

Business Insurance

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P/C INSURERS STILL POSTING STRONG FINANCIAL RESULTS DESPITE SOFT MARKET / PAGE 3

SEN. BARACK OBAMA HAS A DETAILED PLAN FOR HEALTH REFORM / PAGE 3

MEDICARE WORKERS COMPENSATION LEGISLATION INTRODUCED / PAGE 4

In Brief

CSU team forecasts busy storm season

The hurricane forecasting team at Colorado State University continues to predict above-average tropical storm activity for the 2007 Atlantic hurricane season, which began last Friday. In its latest forecast, the team repeated the prediction it issued April 3, which calls for the formation of 17 named storms, nine of which are forecast to grow into hurricanes. Five of those hurricanes are forecast to reach intense status, with winds of at least 111 mph.

Reinsurers' results improve in quarter

A group of 22 U.S. property/casualty reinsurers reported an 89.8% combined ratio for the first quarter, which ended March 31, compared with 98.4% reported by a comparable group

See **IN BRIEF** page 22

RIMS toughens stance on contingents

Brokers told to reject insurer incentive payments; risk managers urged to make voices heard

By **SALLY ROBERTS**

NEW YORK—The Risk & Insurance Management Society Inc. is taking its strongest stance yet on the issue of broker compensation, calling for a prohibition on all "placement fees" paid to brokers by insurers and for risk managers to be more vocal about managing their vendors.

In its first policy statement on the issue since August 2005, when it called for full disclosure of broker compensation regardless of whether risk managers



'We want to make sure that if there's any reward given for placing business then we think it should be prohibited.'

Terry Fleming, RIMS

requested it, the New York-based association said last week that in addition to transparency, "RIMS

supports a business model for the insurance industry, which does not provide for, offer or make available contingent commission arrangements for the brokerage industry."

"RIMS is troubled that the insurance industry continues to promote this compensation model despite its many associated issues," it said.

It noted that while it recognizes that contingent commissions are paid on agency-generated business where the agent is representing the insurer, "for brokers and independent agents to

accept these fees in transactions that are made on behalf of the buyer, (it) represents an inherent conflict of interest. The recent investigations, admissions and fines demonstrate how these practices can be manipulated to the disadvantage of the insurance buyer," RIMS said.

In 2005, the world's four largest brokers gave up more than \$1 billion in contingent commissions and paid more than \$1 billion in client restitution to settle charges and concerns that they steered client busi-

See **CONTINGENTS** page 19

Got a Bermuda policy? Check the fine print

By **RUPAL PAREKH**

As a growing number of insurers make Bermuda home, more policyholders may want to get acquainted with arbitration provisions in the policies issued by the insurers.

Policyholder attorneys say the provisions—which generally require coverage disputes to be heard before a London-based panel of arbitrators following New York law—make it harder for buyers to prevail in insurance disputes.

Among the biggest drawbacks to the arbitration provision, they say, is that policyholders must waive their right to a jury trial and appeals process. In addition, the dispute resolution process in London is expensive and inconvenient. Furthermore, they say, many buyers don't fully grasp the possible ramifications of such clauses.

Some risk managers say the provision is one downside to buying cov-

erage in Bermuda, though that can be far outweighed by the benefits of buying coverage on the island.

Bermuda insurers, meanwhile, argue the provision is a fair, long-standing and well-known feature of their policies. Such London-based arbitration proceedings with clients are few and far between—used only as a last-resort means of dispute resolution, they say.

And when the negotiations do take place, the confidential nature of the arbitrations can help to protect policyholders' reputations, insurers say.

Insurers in Bermuda have long included a provision in policies requiring any coverage disputes to be resolved through London arbitration with New York choice of law. The provision was intended to curtail protracted coverage disputes, among other things (see story, page 20).

When ACE Ltd. and XL Capital

See **BERMUDA** page 20

Employers score a win with pay bias decision

Supreme Court puts firm limit on filing period

By **MARK A. HOFMANN**

WASHINGTON—Employers can breathe a bit easier as a result of the closely divided Supreme Court decision that plaintiffs alleging illegal pay discrimination under Title VII of the Civil Rights Act of 1964 must file a complaint within 180 days of the alleged offense.

Employer groups had feared that a ruling in favor of the plaintiff in *Lilly Ledbetter vs. Goodyear Tire & Rubber Co.* would have subjected them to unjustified administrative burdens, including retaining years' worth of employment-related documents

long after required by law (*BI*, Dec. 4, 2006). But the high court held last week the 180-day deadline for filing such complaints could not be ignored.

"It's definitely good news for employers because employers can



'The court's insistence on immediate contest overlooks common characteristics of pay discrimination. Pay disparities often occur, as they did in Ledbetter's case, in small increments; cause to suspect that discrimination is at work develops only over time.'

Associate Justice Ruth Ginsburg for the dissenters



'We apply the statute as written, and this means that any unlawful employment practice, including those involving compensation, must be presented to the EEOC within the period prescribed by statute.'

Associate Justice Samuel Alito for the majority

focus on insuring that current pay-setting decisions are nondiscriminatory without the need to revisit all pay decisions during an employee's career," said Debra S. Friedman,

See **DISCRIMINATION** page 21

SECTOR BRIEFING
TELECOMMUNICATIONS

Telecom risk managers look for alternatives to business interruption coverage; EMR risks trigger liability concerns; expansion of information highway creates massive security exposures. **Page 10**

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BI COLUMNS

Myron Picoult discusses the P/C status quo

Resistance to change has the potential to marginalize the property/casualty insurance industry, consultant Myron Picoult says in his latest column for *Business Insurance* on page 19. Read his views about this and other issues archived on www.BusinessInsurance.com.



Myron Picoult says in his latest column for *Business Insurance* on

page 19. Read his views about this and other issues archived on www.BusinessInsurance.com.

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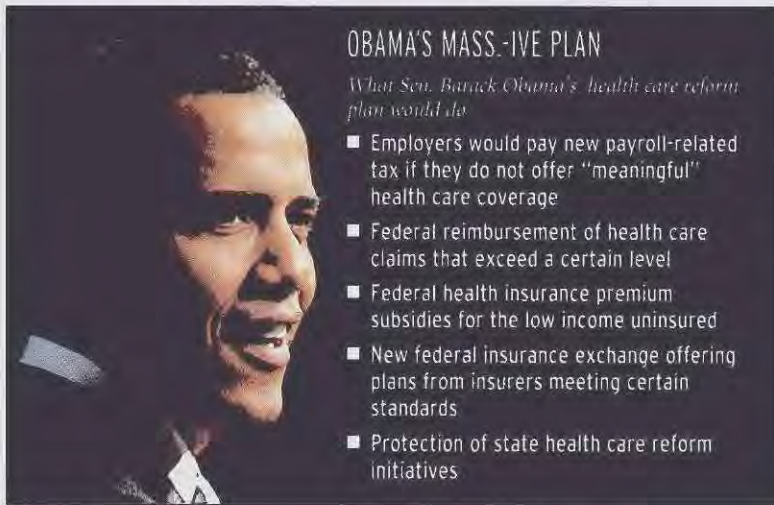
Presidential hopeful mines Mass. model

Obama's ideas include reinsurance backstop for employer plans

By JERRY GEISEL

WASHINGTON—Massachusetts' landmark health care reform law, which already has helped to shape reform measures in other states, is being incorporated—at least in part—by a major presidential contender.

During a campaign stop in Iowa City, Iowa, Sen. Barack Obama, D-Ill., last week released what he described as his plan to ensure a healthy America. Major chunks of the 15-page position paper clearly are drawn from the 2006 Massachusetts law, which has a central goal of near-universal coverage of Bay State residents with-



OBAMA'S MASS.-IVE PLAN

What Sen. Barack Obama's health care reform plan would do

- Employers would pay new payroll-related tax if they do not offer "meaningful" health care coverage
- Federal reimbursement of health care claims that exceed a certain level
- Federal health insurance premium subsidies for the low income uninsured
- New federal insurance exchange offering plans from insurers meeting certain standards
- Protection of state health care reform initiatives

in a few years.

Sen. Obama is not the first candidate to unveil a health care reform plan. Former Sen. John Edwards, D-N.C., earlier released his reform

plan, but at less than half the length, the Edwards plan is not as detailed as the Obama plan.

Under the Massachusetts law all but the smallest employers must

pay an annual fee—up to \$295 per employee—if they do not make a "fair and reasonable" health insurance premium contribution. State regulators have defined fair and reasonable to mean that at least 25% of full-time employees are enrolled in an employer's plans or the employer pays at least 33% of premiums for individual coverage.

Similarly, the Obama plan would require employers that "do not offer meaningful coverage or make a meaningful contribution to the cost of quality health coverage for their employees" would have to pay a portion of their payroll to help fund coverage for the uninsured.

Also like Massachusetts, where health insurance premiums are subsidized for low-income state resi-

See **HEALTH CARE** page 22

Largest P/C insurers post profitable quarter

Despite pricing pressures, combined net income up 24.1%

By JUDY GREENWALD

Commercial property/casualty insurers continue to harvest the fruits of the past hard market, despite a softening market that eventually will affect results, observers say.

First-quarter 2007 insurer results were "excellent," said Diane Coogan-Pushner, a portfolio manager with Philo Smith & Co., a Stamford, Conn.-based investment banking firm. "Even after you strip out the investment gains, which many (insurers) experienced, the core results were very good."

But at the same time, "We're also hearing anecdotally that it's a very competitive market," Ms. Coogan-Pushner added.

The 14 major U.S. commercial property/casualty insurers surveyed by *Business Insurance* reported a 90.1% combined ratio for the first quarter, virtually even with the 90.3% combined ratio for the comparable period a year ago.

Among survey results:

- P/C insurers reported an overall

4% increase in net premiums written, to \$38.20 billion. However, half posted a decline in net premiums written.

- Policyholder surplus increased 24.2%, to \$92.45 billion.

- Insurers' combined net income increased 24.1%, to \$9.60 billion.

"Sort of boring, isn't it?" said John Gwynn, managing director at Memphis, Tenn.-based investment banking firm Morgan Keegan & Co. Inc., about the continued good results.

