainly roller-coaster pricing begets mistrust.

If you're going to operate responsibly and maintain profitability, you've got to know your costs and stick to pricing in relationship to those costs. This requires far more discipline than you have displayed in the past but which is necessary if you are to regain the insurance buyers' trust and have continued profitability.

If you teach customers to buy price, they'll buy price. If you teach them to buy quality, they will buy quality. Sure, price is important, but we all buy things that cost more than the minimum price at which the product is attainable. We recognize that value added is worth something. So do our customers. The most successful companies in this country don't sell price. . . they sell quality and service.

You should also act, not react, to the actions of others. If others choose to jump off the building and slash prices for market share, you should not follow. If you can't make money in the insurance business—long-term or short-term—put your capital elsewhere. If enough insurance company executives would operate in a disciplined fashion, the insurance cycles would go away.

They also will go away if you taught your customers loyalty. You would do this by treating them favorably. Don't expect your agents to do your job. If the market changes, agents must be at least somewhat responsive to their clients' needs.

Most insurance company executives think they have good underwriters. . . people who can choose risks better than most. Let's be realistic—not everyone can be better. There are only a handful of companies that, over time, underwrite better than average.

All that happens in the pricing cycles is that the same business is churned between companies, at increased cost to the companies.

And what about the claims-made policy form? This is supposedly going to cure the ills of the industry. . . at least the volatile liability side. This movement clearly states that since you can't underwrite, you'll pass the problem off to the customer.

Thank goodness it went away. No business can survive for long by providing an inferior product to its customers, and claims-made is a suicide product from our industry's perspective.

Why not put your research and development departments to work developing benefits for existing policyholders that would not be available to new policyholders? This could be in the form of a price advantage (a discount for longevity of policy or loss-free years), a stability of pricing for multiple-year terms or broadened coverage for long-term policyholders.

There are many benefits that could be developed to train policyholders to be loyal to you. Perhaps you will then get the benefit of the Biblical phrase: "Do unto others as you would have them do unto you."

Don't worry about the next soft market; do something to prevent it.

Howard C. Alper is president of Chicago-based AuditRate Inc., an insurance cost-reduction consulting firm. Mr. Alper holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

Safety analysis methods vary

By The Insurance Institute of America

A.R.M. exercises

The following question and answer are drawn from the curriculum for the Associate in Risk Management designation awarded by the Insurance Institute of America. They represent the type of question asked, and possible answers to, the three examinations for the A.R.M. designation.

This month's exercise, drawn from the most recent national examination in ARM 55—Risk Control, focuses on the techniques of system safety, a collective variety of methods for prospectively or retrospectively analyzing the causes of particular accidents (viewed as breakdowns of some system of interrelated parts) and for recommending measures to reduce the frequency or severity of such breakdowns and the resulting accidents.

Q: Several forms of system safety analysis may be particularly helpful in analyzing exposures to accidental loss and in suggesting ways to minimize or prevent these losses. For each of the following types of system safety analysis, first describe the reasoning underlying that type of analysis and then give one example of how that type of analysis might be used in preventing or reducing the severity of property or net income losses from the explosion of a major steam boiler that provides heat to an organization's multiple-story office building.

- Scenario analysis.
- Cost-benefit analysis.
- Performance evaluation review techniques (PERT).
- Fault tree analysis (FTA).
- Technique of human error rate prediction (THERP).

A: ✓ Scenario analysis is based on the reasoning that "brainstorming" the circumstances under which particularly severe—even "worst-case"—accidents might occur and then tracing their possible causes and consequences will lead those participating in the analysis to identify feasible preventive measures.

Scenario analysis could be applied to a boiler explosion exposure by gathering various engineering and management groups to discuss in detail the circumstances under which the boiler might explode, under what particular conditions the resulting losses would be particularly severe and how the explosion could be prevented or the resulting losses reduced under these given circumstances.

✓ Cost-benefit analysis involves assigning dollar values to each of the costs and benefits that can be expected to flow from any proposed change in a system and then selecting the change(s) that promise(s) the greatest excess of incremental benefits over incremental costs.

For an existing boiler, cost-benefit analysis could consider various changes in the boiler equipment, design or equipment configurations—or even alternative heating systems—and select the change or set of changes that produce benefits that most exceed the costs of the change. If there were no boiler currently installed, cost-benefit analysis could be used to choose the best boiler system to install.

✓ PERT entails developing a network, or sequence, of time-critical events that are essential to the success of a particular project. The resulting charted sequence allows these crucial events to be scheduled so that each of them can be completed on time to assure the project's timely completion.

PERT could be used for scheduling preventive renovation of the heating system before any explosion or for prompt replacement of the system after an explosion to minimize the time that the building would be without steam.

✓ FTA identifies some specific system failure and then traces backward, through a logic tree, the necessary and sufficient conditions to produce that particular failure. The objective is to identify and take preventive actions to break this logical chain of circumstances so that the particular system failure does not occur.

FTA could be applied to boiler exposure by determining each of the ways in which the boiler could explode, the sets of circumstances necessary and sufficient to lead to each of these explosions and the ways of preventing each of these sets of circumstances from occurring.

✓ THERP involves dissecting a particular human activity (such as the cleaning of a boiler) into specific tasks and then calculating or estimating the probabilities of particular human errors while performing each of these tasks. These probabilities can then be used to compute or estimate the overall likelihood that a specified type of human error will occur during that activity causing a system failure.

For example, THERP could be used to analyze the activities of maintenance personnel tending the boiler to estimate the likelihood that a specified type of human error or combination of errors will cause the boiler to explode.

The sample questions and answers used in this column are taken from the Associate in Risk Management designation curriculum of the IIA. For more information on the content of the A.R.M. program, write Dr. G.L. Head, Vp, Insurance Institute of America, P.O. Box 314, Malvern, Pa. 19355.

Heart attack compensable: Court

legal briefs

The occurrence of a heart attack was an accident and resulted in an injury within the meaning of the Workers Compensation Act, according to the Supreme Court of Louisiana.

Clifford W. Nix, a 64-year old diabetic, was an employee of B.J. Hughes Inc., where he presented safety seminars. In January 1980 he presented a seminar in Houma, La., some 60 miles away from his home. He drove to Houma the night before to avoid early morning fog. Mr. Nix presented the seminar, although he appeared ill when he arrived. He refused lunch despite his diabetic condition.

That afternoon he began driving back to his office and while still in Houma slumped over the steering wheel and died. His death was ruled a myocardial infarction.

Mr. Nix's widow and children filed for workers compensation benefits. While the trial court awarded benefits, the Court of Appeal reversed.

The state Supreme Court ruled that where a heart attack was suffered by an employee during the course of his employment, work-related mental or physical stress or exertion preceding the attack may provide a causal link between the heart attack and the employment to satisfy the requirement of arising out of employment. "This stress or strain," the court observed, "need not be abnormal; it must only be greater than the stress and strain involved in everyday non-employment life.' The compensation award was reinstated. *Nix vs. City of Houma*, Supreme Court of Louisiana, May 20, 1986 (*BI*/04/M.-$10).

These abstracts were prepared by Cases Unlimited Inc. Copies of these decisions are available by sending a $10 check payable to Cases Unlimited to Business Insurance, *740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.*

Undelivered policy didn't preclude cover

The failure to deliver a fire insurance policy until after a fire occurred did not make the policy inapplicable, a Louisiana appellate court ruled.

In February 1983, Barry Hopkins negotiated a fire insurance policy for Mamou Farm Service Inc. Pursuant to the negotiation, a temporary binder was issued by the Long Agency on behalf of the Hudson Insurance Co. on April 5, 1983. This binder expired on May 5, but was replaced by a binder issued by Hudson effective May 5 through July 5. Both binders provided blanket coverage on Mamou's buildings and machinery in the amount of $43,000; blanket coverage on the contents in the amount of $55,000; and blanket coverage on stock or inventory in the amount of $500,000. Both binders referred to a policy period of April 5, 1983 through April 5, 1984.

A fire occurred on June 3, 1983, destroying the main building and nearly all of the contents. The policy issued by Hudson was not delivered to Mamou until after the fire on June 6. Mamou filed suit on Aug. 12, 1983, yet no tender of payment was made until Sept. 26, 1983, when Mamou received $434,003.77 from Hudson, for the totality of the loss. An earlier check was received for about $15,000 for inventory that had been salvaged.

The trial court awarded Mamou about $604,000 plus $72,407 in penalties and $22,500 for attorney's fes. On appeal, Hudson argued, in part, that the policy was not applicable because it was not delivered until after the fire occurred. However, the court said that unless the policy itself provides, or positive law stipulates, that a delivery is essential to the contract's consummation, "delivery is not sacramental." The judgment was upheld. *Mamou Farm Services vs. Hudson Insurance Co.*, Court of Appeals of Louisiana, May 14, 1986 (*BI*/05/M.-$10).

Psychological illness may be compensable

A Delaware court ruled that psychological illnesses may be compensable under the Workers Compensation Act even if not preceded by physical injuries.

Elio Battista, an employee of Chrysler Corp., was promoted to repairman-welder in 1976. In 1977 he was promoted to electrician but later that same month he was demoted back to the assembly line. He filed a grievance and was reinstated as a repairman-welder in June 1979. That September, he was demoted to the assembly line. Following his last demotion, Mr. Battista was subjected to ethnic slurs and other verbal abuse from at least one co-worker. He left work on Oct. 19, 1979, with chest pains and shortness of breath. Thereafter, he was hospitalized for a period of time and never returned to work. One psychiatrist diagnosed his illness as major depression and a second as a panic disorder with secondary depression. Mr. Battista filed for compensation. The Workers Compensation Board denied benefits.

The appellate court said that the fact that an employee had a latent emotional weakness or predisposition has not resulted in a denial of compensation so long as a causal connection between the stressful work environment and the manifestation of that psychological illness can be shown. The court rejected the argument that the phrase ". . . violence in the physical structure of the body . . ." in the compensation law must exclusively refer to physical trauma. The case was returned for further proceedings. *Battista vs. Chrysler Corp.*, Superior Court of Delaware, July 21, 1986 (*BI*/02/A.-$10).

Let every man practice the art that he knows best.
—Cicero

CAPABILITY

Excess & Special Risk

The field of excess and special risks is no place for amateurs. It's a hard-ball business with extraordinary stakes. And as an independent broker or agent, you can't afford to take unnecessary chances with your carriers. You need confidence in their ability to write complex coverages, provide consistently higher limits and, whenever necessary, honor multi-million dollar claims.

Fireman's Fund Excess and Special Risk offers you all that and more.

We're the leader in this business. Our E&SR operation is ready to provide $25 million excess liability limits and as much as $85 million excess property capacity. We offer producers a wider range of specialty products including E & O coverage for broadcasters and newspapers, excess workers' comp and excess unemployment compensation. You'll even find hole-in-one insurance for golf tournaments.

We also offer greater expertise in E&SR than most carriers. We've been in the business for over 30 years, providing consistent capacity through good times and bad.

Today we have top E&SR experts in each of our field offices throughout North America. Each one has many years of experience and, most importantly, the local authority to write maximum limits. So you get fast service from people who understand your specific needs.

When you're looking for expert capacity, look to the leader. Fireman's Fund. For over 123 years we've been helping brokers and agents turn today's potential into tomorrow's profit.

FIREMAN'S FUND
INSURANCE COMPANIES
123 years of tomorrows.

ASBESTOS

Liability Program Available
through domestic carrier for
contractors engaged in asbestos removal

EXPERIENCE RATED

Call for applications and details today.

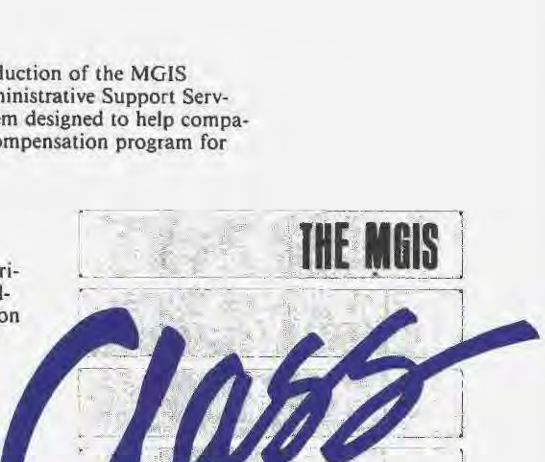
Contact: Frank D. Craemer
AMINS, INC
P.O. Box 8718
East Hartford, CN 06103
(203) 528-3767
(203) 560-1670

Announcing A Breakthrough In Cafeteria Compensation Administrative Services.

