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Updates

Philip Morris reserved for losses from contaminated cigarette recall

NEW YORK—Philip Morris Cos. Inc. has reserves to cover the cost of a $100 million recall and possibly $100 million more in business interruption losses from contaminated filters in 8 billion cigarettes.

The New York-based cigarette manufacturer has not yet decided whether it will pursue action against the filter material manufacturer that Philip Morris blames for the contamination. A spokeswoman could not say whether it has insurance to cover recall expenses.

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Care quality up, Cleveland group to focus on cost

By CHRISTINE WOOLSEY

CLEVELAND—Cleveland-area employers are pleased with quality improvements local hospitals have achieved as a result of a 5-year-old employer-sponsored project to measure patient outcomes and satisfaction.

But employers say that the steps they have taken thus far still haven't allowed them to reach their health care market reform goals.

The improvements, coupled with the expansion of managed care and increased competition among local health care providers, are credited with saving employers and other area health care purchasers an estimated $131 million since 1989.

And, the project has helped some Cleveland businesses selectively contract with, or get their managed care networks to contract with, the best performers in the area.

The employers' efforts, collectively known as the Cleveland Health Quality Choice program, are fostering a commitment to quality improvement among area hospitals.

But, employers say, despite publishing information on the quality of local hospitals, individual consumers' behavior has changed little.

And, they complain, the quality improvements have not reduced the wide price variations in clinical services from various providers or cut excess capacity out of the Cleveland market.

Since its inception in 1989, the Cleveland Health Quality Choice program has released five reports with standardized information about patient outcomes and satisfaction for 29 hospitals in a four-county area. The reports evaluate the quality of surgery, general medicine, obstetrics and intensive care services based on risk-adjusted outcomes and patient satisfaction.

The program was designed to help Cleveland businesses reliably identify the best, most cost-effective hospitals. Businesses had originally planned to steer large numbers of employees toward those facilities, giving the facilities an incentive to continue to offer high-quality care.

So far, the quality improvement results are impressive. Hospital mortality rates have declined to 6.8 deaths per 100 patients in 1994 from 7.85 in 1991. Average hospital length of stay for general medical patients has dropped to 7.35 days from 8.16 days over the same period. And, patient satisfaction with medical and surgical care in Cleveland increased to 78.6% in 1994, the highest level it's reached since tracking began in 1992.

"The question now before us is, how do we digest the data

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Spotlight on

Government Risk Management

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States take center stage

Republicans lead drive on tort laws

Long-term reform efforts beginning to bear fruit

By MARK A. HOFMANN

State lawmakers are well ahead of their federal counterparts this year on tort reform and, to a lesser extent, product liability reform legislation.

Among the more popular steps states have taken or are considering are: capping punitive damages; replacing joint and several liability with proportional liability in some cases; allowing evidence of collateral sources of compensation to be admitted in civil cases; and shielding employers from liability for certain employment information they reveal about past or present employees. Some states also have considered paying punitive damage awards into designated state funds rather than to victims.

"Reforms are, for the most part, the result of long-term efforts," said Anne Allen, state legislative counsel for the Risk & Insurance Management Society Inc. in New York. Reform efforts pushed by business and other groups for years got a big boost with the results of last November's elections.

Changes in the composition of state legislatures, notably the election of pro-business Republican majorities, proved critical, she said.

Because no one knows what shape federal tort and product liability reform will take, states "will continue to push ahead," predicted Sherman Joyce, president of the American Tort Reform Assn. in Washington. "Folks at the state level understand that Congress won't address every issue."

A summary of how the states have ad-

See **Tort** *on page 30*



Rather than leading, states retreating on health reform

By JERRY GEISEL

If 1995 is the year the states are supposed to take the lead on comprehensive health care reform, then someone forgot to tell the states.

When reform legislation crashed in Congress last year, the conventional wisdom then was that states would step up their reform efforts.

In fact, nearly the opposite has happened during states' legislative sessions this year. Some states that had attracted national attention when they enacted comprehensive reforms repealed those reforms or watered them down this year.

Washington, for example, radically redesigned a 1993 law that would have required employers to offer and pay for group health coverage.

Vermont, where legislators only two years ago were considering seriously either a single-payer, Canadian-style system or an employer mandate to achieve universal coverage, opted for a far less ambitious plan.

See **Health** *on page 35*

Easing off on the pace of reform

By MEG FLETCHER

Workers compensation efforts now focusing on minor fixes

Changes in workers compensation laws that states have made so far in 1995 pale in comparison with the broad, sweeping reforms adopted in recent years.

Legislatures adopted more technical and administrative reforms this year instead of major structural changes, such as converting debt-ridden assigned risk plans into safety-conscious mutuals, like the one operating in Maine.

The one exception is a growing discussion in Connecticut and elsewhere about discontinuing second injury funds, said Barry Llewellyn, senior vp-actuary with the National Council on Compensation Insurance in Hoboken, N.J.

Those state-run funds are designed to encourage employers to hire workers who had previously sustained a workers compensation or other type of injury.

However, they are often debt-ridden and considered duplicative of the Americans with Disabilities Act, which seeks to have employers rehire people with disabilities, he said.

Apart from that, "I think changes this year in a number of legislatures that have concluded activity were certainly fewer than in the last couple of years," said James Ellenberger, assistant director for the AFL-CIO's department of occupational safety and health in Washington.

Among those changes were limits imposed by several

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Updates

Philip Morris reserved for recall

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"We've said that the money is in reserve," she said. "Beyond that, we haven't considered how it would be handled."

It is not known whether any of the cigarettes, the filters of which are contaminated with methyl isothiocyanate, a chemical frequently used as a pesticide, reached consumers.

The "vast majority" of the cigarettes—including Marlboro, Virginia Slims, Benson & Hedges, and Merit—were still at the factory, distribution centers or warehouses, the spokeswoman said. As of June 1, the company believed it had recovered 75% of the cigarettes that had reached the retail level.

Philip Morris attributes the contamination to a reaction with a chemical in a "plasticizer" sprayed on filters during cigarette manufacturing. But the filter material supplier, Hoechst-Celanese Corp. of Somerville, N.J., said that an examination of its processes and products has shown it is not responsible for the problem.

Provident deal costs less

HOOKSETT, N.H.—Healthsource Inc. is acquiring group health care and other business of Provident Life & Accident Insurance Co. of America Inc. for $79 million less than it initially agreed to pay.

The Hooksett, N.H.-based managed care organization announced last week it has closed a $231 million deal to take over Chattanooga, Tenn.-based Provident's group health, health maintenance organization and third-party claims administration business.

The purchase price, consisting of $131 million in cash and $100 million in non-convertible preferred stock, is far lower than the $310 million in cash and stock Healthsource offered last December (*BI*, Dec. 26, 1994). The lower price reflects a lower level of profitability on the Provident business than was guaranteed in the December agreement and the effect of "formula adjustments" on the purchase price, Healthsource said. The Provident business covers 800,000 people in four southeastern states where Healthsource has contracts with more than 9,000 physicians and 140 hospitals.

Separately, Healthsource said it has canceled an agreement to acquire Health New England Inc., a managed care company with 55,000 HMO members in western Massachusetts. The move followed a termination of negotiations with HNE's largest hospital provider and shareholder, Healthsource announced.

Honda damage award reduced

JACKSON, Miss.—Honda Motor Corp. must pay a motorcyclist who lost his leg in an accident $1 million in actual damages, but a $2 million punitive award has been vacated by the 5th U.S. Circuit Court of Appeals.

The court ruled last week that an original jury award of $3 million should be reduced by the amount of the punitive award after determining the plaintiff was not entitled to the punitive damages.

James C. Satcher had charged that Honda was negligent in not equipping the motorcycle with leg guards. A U.S. District Court upheld the original award, and Honda appealed.

In rejecting the punitive award, the 5th Circuit said that Mississippi law allows punitive damages only in "extreme cases" and the damages are "to be allowed only with caution and within narrow limits." The court noted that in regard to gross negligence, "punitive damages are ordinarily recoverable only in cases where the negligence is so gross as to indicate reckless or wanton disregard of the safety of others."

A spokesman for Torrance, Calif.-based Honda would not say whether insurance will cover the $1 million award and added, "We are discussing our options" with regard to a further appeal.

Home deal gets N.H. approval

CONCORD, N.H.—New Hampshire insurance regulators gave final approval late last month to Zurich Insurance Group's plan to take over Home Holdings Inc.

"It's expected that other states will issue their approvals before June 7," said David Nichols, assistant commissioner.

Zurich said in a statement that it expects the transaction will be concluded in "a matter of weeks."

New Hampshire's approval is considered key because The Home Insurance Co., Home's largest unit, is domiciled there. However, regulators from six other states where Home operates also have authority to approve the proposal (*BI*, May 22).

The arrangement essentially calls for Zurich to take over many of The Home's profitable property/casualty policies, while Home would run off claims on old policies and other debts.

Since the restructuring plan was proposed more than six months ago, regulators sought more protection for The Home's policyholders.

Recent deal sweeteners included Zurich adding another $300 million in reinsurance. Zurich now is promising to pay up to $1.59 billion if Home's assets are exhausted before all claims are paid. In addition, the Swiss parent company of all the Zurich units would guarantee the reinsurance program, which will be issued by Centre International, an Irish subsidiary of Zurich.

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Errors and omissions

• Nonprofits' Insurance Alliance of California listed an incorrect address in the May 29 Guide to Alternative Risk Facilities. Its address is P.O. Box 8507, Santa Cruz, Calif., 95061-8507. Also, D&O coverage is provided in addition to the coverages listed.

• A report on state tort reform efforts that begins on page 1 should have said that a taxpayer lawsuit challenging a new Illinois law already has been dismissed by a state court judge.

Sons' fraud trial opens in Maxwell pension case

By EDWIN UNSWORTH

LONDON—As debts of companies in his business empire began to come due, Robert Maxwell, assisted by his two sons and two other officials, fraudulently used £122 million ($228.1 million) of employees' pension fund assets to help meet these liabilities, a prosecution lawyer alleged last week.

Alan Suckling, the lawyer heading the prosecution for Britain's Serious Fraud Office, spent the first three days of the trial outlining the complex web of dealings by which he maintains the accused used pension fund assets for an "ulterior purpose."

On trial are Kevin and Ian Maxwell, sons of media mogul Robert Maxwell, who died mysteriously when he fell from his $20 million yacht near the Canary Islands in November 1991 (*BI*, Nov. 11). The consequences of the alleged fraudulent acts were closing in at the time.

The sons, who were directors of a string of Maxwell companies and trustees of the pension funds, are accused with two others—Larry Trachtenberg, a former adviser to Robert Maxwell; and Robert Bunn, a former finance director of Maxwell Communication Corp., one of the late publisher's two publicly quoted companies. All four pleaded innocent to the charges.

It was soon after Robert Maxwell's death that the financial problems of his business empire, and the alleged siphoning of as-

See **Maxwell** *on page 47*

Bill would exclude most commercial cover from fund

Florida shores up property market

TALLAHASSEE, Fla.—Gov. Lawton Chiles is expected to sign this week a bill designed to stablize the Florida property insurance market, which still is reeling nearly three years after Hurricane Andrew.

The proposal would exclude non-residential commercial policies from coverage under the Florida Hurricane Catastrophe Fund (*BI*, Nov. 1, 1993).

Insurers also would have the option of obtaining coverage for 45%, 75% or 90% of losses above the trigger rather than the present 75%. Reimbursement would be provided on a per occurrence basis rather than per hurricane season.

Condominium association and apartment building policies would be transferred from the Florida Property & Casualty Joint Underwriting Assn. to the residential JUA.

The property/casualty JUA was activated only to cover those classes of business, so it will be deactivated when the law takes effect.

Steps also will be taken to make the residential JUA the insurer of last resort. Many agents and brokers have complained that the JUA's rates are competitive with the voluntary market.

Under the new legislation, JUA rates would have to be pegged to the highest of the rates charged by the top 10 insurers in terms of

See **Florida** *on page 45*

Laying down the law

By JOANNE WOJCIK

Careful planning helps reduce litigation bills

ORANGE, Calif.—Risk managers should require their outside counsel to prepare a litigation plan and establish a legal expense budget before litigation begins, a legal cost management expert advises.

"A lot of people just look at their attorneys' bills and then try to discount payments," observed Peter D. Zeughauser, senior vp and general counsel of the Irvine Co., a Newport Beach, Calif.-based real estate company.

"But then it's too late," he said. "The horse is already out of the barn."

Instead, risk managers must be proactive, he said, and ask their outside legal counsel to provide a litigation plan and a budget before the first motion is filed, Mr. Zeughauser said at a recent meeting of the Orange Empire chapter of the Risk & Insurance Management Society Inc.

"If your lawyer is reluctant to give you a budget, ask for high and low estimates and how many depositions and motions" will be needed within the first 90 to 120 days, he suggested.

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Cross-country coverage

NAFTA helps relax Mexican transportation insurance rules

By GAVIN SOUTER

SAN ANTONIO—Companies that transport goods to and from Mexico by truck will find it a whole lot easier to buy coverage as a result of the North American Free Trade Agreement, a lawyer says.

But the ease in buying insurance should not be seen as a substitute for risk management, an insurance company executive warned.

Although NAFTA will permit U.S. insurers to own Mexican insurers eventually, the agreement generally did not remove restrictions on insurance, Marilyn L. Lytle, a partner at law firm Thatcher Proffitt & Wood in New York, said last month at the annual Inland Marine Underwriters Assn. conference.

One area in which NAFTA did liberalize trade, however, was marine cargo insurance, which includes inland marine coverage. Instead of buying coverage in Mexico, truckers will be able to obtain coverage from insurers in the United States, thanks to NAFTA, she said.