Insurers continue to benefit from relatively minor catastrophic activity last year despite pricing pressure in most commercial lines, said Mr. Gwynn. The "extraordinarily" high underwriting margins have started to decline on an accident-year basis, "but most companies continue to show very robust calendar-year results, largely as a result of reserve releases from prior accident years," he said.

Mark Lane, an analyst with William Blair & Co. in Chicago, said, "Overall, the first quarter was somewhat similar to the past few quarters. There continues to be increased pressure on pricing, which is pressuring premium growth," with price increases only

See **RESULTS** page 6

BI extends deadline for 2007 benefit award

Business Insurance has extended the deadline for nominations for the 2007 Benefit Manager of the Year.

The competition seeks to recognize excellence and innovation in benefits management. Any full-time employee of a corporation, nonprofit organization or government entity who oversees or administers benefit functions is eligible.

An independent panel of judges will score nominees on how well he or she:

- Solved one or more major problems for his or her employer.
- Innovatively applies benefit programs to his or her organization's needs.

- Effectively uses benefit programs to help control costs.
- Exhibits leadership in achieving change within his or her organization.

- Established an effective system for communicating benefit programs to employees.
- Skillfully administers benefit programs through application of technology.

- Develops in his or her career

- and promotes advancement of the benefits profession.

and promotes advancement of the benefits profession.

The value or generosity of specific benefits will not be judged; the award is intended to honor outstanding performance in managing and administering employee benefit programs overall. The highest-scoring candidate, as determined by the judges, will be named Benefit Manager of the Year.

and will be profiled in the Sept. 17 issue of *BI*.

Judges will include representatives of benefit consulting firms, brokerages, health insurers/managed care organizations, benefits industry vendors

as well as prior winners of the award.

Candidates may nominate themselves or be nominated by a supervisor, colleague, broker, consultant or service provider, but the nomination must be accompanied by a letter from a superior who is familiar with the candidate's work. The extended deadline for nominations is **June 22, 2007**.

To nominate a candidate, please download a form at www.BusinessInsurance.com/BMOY.

2007
**Benefit
Manager
OF THE YEAR.**

Business Insurance.

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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ON OCT. 8, 2007, *Business Insurance* will celebrate its 40th anniversary of publication. Each week until then, *BI* will offer a peek at news we reported during the past four decades.

JULY 14, 1975 The Factory Insurance Assn. and the Oil Insurance Assn. announced plans to merge Dec. 1 to form a new property pool known as Industrial Risk Insurers. The FIA and OIA agreed to merge to enhance capacity and reduce the costs of providing engineering and inspection services separately. The FIA comprises 40 insurance companies, while the OIA has 46 insurers.

JULY 28, 1975 Marsh & McLennan Cos. Inc. is the world's largest broker, based on gross revenues of \$204.9 million, in *BI*'s annual ranking. In the prior year, the company made its benefits division a separate unit under the name William M. Mercer Co. 1975 also saw the broker's parent change its name to Marsh & McLennan Cos. Inc. from Marlennan Corp., which it had used since 1969.

Medicare workers comp settlement legislation introduced

Bill intends to ease administrative process for employers, insurers

By **ROBERTO CENICEROS**

New federal legislation would ease employer and insurer administrative frustrations and more quickly close workers compensation medical claims that require set-aside amounts to meet federal Medicare secondary payer laws, experts say.

The current system—which prevents closing certain state-regulated medical workers comp claims until claims set-aside amounts are

approved by the U.S. Centers for Medicare and Medicaid Services—is plagued by confusion and months-long delays, the Coalition for Medicare Secondary Payer Reform said last week.

While the federal agency says it aims to complete Medicare set-aside reviews in 60 days, some cases have taken up to two years to resolve, said Melissa Shelk, vp of federal affairs for the American Insurance Assn. in Washington.

According to the coalition of employers, insurers and claimants' attorneys, the delays leave injured workers in limbo and their claims unpaid, the coalition said.

Employers and insurers complain

that CMS lacks formal rules, so its decisions often vary and can change without warning. That leaves employers and insurers confused. Obtaining clarification about CMS decisions adds to the delays.

One substantial problem for employers results from differences in how state workers comp systems and the CMS calculate medical claim costs, said Douglas Holmes, president of the Washington-based business group UWC-Strategic Services on Unemployment and Workers' Compensation.

Workers comp claimants and employers or their insurers settle medical claims according to state guidelines, which usually require

paying medical expenses only until the claimant recovers.

In contrast, Medicare budgets for medical care for a much longer time period because the typical claimant's age means their recovery may stretch out indefinitely, said Mr. Holmes, who is also the coalition's coordinator.

"So there ends up being confusion about which standard applies" when determining set-asides, Mr. Holmes said (see sidebar, page 19). "We need some certainty about what portion of the settlement is derived through the state work comp system and what portion of that is going to be set aside for Medicare because, until (employers) know what that is, they

can't complete the settlement."

Coalition members also take issue with the CMS' appeals process.

"If you get into a dispute about the right amount (set aside), you just keep going round and round," Ms. Shelk said.

The coalition also says, even once a claim has been settled, the federal agency can seek more funds from employers, insurers and even the claimant.

CMS did not return a telephone call seeking comment.

The coalition supports the Medicare Secondary Payer and Workers' Compensation Settlement Act of

See **CMS** page 19

Texas lawmakers opt to ignore government accounting standard

Rejecting GASB 45 could hurt state's bond rating, some say

By **JOANNE WOJCIK**

AUSTIN, Texas—Legislation allowing Texas and public entities within the state to disregard an accounting standard that governments publish their retiree health liabilities on their financial statements is drawing a mixture of criticism and praise.

The Norwalk, Conn.-based Governmental Accounting Standards Board—the private organization that promulgated Statement 45—as well as accounting organizations and other public entity benefit managers predicted that Texas will suffer financially if it does not follow the accounting practice.

However, lawmakers and representatives of retired employees disagree, and Texas Gov. Rick Perry is expected to sign the legislation.

Faced with a projected \$50 billion in future retiree health liabilities, Texas lawmakers last month passed H.B. 2365 by nearly unanimous votes. The legislation would give Texas and any of its public entities permission to ignore GASB State-

ment 45, an accounting standard requiring state and local governments to disclose their liability for "other post-employment benefits," which include retiree health, dental and vision benefits and some forms of life insurance (see box, page 21).

GASB 45 was issued in 2004 and takes effect this December for large public entities. It recommends that these liabilities be funded in much the same manner as pensions, using an actuarial approach, rather than a pay-as-you-go basis as they traditionally have been.

The first iteration of H.B. 2365 forbade any Texas public entity from following GASB 45. However, the measure was changed to give public entities the option of using either GASB 45 or the so-called Texas Standard after several public entities stated their preference for the GASB standard in testimony before the Texas Legislature.

The legislation defines the Texas Standard as a "statutory modified accrual basis for governmentwide and fund-level internal and external financial statement reporting."

State Rep. Vicki Truitt, R-Fort Worth, said she wrote the bill after representatives from Terrant and

See **TEXAS** page 21



Texas State Rep. Vicki Truitt says other states may follow suit in not adopting GASB 45.

NY insurance superintendent tapped to head new financial commission

Modernizing laws key to promoting competition, growth

By **RUPAL PAREKH**

NEW YORK—New York is working to improve the state's financial services regime, and State Insurance Superintendent Eric Dinallo has been tapped to lead the effort.

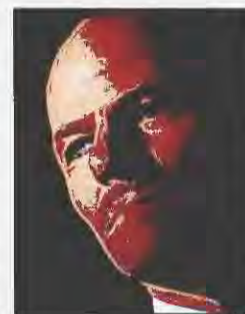
New York Gov. Eliot Spitzer last week signed an executive order creating a commission to identify ways for New York to retain and enhance its status as a world financial capital. Mr. Dinallo was appointed chairman.

The New York State Commission to Modernize the Regulation of Financial Services includes representatives from industry, consumer

groups and government, and will review all current financial services statutes, regulations, rules and policies and propose legislative and other necessary changes.

"Current laws and regulations in New York do not work for the industry or the consumer.... We must develop new laws and regulations that promote competition and the growth of business, while effectively protecting both consumers and honest businesses from unfair or unethical practices," Mr. Dinallo said in a statement.

Other members from the insur-



Gov. Eliot Spitzer aims to enhance New York's status as a world financial capital by creating the Commission to Modernize the Regulation of Financial Services.

ance community appointed to the commission by Gov. Spitzer, include: Martin J. Sullivan, president and chief executive officer of American International Group Inc.; C. Robert Henrikson, chairman, president and CEO, MetLife Inc.; Herbert M. Allison Jr., chairman, president and CEO, TIAA-CREF; and Christopher M. Condon, chairman and CEO, AXA Equitable Life Insurance Co.

The commission is slated to release recommendations for administrative and legal reform by June 30.

Caribbean cat pool now operating

By **RUPAL PAREKH**

WASHINGTON—A multinational pool developed by the World Bank to provide Caribbean governments access to natural catastrophe insurance began offering coverage last week.

The Caribbean Catastrophe Risk Insurance Facility officially launched last Friday, which marked the start of the 2007 hurricane season. The \$110 million reinsurance program, which is the world's first multinational catastrophe insurance pool, was announced earlier this year (*BI*, March 5).

The Cayman Islands-registered facility is funded by premiums paid by participating countries (see box) and by donations from other nations and the World Bank.

The CCRIF's insurance program, placed by Benfield Group Ltd., is a combination of traditional excess-of-loss reinsurance and a funded cat swap agreement to cover parametric

CAT FUND COUNTRIES

- Anguilla
- Antigua and Barbuda
- Bahamas
- Barbados
- Belize
- Bermuda
- Cayman Islands
- Dominica
- Grenada
- Haiti
- Jamaica
- St. Kitts and Nevis
- St. Vincent and the Grenadines
- Trinidad and Tobago
- Turks and Caicos Islands

insurance policies issued by the facility.