MGIS is proud to announce the introduction of the MGIS CLASS Plan — Cafeteria Ledger Administrative Support Services — an administrative support system designed to help companies install and maintain a cafeteria compensation program for their employees.

MGIS Offers Service and Experience.

MGIS has nearly twenty years of experience in the field of group insurance administration, and an excellent reputation for the quality of their administrative services. MGIS currently services over 1,600 employers with over 85,000 employees. Thanks to MGIS' expertise, the CLASS Plan minimizes the administrative impact of cafeteria compensation from proposal state to monthly accounting.



Cafeteria Compensation Is Fun To Market.

Cafeteria compensation is an exciting product to market since it could benefit the employers and the employees of virtually any size company. Besides, MGIS has assembled a complete set of effective marketing tools, including two audio/visual presentations separately targeted for employers and employees. Also, the MGIS CLASS Plan provides agents with a perfect vehicle to sell a menu of other insurance products, particularly Universal Life.

Get The Whole Story!

Don't miss out on this opportunity — find out more about how you and your clients could benefit from the MGIS CLASS Plan — call Julie Johnson for the whole story:

The MGIS Companies
85 Great Oaks Boulevard
San Jose, CA 95119
Post Office Box 530951
San Jose, CA 95153-5351
(408) 224-5400
Toll Free: (800) 231-9656
In Calif: (800) 874-9301

Long-term care benefits get governor's backing

By KARI BERMAN

HARTFORD, Conn.—Connecticut Gov. William A. O'Neill will push for legislation that will encourage employers to include long-term care coverage in employee benefit plans.

Currently, very few employers offer long-term care coverage in benefit packages, according to the governor's Commission on Private and Public Responsibilities for Financing Long Term Care for the Elderly, which issued a report on the problem earlier this month.

As an incentive for employers to add long-term care provisions—like nursing home care—to their benefit programs, the insurance subcommittee of the governor's commission recommended several proposals, including:

- Allowing tax-free rollovers from Individual Retirement Accounts, 401(k) plans, annuities, Keogh Plans and pension plans for the purchase of long-term care insurance.
- Raising the ceiling on contributions to 401(k) plans to allow for adequate prefunding of retiree health and long-term care benefits through these plans.
- Allowing the tax-free transfer of assets from overfunded pension plans to employer-sponsored long-term care insurance programs.
- Allowing the reserves of long-term care policies and interest earned on those reserves the same tax-free status as life insurance reserves.
- Allowing employer contributions to long-term care plans—and employee premium payments for the coverage—favorable tax treatment.

Connecticut's elderly population, like the nation's, is increasing rapidly, says the report, which notes that 20% of the U.S. population will be over 65 by the year 2000.

About 15% of Connecticut's population is expected to be over age 65 by the year 2000, and of those elderly about 50% are expected to be older than 75.

Connecticut will feel a proportionately heavier financial burden than other states as its percentage of residents over 65 is predicted to increase by a staggering 41% by 2000, bringing with it a $2.6 billion nursing home bill, while its general population increases by less than 9%, the report says.

"This problem is a time bomb that we have to diffuse now," Gov. O'Neill said at a press conference after the report's release.

While the commission says there is not a single answer to the problem, it contends the state should take initiatives toward forging public/private partnerships to finance long-term care in a way that promotes individual financial planning for the future.

Educating employees about available options and resources will help moderate the strain on public long-term care programs, while private businesses will also come out ahead by increasing their productivity, the commission said.

As the number of elderly increase, so do the financial and emotional pressures on those responsible for their care, the report says. If the pressures that younger employees feel from caring for the elderly become too great, productivity in the workplace may suffer, the panel predicts.

"Long-term care is necessary," says JoAnn Mathieu, assistant director of the employee benefit division of Hartford-based Aetna Life Insurance Co., which already sells long-term care insurance policies to other employers.

"People need it in case they become functionally dependent and require custodial care," she says.

Very few companies, however, have taken steps toward incorporating long-term care into their benefit plans, the report says.

In addition, employees are often confused about the extent of coverage provided by their current retiree health plans or by Medicare.

"Education is the key. The public doesn't perceive their risk. They think they are protected by Medicare and other plans and they are not," says John Dwyer, an actuary in the employee benefits division of Travelers Corp. in Hartford.

Medicare, for example, is only obligated to provide 100 days of skilled care and does not cover services for debilitating, terminal conditions that would require long-term or nursing home care, Ms. Mathieu says.

Most Medicare cases, however, never reach the 100-day limit because they require custodial care in the interim, releasing Medicare from obligation, she explains.

Realizing the need for employee protection, Aetna will begin offering long-term care insurance to its employees as early as Jan. 1, 1988, Ms. Mathieu says.

Aetna's plan—which will be fully financed by employees—will offer three levels of benefits, providing $50 to $100 in daily coverage, she said.

"Premiums will be based on age of entry—the younger, the cheaper," Ms. Mathieu explains, adding that premiums will remain constant as an employee gets older.

Travelers also will offer its employees long-term care benefits, fully financed by employees, that will include nursing home, custodial and adult day care benefits, says a company spokeswoman.

But many companies do not believe it is their responsibility to provide long-term care programs for employees, the commission notes, while others are apprehensive about costs for such programs.

"Employers are right to be apprehensive about adding to their liability for retiree health care costs," Mr. Dwyer comments. "But they should aid in sponsoring insurance programs that can help assuage the costs of long-term care and educate their employees on risks involved."

Employer-financed long-term care plans generally must be prefunded to be successful, but tax laws handicap long-term care programs by taking away all incentives for prefunding.

"Tax incentives for employers to prefund for employee benefits that were removed with the Deficit Reduction Act of 1984 must be restored if long-term care is going to succeed," Ms. Mathieu says.

Kenneth J. Koos, tax manager at Coopers & Lybrand in Hartford, believes that "there is a good chance of tax modifications occurring and such proposals should be seriously considered by (Congress). If you look at it demographically, the burden of caring for the aged will always exist. Everything that can be done, should be done."

Gov. O'Neill said he will urge members of Connecticut's congressional delegation to consider the recommendations for possible tax incentives that would help make long-term health care affordable for employers, employees and the state.

•

For a free copy of the report, contact Laura Soll, Governor's Commission on Private and Public Responsibilities for Financing Long Term Care for the Elderly, 1 Tower Square, Building 6 PB, Hartford, Conn. 06183-1060.

Industry forecast

dreds of companies competing with one another. And because insurers

Syndicate losses

Continued from page 3

reserves, we feel that we have no option but to keep the account open," he adds.

In 1984, the Warrilow syndicate had an allocated capacity of 31.9 million pounds ($47.2 million) and wrote net premiums of 28 million pounds ($41.4 million), the syndicate report shows.

The syndicate's stamp capacity has since dropped to 13.74 million pounds ($22 million at current rates).

In November 1984, the agency's management was restructured, with Mr. Warrilow replaced as chairman by Mr. Maitland. Two directors also resigned that month, while three others were appointed, according to the report.

The new management was brought in because the Committee of Lloyd's was worried about the syndicate's "serious overwriting" and the large amount of U.S. casualty business being written, sources say.

A Lloyd's spokesman refused to comment.

In 1984 the syndicate wrote a general book of non-marine risks both on a direct and a reinsurance basis. It wrote three principal classes of business: general and professional liability, property and personal accident insurance. These types of business had been written by the syndicate since it began operation in 1978, said Mr. Warrilow in the annual report.

The 1984 account "was dominated by U.S. casualty business, which represented approximately 70% of the total," said Mr. Warrilow, adding that "this has been drastically reduced in subsequent years."

Although the 1984 account showed a "modest improving trend" during the first three quarters of last year, "optimism that the 1984 account would be marginal was shattered once the incurred-but-not-reported feature was added to the known losses of the American casualty section of the account," says Mr. Warrilow in the report.

"The problem mainly stems from the reporting of losses on reinsurance of American companies, who appeared recently to have changed their reserving philosophy compared with previous years," Mr. Warrilow adds.

Accounts showed increased loss ratios "not compatible with the pattern of their past experience. This therefore makes it difficult to estimate the ultimate loss ratio which may develop on such accounts," he explains.

As a result, "we feel. . . it would be inequitable to reinsure the 1984 account at this stage. Our strategy will be to reinsure as soon as the ultimate loss is known, but experience suggests this will take a long time," he says.

U.S. property/casualty insurers suffered record losses in 1984 "and being involved heavily in this market means that we cannot expect to escape unscathed," Mr. Warrilow states.

However, he admits that "when deciding, during the latter part of 1983, what to write into the 1984 account, I decided that 1984 should be the year that insurers were going to have to make radical changes in conditions and prices in view of their past years' results. Such was my opinion that I increased my own share at Lloyd's and on this syndicate in particular for the 1984 account. I was wrong, insofar as only modest improvements were obtainable for the benefit of the 1984 account."

The anticipated underwriting recovery does show through in the syndicate's 1985 and subsequent accounts, he adds.

U.S. casualty business currently accounts for less than 20% of the syndicate's book of business, he says, adding that "it is a logical conclusion. . . not to write this class; for no minor part of an account should be able to jeopardize the overall account," says Mr. Warrilow.

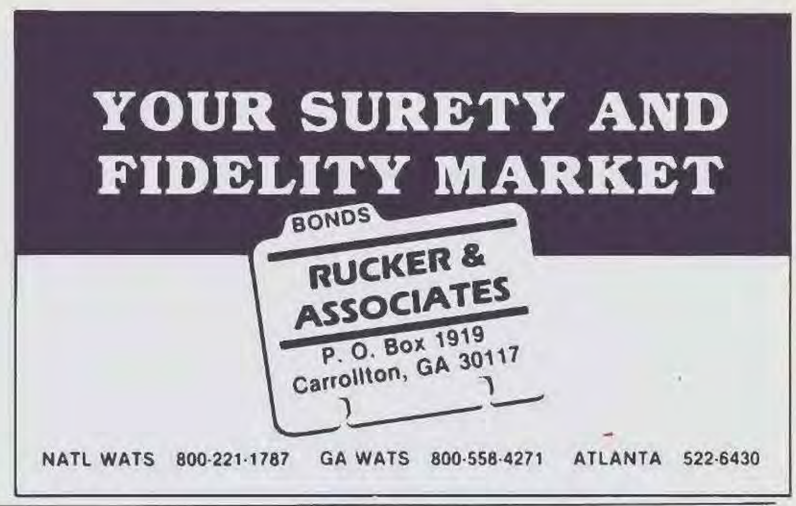
The syndicate therefore has decided to "concentrate the future on the sections of the account that have not contained the unpleasant surprises associated with American liability insurance," he adds.

"In the circumstances therefore, I consider it appropriate to resign," Mr. Warrilow states in the report.

Brian Theakston, formerly deputy underwriter of the syndicate, succeeded Mr. Warrilow as active underwriter last month, whereupon "U.S. casualty was immediately discontinued, leaving the remainder of the year to concentrate on personal accident, non-dollar liability and a modest amount of non-catastrophe U.S. physical damage business," notes Mr. Theakston in the report.

Mr. Theakston, who previously had been the syndicate's personal accident insurance underwriter, had been responsible for about one-third of the syndicate's business.

"We aim to achieve an overall account that is more than 50% short-tail and about 50% (British business), primarily written where we have a direct involvement with the underwriting," he says. ■



61 + 386 = HANNOVER RE

Our city is firmly embedded in the United States with 61 locations carrying the name of Hanover. So are we. We take pride in being a long-standing reinsurer of 386 US-Insurers.

We tackle today's reinsurance problems with the spirit of the early settlers: hard work, stamina, imagination. Where others have perished we thrive. We are more than a foreign market.