"Allowance of cross-border contracts for marine cargo insurance is a very significant departure. Under NAFTA, Mexican law now permits U.S. and Canadian insurance companies to write transportation insurance on international cargoes moving in and

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Inside

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Government Risk Management



AP/WIDE WORLD

The closing of Pennsylvania Avenue to traffic is a sign of the nation's increased concern about terrorist attacks.

Soft market bodes well for public entities, not pools

By RODD ZOLKOS

A highly competitive municipal liability insurance market is good news for public entities unaccustomed to having risk financing options.

That soft municipal market, though, could lure enough governments back to traditional insurance to imperil some of the self-insurance pools created in response to the mid-1980s hard market. Ironically, those pools have contributed to the commercial market's interest in public-sector business.

"We have had no increases in our liability premiums the past year or two," said John R. Rath, director of risk management for Milwaukee County, Wis., which self-insures most liability exposures, purchasing excess coverages above the self-insured retentions.

Airport liability seems to be the exception. "The market has hardened considerably," Mr. Rath said. "Our premiums have gone up by 26% to 27% from 1994 to 1995."

"I think that's being driven by the disastrous air crashes and also the reinsurance capacity," he said. "When I discussed this with my peers, other risk managers of municipalities that have airports, they have the same problem."

But, airports aside, in general "capacity and coverage terms and pricing all seem to be extremely favorable for municipalities," said Mark Ferraro, chairman of Johnson & Higgins' Dallas-based government division.

"I'm contacted quite frequently by companies which are very interested in getting into this business," Mr. Ferraro said.

And, attractive pricing and coverage terms are prompting some public entities that had been out of the commercial market to return, he said

"We have clients who are buying more insurance or coming back into the insurance market because the risk transfer process using traditional insurance is a very attractive option," he said.

Many insurers have formed spe-

See **Municipal** *on next page*

Terrorism awareness triggering closer look at exposure

Risk managers' dilemma: Beefing up security while still keeping public buildings public

By DAVE LENCKUS

They're the signs of the times.

Video surveillance cameras dot a growing number of municipal buildings throughout Oklahoma.

Some building entrances and elevator banks are closed off to the public in numerous state buildings in Nebraska.

New perimeter fencing secures some critical Milwaukee County, Wis., buildings.

Those security measures may not be as powerful symbols of the country's new apprehension about terrorism as are the barricades that have transformed Pennsylvania Avenue into a pedestrian mall in front of the White House.

Nonetheless, they illustrate the heightened attention to security by many risk managers at even modest-sized public entities nationwide since the tragic bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

What risks, though, do non-federal public entities face?

E.C. "Mike" Ackerman, managing director of Miami-based security consultant Ackerman Group Inc., does not believe that state governments, for example, are vulnerable to attacks from ultra-conservative groups like those the authorities have linked to Oklahoma City bombing suspect Timothy McVeigh. Members of ultra-right groups "are big states'-rights people," he observed.

But, the truck bomb that claimed at least 168 lives and inflicted between $125 million and $300 million of insured property damage in Oklahoma City on April 19 has jolted many public entity risk managers into reassessing how well they are protected from many other smaller attacks as well, regardless of whether they are true terrorist acts.

The offenders may be disgruntled ex-employees or mentally unbalanced members of the public who have been dealt legal setbacks. Their attacks may come in the form of small bombs that are left in briefcases or sent through the mail. Gun-wielding individuals also pose a more likely risk than truck bombs, many public entity risk managers believe.

The need for added security, though, presents a dilemma for risk managers at public entities. "We can't make employees feel like inmates and make the public feel distanced," said Harold Pumford, chief executive officer of the Oklahoma Municipal Assurance Group in Oklahoma City, a general liability, workers compensation, life and health care coverage pool for 400 municipalities statewide. The pool also is developing a property coverage program.

The extra security efforts, though, may not be enough to protect public entities' property coverage for losses resulting from terrorism (see story, page 13).

A sobering fact that the Oklahoma City bombing has underscored for risk managers and security experts is that truly protecting a building that is open to the public is nearly impossible.

That distressing reminder though, "doesn't mean the government doesn't have the responsibility to lower the likelihood" that terrorists or others will succeed, said Richard Moran, a professor of sociology and criminology at Mount Holyoke College in South Hadley, Mass.

"Just because you don't have ultimate control doesn't mean you don't have any influence" over some individuals who may entertain thoughts of future terrorist activity, he said.

"Anyone who doesn't read the tea leaves and doesn't come to the conclusion that we're living in a society that is more violence-prone and doesn't take measures would be making a big mistake," Mr. Ackerman agreed.

A basic measure that public entities can take to safeguard themselves against truck bombings is erecting large motor vehicle traffic pe-

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Municipal

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cialty groups to write municipal business, noted Jim Smith, president of AMGRIP, a J&H unit in Houston, formerly called American Governmental Risk & Insurance Programs, that provides government risk management and brokerage services.

"That leads me to believe they're going to stick with this line of business and it's not going to go away as it has in the past," he said.

"It's a very, very dynamic market right now," Mr. Smith said. "The pools around the country are going to see a lot more competition from insurance companies in a way they haven't over the past five years. Pools have dominated the governmental arena for the past three to five years and now I think you're going to see a real movement on the part of some commercial insurance companies."

"There are a lot of players now that are willing to write governmental business that just weren't there," he said. "It is truly a different market than it was three to five years ago in terms of availability."

Traditional insurers are willing to write $5 million excess of a $250,000 self-insured retention in the municipal liability market "all day," Mr. Smith said. "Now what you've got is great availability of excess insurance for self-insurance programs, and not just availability but extreme affordability."

One municipal liability pool has taken advantage of the favorable market to reinsure its entire exposure, said Tom Vance, risk manager for the city of Anaheim, Calif. Others, like the Authority for California Cities Excess Liability—of which Mr. Vance is a board member and former president—have excess coverage attaching at $1 million.

To a large extent, the traditional insurers have been drawn back to the municipal liability market by the fact that public entities have become better risks, many say.

Forced to self-insure or pool by the hard market in the mid-'80s, public entities had to become more sensitive to losses and loss control.

"Over the past 10 years, public entities have developed very competent risk management programs," Mr. Ferraro said. "If you ignore what you see on television, public entities are very good risks."

Mr. Ferraro cited police department efforts to reduce law enforcement liability claims in recent years as one example of successful public-sector risk management.

"You still have Rodney King, but what made Rodney King so remarkable was how unique Rodney King really is," he said. "It's the rising tide of professionalism."

And, while the public sector is often accused of thinking only budget year to budget year, Mr. Ferraro believes governmental entities have begun to think strategically about risk financing.

Mr. Smith said that governmental entities also have benefited from the fact there is "a lot more effective sharing of detailed information and risk management techniques in the public sector than there is in the private sector."

Changes in the way municipal liability coverages are structured also have helped make the public sector more attractive to insurers, he said.

"I think the insurance industry has a better understanding of the public sector," Mr. Smith said. "In '83, '85, for example, you sometimes had law enforcement tied into general liability. Then there was a movement to really segregate law enforcement from general liability."

Separating law enforcement liability from the CGL coverage allowed insurers to price law enforcement liability on the basis of experience and track municipalities' loss histories and claims. This gave insurers a needed comfort level with the coverage.

In addition to better risk management and loss control, tort caps and exemption from joint and several liability laws for public entities in many states also have helped draw insurers back into the municipal liability market, said Gary Martin, manager of the public entity division of Rollins Hudig Hall Group Inc. in San Francisco.

"I think the insurance industry is seeing that public entities are not the negative risk they were viewed as in 1985-86," he said.

But, as both a city risk manager and a liability pool official, Anaheim's Mr. Vance said he's of two minds in looking at the traditional market's eagerness to write public entity coverage.

"As a risk manager, I'm glad to see the competition and all that, but wearing a pool hat, it has been some concern," he said.

With a pool, "long-term there's no question that your costs are less and your overall premium fluctuations are definitely less," he said.

But Mr. Vance said that he's concerned that, with the financial pressures facing local government entities, many public risk managers may tend to grab for short-term savings, leaving some pools' future in jeopardy.

"It may well be that if enough people leave, you won't have enough people there to spread the risk and the pool might go away," Mr. Vance said. "When the market hardens, which it always will, the pool won't be there."

Mr. Vance noted that the ACCEL pool Anaheim is part of has lowered deposit premiums 50% since it started, in part because it had "more than sufficient funding," but also "to be competitive with other pools and with the marketplace."

"I think the pools are for the first time seeing real competition from the traditional market and also from other pools," said David Randall, senior vp at the public entity division of Sedgwick James Inc. in Columbia, S.C. "But I haven't seen any erosion of membership. The pools are still very strong."

Dennis Kirschbaum, executive director of the Arlington, Va.-based Public Risk Management Assn., offered a similar assessment.

"Back in the mid-'80s, when pools were being formed, there was a lot of talk of doom and gloom that when the market finally did soften insurance companies would siphon off the most desirable risks and the pools would all fall apart," he said. "That hasn't happened."

About 75% of PRIMA's members are in pools or self-insured, Mr. Kirschbaum said.

"At this point it's not real clear whether the traditional insurers which are coming into the market are trying to pick off the best risks and cause pools to have adverse selection against them," said Lisa Chanzit, a principal at Towers Perrin in Simsbury, Conn. "It's not clear what they're trying to do except pick up a lot of business."

She said she hasn't seen any pools have problems meeting their fixed costs because of the pressures of the soft market, but says that's something that could happen.

In general, "the pools are in a pretty strong financial position," Ms. Chanzit said. "But I think one thing they're going to have to watch

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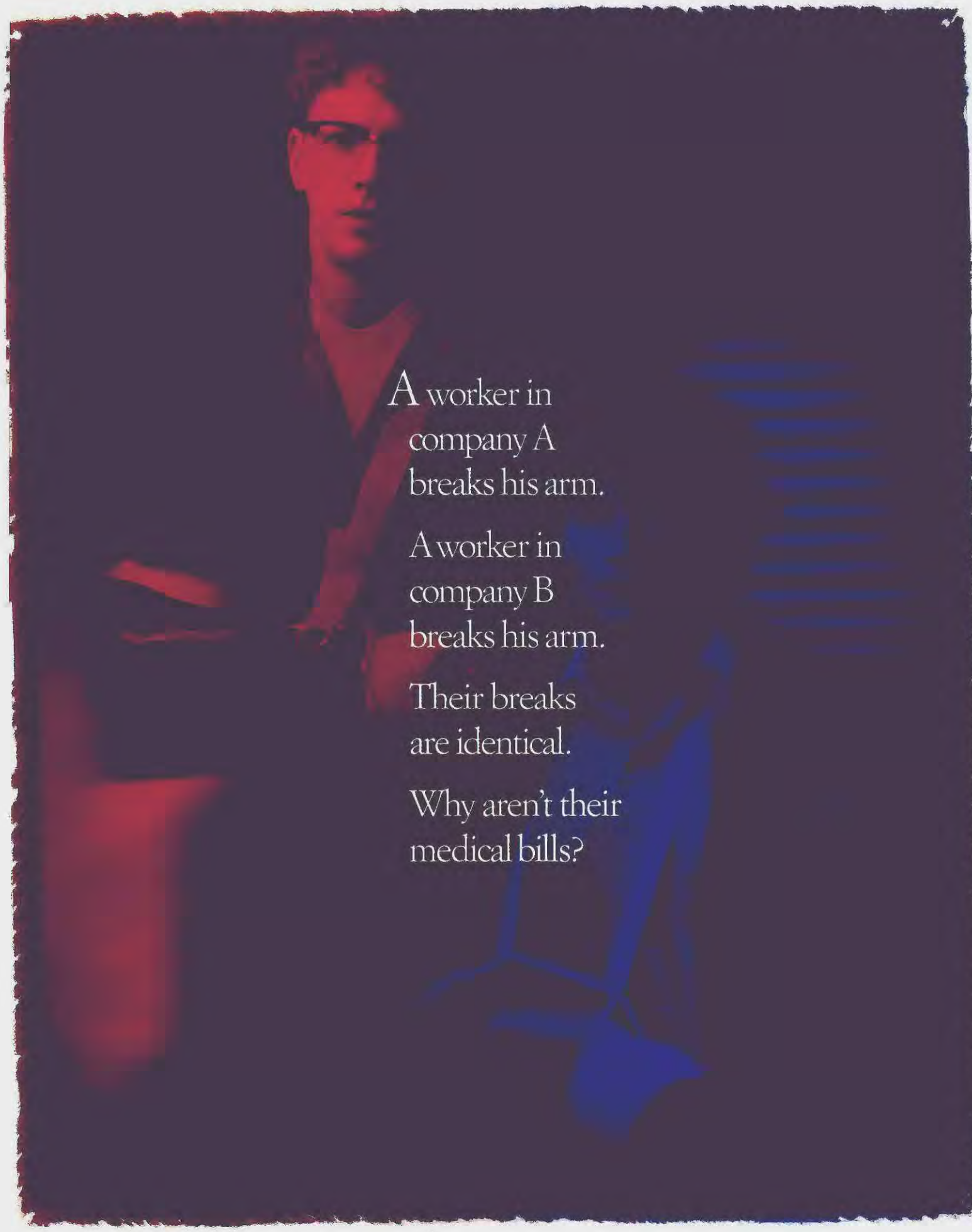
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Spotlight report

Municipal

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out for is that the market has been very soft for a while. At some point, you get all you can out of loss control and at some point your pricing has to head up again, and if the insurance market hasn't hardened by then, that's going to cause a lot more competitive pressure."

As they've developed, the pools have been offering more sophisticated and flexible products, Ms. Chanzit said. They've also been able to broaden coverage as the soft market makes reinsurance more available.

Municipalities are also making more sophisticated use of traditional market products. For example, Mr. Ferraro said J&H is creating a construction wrap-up program for the City of Memphis that will cover all contractors with city construction projects costing more than $100,000.

He believes many municipalities might make use of that sort of program in the future, particularly as a way of helping small, minority-owned businesses participate in construction projects. Those smaller businesses can often find access to the projects blocked by their inability to get coverage on their own.