Under CCRIF's four-layer insurance program, the pool retains a first layer of \$10 million, while rein-

surers write the second and third layers for \$10 million and \$15 million, respectively. The top \$70 million layer is financed with \$50 million of reinsurance of \$20 million of coverage through the cat risk swap.

Munich Reinsurance Co. of Germany took the lead on the reinsurance coverage, with France's Paris Re and London-based Hiscox P.L.C. acting as following markets.

Additionally, Munich Re, along with the World Bank in Washington, has agreed to a cat risk swap allowing up to \$20 million assumed by the World Bank to be passed on to Munich Re. The CCRIF model could be adopted by other regions in the future, according to Georg Daschner, a member of Munich Re's board with responsibility for European and Latin American business.

"The innovative coverage concept developed here can be exported to other countries," he said in a statement.

Errors & Omissions

Due to an editing error, a May 28 Late News brief incorrectly characterized a verdict involving former Brightpoint Inc. Director of Risk Management Timothy Harcharik. He was found liable on civil charges of aiding and abetting fraud brought by the Securities and Exchange Commission relating to Brightpoint's use of finite insurance. Mr. Harcharik was not found liable on two civil charges relating to securities trading and misrepresentations.

Results: P/C insurers post \$9.6B quarter

CONTINUED FROM PAGE 3

on catastrophe-exposed property business.

"But competition is heating up as well," although "margins have continued to hold up extremely well," while the claims inflation environment "remains incredibly benign," Mr. Lane said.

"Top-line premium growth was somewhat slow, but not as bad as we would have thought, given the market is softening so much," said Adam Klauber, director of equity research for Cochran Caronia Waller Securities L.L.C., a Chicago-based insurance industry investment banking firm.

Observers also note that admitted insurers now are moving into the excess and surplus lines market.

"There's a lot of competition in the surplus lines coming from new entrants in the business," including many Bermuda companies that are seeking to diversify, said Ms. Coogan-Pushner.

The industry remains disciplined, though, said John L. Ward, chief executive officer of Cincinnati-based Cincinnati Partners L.L.C., an advisory firm specializing in the insurance industry. "The fear of catastrophes imposes discipline."

Furthermore, while investment returns have been relatively strong, they are still "well below historical levels," which has discouraged cash

PROPERTY/CASUALTY INSURERS' FIRST-QUARTER 2007 RESULTS

Ranked by net income. All amounts are in thousands of dollars.

	CORPORATE			PROPERTY/CASUALTY OPERATIONS					
	NET INCOME	PERCENT INCREASE 2007-2006 (decrease)	CONSOLIDATED REVENUES 2007	COMBINED RATIO 2007 ¹	COMBINED RATIO 2006 ¹	PREMIUMS WRITTEN 2007	PERCENT INCREASE 2007-2006 (decrease)	POLICY-HOLDER SURPLUS 2007	PERCENT INCREASE 2007-2006 (decrease)
American International Group Inc.	\$4,130,000	29.3%	\$30,645,000	87.5%	89.2%	\$12,106,000	7.6%	N/A	N/A
Travelers Cos. Inc.	1,086,000	8.0	6,427,000	89.2	88.9	5,144,000	7.8	\$21,204,000	14.5%
Hartford Financial Services Group Inc.	876,000	20.3	6,759,000	88.8	88.8	2,622,000 ²	(0.3)	8,300,000	1.2
Chubb Corp.	710,000	5.7	3,519,000	83.4	82.9	2,867,000	(2.0)	11,950,000	23.8
ACE Ltd.	701,000	43.4	3,549,000	87.1	90.6	3,182,000	(2.1)	14,959,000	23.0
Liberty Mutual Insurance Co.	349,000	19.5	6,143,000	102.3 ²	100.0 ²	4,138,000 ²	6.4	13,284,000	31.6
Cincinnati Financial Corp.	930,204	54.5	4,550,113	94.3	89.2	3,178,106	3.3	5,260,683	13.2
CNA Financial Corp.	296,000	29.3	2,517,000	95.1	96.9	1,731,000	(1.5)	8,235,000	14.5
SAFECO Corp.	182,500	(12.4)	1,506,600	89.8	86.9	1,390,000	(2.0)	3,940,500	4.0
Old Republic International Corp.	107,700	(8.2)	973,900	91.4 ²	90.4 ²	521,700 ²	13.4	N/A	N/A
American Financial Group Inc.	113,600	11.9	1,079,600	84.0	88.1	656,500	5.2	2,576,200	12.8
Ohio Casualty Corp.	63,100	21.6	409,300	89.2	94.9	345,300 ²	(2.5)	1,092,800	5.3
RLI Corp.	33,000	26.7	162,000	81.4 ²	87.5 ²	120,000 ²	(1.4)	767,000	1.4
Argonaut Group Inc.	25,100	22.4	234,400	94.2	95.2	200,500	4.7	882,100	21.1
Cumulative	\$9,603,204	24.1%	\$68,474,913	90.1%	90.3%	\$38,202,106	4.0%	\$92,451,283	24.2%

(1) Includes dividends

(2) Statutory

Source: BI survey, company reports

flow underwriting, Mr. Ward said.

The outlook in the short term is for continued good results, albeit with increasing competitiveness and assuming no major catastrophe activity this year, observers say.

Andrew Colannino, vp at Old-

wick, N.J.-based A.M. Best Co. Inc.'s P/C division, said, "We're still expecting a pretty good year on a reporting basis for the full year of '07, although not as good as last year because of the softening of the market, and the wild card, as always," is

hurricane activity later in the year.

However, "Rates are declining at an accelerated rate. That's a concern, and something we're watching closely," said James B. Auden, senior director at Chicago-based Fitch Ratings Ltd.

Pushner said. "We think that going forward, new business will start to weaken and prior business might have some development issues."

Meanwhile, many observers expect more merger and acquisition activity this year. They point to Boston-based Liberty Mutual Group Inc.'s planned \$2.7 billion acquisition of Fairfield, Ohio-based Ohio Casualty Corp., which was announced last month (BI, May 14).

"As premium growth continues to slow, I think you're finally going to start to see more consolidation, as companies are starting to look for ways to grow through a slower period of the cycle," said Mr. Lane.

"The Liberty Mutual acquisition of Ohio Casualty, I thought, was telling," he said. "Activity's been relatively light, but we would expect that to pick up—potentially pretty meaningfully," said Mr. Lane.

"We've been anticipating increased M&A activity for the last year," said John Iten, director at Standard & Poor's Corp. in New York. The market softening makes it difficult to grow organically, he said.

Furthermore, both the acquirers and the acquired have had the opportunity to strengthen their balance sheets and reserves, "so I think the potential acquirers are going to be less put off by the threat of legacy issues," Mr. Iten said.

The Liberty Mutual-Ohio Casualty combination could encourage others, Mr. Ward added. "It's true that transactions often breed other transactions."

However, synergies that are expected from an acquisition "don't often materialize, so we're kind of cautious in how we look at those," Mr. Auden said.

'As premium growth continues to slow, I think you're finally going to start to see more consolidation, as companies are starting to look for ways to grow through a slower period of the cycle.'

Mark Lane, William Blair & Co.

Margins will deteriorate gradually over the next 12 to 18 months, said William Blair & Co.'s Mr. Lane. "Even an active catastrophe season is not going to stop underwriting pressure on pricing, given the fact that margins are just so phenomenally high."

However, Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York, said, while rate cuts will continue, "I still think there's excess reserves out there. We could be in a period of extended profitability on the commercial side."

Future caution

But reserve development is a potential problem, Ms. Coogan-

Brokers, Insurers, Consultants, there's still time to send in a nomination for your client!

Call for Nominations

2007
Benefit Manager
OF THE YEAR[®]

Nominations for the Benefit Manager of the Year[®] Award are now being accepted by *Business Insurance*.

The Benefit Manager of the Year Award[®] was created in 2005 by *Business Insurance* to salute outstanding performance in the field of benefits management.

Executives anywhere in the world who are involved in benefit management are eligible to be nominated.

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Business Insurance OPINIONS

RIMS stands against contingent payments

IT IS NOT SURPRISING that the Risk & Insurance Management Society Inc. has come out against broker contingent commission arrangements.

What is baffling, though, is that it took RIMS so long to oppose an arrangement that is obviously against the best interests of its members. As late as 2005—long after the contingent commission scandal broke in which Marsh & McLennan Cos. Inc. was accused of rigging premium quotes to maximize its income from compensation agreements with insurers—RIMS' position was that brokers should fully disclose their compensation arrangements to buyers.

Now RIMS says transparency is not enough. Contingent commissions, RIMS says, must go. It says contingents are an inherent conflict of interest and can be manipulated to the disadvantage of corporate buyers.

What is baffling is that it took RIMS so long to oppose an arrangement that is against the best interests of its members.

We couldn't agree more.

As we wrote in 2004 when then-New York Attorney General Eliot Spitzer leveled bid-rigging charges, if a broker knows that its compensation will be increased by a contingent commission, it may be tempted to step away from its duty to obtain what is best for clients. Agents, which represent insurers, can accept such payments because their relationship with buyers differs from that of brokers.

Just as important as RIMS' unconditional opposition to broker contingent commission arrangements is its admonition to its members to speak out on the issue. We have no doubt that if risk managers had fought contingents when they first appeared years ago, the arrangements would have died.

Now, as some insurers launch a replacement for contingents—supplemental commissions—buyers must oppose any arrangement that could encourage brokers not to act in their clients' best interest.

Hillary learned lesson from failed reform effort

IT TOOK A WHILE, but Sen. Hillary Rodham Clinton, D-N.Y., finally understands why her first attempt at comprehensive health care reform failed.

To pass legislation, Sen. Clinton said last month, all the major players—providers, employers and employees—have to be involved.

Why it may seem obvious, that basic political reality eluded Sen. Clinton when, as First Lady in 1993, she directed a health care reform task force established by her husband. That the effort ended in failure shouldn't have come as a surprise.