HANNOVER RE
Karl-Wiechert-Allee 50 · D-3000 Hannover 61 · West Germany
Telephone 011-49-511-5604-0 · Telex 841-922599 (hanr)

the professional marketplace

RATES AND CLOSING TIME:

***Rates:** Display classified is $86.25 per column inch, minimum of one inch. Straight classified is $7.00 per line, minimum of 5 lines. Count 34 characters per line (include each space and punctuation as a character). Additional $13.00 charge for blind box ads. Only those responses which fit into a business size envelope will be fowarded. Responses are fowarded daily.*

***Closing:** Published every Monday. Copy must be in typewritten form by noon Tuesday, 6 days preceding publishing date. No verbal phone copy accepted. Prepayment required for straight advertisements. Mail ads to Margaret Hikido, Classified Advertising, 740 N. Rush St., Chicago, IL. 60611. For more information call 312-649-5340.*

FINANCIAL SERVICES BROKER

Professional Liability Dept. of a leading wholesale/specialty insurance operation is seeking a broker to join its metropolitan New York office. The successful candidate needs to possess a working knowledge of D&O/E&O markets, have a familiarity with financial statements, and be well-versed on today's business issues. Salary commensurate with experience, please send resume to: Box 2311 Business Insurance, 740 Rush St., Chicago, Ill. 60611-2590

SURPLUS LINES AGENTS

Have facility to place the following coverages:

- Commercial Auto Physical Damage
- Private Passenger Physical Damage
- Contractors Equipment-Dozers-Cranes-Logging Equipment
- Property-Hotels-Motels-Taverns-Restaurants-Apartment Buildings
- Special-Physical Damage for Coal Trucks
- M & C, OL & T for hard to place risks. (Most States)
- Garage Keepers Legal Liability and Dealers Open Lot.
- Oil and Gas Storage Tanks

NATIONAL UNDERWRITERS
1-800-635-6366
wait for dial tone, then dial 845
Telex 159271 HS UND
FAX 305-488-3809

WANTED NEW YORK LICENSED ISSUING CARRIER

We have developed a unique new insurance concept and need a N.Y. licensed carrier. Program up and running in other states. Actuarial information regarding program available. Complete underwriting guidelines and program structure ready for the right carrier. Please respond for details to:

SU
84 Trumbull St.
New Haven, Ct. 06511
1-800-252-4648

ADMINISTRATIVE MANAGER

Large San Diego-based agency seeks experienced Administrative Manager to oversee support personnel and agency procedures. Commercial background and personnel experience a must. Strong supervisory background required. Please call Antoinette West at John Burnham & Company, 619-236-1555. Excellent opportunity!

WORKER'S COMPENSATION ANALYST

Midtown Fortune 100 consumer products corporation has an excellent opportunity for a professional administrator who knows the ins and outs of Worker's Compensation.

Selected candidate will monitor and maintain a corporate-wide, cost-effective claims handling program, as well as assist both divisions and subsidiaries with Worker's Compensation administration.

Position requires a college degree, 5 or more years related experience plus strong interpersonal/communication skills. Hands-on knowledge of IBM PC helpful. Some travel. Excellent salary, all major benefits. For prompt, confidential consideration, forward your resume which MUST include salary history and requirement, to:

DEPT. 312083
1501 Broadway
NY, NY 10036
An equal opportunity employer M/F

SMALL PROPERTY AND CASUALTY COMPANY

If you are the owner of a small Property and Casualty company that wishes to join a growing, medium sized, publicly held company with excellent financial resources and reinsurance facilities, while maintaining identity and location, reply in confidence to: Box 2258, Business Insurance, 740 Rush St., Chicago, IL 60611.

WORKER'S COMP. CLAIMS ANALYST

Prefer 3 - 5 years minimum experience handling all types of compensation claims. Job Duties involve evaluating loss runs, monitoring serious claims, unit stat reviews and contact with clients and company claims handlers.

Please send resume to P.O. Box 3995, S.F., CA 94119 or call Nancy Mendoza, (415) 981-0600 between 9 a.m. to 5 p.m.

BUSINESS OPPORTUNITIES

WANTED

Medium size Midwestern agency looking to acquire property/casualty agency in the following states: AZ, GA, IL, IN, MI, OH, OK. Are interested in finding agency with a heavy concentration in transportation with volume range of $1.5-$5 million. Please send particulars to: **Box 2303, Business Insurance, 740 Rush St., Chicago, IL 60611-2590**

PROGRAM BUSINESS

Brokers and Agents looking for an insurance company to support their program or association should contact Box 2134, Business Insurance, 740 Rush St., Chicago, IL 60611. We are a firm specializing in program placement, development and control.

HELP WANTED

CLAIMS MANAGER

Underwriting Manager for Syndicate on the Illinois Insurance Exchange seeking individual with a minimum of 5 years experience in Property and Truck Physical Damage claims. In-house work in office located in Oak Brook area. Salary negotiable. Please sned resume and salary requirement to: **J. Nicosia, UCA, Inc., 800 Enterprise Drive, Oak Brook, IL 60521**

EXECUTIVE POSITION

Rapidly growing independent third party administrator currently seeking a qualified person to manage its internal operations. The successful candidate will report directly to the President and will also have responsibilities to develop, expand and refine our operations. Our candidate must possess a minimum of 10 years experience in benefits administration or comparable experience with an insurance company. Our candidate should possess specific working knowledge in self-funded/fully insured health plan administration PPO and UR interfacing. Flexible Benefits Compensation, reinsurance contracts and legal compliance wth COBRA, TEFRA, DEFRA and ERISA. Our claims and accounting system operate on a Wang VS System 65, and we utilize customized software applications we vend from one of the nation's largest TPA's. We offer an exciting opportunity, excellent benefits and a very desirable change of seasons. Send resume complete with references and salary requirements to: **Box 2313, Business Insurance, 740 Rush Street, Chicago, Illinois 60611-2590.**

HELP WANTED

ACCOUNT EXECUTIVE

Excellent opportunity for ambitious, responsible career-oriented individual, seeking position with growth potential. Fast growing midtown New York City wholesale broker seeks person with marketing and placing background. Candidate must have knowledge of all commercial lines as well as excess and surplus lines, and possess the ability to communicate well with clients and carriers. Compensation commensurate with experience. Excellent benefits and incentive bonus. Send resume with salary history and references in strictest confidence to: **Professional Excess Affiliates Corp., 60 E. 42nd St., Suite 733, New York, NY 10165.**

PUBLIC RELATIONS ACCOUNT EXECUTIVE

Individual willing to immerse themselves in diverse financial services account at growing NJ agency. Must have at least 3 years agency experience in business-to-business PR, preferrably in P/C insurance. Superior writing, editing and placement skills essential. Editorial contacts with major business media desirable. Outstanding opportunity for well-organized, enthusiastic professional. Resume and salary requirements to: **Shirley Furstman, Gilbert, Whitney & Johns, Inc., 110 S. Jefferson Road, Whippany, NJ 07981**

P&C SALES MANAGER

New Jersey's largest privately held agency looking for experienced sales manager to oversee and develop a present staff of 15. Super opportunity for person with successful track record. Contact: **Paul Gross, President, The NIA Group, 66 Rt. 17, Paramus, NJ 07652** (201) 845-6600.

BI CLASSIFIEDS WORK!

SENIOR CONSULTANT RISK MANAGEMENT

Coopers & Lybrand's Casualty Actuarial and Risk Management practice continues to experience accelerated business growth and currently ranks second in size among casualty actuarial consulting organizations in the United States.

Our business growth in the southeastern states necessitates the immediate search for an experienced Risk Management Consultant. Located in our regional center in Atlanta, this position offers the challenging opportunity to develop, direct and manage a consulting practice.

Principal accountabilities will be:

- To promote and sell risk management consulting services to clients and prospective clients in the southeast region;
- To establish and conduct initial exploratory meetings with client prospects to introduce the Firm's risk management services;
- To write and deliver suggested project approaches to client prospects; and
- To direct and manage all phases of client engagements and special projects through the use of technical support personnel.

Qualified candidates should have incisive marketing perspective, demonstrated ability to sell consulting services, technical competence as a risk manager and capability to motivate and lead professional staff. Other prerequisite qualifications include college degree plus 7-10 years of risk insurance experience in a consulting environment. Professional designation of ARM or CPCU is essential.

Position offers exceptional advancement potential and superior total compensation package.

For immediate consideration, please send resume outlining education, professional credentials, employment history and current salary to Tom Stenson, ABC National Group Director of Staffing.

Coopers & Lybrand
203 North LaSalle Street
Chicago, IL 60601

An Equal Opportunity and Affirmative Action Employer M/F/H/V

DIRECTOR OF MARKETING

The Orange County office of a large international insurance broker has an outstanding opportunity for a highly motivated individual to coordinate the marketing activities of major placements for large clients. 5 years broker or agency experience in placing property and casualty insurance, proven ability to successfully negotiate insurance coverages, good communication and leadership skills required.

We offer an excellent salary & benefits package. Please send resume with salary history/requirements to:

MARSH & McLENNAN, INC.
Attn: Head of Office
P.O. Box 7650
Newport Beach, CA 92658

FCA
MCA
ACA

FCAS   EA   FSA
ACAS   ASA

Student
Actuaries

Specializing in Actuarial
Recruiting Nationwide
Contact: Jerry Hayes

212 West Kinzie Street • Chicago, Illinois 60610 • 312.329.0900

RISK MANAGER

Los Angeles based corporation with multi-locations has an immediate opening in our Corporate Risk Management Department.

Primary responsibilities include procurement and administration of property insurance programs for company assets, as well as directors and officers liability, fiduciary and fidelity coverage and activities. Provides key role in coordination activities for the parent company with subsidiary management on all underwriting requests. Also, significant interface with insurance brokers.

Ideal candidate will have a Bachelor's Degree in business or finance, with a minimum of 3 to 5 years of related insurance experience. Applicants must have excellent oral and written communication skills and demonstrated strong analytical and administrative skills.

Our Company offers an outstanding opportunity and salary commensurate with your credentials, as well as a complete fringe benefit package. For confidential consideration, qualified applicants should send resume and salary history to:

Business Insurance
Box 2314
740 Rush St.
Chicago, IL 60611-2590

COMPTROLLER

Our client, a large Baltimore-based third-party insurance administrator is seeking a Comptroller to organize the accounting functions and to implement an improved accounting system. The qualifications the successful candidate must possess are:

- Very strong knowledge of accounting, accounting procedures, and management reporting;
- Experience in implementing new financial systems;
- Experience in instituting formal internal controls; and
- Experience in reviewing organizations and in simplifying workflows.

This position needs a hands-on person, ready to do whatever needs to be done. A CPA, and experience with a TPA, while not required, are strongly desired.

Please reply in confidence, providing both a resume of your experience and your salary requirements to:

GRANT THORNTON
1850 M ST., N.W., STE. 300
WASHINGTON, D.C. 20036
ATTN: C. BYERS

© The Lincoln National Life Insurance Co. and other Lincoln National affiliates, 1300 South Clinton, Fort Wayne, IN 46801

EMPLOYEE BENEFITS

available free of charge from the Insurance Information Institute, New England Regional Office, 44 School St., Suite 802, Boston, Mass. 02108; 617-227-8877.

State regulations

Continued from page 3

posit Insurance Corp. or Federal Savings & Loan Insurance Corp.," he pointed out.

"We have the best of both worlds in insurance regulation," Gov. Thompson added. "Through the NAIC, we have as much national attention to insurance matters as we probably need, (yet) consumer complaints and consumer problems are handled where they ought to be handled, close to home."

While many political groups advocate repeal or modification of the McCarran-Ferguson Act, the federal law that leaves most regulation of the insurance industry with the states and grants insurers partial antitrust immunity, the National Governors Assn. has not advocated changes in the act, said Arkansas Gov. Bill Clinton, the association's chairman.

"I don't see any prospect that we will," he added.

Gov. Clinton, a Democrat, opposes changes in McCarran-Ferguson for two reasons.

"First, we think state regulation has worked fairly well and we see (McCarran-Ferguson) as an important component of it," Gov. Clinton pointed out.