Milwaukee County is crafting a similar wrap-up strategy using a Zurich-American Insurance Group product that allows the county to buy umbrella coverage for all its capital improvement projects, Mr. Rath said. Coverage is purchased annually. "Then there is a retro premium based on the value of the projects," he said. "We've found the rates and the coverage favorable."

Environmental liability remains a problem for municipalities, though RHH's Mr. Martin noted there are efforts to develop some self-funding and risk transfer mechanisms for public agencies to meet environmental liabilities.

Whatever the long-term implications insurers' interest in public-sector business might have for pools, Anaheim's Mr. Vance refuses to call the competitive market a "threat" to pools, preferring to see it as offering opportunities.

But, as favorable as the market is now for public entities, he also has a hard time believing insurers are in the municipal liability market for the long haul. "There's no history at all of a long-term commitment to this market," he said. BI

Municipal Mutual forges ahead in seeking members

A mutual insurer formed by a Los Angeles suburb is finding the process of attracting members slow, but it's still trying.

Incorporated in 1992 and licensed in 1993, Municipal Mutual Insurance Co. was created by Gardena, Calif., officials as a way to meet the insurance needs of that city and other municipalities.

Before forming the mutual, Gardena had participated in one of California's many municipal liability pools. The problem for Municipal Mutual is that most of the other localities in the state still do.

"It's obviously very unusual for an individual public entity to start its own insurance company," said Dennis Kirschbaum, executive director of the Public Risk Management Assn. in Arlington, Va.

Tom Vance, risk manager of Anaheim, Calif., noted that it's tough running an insurance company when you've only got one customer, and to succeed, Municipal Mutual needed additional municipalities.

With just one participant "there's no spread of risk. It makes no sense to have an insurance company with only one insured," he said. "If they're the only member long-term, that is an incredibly expensive way to finance your own risk."

"Yes and no," said Jim Gregg, president and CEO of Municipal Mutual, noting that the company is highly capitalized, and that Municipal Mutual has attracted a second customer, the city of Richmond, Calif., last October. "We certainly expect to meet our goal of five cities by July 1," he said.

Gardena city officials declined to comment, referring questions to Mr. Gregg.

Among the changes Municipal Mutual has made recently to lure additional business was terminating its exclusive brokerage agreement with Willis Corroon Corp. and going to an open brokerage arrangement.

"Obviously in the municipal marketplace, most of the renewals occur on July 1," Mr. Gregg said. "So we don't know the impact. . .yet."

Mr. Vance expects Municipal Mutual's task to remain difficult.

"It will be extremely difficult for them to attract people for a long time because 87% of California municipalities are in some kind of pool," he said.

"It's a difficult market to enter," Mr. Gregg conceded. "People are kind of kicking our tires and seeing what we're all about."

Municipal Mutual offers broad form general liability coverage, including law enforcement liability and public officials errors and omissions, and recently has begun offering excess coverage for municipal liability pools.

"The company has taken some hits in the past as a 'pool basher,' " Mr. Gregg said. But "pools are here to stay," he said, and he believes Municipal Mutual is a viable market for pools' excess coverage.

"I know that their approach has changed under Jim's leadership," Anaheim's Mr. Vance said. "They are out and marketing."

While the mutual company's charter doesn't limit it to writing coverage for cities, Mr. Gregg said it probably won't expand to offering coverage for other sorts of public entities for the time being.

"You have to walk before you can run," he said. "But that's not to preclude expansion in the future."

—By Rodd Zolkos



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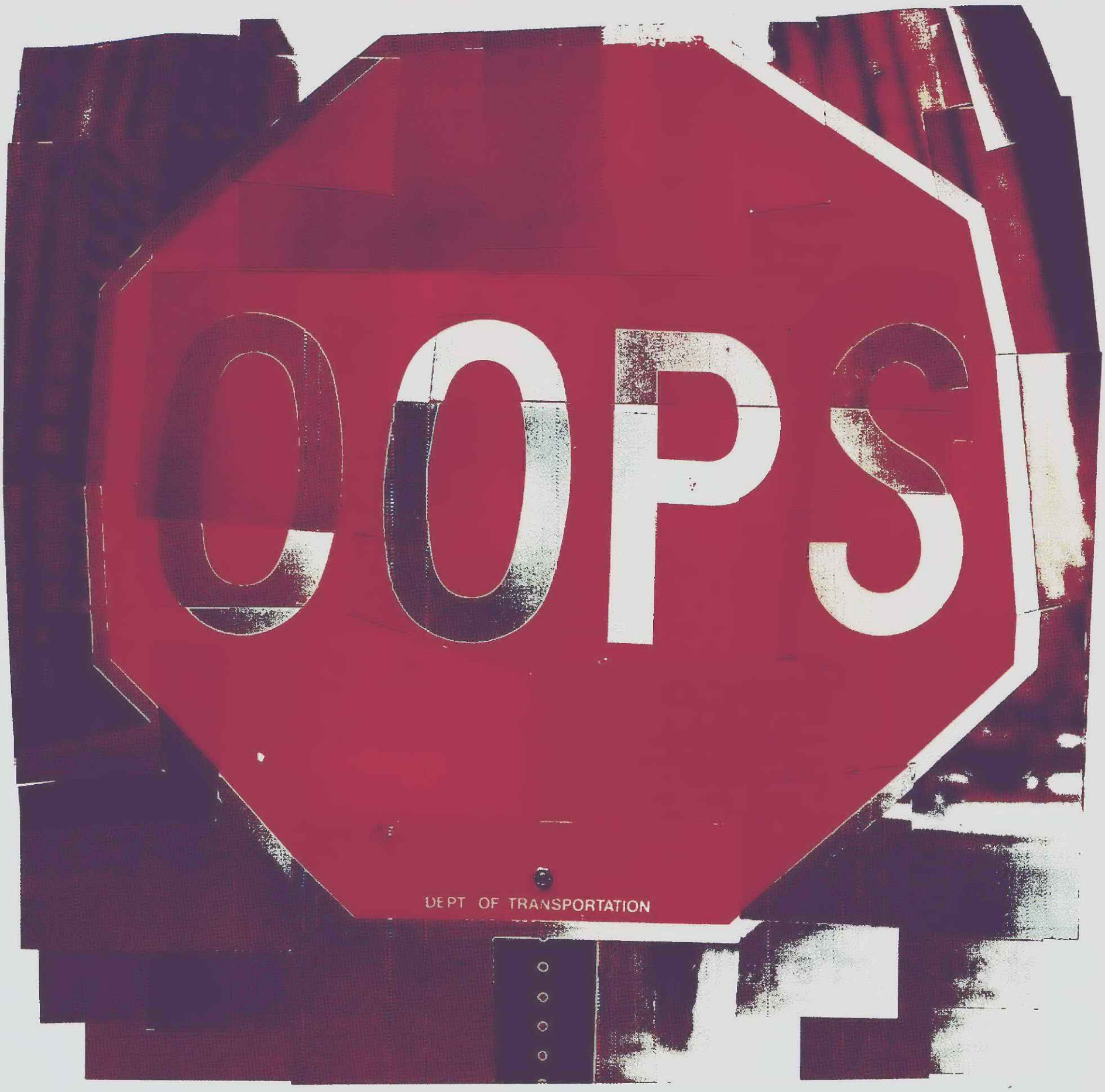
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Opinions

Keep your eyes on states

GIVEN ALL OF the effort being made to enact federal product liability and tort reform legislation, it's easy to play down what's happening at the state level.

But as our page 1 report demonstrates, the states remain the chief arena for reform. Consider a few of the steps that states have taken:

• In Illinois, Gov. Jim Edgar signed a bill that limits non-economic damages to $500,000 in personal injury cases—indexed for inflation—and limits punitive damages to three times actual damages.

• In Indiana, the Omnibus Tort Reform Bill, also known as the Personal Responsibility Act of 1995, takes effect July 1. Among other things, the act puts limits on punitive damages. For example, when a jury returns a punitive damage award larger than three times the compensatory damages, a judge must reduce the award to three times compensatory damages or $50,000—whichever is greater. The law also stipulates that 75% of punitive damage awards go to the state's compensation fund for victims of violent crime.

• In Wisconsin, Gov. Tommy G. Thompson has signed into law a measure that limits defendants found less than 51% responsible for a negligent action to paying only a share of damages proportionate with that defendant's share of responsibility. The law previously subjected anyone found to be at least 1% responsible for an act to joint and several liability if the others involved couldn't pay their share.

Those were by no means the only reforms approved in those states and while the Great Lakes region is the area where the most progress has been made, it's by no means the only one. States as varied as New Jersey and Texas have made significant reforms.

The reforms themselves run the gamut. In addition to the ones mentioned above, other states have tackled issues as diverse as medical malpractice, product liability, the legal protections available to an employer regarding disclosure of a former employee's work history, and the question of whether the loser in a civil suit should pay a portion of the winner's legal fees.



The state actions come at a time when Congress has been making its own reform moves. The House has passed a comprehensive legal reform bill. Both the House and Senate, of course, have approved legislation creating uniform federal product liability standards. Unfortunately, the two measures are so dissimilar that a protracted fight in conference committee can be expected. And even if a compromise bill emerges, there's no guarantee that it would survive a presidential veto.

The uncertainty over what will become of reform legislation in Washington makes a two-prong reform strategy essential for business. While the push for national reforms must continue, the gains at the state level show that this is no time to weaken efforts in the statehouses. There are still bellwether states such as California where opponents have managed to derail reform for the time being, and these states will have to be revisited. It's time to learn from the strategies that made reforms possible in so many states thus far this year, and redouble efforts elsewhere.

What a Lloyd's failure would mean

Last week, The Economist questioned whether Lloyd's of London's reconstruction plan offers too little to policyholders.

Its argument went like this: If the proposal is approved and runoff reinsurer Equitas Ltd. opens its doors to pay mainly U.S. policyholder liabilities, the reinsurer will have only £300 million ($476.4 million) in surplus, which is a "wafer-thin margin" and could prompt Equitas' demise.

It may be better for policyholders and the reputation of the London market, The Economist argued, if Lloyd's were allowed to fail because many insurers would take up the capacity slack and London would remain a leading insurance market.

How wrong can you get?

If Lloyd's fails, policyholders must by definition be worse off than if the market continued. Since when are policyholders better off when an insurer fails? As creditors, they wait for years and years and even then rarely are paid in full.

As Lloyd's Chairman David Rowland warned members last week, receivers would seek every penny the members had to pay legitimate claims, so buyers would probably get their money nearly in full. But how long would it take the receivers to collect the money? If members on the policies have died, how difficult would it be to recover funds from their estates? Are we talking years or decades? Lloyd's in liquidation would make the KWELM runoff of $10 billion look like a tea party.

And it's wrong to think there are enough underwriters to pick up where Lloyd's would leave off. Although the market has a small percentage of the world's property/casualty capacity, it leads many major energy, aviation, marine and property catastrophe risks. And its contribution in terms of underwriting and claims expertise is hard to quantify.

There also would be a huge hole in the London market, and there's no way non-U.K. policyholders would be attracted to the old city without the presence of Lloyd's and its marketing power. Thousands of jobs would be lost and London's reputation as a financial center would be tarnished forever.

Whether policyholders will continue to support Lloyd's in its hour of need, or indeed whether they will support the new Lloyd's, is another matter. No buyer likes a shaky market and you can't get much shakier than Lloyd's. Some U.S. policyholders seem relieved by the New York Insurance Department's willingness to allow Lloyd's to continue to trade under new rules come Aug. 1. Others may have lost confidence already and pulled out of the market.

If policyholders vote with their feet and refuse to place their business in the 307-year-old institution, then the lack of premium will force Lloyd's out of business anyway (see story, page 42).