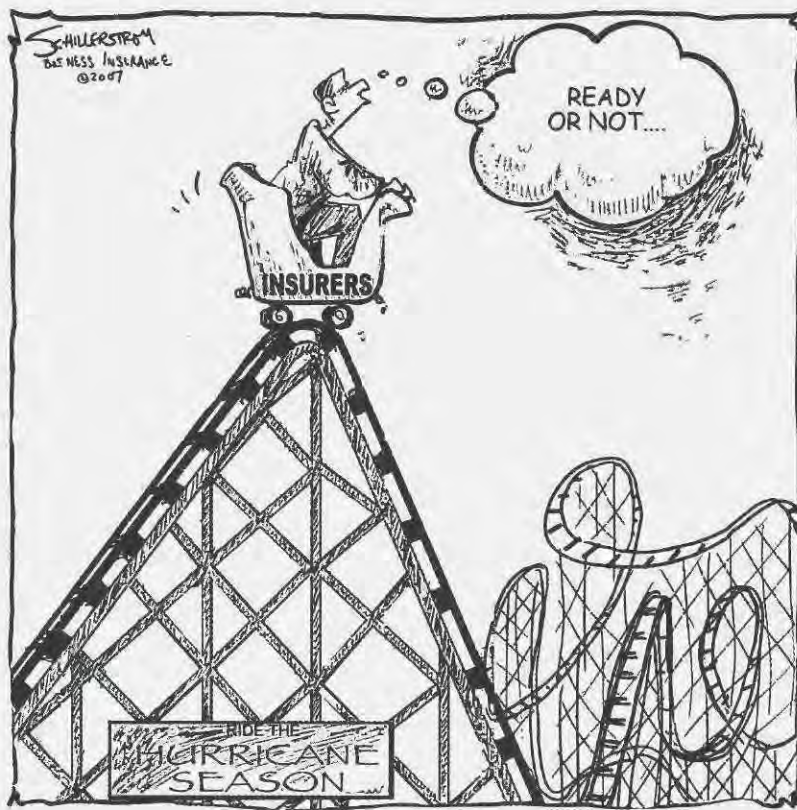
The plan, which was essentially a government takeover of the health care system, was developed behind closed doors and it was doomed because it was a rotten plan with no broad support.

At the time, though, Sen. Clinton blamed the plan's collapse on insurance industry lobbying—a factor, but only a minor one.

Sen. Clinton says she still bears scars from her last reform effort and she will do things differently this time. If so, she has to go no further than Massachusetts, where landmark comprehensive reform legislation has been enacted and where regulators, we think, are successfully implementing the law intended to achieve near-universal coverage.

The key to Massachusetts' success was that the reform drive was broad-based, where Democrats, Republicans, employers, insurers and providers openly worked together to reach a consensus.

That is a lesson Sen. Clinton finally appears to have learned and one we hope other federal lawmakers understand as well.



Letters

Doctors share responsibility for OxyContin

TO THE EDITOR: News of the OxyContin settlement in the May 21 issue of *Business Insurance* is quite bittersweet for those in the claims business. While the prosecuting entities took aim at the manufacturer, waving a flag of righteousness, they missed some other very critical targets.

I'm certain it is because they sought the easiest route to \$635 million rather than actually correcting the problem. Here is a thought: How about the doctors who have continually prescribed these pills in an incredibly irresponsible manner? Were they just duped by the drug company sales pitch? If they are gullible enough to be swayed by a drug salesperson, then should they be allowed to practice medicine? If they are ignorant enough to continue prescribing this type of medicine in spite of patients getting progressively more "disabled" rather than healing, aren't they committing malpractice or some illegal act?

I was astounded at the statistic from Washington State's Department of Labor attributing 40 to 60 deaths of injured workers to OxyContin in the last eight

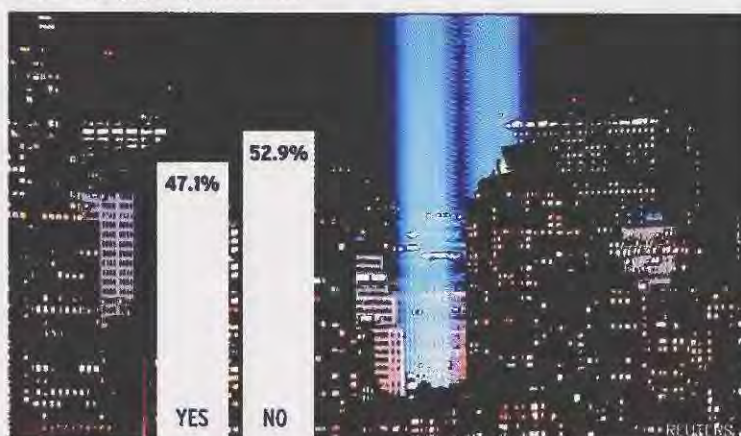
years. Consider if any employer in Washington State had 40 to 60 work-related deaths from the same cause over the last eight years—wouldn't OSHA be interested in that problem? Why then can't something be done to these doctors?

I, for one, am culling my client files and wherever OxyContin and its like are in use, I will take defense counsel to task in using statistics and findings from the recent litigation as cross-examination material. Let's put these doctors on the stand and let them try to justify this obviously horrible practice. Let's awaken workers comp judges from their lax willingness to accept whatever treatment plan rogue doctors recommend in spite of non-results. Let's draw a clear line with OxyContin. We in the industry have an opportunity to change this ourselves. The other agencies that should be responsible seem only interested in deep pockets, not your local problems.

Barry E. Thompson
President
Risk Acuity Inc.
Thomaston, Conn.

Online Poll at www.businessinsurance.com

Do you think the protracted coverage dispute arising from the destruction of the World Trade Center could have been avoided by more timely policy issuance?



NEXT WEEK'S POLL: Will RIMS' position opposing all contingent commissions lead more brokers to cease accepting them?

BI Online Poll tool sponsored by Wausau Insurance Cos.

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Business Insurance

PERSPECTIVE

10 best practices for boards overseeing insurers

By John S. Scheid



John S. Scheid is chairman, Americas Insurance Group for New York-based PricewaterhouseCoopers L.L.P.

As the insurance industry's ability to better fulfill its historical role of protecting its customers has been transformed by new risk management tools, ingenious financial models and innovative products, it has also faced unprecedented challenges ranging from expanded regulation to high-profile litigation to unparalleled media and investor scrutiny.

Hard as it is to believe, a generation ago insurance was considered to be one of the most tranquil sectors of the financial services industry, a sleepy place where change came slowly and stability was the norm. Fast-forward a couple of decades and those of us in the insurance industry are reminded of the ancient Chinese curse, "May you live in interesting times."

On the whole, the industry has responded well to the demands placed upon it.

However, individual companies have run into severe problems with regulators, investors, financiers, the courts and other stakeholders and overseers.

Following are the 10 best practices that insurance company boards can quickly implement to enhance how their business is run (and that smart managers will put in place before their

boards tell them to do so):

1. Understand and respond to concerns expressed by analysts. Analyst reports provide some of the best third-party critiques of Corporate America, and boards—especially independent directors who may not be as familiar with a given industry—need to read the reports and commentary by analysts covering their competitors as well as their own company—and have management respond to any identified weaknesses.

2. Implement a strong and effective general counsel. Good legal counsel is even more important in avoiding problems than it is at solving them. Lead in-house counsel needs to be fully qualified, given adequate resources and be empowered to respond to issues as they arise.

3. Hire quality people for internal auditor, chief accounting officer and chief actuary. Companies all too often focus only on the chief financial officer, but it is equally important to have a deep bench of finance officers, both to run the business today and to serve as potential leaders for tomorrow.

4. Build strong relationships with sub-CEO officers. The board and its committees need to meet with sub-CEO officers regularly, preferably in executive session, to get their unvarnished opinions on relevant matters. This is espe-

cially important in companies with forceful CEOs who discourage dissent.

5. Understand the financial closing process. The board needs to fully understand the closing process—how it works, how robust it is, what analysis is performed. With technology expanding the possibilities for transparency, boards should drill down into the process to reach their own conclusions about managerial judgments.

6. Review reports on the status of unreconciled balance sheet accounts. At every meeting, the board should receive reports of unreconciled premium receivables, unreconciled reinsurance recoverables and similar data, together with projected time frames for when the reconciliations will be completed. Keeping on top of these potential risk areas can help significantly manage risk.

7. Review the Securities and Exchange Commission Staff Accounting Bulletin 99. The SEC requires that registrants assess the materiality of errors that have been found or of adjustments that have not been booked. The board should be able to review these analyses and be comfortable that these matters are being appropriately addressed.

8. Monitor implementation of key projects and systems. In recent years, almost every company has integrated acquisitions, introduced new technolo-

gies or upgraded systems. These are complex undertakings. Boards need to understand the plans and the expectations, be able to monitor progress and evaluate results.

9. Evaluate financial reporting fraud risk assessment. Management needs to identify potential risk areas for fraud—for example, performance-based compensation structures that could tempt individuals to manipulate results—and then explain the steps it takes to prevent such exploitation.

10. Build and maintain an effective whistle-blower process. Some board members, corporate officers themselves, are uncomfortable with whistle-blower programs. Yet, if heeded, whistle-blowers can provide one of the best early warning systems for boards, helping catch problems before they evolve into full-blown crises.

This short list of steps is only a start. More important than any of them is an alert, informed and committed board of directors.

The best companies, in any industry, are led by people of unquestioned professionalism and integrity, and such leadership starts at the top with the board. If there is one thing that we have learned in our industry during the past several years, it is that when the buck stops, it ultimately stops with the board.

Market Moves

AmWINS opens Alabama office

BIRMINGHAM, Ala.—American Wholesale Insurance Group Inc. has opened a Birmingham, Ala., office and hired Jeffrey McNatt as president of the unit, AmWINS Brokerage of Alabama L.L.C.

Previously, Mr. McNatt was with Risk Placement Services Inc.

It makes sense to open a "companion brokerage" to American Equity Underwriters Inc., which Charlotte, N.C.-based AmWINS has agreed to acquire, said Mark Smith, president of AmWINS' brokerage division, in a statement.

Price was not disclosed for the American Equity purchase, which is expected to close this month, a spokesman said.

