

business insurance

update

ISO committee reviews new CGL policy wording

NEW YORK—A committee organized by the Insurance Services Office is reviewing ISO's recently introduced commercial general liability forms to determine if any changes should be made.

An ad hoc committee has been asked "to step back calmly and take a look at the program now that we're past the implementation stage," says Ted Bayer, an ISO vp, who stressed

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Benefit rules provoke employer questions

By JERRY GEISEL

WASHINGTON—Benefit managers are desperately seeking more information about a new federal law that requires most employers to extend group health insurance programs to former employees and their widowed and divorced spouses.

Consultants say they have been bombarded with questions about COBRA, short for the Consolidated Omnibus Budget Reconciliation Act. The legislation, which President Reagan signed April 7, contains provisions requiring employers to open up their group health care plans to millions of new participants.

That concern is understandable. The new law will require a significant restructuring of health care plans. Among other things, employers will have to communicate the benefits that will be available for new eligible participants and set up administrative systems to implement their newly expanded health care programs.

And there isn't much guidance to aid employers in complying with the law, which for some companies goes into effect July 1. The health care provisions in COBRA total just five pages, as printed in the Congressional Record, while a congressional conference committee report describing the provisions is just two pages long.

The law and conference report don't begin to answer all the questions employers are raising, consultants say, and concern is mounting as compliance dates approach.

"The extension of health care coverage provisions has produced more phone calls than any other recent benefit issue," said Alan S. Breitman, a principal in the Boston office of consultant William M. Mercer-Meindinger Inc.

"The anxiety level out there about COBRA is very high," observes Edward J. Davey, vp-technical analysis at Johnson & Higgins in New York.

Adding to that anxiety is that federal regulations providing further guidance to comply with the law are unlikely to be published for at least several more months and possibly much longer, consultants say.

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Rate hikes, restrictions fuel earnings explosion

By JUDY GREENWALD

Rate hikes and underwriting restrictions are finally finding their way to property/casualty insurers' bottom lines.

And, industry observers add, the industry's rebounding operating results should grow stronger throughout 1986 and probably into 1987 as well.

The aggregate aftertax operating income reported by major property/casualty insurers surveyed by *Business Insurance* jumped 532.2% to \$1.04 billion in the first quarter of 1986, while the insurers' aggregate combined ratio improved by almost eight points to 110.9% from 118.5% in the first quarter of 1985.

"I think that we have finally turned the corner on quarterly results," observes David Seifer, vp at First Boston Corp. in New York.

Insurers are starting to report "the kind of results all prior actions put into place," including the introduction of rate increases and better underwriting standards, says Michael A. Lewis, vp and financial stock analyst with E.F. Hutton in New York. "We found the results to be reasonably acceptable and probably a forerunner of distinctly better results to come."

"If you increase rates enough, eventually it's got to fall to the bottom line," observes Samuel J. Weinhoff, first vp at Shearson Lehman Bros. in New York.

"These improvements will continue throughout the year, and the only question is when we get to the end of the year there may be some surprises on reserve strengthening," says Barbara Stewart of Stewart Economics in New York.

The improved results are especially evident at some companies.

The first quarter of 1986 marked the first time in

Best combined ratios

Insurer	First quarter	
	1986	1985
Hartford Steam Boiler	86.6%	100.0%
Chubb Corp.	101.2	109.4
American International Group	103.2	107.5
Ohio Casualty Corp.	104.8	113.7
Mission Insurance Group	105.9	N/M

Worst combined ratios

Fremont General Corp.	121.0%	132.9%
CNA Financial Corp.	118.0	124.1
Nationwide Mutual Insurance	117.4	120.7
The St. Paul Cos. Inc.	117.2	122.8
The Home Group Inc.	117.1	131.1

Source: BI survey N/M-Not meaningful Chart: Amy Palmer

four years that Fremont General Corp. reported an operating profit, notes James A. McIntyre, president and chief executive officer. Fremont reported operating income of \$224,000 in the first quarter, which compares with a \$5.9 million operating loss in the first quarter of 1985.

"I think it's been a long spell without an operating profit, so we're quite pleased with that," Mr. McIntyre says. After 15 straight quarters of losses, "it's an effort in the right direction."

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X.L. hopes to attract up to \$400 million in capital

By DOUGLAS McLEOD

NEW YORK—X.L. Insurance Co., the Barbados-based excess liability insurer formed earlier this year, expects to have \$350 to \$400 million in capital contributions from U.S. corporate sponsors in the bank this week.

X.L.—which has already bound coverage for sponsors that have paid about \$250 million to date—expects to receive an additional \$100 million to \$150 million from another group of corporations that had until last Friday to join the facility, an X.L. spokesman said.

X.L.—which caps the limits available on a single policy to 10% of its total capital and its unearned premium volume—currently offers general liability limits of \$25 million excess of at least \$25 million.

This is expected to increase gradually as more capital is paid in. The insurer would need a total of \$750 million in capital and premium volume to provide its intended maximum limit of \$75 million excess of at least \$25 million.

X.L. was initially expected to support the American Excess Insurance Assn., a line slip of U.S. insurers organized by Marsh & McLennan Cos. Inc. and Johnson & Higgins to provide limits of \$75 million excess of at least \$25 million (*BI*, May 26).

However, X.L. and American Excess have decided to operate separately, each entity offering its own excess liability program.

One reason for the separation, sources say, was disagreement between X.L.'s sponsors and American Excess' participating insurers over the policy form to be used by the line slip.

X.L., organized by M&M and Morgan Guaranty Trust Co., was formed to provide capacity underlying the \$100 million excess of \$100 million in limits offered by A.C.E. Insurance Co. Ltd., the Cayman-based insurer

organized by M&M and Morgan Guaranty last year.

Like A.C.E., X.L. is receiving its initial capital from a group of corporate sponsors, each of which contributes \$5 million or \$10 million. Additional capital will be raised from non-sponsor policyholders, who will be required to buy common shares in EXEL Holdings Ltd., X.L.'s Cayman-based parent company.

X.L. policyholders will be divided into two classes: Class "A," comprising low- and moderate-risk policyholders and Class "B," consisting of high-risk policyholders, the X.L. spokesman said.

Class A companies will be required to buy EXEL common shares in an amount equal to 1.5 times their first year's premium, while Class B risks must buy stock equaling 2.5 times their first year's premium, the spokesman said.

Unlike A.C.E., which announced it would write four low- and moderate-risk accounts for every high-risk account, X.L. will not have to operate with such a quota, according

to the spokesman.

"The basic reason is that there is a natural spread there," he explained. "It is not just big, high-hazard risks that want limits below \$100 million."

As of May 28, X.L. had raised about \$250 million from sponsors, the spokesman reported.

Another group of companies had agreed to become sponsors and pay in capital by May 30, subject to approval from their boards of directors or chief executives.

Not all of these latter companies may decide to become X.L. sponsors, but the spokesman said that X.L. expected another \$100 million to \$150 million in contributions, bringing total capital to \$350 to \$400 million.

Most of the approximately 65 sponsors will have contributed \$5 million, the spokesman said.

The X.L. board, meeting recently in Toronto, also agreed to extend until June 3 the sponsorship deadline for companies that had not yet signed subscription agreements, the spokesman said.

Additional capital may be raised from

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As of May 28, X.L. had raised about \$250 million from sponsors, the spokesman says.

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Lloyd's moves into new home with pomp and circumstance
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opinions

Alternatives worth considering

AS THE TORT REFORM bandwagon picks up speed, proponents of changes in the civil justice system—as well as the lawmakers who will have the final say on the issue—would be well-advised to look at various alternatives to tort reform.

While we don't deny that some tort reforms may well be necessary, the use of alternatives to the current civil justice system may give insurers the relief they seek from outrageous and unpredictable court awards while protecting injured parties' right to fair and equitable compensation.

A common element behind these alternatives, some of which were examined by a panel at last month's annual meeting of the Alliance of American Insurers, is a desire to settle personal injury cases—whether they be the result of a doctor's malpractice or a product's defect—outside of the court system (see story, page 3). As many studies have shown, the current system often does not provide equitable compensation at a reasonable cost.

We have published numerous stories in the past concerning various proposals—too many to describe here—that would establish mandatory compensation or arbitration systems in tort cases, including some of the alternatives analyzed at the Alliance meeting.

We do not endorse any of these proposals, but we do urge business, insurers and legislators to study such mechanisms, whether they apply to medical malpractice, product liability or other types of tort claims. It's

letters

Industry needs check system to prevent fluctuations

To the editor: The lead story in *Business Insurance* for more than a year has been the tight property/casualty insurance market together with related stories about the legal system, the results of cash-flow underwriting, insurer insolvencies, consumerism, etc.

The historically cyclical nature of property/casualty insurance prices has been repeated time and again to help explain what has transpired recently, but I have yet to read a valid explanation as to why the cycles occur.

The real reason behind both the price war of yesterday and the unbelievably tight market of today is neither the high interest rates of the recent past and reduced interest rates of today, nor the evolution of the legal system into a giveaway program.

These and other outside forces have exacerbated—but did not cause—the internal forces that create the cycles.

Like all industries with healthy competition, insurance prices are in large measure the result of supply and demand. But, unlike all other industries, supply does not tend to increase as prices go up due to increased demand, nor does supply decrease as prices go down due to reduced demand. In all other industries with open competition, price fluctuations are offset by the workings of the law of supply and demand to create a price stabilizing force. Only when such outside forces as OPEC become involved, which create artificial restraints upon supply or demand, is this not true.

The property/casualty insurance industry has created its own artificial interference with the natural laws of supply and demand in two major mistaken notions designed to ensure against insurer insolvencies. First of all, there seems to be unanimous agreement that the financial in-

tegrity of an insurer can only be assured if the insurer maintains premium writings of no more than three times its surplus. Obviously, this makes little sense. The measure should be the relationship between premium writings and risks assumed. Under the present rule, the insurer that charges 50% of manual rates can absorb twice the risks of the insurer that charges 100% of manual rates. Yet, surely, the insurer that writes premiums at four times its surplus at manual rates has a brighter future than the insurer that writes three times surplus at 50% of manual rates.

Yet, the 3-1 rule means that as rates increase and premium writings more nearly approach three times surplus, the insurer's capacity to absorb even more risks at even higher rates becomes limited. As rates and prices increase, the supply of available insurance is reduced. This, of course, forces rates even higher, which even further reduces capacity for additional business.

At the same time that higher rates produce more premiums, the increased writings, which are measured against surplus, tend to reduce surplus because of the industry's accounting practices, which fail to recognize the portion of unearned premium reserves representing prepaid acquisition costs. This accounting practice—which, incidentally, won't be changed because it serves to defer insurers' income taxes—delays the recognition of underwriting profits that result from higher rates, and thereby, as long as premiums continue to increase, delays the impact of higher prices upon the supply of available insurance capacity.

This process, which has been going on for nearly two years, is the reverse of what took place during the price war of the preceding several years when the lower the rates, the lower the premiums and the greater the resulting capacity, notwithstanding the unprofitability of the business then being written.

If the industry is to permit the law of supply and demand to work to reduce the fluctuations in insurance pricing, some better way must be developed to measure an insurer's financial integrity and ability to absorb more premiums than being concerned with the 3-1 rule.

An example of how unrealistic that rule

possible that through such alternatives, both plaintiffs and defendants could settle tort claims fairly and equitably at a fraction of current costs.

Devising such a solution will not be easy. It took years for asbestos defendants, insurers and plaintiffs' attorneys to establish the asbestos claims handling facility.

And, that facility has not been well accepted by all parties in asbestos litigation.

But, the facility proves that an alternative to the civil justice system may be possible for claims other than asbestos injury cases. It's worth consideration.

Give them the facts

WHILE ON THE SUBJECT of tort reform, we again call on the industry to provide hard data—not anecdotes—to back up their arguments.

We're not alone. Several speakers at the Alliance meeting also called on insurers to provide details on how rates will be affected by tort reform proposals.

And, at last month's National Assn. of Insurance Brokers meeting, John A. Bogardus Jr., chairman of Alexander & Alexander Services Inc., summed up our plea:

"Policymakers need hard data...if they are to take up the civil justice reform cause in earnest and defend their actions to constituents. Without better data, we won't win even the most basic reforms."

Amen.

is when applied to a given situation is the current controversy regarding CIGNA Corp.'s accounting for its increased loss reserves. If certain long-term losses are discounted as CIGNA suggests, CIGNA's premium writings are well within the 3-1 ratio. On the other hand, if those losses are not discounted, the impact upon policyholder surplus is such that current premium writings exceed three times surplus. Can the method by which CIGNA accounts for those new increased reserves have any possible effect on its ability to absorb additional premiums?

Furthermore, assuming that CIGNA has sufficient assets to meet all existing obligations, isn't the really important measurement of that giant's ability to absorb new and renewal premiums the adequacy of the rates to be charged in writing such business in the present and future?

Yet there is a limit to how much new or increased business any insurer can absorb, and simply doing away with the 3-1 rule and doing away the failure to recognize an insurer's equity in unearned premium reserves will not completely do away with the price cycle. The insurance industry would be well served if outside forces could provide assistance in helping stabilize insurance capacity.

This problem is not unlike the problems in the banking industry before the 1930s when wide fluctuations in the money supply created undue hardships upon those dependent on the banking industry for their economic well-being. The Federal Reserve system has gone a long way toward creating controls over the money supply and thus helping stabilize the nation's economy. The insurance industry needs a Federal Reserve system that can provide the necessary elasticity in insurance capacity to prevent the wide fluctuations of the past.

The establishment of a Federal Reserve system for the insurance industry—which will do what is necessary for the industry rather than do things to the industry—cannot be brought about without a great deal of thought and study. But, it is worth thinking about. I hope the industry's leaders will give the idea some thought.

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Tort reform

Continued from page 3

thing other than medical bills would be paid.

But, when a claim was determined compensable, the claimant would be entitled to all reasonable and necessary medical care, restoration of a portion of lost wages and rehabilitation benefits, if needed.

Everything would be settled administratively, outside of the trial system.

Mr. Karl contended that such a system would take the "roll of the dice" out of compensating malpractice victims, many of whom are not compensated today. It would also speed delivery of benefits.



Mr. Karl

And, "the patients would no longer have to contribute to an expensive, inequitable fault system through the payment of medical fees," Mr. Karl said.

The health care providers would benefit, too, he said. His prepared paper, not all of which was delivered at the meeting, noted:

- Health care providers would be spared lawsuits alleging professional negligence.
- Attorneys would be eliminated as the police force of the medical profession.
- There would be reduction in costs, which also would be more predictable.
- The traditionally good relationship between the patient and doctor would be restored.

Such a bill was introduced in Florida in 1984, but it was never enacted because it was opposed by trial attorneys and certain insurance interests, Mr. Karl said. Leadership from patients and health care providers also was lacking, he said.

"Make no mistake about it. This proposal threatens a system that provides a good living for some of the most aggressive lawyers in the world," Mr. Karl commented. "The opposition is fierce."

But, Mr. Karl predicted that someday this system will be adopted and that it will work.

"Solving the medical malpractice problem will not correct all the deficiencies and imperfections of the entire system of civil justice, but it will help," he observed.

Wharton's Ms. Danzon suggested using the workers compensation system of scheduled benefits or wage-loss compensation as an alternative to today's method of determining awards, but she advised maintaining the fault system to determine compensability and to serve as a deterrent.



Ms. Danzon

"You need to resolve if the injury was the result of negligence or if it was the unavoidable result of the underlying condition for which the patient sought care," she explained.

In addition, a fault-based system serves as a deterrent, she said, although there are no statistics to measure the preventive effect.

Adopting scheduled disability payments and paying medical costs "would improve compensation efficiency and reduce unpredictability," she said.

She also suggested that statutes of repose be shortened, with the time for filing a claim running from the date of injury, not discovery.

Claims frequency, for example, could be reduced 8% in one year if the statute of repose is shortened one year, she said, referring to the re-

sults of a study she conducted. The results of her study on the impact of tort reform on claims against physicians between 1974 and 1984 will be published soon by the Rand Corp. Institute for Civil Justice.

Mr. O'Connell of the University of Virginia Law School advocated passage of a bill before Congress, H.R. 3084, co-sponsored by Rep. Henson Moore, R-La., and Rep. Richard A. Gephardt, D-Mo., that is intended to serve as a model for state legislatures to adopt.

Essentially, the legislation would allow a health care provider to offer a claimant a settlement within 180 days of the claim filing to cover the claimant's net economic loss, and the claimant would have to accept the offer. There



Mr. O'Connell

would be no payment for pain and suffering (*BI*, Sept. 16, 1985).

One malpractice defense attorney told Mr. O'Connell that if this were the law today, he would advise settlement offers in 200 of the 250 cases he is defending.

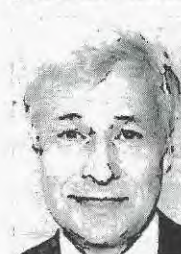
Mr. O'Connell also noted that alternatives to the tort system can be developed without going to lawmakers.

He cited the program he developed for high school athletic programs under which the school purchases insurance that will pay badly injured athletes' medical costs and lost wages during disability, if they agree not to sue (*BI*, Nov. 4, 1985).

But, "most of you aren't interested in changing the system," Mr. O'Connell told the insurance company executives.

"You like to complain about it, but if it means trying something new, you don't want to. There are some of you who will experiment, but not enough."

Yale's Mr. Wellington, however, praised insurers for their willingness to experiment by joining the asbestos claims facility, which was created last year as the result of negotiations he mediated between insurers, asbestos producers and plaintiffs' attorneys.



Mr. Wellington

The facility provides for the settlement of asbestos bodily injury claims and insurance coverage disputes between asbestos producers and their insurers (*BI*, April 9, 1984; July 30, 1984; June 24, 1985).

"The insurance industry is to be complimented for its willingness to experiment with something of this sort," Mr. Wellington said.

The agreement to join the facility is binding, and insurers who have

joined have put hundreds of millions of dollars at risk, Mr. Wellington pointed out.

Thirty-thousand asbestos bodily injury claims are pending, and about 500 new cases are filed each week, Mr. Wellington said.

This level of litigation may continue for the next 30 years, resulting in a total cost of asbestos bodily injury claims of about \$64 billion, he said.

The asbestos claims facility is a "noble experiment," Mr. Wellington said, because it is a privately developed solution that did not require legislation.

This type of facility may prove useful in other toxic tort cases where there are multiple defendants banding together to reduce transaction costs, Mr. Wellington said.

But, he stressed, the asbestos claim facility will work only if the participants believe it is worthwhile, because it

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When it comes to medical opinions, two heads are better than one.

Any way you look at it, getting a second opinion for certain elective surgery makes sense. It either reassures the patient by confirming the need for surgery or avoids the medical risks and costs associated with unnecessary surgery.

Surgical screening is just one of the many benefit options in CURE, the cost containment program from the CNA Insurance Companies. CURE also offers other options such as outpatient surgery, weekend admission limitations and pre-admission review—an enhanced way of reviewing hospital admissions and monitoring care.