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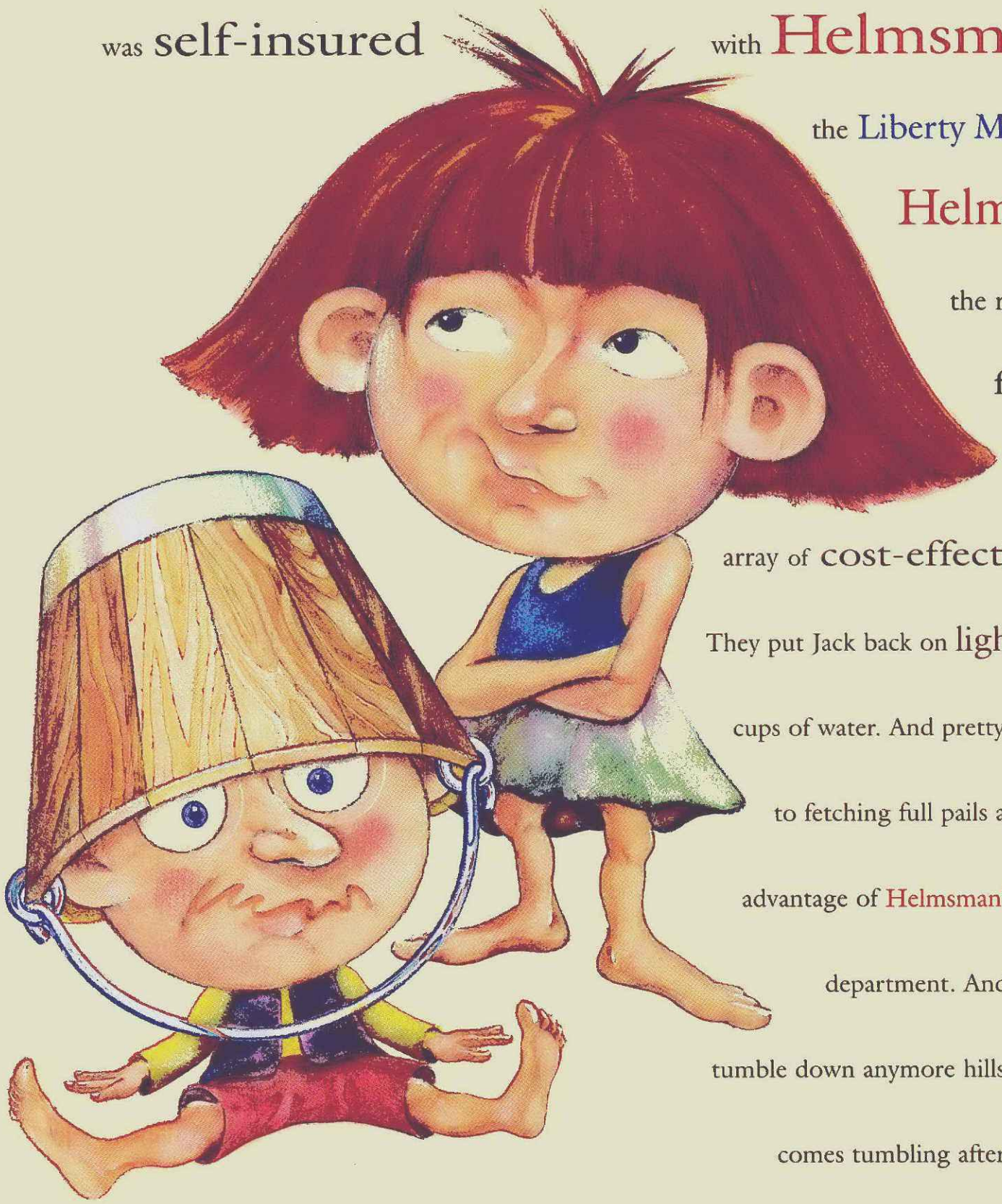
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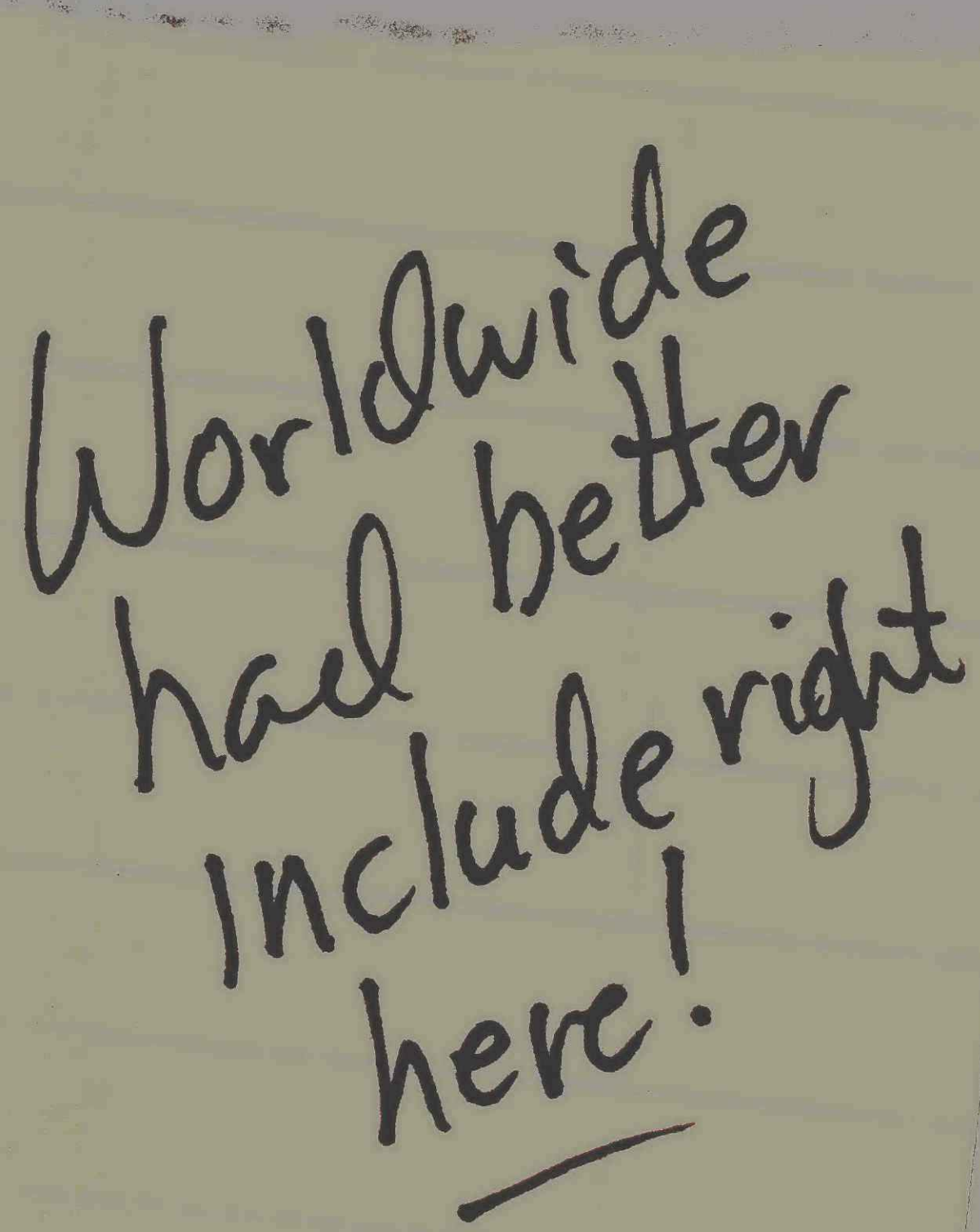
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Spotlight report

Terrorism

Continued from page 3

rimeters—preferably consisting of concrete stanchions—around the facilities, he said.

But, minor damage still can be expected from the fragmentation of buildings damaged in the blast of a 1,000-pound bomb that explodes more than a quarter-mile from a building, depending on how the building is constructed, said William F. McCarthy, president of security management consulting firm Threat Research Inc. of New York and Washington.

A 1,000-pound bomb is the largest size that will fit in the trunk of a typical automobile.

The minimum safe distance would be 3,800 feet, or nearly three-quarters of a mile, Mr. McCarthy said.

And, those minimum distances would be too conservative for urban areas that have a high concentration of structures because of the fragmentation problems that a bomb's shock wave would cause, he said.

In addition, blocking off traffic in urban areas could cause untenable supply- and mail-delivery problems for nearby businesses, Mr. Ackerman said.

Some limited parking restrictions could help, though, said Gerard Naylis, an engineering officer with Arkwright Mutual Insurance Co. of Rutherford, N.J.

"I would certainly look at how close I would allow vehicles to come to the building. Is that going to stop every instance? Unfortunately not. But it serves as a disincentive to target your location," he said.

Besides Pennsylvania Avenue, streets in front of various federal buildings nationwide have been blocked off as part of the federal government's heightened security alert in the aftermath of the Oklahoma City bombing. The U.S. Justice Department is continuing its 60-day evaluation of the security at federal buildings, which should conclude later this month.

Risk managers for public entities are not limiting security reviews to protection against major terrorist acts.

Milwaukee County, Wis., has not closed any streets in front of its buildings, but it may "if events deteriorated," said John R. Rath, director of risk management and insurance.

Securing parking facilities by screening delivery trucks at the facilities' perimeters is the only other method to safeguard against truck bombs, Mr. Ackerman said.

Dan Pliszka, manager of the risk management division of Charlotte and Mecklenburg County, N.C., immediately beefed up security at the loading dock at the city and county office building after the Oklahoma City bombing occurred.

Knoxville, Tenn., is reviewing what it can do to beef up security at its downtown underground parking facility for autos, which is open to the public.

But, Abigail Hudgens, risk and benefits manager for the city and the incoming president of the Public Risk Management Assn., said the public has to have parking when conducting business at city facilities.

Risk managers for public entities, though, are not limiting their security reviews to their protection against major terrorist acts. Bomb scares at various public entities in recent weeks and growing workplace violence does not allow risk managers to conduct such myopic reviews.

In Nebraska, security alarm buttons are being installed in-

Continued on next page

Questions to ask when a bomb threat comes in

Most public and private employers do not have effective procedures in place for handling bomb threats, asserts an engineering officer with a property insurer.

Besides mapping out evacuation procedures and assigning responsibility for calling authorities and taking head counts, employers should be training employees how to glean important information from those who call in bomb threats, said Gerard Naylis, an engineering officer with Arkwright Mutual Insurance Co. of Rutherford, N.J., which is part of the Factory Mutual System.

"One of the first things people need to realize when it comes to bombs and bomb threats is, in general, the vast majority are hoaxes to create panic and concern, when there's no bomb at all," Mr. Naylis said.

While the subjects of a threat must take precautionary measures, the person who receives a threat often can extract some important information from the caller in a minute or so before evacuating that will help authorities' investigation, Mr. Naylis said. The person who receives the threat should ask the caller:

- What the bomb looks like and where it is planted.
- Why the bomb was planted.
- For his or her name. "Believe it or not, they sometimes actually tell you," Mr. Naylis said. "You can catch them off guard."

The person who receives the call also should try to identify the caller's regional origins or ethnicity from his or her voice and a possible location of the call from background noises.

After an evacuation order is issued, employees can help authorities by taking a few seconds to look over their work areas for unfamiliar packages or other items, Mr. Naylis said. A bomb search team then can concentrate on areas where employees did not have an opportunity to look.

Several clues also can tip off employees that a package or other item may contain an explosive device. Those include:

- A package with no return address or with the return address of a party that would not likely be sending a package.
- A bulky package.
- An oil-stained package.
- Any out-of-place item that does not have proper identification markings. Mr. Naylis recalled a recent incident at Rutgers University in New Jersey in which a librarian discovered a pipe bomb in a book after she noticed that the book was lying flat on a shelf and had no catalog sticker affixed to it.

—By Dave Lenckus



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Continued from previous page
creasingly in state offices.

Over the past three or four years, the state also has used Plexiglas to seal off floors beyond the reception area in offices that typically do not have many visitors.

One by one, though, almost all of the state of Nebraska's buildings are requiring visitors to wear a visitor's badge before conducting their business, said Yvonne Norton-Leung, risk manager for Nebraska.

The exception among those buildings is the state Capitol, Ms. Norton-Leung said.

Even there, however, locked doors at some agencies and research staff offices that typically do not service members of the public are closing off those areas to the public.

Some risk managers, including Ms. Norton-Leung, also are limiting building entrances, closing off elevator banks and locking up basements to control the public's movements in buildings.

Milwaukee County, Wis., has installed some new perimeter fencing around high-exposure areas, and the county probably will change fencing in other areas, according to Mr. Rath, the county risk manager.

To more quickly recognize when visitors or unauthorized individuals are in a building, many risk managers now are requiring employees to wear identification badges.

A growing number the buildings Nebraska owns are being locked for the night and weekends. Employees who want access to the buildings after hours must have a key card to get in. More buildings also are being monitored by security cameras, Ms. Norton-Leung said.

Charlotte and Mecklenburg County, N.C., offices likely will move in that direction as well, Mr. Pliszka said.

And Milwaukee County, Wis., is considering turning to employee name badges.

Milwaukee County, though, is not contemplating closing its onsite daycare facilities, even though many children were killed in the daycare center at the Alfred P. Murrah Building in Oklahoma City.

Mr. Rath explained that employees who use the centers have not expressed any concerns that their children are at risk. Part of the reason may be the centers are located in buildings that are not "extremely critical" to the county's operations.

Knoxville has considered offering onsite daycare services, but the Oklahoma City bombing "would certainly give you great cause for concern before you do that," said Ms. Hudgens, the city's risk and benefits manager.

Some security measures can backfire, though, warned Threat Research's Mr. McCarthy.

That could have been the case in the bombing of the South African Mission in New York in the mid-1980s, said Mr. McCarthy, who then headed the city's bomb squad.

The blast blew back a bulletproof glass partition that had secured a floor at the reception area and impaled it intact in the back wall of the office, he said.

"So, in reality, if you were behind that glass, you would be a pressed leaf in a book," Mr. McCarthy observed.

Employee training can prove to be as substantial in thwarting a terrorist or random act of violence as concrete barriers or bulletproof partitions, many public entity risk managers concur.

Acts of violence at public entities can be traced to three sources—terrorists, employees or their acquaintances and angry citizens, said Ms. Norton-Leung, Nebraska's risk manager.

Training employees to recognize these situations can help defuse some problems before they occur and mitigate the impact of crisis situations that do develop, she said.

To help protect the state from terrorist acts, court employees and secretaries for lawmakers over the past year have participated in three-day training sessions to learn how to deal with people and to recognize problems as they are developing.

For public entities, employee training can be as important in thwarting acts of violence as concrete barriers or bulletproof partitions.

Among the key areas the training covers are greeting visitors as soon as they walk into an office, determining whether they are wandering, noting their clothing and anything they are carrying and observing their facial expression and gait.

Employees also are trained how to differentiate between a potentially mentally unbalanced individual and someone who is just angry, and how to deal with them.

"You do deal differently with different kinds of people in different situations," Ms. Norton-Leung said.

Knoxville and The Oklahoma Municipal Assurance Group engage in similar training.

Another source of violence is employee-based: Workers who are being stalked are easy targets at work because that is one place they typically have to be at certain hours.

"We've been training employees and supervisors to keep an open environment at work so employees will share this information," which gives supervisors advance warning that a problem could develop, Ms. Norton-Leung said.

A third source of violent acts is the letter-writing citizen who is angry over being deprived of something by the government: a child in a custody battle, assets in a civil court case or freedom in a criminal case. State of Nebraska employees have been trained to flag letters that either have an angrier tone than previous letters sent by the writer or that indicate the writer has spent much time studying and interpreting his or her rights under the U.S. Constitution.

Most public and private organizations also can do a better job of training personnel how to handle bomb threats, according to Arkwright's Mr. Naylis (see story, page 12).