"Second, from my perspective as the governor of Arkansas, I doubt very seriously that we could have gotten as many companies to cooperate in dealing with the Baldwin-United crisis as were willing to cooperate if there had been no antitrust immunity" and if questions concerning how much insurers could cooperate without violating antitrust laws "required at least letters of opinion from the Justice Department before anything could have been done."

Baldwin-United Corp., a Cincinnati-based conglomerate, entered into voluntary Chapter 11 proceedings in 1983, after insurance regulators in Arkansas and Indiana took control of six Baldwin-United life insurance subsidiaries that could not meet their obligations (*BI*, Jan. 21, 1985; July 4, 1983).

Gov. Clinton urged opponents of McCarran-Ferguson to work with their governors and legislators in deciding "what can and should be done in your states" to improve state regulation and to address some of the criticisms of the law.

Gov. Thompson

"You have a higher responsibility to make sure that the people who are making these decisions at the federal and the state levels know what they're doing," he said.

Gov. Clinton noted that before the liability insurance crisis reached a level where it threatened the livelihood of business owners, most governors and other politicians were not too concerned about "the whole question of insurance regulation and what should be done about it."

"It's an extremely complicated field. Politicians like to stay with simple issues," he said.

However, "because of the burgeoning liability insurance problems that many of our business people have had in the last couple of years, there's been a great deal of discussion about (the insurance industry) in political circles," Gov. Clinton explained.

And the rash of property/casualty insurer insolvencies in the past few years further focused politicians' attention on the insurance industry, he said.

"One of the problems that the insurance industry—with its state regulators—has had with the whole question of whether the McCarran-Ferguson Act should be repealed in Congress is a function of the frustration of political leaders dealing with legitimate problems in areas that they normally have not had to worry about," said Gov. Clinton.

Gov. Clinton

This scenario sometimes forces politicians to look for solutions to problems "without an adequate background or perspective" to solve them, he added.

Gov. Thompson also urged industry officials to continue their push for tort reforms.

"Our legislators and Congress must continue to make slow, steady progress toward the day when the tort systems of all the states reflect the realities of the world as we know them today, or else American industry will lose any chance of being competitive in any meaningful sense," Gov. Thompson stressed.

"Too many products aren't being made in America these days . . . because we've priced ourselves out of the market through unreasonable laws and unreasonable court decisions in the area of product liability," he added.

In addition to Gov. Thompson and Gov. Clinton, the opening session featured a report by Lyndon L. Olson Jr., chairman of the Texas State Board of Insurance and chairman of the NAIC International Insurance Relations Task Force, on the efforts the NAIC is making to improve international trade.

"The NAIC today is a participant with the U.S. federal government as one of the four negotiators for the U.S./Israeli Free Trade Agreement," Mr. Olson explained.

He said that the NAIC will also negotiate the U.S./Canadian Free Trade Agreement in conjunction with the Department of Commerce and U.S. trade representatives.

The NAIC also represented the United States in international reinsurance discussions held in Geneva by the United Nations, and later served as one of the three advisers to the Department of Commerce at another international gathering in Geneva.

Mr. Olson said the NAIC is currently "working very diligently with the Commerce Department" on the freedom of services portion of the General Agreement of Tariffs and Trade, which is an international trade agreement.

"Because of the turbulence of the last cycle . . . there is great deal of concern around the world about reinsurers and the collectibility and security of reinsurance. We have attempted to bring people together around the world . . . to begin to talk about mutual problems and to explain our system of regulation in the United States," Mr. Olson explained. ■

Regulators' concerns transcend politics

By MEG FLETCHER

CHICAGO—Predatory pricing of property/casualty insurance and the soundness of global reinsurance are among several concerns that transcend political borders, say insurance regulators from around the world.

Some 22 officials from the Far East, Europe, Canada and Central and South America met last week in Chicago with representatives of the National Assn. of Insurance Commissioners at the second annual International Conference of Insurance Regulatory Officials.

The gathering was sponsored by the NAIC in conjunction with the its Summer National Meeting.

Regulators Ellen Taylor of Jamaica and Hernan Burdilesa of Chile said they had received complaints from local insurers about predatory pricing by foreign-owned insurers.

Both Ms. Taylor and Mr. Burdilesa said foreign companies manage to attract and underwrite the good risks in their countries because they can offer better rates than local companies can. Ms. Taylor noted that most of the foreign competition in Jamaica is from U.S. insurers.

But Mr. Burdilesa pointed out that the Chilean insurers had a monopoly in Chile until the country significantly deregulated its approach to the industry several years ago.

Both international representatives also joined A. Verbena Daniels, Bermuda's registrar of companies, in emphasizing their concern about ensuring the solvency of foreign reinsurance arrangements.

Concern about the soundness of global reinsurance arrangements was one of the chief reasons the NAIC became interested in international issues, noted Lyndon L. Olson Jr., chairman of the organization's International Insurance Relations Task Force.

As a result, a partnership developed between the NAIC and federal law enforcement and commerce officials. Their chief goals have been to liberalize trade in insurance-related products and help developing countries by sharing their expertise, said Brant Free, director of the U.S. Commerce Department's Office of Service Industries.

International insurance trade can contribute to the reduction of the U.S. trade deficit, said panel moderator Henry G. Parker III, managing director of Chubb Group in Warren, N.J., and chairman of the International Insurance Council.

The international insurance regulators also noted several recent developments worldwide:

- South Korea is beginning to open its markets to non-indigenous companies, according to John J. Roberts, chairman of America International Underwriters in New York City.
- Insurance buyers in Japan are increasingly purchasing non-life policies that include a savings component because the policies offer a higher interest rate than that available through a conventional savings account, Mr. Roberts said. However, insurers that offer that policy must follow a very aggressive investment policy to get an adequate return.
- In Southeast Asia, a study is under way exploring the feasibility of developing a captive insurance center in Singapore.

In addition, interest is increasing in directors and officers and product liability insurance, but decreasing in marine coverages due to a decline in the shipping industry, Mr. Roberts said.

- In Chile, unlike most Latin American countries, the number of persons and companies buying insurance has grown steadily, said Joe Hamilton, vp for Continental Reinsurance Corp. in New York.

The market for insurance products began to grow after the government cut back substantially on industry regulation, he said. And the growth has continued despite economic problems and a strong earthquake in 1985.

Most Latin American countries dictate what insurance products can be sold and to whom, resulting in a limited number of products that few people buy, he added.

But Chile's competitive insurance market is more like that of the United States and Canada, where regulators aim only to verify insurers' stability, Mr. Hamilton explained. As a result, there are many buyers for the diverse products available.

Bruce K. Howson, president of CIGNA Worldwide Inc. in Philadelphia, said that Western European countries generated about $162 billion, or 25%, of worldwide gross written premiums in 1985.

The market for most lines of insurance and risk management services continues to grow, although the demand for automobile coverages is stagnant, he said.

In the United Kingdom, "the overall picture is a positive one, with insurance premium income showing strong growth in both life and non-life sectors and accompanied by general increases in profitability," said Tom Muir, head of the insurance division of the British Department of Trade and Industry. ■

Mead Corp. names human resources chief

comings & goings: buyers

Charles J. Mazza has been named vp-human resources at The Mead Corp. in Dayton, Ohio. In this position he oversees all corporate human resources functions, including employee benefits and compensation. Mr. Mazza, 45, replaces **Ronald P. Carzoli**, who has joined The Seagram Co. Ltd., and reports to Steven C. Mason, president and chief operating officer. Prior to this post, Mr. Mazza was corporate vp and manager of the Milwaukee office of benefit consultant William M. Mercer-Meidinger-Hansen Inc. He also had served in various positions with The Joseph Schlitz Brewing Co. in Milwaukee. Mr. Mazza earned a bachelor's degree in civil engineering and a master's of business administration from Marquette University in Milwaukee.

* * *

John W. Schaefer, 26, has been named corporate risk manager at Xidex Corp. in Santa Clara, Calif. In this newly created position, he is responsible for insurance and risk management programs at Xidex, which produces microfilm devices, computer disk drives and data storage products. He reports to Steve Bennion, vp/treasurer. Previously, Mr. Schaefer was international risk manager at Intel Corp. in Santa Clara. He received a bachelor of science degree in business administration and a master of business administration degree in risk management and finance from the University of Wisconsin at Madison. Mr. Schaefer holds the Associate in Risk Management designation and is pursuing the Chartered Property & Casualty Underwriter designation. In addition, he is president of the Santa Clara County Chapter of the Risk & Insurance Management Society.

* * *

Michael A. Waskom has been named vp and corporate risk manager at Marsh & McLennan Cos. Inc. in New York. In this newly created position, he oversees the identification, evaluation and financing of risks for M&M Cos. He reports to George Faunce III, administrative head of the company's legal department. Previously, Mr. Waskom served as a senior risk management consultant with the Tillinghast Division of Towers, Perrin, Forster & Crosby. Prior to that, he was director of risk management at Chesebrough-Pond's Inc. in Westport, Conn. Mr. Waskom has served as a member of the National Research Committee of the Risk & Insurance Management Society and as vp and director of the Fairfield-Westchester Chapter of RIMS. He is treasurer of the Captive Insurance Companies Assn. and holds the Associate in Risk Management designation. In addition, he received the Jim Cristy Award from RIMS in 1981.

* * *

Glen R. Nessel has been named risk manager at J.W. Robinson Co., a chain of upscale retail stores headquartered in Los Angeles. In this newly created post, Mr. Nessel will be responsible for reviewing property, liability and workers compensation claims, as well as supervising loss prevention programs. Mr. Nessel, 29, reports to Elden Rasmussen, chairman of Robinson, a division of May Department Stores Co. Mr. Nessel previously served as assistant vp of insurance at American Medical International Inc. in Costa Mesa, Calif. He received a bachelor of arts degree in history from the University of Southern California at Los Angeles.

* * *

Patrick N. Perrin has been named corporate risk analyst at Tracor Inc. in Austin, Texas. In this position, he reports to and assists J. David Baird, vp, financial services, in the company's risk management and insured benefits areas. Tracor produces technological products and services, including sonar, military telecommunications and electromechanical components. Mr. Perrin, 26, replaces **Dale Adams**, who left the company. Mr. Perrin joined Tracor in 1983 as an insurance analyst, but left in 1984 to join Houston agency Johnson, Perrin & Brown. He holds a bachelor of business administration degree from the University of Texas at Austin and a master of business administration degree in finance from Baylor University in Waco, Texas. He holds the Certified Insurance Counselor designation and is working toward the Chartered Property & Casualty Underwriter designation. Earlier this year he was selected for the student involvement program at the Risk & Insurance Management Society conference in Las Vegas.

●

We'd like to report on staff changes in your company's risk management, safety or employee benefits department. Just drop a note to Paul Winston, assistant copy editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, or call 312-649-5442. Please send a photograph, too.

NAIC urged to study reinsurance regulation

By LINDA J. COLLINS

CHICAGO—The National Assn. of Insurance Commissioners should examine whether reinsurance regulations should be improved, says the president of the Reinsurance Assn. of America.

Andre Maisonpierre, president of the RAA, urged the NAIC to consider whether state regulations dealing with granting insurers credit for reinsurance they purchase should be amended.

The RAA has "supported regulators who have chosen to go beyond" the NAIC's model credit for reinsurance law and enact legislation requiring that credit for reinsurance is limited to "that ceded to licensed companies only or reinsurance that is adequately secured through trust funds or letters of credit," Mr. Maisonpierre explained.

Mr. Maisonpierre spoke at a session on reinsurance at the International Conference of Insurance Regulatory Officials in Chicago last week. The conference was held in conjunction with the NAIC's Summer National Meeting.

States have only indirectly regulated reinsurers by regulating "their insurers and their products," Mr. Maisonpierre said.

But, he explained that reinsurance is not usually directly regulated because of:

- A need to maintain the broadest possible flexibility in insurance contracts.
- A recognition of the wide variations in the reinsurance needs of ceding companies.
- An understanding that "the market is the best regulator when participants in commercial transactions are both sophisticated and knowledgeable individuals."
- The recognition that the international nature of reinsurance "would make regulation of the reinsurance quite cumbersome."