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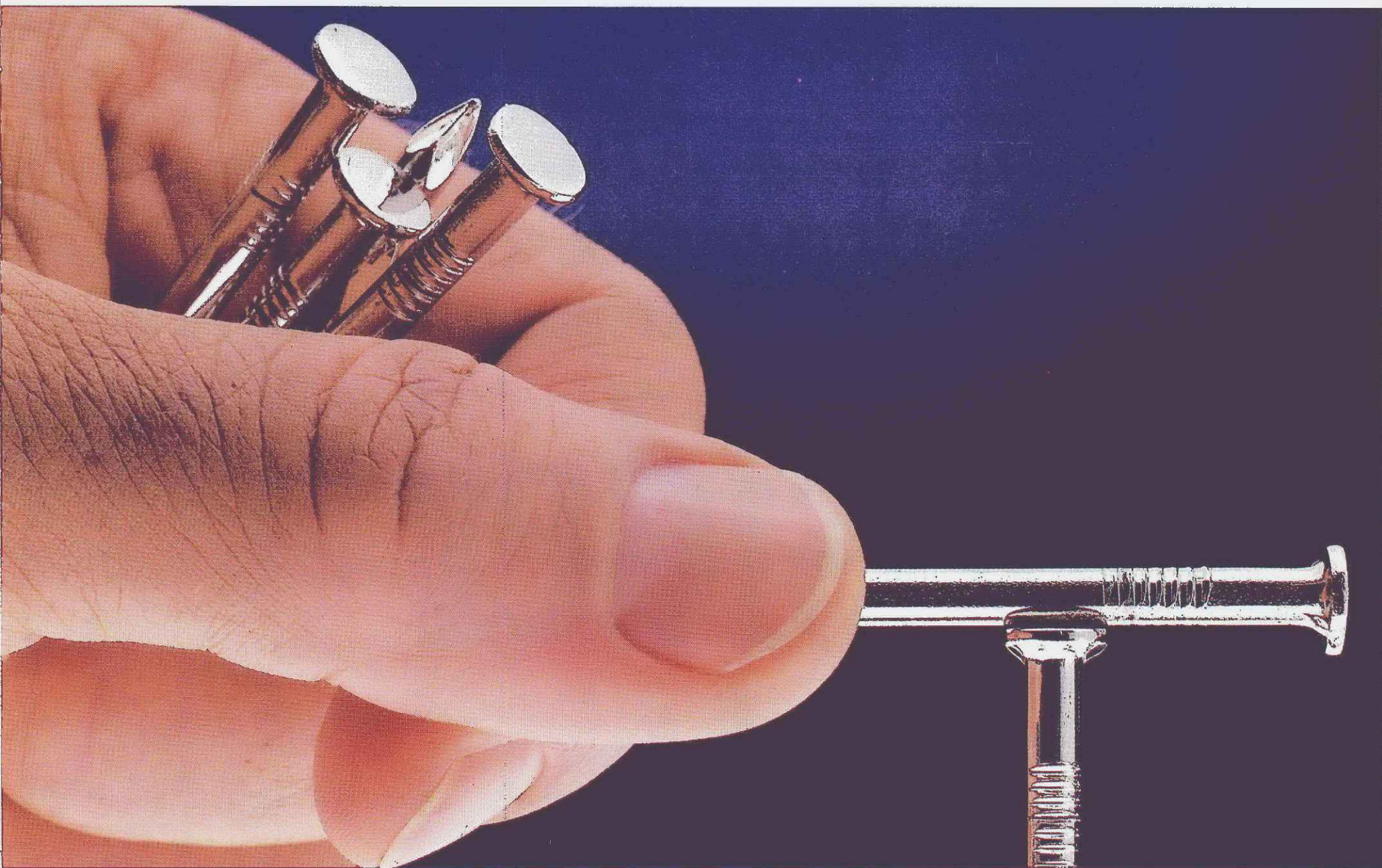
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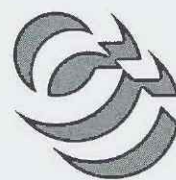
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Tort reform

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provides quick and uniform settlements of justifiable claims.

Mr. Wellington characterized the tort system's handling of asbestos claims as "inefficient, outrageous and grotesque" because it costs \$2.71 to put \$1 into a victim's pocket.

Whatever alternatives or reforms are adopted should be fair to the injured person, all the panelists stressed.

Tallahassee attorney Mr. Karl suggested that all reform movements set as goals:

- Fairness, equity and reasonable compensation for those who have suffered damage.

- Predictability of loss payments to enable the development and sale of affordable insurance.

- Improvements to the system or alternative procedures to minimize delays and prevent excessive and unnecessary transaction costs.

- Limitations on excessive claim payments—but only as a trade-off for some type of no-fault benefits.

Virginia's Mr. O'Connell advised tort re-

form advocates to "aim for balanced reform," which he said would provide "more predictability for insurers with greater assurance that victims will be paid."

He criticized insurers for seeking proposals that "simply curb the rights of injured people or make it harder to get compensation or give them less."

He particularly criticized suggestions that caps on pain and suffering will not reduce plaintiffs' recoveries for economic damages. If insurers know their maximum exposure to non-economic damage awards, they will offer claimants settlements below the claimant's economic damages, he predicted.

"A cap on pain and suffering will gravely adversely affect the amount paid for economic loss," he said, offering the following example:

Assume a person has suffered a \$500,000 economic loss and that the probable award today for pain and suffering would be \$1 million. Also assume the plaintiff has a 1-in-3 chance of winning \$1.5 million. The insurer likely will offer to settle the case for \$500,000, which would cover the economic loss.

However, if there were a \$250,000 cap on pain and suffering awards, the insurer's ex-

posure would be only \$750,000. Then, the insurer would offer to settle the claim for only \$250,000, Mr. O'Connell predicted. The plaintiff would recover only half of the economic damages.

But, Wharton's Ms. Danzon disagreed, saying, "the tort system shouldn't force us to pay for pain and suffering." Individuals buy insurance against disability and to cover medical care costs, but they don't buy insurance for pain and suffering, she pointed out.

There are opportunities to reform the system, the panelists agreed.

"Legislators are signaling their willingness to make changes in the civil justice system," observed Mr. Karl.

But, insurers must offer statistics on how specific tort reforms will affect rates if they are going to succeed in their tort reform efforts, he advised.

"Without data, you don't have a fair chance of selling legislatures on needed changes," Mr. Karl warned.

"Support organizations that are in the process of gathering and analyzing reliable data," he suggested.

"It is very difficult to go before a legislative committee—when statistics are a fundamen-

tal part of our business—and say we don't know what reform is going to do to premiums and we don't know how our losses will be impacted by getting rid of punitive damages, the collateral source rule and joint and several (liability)," observed Emil Fleischer, vp and general counsel of Sentry Insurance in Stevens Point, Wis.

"We need to spend some money and gather statistics. We can do it in-house. Closed-claim studies have proved effective in the past," he noted, speaking as a member of a panel of insurance company executives who questioned the speakers.

Yale Law School's Mr. Wellington suggested insurers need to support not only statistical research but also legal research on tort law, such as the Yale Civil Liabilities Program.

"You want to impact the perspective of law students, who will be litigators and judges. The law can be changed," he suggested. "It's lunacy not to support research."

"There is a lot of intellectual fermentation on this topic in law review, in law schools and I'm sure in business schools," noted Virginia's Mr. O'Connell. "You can help shape answers."

Alliance to fight push to amend insurance law

PHILADELPHIA—The Alliance of American Insurers will fight efforts to limit insurers' exemption from federal regulation, its president says.

"We don't sense that reform of McCarran-Ferguson in 1986 is imminent," said Franklin Nutter, president of the Alliance, referring to the federal act that grants states the sole power to regulate insurers.

However, the Alliance opposes any attempt to impose dual federal and state regulation, Mr. Nutter told reporters at the Alliance meeting.

The interview regarding McCarran-Ferguson was requested after reporters were told they would not be admitted to a session devoted to discussing the federal law. "The session is intended to talk about the threat to McCarran-Ferguson... and to explain what it is and what it isn't," Mr. Nutter said.

Also under discussion were to be the implications of bill introduced by Sen. Paul Simon, D-Ill., amending the McCarran-Ferguson Act.

"There is not a groundswell of great congressional interest to do something regarding McCarran-Ferguson," observed Mr. Nutter.

However, there is the possibility that Congress might consider reform of McCarran-Ferguson the quid pro quo for a federal product liability law, he said.

Repeal of McCarran-Ferguson would not alleviate the insurance availability problem, said Kenneth H. Nails, senior vp of the Alliance. "There is no relationship," he declared.

Repealing McCarran-Ferguson would result in at least dual federal and state regulation of insurers, Mr. Nails predicted.

And, while Sen. Simon's bill would protect certain cooperative efforts among insurance companies, such as data collection, it would lead to dual regulation, Mr. Nutter predicted. Dual regulation would open insurers to potential regulation by at least 49 committees and subcommittees of Congress and up to 16 administrative agencies, Mr. Nails said.

The result would be regulation that is "more costly, more confusing and less responsive to the needs of consumers in individual states," Mr. Nails said.

Every time there is an insurance availability problem, McCarran-Ferguson is dragged out for examination, Mr. Nutter observed.

"We have the burden of proof," noted Fred W. Neck, executive vp and general counsel of the Alliance. "And it diverts our attention from tort reform."

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Captives' influence strong: Economist

By KATHRYN J. McINTYRE

PHILADELPHIA—The new multiowner captive insurance companies created to provide needed coverage for their investors likely will do more to ease the capacity crunch than tort reform, an economist says.



Ms. Stewart

"By leaving liability areas, insurers are letting others fill their roles," observes Barbara D. Stewart, president of Stewart Economics Inc. in New York.

Referring to new offshore companies formed to provide their owners with various liability coverages—such as high excess limits and directors and officers liability insurance—Ms. Stewart said: "These market forces are likely to do more than tort reform" to ease the current capacity crunch.

"Tort reform is very desirable," Ms. Stewart said, and it probably will help control the insurance industry's costs in the long term.

But, Ms. Stewart pointed out, quoting economist John Maynard Keynes, "in the long term, we are all dead." Therefore, she suggested, "we have to work on the short-term now."

Ms. Stewart introduced a free-wheeling discussion of "The Insurance Business: Where It's Going and Why in 1987" among five industry leaders during the Alliance of American Insurers' annual meeting in Philadelphia late last month.

"The new capacity coming in is very different from the captive movement of the late 1970s," Ms. Stewart said of the new mega-captives.

"This is risk-transfer capacity, that was not," she said, referring in the latter case to the single-parent captives formed in the late 1970s to finance their parent companies' risks.

"These people are coming in recognizing that the only way to hold together is with incentives," such as restrictions on withdrawing contributed capital from the new insurers, Ms. Stewart noted.

"Many insurers have left themselves open to competition in the future. They will find it tough to get back into the market," she advised.

"The industry is in a situation that perhaps distorts our intention," commented George H. Kasbohm, vp-underwriting at Kemper Group in Long Grove, Ill.

"Practically, the industry is saying to certain industries, 'we are not your insurer.' It may not be permanent...but we are giving that perception," he said.

Commenting on the reinsurance companies' role in creating the current capacity crunch, "Reinsurers have not written off any line of coverage any more than primary insurers," observed N. David Thompson, president of North American Reinsurance Corp.

"But, on a temporary basis, we have withdrawn where the predictability is so low, such as pollution," he said, adding that the crunch "could be solved by legislative initiatives. When it is, there will not be a lack of capacity," he said.

Explaining insurers' underwriting attitudes to legislators—whether state or federal—is difficult, suggested R.C. Riley, chief executive officer of Peel & Holland, an insurance agency in Benton, Ky.

"The issue of insurance is extremely complex. They don't understand what it takes to make something insurable," he said. A risk has to be "predictable, measurable, definable, and you have to be able to quantify it," Mr. Riley said. "We have to communicate that."

Ms. Stewart, however, countered: "There are areas where we don't try very hard. Our statistical and analytical techniques are pretty crude."

The insurance industry tends to look backward instead of forward and inward instead of outward, she said. As a result, insurers fail to "look at data that affects the insurance system."

With better statistical and analytical techniques, insurers could have anticipated their current financial problems, she suggested.

The panelists agreed, however, that the capacity crunch is most severe in certain lines of business, such as large corporations' liability risks and directors and officers liability insurance.

In other lines, there is some easing in rate hikes and even more interest among insurers to underwrite new business.

"In certain areas, we are noticing competition," commented C.I. Buxton II, chairman of Federated Mutual Insurance Co. in Owatonna, Minn.

The areas of developing competition include property/casualty packages for automobile dealers, retail merchants and Main Street-type business, he said later in an interview.

"It is not universal," Mr. Buxton stressed.

Mr. Kasbohm of Kemper also commented later that the competition is appearing "in the form of moderation in the increase of prices. Prices are not going down, but there is an increased willingness to write business," such as property insurance and package programs for small businesses.

However, this does not include the "unpredictable areas of general liability," he added, especially for the Fortune 500-1,000 size companies.

Larger companies should not look forward to any easing in current tight market conditions, he said.

While insurance consumers are complaining about wide fluctuations in the price of insurance, Ms. Stewart predicted that stiffer rate regulation in commercial lines will not result. "It's an administrative nightmare," she explained.

But, Ms. Stewart said there "may be better solvency regulation" in the future.

Insurance regulators are "embarrassed" by the recent insurance company insolvencies.

Better regulation for solvency "could temper some of the excesses," she suggested.

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Navy officer offers anti-terrorist advice

PHILADELPHIA—Terrorist attacks, including kidnapping, are a growing threat to Americans, warns a Navy officer.

“Americans are increasingly targeted, not because of who we are but what we represent,” says Douglas S. Derrer, lieutenant commander of the U.S. Navy based in Camp Pendleton, Calif.

He discussed terrorism during a luncheon address to the Alliance of American Insurers late last month in Philadelphia.

To guard against becoming a hostage, Americans should be alert, unpredictable and maintain a low profile when traveling or working abroad, Lt. Cmdr. Derrer advised.

Being alert includes getting information on the area, checking employees of the company, conducting a security survey of the home and office, monitoring for any surveillance and having a response plan to a kidnapping.

Being unpredictable includes varying travel times and routes, especially to and from work.

Maintaining a low profile means not clustering in public places with other Americans.

If, however, you are taken hostage, Lt. Cmdr. Derrer advises:

- Control your own fear and anger toward the terrorists.
- Reduce the symbolism and depersonalization the terrorists will attempt to impose on you. That including establishing a rapport with the terrorists.

“You don't have to pander to them, but listen to them,” he advised. This will “make it harder for them to kill you.”

- The beginning and the end of the hostage period is the most dangerous, so when a strike force arrives to liberate you, remember to get down, stay low, blend with the group and comply with all instructions.

The Navy officer also said that the longer you are held hostage, the less likely there will be damage done to you.

While closing by saying, “I hope I have wasted your time,” Lt. Cmdr. Derrer reminded the audience, “terrorism is no longer the wave of the future. It is now conventional warfare.”

Alliance names 1986-87 officers

William H. Heard, president of Grain Dealers Mutual Insurance Co. in Indianapolis, has been elected chairman of the Alliance of American Insurers for 1986-87.

Mr. Heard also will serve a two-year term as a director of the Schaumburg, Ill.-based insurance trade association.

Newly elected officers were named during the Alliance's annual meeting held in Philadelphia May 19-21.

Clifford H. Whitcomb, president of Prudential Property and Casualty Insurance Co. in Holmdel, N.J., was named chairman-elect.

Named vice-chairmen were Sherman J. Garrett, president of Mountain States Mutual Casualty Co. in Albuquerque, N.M.; William E. Nichols, president of Merrimack Mutual Fire Insurance Co. in Andover, Mass.; and Oliver L. Patrell, president of Empire Mutual Insurance Co. in New York City.

The 175-member association also announced new directors.

Elected to two-year terms on the Alliance board of directors were: Melvin B. Bradshaw, chairman and chief executive officer of Liberty Mutual Insurance Co. in Boston; C.I. Buxton II, chairman and chief

executive officer of Federated Mutual Insurance Co. of Owatonna, Minn.; E.L. Cox, president and chief executive officer of Amerisure (Michigan Mutual) Insurance Co. in Detroit; and Robb B. Kelley, chairman and chief executive officer of Employers Mutual Casualty Co. in Des Moines, Iowa.

Also elected to two-year terms were: John L. Longnaker, president of Pennsylvania National Mutual Casualty Insurance Co. in Harrisburg; Jack B. Riffle, chairman of Utica Mutual Insurance Co. in New Hartford, N.Y.; Theodore J. Ruple, president of Metropolitan Property and Liability Insurance Co. in Warwick, R.I.; and Leon J. Weinberger, president and chief executive officer of Wausau Insurance Cos., headquartered in Wausau, Wis.

Elected to one-year terms were: Dieter H. Nickel, chairman and president of Church Mutual Insurance Co. in Merrill, Wis.; and J. John Wortman, president and chief executive officer of American Mutual Liability Insurance Co. in Wakefield, Mass.

Franklin W. Nutter continues as president of the Alliance of American Insurers.

Sunken ship was insured

BALTIMORE—The *Pride of Baltimore*, the two-masted schooner that sank north of Puerto Rico last month with a loss of four crew members, was insured for \$475,000, said Douglas Pierson, the city insurance manager.

The ship was insured under a group policy obtained through the National Historic Trust's Maritime Heritage program, he said. Lead insurers were Insurance Co. of North America, with a 50% share, Royal Insurance Group, with 25%, and Lloyd's of London with 25%.

The policy also provided for \$1 million in protection and indemnity coverage for the crew members lost, said Mr. Pierson. In addition, he said, there was an excess policy providing an additional \$9 million of coverage written by Lloyd's and other British companies. The names of these companies are not available, said Mr. Pierson.

The primary and excess policies cover any liability that arises as a result of the deaths, including coverage required for sailors under the federal Jones Act, said Mr. Pierson. Courts will determine the actual amount the lost crew members' survivors will be paid.

The ship, which was a reproduction of a 19th-century Baltimore clipper, was on its way back from a European tour when it was suddenly hit by a tornado-like wind and sank.

Corroon & Black buys 65% of MedTrac

Corroon & Black Corp. has acquired a 65% interest in MedTrac Inc., a Minneapolis-based health care utilization review service, according to a spokesman for the insurance broker.

Through MedTrac, Corroon & Black will provide utilization review services to large self-insured corporations and insurance companies on a national basis.

MedTrac is a subsidiary of the Foundation for Health Care Evaluation, a professional review organization under contract with the federal government to review the hospital admissions of all Medicare patients in Minnesota. MedTrac provides review services to the foundation's private clients.

"We are very excited about our relationship with the foundation and MedTrac. The foundation has been a leader in developing criteria that help insure quality care while containing medical costs," said Donald R. King, senior vp at Corroon & Black.

"Through MedTrac, Corroon & Black can now offer a customized program of utilization review that fits the client's particular needs. At latest count, MedTrac has been able to reduce its clients' hospital lengths of stay by 20.9%. That can result in significant savings for our clients," he added.

Under the new venture, the foundation will continue to develop criteria for cost-effective delivery of quality medical care, as accepted by medical authorities, said the spokesman. And, MedTrac will continue to provide a full scope of review services such as pre-admission, on-site concurrent and retrospective reviews, coordinated by registered nurses.

"The health care marketplace is changing very rapidly, but clients will always have need for quality care and cost containment. With the expertise of MedTrac and the Foundation, Corroon & Black is better able to meet those needs," said Mr. King.

Independent PPO

McElroy-Minister Co. has formed an independent preferred provider organization that self-insured employers can offer their workers.

The Columbus, Ohio-based PPO includes a network of about 180 primary care physicians and specialists and four hospitals, according to William R. Gillam, executive vp of the insurance brokerage.