Besides the potential security gaps on which risk managers have been focusing since the recent bombing in Oklahoma City, employee tracking procedures also should be reviewed, suggested Mr. Pumford of the Oklahoma municipal pool.

"Because this was a central business district, there were thousands of instances in the first day where people were wondering, 'Was Mary Sue there?' Then people began to realize they didn't have good information on the whereabouts of their employees," he said. BI

Reinsurers' terrorism worries may reduce available cover

Some public entities hit by future terrorist acts also may face another crushing blow: inadequate or no property insurance to respond to the loss.

Some facultative property reinsurers are contemplating or already are limiting the amount of terrorist-related losses they will accept from ceding insurers, which surely would cause coverage restrictions for risk managers. Reinsurers are considering either establishing sublimits or excluding all losses resulting from terrorist acts.

Traditionally, these losses have been fully covered. The typical exclusion has been for acts that could be traced to countries with which the United States was at war.

Reinsurers are reassessing how they want to treat terrorism-related losses in the aftermath of the April 19 bombing of the Alfred P. Murrah Federal Building in Oklahoma City, which claimed at least 168 lives and caused between $125 million and $300 million of insured damage at buildings near the blast site.

Two years earlier, the bombing of the World Trade Center in New York caused $510 million of insured property damage, the bulk of which reinsurers shouldered.

"It's definitely an issue in the market at this time," said Louis A. Adanio, senior vp-manager of facultative alternative risk and direct insurance at SCOR U.S. Group in New York.

SCOR is considering how to approach facultative accounts for high-risk public entities in large cities, he said.

That approach, though, still could leave the reinsurer covering some terrorist targets. "You certainly wouldn't think of Oklahoma City as a high-risk exposure," Mr. Adanio said. Of course, federal buildings are not commercially insured.

American Re-Insurance Co. of Princeton, N.J., is assessing its facultative property risks on a case-by-case basis, a spokesman said.

Other reinsurers had not ruled out the possibility of restricting coverage for losses resulting from terrorism but said they had not determined definitively whether they would.

The one hope for risk managers is that the idea of limiting coverage for terrorist acts is just a knee-jerk reaction that will never come to fruition for most reinsurers. Reinsurers also began talking about restricting coverage after the World Trade Center bombing, but that notion quickly faded away, Mr. Adanio pointed out. "It remains to be seen where the market goes on this," he said.

—By Dave Lenckus

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Spotlight report

Helping those who help others

Harper's risk management mission for New York non-profits

By MEG FLETCHER

Jim Harper combines a risk manager's savvy with a social worker's heart to manage an insurance purchasing pool for more than 2,000 not-for-profit agencies.

The Citywide Central Insurance Program he directs provides a broad range of risk management services to non-profits providing services under contracts with five New York City agencies.

CCIP's duties include buying insurance for 600 daycare centers, 300 senior citizens' homes, 600 youth programs and home health care aides providing services to more than 32,000 people.

But its mission is to trim losses continually by accumulating accurate loss data, analyzing it to determine what kinds of risk management techniques are needed, and then providing them.

The $75 million program—which receives federal, state and local funding—is credited with saving the city $9 million annually by increasing self-insured retention levels, cutting losses in various lines, and other ways.

Last year, the CCIP earned recognition as a national model after it won one of 10, $100,000 grants from The Ford Foundation as part of its Innovations in State and Local Government Program competition.

That money will be used to help implement program initiatives, provide in-service professional training, educate staff and replicate the principles of risk management in other jurisdictions and agencies.

New York City developed its centralized insurance program in the early 1980s to help non-profit agencies seeking to provide services to the city. The aim was to provide insurance to all contracting agencies by pooling and purchasing blanket policies.

Mr. Harper joined the program in the mid-1980s when the hard market made finding coverage difficult.

In addition, he said the program itself needed reworking because of problems, including mounting sex abuse allegations which were destabilizing the day care industry generally, outdated employee eligibility rosters, erratic premium payments and an ill-suited staff.

The program provides liability, workers compensation and disability coverage that protect contractors from the adverse effects of market cycles. And, as the contracting and bidding process is opened to women, minorities and other community-based organizations that otherwise might have had trouble finding coverage, the program provides those contractors coverage.

"My heart is that of a social worker," said Mr. Harper, a fourth-generation New Yorker who began his career in that field. "I'd rather see the money spent on a social service program, not on money for lawsuits." However, "too often someone with a social worker's heart is not a business person," which is essential to developing a program that works, he said.

He holds a certificate in social work administration, a bachelor's degree in English from Fordham University in New York and a master's degree in public administration from Bernard Baruch College in New York.

When Mr. Harper assumed his current position, all brokers were paid on a commission basis and the entire program was written on a $250,000 self-insured retention with excess coverage up to $25 million per occurrence, according to Clifford I. Johnson, managing director of CCIP broker Marsh & McLennan Inc. in New York.

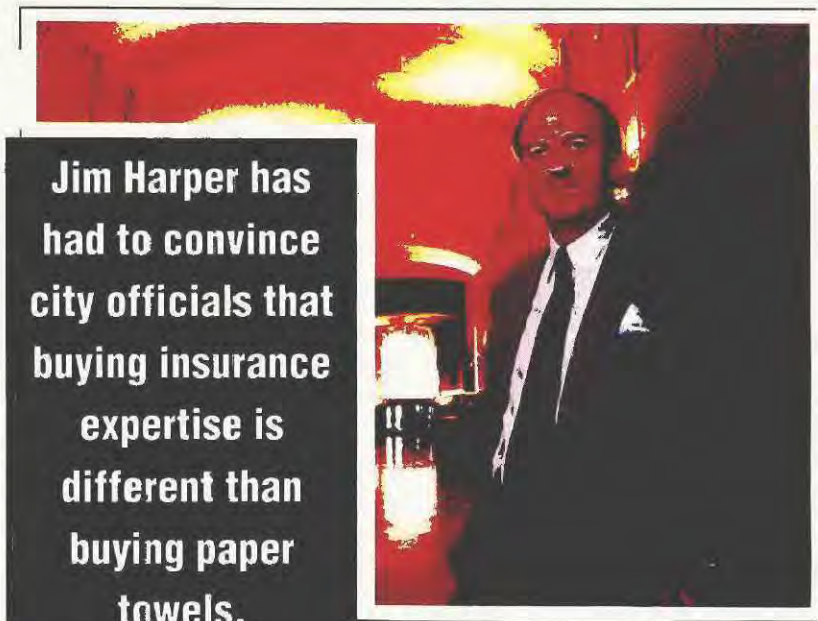
The initial program relied heavily on the expertise of brokers and insurers, he added.

When Mr. Harper joined it in 1986, he developed "more of a partnership" with brokers and insurers, increased in-house administration of data handling and trained his employees to adopt good risk management practices to prevent and reduce the severity of losses, Mr. Johnson said.

Specifically, Continental Insurance Co., which recently was bought by CNA Financial Corp., essentially provides a retrospectively rated risk-financing program with sizable retentions and loss limits. It also provides several risk management services, including management of the medical and legal aspect of claims, and advice about controlling losses.

Mr. Harper subsequently raised

Continued on next page



Jim Harper has had to convince city officials that buying insurance expertise is different than buying paper towels.

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Continued from previous page
the program's retention to its current $3 million and eliminated the purchase of all excess and umbrella coverages. That significantly lowered the cost of the program.

That partnership has survived three city administrations and their three different bidding processes.

All the while, Mr. Harper has had to convince various city officials that buying insurance expertise is different than buying paper towels.

In terms of operations, CCIP deducts money earmarked for insurance from each non-profit agency contract and pays it directly to insurance companies, which reduces administrative expenses.

But the program's main contribution to city finances was to reduce the size and number of claims against the city as well as the size of awards and settlements the city had to pay.

"He took what had been a loose confederation of agencies pooled under a blanket policy and created a first-rate risk management department bringing competition into the marketplace and introducing aggressive loss control initiatives that have allowed more tax dollars to be spent on public services rather than on liabilities," Mr. Johnson said of Mr. Harper's contribution to the CCIP.

Specifically, Mr. Harper collects and analyzes data on the causes of losses in specific geographic areas and uses that information to tailor risk management programs that successfully control losses in the future.

"A lot of my message is common sense," Mr. Harper said.

'In perhaps the most difficult risk/insurance environment in the nation, Jim has constantly met the challenges before him,' says Clifford I. Johnson of M&M

Many daycare programs, for instance, have installed plastic tubular playground equipment to replace metal equipment that presented far greater hazards for children.

They also have installed softer landing pads to cushion children's falls.

And teachers were given equipment safety guidelines for children to follow.

To avoid liability claims in a very litigious city, he also instituted good hiring procedures, especially for daycare worker applicants.

"Risk management screening techniques like fingerprinting have helped screen out bad apples," Mr. Johnson said.

Another smart move on his part: the risk management program covers health care aides and other low wage earners who might consider workers compensation benefits an attractive alternative to working.

To help home health care workers do their jobs well and take pride in their work, Mr. Harper used sessions and videos to teach workers how to minimize the risk of injuring themselves when moving patients.

One of the unique hazards that home health workers face in New York City is traffic-related accidents.

Specifically, many of the workers are originally from Carribean nations where traffic generally moves at a slower, more genteel pace and are unprepared for the speed and hazards of guiding their ailing charges through New York traffic.

"Life operates at a faster clip here," explained Mr. Harper.

Statistics have made the risk manager a firm believer in the usefulness of back belts to help prevent back injuries among those workers. They wear them only when lifting, however.

CCIP is currently in the sixth month of a more formal program to verify their usefulness by evaluating data from the 300 workers to whom it originally distributed belts.

Observers have noted several improvements that Mr. Harper has made.

"This program represents a unique privatization arrangement," said Mr. Johnson of Marsh & McLennan.

"In perhaps the most difficult risk/insurance environment in the nation, Jim has constantly met the challenges before him to maintain an effective and efficient program," he added.

Also, "the caliber of staff is greatly improved because he has given them training in risk management practices, especially preventive measures," Mr. Johnson said.

"Jim Harper has done a remarkable job in serving the City of New York with a risk management program that really does provide cost efficient, high value services—which is refreshing and atypical for most governmental entities," said Randall Clouser, who is vp-operations with CNA Risk Management Group in Chicago.

The recent Continental buyout and expected large-scale layoffs are not expected to affect the program because insurance company personnel handling day-to-day matters are expected to remain the same.

The risk management program also has won recognition among Mr. Harper's peers.

"The approach saves the city considerable premium dollars each year, and provides valuable feedback on our funded programs; many of the initiatives undertaken by the insurance program have been emulated in other districts," said Donna Lynne, director of the New York City Mayor's Office of Operations.

"This program is unique in structure and is one of the leaders by providing risk management services to small non-profits on a very practical basis," said Pamela Davis, president of Nonprofits' Insurance Alliance of California in Santa Cruz, Calif.

She has analyzed several different structures for providing insurance to non-profits.

"Jim Harper is an iconoclast. He brings a real fresh perspective to providing loss control to non-profits," added Ms. Davis.

Mr. Harper also plans to spread his ideas through a book illustrating the city's risk management program in action as well as a video on wheelchair safety. BI

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With employment claims up, prevention is order of day

Public entities embracing training programs, stricter personnel policies

By SALLY ROBERTS

Many public entities are finding that an ounce of prevention is worth a pound of cure when it comes to employment practices liability.

Some government risk managers say wrongful termination, sexual discrimination and other claims are exploding, but can be mitigated with aggressive policies and procedures.

By contrast, in the era of budget cuts and downsizing, some public entities are ignoring prevention and relying primarily on state sovereign immunity laws for protection.

Insurers and brokers say both actions will only lead to increased legal defense costs.

Employment-related claims have increased 10% to 15% over the last couple of years for public entity policyholders of various Coregis Group Inc. units, according to Robin Leal, senior underwriting specialist in Chicago.

In fact, in a recent Coregis survey of 1,000 claims against public entities, four of the five largest exposures were employment-related.

Wrongful termination claims lead the list, with 13.3%, followed by discrimination claims, 11.72%, civil rights violations, 8.7%, and unfair employment practices, 7.75%. Zoning practices was the fifth category.

"Employment practice claims are without question the number one growing field," said Yvonne Norton-Leung, risk manager for the State of Nebraska in Lincoln.

'Employment practice claims are without question the number one growing field,' says Yvonne Norton-Leung.

Forty percent of the claims that people make at the seven state dispute resolution centers in the Lincoln area are employment-based, she said.

"What we've seen is not just an increase in litigation in employment practices, but an increase in the whole area of employer/employee relations," she said.

Nebraska is not alone.

"The number of claims in my agency alone and in the city is phenomenal," agreed Lindsay Newland Bowker, risk manager for the self-insured Department of Environmental Protection in Elmhurst, N.Y. "It has caught everybody by surprise."

Both public entities have implemented policies and procedures designed to help alleviate the problem.

In Nebraska, for example, the self-insured state "cross-trains" its managers and supervisors on all the employment issues that can arise from a single claim, Ms. Norton-Leung said.

"You cannot isolate employment practice litigation because it involves a multitude of issues," she said. For example, a workers comp claim could also involve issues that are covered by the Americans with Disabilities Act.

In addition to training, Nebraska state employees are made aware of the option to resolve complaints in the mediation centers located throughout the state, she said.

Though fewer claims are going to court, there are not fewer problems between employers and employees, said Ms. Norton-Leung, adding the state has been downsizing and restructuring, which tends to strain relations with employees.

In New York, all employment-related discrimination complaints from city employees are handled through an equal employment opportunity officer, said Ms. Bowker. The position was created under a 1991 citywide directive.

The directive, which is currently under review, also calls for training programs for agency heads, managers, supervisors and employees which specifically cover discrimination, supervisory responsibilities, human relations in the workplace, complaint resolution and cultural awareness, Ms. Bowker said.

In addition, each agency is responsible for disseminating these policy standards on bulletin boards, in the city's or individual agency's publications and in employee paychecks, Ms. Bowker said.