AmWINS Brokerage of Alabama is located at One Independence Plaza, Birmingham, Ala. 35209. Its telephone number is 205-870-8479.

Aon taps turnarounds with new TARP unit

CHICAGO—Aon Corp. has created the Turnaround and Restructuring Practice. "Companies in turnaround are largely abandoned by the brokerage and agency community," said Michael Toner, managing principal of brokerage Aon Risk Services Americas and chief executive officer of TARP.

He said the Boston-based unit will specialize in serving businesses in turnaround and have expertise in bankruptcy and related laws.

MassMutual supports breast cancer awareness

SPRINGFIELD, Mass.—Massachusetts Mutual Life Insurance Co. will present its Pearls of Wisdom physical fitness awareness seminars at eight U.S. races this summer and make contributions to breast cancer awareness efforts for each seminar

attendee, the Springfield, Mass.-based insurer said.

The 2007 effort began with MassMutual's sponsorship of the Danskin Women's Triathlon Series in Orlando, Fla., on Mother's Day.

MassMutual said its Breast Cancer Awareness campaign raised more than \$110,000 in 2006.

Max Specialty now eligible in 45 states

RICHMOND, Va.—Max Specialty Insurance Co. has added Kansas, New York and North Carolina to become an eligible surplus lines insurer in 45 U.S. states.

"We look forward to being added as an eligible surplus lines insurer in other states over the course of the year," President and CEO Stephen J. Vaccaro Jr. said in statement.

Max Capital Group Ltd. owns the Richmond, Va., excess and surplus lines insurer.

Fireman's Fund allies with National Equipment Register

NOVATO, Calif.—Fireman's Fund Insurance Co. said its specialty

insurance arm has made a strategic alliance with the National Equipment Register, which maintains an ownership database of some 12 million pieces of heavy equipment.

The Novato, Calif.-based property/casualty insurer said the alliance would give its policyholders a 20% discount off NER equipment registration fees and a deductible waiver up to \$10,000 for registered equipment that is stolen and reported to police.

CGI Group combines insurance divisions

BOSTON—Information technology and business process service provider CGI Group Inc. has combined its insurance divisions, the Boston-based company said.

The previous U.S. Insurance Business Services division and the Insurance System Integration and Consulting practice will be headed by Paul Raymond, senior vp and former head of the consulting arm.

The combined U.S. force of 750 people, which will operate under the CGI banner, is intended to better serve client needs, CGI said.

Collins expands to Philadelphia

MINNEAPOLIS—John B. Collins Associates Inc. has opened an office in Philadelphia, the Minneapolis-based reinsurance intermediary said.

The Philadelphia office is staffed by Senior Vps Robert L. Duffield and Diane M. Larzelere and Vp Maureen F. Brittingham. It is located at One Liberty Place, 1650 Market St., 36th Floor, Philadelphia, Pa. 19103. Its phone number is 269-207-2942.

TO SUBMIT ITEMS

BI's new Market Moves column reports on activities by insurance industry companies and related entities. Personnel changes appear in Comings & Goings, while new product offerings appear in Products & Services. Please send Market Moves news to: Charmain Benton, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; cbenton@businessinsurance.com. P&S and C&G items should be mailed to Joe Walker at the above address or e-mailed to jwalker@businessinsurance.com.

SECTOR BRIEFING

TELECOMMUNICATIONS

TELECOM RISKS FACING COVERAGE HANG-UPS

Value of business interruption cover debated

Risk managers seeking alternatives to respond more quickly, pay upfront

By RICHARD MILLER

Telecommunication companies are questioning the value of business interruption cover, given the complexities in settling claims and backup systems to aid business continuity, experts say.

In response, there is a move by risk managers—in some cases, led by their brokers—to see if there is something better out there. And, in fact, several realistic alternatives are either under development or are already on the market.

Business interruption losses are a real risk for telecom companies, with some of the big losses arising from hurricanes, floods, earth-

quakes and terrorism. Last December, a strong earthquake off the coast of Taiwan severed two undersea cables, and disrupted telephone and Internet service to millions of users throughout Asia.

And major claims can take a while to resolve. BellSouth Corp. in Atlanta, acquired last year by AT&T Inc., still has not completely resolved its outstanding business interruption claim from Hurricane Katrina in August 2005, according to industry sources.

No satisfaction

Business interruption in telecommunications is “an amazingly difficult topic,” said Tom Ricketts, managing director, telecoms practice leader, global technology media and telecoms industry practice, at New York-based brokerage Marsh Inc. “There is actually no satisfactory way of identifying how revenue flow within a telecommunications company relates to the assets.”

Such inherent complexities can lead to litigation after major business interruption losses. Nearly six years after the Sept. 11, 2001, terrorist attacks on the World Trade Center in New York, there are telephone company business interruption claims that are still outstanding, Mr. Ricketts said.

“Leaving aside all of the complexities, I would argue that an insurance product—especially a revenue protection product—that does not pay a claim within, say, one or two financial periods from the loss, is not actually doing the job that it is supposed to do,” he said.

At TDC A/S—Denmark’s largest mobile and fixed line provider based in Copenhagen, Denmark—management is currently unsure whether to drop the coverage entirely, said Anja Antonsen, TDC risk manager. “We are in disagreement on it because some people argue

Continued on next page

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that our limit is too low and my argument is a little bit in the opposite direction," Ms. Antonsen said.

One could argue that those telecom companies with numerous backup systems may not need the traditional business interruption product, she said.

And with many telecom companies offering a myriad of services—and therefore having numerous revenue streams—it is difficult for them to determine the size of the loss and have the correct basis of indemnity, experts say.

"For our business, where we have both mobile and land line communications, if one goes down the other one takes over, so it's hard to calculate the loss for us on the business interruption side," Ms. Antonsen said. "That is one of the most complex issues with business interruption."

To address these issues, Marsh has developed a software program for modeling business interruption for cellular telephone companies, which it hopes can be applied eventually to other area telecom operators. The program uses an algorithm that models a claim scenario and produces a revenue loss based on that scenario.

Up front

Marsh hopes the model, which it says has been tested by a few cellu-

lar operators, will eventually allow telecom companies and their insurers to reach a pre-loss agreement on how to calculate business interruption claims. Once there is a loss, the model is run, based on the actual scenario, to come up with a loss figure to be paid by the underwriter. Marsh hopes to launch the model later this year or early 2008, a spokesman said.

"Every telecom company I speak to says, 'We would like an alternative to the existing business interruption (product)' because it is difficult for them to tell where they will have the loss," said Fredrik Motzfeldt, European technology, media and telecommunications practice leader at Marsh Ltd., the London-based subsidiary of Marsh Inc.

During the broker's Marsh Technology, Media and Telecommunications Conference, held late last month in Zurich, Switzerland, a number of European telecommunication risk managers expressed how, after a service interruption, they need to react quickly in order to avoid the loss of customers.

"What they need is something that pays quickly, is easier to adjust, and maybe has a smaller limit, so you do more of the underwriting upfront," said Mr. Motzfeldt. "This is where our solution hopefully will ultimately contribute to such an outcome."

Some risk managers said that Marsh's methodology might be useful. "It could be worth having (a pre-agreement), but the problem is how to put it into words that both parties can agree on," said Ms. Antonsen of TDC.

"Obviously, we would be interested in new methodologies," added Paul Lenzi, director of risk management and insurance at Bell Canada

legal environment.

The trouble with traditional business interruption insurance is that the coverage is focused on loss of profits, plus fixed charges, which are more relevant for manufacturers than service providers, such as telecom companies, he said.

For telecom operators, JLT questions whether conventional business interruption is appropriate and has developed its own cash flow based business interruption and nonphysical damage business interruption product. After a service interruption, telecom companies need "immediate action" for increased costs such as for marketing and other operational expenses to keep customers with the company, Mr. Hacker said.

"Our experience is that clients are saying, 'We can't find the right product in the insurance market, why don't we focus on variable costs rather than profit and fixed assets.' I think that is a reasonable way of approaching it," he said.

Third way

Insurance companies also are offering business interruption alternatives that could be used to supplement or replace current policies. Some players, such as Zurich-based insurer Zurich Financial Services Group, are developing nonphysical damage contingent business interruption insurance

cover (see story, page 12).

Another product, viewed as a potential alternative to traditional business interruption insurance—where claims payments are based on the property damage loss incurred—is a form of agreed value insurance that its developers call "transurance."

Claims paid under transurance are calculated as a percentage of the loss paid under any referenced insurance policy, said Ware Preston, managing director at managing general agent Transurance Services L.L.C. in Trumbull, Conn.

For example, under a \$10 million insured property loss, the transurance policy could pay an additional 10%—or \$1 million—to be used as the policyholder sees fit—no questions asked, he explained.

The coverage is currently offered by Arch Insurance Group Inc. in New York; AEGIS Insurance Services Inc., a utility industry mutual in East Rutherford, N.J.; and Ironshore Insurance Ltd. in Hamilton, Bermuda.

Mr. Ricketts of Marsh said that transurance is relevant for the telecommunications industry because it covers the collateral losses involved in any major claim, which are not covered by traditional insurance. "In my mind, that actually offers a very interesting potential alternative to business interruption for a telecom," he said.

One could argue that those telecom companies with numerous backup systems may not need the traditional business interruption product.

Anja Antonsen, TDC A/S

Enterprises Inc. in Montreal.

But Peter Hacker, a partner and global practice leader for IFG Communications and Technology, a unit of London-based brokerage Jardine Lloyd Thompson Group P.L.C., said that he was "skeptical" about the use of a single methodology because each market is different in terms of competition, cash flow volatility, regulations and

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Service interruption protections vary by nation

Liabilities for service disruption related to telecommunications companies differ from country to country, according to Emily Freeman, London-based executive director of technology, media and cyber risks for Lockton International, a unit of Kansas City, Mo.-based Lockton Cos. Inc.

The telecommunications industry in the United States

worth potentially billions of dollars among competing telecom companies," she said.

At issue was whether federal antitrust regulations allow class action lawsuits against utilities such as phone companies. A customer claimed his business was hurt by repeated outages and missed dial tones at his office.