The providers were selected based on reports from the Coalition for Cost Effective Health Services, a group that reports utilization and cost data of Columbus-area providers, he said.

"We've formed this for the benefit of self-funded clients so they have the opportunity to utilize a cost-efficient managed care program without having to go to the traditional health maintenance organization or hospital-sponsored PPOs," he said. "We can change providers if we feel some are not doing a good job."

Two types of utilization review services are included in the PPO, said Mr. Gillam.

Each of the hospitals contracting with the program perform independent pre-admission, concurrent and retrospective reviews. In addition, outpatient reviews of treatments and testing performed by preferred physicians are conducted by clinics contracting with the PPO.

But, McElroy-Minister ultimately reviews all of these results.

The program also includes financial incentives for employees to use preferred providers. These incentives can include waived deductibles or reduced copayments, he

markets

said.

For information contact The McElroy-Minister Co., 141 E. Town St., Columbus, Ohio 43215; 614-228-5565.

Data firm acquired

Commons Health Management Group Inc., which provides health care data analysis and manage-

ment, has been acquired by Parkside Health Management Corp.

Park Ridge, Ill.-based Parkside offers cost-containment services like pre-admission certification programs, second surgical opinion programs, psychiatric case management and disability case management. The company also provides claims administration services and wellness programs.

Under its new name, Commons Health Management Group Ltd., the firm will continue to offer services such as development of health information data bases from patient claims data; analysis of data; and data management consulting services.

For more information contact Commons Health Management Ltd. at 1 Knoll North Drive, Columbia, Md. 21045; 301-997-9292. Or, Parkside Health Management Corp., 205 W. Touhy Ave., Park Ridge, Ill. 60068; 312-698-4700.

Acquisitions

Zurich Insurance Co. of Schaumburg, Ill., has acquired a major interest in the **Minerva Group**, a group of Italian insurance companies specializing in property/casualty and life insurance and reinsurance.

James R. Davis & Associates Inc., a workers compensation management firm in Columbus, Ohio, has been acquired by **The McElroy-Minister Co. of Columbus.**



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EMPLOYERS LIABILITY

Industrial accidents injure insurance budgets on the Emerald Isle

By Jerome Karter

MANY U.S. MULTINATIONALS, wooed by generous grants and capital allowances, have recently been enjoying "tax holidays" in Ireland. The initial startup attraction for foreign companies coming to Ireland included such financial incentives as:

- Tax relief on manufacturing profits through Dec. 31, 2000.
- Repatriation of tax-free profits without restriction.
- 100% tax depreciation.

But U.S. multinationals today find that staggering employers liability insurance premiums in Ireland are eroding the profits generated by favored tax treatment. With the average premium estimated at 1.5% of a company's payroll, there is little doubt that the cost of employers liability insurance has become a burden for manufacturing companies in Ireland.

Why does employers liability insurance cost so much in the Emerald Isle?

Blame is usually placed on court awards for on-the-job injuries, now frequently called "rewards" rather than compensation. Although certainly a major factor, high compensation awards cannot be cited as the only reason for the present predicament.

The Irish government has encouraged foreign investment to create new jobs in Ireland and to develop its unskilled industrial infrastructure. As an offset, financial incentives granted to foreign investors included 100% training grants. But U.S. multinationals, as well as other foreign investors, could not be expected to transplant urban habits to rural Ireland without some friction.

The friction, in this instance, came from employees. It is general knowledge that common law liability arises from the obligation that each person has to exercise care in his actions so that he does not cause bodily injury or damage to others. In common law, employees are entitled to damages only if an accident was caused by an employer's personal negligence. A worker has no claim against an employer merely because he met with an accident in his employment.

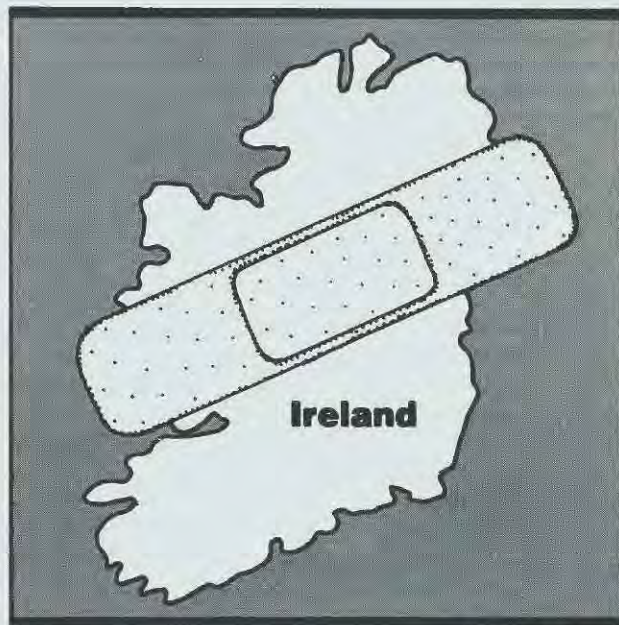
But, as trade unions increased in strength, the notion of personal liability diminished. The employee credo became "them and us" or "if I get hurt, somebody has to pay." One successful claim in a large company often spawned a number of similar claims.

The bureaucratic structure of the unions has helped to centralize the legal process in Ireland. One solicitor often facilitates a large amount of minor claims by handling them as one job lot. This tends to encourage small claims and it is often alleged that workers deliberately inflict minor injuries on themselves to jump on this bandwagon. Employers risk a strike by workers if they dismiss an employee that is suspected of injuring himself deliberately.

The fault of the system, however, does not lie solely with the workers.

Another major reason for high employers liability insurance premiums is the fact that employers in Ireland are not as attuned as U.S. employers to health and safety loss control procedures.

Most companies are in business to make profits, not to be healthy and safe. Records show that the vast majority of work accidents in Ireland result from a failure to guard machines, slips, trips, falls and internal transport incidents. These accidents occur in Ireland with greater frequency, and although preventive measures are well



Graphic: Amy Palmer

international issues

known, they are not always instituted.

While many U.S. multinational subsidiaries in Ireland follow health and safety guidelines strictly, a large number of managers and employers in Ireland fail to discharge their legal duties. This failure, which leaves a law of chance as the only barrier between employees and an accident, adds to high-frequency claims experience and helps to drive up insurance premiums.

Only 20% of Irish employees are covered by existing statutory laws that prescribe legal standards for employers. But all employers in Ireland—including those not covered by general statutory legislation—are subject to common law.

Common law underpins the rights of workers to a healthy and safe workplace. Unfortunately, common law principles are often used by employees to support a claim "after the fact," rather than by employers as a code of good practice in order to avoid accidents.

In common law, all employers in Ireland must provide their employees with:

- A safe system of work.
- Safe plants and equipment.
- Competent fellow employees.

The broadest of employers' common-law duties is a safe working place. This duty encompasses proper instruction, effective supervision and safe work methods. Employers must ensure that the place of work is safe and that employees are afforded a safe means of access and egress.

The common-law duty of safe plants and equipment obliges an employer to provide and maintain proper machinery, plant appliances and works needed to do the job.

The main body of legislation in Ireland, the Safety in Industry Acts of 1955 and 1980, imposes liability on the employer for securing the health, safety and welfare of employees. The laws also allow for criminal liability of managers.

An employer's duties under the acts include training employees, guarding machinery, lighting, ventilation and protection against falls, chemical exposures and noise. The laws also require an employer to establish a safety committee.

In addition, the 1980 act obligates an employer to draw up a safety statement detailing the provisions made by the company to safeguard the safety and health of the workforce, the extent of cooperation required from employees, the availability of safety training facilities and the measures taken to guard against specific hazards that are present in the workplace. When a company maintains a safety officer, the statement must also detail his duties.

Complying with this aspect of the law makes employers, insurers and corporate legal counsel nervous that the statements may serve as a written blueprint for employees who sue for negligence.

Common law also requires an employer to select properly skilled people to manage and superintend the business. If employees are not judged competent the employer can be held vicariously liable for the acts or omissions of any employee where they result in the injury of another worker. But, regardless of how well-trained or safety conscious a worker may be, accidents will happen.

Statistics show that the human failure rate for routine production operations is about one in 1,000, and rises to one in 100 for workers in stressful conditions. As these figures indicate, employers would be wise to emphasize the "safe place" approach to claims control rather than rely on a "safe person" approach.

While these measures might be construed as loss-control procedures, they are often the cause of high-liability claims experience.

When courts are left to define negligence, it is not sufficient for employers to try and fit machines with guards, instruct the workers in their use and have supervisors watching to prevent violations. Instead, the legal doctrine of the unsafe system of work has resulted in negligence "rewards" for accidents that are truly incidental to the nature of an employee's work.

In most European Economic Community countries, these occurrences would be compensated by the state as social welfare accidents, rather than through an employer's liability insurer.

However, unlike other EEC member countries, compensation for High Court claims in Ireland is still assessed by a jury. Lesser cases are adjudicated in Circuit Court without jury involvement, and awards are limited.

Understandably, most claimants prefer to have cases tried in the High Courts, since the unpredictability of a jury usually means greater compensation.

Insurers, therefore, often settle small cases out of court because they fear big jury awards, although cases that could potentially result in large awards are usually litigated.

In the long-term view, however, insurers will probably be forced to litigate all cases in the hope of dissuading smaller claimants from bringing suit. While this may appear to be a minor solution, huge defense costs—usually provided outside of the policy limits—will undoubtedly keep premiums high. Policyholders can expect the problem to be compounded by a decreased number of insurers willing to write employers liability insurance in Ireland.

Increased insurance premiums hurt business because they add to the cost of goods produced in Ireland, making those goods uncompetitive with those of other EEC member countries.

But the insurance industry cannot be expected to singlehandedly change an inefficient system. Neither can employers.

As is true in the United States, the court system needs to be changed. A proposal to abolish the jury system is being contemplated by the Irish government, but this is not a present-day solution.

In an ideal world no employees would suffer on-the-job injuries, insurers would pay no claims and employers would not have to pay liability insurance premiums. In the real world, however, all an employer can control is frequency and severity of accidents.

On-the-job safety is the responsibility of both management and workers, although management should play a major role. Do the remedies cost money? Yes, they do. Will the remedies save money? Yes, they certainly can. Why not look into what your subsidiary can do to help the employers liability insurance crisis in Ireland?

Remember, the only thing worse than a staggering employers liability premium is no coverage at all.



Jerome Karter is vp and manager of the New York International Department of Johnson & Higgins. His column on international issues appears the first Monday of every month.

Congress, auditors pinch retiree plans

By David L. Glueck

WHEN THE LAWMAKERS and accountants can't agree, watch out. Congress, having mixed a small amount of reality with a desperate need for cash, has closed off most avenues for accumulating assets to secure employer promises to provide post-retirement medical benefits.

This estimated \$2 trillion liability may have been promised, but Congress in its infinite wisdom has said: "Don't try accumulating cash to pay the bill. We won't let you deduct most of the contributions to a welfare plan fund, and we will tax you on the fund's investment income."

If that's not enough aggravation for employers, now the accountants have decided to make sure that the investment community has all the facts. The Financial Accounting Standards Board is moving toward setting standards for disclosure, liability measurement and perhaps mandatory expensing of post-retirement medical benefits.

This would require employers to put the expense on their books, but their ability to accumulate funds to pay the obligation would be severely limited. This scenario is intolerable.

Let's look at the real world. First, until Congress passed the Deficit Reduction Act in 1984, a company could finance post-retirement benefits on a "pay-as-you-go" basis through either an insured or a self-insured arrangement.

A more prudent—but relatively rare—employer could even accumulate assets on an actuarial basis to counterbalance the substantial liability particularly for retiree medical benefits. Assets could be deposited in a Voluntary Employees' Beneficiary Assn., in an insurance continuation fund or in a

qualified pension plan under Internal Revenue Code Section 401(h).

There were few, albeit reasonable, restrictions on the amount contributed, asset accumulation and timing of contributions. In the case of VEBAs, 401(h) arrangements and continuation funds, non-reversion was relatively well-assured. Income earned on all three was not taxed, but accumulated, and interest was compounded favorably.

Then DEFRA put a major crimp in employers' plans. It:

- Prohibited the use of medical inflation factors for determining liabilities. This alone resulted in the understatement of liabilities by as much as 50% to 70%.

- Taxed earnings of assets in the fund on a current basis, thereby making the accumulation of assets unattractive.

- Denied deductions for retiree life and medical benefits in excess of certain levels.

- Denied deductions for all retiree welfare benefit funding if any discriminatory benefits are also funded.

- Reduced the annual defined contribution limit for key employees in an amount equal to any retiree medical funding contribution. Pending legislation will require the same treatment for key employees under 401(h) arrangements.

FASB has been studying accounting rules for post-retirement welfare benefits for several years. Originally, accounting requirements for these benefits were to be considered along with pension accounting issues. Standards were to be released at the same time.

But that did not happen. Instead, FASB has continued to study the balance sheet treatment of these liabilities, even though it has begun requiring companies to include in the financial footnotes:

- Current expenses for retiree life and

medical benefits.

- Methods of expensing or funding. And there's the bind. Congress has severely restricted employers' opportunities to accumulate assets for post-retirement welfare plan liabilities. On the other hand, FASB is moving toward increased disclosure and expensing for these liabilities.

Employers, as usual, are caught between the proverbial rock and a hard place.

Reasonable funding standards accompanied by appropriate and rational "phase-in" of expense practices are essential. Anything less will penalize large employers that have voluntarily assumed retiree medical benefit responsibility, discourage the formation of new plans and hasten the elimination of current plans.

What should Congress do to encourage the accumulation of assets to secure post-retirement medical obligations? It could legislate changes that would:

- Permit tax-deductible contributions to VEBAs without taxing the trusts' investment income.

- Permit the use of reasonable actuarial assumptions—including assumptions about future increases in health care cost—as the basis for determining the liability. (Tax reform proposed by Sen. Bob Packwood, R-Ore., would permit this practice.)

- Permit the transfer of pension surplus to a 401(h) subaccount of the pension plan, or permit employees to contribute to the 401(h) subaccount of a pension plan that is in surplus.

- Require that the companies funding these liabilities accept their obligations, establish an accrued benefit concept and provide future vesting for both active and retired employees.

- Clarify provisions in the Employee

Retirement Income Security Act that relate to employers' rights to terminate and amend welfare plans.

What should FASB do? It should:

- Recognize that immediate funding of welfare benefit liabilities is inappropriate (and possibly even catastrophic) and that it places businesses that have granted generous retiree benefits at a substantial disadvantage.

- Develop a "phase-in" that would permit the recognition of expense to track with future funding but would not require immediate booking of the full expense level.

- Require that either the expense be recognized or the benefit plan be terminated.

What should the business community do?

- Continue current post-retirement benefit funding and expensing on a rational and orderly basis.

- Incorporate effective cost-containment design options and communication tools to ensure that only necessary and appropriate health care benefits are promised.

It's clear that there are a number of competing forces in the retiree welfare benefit arena. Only if employers, accountants and lawmakers work together can a rational solution be developed.

Such a solution will benefit not only the business community, but everyone as well.

David L. Glueck is a vp with consultants Towers, Perrin, Forster & Crosby, based in Chicago. Mr. Glueck heads TPF&C's worldwide group benefits practice.



Employer not liable for softball injury

An employer's financial support of employee recreational events was not enough to support a finding that the activity was work-related for purposes of worker's compensation, a Missouri appellate court ruled.

Lonnie Lee was injured while playing on a softball team composed of employees of Western Electric Co. Inc.

The team was part of a league, which was one of a number of recreational activities organized by Wecomo Club Inc., a non-profit corporation of Western Electric employees.

The softball games took place on ball fields located on the plant's premises.

Western contributed nearly 60% of the money in the club's budget, but participation in the club activities was voluntary.

Mr. Lee filed a claim for worker's compensation benefits, and compensation was denied.

On appeal, Mr. Lee argued that his playing softball on a club team was sufficiently related to his employment to justify a finding that his injury arose out of the course and scope of his employment.

The court said that no general rules govern when an employee may recover for injury that he incurred while participating in an employer-sponsored recreational

legal briefs

activity.

According to the court, a number of factors must be considered, including:

- Whether the activity was sufficiently related to the employer.

- Whether the employer derived some benefit from the sponsored event.

- Whether the employer directly or indirectly required employees to participate and the extent to which the employer controlled or directed the athletic activities.

The court was satisfied in this case that the evidence supported the decision to deny an award for benefits. *Lee vs. Western Electric Co. Inc.*, Missouri Court of Appeals, Aug. 6, 1985 (BI/02/My.-\$5).

Work-related coronary

There was a causal connection between a heart attack and employment for purposes of workers compensation, according to the Supreme Court of Arkansas, where the employment precipitated or contributed to the heart attack.

William B. Stringfellow was seated at his desk performing his normal duties of employment when he suffered a fatal heart attack.

He simply slumped over and died without uttering a word.

His widow told the doctor at the hospital where he

was pronounced dead that he had been working about 61 hours a week at the time of his death, but that a few months earlier he had been working 70 hours a week.

Prior to his death, Mr. Stringfellow had made no complaint about his health but he slept a lot and seemed awfully tired. He smoked about two packs of cigarettes per day.

His widow and dependent son filed for workers compensation benefits.

Mr. Stringfellow's doctor testified that he had never treated him for any cardiac disease nor did he suspect any heart problems.

However, his doctor felt that Mr. Stringfellow was working under stress, which brought on a myocardial infarction.

The commission approved an award of benefits, which was affirmed by the Court of Appeals.

The state Supreme Court said that although there was no evidence that the myocardial infarction was caused solely by Mr. Stringfellow's employment, there was substantial evidence that the stress of the employment duties contributed to the infarction.

Thus, the court concluded that his employment precipitated or contributed to the attack and there was a causal relationship between the injury and the employment.

The compensation award was affirmed.

Justice Hickman dissented, believing that recovery for workers who die of a heart attack was not intended by the worker's compensation law. *C.J. Horner vs. Stringfellow*, Supreme Court of Arkansas, July 1, 1985 (BI/04/My.-\$5).

These abstracts were prepared by Cases Unlimited Inc. A copy of an entire decision may be obtained by sending a check for \$5 made out to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. List the number for each opinion.

benefit beat

Merged oil firms consolidate plans

San Francisco-based Chevron Corp. is consolidating its medical benefits plans following the completion of its merger with Gulf Oil Corp.

pendent life insurance equal to 25% to 100% of their annual salary, but not in excess of \$100,000. This coverage includes spouses and children, he said.



Reinsurance Leadership in the

business insurance, June 2, 1986 / 24A

agent/broker topics

A monthly editorial section sent exclusively to agents and brokers



One-stop shopping

Specialty insurance agency caters only to supermarket risks

By LINDA J. COLLINS

MINNEAPOLIS—Agency experts have long touted target marketing to specific industries as an efficient method of agency operations.

One Minneapolis-based insurance agency, Risk Planners Inc., has carried the target marketing concept one step further. It has based its entire book of business on a single industry—supermarket risks.

Risk Planners, which was established in 1969, is a wholly owned subsidiary of Minneapolis-based Super Valu Stores Inc., the largest food wholesaler in the United States. Super Valu not only supplies food to independent retailers throughout the country, but also a full line of non-food-related services such as advertising support and accounting services.

"Our organization was founded directly by Super Valu senior management as a result of problems its retail customers had experienced in the past when they suffered major property losses and then found they did not have adequate insurance coverage," said Lou Tesler, Risk Planners' vp of operations.