Regulation of the reinsurance industry in the United States "has relied almost exclusively on the credit for reinsurance laws, which in one form or another have been enacted in all states," Mr. Maisonpierre said.

"These laws control the accounting treatment of reinsurance for financial statement purposes," he added.

Mr. Maisonpierre said the RAA views the NAIC's model credit for reinsurance law "as a minimum credit law."

The model law specifies when insurers are permitted to take credit for reinsurance on their annual convention statements, he explained.

"The model act's objective is to make available to the U.S. insurance market both a secure market and worldwide capacity," Mr. Maisonpierre added.

Reinsurance regulation does not usually distinguish between insurers and reinsurers because assumed reinsurance can be written in most states by either insurance companies or professional reinsurers, Mr. Maisonpierre pointed out.

He said that another U.S. reinsurance problem is that "financial statements fail to require that net reinsurance losses be separately reported and developed from direct losses by companies writing both direct and reinsurance business. Consequently, regulators cannot focus on a company's net assumed reinsurance loss experience.

"If net reinsurance losses were to be segregated and separately reported, we as an association would then be prepared to assist regulators in developing early warning tests more relevant to the reinsurance business than the current IRIS tests," Mr. Maisonpierre pointed out.

He is concerned about a recommendation, made by a NAIC committee during the meeting, that would prohibit companies from separately reporting their losses from assumed reinsurance from losses arising from direct business. This recommendation would make it "absolutely impossible for a regulator to identify companies' reinsurance loss characteristics," Mr. Maisonpierre stressed.

"Most reinsurance losses can be identified by lines, and regulators should consider requiring" that both professional reinsurers and primary companies record assumed reinsurance separately, Mr. Maisonpierre suggested.

This would provide regulators with better tools, he said. He added that if this type of information had been available, "Mission-type fiascos could have been avoided," referring to the insolvency of Mission Insurance Co.

However, Alaska Insurance Director John L. George disagreed with comments by Mr. Maisonpierre and other speakers that insurers purchasing reinsurance were sophisticated buyers that may not need the regulatory protection afforded to consumers.

Ceding companies and reinsurers often are not as "sophisticated as they would have you think. Thousands of smaller companies who go to their reinsurance broker have no idea what they're getting into" and rely on the knowledge of those who they are dealing with, Mr. George said.

"Whether or not you believe in regulating for the protection of the policyholder or believe the policyholder should be sophisticated enough in the transaction to protect himself, it is imperative that whoever is determining if the reinsurance will be collectable is able to collect adequate information on the reinsurer or the company ceding reinsurance to them," Mr. George pointed out.

"Frankly I don't think that information is currently available to us and certainly not from all companies in a manner that can be relied on, certified or is understandable," Commissioner George commented. He urged international regulators to collaborate in looking for ways to compile meaningful information in the reinsurance arena.

In remarks opening the reinsurance session at the ICIRO conference, Lyndon Olson Jr., chairman of the Texas State Board of Insurance, noted that two NAIC task forces that he chairs—the international insurance relations task force and the anti-fraud task force—"had their genesis in and were created because of fraud in the international marketplace."

"We have all begun to recognize that no longer is a handshake sufficient in the international marketplace when dealing with reinsurers," said Mr. Olson.

Other speakers during the session were Martin Oldham, supervisor of reinsurance for the British Department of Trade and Industry in London and Peter L. Bates, insurance superintendent in the Cayman Islands. ■

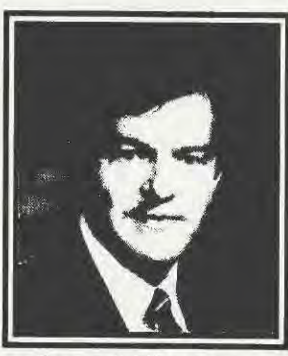
A BRIEF MESSAGE ABOUT INSURANCE PLACEMENTS FOR

- Security Guards,
- Patrol Services,
- Detective Agencies,
- Armored Car Service,
- Alarm Monitoring and
- Alarm Installation

For more than a decade Cover X Corporation has continuously provided a stable insurance product for the Security Industry. During that time many companies and agencies professing to "specialize" in this industry have come and gone. In today's difficult insurance marketplace most are simply gone. COVER X CORPORATION IS STILL HERE, providing that industry with custom tailored GENERAL LIABILITY, PROFESSIONAL LIABILITY and WORKERS COMPENSATION.

If you have current or potential clients in the security industry whose long range interests lie in obtaining a quality insurance product in a stable market then you owe them a Cover X quotation.

COMMONWEALTH INSURANCE COMPANY APPOINTMENTS


James J. Meenaghan

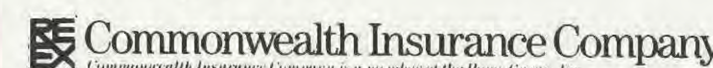
Howard O. Evans

John Watson, President of Commonwealth Insurance Company, is pleased to announce the appointment of James J. Meenaghan and Howard O. Evans as Directors of Commonwealth Insurance Company.

Mr. Meenaghan is President of The Home Insurance Company, one of the leading property and casualty insurers in the United States, and a Director of its parent, the Home Group, Inc. Prior to joining The Home Insurance Company, Mr. Meenaghan has served as President of a major reinsurance broker and President of a major U.S. Insurance Company. Mr. Meenaghan graduated from Fordham University and is a Fellow of the Casualty Actuarial Society.

Mr. Evans is Senior Vice-President, Finance, of Commonwealth Insurance Company and of its parent, Reandex Home International Limited. Prior to joining Commonwealth Insurance Company, Mr. Evans practised as a chartered accountant in Canada and in the United Kingdom. Mr. Evans is a graduate of The London School of Economics, a Fellow of the Institute of Chartered Accountants in England and Wales, and a member of the B.C. Institute of Chartered Accountants.

Commonwealth Insurance Company offers wide ranging facilities as a major property and casualty insurer specializing in commercial and industrial accounts throughout Canada and the United States from its headquarters in Vancouver. Commonwealth has assets in excess of $250 million and is currently writing more than $200 million in premiums per annum.



update

Tort reforms pass in 3 states

Continued from page 2

ties prejudgment interest rates to Treasury bill auction rates.

For the past several years, a statutory rate of 12% has been used to calculate interest on awards, a spokesman for the state Department of Business Regulation said. The interest rate on T-bills over the past 26 weeks has averaged 5.93%.

The legislation, which would apply to lawsuits filed after July 1, also includes a provision that starts the clock on prejudgment interest in most cases at the time the notice of claim or the suit is filed, rather than the date of occurrence.

The legislation also includes provisions for expediting suits and structured payments and protection for directors and officers of non-profit institutions and members of public bodies from lawsuits except in cases of willful and malicious acts.

Liberty drops Maine work comp

PORTLAND, Maine—The Maine Insurance Bureau ordered Liberty Mutual Insurance Co. to rescind its cancellation of workers compensation policies written through the assigned risk plan.

However, the order does not affect the cancellation of policies Liberty Mutual has written on a voluntary basis, which generated 80% of the insurer's work comp premiums in Maine.

Liberty Mutual, the state's largest work comp insurer, sent notices of cancellation to all Maine workers comp policyholders, effective late September. The insurer cited inadequate rates in the state and a loss of $130 million after investment income on Maine work comp business since 1981.

The bureau said the cancellation of residual market policies violated applicable rules and was the equivalent of refusing to participate in the residual market, a violation of Maine law.

Despite the cancellations, Liberty Mutual is not considering submitting a plan to withdraw from the state and surrender its license, a spokeswoman said.

Liberty Mutual has 90 days to appeal the order.

Illinois captive bill progresses

SPRINGFIELD, Ill.—A bill that would encourage the formation of captive insurance companies in Illinois has passed the Illinois Senate 57-0 and is expected to be approved by the House and signed by Gov. James R. Thompson by early July.

The bill, sponsored by Rep. John Cullerton, D-Chicago, and overseen by the Illinois Department of Insurance, sets the minimum surplus and capital requirement for captives at $2 million, of which 80% may be financed with letters of credit.

In addition, the bill grants tax breaks to Illinois licensed captives. They would not pay corporate franchise taxes or Illinois premium taxes or any other tax other than property taxes levied by local governmental units and a 6.5% corporate income tax applicable only to net profits on business done in Illinois.

The bill amends the state's 1937 Insurance Code.

HBJ files counterclaim

NEW YORK—Harcourt Brace Jovanovich Inc., facing a lawsuit brought by unfriendly suitor British Printing & Communication Corp., is retaliating against the British company.

HBJ filed a counterclaim June 22 in U.S. District Court in New York charging that British Printing violated federal securities laws in its efforts to block a $3 billion recapitalization plan, which HBJ approved to thwart a takeover by British Printing.

The counterclaim names British Printing, Chairman and Chief Executive Officer Robert Maxwell and Pergamon Holding Foundation, which HBJ describes as a Liechtenstein-based trust that controls British Printing.

British Printing sued HBJ, its investment banker and 15 HBJ directors on June 1 alleging that HBJ's recapitalization breached fiduciary duties, violated the New York corporation and federal securities laws (*BI*, June 22).

In a related action, a circuit court judge in Orlando, Fla., last week gave debenture holders more time to convert their debentures to shares under HBJ's recapitalization plan. The judge also devised a conversion formula for debenture holders who do not convert by July 25 that gives them fewer shares than under a formula they had proposed. British Printing said it will appeal.

And, in another related matter, a state court judge in Battle Creek, Mich., on June 19 granted a temporary restraining order sought by the state's insurance commissioner to prevent an HBJ subsidiary, PHF Life Insurance Co., from pulling its records out of Michigan without prior approval of the state Insurance Bureau.

Briefly noted

The California Insurance Department will soon seek court approval for Mission American Insurance Co.'s rehabilitation plan, which was signed June 23 (*BI*, June 22). . . . V. Clark Beaird will become president of **The Wyatt Co.** July 1, succeeding J.P. Stanley, who will serve as chairman until he retires Sept. 30. Mr. Beaird has been treasurer of Wyatt since 1981 . . . . California Insurance Commissioner Roxani M. Gillespie approved **a 6% increase in workers compensation insurance rates** effective July 1, less than half of the 12.2% hike recommended by the Workers Compensation Insurance Rating Bureau. The rating bureau says it will seek another rate change in January. . . . **St. Paul Fire & Marine Insurance Co.** will renew Florida physician's medical liability coverage for six months, but will not write the coverage after Dec. 31. . . . Colorado Gov. Roy Romer signed into law legislation that liberalizes the state's **captive insurance company act**. . . **Pacific Marine Insurance Co.** was placed in receivership June 22 in Washington and a former subsidiary, Pacific Marine Insurance Co. of Alaska, was placed in rehabilitation June 23 in Alaska (*BI*, June 15).

NAIC model law

Continued from page 3

ments will add to the already confusing patchwork of state regulations that purchasing groups—and to a lesser extent risk retention groups—must face before they can provide liability insurance protection to similar risks in different states.

Some of the amendments are "pushing people into radical positions," and could lead to federal intervention through chartering of groups or arbitration, predicted Jon Harkavey, director of governmental affairs for the Risk & Insurance Management Society Inc. in New York.

Mr. Harkavey objects most to subjecting purchasing groups to individual rate and form regulation, which now vary from state to state.

"It will take a court test" to decide state commissioners' authority over the groups, suggested Rosita Steele, managing director of Risk Retention Planners Inc. in Chicago.

The NAIC unanimously adopted the new amendments last week at its Summer National Meeting in Chicago.

David Thornberry, who chaired the working group that hammered out the amendments, said "It is our belief. . . that these amendments are within the scope and spirit of the Risk Retention Act of 1986 and reflect the insurance commissioners' good faith efforts to interpret and comply with that act and to protect consumers in their states." Mr. Thornberry is a member of the Texas Board of Insurance.

The 1981 Risk Retention Act originally was designed to provide relief for manufacturers' products liability exposures, but few groups were formed, partly because insurance availability improved and because many states weren't receptive to the groups.

As a result of the liability insurance crisis, the 1981 act was expanded last year to allow public and private entities with similar risks to band together to self-fund or purchase all types of commercial liability coverages except workers compensation.