Nebraska and New York City are not alone in their efforts to combat the increased number of employment-related lawsuits.

Many public entities "are becoming aware it's much cheaper to prevent a legal problem than to defend a claim later," said Karen Ludington, an employment law attorney with Mirick, O'Connell, DeMallie & Lougee in Worcester, Mass. "I've given training sessions in seven communities in the last few months. . .often times multiple sessions."

Many government entities have become "more sophisticated in their personnel practices and have formal policies and procedures in place in regards to hiring and termination issues," agreed Dave Randall, senior vp-public entity division of Sedgwick James Inc. in Columbia, S.C.

Employment-related claims remain a major problem for any public agency, but "government entities are not as backwoodsy as lots would like to say they are," said Mr. Randall.

Polk County, Iowa, for example, has taken an "aggressive approach" to mitigate its exposure to employment practice lawsuits, said Michael D. Wieck, risk manager for the self-funded county in Des Moines.

"I'm seeing more discrimination, sexual harassment-type claims. Wrongful termination and

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Continued from previous page
grievances for work practices are on the rise not just on the government side, but in the industry as a whole," Mr. Wieck said.

Five years ago, Polk County had no insurance coverage for these claims.

Mr. Wieck then instituted a self-funded program and went "to the next level" by educating the county's managers and supervisors about their roles and responsibilities.

The county now offers a "management development series" to all managers and employees on management track, which includes seminars running the gamut from interviewing to grievance handling to the ADA to sexual harassment.

"It rounds out the manager's role in the organization," Mr. Wieck said.

All county employees, within the first month of their hire, also attend a three-hour policy and procedure orientation, Mr. Wieck added.

Polk County's aggressive approach contrasts sharply with the indifference found in many other entities.

"It's remarkable to me that many entities have never heard of these issues," according to Mr. Wieck.

They're not up to speed and it's not because there is no communication from the federal government.

"It's the fact that no one is in the position to do anything about it. It's one more thing someone has to do," he said.

Without policies or training, governments make easier targets for lawsuits, he said.

Generally, government entities do a good job of informing employees about discrimination issues because the entities are the ones actually making the rules, said Frank M. Paolucci, senior vp and director of financial services for Alexander & Alexander of New York Inc.

'On the insurability side of employment practice liability, there is not a whole lot of good news for government entities,' A&A's Frank M. Paolucci says.

But these entities create a "breeding ground" for lawsuits if they do not have the training and policies in place.

Additionally, public entities with no policies and procedures in place "raise red flags with underwriters," he added.

"On the insurability side of employment practice liability, there is not a whole lot of good news for government entities," Mr. Paolucci said.

"In talking with underwriters over the past few months, all have said they see the loss experience being much greater for public entities as oppose to private employers," he said.

"There are some fundamental practices in government that are different from the private sector," Mr. Paolucci explained.

For example, the private sector tends to be more thorough about checking employee backgrounds before hiring than the public sector.

Additionally, the private sector tends to give employees promotions based on merit, whereas the reputation for public employers is to base employees' promotions on seniority.

And, some public entities tend to rely on state immunity laws rather than implement preventive policies and procedures, said Jeff Goldwater, a partner with the Chicago law firm of Bollinger, Ruberry & Garvey.

Every state, in one form or another, has state immunity laws that protect government employees and entities from negligent actions.

"Public employers that want to rely on state immunity laws will get some mileage if it is a state violation, but most of these claims (relating to employment practice issues) are federal violations and state immunity doesn't protect public entities from that exposure," according to Coregis' Ms. Leal.

Paul Cunningham, product manager for Boston-based Lexington Insurance Co.'s employment practice liability insurance, said he does not see any greater liability on the side of public entities nor does Lexington price public entities' employment practice liability insurance premiums higher than those of private entities.

However, in determining premium prices for an EPL policy, it does look to the public entity's human resource practices, including its policies against sexual harassment and discrimination as well as its employee handbook, termination policy, past history and whether the entity is looking to downsize due to budget cuts, he said.

While EPL insurance is more expensive than general liability policies or public official liability policies, public entities need to be aware that general liability policies will not cover employment-related claims because such claims don't involve property and bodily injury, according to Mr. Goldwater.

And, while public official liability insurance policies will cover employment practice-related claims, those policies do not cover emotional distress or personal injury claims, Coregis' Ms. Leal said.

Ms. Leal added that public entities need to make sure their public official liability policies include coverage for all employees and are not limited to just the board of directors.

While EPL insurance will cover employees' emotional distress and personal injury claims, it may be cost prohibitive for some public entities.

For example, cities with about 20,000 employees purchasing public official liability policies pay about $10,000 in premiums for up to $1 million coverage, Ms. Leal said.

On the other hand, public entities that have between 500 and 1,000 employees should expect to pay about $30,000 to $35,000 in insurance premiums for $1 million of the much broader employment practice liability coverage, according to Lexington's Mr. Cunningham. BI

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Spotlight report

Employment suits test school risk managers

Rising liability claims squeeze coverage

By SARA MARLEY

Students are counting down the days to summer vacation, but risk managers' concerns won't stream out of school with them when that final bell rings.

In fact, the riskiest time of year for schools might be beginning only now.

That's because summer brings a wave of hiring and firing at schools, which is as likely to produce liability lawsuits as playground tumbles, football injuries and field trip bus accidents.

Students still bring suits and when they do, their claims are more likely to be civil rights claims than simple third-party liability claims. Overall, liability suits against schools are becoming more frequent and the traditional markets for specialized liability coverages are not keeping pace.

But the primary school-related liability concern for risk managers today is employment practices.

"In the last two years, we have not seen a dramatic increase in suits against districts involving students," said Thomas Bell, director and chief operating officer of the Middle Cities Risk Management Trust, an intergovernmental risk pool for schools in Okemas, Mich. "There is an increase in employment practices and wrongful termination. It's the thing of the '90s."

"The emerging liability is employment-related claims," agreed Paula Chu Tanguay, chief administrative officer of the Alliance of Schools for Cooperative Insurance Programs, a risk-sharing pool of 56 school districts in Southern California.

In a recent claims analysis, Cerritos, Calif.-based ASCIP discovered that employment practices claims made up about 8% of volume, but one-third of ASCIP's liability costs.

"That number is astronomical," Ms. Tanguay said. "They are very volatile claims," with the majority of the payouts going toward defense costs.

Employment-related claims have risen in the past three years for several reasons, she said:

- Budget squeezes on districts are forcing them to demand more of their employees.
- The seniority system is eroding as districts seek to keep their best employees, not just their longest-serving ones.
- Dismissed employees face a difficult job market, perhaps making them more likely to seek restitution from their former employer.

"Clearly people are more cognizant of their rights," Mr. Bell said. "We are getting more and more requests to assist in personnel training on human resources issues."

"The nature of our claims is definitely changing," said Kemba Olabisi, risk manager for Los Angeles County Board of Education in Downey, Calif. "We are seeing more internal claims from staff as opposed to external claims."

Schools, like many private sector employers, are trying to reduce harassment and civil rights claims through improved training.

"It requires a lot of training on our part of managers and supervisors to help them understand the multicultural environment we operate in," Ms. Olabisi said.

Hiring can also be critical. "Sometimes in the past, schools were filling a slot with the correct color, sex or disability," Ms. Tanguay said. "Competency became secondary."

Today, though, those employees may not be able to keep up and may file suit. So schools are screening applicants more carefully.

In addition to training and more rigorous hiring, schools also should put in place solid disciplinary processes. "Hold supervisory employees to a particular standard," Ms. Tanguay said. "Put a lot more emphasis on training, supervising and discipline."

Even though employment practices is the hot-button issue for schools, it is not the only area of increased liability. Overall, school liability suits are increasing.

"Of all types of public entities, school district liability is increasing faster than the others," said Rob Darby, a principal and actuary with Tillinghast in San Francisco.

Schools' liability insurance rates also are increasing at a faster pace, an average of 10% per year compared with approximately 7.5% in the private sector and 5% to 7.5% for other types of public entities, said Mr. Darby.

One of the reasons is that schools traditionally had lower liability rates and they had more room to increase than other public entities. Another is a change in attitude toward schools and litigation.

"Schools don't have quite the same relationship with parents that they used to. It used to be fairly amicable," Mr. Darby said. "Now if a student is injured in a PE class, it turns into a lawsuit nine out of ten times. If a student got injured playing football, it used to be an unfortunate accident. Now, it's a lawsuit.

"It's not just schools," he said. "There is more tendency to file lawsuits and lay blame."

Even in more traditional areas of negligence, risk managers report lawsuits being filed that previously would not have been.

"People are filing claims for smaller and smaller accidents" involving school vehicles, said Brad Bailey, risk manager for the Houston Independent School District.

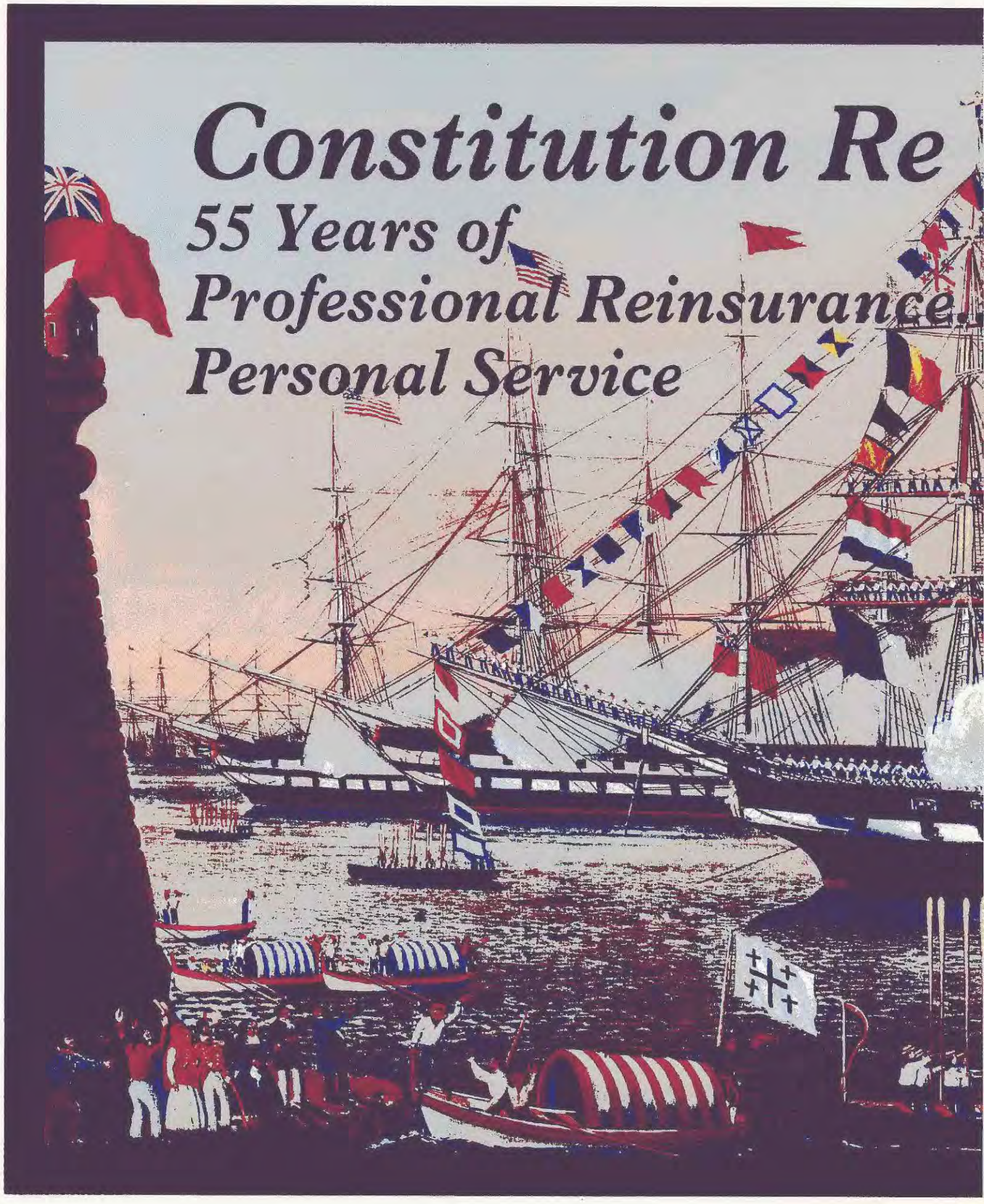
"Bodily injury and property damage are definitely going up, particularly for low severity," said Elizabeth D. Puddington, executive director of the New Hampshire School Board's Insurance Trust in Manchester.

With more parents paying high deductibles or co-payments in managed care programs, "a small incident on the playground becomes large a out-of-pocket expense for parents. They may have no insurance at all."

To reduce that exposure, Ms. Puddington urges school districts to offer parents student accident insurance, which is available and inexpensive, and, in some cases, to purchase it themselves.

School districts no longer can rely on their medical coverage alone when it comes to student athletics, said David Lively, vp of Risk

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Consultants Inc. in Charlotte, N.C.

"Medical coverage is not good enough to preclude a substantial loss anymore," Mr. Lively said.

As the nature of school-related exposures has changed, so has the nature of the suits being brought against schools.

Today lawsuits by students are more likely to allege violations of constitutional and civil rights than to contain simple negligence claims. Students' claims also are rising in areas that ultimately may stem from teachers' hiring, such as sexual abuse and harassment and failure to supervise.

Brought under federal civil rights laws, many student lawsuits are no longer precluded by the various state sovereign immunity laws.

School districts in Texas, for example, are protected from paying most general liability claims. The school district pays for automobile accidents only if it is responsible.

"The only way a general liability claim can succeed is to go after us in federal court," Mr. Bailey said. "But we do seem to have a harder time getting summary judgments."