"Super Valu wanted to be sure that its customers had the opportunity to obtain sufficient coverage," Mr. Tesler explained.

"We hire people with an insurance background and in-

dustry knowledge, with some kind of sales experience and put them through a rather intense orientation program" in supermarket retail operations, he said.

New employees initially spend at least a week with Super Valu personnel learning about supermarket purchasing, merchandising and other areas of grocer operations.

The agency markets to supermarket clients on a national basis. In addition to its main sales and service office in Minneapolis, Risk Planners has 10 sales offices throughout the United States. Regional sales offices are located in: Green Bay, Wis.; Des Moines, Iowa; Champaign, Ill.; Billings, Mont.; Fort Wayne, Ind.; Xenia, Ohio; Houston; Greensburg, Pa.; Atlanta; and Indianola, Miss. An 11th office soon will be opened in Tacoma, Wash.

Combined, the offices employ about 80 people, including 12 producers and 68 support personnel. The agency currently works with between 1,500 and 1,800 different supermarkets, principals say.

But Risk Planners does not limit the marketing of its products and services to Super Valu retailers. It also markets its services to non-affiliated supermarket owners.

Risk Planners' customers see advantages to working with

an agency that is familiar with supermarket risks.

"They understand the supermarket business because it's their business. They can look at our total operations and recommend the exact coverages that we need," said Robert L. Woodward, president of Woodward's IGA in Riverton, Wyo. Woodward's operates four stores in Wyoming employing about 250 people.

"Risk Planners knows our business and our industry, and their products are tailored to the food retailer's needs," said Patrick A. Henry, controller for Goolsby Foods in Columbus, Ga., a client of Risk Planners for the last two years. Goolsby Foods is a chain of 14 grocery stores in Columbus, western Georgia and eastern Alabama that employs about 600 people.

"We gained better coverage than we had before at a lower cost than we paid before," Mr. Henry said.

Pete Merrifield, controller with New London, Wis.-based Ron & Lloyd's Inc., a non-Super Valu client with five stores and 350 employees in northeastern Wisconsin, said, "When we first secured a quote from Risk Planners, we found a few shortfalls in our (previous) plan.

"We found that, right down the line, they had covered the things we should be looking for, including peak season inventory levels, loss of earnings coverage, etc.," Mr. Merrifield explained. "Their plan was well-directed for us."

Continued on next page



Mr. Tesler

Benefit plans

Continued from page 3

tributions up to a maximum of less than 5% of salary; 14% matched a maximum of 5% of salary; and 9% matched over 6% of salary. Five percent reported that matches varied based on salary or years of service or years of participation in the plan. One percent reported matches based on a flat dollar amount.

Thirty-four percent offered three investment options for employee contributions; 28% offered four options; 25% offered two options; 9% offered one option; and 4% offered more than four options.

And, 47% offered one investment option for employer contributions; 19% offered three options; 17% offered two options; 15% offered four options; 2% offered five options.

And, just as employers are encouraging employees to contribute to retirement savings, they also are requiring employees to contribute

more toward health expenses.

For example, 45% of the employers surveyed reimbursed employees for 100% of hospital room and board charges, compared with 53% in a similar Hewitt study in 1984.

All of the employers surveyed provide medical coverage for their salaried employees.

Thirty-five percent of the employers surveyed required employees to share in the cost of medical care by meeting an annual deductible of \$100. In addition, 15% required a \$150 deductible; 11% required a \$200 deductible; and 7% required a \$50 deductible. Three percent required a deductible of more than \$200 per year; 2% required a deductible between \$101 and \$149; 2% set the deductible between \$51 and \$99; and 1% had a deductible of less than \$50.

In addition, less than 1% reported deductibles based on a flat dollar amount per cause and 7% based deductibles on pay. And, 89% of these plans specify a maximum deduct-

ible per family.

Fifty-four percent reported that deductibles were required for hospital room and board charges as well as other medical expenses. And, 40% reported that there was no additional deductible required for hospital charges.

Along with the deductibles, most of the companies also required employees to pay coinsurance—or a portion of medical expenses.

In addition to the 45% of the surveyed companies that reimbursed 100% of charges, 34% reimbursed employees for 80% of reasonable and customary charges.

Six percent reimbursed 90% of charges; 3% reimbursed 85% of charges; and less than 1% reimbursed less than 80% of charges. Also, less than 1% reimbursed based on a flat dollar rate per day and 10% reported that reimbursement varied based on plan options selected by employees.

Seventeen percent of the companies provided 100% reimbursement for 365 days of hospitalization per year. Nine percent provided full reimbursement up to a specified dollar amount, then offered a lesser reimbursement. Another 7% fully reimbursed up to 120 days; 7% had no limits on fully reimbursable days; 3% fully reimbursed less than 120 days; 1% reimbursed 180 days; and 1% reimbursed more than 365 days.

Reimbursement for reasonable and customary surgical charges was reported by 82% of the firms.

Of the 82%, 48% reimbursed 80% of charges and 20% reimbursed 100% of charges. Six percent reimbursed 90% of charges; 4% reimbursed 85% of charges; 1% reimbursed 95% of charges; and 1% reimbursed less than 80% of charges.

Eighty-eight percent of the companies utilized a stop-loss feature to limit the employee's exposure to medical expenses. Another 10% did not offer a stop-loss, and 2% reported that stop-loss depended on the plan option selected by the employee.

Twenty-two percent of the plans required employees to pay up to

\$1,000—excluding the deductible. Nineteen percent set the stop-loss cap at between \$501 and \$999 and 16% reported that the stop-loss depended on the plan option.

Seventy-five percent of the plans placed a lifetime maximum on the amount of benefits an employee can receive.

Another 19% placed no dollar limits on coverage; 2% imposed "per cause" limits; 2% placed both lifetime and annual limits; and less than 1% set annual maximums only. And, 2% reported that limits varied depending on plan options chosen.

Lifetime maximums of between \$500,001 and \$1 million were reported by 44% of the plans, and 29% set maximums at between \$250,001 and \$500,000. Seventeen percent placed maximums between \$200,001 and \$250,000.

A majority of the plans surveyed also offered medical benefits for retirees.

Eighty-five percent of the companies offered medical coverage coordinated with Medicare to retirees after age 65. Fifteen percent did not offer post-retirement medical coverage to retirees past age 65.

Dental care was the most prevalent ancillary health benefit offered by the companies surveyed.

Of 89% that offered dental benefits, 54% required a deductible for certain services only. Twenty-five percent required a deductible for all services and 18% did not require any deductibles.

No employee contributions to dental plans were required by 40% of the plans, and 38% required contributions for employee and dependent coverage. Another 20% required contributions for dependent coverage only.

Vision and hearing care benefits were not offered by many of the companies surveyed. Only 20% offered vision care benefits and 6% offered hearing care benefits.

Salaried employees at 83% of the companies surveyed were offered group long-term disability benefits.

Group LTD benefits along with disability benefits under a pension plan were offered by 14% of the

companies; and 3% offered pension disability benefits only.

Fifty-one percent used a pay-replacement formula equal to 60% to 64% of pay. The next-largest group—15%—used a 50% to 59% of pay formula; and 12% used a 65% to 69% of pay formula. Only 3% used a formula equal to 70% of pay or over and less than 1% offered less than 50% of pay.

In addition, 4% said the formula depended on the option selected by the employee and 15% said other formulas were used to determine the benefit.

A maximum monthly LTD benefit of between \$4,001 and \$5,000 was reported by 23% of the companies surveyed. Nineteen percent paid a monthly maximum of \$5,001 or over; 13% paid between \$3,001 and \$4,000; 9% reported payments of \$2,500 or less; and 8% paid between \$2,501 and \$3,000.

Three percent reported that benefits depended on the option selected by the employee and 25% reported no dollar maximum on benefits paid.

Employee contributions to LTD benefits were not required by 53% of the plans; 45% required employee contributions. Another 2% reported that employee contributions depended on the option selected by the employee.

Group life insurance is another widely offered benefit.

Seventy-two percent of the companies surveyed offered company-sponsored group life plans to which employees could contribute to increase their benefits.

Sixteen percent offered company-paid plans only and 12% offered contributory plans only.

Twenty-one percent of the plans reported that they paid no post-retirement death benefit. Another 76% reported that a post-retirement death benefit was paid for life.

Dependent life insurance was offered by 34% of the plans on a contributory basis. And, 7% provided this coverage on a company-paid basis. But 59% did not offer this coverage.

In addition, 16% offered flexible benefit plans, and these companies used various ways to determine "flexible credits" for employees.

The largest group—39%—reported that credits were determined by employee salary reduction only. Another 38% reported that both company dollars and employee salary reduction determined the credits and 23% determined flexible credits by company dollars only.

The choices offered under these plans included flexible spending accounts in 84% of the plans; health plans, 78%; life insurance choices, 37%; defined contribution plans, 24%; disability benefits choices, 23%; flexible time off with pay, 17%; and other choices such as financial counseling, 55%.

Industrial companies accounted for 55% of the participants in the survey. Commercial banking and diversified financial companies accounted for 14%; insurance companies, 8%; utilities, 7%; diversified services, 5%; retailing, 5%; mining, 5%; and transportation, 1%.

Copies of the 31-page survey, "Salaried Employee Benefits Provided by Major U.S. Employers in 1985," are available for \$25 each from Hewitt Associates, Cathy Schmidt, 100 Half Day Road, Lincolnshire, Ill. 60015; 312-295-5000.

Challenge #117

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they handle not only USIG, but also, through our authority, handle 90% of the claims," he said.

Mr. Gilway explained that, compared with supermarkets as an entire class of business, the supermarket risks USIG writes through its agreement with Risk Planners are "better than average. . . They exert substantially more control from a loss control standpoint."

USIG has put together a "very good loss control program specifically suited for supermarkets," assisted by the expertise of Risk Planners' management, Mr. Gilway added. "It is a very successful arrangement for us and for them.

"Our Minneapolis regional office has provided Risk Planners with a tremendous amount of support and training in underwriting, claims management, etc., to make sure they're up to speed with USIG requirements, and they've provided us with support

though he added that some crews are beginning to take deductibles to reduce their premiums."

Furthermore, the USIG property policy is issued on an actual loss-sustained basis, they explained. This means that the policy covers the full value of repairs or replacement, even if that value extends beyond the policy's limits.

The value of this type of coverage was explained by Risk Planners client John H. Wartars, who with his wife, Barbara, co-owns Homer IGA Store in Homer, Ill., a single store with about 25 employees.

"I switched agents and went to Risk Planners in about April 1984, because their coverage was quite a bit cheaper than the company I had my business with before," Mr. Wartars said. "I thought I was getting the same coverage I had before.

tant aspect of the services and products offered by Risk Planners, principals of the agency stress.

"We have developed a loss control guide tailored to supermarket risks, and we send our people to the various locations to sit down with store managers and set up a program of procedures they need to follow to minimize and reduce their losses," Mr. Tesler said. The agency also conducts periodic inspections of the facilities to make sure procedures are being followed.

Client Mr. Woodward said, "They come around on a yearly basis and make recommendations on things we can do to reduce our losses. A lot of the time we have followed their recommendations and it has reduced our rates."

For group health coverage, Risk Planners

through an outside finance company. With Risk Planners we pay weekly with our statement from Super Valu. You can't beat that arrangement," he said.

Mr. Fee added that Risk Planners' growth rate has tripled in the last three years. Risk Planners is currently negotiating with its insurers to make its services available on a brokerage basis to independent agents throughout the country. The arrangement has not been finalized, but the agency said that other agents have expressed a need for its products.

"Hardly a day goes by when we don't hear from a frantic agent trying to find a market for a supermarket client," Mr. Cody said. "We have received a lot more calls from agents and grocery retailers since the advent of the hard market," he added.

NAIB is gaining clout in industry, Moore says

By LINDA J. COLLINS

PEBBLE BEACH, Calif.—The National Assn. of Insurance Brokers is developing some industry muscle, its outgoing president says.

It has established itself as "a serious player in influencing policy decisions within our industry as well as on the state and federal level," says Robert H. Moore, senior vp of Alexander & Alexander Services Inc. in Washington, D.C.

Mr. Moore will be succeeded as NAIB president by Raymond L. Hayes, senior vp at Rollins Burdick Hunter Co. in Chicago.

Addressing NAIB members and other industry representatives attending the annual NAIB meeting May 12-15 in Pebble Beach, Mr. Moore discussed some of the efforts undertaken by NAIB staff and officers over the past year.

During 1985 and so far in 1986, the NAIB has strengthened its position as an information resource by volunteering its members to speak to various organizations on insurance industry issues and activities, Mr. Moore said.

In addition, the NAIB has recently published "Commercial Insurance: Basics of the Business," a 28-page reference book designed to inform policymakers and the general public about the dynamics of the liability insurance crisis, Mr. Moore pointed out.

Copies of the book are being distributed free to members of Congress and their staffs, as well as to hundreds of journalists who have written about the insurance industry in recent months, he said.

"Over the course of the last year we became convinced that our industry urgently needed to communicate, in an even-handed manner, the economic realities of property/casualty insurance," he said.

"With this publication we are making a substantive effort to assist policymakers and the general public in better understanding the complex dynamics of America's double problem—a lawsuit crisis and the liability insurance crisis."

Other NAIB efforts cited by Mr. Moore included working with the Insurance Services Office to make improvements in its new commercial general liability policies and lobbying the National Assn. of Insurance Commissioners for better information on the financial status of insurers.

In addition, the NAIB has spoken out to insurers criticizing "unwarranted and improper midterm cancellations," but also has defended insurance companies when state regulators have threatened to force underwriters to renew all expiring policies, Mr. Moore said.

The NAIB also has worked with the U.S. Chamber of Commerce's Civil Justice Action Group and other consumer coalitions to help find solutions to liability insurance problems, he said.

Mr. Moore identified several initiatives that the NAIB shares with such coalitions, including:

- Working for meaningful tort reform.

- Supporting the expansion of the Risk Retention Act of 1981, which would permit "professionally managed and financially viable risk retention groups to cover liability risks in addition to product liability."

- Combating attempts by con-

The NAIB has established itself as 'a serious player in influencing policy,' Mr. Moore says.

sumer advocates "who are savaging the industry for their own ideological purposes."

- Advocating that insurers respond to tort reform and other changes by modifying their pricing practices.

- Supporting the growth of risk management.

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Ideas worth quoting.

London broker sees 'optimism' in turning market

By LINDA J. COLLINS

PEBBLE BEACH, Calif.—The \$7 billion in new capital the U.S. property/casualty insurance industry was able to raise in 1985 shows the industry it is exhibiting a "spirit of optimism," a London broker says.

And, the most positive thing about this achievement is that "most of the new capital went not into providing a basis for new business, but in providing larger reserves for business written in previous years," said Richard N. Bowes, chairman of Lloyd's of London broker Willis Faber & Dumas Ltd.

However, "It's fair to say this increased optimism is not existing in quite the same form in London," Mr. Bowes added during a speech at the National Assn. of Insurance Brokers' annual meeting.

While London is noticing some improvement in rates for U.S. commercial lines business, "I am quite concerned about the long-term position on personal lines," Mr. Bowes said.

Personal lines business has always concerned him because "the cumulative view of our industry is very often produced by the cumulative views of small individuals who we serve rather badly," he explained.

Lloyd's three-year accounting system is another reason London is not quite as enthusiastic as the United States about the market upturn, according to Mr. Bowes.

When the industry situation begins to improve after a period of record losses, in London, "the memory of the bad lasts longer because you are closing out the bad years during the better years," he explained.

Also, although U.S. liability risks represent only 10% to 15% of Lloyd's business, they have produced its biggest 1982 losses.

All but one of the nine lines of business for which Lloyd's provides results showed profits in 1982, he said. The remaining line—general liability—showed an overall loss managed "after all investment income... of 300 million pounds."

That loss, he said, "reduced the overall profit of the Lloyd's market to 50 million pounds" (about \$77 million).

Willis Faber is not entirely sure the Insurance Services Office's claims-made commercial general liability form will help solve U.S. liability problems, Mr. Bowes said.

"I wonder," he speculated, "if some of these moves toward the claims-made form have not been misconceived."

He said he is not convinced that the claims-made CGL form "is the panacea for all ills which some people say it is. I have a very unpleasant feeling that the complication of the forms and the non-congruity of forms between layers are going to exercise the interpretive imagination of the courts in a way we may find to be exceedingly adverse for insurers."

The strains on the U.S. court system are not only causing problems for the insurance industry, but also are "beginning to make some impact on economic development," Mr. Bowes added.

If changes are not made in the legal fee system, the quality of the judiciary and the power of juries within the next five to 10 years, "we'll see even more impact on the economic scene at large," he predicted.

Insurers have begun to shy away from those lines of business for which court interpretations and long-tail liabilities have created unpredictable exposures and which may create lasting problems for the industry, he said.

Because "we have failed to produce products in this field that our clients desperately need... they (clients) are going out and creating their own vehicles through imaginative offshore means and other ways," he said.

"That is a very serious development for our industry, because history might suggest that that business, once it goes in that way, will not readily come back."

Although Lloyd's 1983 results likely will be somewhat worse than 1982 results, "there is now a feeling that the corner has been turned, that 1984-85-86 are showing very distinct signs of improvement," Mr. Bowes said.

This improvement, he adds, "is likely to stretch through into 1988, and possibly to the end of 1988."

Mr. Bowes is not convinced the claims-made form is the panacea for the insurers' ills.

Mr. Bowes said it is unwise to predict beyond 1988 because of uncertainties surrounding the potential effect of the personal lines business; a continuing capacity problem in the reinsurance market; and the potential for legislative actions against the industry in areas "where the industry, lamentably, is not yet able to produce the exact product which the client requires."

And, capacity may not flow back into the reinsurance market as readily as it has in the primary markets, Mr. Bowes added, "particularly in areas such as liability, where the pain of the past is going to go on being borne for many, many years to come."

The reinsurance market in the future may not have as many players as it has had in the past, he said.

The overall capacity of Lloyd's, as it translates into U.S. dollars, increased by 40% in 1986, Mr. Bowes said.

However, business has been flowing into Lloyd's from all over the world because of "the withdrawal of a great number of players in the international insurance business," so higher premium rates as well as new business develop-

ment will continue to limit the amount of Lloyd's capacity available for U.S. liability business.

When Lloyd's brokers are faced with limited capacity, "it is then up to the underwriter to choose which book of business he feels he can best make money out of," he said.

"And I think we have to face the situation that some underwriters will be particularly reluctant in the area of American casualty business, where the long-term results have been bad and where even the future has great uncertainty in it.

"I believe we will see another increase in capacity at Lloyd's at the end of this year—I hope as big as this year—but I am convinced that it is going to arise selectively amongst the underwriters," Mr. Bowes predicted. ■



You know what it takes to get to the top.

Industry must answer charges: Bogardus

By LINDA J. COLLINS

PEBBLE BEACH, Calif.—The game of "charges and countercharges" currently being played by the insurance industry and its opponents is unproductive, the chief executive officer of a major brokerage maintains.

Rather than allowing the debate to degenerate into a fistfight, industry spokesmen should take the time to examine the issues from the viewpoint of those outside the industry, John A. Bogardus Jr., chairman and chief executive officer of Alexander & Alexander Services Inc., told brokers attending the National Assn. of Insurance Brokers annual meeting.

Brokers and insurers are "obligated to seek every opportunity" to

communicate the complex reasons for the liability crisis, Mr. Bogardus asserted.