Under the expanded law, entities can band together to self-fund risks in a risk retention group or they can form a group to purchase insurance on a group basis, known as a purchasing group.

Specifically, the amendments to the NAIC's model law:

- Eliminate wording that expressly prevents a state from applying laws "regarding formation and the provision by an insurer of such terms regarding rates, policy forms and coverages specifically designed for members of the (purchasing) group."

By doing this, NAIC officials are attempting to "accommodate" the "regulatory macho" New York recently exhibited, said Mr. Harkavey of RIMS.

New York issued a memorandum earlier this month stating that admitted insurers issuing policies to purchasing groups in New York use forms and rates approved by the state, said Henry Lauer, chief of New York's property/casualty insurance bureau.

- Emphasize that the federal act has not pre-empted state laws concerning the licensing of agents and brokers that act for both risk retention and purchasing groups, although countersignature and residency requirements are prohibited.

Earlier, a draft of the amendments had required that anyone acting on behalf of a risk retention group or purchasing group obtain an agent's license to serve members in the state. Some states have less restrictive laws on when a licensed agent must be used to obtain insurance.

While representatives of insurance buyers said the new amendment is preferable to the earlier draft, they would have preferred that an agent or broker be required to be licensed only in the state where the group maintains its headquarters to reduce costs.

- Prohibit purchasing groups from buying "insurance providing for a deductible or self-insured retention applicable to the group as a whole; however, coverage may provide for a deductible or self-insured retention applicable to individual members."

Mr. Thornberry said there already have been some abuses in this area, and the action was needed to keep purchasing groups from becoming unchartered risk retention groups.

In addition, several provisions of the model law were clarified, including a section on taxation. Taxes are due on premiums paid for coverage of risks resident in each state.

Some onerous proposals that had been floated were either toned down or rejected, including a suggestion that public entities be barred from participating in any purchasing group or any risk retention group that is not chartered in the state in which the public entity is located.

The Public Risk & Insurance Management Assn. opposed that measure, said Natalie Wasserman, PRIMA's executive director. However, they were unable to get a drafting note eliminated from the model law that emphasizes that "a state may specify acceptable means for managing the liability of the state or its local governments."

In addition, the working group will consider the feasibility of developing standard forms required to be filed with the states under the NAIC Model Risk Retention Act, Mr. Thornberry said. ■

States' varying regulations are frustrating many buyers

By MEG FLETCHER

CHICAGO—The rapidly spreading patchwork quilt of regulation that states are adopting to implement the Risk Retention Act of 1986 is frustrating many insurance buyers.

So far, only 19 states have adopted the National Assn. of Insurance Commissioners' Model Risk Retention Law, which provides some uniformity for state regulation.

But even those states adopting the NAIC model are altering some of its provisions, and the NAIC itself amended the model law (see story, page 3).

States that are trying to limit the operations of risk retention or purchasing groups include:

- New York, which is requiring admitted insurers that want to provide coverage to purchasing groups follow the New York regulations on form and rate filings.

The NAIC followed New York's lead and added this provision to its model law.

- South Carolina, which says purchasing groups can only buy insurance from an admitted insurer or an approved surplus lines insurer that uses a licensed broker.
- Texas, where there is confusion about whether only stock companies—not reciprocals or mutuals—can be risk retention groups.

However, David Thornberry, a member of the Texas Board of Insurance, said the state intended to allow reciprocals and mutuals to be licensed as risk retention groups.

- New Mexico, which won't allow risk retention and purchasing groups chartered outside the state to operate until the state Insurance Department promulgates rules and regulations of its own, which aren't expected until late August.

These varying state regulatory actions are making offshore alternatives look more and more attractive for many insurance buyers, says James C. Mitchell, executive vp of Risk Retention Pool Managers Inc. in Dallas.

Some are saying that "it would be cheaper to pay 4% federal excise tax and pay a front (licensed insurer) to bring us back onshore than to jump through regulatory hoops for the duration," he said.

And, administrative headaches remain even in those states that have not adopted more restrictive measures for implementing the expanded Risk Retention Act.

For example, each state requires risk retention and purchasing groups to use its own reporting forms.

The NAIC's working group has acknowledged this lack of uniformity among forms, and is exploring the feasibility of devising standard reporting forms, Mr. Thornberry said.

Because the act became effective immediately upon the president's signature last fall, many states and the NAIC have not had enough time to develop guidelines for its implementation, Mr. Thornberry said.

"Some state regulators are struggling to fairly try and implement the model law and establish reasonable and workable regulations for these groups," observed attorney Michael Mullen, with the Washington, D.C., law firm of Crowell & Moring.

However, "other state insurance departments seem to be unwilling to accept the thrust of the federal law," he added.

Robert Shapiro, an attorney in the Washington office of George K. Bernstein, pointed out it was reasonable for Florida to ban Physician's National Risk Retention Group Inc. from writing in the state because of questions about the group's financial solvency.

The group is challenging the state's action, saying that the state used outdated financial information in deciding on the ban (*BI*, June 15).

Dozens of complaints are being filed by people trying to start risk retention or purchasing groups with Edward T. Barrett II in the Office of Economic Affairs of the U.S. Department of Commerce. Mr. Barrett is responsible for reporting to Congress on the status of the implementation of the Risk Retention Act.

"There is a great deal of interest in this act," Mr. Barrett said. "Most people are interested in having it work and work properly" because Congress intended that these options should be available, he said.

Most states "are being cautious to see that the public and the states are being protected," he added.

Mr. Barrett's report to Congress is due by Sept. 1.

The states that have adopted the NAIC model act, some of which included minor alterations, include: Arkansas, Connecticut, Georgia, Hawaii, Idaho, Kansas, Kentucky, Maryland, Minnesota, Montana, Nebraska, North Carolina, North Dakota, South Dakota, Texas, Virginia, Washington, West Virginia and Wyoming. ■

Regulators study beefed-up HMO rules

Greater and more effective regulation of health maintenance organizations is necessary as alternative delivery systems become more prevalent, insurance regulators say.

"The importance of regulation of HMOs is growing, as 10% or more of the population is being covered by them," said Virginia Insurance Commissioner Steven T. Foster, chairman of a joint committee of the National Assn. of Insurance Commissioners and the NAHMOR.

"We hope to accomplish better and more effective regulation of HMOs by working closely with the National Assn. of Health Maintenance Organization Regulators," he said.

The joint committee and its subcommittees met during the NAIC's Summer National Meeting, held in Chicago last week.

Among other topics addressed at the NAIC meeting were loss reserve discounting, long-term care insurance, agents licensing, prohibiting brokers from placing insurance with a controlled insurer and rental car insurance.

A working group of NAIC and NAHMOR representatives was appointed at the meeting by the NAIC's Financial Condition Subcommittee's Guaranty Fund Task Force to study the establishment of guaranty funds for HMOs.

Other goals of the NAIC/NAHMOR joint committee include:

- Developing an early warning system for HMO insolvencies.
- Developing solutions to multistate HMO licensing problems.
- Tracking state legislative actions affecting preferred provider organizations.
- Developing uniform instructions for HMOs' annual statements.
- Developing a model examination handbook to be used by regulators investigating the market conduct and financial operations of HMOs.
- Examining the statements HMOs use to report quarterly financial data.

In addition, reports by the NAIC/NAHMOR subcommittees included:

- Preliminary recommendations made by the Multistate Licensed HMOs Subcommittee on the coordination of regulation of HMOs with licenses in more than one state.

Based on a survey of each state's and the District of Columbia's regulatory authority of HMOs, the subcommittee's recommendations included: developing a directory of HMO regulators to identify key staff in each state; developing a model interstate regulatory agreement for the coordination of activity between multistate regulatory agencies; and requiring that the state of domicile collect a deposit as a minimum protection against HMO insolvencies.

- The Solvency Indicators Subcommittee asked that more states employ its system of testing HMO solvency.

The test, called an HMO solvency indicator survey, has been used on a preliminary basis by the California Department of Corporations, which monitors HMOs. The survey judges an HMO's solvency by assigning point values for profit margin, net worth and several different expense-to-assets ratios.

Other topics discussed at the NAIC meeting included:

Insurer-broker links

The Special Insurance Issues Committee received an exposure draft of a model act that would prohibit brokers from placing insurance with affiliated insurers.

The draft states: "No broker which has control of an insurer may directly or indirectly place any direct business with such controlled insurers."

Control is defined as "through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise, unless the power is the result of an official position with a corporate office held by the person."

> **'We hope to accomplish better and more effective regulation of HMOs,' Mr. Foster says.**

The act would presume control if ownership was 10% or more of the voting securities of an insurer.

While the act would allow a commissioner to find that control does not exist under these circumstances, a commissioner also could find that control exists under other circumstances.

The draft was presented by New York Superintendent of Insurance James P. Corcoran, who chaired the committee meeting.

Mr. Corcoran stressed that this is a discussion draft and he would like to receive comments by the September NAIC meeting.

Loss reserve discounting

The NAIC will continue to prohibit most property/casualty insurers from discounting their loss reserves.

The commissioners voted to accept a study group report adopted by the NAIC Executive Committee's Financial Condition Subcommittee.

Considering the rising number of insurer insolvencies, it would be "foolhardy" to consider allowing most property/casualty insurers to discount their loss reserves to the present value needed to pay claims in the future, the report said.

However, insurers with fixed and determinable payout patterns, such as those writing workers compensation and long-term disability insurance, are traditionally allowed to discount their reserves, explained James W. Schacht, chief deputy director of the Illinois Insurance Department. He presented the report on behalf of Illinois Insurance Director John E. Washburn, who chaired the study group.

Nonetheless, some states have permitted property/casualty insurers without such determinable payout patterns-including medical malpractice insurers—to discount some or all of their liability loss reserves, the report said.

The report urges that state insurance departments allowing insurers to discount reserves weigh the insurers' payout pattern and investment returns in determining a reasonable discount.

In addition, regulators should be more diligent about making discounting insurers comply with regulations by requiring them to file pertinent information in their annual statements.

"Furthermore, regulators should, at a minimum, require all companies that have secured permission to discount to annually file an actuarial opinion on the adequacy of loss reserves including the propriety of loss payout patterns and interest rate assumptions used in developing the discount," the report says.

The committee agreed to ask the NAIC's Casualty Actuarial Task Force to develop some related procedures and standards for discounting companies.

The report was triggered by the Tax Reform Act of 1986, which requires property/casualty insurers to discount loss reserves for income tax purposes.

Rental cars

A subgroup of the NAIC's Market Conduct Surveillance Task Force has decided to scrutinize in greater detail rental car-related insurance products and practices because of recent changes adopted by rental car companies and insurers (*BI*, March 9).

The subgroup also is considering mandating that insurers provide minimum levels of coverage for non-owned vehicles, including rental cars, in all personal automobile policies, according to an NAIC spokesman.

The subgroup expects to make its recommendations at or before the NAIC's December meeting.

Nurses' coverage

The NAIC is continuing its efforts to help nurses in specialty fields obtain liability insurance.

The Commercial Lines—Property/Casualty Insurance Committee asked staff members to provide assistance to the American Nurses' Assn., which is seeking liability coverage for private nurse practitioners.

The ANA has been unable to find liability coverage for most new—and some experienced—nurse practitioners. A lack of specific claims data has prevented serious consideration by insurers, said Linda J. Shinn, director of the ANA's Division of Constituent Affairs.

Chicago Insurance Co., a subsidiary of Interstate Insurance Group, a Fireman's Fund Corp. unit that insured about 3,400 of the 30,000 practitioners nationwide, recently ceased offering coverage for nurse practitioners, though it agreed to renew policies for an additional year before terminating the program (*BI*, May 11). But, the ANA objects to increases in premiums to $1,025 or $1,500 a year from $58, depending upon limits. Typical limits are $1 million per occurrence and $1 million annual aggregate.

The insurer cannot point to specific loss experience to demonstrate the need for the rate increase, ANA complains, though a Chicago Insurance Co. spokeswoman said the company has begun to divide claims data on nurses into three specialty categories, which places it in the forefront of insurers in terms of refining its record keeping.