"Sovereign immunity has eroded a lot," Tillinghast's Mr. Darby said. "I don't see it making a big difference" in how schools structure their risk management programs, though.

On another front, attempts to make schools safer—especially searches of students and lockers—are a growing area of liability concern for risk managers.

"Search and seizure is a big area," Middle Cities' Mr. Bell said. "Metal detectors as a security measure in and of itself is not the answer. There are ways of circumventing it. But it does send out a message to the community, parents and kids that schools will not accept that behavior."

In addition to installing metal detectors, more school districts are hiring security personnel and having them deputized by the local police or sheriff, prompting the need for police professional liability for schools, Mr. Bell said.

Most of the deputizing agencies require insurance and that the law enforcement agency also be indemnified.

"Having arrest powers opens a whole new ball of wax of potential liability," Mr. Bell said. "Most general liability will provide coverage for the acts of security guards, but it does not include actions under color of law."

He expects that Middle Cities will be offering such coverage a year from now.

But, that is only one of many coverages schools may find lacking.

Most liability coverages exclude the coverages schools appear to need most now: employment practices and sexual harassment and abuse.

"The specialized coverages are hard to come by and expensive," Tillinghast's Mr. Darby said.

Many schools choose to self-insure the risks instead.

"Sexual abuse is not an easy market to find coverage for," Houston's Mr. Bailey said.

"At one time, you didn't even think of sexual abuse as part of a program," Mr. Lively of Risk Consultants said. "Now it's one of the first things you look for in a program you're examining."

It may be more readily available for religious organizations than for schools, he added.

In general, "there is not a whole lot of coverage out there" for school districts, Mr. Bailey said. "When you get to be our size, the markets are fairly limited. We have not found a healthy market for professional liability."

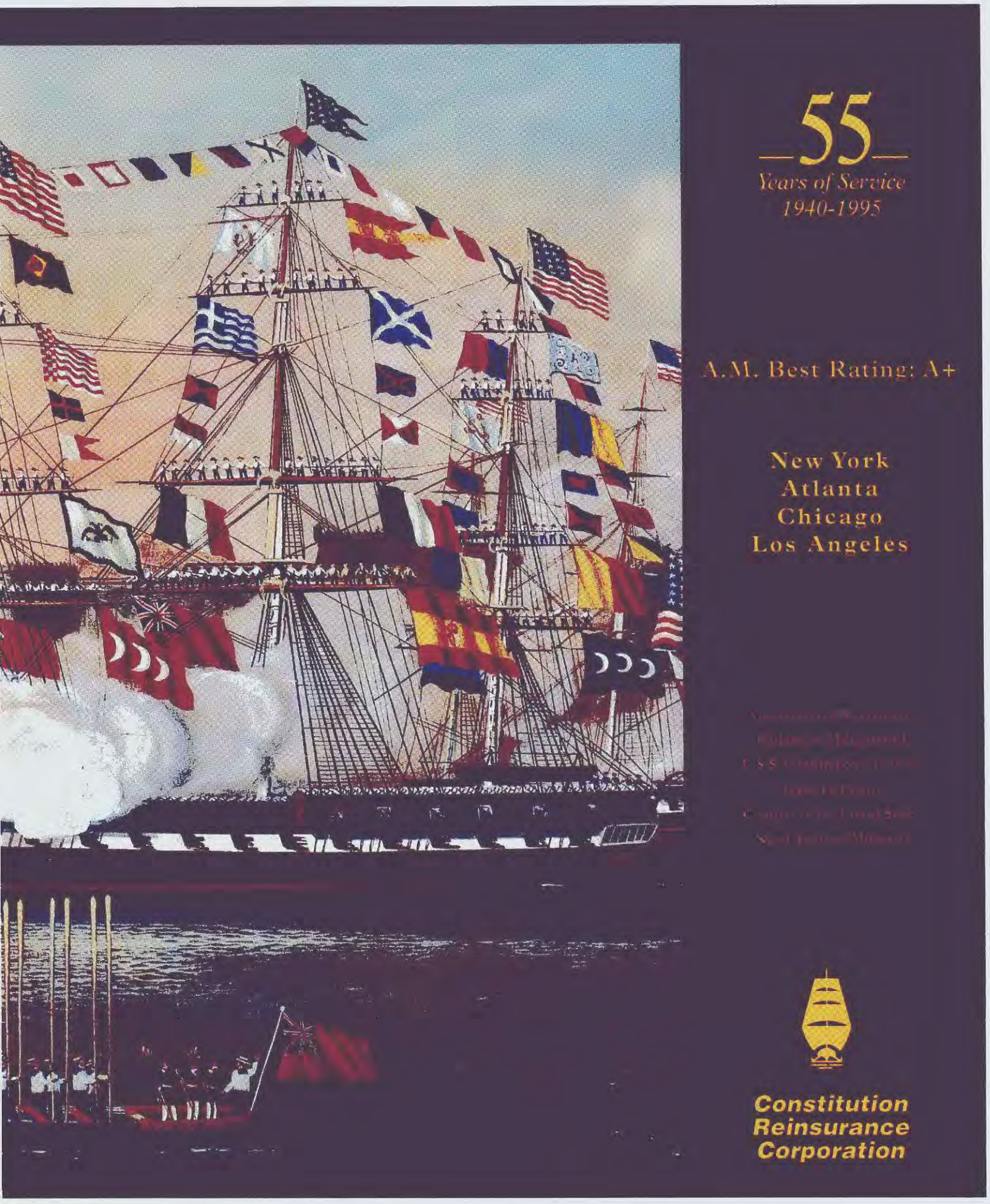
Instead, most schools opt to join risk-sharing pools, which they often find more responsive to their special needs than commercial insurers.

Some pools are considering expanding coverage in response to requests by members.

The School Excess Liability Fund, a California excess pool, excludes damages for employment practices and civil rights claims like harassment and discrimination, said Executive Director John Wilson.

"Schools are seeing growth (in claims) in that area, so they are putting pressure on us to delete that exclusion," Mr. Wilson said. A committee considering that is expected to have a decision by July 1 renewals. A bill under consideration in the California legislature would limit employers liability in those cases, so that may sway SELF's decision, Mr. Wilson said.

Recognizing that issues relating to schools are often sensitive and political, "we have settled almost every case against the fund," Mr. Wilson said. "Even if there are good points for the defense, it's difficult to prevail before a jury when kids are involved." BI



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Spotlight report

PRIMA's pioneering president

Abigail Hudgens brings risk/benefit expertise to post

By JERRY GEISEL

The new president of the Public Risk Management Assn. is a pioneer in public risk and employee benefit management.

When Abigail Hudgens became the risk and employee benefits manager for the city of Knoxville in late 1986, she joined a small group of full-time risk managers working for public entities and the even smaller group of public managers with risk management and employee benefit responsibilities.

Indeed, as Ms. Hudgens recalls, she not only was Knoxville's first risk/benefits manager, but also was one of the first public risk managers in Tennessee.

"Risk management was everyone's responsibility and no one's responsibility," Ms. Hudgens said, referring to the era when public risk management rarely was a separate department and instead typically was integrated in public finance and law departments.

The low priority many public entities gave to risk management perhaps was understandable decades ago when group health care costs were modest and sovereign immunity insulated states and cities from the full impact of tort litigation.

But, by the time Ms. Hudgens became Knoxville's risk and benefit manager—after stints in the city's law and finance departments where she first got involved in risk and benefit issues—many government entities were reeling from the liability insurance crisis.

Rates were soaring and in some cases coverage was unavailable. Knoxville's zoo, for example, lost its liability insurance while liability rates went up tenfold at renewal on the city coliseum.

"It was a reflection of the times," Ms. Hudgens said.

The situation wasn't that much better on the employee benefit front. Health care costs were exploding with premiums typically rising 20% annually.

Soaring liability and benefit costs demanded more professionalism in public risk management, Ms. Hudgens said.

After she was charged with establishing Knoxville's risk management department, Ms. Hudgens, who has a master of public administration degree from the University of Tennessee and a bachelor of arts degree in political science from Memphis State University, turned to PRIMA for help.

She attended PRIMA's public risk management educational seminars and was impressed.

"I was so impressed with the cooperation and helpfulness as well as the depth of expertise of PRIMA instructors," she said. Later, Ms. Hudgens' PRIMA involvement expanded. She helped to establish a PRIMA chapter in Tennessee and has served as a PRIMA national vp in Region V, which covers the Southeast. She also has spoken at several PRIMA national conferences.

PRIMA is a "wonderful organization," she said. "People are willing to share information. It has been a source of great practical expertise. I'd like to keep that and make it better.

"I'm sold on PRIMA. It is an extraordinarily good organization," she adds.



As PRIMA president, Abigail Hudgens intends to emphasize to public entities the importance of risk management to their success.

As PRIMA president, Ms. Hudgens intends to emphasize to public entities the importance of risk management to their success.

Her strong support and belief in PRIMA as an educational and resource tool for public risk managers comes at a time when PRIMA is expanding its activities.

PRIMA currently is working with the Malvern, Pa.-based Insurance Institute of America in developing new public risk management courses for students working toward the Associate in Risk Management designation.

"There is a recognition by the institute that public risk management is, in many ways, different from corporate risk management" and should have its own courses, said Dennis Kirschbaum, executive director of Arlington, Va.-based PRIMA.

In addition, PRIMA will be involved in the effort—funded by last year's settlement of an antitrust action launched by state attorneys general against several insurance trade associations—to develop a central data collection facility where public entities can report losses (*BI*, April 3; Jan. 23).

It also is revising governance standards for intergovernmental risk pools to give pool officials more guidance on risk management practices, such as how often claims should be audited.

At the same time, PRIMA is expanding its ties to local chapters. PRIMA, for example, soon will distribute an information packet to help new chapter presidents handle certain responsibilities, like putting together bylaws and dealing with local legislatures.

"Chapters are run by volunteers. We are trying to reduce startup time for new chapter presidents and make the task of running a chapter less demanding," Mr. Kirschbaum said.

Outside the United States, PRIMA is expanding its links to public risk management associations, including those in Australia and the United Kingdom, through an exchange agreement in which representatives of the various public risk management associations will be able to attend each other's meetings.

Risk management departments here and abroad can benefit through international cooperation, Mr. Kirschbaum said.

Public risk managers in the United Kingdom, where terrorism has been a problem for decades, can offer insights to risk managers in the United States, many of whom now are facing the problem for the first time.

On the other hand, lawsuits against public officials are nothing new in the United States but are emerging as a problem in the United Kingdom.

"There are areas where risk managers here have good backgrounds, while there are other areas where risk managers in other countries have a good background," Mr. Kirschbaum said.

Meanwhile, PRIMA, founded in 1978, is continuing its steady growth with membership rising just under 5% during the last year to 2,200. That tracks with recent annual growth rates of between 5% and 8% over the last several years.

This growth has been occurring as more public entities recognize the importance of risk management, Mr. Kirschbaum noted.

"They need qualified people on staff and one of the ways they can do that is through joining PRIMA," he said.

For example, PRIMA offers an educational program to introduce government officials to the fundamentals of risk management and another program geared to officials of public risk pools.

Just as PRIMA has grown, so has Knoxville's risk management department. Over the last decade, the staff has grown to nine from just two secretaries and a claims representative.

Responsibilities have grown as well, including administration of the city's property/casualty program, operating a loss prevention program, maintaining a risk management information system, administering the city's health and welfare benefits programs and reviewing certain city contracts.

Ms. Hudgens' association with Knoxville goes back to 1983 when she worked as a management and budget intern in the city's Finance Department.

She later became an administrative assistant in Knoxville's law department where she implemented and administered the city's first comprehensive risk management department.

During her tenure with Knoxville, Ms. Hudgens has helped to establish a wellness program, a dental plan, a RMIS for property/casualty claims as well as adding health maintenance organizations and a point-of-service plan to the city's health benefits program and an employee assistance plan.

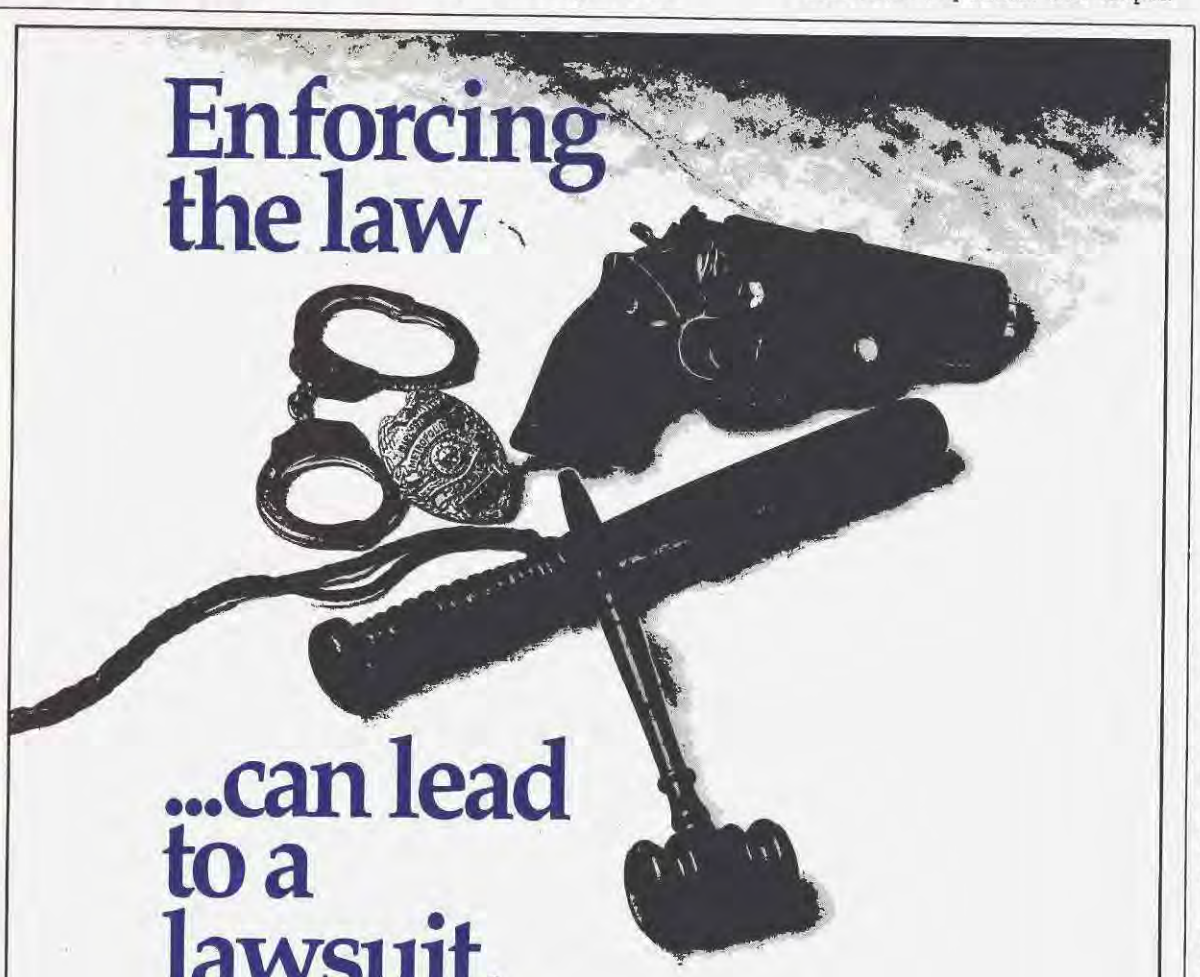
Ms. Hudgens is among a small group of public managers with responsibilities for risk management and employee benefit plans. Managing both risk and employee benefits in one department is highly efficient and makes sense, she said.