Insurers place the blame for the liability crisis on deficiencies in the U.S. civil justice system. Trial lawyers, consumer advocates and other industry critics blame the crisis primarily on the cash-flow underwriting practices insurers became caught up in during the soft market of the early 1980s, and on their subsequent losses.

Although the industry is regulated on a state level, it has become



Mr. Bogardus

"the focal point for a national debate," and the federal government has turned its "unprecedented attention" on insurance, he said.

Industry executives are increasingly asked to testify before congressional committees in Washington. Insurance was the subject of a major White House report. And, "Our business is currently being studied by a wide assortment of agencies, committees, task forces and special interest groups," Mr. Bogardus said.

"It is damaging to the industry's credibility when we respond (to the allegations of others) with partial, self-serving answers or data that must later be corrected, which we have a penchance for doing," he said, referring to allegations by consumer advocates such as Ralph

Nader that insurers are fabricating their losses and that their financial picture "is not nearly so bleak as the industry has indicated."

While organizations such as the Insurance Services Office and the Insurance Information Institute have released "extensive data" on the losses the industry has experienced in the last few years, Mr. Bogardus said that "more complete disclosure of claims data and the positive impact various reforms might produce must be forthcoming—and soon."

"It is also essential that underwriters accept the seriousness of charges about hidden profitability.

"The industry gets nowhere by stonewalling these allegations with assertions about how inclusion of certain income or assets will violate

generally accepted accounting principles," he said.

The industry must retain some credibility if it expects to hold any influence in the public arena, Mr. Bogardus said.

To better understand how the industry is regarded in Washington, Mr. Bogardus commissioned an informal survey of more than 20 "serious players in the public policy process."

One common reply to the survey was that the industry needs to move beyond anecdotes to provide the public with useful hard data if it wants credibility in its fight for tort reform and support on other industry issues.

For example, one participant accused insurers of doing "a lot of dancing" around the issue of whether or not premium rates will be reduced if tort reform measures are enacted.

Another said that insurers "appear to have a lot of leeway in determining profits and losses, and in manipulating assets," Mr. Bogardus said.

Participants also predicted that substantive tort reform measures are likely to occur only at the state level, not at the federal level.

One respondent, a White House staffer, said that the tort reform debate is a no-win situation for members of Congress.

"The truth is that we have the trial lawyers in one corner, the insurance industry in the other, and who cares about either? The smart thing for members of Congress to do is to sit back, listen to the lobbyists fight each other, take money from both sides for campaigns, and let them cancel each other out," the staffer quipped.

In addition to communicating the reasons for the current liability crisis to legislators and members of the general public, the industry also must make the public aware of the potential for further insurance company insolvencies, Mr. Bogardus stressed.

Ralph Nader and other consumer activists draw attention to the largest and strongest U.S. property/casualty companies, whose results are the most likely to reflect substantial improvement.

"However, they totally ignore the hundreds of smaller companies, many of whom may be financially vulnerable, whose collapse would trigger even more catastrophic conditions," he said.

Given this situation, insurers could have done a better job of communicating their financial problems to the public to justify higher rates and coverage restrictions, Mr. Bogardus said.

As meaningful tort reform starts to take place at the state level, "it is imperative that underwriters respond promptly with some change in underwriting practices to reduce rate hikes and to assure availability of broad coverage," he added.

Mr. Bogardus also suggested that brokers work with their clients to develop and support coalitions for addressing tort reform.

And finally, brokers should also rely far less on anecdotes to prove the need for civil justice reform, he advised.

"Anecdotes can be dangerous, particularly when presented in shorthand without all facts clearly spelled out. And, on occasion, anecdotes are successfully refuted by the industry's challengers."

Rather than anecdotes, "policy-makers need hard data—good, solid, reliable data—if they are to take up the civil justice reform cause in earnest and defend their actions to constituents. Without better data, we won't win even the most basic reforms," Mr. Bogardus concluded.



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Market 'evolution' will affect brokerages, J&H official says

By LINDA J. COLLINS

PEBBLE BEACH, Calif.—The insurance industry is in a process of evolution in which the strong will get stronger and the weak will fall by the wayside, one broker predicts.

"Adversity can breed change and... there is going to be a strong evolution in our business," said Richard J. Rice, senior vp with Johnson & Higgins in New York, at the National Assn. of Insurance Brokers' meeting.

The trend toward establishing "megabrokers"—major international brokerage houses—will continue, Mr. Rice predicted, as will the development of strong regional brokerages. He feels that the "truly professional broker brings something to the transaction" in his dealings with clients, and the need for those professional services will continue.

For instance, the insurance industry's movement into alternative risk financing "could represent a tremendous change in our business," Mr. Rice said. Brokers will need to develop the "kind of special technical and management skills that it takes to do that kind of work in the future."

Risk management consultant H. Felix Kloman, who also spoke at the meeting, is slightly pessimistic about the future of the industry.

"The insurance industry may already be a paraplegic," said Mr. Kloman, a principal of Tillinghast, Nelson & Warren Inc. in Darien, Conn. "First it shot itself in the foot with price competition from 1978-1984. Now I think the insurance industry may have shot itself in the other foot with price increases, cancellations, coverage restrictions and the inability of the industry to communicate with its customers and with the public alike."

He likened members of the insurance industry to lemmings, who, he said, "move forward slowly, always in the same general direction... until the goal is reached and those who are remaining perish, committing what appears to be voluntary suicide. They are only acting under the same blind influence that has led them previously to the same conclusion."

If the industry is to avoid a lemminglike self-extinction in the new world of risk financing, it will have to face seven issues very realistically, Mr. Kloman said:

- Expense control and the need to key marketing efforts to specific segments of the industry.
- The need to think and act globally.
- Recognition that the competition will no longer be restricted to other insurers, agents and brokers.
- The need to consolidate and concentrate industry resources.
- A new focus on consumer needs rather than the needs of agents and brokers.
- The potential for continuing deregulation and probable federal re-regulation.
- The need for tort reform, which will likely be enacted on a state-by-state basis.

Securities analyst is bullish on property/casualty industry

By LINDA J. COLLINS

PEBBLE BEACH, Calif.—Wall Street is "enthusiastic about the U.S. property/casualty industry, especially its recuperative powers," according to an industry securities analyst.

The industry will move from record losses to record gains in just a few years because of an "unprecedented increase in commercial lines pricing," said James B. Stradtner, a general partner with Alex. Brown & Sons Inc. in Baltimore.

His firm is predicting a sharp recovery in earnings for property/casualty insurers, Mr. Stradtner said at the National Assn. of Insurance Brokers annual meeting. "From a pretax loss of \$1.2 billion in 1984 and a similar amount in 1985, we are now projecting a pretax profit of \$4.4 billion in 1986, \$10.2 billion in 1987... and \$13.4 billion in 1988," he said.

"This is the most dramatic turn in industry events that I have seen in 25 years as a student of this industry," Mr. Stradtner stressed. Property/casualty stock prices rose 50% in 1985, and have risen another 14% so far in 1986, outperforming the market in general, he pointed out.

Insurance stock investors and analysts as a group "like to buy p/c stocks when conditions look the worst and sell them when conditions look the best. It is not earnings that drive p/c stock prices, but rather, the future outlook for earnings," Mr. Stradtner explained.

The analyst went on to say that in the first quarter of 1986, stock property/casualty insurers reported earnings increases ranging from 38% to 808%, "not counting the companies that went from a deficit in the first quarter of 1985 to substantial profits this year."

Mr. Stradtner said that this so pleased Wall Street analysts that "almost universally" they have been raising their earnings estimates for insurers for 1986, 1987 and 1988.

For years the property/casualty industry was easy to analyze because it always had "three years of

good underwriting, followed by three years of bad underwriting," he said. However, he added, since the last down cycle lasted for six years, or "twice the industry norm," some Wall Street optimists are predicting that the up cycle may well continue into the 1990s.

But Mr. Stradtner is not quite that optimistic about the long-term earnings potential of property/casualty insurers.

"My crystal ball does not work beyond 1988... because this is a cyclical industry, and one that has proven time after time after time that it cannot live with prosperity," he quipped.

Turning to the industry's battle for tort reform, Mr. Stradtner said: "It is no small coincidence that the record underwriting losses in the last cycle have produced the strongest campaign to date for meaningful tort reform."

"Our question remains, however, will it be successful and what will it cost the p/c industry?" he added.

He said that while the insurance industry appears to be gaining in its battle to educate the public about civil justice problems, insurers have to realize that when tort reform is enacted in various states, it is going to become very difficult for insurers to justify additional rate increases.

Mr. Stradtner further warned that the current federal government investigations of the industry may result in government actions that are detrimental to the industry.

"This is an election year, and with growing demand from constituents, it seems to be a topical problem to investigate," Mr. Stradtner said.

He noted that legislators in Washington are already talking about possible repeal of the McCarran-Ferguson Act, which grants authority to the states for the taxation and regulation of insurance. He added that legislators have also discussed the possibility of establishing a federally run insurer or reinsurer for liability risks.

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Little guys are victims of hard market: Panel

By LINDA J. COLLINS

CHICAGO—Small- to medium-sized businesses and entrepreneurs contemplating new business ventures are the real victims of the current hard insurance market, a panel of experts says.

Larger corporations are able to take advantage of alternative risk financing mechanisms when traditional markets run dry, but smaller businesses often do not have these avenues available to them, the panelists add.

The effects of rate hikes and coverage restrictions on businesses, proposed state and federal insurance regulations and tort reform were among topics discussed by a panel of industry executives at the 50th annual Chicago Insurance Day.

"Large corporations are not going to disappear because of the insurance crisis," because "quite often their balance sheet protects them" and they also have options like single-parent or group captives available to them, said John L. Bonini, corporate property and casualty manager for Square D Co., an electrical and electronic manufacturer in Palatine, Ill.

"We see a lot of creative development of alternate" risk financing mechanisms such as higher self-insured retentions and captives, but "these things generally work only for larger financial prospects," said James Cornell, vp of Marsh & McLennan Inc. in Chicago.

"The people who are really suffering from this market are the small family-owned firms that have been in business for 50 to 75 years. I have seen situations where they have received renewal premiums for directors and officers liability that are higher than their profits from previous years," Mr. Cornell said.

"These firms do not have the alternatives that are available to a Square D Co.

"This is a tough time to try to take care of the medium-sized policyholder—to tell him that his premiums have gone up four times and limits are divided by four, and he ought to be thankful that he has any coverage at all," he added.

But another panelist, Clyde Wells, president of the Chicago Board of Underwriters and president of Haines-Craft Agency in South Holland, Ill., said that even smaller businesses are not as hard hit as new businesses.

"A lot of the major problems today are (felt the hardest) by the beginning entrepreneur or contractor that wants to get started in the business, but has no track record to speak of," Mr. Wells explained. Because there is no loss history from which to base premium rates, many underwriters are hesitant to write these types of businesses.

A market assistance program set up in Illinois late last year is "one way of solving" the problems of commercial clients or prospects that cannot find coverage, he said.

As of April 22, the MAP had received 438 applications, according to Mr. Wells. The industry group that submitted the largest number of applications was contractors, which had submitted 71 applications by that date, he said.

Agents should have a better feel than the state Insurance Department of "whether or not the market assistance program is working, because you're out there on the street," added John Washburn, the Illinois director of insurance.

"But we're very encouraged by the way it's been operating," Mr. Washburn stressed.

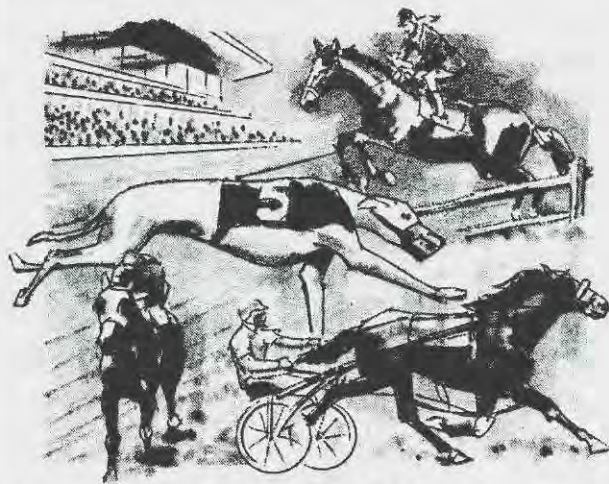
"It has received more applica-

tions than we had originally anticipated.

The prior MAP program that we set up in 1976 received only 16 applications. This one had 150 applications within the first three weeks, which was a lot larger volume than we had anticipated was out there," he said.

If mechanisms like the Illinois MAP do not help buyers find insurance coverage at affordable prices, more drastic measures might be taken at the state or even the federal level, warned Paul A. Equale, vp of government affairs for the Independent Insurance Agents of America in Washington, D.C.

"We are looking at the potential
Continued on next page



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Hard market

Continued from previous page for direct federal regulation of the insurance business," Mr. Equale said.

"We're looking at the formation of risk retention groups and expanding the risk retention concept out of the traditional lines of product liability and into other lines of insurance."

The IIAA is actively opposed to expansion of the Risk Retention Act of 1981, and Mr. Equale said that if the current proposals go forward in Congress, "What we're going to see is unregulated insurance companies, at the state level, that will actually be able to sell insurance and compete directly with you on an unlevel playing field."

The new companies would not be subject to the scrutiny of state insurance commissioners, he added.

Mr. Equale also noted it is important to remember that this is an

**Illinois Director
Washburn views
Risk Retention Act
expansion as a
'scary concept.'**

election year and that congressmen must "come back with something," the lobbyist said. "Is it going to be tort reform, federal regulation of insurance, or a mixture of both?"

Mr. Washburn said he views the proposed Risk Retention Act expansion as a "scary concept from a regulatory standpoint because the inherent thought is that the policyholder who is self-insured using the Risk Retention Act is going to take care of himself."

But the commissioner warned that the act would not limit potential financial problems to the policyholder.

"The way the act would be structured," risk retention groups "could sell to the general public through agents and brokers or otherwise. Once they get into the marketplace there are no restrictions on how they operate as an insurance company," he said.

If these new players should go out of business, it would place further burdens on the industry, Mr. Washburn added.

Regulatory scrutiny of the insurance industry extends inward as well as outward, he also said. The National Assn. of Insurance Commissioners is trying to determine if regulators hold part of the blame for current industry problems, he added.

"We're still trying to examine whether there has to be a change in the way we structure ourselves and the way we license," he said.

He added that tort reform should help increase the availability of insurance.

"I think tort reform is the fundamental correction. A fundamental correction of the tort system can't affect the inflation rate or the insurance cycles, but it can affect the payout mechanism," he explained.

"The civil justice system certainly exacerbated the problems in the insurance industry in the last few years," agreed James S. Kemper III, vp of the national/international department for Kemper Group in Long Grove, Ill.

The current problems with the civil justice system should be viewed as a broader social problem, rather than simply isolating its effects on insurance, because the civil justice crisis is causing job problems, competition problems in the world market and problems with the development of new products, Mr. Kemper asserted.

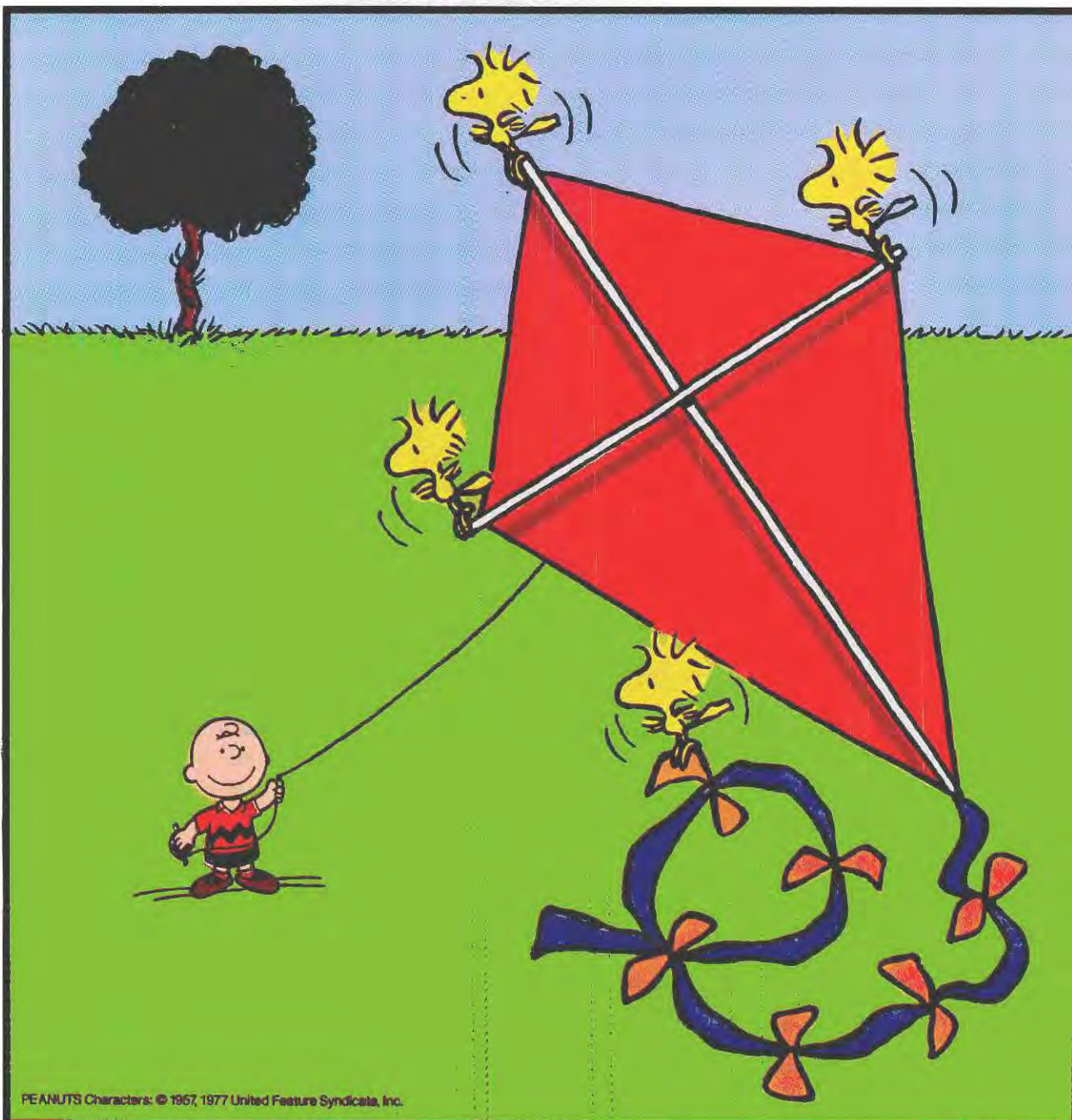
Changes in the way punitive damages are awarded and in the doctrine of joint and several liability would be very helpful, he noted.

"The cycle is going to change anyway," Mr. Kemper added, "but if these things were enacted, ultimately insurance would cost less and there would be other benefits to society."

But if tort reform measures are passed at the state or federal levels, legislators are going to examine very carefully the industry's response to those reforms, panelists stressed. If insurers do not respond with increased coverage availability or lower rates, legislators are going to come down hard on the industry, the panelists said.

Also participating on the panel was James W. Guilfoile, assistant vp of Constitution State Management Co., a Travelers Corp. subsidiary in Chicago.