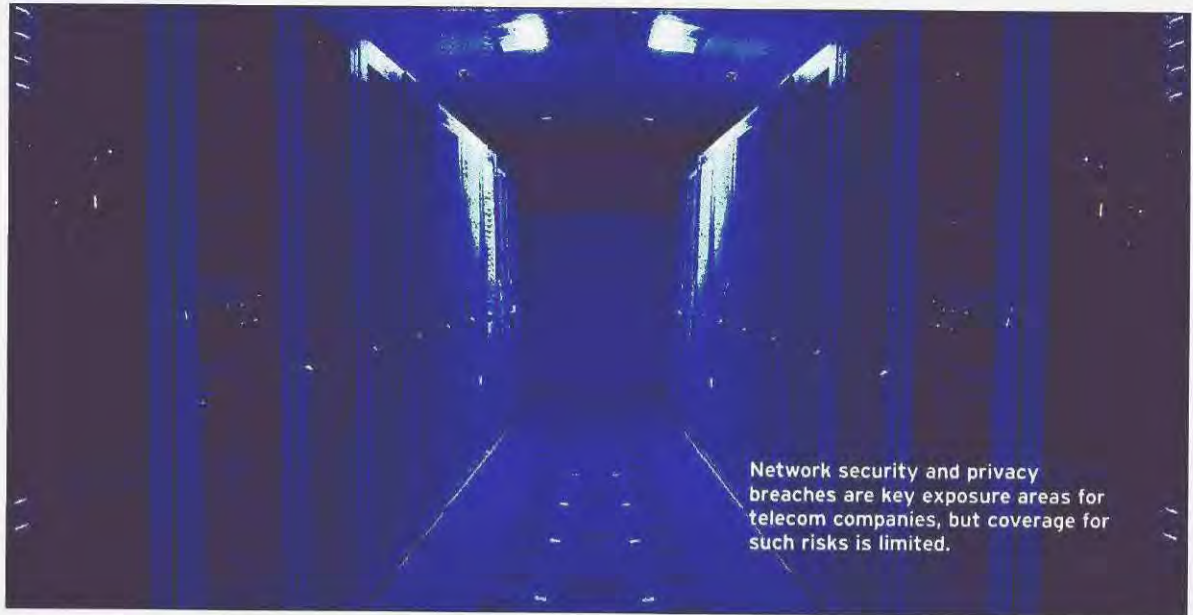
According to Ms. Freeman, the customer argued federal law allows for consumer protection for victims of antitrust violations. "The Supreme Court rejected the argument and effectively continued the barriers for consumers to pursue legal action for service failures or poor performance," she said.

In Europe, the industry does not have this special legal protection and, unlike the United States, the European Union lacks the especially favorable conditions for class actions, according to Ms. Freeman. However, telecommunication companies in the United States and the European Union have much in common with regard to terms and conditions that reject consequential damages and offer "at best service credits" for performance failures, she added.

—By Stuart Collins



enjoys broad federal antitrust protection, she said in an e-mail. "In 2004, the U.S. Supreme Court ruled there were limits to when consumers can sue over inadequate phone service, in an antitrust case



Network security and privacy breaches are key exposure areas for telecom companies, but coverage for such risks is limited.

Technology innovations boost risks for telecommunications companies

Security breaches increase exposure to privacy liability

By DAVE KAISER

As communication links multiply around the world, companies that provide much of the infrastructure for that growth face some huge security and liability issues, insurance experts say.

Telecommunications companies, many of which have long ceased to be simply providers of telephone services, now have to guard against

numerous sophisticated attempts to breach their networks in pursuit of private information.

And when the networks are compromised, insurance coverage for any financial losses is limited, experts say.

The telecommunications industry poses one of the highest risks in the technology sector, said Julie Davis, executive vp and managing director of San Jose, Calif.-based Aon Affinity Insurance Services Inc., its Wired for Growth risk management program and Aon's technology practice.

"Out of all the technology sectors, telecommunications ranks

highest in its exposure to privacy liability...because it collects and stores a great amount of private data," Ms. Davis said. The data includes: date of birth details, driver's license information, credit and financial information, and social security numbers.

With the rising numbers of electronic security breaches, telecommunications companies have an increased level of exposure and are liable to third-party and their own network risk exposures.

Key areas of concern include: breach of security/confidentiality; theft of or damage to intangible assets; release of viruses, Trojan horses (a program containing malicious logic that allows the unauthorized collection, falsification, or destruction of data) or worms (a program that duplicates itself many times, often carrying a virus); contractual liabilities; Internet media/publishing liability; business interruption; cyber extortion; personal identity theft; and public rela-

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'The information highway is no different than the highway you drive to work on, and the dangers are the same.'

Michael Flanagan, Gallagher CyberRisk

tions/crisis management, Ms. Davis said.

In addition, growing government regulations, designed to protect the rights of consumers, create additional telecommunications industry exposures.

Major risks faced by telecommunications companies are security leaks and data breaches involving employee or customer data, said Valynda Murphy, an Atlanta-based managing director at brokerage Marsh Inc.

"The challenge is that no longer

Continued on next page

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CONTINUED FROM PREVIOUS PAGE

is the phone company just a phone company. You can buy a wide variety of services, including Internet and Web site services, all from one provider," she said.

Each service gives rise to all kinds of liabilities.

Traditional protections that telecommunications companies have enjoyed do not cover many of the new exposures, said Emily Freeman, London-based executive director of technology, media and cyber risks for Lockton International, a London unit of Kansas City, Mo.-based Lockton Cos. Inc.

Security vs. connection

Telecom companies "have a considerable contractual and federal law immunity (in the United States) from customers that restricts the ability of people to sue for service failures," but "that does not necessarily apply to breaches of security

or privacy affecting consumers, which is a separate issue from whether the phone was correctly connected or there was a service interruption. You have to separate the traditional liabilities of a telecommunications company's operations issues from security and privacy issues," she said.

The biggest source of claims against telecommunications companies occur when integration of services fails, said Michael Flanagan, managing director of Gallagher CyberRisk Services, a division of Itasca, Ill.-based Arthur J. Gallagher & Co.

"The information highway is no different than the highway you drive to work on, and the dangers are the same," he said. "You have to

ask yourself, who are these people driving around on the Internet? Do they have license plates? Do they use their seat belts?"

John Lewis, Kansas City, Mo.-based senior vp at Lockton, said cyber crime, intellectual property theft and identity theft can all be wrapped up into a general business risk policy in the United States.

"Cyber risk coverage has really been a niche market," Mr. Lewis said. "Today, underwriters have technical experts that specialize in the insurance and risk management side of the business. Now specific (policy) forms are written for cyber risk coverage. Some can be an adjunct to errors and omissions policies, while others have specific

cyber coverage written for a specific company."

Scope of coverage

Ms. Freeman said coverage and the quality of coverage varies significantly from underwriter to underwriter.

"There are no standard industry forms. The data protection risks are usually covered along with a wide variety of other risks, like technology or telecommunications, errors and omissions, intellectual property and media," she said. "We have worked to improve that wording, even what the underwriters typically offer the market, but there is a real variability as to the scope of coverage and this is quite a serious risk" to telecommunications com-

panies.

Telecom professional liability forms do vary from underwriter to underwriter whether in the United States or Europe, Ms. Freeman said.

"Two key issues are the scope of the contractual liability coverage and data protection coverage. Some policy forms lack strong affirmative language for data protection risks or contain limitations that do not address the evolving threats and legal regulatory environment," she said in an e-mail.

"In the European Union, unlike the United States, such coverage may be in a blended general liability/professional liability wording. The U.S. tends to have separate general liability and professional indemnity policies," Ms. Freeman said.

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International NEWS

Reinsurance placement necessary for catastrophe cover in Romania

By RICHARD MILLER

Poland risk group urges businesses to adopt ERM

Others skeptical that companies can bypass traditional practices

By RICHARD MILLER

WARSAW, Poland—In Poland, where the practice of risk management is still a new discipline, the local risk management association believes it is realistic to encourage companies to jump straight into the gold-plated version: enterprise risk management.

At the Polish Association of Risk Management's first conference recently, ERM was a hot discussion topic for the country's risk managers and other risk experts.

A primary objective of PolRisk is to demonstrate that risk management is more than just buying insurance or managing financial risks, said Rafal Rudnicki, PolRisk's board president.

"We actually need to introduce the concept and benefits of ERM from scratch, here," said Mr. Rudnicki, group risk manager for the Poznan, Poland-based Raben Group.

Since the collapse of communism in Eastern Europe, Poland has been changing legally, economically and socially on a steep learning curve,

Mr. Rudnicki said.

"Risk management is no exception (to) that. Our economy now, and our businesses are no different from those from Western Europe—we have similar challenges, and diversity of threats and risks, so we (again) cannot afford for a trial and test approach and repeating mistakes made already in the past by someone else," Mr. Rudnicki said. "I think this is not a matter of choice—we have to jump in on the top solutions, right now. It is about being competitive in Europe.

But there is a debate whether it is feasible to think that companies in the fast developing economies of central and Eastern Europe can largely bypass traditional practices and move right to ERM techniques.

As Pierre Sonigo, secretary general of the Federation of European Risk Management Associations in Brussels, Belgium, phrased it: Can companies "go from the Middle Ages to the 21st century?"

"Can you do a leap like that?" Mr. Sonigo, a former risk manager, asked in an interview at the PolRisk conference. "It doesn't seem too realistic to me, but, on the other hand, why not? Why not start immediately at the state-of-the-art and try

See **POLAND** on next page

SINAIA, Romania—After a recent setback, the Romanian government is once again moving forward with creation of a compulsory catastrophe insurance program for homeowners that could ultimately require a placement of €3 billion (\$4.04 billion) on the global reinsurance market and may serve as a model for the region, experts said.

The program—which the government hopes will become law by July and operational by the start of 2008—would be the largest reinsurance program in force for catastrophe risk in Central and Eastern Europe, said Guy Hudson, executive director at Willis Re International in London, a unit of Willis Group Holdings Ltd.