A related NAIC effort to help nurse-midwives find liability coverage resulted in the formation of a consortium of insurers that now provide coverage to about 400 nurse-midwives in 45 states, said James J. Canavan, assistant vp of specialty lines and errors and omissions programs for CNA Insurance Cos.

ILU controversy

Maryland's recent decision to admit Institute of London Underwriters' member underwriters as reinsurers of wet marine and transportation insurance drew criticism.

Some regulatory and industry representatives contend that Maryland was unorthodox in not requiring the ILU members to post security deposits. Such deposits are required for most alien insurers by the NAIC's model law on credit for reinsurance.

Alaska Insurance Commissioner John L. George said some commissioners are concerned a precedent was being set. However, there was never any concern about ILU's financial condition or its reputation for requiring member companies to meet high operating standards, several observers said.

NAIC President Edward Muhl, the Maryland insurance commissioner, emphasized that his staff scrutinized the financial condition of each member insurer before taking the action.

"We are pleased to admit the ILU member companies," he told members of the NAIC's Commercial Lines—Property/Casualty Committee.

Long-term care

The NAIC approved amendments to the Long-Term Care Insurance Model Act. The amendments:

- Give insurance commissioners authority to promulgate regulations concerning continuation and conversion of long-term insurance coverage.
- Prohibit policies from covering only skilled nursing care or providing substantially more coverage for skilled care than for lower levels of care.
- Prohibit employer-provided long-term care policies from excluding pre-existing conditions.
- Mandate that pre-existing condition limitation periods be a uniform six months, rather than different lengths for policyholders over and under age 65.
- Reword a portion of the pre-existing conditions clause to read: "a condition for which medical advice or treatment was recommended by or received from a provider of health care services." The clause had read: "the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment."
- Prohibit the exclusion or use of waivers or riders to exclude, limit or reduce coverage for specifically named or described pre-existing diseases or physical conditions beyond the normal waiting period.

NAIIO financial form

The NAIC adopted a report submitted by the Financial Study Group on the Standard NAIIO (Non-Admitted Insurers Information Office) Financial Reporting Format.

The report calls for minor revisions in the advisory committee's draft.

Alien companies that are listed with the NAIIO now will use the format when they file financial information. The form later will be expanded. The NAIIO Manager was instructed to provide copies of the format to all international regulators.

The task force advisory committee also submitted a discussion draft on how the NAIC Model Surplus Lines Law could be changed to simplify multistate tax allocation for surplus lines insurers.

The committee suggested using a single situs approach: identifying the state with the strongest relationship to the risk based upon the policyholder's location and allocating 100% of the surplus lines premium tax to that state. The committee also sought insertion of a tax credit provision to avoid double taxation.

Due to some concern raised in the meeting about the anticipated unwillingness of states with few corporate headquarters to give up the tax revenues that would be lost under such a system, the committee received the report but did not adopt the recommendations.

Streamlining licensing

An initial exposure draft of the One License Procedure Model Act was submitted to the Agents Licensing Study Task Force. This act would streamline agent licensing procedures by allowing agents to obtain one license to operate nationwide instead of obtaining licenses in individual states.

The task force emphasized that it wants the model law to be adopted by the NAIC at its December meeting.

Health insurance

Task forces of the NAIC's Accident and Health Insurance Committee made the following reports:

Continued on next page

insurance services guide

TROUBLE COMMUNICATING WITH DP?
We have the experience in DP and insurance to
- *represent your interests*
- *document your needs*
- *create user manuals*
- *train users*
- *assist in system testing*

Excellent references / Reasonable rates
Sandra Lowry
P.O. BOX 744 / LONDONDERRY, NH 03053
(603) 437-5731

Summary Plan Descriptions
$1500 +
Handbooks, Enrollment Packages, etc.
- We supply major benefit firms
- Business Insurance Award Winner
- 8 yrs consulting exper/reg'l head of nat'l firm

213-859-0800

WORKERS' COMPENSATION CLAIMS SYSTEM FOR IBM PC AT
IDEAL FOR SELF INSUREDS, INSURANCE COS, AND TPAS. SINGLE AND MULTI—USER VERSIONS AVAILABLE. HANDLES UP TO 100,000 ON LINE CLAIMS
INSTALLATIONS COAST TO COAST
ALL FUNCTIONS AND STATE FORMS
INSURANCE SOFTWARE PACKAGES, INC.
5118 NORTH 56TH STREET
TAMPA, FLORIDA 33610
(813) 621-6069 (FL)
(800) 237-8133 (U.S.)

Use the Insurance Services Guide to reach your best prospects.

COLLECTION TROUBLES??
CHARLES M. GILES, P.C.
Attorney at Law
Insurance Collection
AUDITS, PREMIUMS, SUBROGATIONS
ANYWHERE IN THE WEST
(602) 274-2222

For advertising information in the INSURANCE SERVICES GUIDE
Contact: Margaret Hikido, 740 N. Rush Street, Chicago, Illinois 60611
Telephone (312) 649-5340

Continued from previous page

● At a meeting of the health promotion and chemical abuse task force, Delaware Insurance Commissioner David Levinson appointed a working group of the Health Promotion and Chemical Abuse Task Force to survey states on premium discounts or reimbursements for healthy behaviors in both prepaid and traditional health insurance plans.

Mr. Levinson, who chairs the task force, also reported that Delaware soon will hold public hearings on the promulgation of rules enforcing a recently passed law that establishes a voluntary certification program for health plans that offer financial incentives for healthy lifestyles. The law was introduced in the Legislature last summer and is based on an NAIC model law (*BI*, Aug. 25, 1986).

Further, John E. Banzhaf, law professor and executive director of Action on Smoking, a nonsmokers' lobbying group, testified that based on existing law and state statutes, commissioners may have an obligation to require health insurance premium differentials for lifestyle differences.

Also, a proposed alcohol and chemical dependency survey was presented for comment by the task force. The purpose of the survey is to assist in developing premium guidelines for the treatment of alcohol and substance abuse.

● The working groups of the State and Federal Health Insurance Legislative Policy Task Force reported that it is analyzing NAIC model laws covering coordination of benefits, group health plans and state health insurance pools for the uninsured.

Also, a liaison working group with the federal Office of Prepaid Health Care reported that it was working with the OPHC on its Medicare Insured Group Program, which would privatize the Medicare system (*BI*, Feb. 16).

In addition, Florida Insurance Commissioner Bill Gunter, who chairs the task force, reported that the NAIC Internal Administration Subcommittee adopted a motion to allocate unspecified funds to produce a public information video after Congress enacts changes to the Medicare system.

●

Associate Editors Donna DiBlase and Meg Fletcher and Agent/Broker Editor Linda J. Collins contributed to this report.

Window plans

Continued from page 1

& Hirtle, said it is possible the 2nd Circuit Court felt the issue should be more fully litigated before again addressing the various issues.

"We've got the main thing we wanted," referring to the remand of the trial to the district court, said Mr. Steele.

Had the 2nd Circuit not revised its decision, the issue very likely would have gone to the U.S. Supreme Court, because of the conflict between the 7th and 2nd Circuit Court opinions, attorneys speculated.

The two decisions are especially important in light of the earlier Paolillo decision, in which the 2nd Circuit ruled on March 10 that:

● Three employees who worked at the defunct Whitney Chain division of Dallas-based Dresser Industries Inc. had established a prima facie case of age discrimination by merely showing they were between 40 and 70 years old and that their employment ended upon accepting an early retirement plan.

● The burden of proving the employees entered the plan voluntarily was on the employer rather than the employee.

● The employer cannot use economic hardship to justify the plan; it must show "age-related cost justifications" for restricting eligibility for the plan to a certain age group—in this case 60 or older.

The Henn decision, however, strongly rejected the basis for the first Paolillo decision.

The Henn case involved four former National Geographic employees who sued their former employer, contending that because they were pressured to enter an early retirement plan, they effectively were fired or "constructively discharged."

A constructive discharge is when working conditions are so onerous or demeaning that the employee is compelled to quit.

National Geographic made the offer in June 1983 to all of its advertising sales people over the age of 55, giving them more than two months to consider it. The plan included:

● Severance payment of one year's salary.

● Retirement benefits calculated as if the retiree had quit at age 65.

● Lifetime medical coverage.

● Some supplemental life insurance coverage.

The employees who sued, however, argued that the plan violated the Age Discrimination in Employment Act because they were coerced into accepting it.

The employees argued that after the offer was made, they received threats of unpleasant consequences if they did not start selling more ads, which induced them to take the offer.

However, the U.S. District Court in Chicago ruled that National Geographic did not "constructively discharge" the employees who opted for the early retirement plan and that it did not violate ADEA.

On appeal, a three-judge panel of the 7th Circuit affirmed the district court's decision, rejecting the "complicating" factors of the first Paolillo decision.

The court noted that ADEA makes it unlawful to discriminate on the basis of age against individuals with respect to compensation for and terms and conditions of employment.

The act, under section 4(f)(2), allows employers to make some distinctions in employment conditions for employees age 40 and older, as long as those distinctions are not a "subterfuge" to evade the ADEA's purpose.

"An employee to whom the offer has been extended—such as our four plaintiffs—is the beneficiary of any distinction on the basis of age," the court said. "None can claim to be adversely affected by discrimination in the design or offer of the early retirement plan."

The panel also ruled, contrary to the first Paolillo decision, that an early retirement program is not presumptively discriminatory.

Retirements themselves do not constitute age discrimination, and incentives to retire early are a benefit to the recipient, not a sign of discrimination, the court noted.

"Taken together, these two events—one neutral, one beneficial to the older employee—do not support an inference of age discrimination," the court said.

"We agree. . . that an early retirement package is a boon; we therefore must disagree with Paolillo's conclusion that early retirement presumptively establishes age discrimination."

In addition, the court disagreed with the first Paolillo ruling that the decision by the plaintiffs in that case to retire early was not voluntary because the employees had only a short period of time to consider the plan.

The 7th Circuit Court said the time allowed for making a decision does not determine whether a plan is "voluntary." Rather, the factors determining a plan as voluntary include:

● Employees received information about the consequences of their decision to accept or reject the plan.

● The plan was free from fraud or misconduct.

● Employees had the opportunity to reject the offer.

In the National Geographic case, the employees did not contend they lacked information about the terms of the offer, and all had time to discuss it with family and financial advisers, the court noted.

The "appropriate question" in early retirement cases is whether there would be a violation of ADEA by the employer if the employee rejects the offer of an early retirement plan, the court added.

"They could prevail only by showing that the Society manipulated the options so that they were driven to early retirement not by its attractions but by the terror of the alternative," the court said.

"Suppose, for example, that one of the plaintiffs expected to earn $200,000 in his remaining time at the Society, but the Society (in violation of the ADEA) had just cut his salary because of his age, so that he now could expect no more than $100,000," the court noted. "This employee would snap up an early retirement package worth $110,000, but might reject the same package had he been allowed to work at his old wage."

If there is a violation, then the employee may recover for that violation, whether or not he took the package of early retirement benefits, the court said.

In the Henn case, however, there was neither an actual nor constructive discharge of the employees in violation of ADEA, the court said.

The threats of unpleasant consequences if employees did not sell more ads constituted "risks of the job," the court noted.

"The district court properly concluded that salesmen must endure adverse reactions and other signs of displeasure when their productivity falls off. An employer's communication of the risks of the job does not spoil the employee's decision to avoid those risks by quitting," the court said.

On June 16, without ruling on a motion for a rehearing of the Paolillo decision, the 2nd Circuit revised its decision and removed the language that business groups found offensive to employers and was the basis for disagreement by the 7th Circuit.

The 2nd Circuit withdrew its earlier findings that window plans are discriminatory and that employers are responsible for proving the plans are voluntary.

Among those asking for a rehearing were Dresser, the Equal Employment Opportunity Commission and the New York Chamber of Commerce & Industry.

Those opposing a rehearing included the plaintiffs, the National Council of Senior Citizens and the American Assn. of Retired Persons.

In remanding the case to the district court to determine whether the retirement plan offered was voluntary, the court said: "We believe that it is relevant to the determination of voluntariness whether the employees received sufficient time to make a decision.