Frederick J. England Jr., president of Hastings-Tapley Insurance Inc. in Cambridge, Mass., and immediate past president of the IIAA, moderated the discussion.



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Court reverses vaccine damage award

around the states

TOPEKA, Kan.—The Kansas Supreme Court has reversed a \$10 million damage award against American Cyanamid Co. and subsidiary Lederle Laboratories to a Kansas farmer who contracted poliomyelitis from his daughter after she was vaccinated with Orimune, an oral polio vaccine.

A trial court in 1984 had awarded \$2 million in actual damages and \$8 million in punitive damages to Emil E. Johnson.

But the Supreme Court said in its opinion earlier this month that "as a matter of law, there was nomissible theory of liability on the part of American Cyanamid."

"It is certainly unfortunate that plaintiff was the one in a million (or whatever the remote risk actually is) who developed the dreaded disease from contact with his vaccinated child, but there is no legal basis for a claim of negligence by American Cyanamid," the court said.

The court also denied Mr. Johnson a new trial against his daughter's pediatrician.

Three justices dissented from the decision, contending it was unfair to deny Mr. Johnson any remedy. The court added that if the case had to be reversed, a new trial should have been granted.

Orimune is manufactured by Lederle, a division of Wayne, N.J.-based American Cyanamid. A spokesman for American Cyanamid said the company was "very pleased" with the high court's decision.

Last week, Lederle also announced that it has been unable to obtain liability insurance coverage after July 1, and that as of that date the cost of one dose of its DPT vaccine will increase to \$11.40 from \$4.29.

Iowa vacancy

DES MOINES—Fred M. Haskins, who has been serving as acting insurance commissioner in Iowa, wants the position on a permanent basis.

Mr. Haskins, 38, was appointed acting commissioner May 16 by Gov. Terry E. Branstad.

He replaces Bruce Foudree, who resigned from the commissioner post to return to private law practice (BI, May 19).

"I feel I can handle the job capably and it is something I want to do," Mr. Haskins said.

Mr. Haskins has been an assistant attorney general since 1972 and since 1980 has been assigned to the Iowa Insurance Department as the department's general counsel.

Prior to that, Mr. Haskins handled criminal appeals and torts as an assistant attorney general for the state.

As acting commissioner, Mr. Haskins foresees no changes in the department's regulatory practices.

"Mr. Foudree set a good precedent," he said.

The Iowa Insurance Department has been well-run and has dealt with the problems plaguing the U.S. insurance industry—availability and solvency, according to Mr. Haskins.

A search for a permanent insurance commissioner is under way, with no deadline set, said a spokesman from the Iowa governor's office.

Self-insurer officers

OLYMPIA, Wash.—Kenneth L. Gipson, manager of statutory benefits for Weyerhaeuser Co. in Tacoma, Wash., is the newly elected president of the Washington Self-Insurers Assn.

Members of the 14-year-old association—employers that self-insure their workers compensation risks

—elected officers last month during the self-insurer group's annual meeting.

Members also decided to change the structure of its governing board to include more regional representation.

Officers on the new board of managers are:

- Randall B. Boek, human resource manager at Scott Paper Co.

in Everett, Wash., who was elected a vp.

- Tina D. Coakley, benefits manager of workers compensation at Allied Stores Corp./The Bon in Seattle, who also was elected a vp.

- Larry T. Dittman, industrial insurance supervisor at Swedish Hospital Medical Center in Seattle, who was elected secretary.

- Ronald T. Guffey, examining

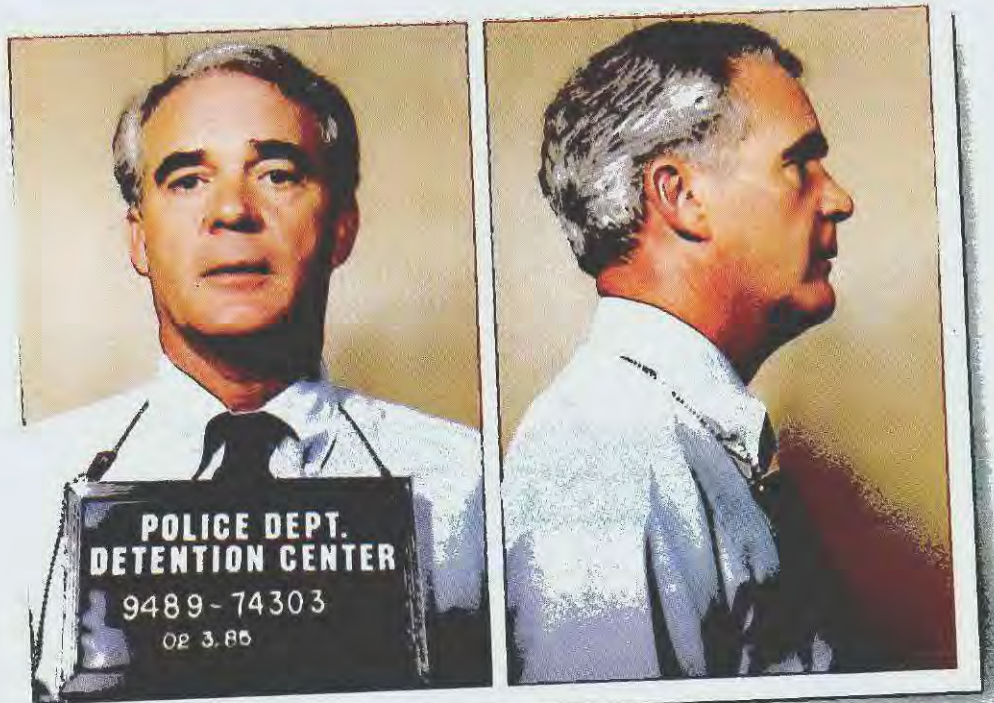
casualty adjuster and workers compensation claims administrator at SAFECO Corp. in Seattle, who was elected treasurer.

- Dorothy I. Weissenfels, workers compensation and benefits administrator at Kaiser Aluminum & Chemical Corp. in Spokane, who is the immediate past president.

Regional directors are: Margaret M. Baschen, workers compensation administrator at Group Health Cooperative in Seattle; Terry Mullane, personnel manager at Summit Timber Co. in Darrington; Terry

Palmer, risk manager for the Tacoma Public Schools in Tacoma; Thomas L. Franco, administrator of workers compensation and safety at Northeast Washington Worker's Compensation Cooperative in Spokane; and Tom Martinez, division personnel manager at the Carnation Co. in Moses Lake.

Information about the WSIA is available from its executive secretary, Phil DeRousseau, Evergreen Plaza, Suite 201, 711 Capitol Way, Olympia, Wash. 98501; 206-754-6416.



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Panelist, *Computer Communications*
Case Study: *Computer Communications*
in conjunction with Hewitt Associates

Mario B. Caldarone
Director, Product Marketing
HUMANA INC., Group Health Division
Panelist, *Communicating Healthcare Alternatives: The PPO*

Kathryn Collura
Communications Consultant,
HEWITT ASSOCIATES
Case Study: *Computer Communications*
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Keynote Address

Mr. Moynahan's dynamic address will set the tone for the *Business Insurance* 1986 Conference, as he describes today's changing healthcare environment and the developing trends in the marketplace.

Panel: *Communicating Healthcare Alternatives*

This three part panel will discuss how to best communicate the unique features of a particular type of healthcare plan so that employees can make informed choices. Speakers will point out weaknesses in how employers communicate alternative plans and how alternatives can be effectively communicated.

The Indemnity Plan: The changing healthcare environment has transformed the traditional plan to include innovative cost containment programs. *Equitable* suggests that as employees become active healthcare consumers, employers must develop comprehensive communication programs that motivate employees to get involved with their healthcare choices.

The PPO: The entry of preferred insurance into the marketplace requires the employee to have a greater understanding of the services provided. *Humana* stresses that while effective communications are essential for the total understanding of the plan, the employer must also assure employees that the quality of services has not been sacrificed for a lower cost plan.

The HMO: Healthcare management in the form of HMOs is in an evolutionary stage, suggests *US Healthcare*. The widening range of benefits — health programs such as health check and dental plans — point toward the need for increased communication by employers so that employees can make educated choices.

Panel: *Computer Communications*

This panel consists of employee benefit specialists whose companies are on the cutting edge of communications technology. Discussions will focus on why their companies opted for computer communications and how they combined market trends with technological innovations to implement state-of-the-art interactive communication vehicles.

Metropolitan Life blended the skills of benefits, technological and communication experts to develop an employee communications program called "SHOWCASE." Employees can directly access information about their benefits from interactive computer terminals housed in kiosks in the company lunchroom and lobby.

NCR Corporation is using NCR pc's as communication vehicles and interactive decision aids in employee retirement planning. NCR developed "EstIMATE," a software package that enables employees to do long-range forecasting of their future retirement income.

RCA Corporation's interactive communication system is tapped by employees for benefits data approximately 7,000 times a month. The system is designed to expand the applications to include interactive video, job postings, local health provider information and more.

Hanes Group, a subsidiary of Sara Lee Corp., developed a program using microcomputer disks to introduce a new 401(k) feature to their Retirement Savings Plan. In one-on-one meetings, employees were able to experiment with the percent of deferred pay and immediately see the impact of their decisions on take-home pay and benefit projections.

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Bell Atlantic Enterprises' communication program, "A Wave in Benefits," is a 1985 award winning example of a total communication effort, effectively communicating the full range of benefits. Mr. Olsen will review the program, including such aspects as management objectives, budgetary considerations and strategies.

Print & AV Go Hand In Hand

This session will focus on how *Colgate-Palmolive* combined audio-visual and unique print to build a 1985 EBC award winning communications program, "More Financial Power." They chose a marketing approach to introduce a new 401(k) feature to their employee savings plan, by using identifiable packaging and slogans. Mr. DiStefano and Ms. Kekich will explain why *Colgate* chose this approach and will give an overview of the components of the program.

Computer Communications Workshops

The Computer Communications panelists, along with their consultant or marketing firm, will provide personal computers so that attendees may have an unprecedented opportunity to experiment with these communications vehicles.

Changing Environment Offers New Choices

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PEAKERS • SPEAKERS • REGISTRATION INFO • REGISTRATION INFO

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 Director, Employee Benefits
 RCA CORPORATION
 Panelist, *Computer Communications*
Case Study: Computer Communications
 in conjunction with Johnson & Higgins

Don Olsen
 Manager, Benefit Plans
 BELL ATLANTIC ENTERPRISES CORPORATION
Case Study: Total Benefits Communication

Frank Pirrone
 Assistant Vice President
 JOHNSON & HIGGINS
Case Study: Computer Communications
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Case Study: Computer Communications
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Herb Zeltner
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 HERBERT ZELTNER CONSULTING INC.
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The BI Conference opens Sunday, August 3, with registration check-in and a cocktail reception from 5-7pm. Sessions begin Monday, August 4 at 8:30am. The conference adjourns Tuesday, August 5 at 3:45pm. The cost is \$625. A 10% discount is offered to additional registrants from the same company. The fee includes sessions, workbook, and educational materials, and scheduled functions.

Payment required with registration. All registrations will be confirmed.

Cancellations must be received in writing. A refund will be made on cancellations received prior to July 1. A \$100 service charge will apply to cancellations received after July 1. No refund will be made on cancellations received less than 5 business days prior to the conference. If your plans change, you may substitute the name of another person from your company without penalty.

To register, complete the form and send it with your payment to:

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HOTEL ACCOMMODATIONS

We have set aside a block of rooms at a special \$125 room rate at the new Marriott Marquis Hotel in New York City. These rates are available to Conference Registrants only, and will be honored until July 14.

You must mention the *Business Insurance Benefits Conference* when making your reservations. Hotel cards will be included with your Conference Registration Confirmation. Or call the Marriott Marquis Hotel at (212)704-8700; or toll free at (800)228-9290.

Awards Luncheon

A luncheon ticket is included with your Conference registration. A limited number of additional seats are available for the EBC Awards Presentation Luncheon.

Tickets are \$60 each, available on a first come-first serve basis; **reservations required.** Contact Registrar.

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Task Force Sessions

In an all new format, this session provides a challenging forum for attendees. You can select employer specific task force units to discuss and evaluate proposed communications problems, and then present your findings to all. Use the registration form to pre-select one of these communication issues:

- Communicate plan changes from first-dollar medical coverage to co-payment with deductible.
- Improve participation in a two-year old 401(k) program.
- Introduce a flexible employee benefits program.
- Induce part of your employee population to take early retirement.
- Update a long standing, but not very effective communications program.
- Design a communications program for top level executives only.

**Pre-Retirement Counseling Programs:
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Rather than designing a pre-retirement counseling program, Mr. Esteban proposes that 'retirement planning education' be presented as a 'life planning' vehicle built into a company's total benefits package. He suggests that employee groups be broken down by age periods and that the design of such programs fit the specific needs of each group.

You Be The Judge

Mr. Zeltner returns to the BI Conference to lead attendees in an energetic session. He will introduce selected audio-visual programs submitted to the EBC Competition, offering insight as to what other industry professionals are doing in this medium.

BI 5/26

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Induce part of your employee population to take early retirement.

Update a long standing, but not very effective communications program.

Design a communications program for top level executives only.

*The size of each session is limited, each Task Force will be filled on a first-come, first-serve basis

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Raymark ruling

Continued from page 3
said Peter C. John, with the Chicago firm of Phelan, Pope & John, who represents Zurich Insurance Co.

Raymark, one of the major defendants in asbestos injury litigation, has been plagued by uncertainties in its available insurance coverage as well as significant financial problems.

It recently sent a letter to major asbestos plaintiffs' attorneys seeking to settle asbestos claims for an average \$2,000 per each claim. And, last March, the company's board of directors temporarily authorized management to file for Chapter 11 reorganization pending the outcome of a class-action asbestos trial in Texas (BI, April 21).

That authorization subsequently expired.

Raymark's primary liability insurers going back to 1941 include Employers' Liability Assurance Corp. (a predecessor of Commercial Union Insurance Co.), which wrote coverage from 1941-1945 and 1947-1950; Globe Indemnity Co., 1950-1951; Federal Insurance Co. and its predecessor, United States Guarantee Co., 1951-1967; CU, 1967-1969; and Zurich Insurance Co., from 1969-1982.

Raymark's first-layer excess insurers include Globe, American Home Assurance Co., Northbrook Excess & Surplus Insurance Co., First State Insurance Co. and American Centennial Insurance Co.

In 1978, Zurich filed a declaratory judgment action against Raymark, Federal and CU asking the court to construe various coverage and defense issues concerning asbestos claims filed against Raymark. Northbrook and Globe subsequently entered the litigation.

In 1982, Raymark filed a counterclaim for a declaratory judgment against Zurich, CU, Federal and Globe seeking a declaration on coverage and defense obligations. Raymark also asserted that insurers had refused in bad faith to defend and indemnify Raymark.

In 1983, Cook County Circuit Court Judge James C. Murray ruled that coverage for Raymark was triggered both during the period when a victim inhales asbestos and when the disease is manifested in a victim—often many years later (BI, Oct. 10, 1983).

Raymark and the insurers subsequently appealed the decision, while insurers also appealed a later ruling by Judge Murray that said under pre-1966 policies, the duty to defend Raymark continued beyond exhaustion of policy limits.

On the coverage issue, the appellate court rejected arguments by some insurers that coverage was triggered only upon a victim's exposure to asbestos fibers and by other insurers that coverage was triggered only by manifestation of an asbestos-related disease.

It also rejected Raymark's argument that the "triple-trigger" theory of coverage—which says all insurers on the risk, from exposure through manifestation, are liable—should apply.

Instead, the court agreed with the trial court that coverage is triggered at both exposure and manifestation and possibly during the interim period as well.

"We find ample support for the trial court's finding that exposure to asbestos is one trigger of coverage under the policies at issue," the court said.

And "we find no reason to disturb the court's finding that coverage is also triggered at the time of manifestation," the court said.

On the duty-to-defend issue, the appellate court said policy language stating the duty to defend was "subject to the limits of liability, exclusions, conditions and other terms of this policy" was crucial.

"We believe that the initial quali-

fyng statement making the Insuring Agreements 'subject to limits of liability' clearly evinces an intent by the parties to make each of the Insuring Agreements, including the duty to defend, subject to the policy's indemnity limits."

"Here, the language of the relevant provisions of the policy, taken as a whole, clearly establishes there is no duty to defend after the limits of liability have been properly paid out in judgments or settlements."

In its decision on defense coverage, the court relied for support on recent decisions by the 3rd U.S. Circuit Court of Appeals in *AC&S Inc. vs. Aetna Casualty & Surety Co.*, and *Commercial Union Insurance Co. vs. Pittsburgh Corning Corp.* (BI, May 12; June 24, 1985).

In a separate opinion, the court also ruled that three Raymark excess insurers—American Home Assurance Co., First State Insurance Co., and American Centennial Insurance Co.—were properly brought into the litigation. ■

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WAREHOUSE FIRES

Several Major Fire Losses of the Last Decade have involved warehouses, which were fully sprinklered and yet completely destroyed. In some cases, the sprinkler system was designed to minimum specifications. In others, the occupancy was changed to a more hazardous storage than originally anticipated. And in still others, temporary storage clogged aisles. A few of these conditions existed in two of the world's largest losses, which are reviewed here:

Automotive Supplies. Fire started in the temporary storage of plastic parts and spread to nearby cans of motor oil in cartons, which were palletized and stored in the aisles. Two employees attempted unsuccessfully to put out the fire with a hose stream from a nearby hose station within the building. A few minutes later, the plant fire brigade arrived and tried to fight the fire but was hampered by storage piled in the aisles. Although sprinklers were operating, the available water densities could not penetrate the intense fire plume generated by the burning plastics and oil. A total of 250 firemen fought the blaze, which continued to rage, overwhelming the sprinkler system and destroying about 18 acres of building. Estimated loss: \$145 million.

Retail Products. A carton of aerosol cans, containing carburetor and choke cleaner, was dislodged from its storage rack, fell to the floor, and split open. One or more cans discharged their contents which became ignited by a nearby electrically powered lift truck. Fire spread quickly over the 15-foot high palletized storage of aerosols, overpowering the existing sprinkler protection. Flaming, rocketing aerosol cans started fires in adjacent storage that included foamed plastic plates, plastic toys, additional aerosols and motor oil.

Within six minutes, the fire alarm had sounded, four sprinkler risers were flowing, the electric fire pump had started, and the fire department was on its way. In the meantime, the warehouse fire brigade entered the building but in less than two minutes was forced out by thick, black smoke. Within 20 minutes, flames broke through the roof and aerosol cans could be seen rocketing through the air. Some 300 firefighters got the blaze under control nine hours later. Estimated loss: \$125 million.

IRI Recently Concluded a Review of Its Major Warehouse Exposures, evaluating the adequacy of existing protection, specifying additional protection as necessary, and isolating exposures that are ticking "time bombs." Here are some of the "time bombs" most commonly encountered:

1. **Aerosol storage** is mixed with otherwise ordinary hazard storage.
2. **Hazard levels** have increased as the result of a change in commodities and their packaging.
3. **Storage height** is greater than planned by protection designers.

Narrated slide presentations on aerosols and high-rack storage are available on loan. Please write Mrs. P. A. Sasso, IRI, 85 Woodland St., Hartford CT 06102, or call (203) 525-2601. Also ask for the 2nd Quarter 1985 **The Sentinel** which features "The Hazards of Aerosols."