He said there would be sufficient capacity in the reinsurance market.

Willis Re is part of a consortium of four reinsurance brokers chosen by the Romanian government to handle the program. The others involved are: Aon Re Global, the lead placement broker and a unit of Aon Corp.; London-based Benfield Group Ltd., the lead modeling partner; and Guy Carpenter & Co. GmbH, the Munich, Germany-based operation of Guy Carpenter & Co. L.L.C. in New York.

The catastrophe plan was the subject of a panel at the recent 10th Edition FIAR International Insurance-Reinsurance Forum held in Sinaia, Romania.

Under the proposal, the owners of Romania's estimated 8.5 million dwellings would be required to buy private catastrophe insurance in light of the country's risk of floods



A Romanian plan for compulsory catastrophe insurance for homeowners could require a reinsurance placement of more than \$4 billion.

and major earthquakes. Companies that own private residences would be required to buy the coverage.

The program would cover a possible maximum loss of €3 billion for an earthquake and €250 million (\$336.4 million) for a flood, brokers said.

Romanian insurers would sell the policies, which would be reinsured through a government-backed pool that would buy retrocessional protection from the reinsurance market, experts said.

"We will be coming to reinsurers during the latter part of this year to discuss the treaty program in great detail, to get the quotes and to look for the capacity that we need," said Harry Hatfield, senior vp of Guy Carpenter in London, in a presentation

at the Forumul International Asigurari-Reasigurari event.

"Very many reinsurers all around the world will be involved in this," he said.

The €3 billion limit assumes 100% participation in the program, Mr. Hatfield explained. Initially, he expects a need for about €1 billion (\$1.35 billion) to be placed in the reinsurance market.

Passage of the law to create the compulsory catastrophe pool was delayed this year because of a recent restructuring of the government.

To launch the program by the start of next year, sources said Romania's prime minister may decide to pass the law as an emergency ordinance. Parliament would take up the measure at its September session.

AMRAE attempting to give legitimacy to captives in France

By RICK MITCHELL

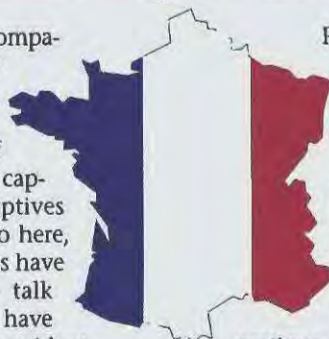
PARIS—Risk managers in France are being encouraged by their representative association to consider greater use of captive insurance as a risk management tool.

And regulatory and fiscal changes in France and the European Union have given the alternative risk financing mechanisms greater legitimacy, they say.

In the last 25 years, insurance and reinsurance captives have become the world's top alternative risk-financing tool, rising fivefold in number to 5,000 in 2006, and used by at

least 33 of the 40 largest companies on Euronext Paris, the French stock exchange, according to experts.

However, the number of French companies with captives is unknown. Captives "have largely been a taboo here, so much so that companies have even been reluctant to talk about them if they do have one," said Michel Yarhi, president of the Association pour le Management des Risques et des Assurances de l'Entreprise.



Paris-based AMRAE, France's main association for risk managers, has published a new practical guide to help members sell their bosses on the merits of creating captive insurance or reinsurance units. In its press conference in mid-May, it also discussed plans for the rest of 2007, including electing a new president in July.

Mr. Yarhi said AMRAE's "Guide pratique des captives d'assurance et de reassurance" was written by risk managers for risk managers, and offers about 20 arguments for

creating a captive.

Among reasons for setting up a captive, the association contends, are that they can help a company escape the price cycle for insurance and reinsurance premiums, reduce taxes, and give more control over risks as well as afford direct access to important reinsurance markets, such as GAREAT—the Gestion de l'Assurance et de la Réassurance des Risques d'Attentats et Actes de Terrorisme, France's pool for coinsurance and reinsurance of terrorism risks.

"For companies that are interested, now is

See **FRANCE** next page

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News In Brief

CONTINUED FROM PAGE 1

a year ago, according to a survey by the Washington-based Reinsurance Assn. of America. The reinsurers also reported \$6.73 billion in net premiums written for the first quarter, a 2.7% increase.

N.J. high court OKs Wal-Mart class suit

The New Jersey Supreme Court last week agreed to class certification of a lawsuit brought by New Jersey employees of Wal-Mart Stores Inc., in which plaintiffs charge the retail chain with denying them earned rest and meal breaks and forcing them to work off the clock. The class consists of about 72,000 current and former Wal-Mart employees, according to the May 31 opinion. A spokesman for Bentonville, Ark.-based Wal-Mart said the company was disappointed with the decision.

California commissioner wants WCIRB audit

California Insurance Commissioner Steve Poizner has ordered a "top-to-bottom audit" of the state Workers' Compensation Insurance Rating Bureau as part of a series of system reforms, and suggested that comp insurers reduce their pure premium rates by 14.2% for policies beginning on or after July 1. The San Francisco-based WCIRB has been plagued by a 12-year history of forecasting inaccuracies, Mr. Poizner said in a statement, noting that the WCIRB recommended only an 11.3% decrease in pure premiums. WCIRB could not be immediately reached.

IRS proposes accelerated HSA contributions

Regulations proposed by the Internal Revenue Service would allow employers that contribute to employees' health savings accounts to accelerate contributions for employees whose medical care expenses are greater than what the employer has so far contributed to the HSA during the year. The rule proposed last week would apply to HSAs that are not part of Section 125 programs, in which employees make pretax contributions to their accounts. Benefit experts say

accelerated employer contributions to HSAs that are part of Section 125 programs already are permitted.

Swiss Re securitizes earthquake risks

Swiss Reinsurance Co. securitized \$100 million of earthquake risk in Turkey, Greece, Israel, Portugal and Cyprus. The deal is a retrocessional agreement between Swiss Re and MedQuake Ltd., which will issue \$100 million of principal-at-risk variable notes. The notes cover severe earthquake risks in the five named countries for the period May 2007 through May 2010, Swiss Re said.

Greenlight offering raises \$258 million

Greenlight Capital Re Ltd. raised approximately \$258 million through the completion of an initial public offering and private placement, the specialty property/casualty reinsurer said last week. Greenlight Re sold at \$19 per share a total of 11,787,500 Class A ordinary shares, including 1,537,500 Class A ordinary shares exercised by underwriters of the offer pursuant to an overallotment option. Additionally, Greenlight Re announced the private sale of 2,631,579 shares at \$19 per share to David Einhorn, chairman of the Greenlight Re's board of directors. Proceeds will be used to boost Greenlight Re's underwriting capacity, the company said.

Maine high court OKs insurer fees

The Maine Supreme Court upheld a revenue source used to help subsidize health insurance premiums for low-income state residents. In a 5-1 ruling, the court upheld the methodology used by state regulators to assess special fees on insurers. Those fees are to recapture the savings insurers are supposed to gain under Maine's 2003 health care reform law, which was intended to expand the number of people with health insurance and reduce uncompensated care. The assessments, though, could be on their way out. Gov. John Baldacci has proposed that the assessments be discontinued and replaced by a surcharge added to hospital bills.

Noted

Sue Langley has been appointed director of market operations and North America at Lloyd's of London. Ms. Langley previously was chief operating officer at Bermuda-based Hiscox Ltd.

Health care: Obama plan draws on Mass. model

CONTINUED FROM PAGE 3

dents who are not covered under employer plans and are ineligible for public programs such as Medicaid, the Obama plan would provide income-related federal subsidies for health insurance premiums.

There are other striking similarities as well. The Massachusetts law established a state agency, the Connector Authority, that set up programs in which private insurers offer plans to state residents eligible for subsidies, individuals who lack group coverage and soon small employers will be added to the program. The Obama plan would create a National Health Insurance Exchange that would enable U.S. residents to purchase both federally subsidized and unsubsidized coverage from participating, approved private insurers.

'The Massachusetts model has been enacted into law and has enjoyed broad support. It should not come as a surprise that it is the starting point for state initiatives.'

Paul Dennett
American Benefits Council

"It is kind of a national Connector," said Frank McArdle, a consultant in the Washington office of Hewitt Associates Inc., referring to the similarity of Sen. Obama's Insurance Exchange to Massachusetts' Connector Authority.

Significant differences

Even so, there are significant differences between the Massachusetts law and the presidential hopeful's health care reform proposal.

For example, the Massachusetts law will impose financial penalties starting later this year on state residents who lack health insurance—unless they receive special waivers or coverage is considered unaffordable, but the Obama plan lacks an individual coverage mandate.

In addition, the Obama plan calls

for reinsuring employer-sponsored health care plans for a portion of catastrophic costs above a certain level, though employers would have to guarantee that at least some of their savings would be used the lower employees' premium contributions. The Massachusetts law lacks a reinsurance feature.

Bay State sets bar

Still, the similarities between the two plans is striking, experts say, noting that it is not surprising that Sen. Obama's plan has drawn key elements from the Massachusetts law.

"The Massachusetts model has been enacted into law and has enjoyed broad support. It should not come as a surprise that it is the starting point for state initiatives" and from candidates, said Paul Dennett, vp-health policy at the American Benefits Council in Washington.

Implementation of the Massachusetts law has given presidential candidates the political courage to take on comprehensive health care reform, said Krista Donahue, chief of policy for the Illinois Department of Healthcare and Family Services in Springfield. Ms. Donahue spoke last week at a Washington briefing sponsored by the Alliance for Health Reform and the Robert Wood Johnson Foundation.

Like Sen. Obama, other candidates—because of voter interest—are expected to unveil detailed health care reform proposals in the coming months, with Sen. Hillary Rodham Clinton, D-N.Y., expected to be next.

Health care "is one of the top domestic issues on the minds of voters," Mr. Dennett said.

Still, while those upcoming position papers will provide insights into the candidates' health care reform ideas, given the complexity of health care issues, they are not expected to be detailed.

For example, while endorsing an employer health care mandate, the Obama plan did not specify the level of benefits or the share of premium contributions that employers would have to make to avoid being assessed to help fund coverage for the uninsured.