"Because of the magnitude of the decision to accept early retirement, employees must be given a reasonable amount of time to reflect and to weigh their options in order to make a considered choice. The amount of time reasonably required, though, will vary depending on the circumstances of each case.

"Taken together, we believe that the shortness of time given to appellants to make a decision, the reason for the compressed time period, the length of service of appellants with Whitney Chain and the apparent complexity of the options open to them certainly raise a material issue as to whether appellants were given sufficient time to make a considered choice," the court added.

"In light of the factors just described, we conclude that the district court erred in holding that appellants as a matter of law voluntarily accepted the early retirement plan."

A recent survey on window plans by employee benefits consultant The Wyatt Co. found that in 50 of the largest U.S. industrial firms, 16 offered early retirement options, or "windows," in 1986.

The survey also found that 30 of the companies offered early retirement windows during the past 10 years. ■

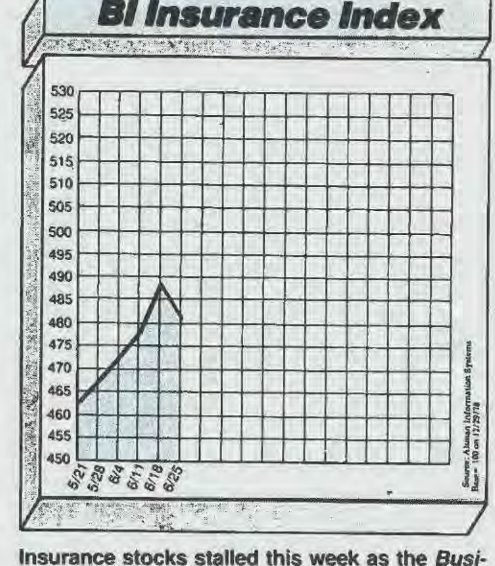
BI Industry Stock Report

June 25, 1987 **6/19/87 thru 6/25/87**

		Price	% Chg.	P/E	$ Div.	% Yld.	High	Low	Vol.(000)
Brokers									
Alexander & Alexander Svcs	NYSE	25.75	1.5	30.7	1.00	3.9	25.75	25.13	497.9
Baldwin & Lyons Inc	OTC	20.00	0.0	8.4	0.20	1.0	21.00	20.00	0.1
Corroon & Black Corp	NYSE	30.00	-1.6	14.0	0.84	2.8	31.00	30.00	435.4
Gallagher Arthur J & Co	OTC	20.25	1.2	15.6	0.40	2.0	21.25	20.25	12.4
Hall Frank B & Co Inc	NYSE	12.75	-5.6	0.0	0.00	0.0	13.50	12.75	95.5
Marsh & Mclennan Cos Inc	NYSE	62.50	-5.7	17.1	2.40	3.8	66.00	62.50	1,235.6
Poe & Assoc Inc	OTC	12.25	0.0	15.5	0.40	3.3	12.25	12.25	1.5
AGENTS/BROKERS	AVERAGE			15.3		3.1			
Conglomerates & Holding Cos.									
Berkley W R Corp	OTC	26.50	-9.4	9.0	0.28	1.1	28.25	26.50	361.2
Berkshire Hathaway Inc Del	OTC	3480.00	1.5	115.5	0.00	0.0	3480.00	3370.00	1.0
CIGNA Corp	NYSE	64.00	1.0	9.1	2.80	4.4	64.00	62.88	1,385.9
CNA Finl Corp (CNA)	NYSE	54.50	-2.0	12.4	0.00	0.0	55.50	53.63	169.1
General Re Corp	NYSE	55.25	-4.1	16.9	1.00	1.8	55.88	54.25	1,582.6
ITT (Hartford Group)	NYSE	59.38	0.8	15.2	1.00	1.7	59.38	58.25	3,026.6
Sears Roebuck & Co. (Allstate)	NYSE	51.75	-1.2	13.4	2.00	3.9	53.13	51.75	4,166.2
Transamerica Corp (Occidental)	NYSE	39.63	8.9	8.9	1.76	4.4	39.63*	36.50	2,461.3
CONGLOMERATES/HOLDING COS.	AVERAGE			64.0		0.2			
Insurers									
Acceptance Ins Hldgs Inc	OTC	10.50	0.0	5.8	0.00	0.0	10.50	10.00	141.4
Aetna Life & Cas Co	NYSE	59.38	-2.3	9.1	2.76	4.6	59.63	59.25	3,095.5
American General Corp	NYSE	40.25	-1.2	10.8	1.25	3.1	40.25	40.00	1,503.8
Amern Heritage Life Invt Co	NYSE	33.00	0.8	16.7	0.96	2.9	33.25	33.00	2.7
American Indty Finl Corp	OTC	14.00	-0.9	0.0	1.12	8.0	14.25	14.00	58.9
American Intl Group Inc	NYSE	72.13	-0.2	15.9	0.25	0.3	72.13	69.88	2,061.0
Aneco Reins Ltd	OTC	2.75	0.0	0.0	0.00	0.0	2.75	2.75	28.3
Avemco Corp	NYSE	22.38	1.7	16.2	0.28	1.3	22.75	21.50	62.2
Business Mens Assurn Co Amer	OTC	36.63	5.4	0.0	1.10	3.0	36.63*	35.13	1,077.6
Chubb Corp	NYSE	61.75	-3.9	9.8	1.68	2.7	62.63	60.50	1,008.5
Aon Corp	NYSE	26.50	0.0	9.4	1.20	4.5	27.00	26.50	257.9
Continental Corp	NYSE	45.38	-3.5	10.3	2.60	5.7	45.88	44.50	1,322.9
Crown Life Ins Co	OTC	225.00	-10.0	7.8	6.40	2.8	250.00	225.00*	0.1
Durham Corp	OTC	33.75	1.5	19.9	0.92	2.7	33.75	33.25	9.0
Farmers Group Inc	OTC	46.00	1.1	14.5	1.20	2.6	46.25	45.50	1,190.2
Fairmont Finl Inc	AMEX	17.63	0.0	9.9	0.00	0.0	0.00	0.00	0.0
Fireman Fd Corp	NYSE	36.25	-3.7	12.5	0.40	1.1	37.13	35.75	826.1
Fremont Gen Corp	OTC	16.63	-8.9	0.0	0.60	3.6	17.25	16.50	185.6
Great West Life Assurn Co	OTC	700.00	0.0	14.4	18.00	2.6	0.00	0.00	0.0
Home Group Inc	AMEX	20.50	-3.0	5.3	0.20	1.0	21.00	20.50	280.4
Hanover Ins Co	OTC	32.50	-7.8	7.8	0.36	1.1	34.50	32.50	115.0
Harleysville Group Inc	OTC	16.75	-1.5	5.2	0.40	2.4	17.50	16.75	61.9
Hartford Steam Boiler Insptn	OTC	30.00	-3.2	13.0	1.00	3.3	30.50	29.25	163.2
Kans City Life Ins	OTC	28.50	0.0	11.0	0.96	3.4	28.50	28.50	14.6
Kemper Corp	OTC	31.50	-4.5	10.9	0.60	1.9	33.00	31.50	1,221.2
Liberty Corp S C	NYSE	39.38	-0.3	14.2	0.72	1.8	40.00	39.00	19.3
Lincoln Natl Corp Ind	NYSE	51.38	0.7	10.8	2.16	4.2	51.75	51.00	390.4
Mission Ins Group Inc	PAC	1.38	0.0	0.0	0.00	0.0	4.38	0.69	3.5
Monumental Corp	OTC	55.63	0.0	18.8	0.00	0.0	55.63	55.63	1.1
Nac Re Corp	OTC	25.50	1.0	33.6	0.00	0.0	26.00	25.50	64.5
Nobel Ins Ltd	OTC	13.88	-4.3	10.4	0.37	2.7	14.25	13.63	23.9
Northwestern Natl Life Ins	OTC	27.13	0.9	7.7	0.96	3.5	27.25	27.00	129.5
Ohio Cas Corp	OTC	45.75	-3.2	13.0	1.68	3.7	47.25	45.75	336.1
Old Rep Intl Corp	OTC	30.00	0.4	10.7	0.80	2.7	30.25	29.75	376.0
Orion Cap Corp	NYSE	22.50	0.0	0.0	0.76	3.4	22.63	22.25	63.3
Protective Corp	OTC	13.75	-4.3	11.2	0.70	5.1	14.50	13.75	109.1
Provident Life & Acc Ins Co	OTC	19.50	-6.6	10.8	0.84	4.3	21.00	19.50*	255.5
Reliance Group Hldgs Inc	NYSE	10.25	0.0	11.4	0.16	1.6	10.63	10.13	287.6
St Paul Cos Inc	OTC	47.75	-2.6	11.1	1.76	3.7	48.75	47.63	1,565.2
SAFECO Corp	OTC	32.00	0.0	11.9	0.96	3.0	32.25	31.75	1,071.9
Scor U S Corp	OTC	13.50	-1.8	16.1	0.00	0.0	13.75	13.50	185.9
Seibels Bruce Group Inc	OTC	15.50	-1.6	96.9	0.80	5.2	15.75	15.50	189.5
Selective Ins Group Inc	OTC	26.00	-1.0	10.0	0.92	3.5	26.00	25.50	105.9
Statesman Group Inc	OTC	4.88	1.3	0.0	0.05	1.0	4.88	4.81	36.9
Tokio Marine & Fire Ins Co	OTC	78.75	0.0	88.5	0.17	0.2	78.75	78.75	50.0
Torchmark Corp	NYSE	28.25	1.3	10.1	1.20	4.2	28.25	27.75	504.8
Travelers Corp	NYSE	46.13	2.2	9.9	2.28	4.9	46.38	45.38	1,914.4
Trenwick Group Inc	OTC	14.00	-5.1	23.7	0.00	0.0	14.75	14.00*	41.2
United Fire & Cas Co	OTC	30.75	-4.7	9.8	0.96	3.1	32.25	30.75	18.1
United States Fid & Gty Co	NYSE	39.38	-2.5	9.5	2.48	6.3	39.88	39.38	1,132.4
Unum Corp	NYSE	23.88	0.0	0.0	0.40	1.7	24.88	23.88	674.6
Uslife Corp	NYSE	39.63	1.6	10.2	1.20	3.0	39.88	39.38	109.9
Washington Natl Corp	NYSE	26.63	2.4	13.7	1.08	4.1	26.63	25.88	27.3
Zenith Natl Ins Corp	OTC	21.00	-4.5	12.1	0.80	3.8	21.75	20.25	87.6
INSURANCE COMPANIES	AVERAGE			12.0		2.7			

System design: Altman Information Systems

BI Insurance Index



Insurance stocks stalled this week as the *Business Insurance* index fell 7.2 points to 481.0 on June 25 from 488.3 on June 16, ending a four-week climb. Of 65 industry stocks monitored, 33 posted declines, 19 increased and 13 were unchanged. Advancing issues were led by: Business Men's Assurance Co. of America, up 5.4%; Acceptance Insurance Holdings Inc., up 5.0%; and Washington National Corp., up 2.4%. Declining issues were led by: Crown Life Insurance Co., down 10.0%; W.R. Berkley Corp., down 9.4%; and Fremont General Corp., down 8.9%. The *BI* index fell 1.5% for the week, while other market averages increased: The Dow Jones 30 Industrials rose 1.8%; the Standard & Poor's 500 average grew 1.1%, and the New York Stock Exchange composite rose 1.0%.

"Hello, I'm the assistant to Mr. Smith's assistant. I'd like to assist you, but..."

You won't hear that from Zurich-American. With Zurich-American, you get your own account management team. A team of decision makers, specifically responsible for all your risk management needs.

So when it comes to solutions, at home or abroad, you're assured of the kind of expertise and responsiveness that's uniquely Zurich-American.

Which is just one more creative approach to better insurance. And one you can depend on. From Zurich-American.

ZURICH-AMERICAN

American Creativity. Swiss Dependability.

ZURICH-AMERICAN INSURANCE GROUP
Zurich Insurance Company · American Guarantee and Liability Insurance Company · Schaumburg, IL 60196

A MEMBER OF THE WORLDWIDE ZURICH INSURANCE GROUP