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X.L. Insurance

Continued from page 1
 these companies, which would have to sign subscription agreements and pay in their capital before the deadline.

The spokesman said that as many as a dozen additional companies may join before the deadline is reached.

X.L. started binding coverage for sponsors on May 1, though no date has been set for acceptance of applications from non-sponsors, the spokesman said.

The insurer is currently offering general liability limits of \$25 million excess of at least \$25 million for Class A risks and \$25 million excess of at least \$50 million for Class B risks.

X.L. hopes to offer limits of \$45 million to \$50 million by the end of June and expects eventually to offer a minimum limit of \$50 million and a maximum limit of \$75 million as capital increases, the

X.L. Insurance Co. hopes to offer limits of \$45 million to \$50 million by the end of June and expects eventually to offer a minimum limit of \$50 million and a maximum limit of \$75 million as capital increases, a spokesman says.

spokesman said.

Regardless of the increases in capital, though, the attachment point for Class B risks will remain at least \$50 million, the spokesman added.

X.L.'s general liability policyholders also will have the option of purchasing directors and officers liability coverage with limits of \$15 million excess of at least \$20 million.

These limits already are available, the spokesman said.

X.L.'s policy form will be identical to A.C.E.'s, providing continuous claims-made coverage with an

unlimited discovery period and including coverage of certain pollution risks defined in the policy wording.

Sources say that disagreements over the policy form were the main reason X.L. broke away from the American Excess line slip, whose participants include Aetna Life & Casualty Co., Chubb Corp., CIGNA Corp., Crum & Forster and Travelers Indemnity Co.

The X.L. spokesman confirmed that the line slip insurers wanted:

- A 10-year sunset clause that would gradually phase out coverage of long-tail liability claims,

while X.L.'s sponsors balked at this provision.

- A five-year extended discovery period for non-renewed policies rather than the unlimited discovery provided by the A.C.E. form.

- An annual policy whose retroactive date can be advanced with each policy renewal, rather than the A.C.E. continuous policy, in which the retroactive date is the date of the first A.C.E. policy.

- Narrower coverage of pollution than the A.C.E. and X.L. forms provide.

The X.L. spokesman denied that X.L. withdrew over concerns that American Excess might be viewed by insurance regulators as "aiding and abetting" an unlicensed insurer by dealing with X.L.

"That's not the case at all. X.L. was not going to be part of the slip," the spokesman said, noting that American Excess would not have had underwriting authority for X.L. and that X.L. would have simply followed the terms and condi-

tions set by underwriters of the line slip.

Development of X.L. began after a committee was formed by the A.C.E. board of directors to study capacity problems in layers below A.C.E.'s \$100 million attachment point.

While some A.C.E. sponsors also have signed on as sponsors of X.L., others have for various reasons decided against sponsorship of the new insurer.

Dow Chemical Co., an A.C.E. sponsor, is also a sponsor of X.L., according to Jerry Heinz, manager of corporate insurance.

As a "Class B" risk, Dow Chemical hopes to obtain coverage of \$50 million excess of \$50 million, though X.L. will initially provide it only \$25 million excess of \$50 million, Mr. Heinz said.

He added that Dow hasn't decided yet whether to buy D&O coverage from X.L.

"We'll see what the commercial market will do on our renewal and go from there," according to Mr. Heinz.

However, Federated Department Stores Inc.—another A.C.E. sponsor—has decided against sponsoring X.L., according to Woodrow Anderson, vp-risk management for the company.

Federated Department Stores contributed the minimum \$5 million to A.C.E. jointly with Hallmark Cards Inc., but X.L. organizers would not allow such joint capital contributions, according to Mr. Anderson.

Federated was not willing to make such a large investment on its own, he explained.

Shell Oil Co., another A.C.E. sponsor, also decided the investment required by X.L. didn't support the \$25 million excess of \$50 million coverage it would provide, said Doyle Stephens, manager of risk analysis.

PPG Industries Inc. last Wednesday hadn't decided whether to sponsor X.L., even though it had to make its decision by Friday, according to John R. Thomas, assistant treasurer.

PPG had a conditional subscription agreement with X.L. that gave the company until May 30 to join, he said.

PPG, which is working on a July 1 renewal of its casualty insurance program, is looking at other options, including American Excess; Casualty Excess Assurance Ltd. (CEAL), a facility being organized by a chemical industry group; and Excess Liability Insurance Ltd., a Bermuda insurer being organized by American International Group Inc.

Mr. Thomas said, however, that X.L. and American Excess may be the only viable alternatives, since the other two facilities may not be operating in time to handle PPG's July 1 renewal.

E.I. du Pont de Nemours & Co., which invested \$10 million in A.C.E., is thinking about sponsoring X.L. but has not done so yet, partly because it already has completed its insurance renewals for this year, according to James A. Mitchell Jr., DuPont's insurance manager.

"X.L. came on the heels of our renewal this year and we did obtain our coverage in the commercial market," Mr. Mitchell said.

However, companies that have decided against X.L. sponsorship plan to apply for coverage as non-sponsor policyholders.

"We intend to submit an application," said Mr. Anderson of Federated Stores.

"The need for X.L., the need for the American slip, is obviously there."

"There are a number of activities going on right now at that layer of coverage, so we are just biding our time and waiting to see what will be available," said Richard Vidil, director of corporate insurance for U.S. Steel Corp. ■

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The Business Insurance Conference on Communicating Employee Benefits.

On August 4 and 5, at New York City's all new and spectacular Marriott Marquis Hotel, an influential group of employee benefit executives will be meeting to explore issues critical to their professional responsibilities.

This year's agenda includes panel discussions on health care alternatives, computer communications and pre-retirement counseling; and concurrent case studies will be presented on audio-visual, print, and total communication packages. Also, task force "think tanks" invite you to partake in problem/solving sessions on employee benefit communication issues.

Additional highlights include the 14th Annual EBC Competition Awards Presentation plus "You Be The Judge" — a look at how other companies communicate benefit programs to employees.

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West Virginia law

Continued from page 2
last week they would rescind their cancellation notices.

"We never wanted to leave West Virginia... we like our market there," said a St. Paul spokeswoman.

"As soon as the amendments to Senate Bill 714 are signed, CNA will rescind its cancellation and non-renewal notices. This has been CNA's position in discussion with the legislative leadership," a company spokeswoman said.

OHIC declined comment on the bill, but said it intended not to renew its license in West Virginia, which was scheduled to expire May 31, according to Thomas E. Gallagher, the company's executive vp (BI, May 19).

- H.R. 149, the newly passed bill, will:
- Eliminate the prohibition in S.B. 714 against non-renewals, but leave intact the prohibition against cancellations.
 - Require insurers to annually file disclosures of reserves and settlements in the aggregate, rather than on a case-by-case basis, as stipulated in S.B. 714.
 - Require that public hearings be held within 60 days of filings of malpractice insurance rate increases of 10% or more.
 - Place caps of \$1 million on non-eco-

nomical damages in medical malpractice cases, but would leave to the judge in those cases the discretion of telling juries about the cap. In S.B. 714, the judge was required to impart this information to the jury, and insurers said they feared such disclosure would prompt juries to automatically award the \$1 million.

• Modify the doctrine of joint and several liability in regards to awards only, by specifying that a plaintiff may not seek damages for more than a defendant's percentage of negligence attributed by the court, unless the percentage of fault is more than 25%.

Gov. Moore, a Republican, called H.B. 149 a "Band-Aid approach" to the "crisis" and accused the Democratic-controlled Legislature of sabotaging an administration bill that called for the creation of a monopolistic state insurance fund to provide professional liability insurance to West Virginia health care providers.

"(The Legislature) had a chance to be innovative... to lead the country... They utterly failed," the governor said of the lawmakers' refusal to take up the state fund issue during the special session.

Instead, the Legislature adopted a resolution directing its interim Joint Committee on Government and Finance to study alternative insurance markets, including the creation of a state-operated insurance company, a joint underwriting association or a non-profit

agency. Recommendations from the committee are due in early January.

"The Legislature adopted our proposals purely as a short-term solution to the immediate crisis," said Senate President Dan Tonkovich, D-Benwood, who sponsored a bill in the Senate identical to H.R. 149.

He pointed to the joint committee that will study the governor's call for a state fund and said it was not taken up by the Legislature because of a lack of information.

"The Legislature heard little about it until the first day of the special session... and it was not backed up with data from other states," Sen. Tonkovich said.

"There were such serious flaws in the (governor's) plan that the Legislature had no option but to take a short-term approach and study the governor's," he said.

In addition to the joint legislative committee, physician and hospital associations also are looking at alternatives.

"But this incident tends to alert most doctors to the fact their relationship with their practice is based on a thread with the insurance industry," said Dr. David Z. Morgan, president of the West Virginia State Medical Assn.

He added that insurers, for any reason, can place that doctor-patient relationship in jeopardy.

"This has been kind of a rude awakening for doctors," Dr. Morgan said.

"We will be looking ourselves at alternatives" to the purchase of commercial insurance, he said.

One of those alternatives is the establishment of a physician-owned insurance company, but this proposal will be difficult because of the small base of doctors, Dr. Morgan said.

The West Virginia Hospital Assn. also has been looking at the creation of an insurance company, and that could become a reality as early as this week.

The proposed West Virginia Hospital Insurance Co. not only will offer primary insurance for those hospitals that may lose coverage from OHIC, but also will offer excess coverage for hospitals that self-insure their primary coverage, said William G. MacLean, senior vp with McDonough Caperton Assn. Group, a Charleston-based broker that is assisting the hospital association in setting up the insurance company.

"For the foreseeable future" the new insurer plans to write only hospital professional liability insurance on a claims-made basis, Mr. MacLean said.

Some 20 hospitals, 19 of which purchase insurance from OHIC, already have requests in for insurance from the new company, Mr. MacLean said.

Omaha claims

Continued from page 2
Syndicate Inc., the fourth-largest in 1984.

The retrocessional agreements with the syndicates were arranged by Royal American Managers Inc. of Kansas City, Mo., a managing general agent of Omaha Indemnity and owner of RAM Syndicate.

Omaha Indemnity is suing the two syndicates, Royal American Managers and several related entities in U.S. District Court in Kansas City (BI, April 28).

The suit charges, among other things, that Royal American Managers and a predecessor firm failed to report \$67 million of \$118 million in premiums written for Omaha Indemnity, and that the MGAs arranged reinsurance for 95% or more of Omaha Indemnity's exposure with reinsurers that they knew were financially incapable of handling the business, including Administrative Management Services and RAM Syndicate.

The business written by Royal American Managers has so far produced incurred losses of \$169 million, Omaha Indemnity claims.

Administrative Management Services reported net premiums of \$16.4 million and policyholder surplus of \$1.1 million in 1985, while RAM Syndicate reported \$12.2 million in net premiums and surplus of \$2.05 million.

William E. Sadowski, a Miami lawyer and member of the exchange board of governors, said in April that the exchange is investigating the possibility that additional premiums were ceded to the two syndicates and not reported to the exchange's central office as required by exchange guidelines.

Mr. Sadowski had also said that Omaha Indemnity's claims could exhaust the guaranty fund if they were allowed recovery, but that the guaranty fund could block such recoveries.

The two syndicates agreed to stop underwriting earlier this year.

In a statement released May 22, the exchange's board of governors said that based on the results of its investigation to date, "the transactions involved were highly irregular and the Board is confident that any eventual effort by Omaha Indemnity Co. to recover from the guaranty fund will be barred under the provisions of the constitution of the exchange."

The statement also notes that the exchange and the Insurance Exchange of the Americas Guaranty Fund Inc. are not named in the Omaha Indemnity lawsuit nor in a suit filed in federal court in Miami by Administrative Management Services against Omaha Indemnity and Royal American Managers. The latter suit seeks rescission of the syndicate's reinsurance agreement with Omaha Indemnity.

Before Omaha Indemnity could make a claim against the guaranty fund, the statement adds, the syndicates would have to be found legally responsible for the claims in questions and would have to be declared insolvent and liquidated.

Referring to other policyholders of the two syndicates, the statement notes that "the guaranty fund may be called upon to protect the interests of other policyholders even if Omaha Indemnity is not entitled to recover against it and that final determination or settlement may take a considerable period of time."

The guaranty fund has a balance of about \$12.5 million, with an additional \$10 million available through assessments of exchange syndicates.

A spokesman for Omaha Indemnity said company officials had not seen the statement and could not comment.

Carbide may accept order

NEW YORK—Union Carbide Corp. likely will accept a federal judge's conditional ruling that essentially would transfer the litigation of all claims arising from the December 1984 gas leak disaster in Bhopal, India, from U.S. courts to the Indian judicial system, according to an attorney for the Danbury, Conn.-based company.

"It's likely it would be accepted," said Bud G. Holman of the New York law firm of Kelley, Drye & Warren, which is representing Union Carbide.

Approximately 2,000 people died and 200,000 were injured as a result of the gas leak.

U.S. District Court Judge John F.

Keenan, who issued the conditional ruling on May 12, ordered the company last week to respond by June 12 whether it will comply with the ruling. Union Carbide had hoped for 60 days to decide.

Under Judge Keenan's ruling, the case would be dismissed from U.S. courts if Union Carbide agreed to:

- Submit to the jurisdiction of the Indian judicial system.
- Satisfy any judgment rendered by an Indian court.
- Allow plaintiffs to gather evidence under U.S. legal system discovery guidelines, which are more liberal than discovery guidelines in India.

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Sub-total 22,087

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Commercial Consumers

Sub-total 23,921

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Insurance companies 6,089
Financial institutions 536
Actuaries, attorneys, adjusters, appraisers
and consultants 3,464
Others allied to the field 1,320

TOTAL 44,878

* Source: Business/Occupational
breakdown of qualified circulation,
May 6, 1985 issue, as submitted to BPA
for June 1985. BPA Publisher's Statement.

Lloyd's building

Continued from page 3

The new building, which took five years to construct, was built on the site of the 1928 building, and the entrance, rostrum and library of that building are incorporated into the new structure.

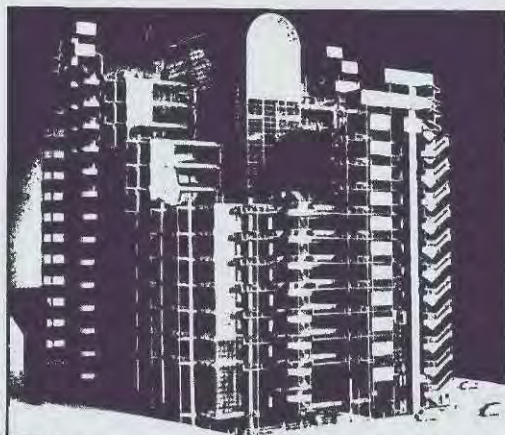
Architect Richard Rogers designed the building so that all service elements—like staircases, elevators and restrooms—are built along the outside of the structure, which explains its unusual, space-age appearance.

Sir Peter Green, a former Lloyd's chairman, said he thinks the new building "is fantastic," though he realizes some people do not like its looks.

"The best comment was from a young Canadian woman who was having lunch with me along with her mother," Sir Peter related. "She looked at the outside of the building and said, 'Wow! That is the most exciting thing I have ever seen and I didn't expect it in London.'"

"Then, on the other extreme, a Lloyd's member said to me, 'I don't understand why they put all the private parts outside,'" Sir Peter said.

The building's appearance wasn't the only thing that disappointed some underwriters.



An architect's model of the new modernistic Lloyd's of London building.

While some were assigned choice seats under the ballot system used to parcel out underwriting boxes, others weren't thrilled with their assignments.

For example, Robin Jackson, director of Merritt Syndicates Ltd. and one of the most prominent Lloyd's non-marine underwriters, is located

on the first gallery floor, although he would have preferred to be on the third floor with most of the other non-marine underwriters.

Most of the underwriting boxes in the new market resemble the wooden boxes in the old building, but many now include computer terminals.

In fact, there is one "paperless" box in the underwriting room, occupied by underwriting agency Michael Payne & Others.

"There is no paper," said Mr. Payne, the agency's chairman. "It is all computerized. . . . All data back to 1974 is in the system."

When a broker approaches the box with a slip, an employee can copy the slip and type information on the risk into the Data General Corp. computer. For complicated risks, the paperwork is sent back to the agency's offices to be input.

"At the moment, it is the only box of its kind," Mr. Payne said.

Even though the market is open for business, several of the building's top floors are still under construction, and some elevators are not yet working.

A royal opening, which Lloyd's hopes Queen Elizabeth II will attend, is not expected until fall, at which time the building will probably be completed.

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May 19	May 7
May 26	May 14
Jun 2	May 21
Jun 9	May 28
Jun 16	Jun 4
Jun 23	Jun 10
Jun 30	Jun 18
Jul 7	Jun 24
Jul 14	Jul 1
Jul 21	Jul 8
Jul 28	Jul 16
Aug 4	Jul 23
Aug 11	Jul 29
Aug 18	Aug 6
Aug 25	Aug 13
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California comp

Continued from page 2

Paul Gladfelty, vp of the California Manufacturers Assn. in Sacramento, notes the proposals are only "a beginning for dialogue." He says the draft "should be looked at for what it is—an outline to begin the negotiation process."

Mr. Lewis adds the proposals will undoubtedly not appear in the final bill as they appear in the draft.

The final language in the bill will be prepared by Messrs. Young and Lewis.

The proposals are a tempered version of the now-defunct A.B. 1000, a previous attempt to bring a pure wage-loss system to California (BI, Feb. 10). "The structure and direction of this bill should have broader support" than A.B. 1000, speculates Mr. Lewis.

While the new proposals do not prescribe a pure wage-loss system, they do include a wage-loss component. Mr. Lewis describes the approach as "like putting your toe in the water instead of jumping all the way in."

The proposals seek to retain the current system of permanent disability payments—which many believe to be inadequate—and apply a wage-loss element above it for severe injuries.

One source describes this as "layering."

The amendments would only apply the wage-loss concept to employees determined to be at least 25% disabled, who, under a newly devised rating schedule, would be eligible for additional "income replacement" benefits after regular permanent disability benefits have been paid.

These supplemental benefits would be payable for 10 years to injured workers assigned a permanent disability rating of 25%-69.75% and for life to those assigned a higher rating. The latter benefits would be in lieu of the pension currently payable in such cases.

The permanent disability provisions are expected to generate the most controversy over the coming weeks.

Some parties, like the CMA, maintain that injured employees should be compensated only for their inability to compete in the job market as they did prior to their accident. But others assert that the injured party also is entitled to damage payments.

A key issue of discussion will be "where labor and management can come to an agreement on where to draw that line," predicts CMA's Mr. Gladfelty.

Employers that expected the latest proposals to resemble the full wage-loss approach of Florida and Louisiana will be disappointed, says Mr. Lewis, who led efforts to restructure the work comp systems in those states.

"If 'wage-loss' is Florida and Louisiana—almost totally directed to the replacement of lost income—than this is certainly not that type of system," he explains.

Other proposed changes would:
• Provide higher weekly benefit levels for temporary disabilities. The proposals suggest raising maximum weekly benefits from \$224 to 200% of the state average weekly wage, providing a maximum benefit of about \$875 in 1987.

• Calculate temporary and permanent disability benefits to replace 80% of spendable weekly earnings, rather than two-thirds of gross weekly earnings.

• Make temporary disability benefits payable for up to 90 days after the employee is able to return to work if suitable employment is not offered or obtained.