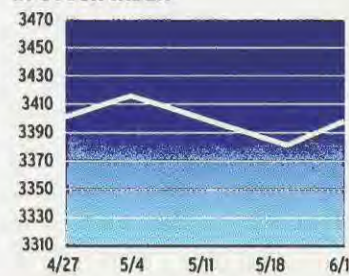
"The devil truly will be in the details. For employers, the question is how much would they have to pay and what kind of benefits they would have to offer," Mr. Dennett said.

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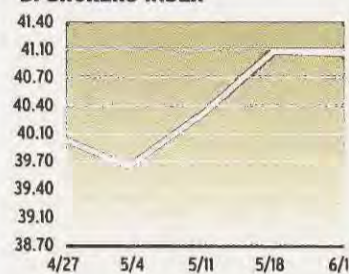
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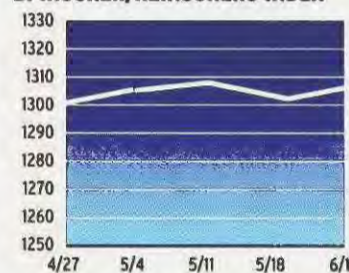
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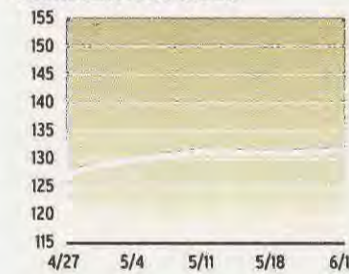
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Contributing: Roberto Ceniceros,
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LiLo back in rehab but producers of 'Poor Things' say they'll wait

Lindsay Lohan's latest rehab stint apparently won't impact her work on a dark comedy film about two elderly female con artists who befriend homeless men they murder to collect life insurance payouts.

The movie is based on true events that took place in Los Angeles.

According to Hollywood reports, it also will feature Rosario Dawson and Channing Tatum, with Shirley MacLaine and Olympia Dukakis top-lining.

Police arrested Ms. Lohan, 20, last month on suspicion of driving under the influence after her 2005 Mercedes SL-65 convertible struck a curb on Hollywood's Sunset Boulevard.

Ms. Lohan reportedly was set to begin working on "Poor Things" last week, but she entered rehab shortly after her latest auto accident.

Ms. MacLaine and Rob Hickman, "Poor Things" producers, released a statement saying they were trying to rearrange the film's shooting schedule so Ms. Lohan can participate after completing rehabilitation.



Roxxi is a central character in Re-Mission, a video game that CIGNA says helps patients adhere to their cancer treatments.

Re-Mission arms victims in battle against cancer

While some see video games as harmful to young minds, CIGNA HealthCare is encouraging young cancer patients to play one designed specifically to help them cope with their disease.

CIGNA teamed up with nonprofit HopeLab to create Re-Mission, a video game described as a challenging 3-D experience with 20 levels of game play, in which players control Roxxi the nanobot as she travels through the bodies of fictional cancer patients to destroy cancer cells, battle bacterial infections, and manage side effects associated with cancer and cancer treatments.

In a controlled trial of 375 cancer patients aged 13-29, preliminary results showed that the game helped patients adhere to cancer therapy regimens, and it improved cancer-related knowledge for adolescents and young adults, among other things.

"Teenaged cancer patients present special treatment challenges," Dr. Gary Dahl, pediatric oncologist at Lucile Packard Children's Hospital at Stanford University and a principal investigator for the Re-Mission Outcomes Study, said in a statement. "The Re-Mission video game is an important tool to help improve their understanding of cancer, its treatments and effects, which can result in more confidence in their ability to deal with the disease and more consistent compliance with their treatment."

The video game is available free of charge at www.cigna.com/re-mission.



George Dale, Mississippi's insurance commissioner since 1975, faces two primary challengers in August.

Trial bar blitz tackles Miss. insurance race

Primary races for insurance commissioners don't usually generate a lot of television ads. In fact, they usually don't generate much hoopla of any sort.

But that's not the case in Mississippi, where Insurance Commissioner George Dale finds himself the target of an advertising campaign that's not even coming from a competitor in the August Democratic primary.

Instead, the campaign is backed by the Scruggs Katrina Group, a group of four law firms that's led by the legendary trial lawyer Dickie Scruggs.

The ads never criticize Mr. Dale by name, but concentrate on a mediation program supported by Mr. Dale as a means of settling claims that arose from Hurricane Katrina. One spot, for example, features a woman whose claim was not resolved despite mediation.

The battle between the trial bar and the insurance industry over Katrina claims has been going on for over a year, and is far from finished. But the effectiveness of the unusual ad campaign may determine a winner in the battle between the trial bar and Mississippi's insurance commissioner in just a matter of weeks.

As they used to say on TV, stay tuned.

Video captures deer hunter in workers comp fraud case

A onetime corrections officer who hunted deer found himself to be the hunted—by investigators tracking his movements in a workers compensation fraud probe.

Dennis Gillan of Monroe, N.Y., was arrested on charges of insurance and workers comp fraud, grand larceny and "offering a false instrument for filing."

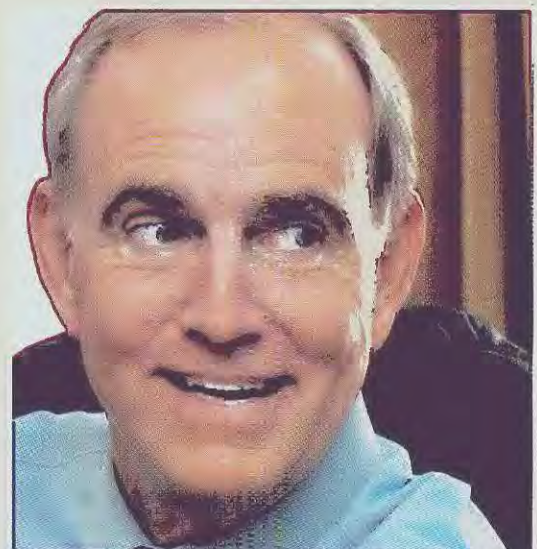
The 49-year-old was arrested last month after surveillance video captured him hiking, hunting with a bow and arrow, and even dragging deer carcasses through the woods.

While that is perfectly legal, the New

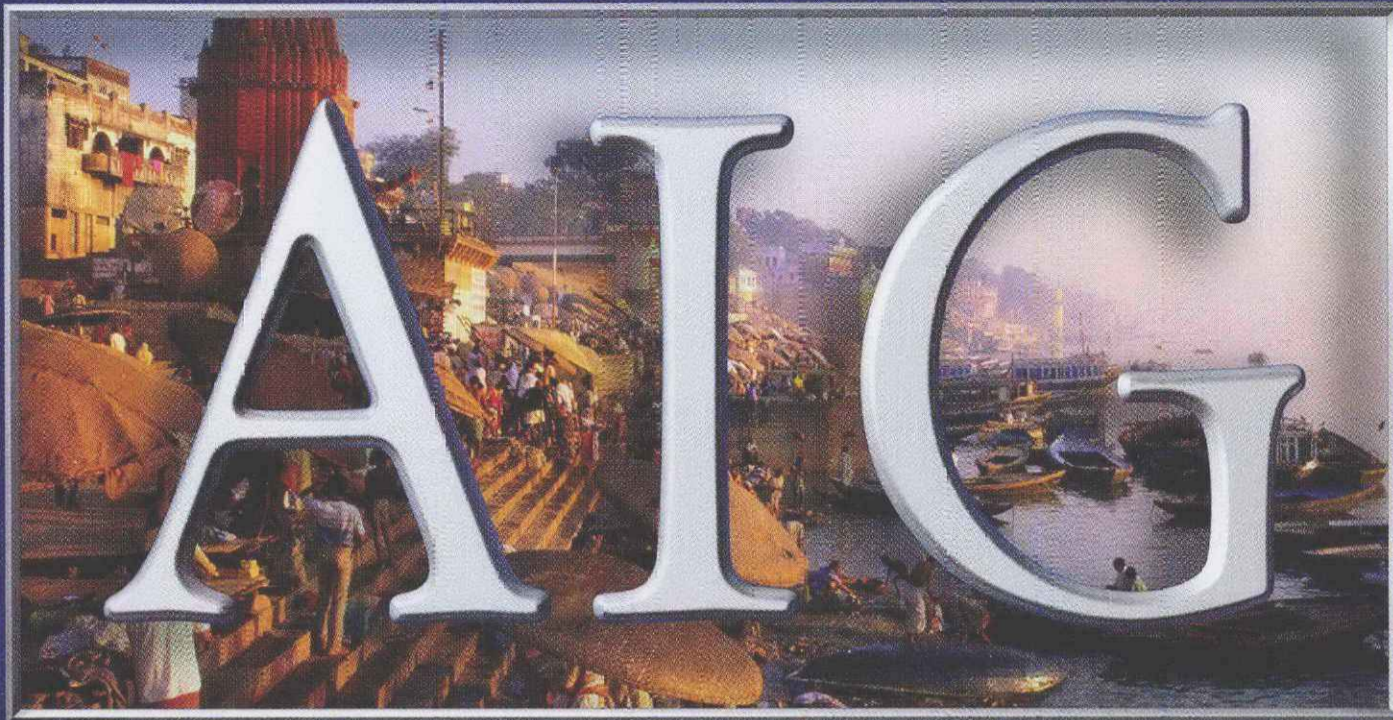
York State Insurance Fund said Mr. Gillan did all that while he also was receiving workers comp benefits for July 2002 injuries he received on the job as a state corrections officer.

He maintained he was unable to work and told a doctor performing an independent medical exam he could not walk more than a block and pain impeded his quality of life, the NYSIF said last week. The state agency said Mr. Gillan collected more than \$100,000 in benefits since his accident.

The NYSIF pointed out that the defendant is presumed innocent until proven guilty, but also noted "the potential future savings exceed \$280,000."



Law firms led by Dickie Scruggs rolled out an ad blitz focusing on handling of Hurricane Katrina claims.



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