• Double the amount of death benefits to \$140 where there is one dependent and to \$190 where there is more than one dependent.

• Appoint a six-member work comp advisory commission representing both labor and management.

Reinsurers' results improve

NEW YORK—A group of 70 U.S. reinsurers posted a 107.7% combined ratio in this year's first quarter, compared with a 121.1% combined ratio posted for a similar, although not identical, group of reinsurers for the comparable period a year ago, according to a survey conducted by the Reinsurance Assn. of America.

Several reinsurers that withdrew from the market did not participate in the 1986 survey, the RAA noted. Results also were boosted by a significant reduction in the number of serious weather disturbances, the RAA said.

The results reflected reinsurance companies as well as the reinsurance departments of primary insurers and reinsurance pools.

Net premiums written increased 58.5% to \$2.9 billion from \$1.8 billion, while net premiums earned increased 51.1% to \$2.4 billion from \$1.6 billion.

The companies posted a 82.3% loss ratio and a 25.4% expense ratio in this year's first quarter, compared with a 91.8% loss ratio and a 29.3% expense ratio a year ago. Underwriting losses increased to \$2 billion from \$1.5 billion, while expenses increased to \$730.2 million from \$534.8 million.

The reinsurers covered in the survey had a policyholder surplus of \$5.4 billion vs. a \$3.7 billion surplus for a similar, but not identical, group of companies in 1985's first quarter.

business insurance

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Earnings rebound

Continued from page 1

The *BI* survey of major commercial property/casualty insurers shows dramatic improvement in industry results in areas other than operating earnings:

- Boosted by rate improvements, net premiums written increased 30.9% to \$18.8 billion compared with the first quarter of 1985. Net premiums written increased 23.6% during all of 1985.

- Thanks to increased cash flow, investment income improved 17.1% to \$2.3 billion in the quarter. In calendar 1985, investment income rose only 10.6%.

- Underwriting losses declined 25.2% to \$2 billion, compared with a 10.9% increase in underwriting losses during calendar 1985.

The first quarter marked the first time since year-end 1983 that investment income for insurers surveyed by *BI* was greater than

underwriting losses.

- With the exception of Mission Insurance Group Inc., none of the insurers surveyed by *BI* posted operating losses in the first quarter. Six surveyed companies posted operating losses in the first quarter of 1985. Because of its corporate restructuring, Mission Insurance Group's 1985 data is not meaningful and Mission's numbers are not included in the aggregates.

Reliance Insurance Co. was the only major property/casualty insurer to report a decline in operating income during 1986's first quarter. The decline was caused by the sale of Pilot Insurance Co., a Canadian personal auto underwriter, at year-end 1985 and also a decline in investment income, says John T. Oates, Reliance's vp and treasurer.

- Aggregate policyholder surplus increased 34% to \$21.7 billion. Surplus increased 27.3% during calendar 1985.

But while industry observers say

that the insurers' reserve levels have improved with their operating results, additional reserve strengthening is still needed.

"The suspicion is that there's still further loss-reserve building to be done, but it's difficult to determine how much is necessary, which company has the problem, and for those that do have problems, which quarter they'll take the step," says Mr. Seifer.

"A lot of repair work has to be done, which is going to keep pressure on pricing," says David P. Wells, an analyst with Merrill Lynch Pierce Fenner & Smith in New York.

"I still say they're probably a little light" on reserves, says another analyst. He adds that insurers "chopped a few points" off the reserve deficiency in 1985, and are now in position to "chop off a few more this year."

"Reserves are still deficient," says another analyst, who states

this situation is beneficial from the perspective that it induces insurers to keep increasing rates. "I think it's going to keep falling into place," he says.

The analyst estimates that if the insurance industry was underreserved by 10% to 12% a year ago, it is currently underreserved by 7% to 8%. "A year ago, I thought the industry had a real problem. Now, I think they have a problem."

Companies that strengthened reserves during the first quarter included USF&G Corp., which boosted reserves by \$43.7 million to \$996.2 million, in addition to a \$233.5 million boost in 1985.

Paul W. Schlough, USF&G's vp-investor relations, says the biggest portion of the latest reserve boost, which was for business written in 1985 and prior years, affects general liability lines.

Meanwhile, companies are continuing to go to market to raise funds. Insurers that have raised eq-

uity capital in the stock market recently include:

- CIGNA Corp., which raised \$349.5 million last month in a common stock offering. The funds will be used to repay short-term borrowings and replace internal resources used to boost CIGNA's reserves by \$600 million at year-end 1985 (*BI*, March 24). A company spokesman says the balance of the \$600 million used for the reserve addition probably will be raised through long-term debt financing.

- The Travelers Corp., which netted \$333.3 million in a common stock offering last month. About \$100 million of the net proceeds will be used to boost the statutory capital and surplus of Travelers' property/casualty business, said a company spokesman.

- The Continental Corp., which raised \$271.7 million in a common stock offering. The funds are earmarked for general corporate purposes.

- Kemper Corp., which raised \$212.3 million in a common stock offering in April (*BI*, April 21). The funds were devoted to retiring short-term debt, to provide additional equity for a Kemper life insurance company, to support Kemper Reinsurance Co.'s increased premium writings and for other corporate purposes.

- The St. Paul Cos. Inc., which grossed \$293 million in a common stock offering in March. A "substantial portion" of the proceeds will be used to increase equity capital for St. Paul Fire & Marine Insurance Co. and its subsidiaries and to support future growth, the company says.

In addition, CNA Financial Corp. is reportedly also planning a stock offering, although a company spokesman had no comment.

Property/casualty companies will continue to go to market, analysts contend.

"They need the money mainly to continue to beef up their loss reserves to support expected new pieces of business that eventually will have to be put on the books," says Virgil Cilli, director of research at Keane Securities Co. in New York.

E.F. Hutton's Mr. Lewis says insurers will continue to raise equity capital as long as the market is receptive.

"I would be going every day of the week," says Shearson Lehman's Mr. Weinhoff.

But some analysts believe insurers will make fewer trips to the market over the next several months than they have been. "I expect the pace to slow down," says Gloria L. Vogel, vp at Legg Mason Wood Walker Inc. in New York.

Most major insurers have already been to the market more than once, she notes.

Also, as underwriting results improve and insurers' profits increase, internally generated funds will begin to flow into surplus, giving the companies a reduced need to go to market, Ms. Vogel says.

As the pace of rate increases slows and written premiums grow more slowly, there also will be less need for capital, suggests June I. Hoffer, an analyst with Prudential/Bache Securities Inc. in New York.

"Nothing is contemplated at this time" along the lines of another equity offering, adds Don Clark, senior vp in charge of finance at Kemper Corp.

Another major source of funds—investment income—is expected to increase, despite lower interest rates, because of the insurers' increased cash flow, analysts say.

While investment income growth will not be as much as it would have been had interest rates remained stable, insurers should still come out ahead, says Prudential/Bache's Ms. Hoffer.

"Cash flow is the prime mover
Continued on next page

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May 19, 1986

Summary of major property/casualty insurers' first-quarter results

(All amounts in thousands of dollars)
(Ranked by change in aftertax operating income)

Rank 1986	Corporate			Property/casualty operations										
	Consolidated revenues 1986	Aftertax ¹ operating income 1986	Percent increase (decline) 1985-1986	Combined ¹ ratio 1986	Combined ¹ ratio 1985	Net premiums written 1986	Percent increase (decrease) 1985-1986	Pretax underwriting income (loss) 1986	Percent increase (decline) 1985-1986	Pretax investment income 1986	Percent increase (decrease) 1985-1986	Policyholder surplus 1986	Percent increase (decrease) 1985-1986	
1	The St. Paul Cos. Inc.	778,396	24,432	814.4	117.2	122.8	590,291	29.4	(100,634)	7.7	104,933	20.3	850,279	31.7
2	Hartford Insurance Group	1,995,312	40,443	696.3	107.2	117.2	1,353,613	42.0	(107,930)	31.8	137,451	23.8	2,162,814	86.9
3	Crum & Forster Inc.	717,100	11,000	633.3	114.3	118.9	687,800	24.5	(104,300)	(9.5)	105,300	15.7	982,400	54.7
4	CIGNA Corp.	4,015,400	71,700	375.8	113.3	126.4	1,371,600	17.7	(160,000)	43.2	171,700	7.2	1,430,000	8.1
5	Kemper Corp.	823,450	27,875	270.6	108.0	119.7	191,929	10.7	(18,345)	48.1	18,785	4.8	352,193	17.5
6	Ohio Casualty Corp.	329,480	14,728	233.5	104.8 ²	113.7 ²	302,714 ²	23.1	(19,174)	42.0	34,036	17.2	439,859	23.7
7	Sentry Insurance Cos. ²	129,334	7,980	189.6	109.3	118.7	206,149	(10.9)	(22,089)	50.6	21,948	(12.7)	228,144	48.1
8	USF&G Corp.	995,900	50,600	183.9	111.2 ²	123.0 ²	885,500 ²	37.3	(110,500) ²	24.1	132,300	67.9	996,200	38.9
9	Royal Group (U.S. subs) ²	N/A	22,700	175.9	107.4	121.2	475,200	32.9	(42,200)	46.0	59,500	19.9	629,071	55.9
10	Aetna Life & Casualty Co.	4,884,500	140,600	147.1	112.2	119.3	1,424,500	32.6	(162,300)	12.3	179,800	31.4	1,395,998	27.7
11	The Home Group Inc.	516,000	13,000	106.4	117.1	131.1	474,000	13.4	(72,000)	75.3	91,000	18.2	806,000	61.2
12	Fireman's Fund Ins. Cos.	847,716	30,046	105.3	111.7	122.4	853,961	2.6	(84,725)	45.1	116,564	0.6	1,217,378	24.7
13	Fremont General Corp.	170,335	224	103.8	121.0	132.9	125,878	23.4	(26,577)	11.7	21,969	23.8	N/A	N/A
14	Hartford Steam Boiler	92,009	9,672	102.7	86.8	100.0	67,367	17.4	8,459	232.2	6,439	22.5	187,824	52.6
15	General Re Corp.	708,289	56,347	98.0	106.0	113.4	600,097	85.5	(44,522)	1.4	87,417	29.1	1,503,102	109.0
16	Continental Corp.	1,300,000	34,800	96.6	107.9 ²	115.2 ²	818,900 ²	15.6	(60,300)	38.0	84,300	(5.6)	1,104,165	13.3
17	Chubb Corp.	735,200	45,100	86.4	101.2	109.4	576,700	32.9	(15,900)	58.6	54,200	20.7	804,974	57.3
18	American International Group	1,807,480	123,870	54.7	103.2	107.5	1,422,764	68.3	(55,137)	15.2	114,916	32.9	N/A	N/A
19	SAFECO Corp.	621,799	35,427	49.1	107.0	116.2	319,702	17.6	(21,050)	48.9	34,929	17.3	540,129	29.2
20	CNA Financial Corp.	1,420,000	53,900	36.1	118.0	124.1	1,089,600 ²	75.4	(192,500) ²	(19.9)	161,700 ²	22.6	1,387,000	26.4
21	American General Corp.	1,444,000	127,000	15.5	107.9 ²	111.5 ²	335,000	23.6	(20,000)	20.0	37,000	12.1	775,000	37.2
22	Old Republic Int'l (incl. life) ²	271,500	15,874	14.5	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
23	Travelers Corp.	4,292,000	79,000	8.1	108.0	111.2	1,275,100	15.7	(110,400)	22.9	111,300	18.7	1,580,900	32.5
24	Reliance Ins. Co. & subs.	595,994	2,142	(72.5)	114.3 ²	114.9 ²	363,831	7.7	(46,561)	31.9	36,660	(19.9)	N/A	N/A
	— Mission Ins. Group Inc.	21,810	(6,171)	N/M	105.9	N/M	22,452	N/M	(2,099)	N/M	1,194	N/M	28,460	N/M
	— Nationwide Mutual Ins. Co. ²	N/A	N/A	N/A	117.4	120.7	1,393,604	43.8	(232,685)	(33.6)	125,815	8.8	1,973,000	(1.7)
	— Liberty Mutual Ins. Co.	N/A	N/A	N/A	113.2	116.8	1,380,001	38.5	(136,521)	3.4	164,917	15.0	N/A	N/A
	— Commercial Union Ins. (U.S.)	N/A	N/A	N/A	116.6 ²	127.1 ²	283,000 ²	6.3	(53,600) ²	24.0	39,200	3.0	416,200	11.3
Cumulative		29,491,194	1,038,460	532.2	110.9	118.5	18,848,701	30.9	(2,011,491)	25.2	2,254,079	17.1	21,742,830	34.0

¹ After dividends. ² Statutory. ³ Before dividends. N/A—Company did not provide data. N/M—Not meaningful.

Continued from previous page behind increases in investment income," agrees Ms. Stewart, noting that increased cash flow "is likely to more than make up for declining interest rates."

Most insurers have been keeping their investments in higher-yielding taxable instruments because their underwriting and operating losses still offset taxable investment income, say analysts.

But one profitable company that has started to make the switch back to tax-exempts is Chubb Corp. "As we're able to find both quality and quantity, we're buying" tax-exempts, says a Chubb spokesman. About \$1.5 billion of Chubb's \$4.2 billion in invested assets are now invested in tax-exempt instruments, he said.

SAFECO Corp. has continued to invest in tax-exempts all along,

says George P. Yonker, assistant controller. Because of the insurer's tax situation, it was never advantageous to ever switch to taxable investments, he said.

Ohio Casualty Co. is looking at the issue "very carefully," says C. David Mencer, the company's controller. "The new tax bill will have some impact" on its eventual decision, he said.

Under the House-passed tax bill, insurers would be taxed on a portion of their tax-exempt income (BI, May 19). The Senate Finance Committee bill does not contain such a provision.

Analysts also agree on another problem that poses a hazard to the industry's recovery: reinsurance recoverables. "I see it as a very important problem this year and it's not going

to go away," says E.F. Hutton's Mr. Lewis. There will be a significant amount of uncollectable reinsurance, he said, adding that questions insurers must ask are how much and who it will impact.

Others do not see reinsurance recoverables as a serious immediate problem. Reinsurance recoverables is a "long-term issue" that will "come in dribs and drabs," says Prudential's Ms. Hoffer.

BI Industry Stock Report

May 28, 1986 5/22/86 thru 5/28/86

Brokers										Conglomerates & Holding Cos.										Insurers									
Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)						
Alexander & Alexander Svcs	NYSE	40.00	7.4	0.4	1.00	2.5	40.00*	37.75	616.6	Continental Corp	NYSE	48.13	7.5	0.0	2.60	5.4	48.13	45.50	1,374.8	Aetna Life & Cas Co	NYSE	64.50	8.2	14.2	2.64	4.1	64.75	63.38	2,617.0
Baldwin & Lyons Inc	OTC	112.00	4.7	56.3	0.80	0.7	112.00	107.00	0.2	Crown Life Ins Co	OTC	290.00	0.0	17.5	0.00	0.0	290.00	290.00	0.0	American General Corp	NYSE	40.88	8.3	12.4	1.12	2.7	40.88	38.88	1,429.8
Corroon & Black Corp	NYSE	39.88	16.4	21.3	0.65	1.6	39.88*	34.13	391.1	Durham Corp	OTC	46.00	2.2	12.4	1.36	3.0	46.00	45.00	10.0	Ameri Heritage Life Invst Co	NYSE	42.25	1.2	15.5	1.32	3.1	42.25	41.63	3.0
Crum & Forster Inc	OTC	26.25	7.1	22.2	0.25	1.0	26.25*	24.50	133.8	Farmers Group Inc	OTC	89.50	8.5	16.1	2.00	2.2	89.50	83.75	376.5	American Indty Fintl Corp	OTC	20.25	3.8	0.0	1.12	5.5	20.25	19.75	11.3
Ewert & Chandler Cos Inc	OTC	18.75	0.0	25.3	0.00	0.0	0.00	0.00	0.0	Fairmont Fintl Inc	AMEX	29.88	10.1	22.5	0.00	0.0	30.00*	28.50	190.5	American Intl Group Inc	NYSE	134.75	8.5	25.1	0.44	0.3	134.75	127.38	502.8
Gallagher Arthur J & Co	OTC	51.00	13.3	22.0	0.40	0.8	51.00	48.00	150.1	Fireman Fd Corp	NYSE	38.75	6.2	0.4	0.30	0.8	38.75	36.88	1,756.2	Aneco Reins Ltd	OTC	2.88	0.0	0.0	0.00	0.0	2.88	2.88	16.7
Hali Frank B & Co Inc	NYSE	24.38	3.7	0.0	0.00	0.0	24.38	24.00	399.6	Fremont Gen Corp	OTC	27.00	1.9	0.0	0.48	1.8	27.13	26.75	642.6	Aveco Corp	NYSE	43.50	3.0	16.1	0.75	1.7	43.50*	42.00	7.4
Marsh & McLennan Cos Inc	NYSE	61.75	0.8	24.5	1.50	2.4	63.00*	61.75	451.2	Great West Life Assurn Co	OTC	700.00	0.0	7.0	18.00	2.6	700.00	700.00	0.0	Business Mens Assurn Co Amer	OTC	26.25	2.9	15.8	1.10	4.2	26.25	25.13*	1,227.1
Poe & Assoc Inc	OTC	12.50	2.0	0.0	0.53	6.3	12.50	12.25	21.5	Home Group Inc	AMEX	28.50	0.0	62.0	0.00	0.0	28.50	27.00	439.2	Chubb Corp	NYSE	76.25	7.6	149.5	1.56	2.0	76.25	72.38	280.9
AGENTS/BROKERS AVERAGE										Hartford Steam Boiler Inspn										INSURANCE COMPANIES AVERAGE									
AVERAGE										Kans City Life Ins										AVERAGE									
4.0										Kemper Corp										11.4									
1.3										Liberty Corp S C										2.0									
										Lincoln Natl Corp Ind																			
										Mission Ins Group Inc																			
										Monumental Corp																			
										Nac Re Corp																			
										Nobel Ins Ltd																			
										Northwestern Natl Life Ins																			
										Ohio Cas Corp																			
										Old Rep Intl Corp																			
										Orion Cap Corp																			
										Protective Corp																			
										Provident Life & Acc Ins Co																			
										St Paul Cos Inc																			
										SAFECO Corp																			
										Sri Corp																			
										Seibels Bruce Group Inc																			
										Statesman Group Inc																			
										Tokio Marine & Fire Ins Co																			
										Torchmark Corp																			
										Travelers Corp																			
										United Fire & Cas Co																			
										United States Fid & Gty Co																			
										UsLife Corp																			
										Washington Natl Corp																			
										Zenith Natl Ins Corp																			



The Business Insurance stock index leaped 29 points to set a new record, closing at 533.1 points on May 28 up from 503.1 on May 21. The previous high was 514.1, recorded on April 23. During the most recent trading period, 51 stocks posted gains, seven remained unchanged and only one, Statesman Group Inc., posted a decline. The largest gains were posted by Monumental Corp., up 39.0%; NAC Re Corp., up 16.5%; Corroon & Black Corp., up 16.4%; Arthur J. Gallagher & Co., up 13.3%; and W.R. Berkley Corp., up 11.8%. The BI index's 5.7% rise outpaced all but one of the major market indicators. The New York Stock Exchange composite rose 4.4%, the Standard & Poor's 500 averages gained 4.7% and the Dow Jones 30 industrials climbed 5.8%.

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Mr. Smith's assistant.
I'd like to assist you, but..."*



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