Basic risk management principles—identifying risk and minimizing loss—also apply in the benefits field, she noted.

For example, in its health plan, Knoxville is controlling costs through such techniques as case management of large claims, preadmission certification before an individual is admitted to the hospital for non-emergency services and screenings for risk factors such as high blood-pressure and high cholesterol levels.

Ms. Hudgens says she is always interested in analyzing the steps to solve a problem.

PRIMA's Mr. Kirschbaum describes Ms. Hudgens as a warm person who is very quick in understanding the issues. "She brings a great breadth of knowledge to issues." BI



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Filling an information void

Public risk facilities to aid risk managers

By MICHAEL BRADFORD

Public entities operating with a dearth of risk management information will have some help from the Public Entity Risk Institute and a national risk database that are taking shape.

The two facilities are being created as part of the massive insurer antitrust settlement reached last year (*BI*, April 3; Jan. 23; Oct. 10, 1994).

PERI's developers, armed with $21 million of the $36 million in settlement funds, have begun to plot the facility's form and function in preliminary meetings.

"We anticipate (PERI) will be up and running this year," said William M. Rubenstein, Connecticut's assistant attorney general and a member of the group setting the facility's direction.

Another $5.2 million of the settlement will be used to fund a national workers compensation and liability database that will help public entities better manage and price risks. Its developers expect the database to be online in about 2½ years.

Ever since public entities began to self-insure, and thus stop reporting loss data, public entities have lacked data to project losses and calculate rates for primary and excess insurers, said Michael Hodge, a member of the seven-member council developing the database.

"With that information, it will be a lot easier for an actuary to determine what premiums and loss reserves should be for self-insureds and those in the market," said Mr. Hodge, president of the Sacramento-based California Institute for Public Risk Analysis, and risk manager for Culver City, Calif.

The other facility, PERI, is designed to provide technical services, training and education to policyholders, self-insurers and public entity pools.

Initially, the facility will focus on liability loss prevention and loss control training, property and liability catastrophe management, reducing environmental impairment liabilities, and insurance consumer training for small public entities.

It will be structured as a tax-exempt entity with a five-member board. Three representatives from the public sector will sit on the board, along with one from the private non-profit sector and one from the private for-profit sector.

PERI's board will be charged with determining whether the facility will be financed with investment income from the initial funding or through user fees.

"The $21 million will spin off revenue and certainly, in the first year at least, that will take care of a hundred percent of the operating funds," said Mr. Rubenstein. "Even if no other revenue comes in, that will last several years."

Eventually other sources of revenue will be considered, he added.

The risk management and insurance communities are watching PERI's development closely.

"We're very eager to see what the details are," said Ellen Thrower, president of the College of Insurance in New York. "There will probably never be more significant support for risk management education."

Ms. Thrower said she has "great concern" that the funding be spent wisely. "We really hope that it will be spent for the purposes intended."

"We will do whatever we can to advance the project," added William J. Kelly, president of the Risk & Insurance Management Society Inc. and senior vp of Morgan Guaranty Trust Corp. in New York.

The national risk database will be an additional resource for public entity risk managers.

The council developing the database held its first organizational meeting in Washington in May and expects to gather again July 6 to "develop our game plan," said Donald Jones, director of the center for member programs at the Washington-based National League of Cities and chairman of the council.

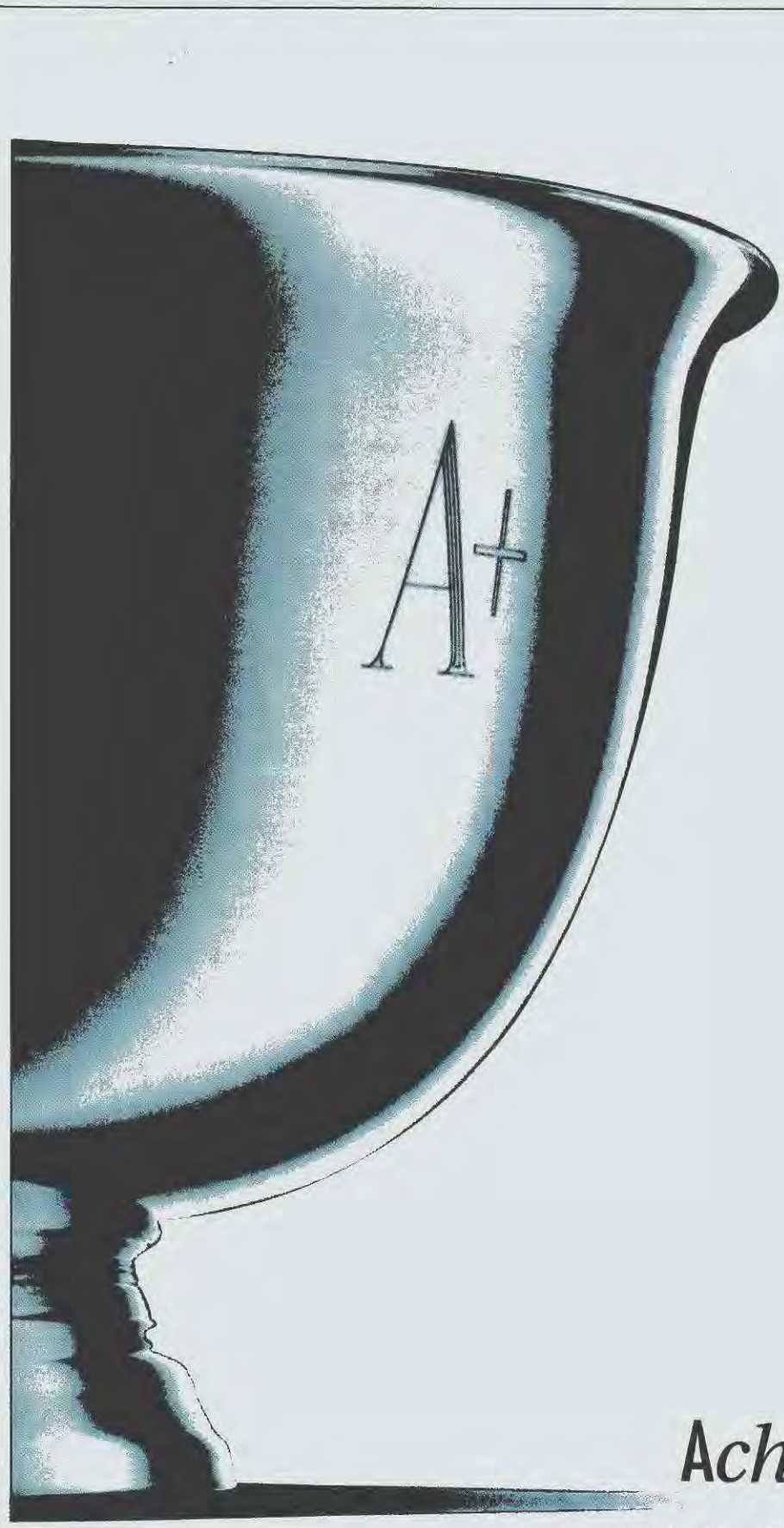
"I don't think we are coming in with any preconceived ideas about what will go in the database, who will use it or where we will get the data," he noted. "Those are issues we are going to discuss."

The database, which is expected to be particularly helpful to self-insured public entities, will collect and analyze workers compensation and liability loss data. The data will be broken down on a national, state and regional basis and by type of public entity.

Mr. Hodge pointed out that the California Institute of Public Risk Analysis developed a database that likely will be used as a model for the national project. Self-insured public entities in California report workers comp and liability loss information to the database.

Public entity risk managers "should be happy that the antitrust suit is settled," said Mr. Hodge. "Now it's up to the committee to get the database up and running."

Other members of the seven-member council are Ron Guilfoile, director of risk and employee benefits for the city of St. Paul, Minn.; Dennis Kirschbaum, executive director of the Public Risk Management Assn.; Jerry Hoetmer, director of research and development at the International City/County Management Assn. in Washington; Tom Sweet, director of corporate relations at the National Assn. of Counties in Washington and Elizabeth D. Puddington, administrator of the New Hampshire School Board's Insurance Trust in Manchester, N.H. BI



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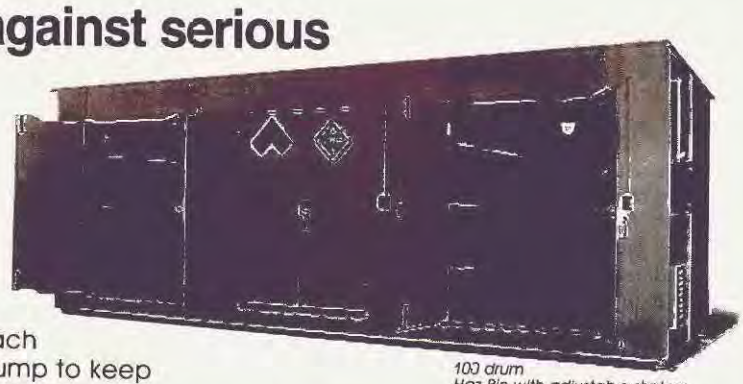
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NAFTA

Continued from page 2

out of Mexico," Ms. Lytle said.

The only exception is third-party liability coverage, which Mexican law requires to be bought from an insurer in Mexico, she said.

Not only can U.S. companies buy insurance to cover cargoes in Mexico, but Mexican companies can buy coverage from U.S. insurers for goods in U.S.-Mexican bilateral trade, Ms. Lytle said. But U.S. insurers may only advertise in Mexico if they have an office there, she said.

As trade itself is deregulated under NAFTA, the need for insurance will increase, Ms. Lytle said.

And, accompanying the increasing demand for insurance is the need to implement risk management and select coverage carefully.

"U.S. trucking companies will for the first time be able to use their own drivers and equipment for shipments into Mexico. In December 1995, the U.S. and Mexico will allow access to each other's border states for delivery and back-haul of cargo," she said.

By the year 2000, all cross-border trade restrictions will be lifted, U.S. trucks will be able to travel anywhere in Mexico and Mexican trucks will be able deliver goods anywhere in the United States.

All the changes under NAFTA could result in booming business for truckers and inland marine insurers, Ms. Lytle said. "As the trade restrictions fall under the NAFTA timetable, we can expect increasing opportunities for insurance and transportation service providers. Of the trade between Mexico and the U.S., 85% is by land and almost all of it is by truck," she said.

Trucking companies that plan to expand their operations into Mexico should introduce good risk management, however, or they may suffer losses from organized crime, warned Ernesto Ramirez, a director at loss adjusting firm Quantum International Group in Mexico City.

"In Mexico, there has been a general increase in crime and the sophistication of the robbers. They know what is inside the trucks and they have someone ready to buy the merchandise" after the theft, he said. Hijacking and theft from trucks in Mexico is a big problem, one made worse by the recent economic crisis, he said.

Generally, Mexican companies depend on the insurance to cover the cost of thefts rather than implement loss prevention methods, he said.

Even though Mexican authorities are stiffening the penalties for robbery, trucking companies should take measures to reduce the risk of hijacking, Mr. Ramirez said.

In particular, they should insist that drivers use toll roads, which are more frequently patrolled by the police than regular roads, he said.

And if companies are transporting easily salable and desirable goods, such as electronic equipment, they should not highlight the contents with company logos on the trucks' sides, Mr. Ramirez said.

If a loss does occur, truckers should ensure that they have all of the relevant documentation when they present a loss to their insurers, he advised. In particular, they should ensure that they have a report on the robbery from the local authorities.

"If the authorities say it was robbed, then it was robbed. The report is very important because it will reveal what was the story behind the crime," Mr. Ramirez said.

Trucking companies also should be aware of the differences in insurance coverage if they buy their coverage from insurers in Mexico, said Antonio Calvo, senior vp in the New York liaison office of Grupo Nacional Provincial S.A.

And U.S. truckers seeking coverage from Mexican insurers should proceed with caution, he warned.

For example, "if you want all-risks coverage, you have to ask for it in Mexico; it is not automatically given," Mr. Calvo said.

Additionally, although English translations of the policies often are given, the legal policy is in Spanish, which may include nuances that are lost in the translation, he said.

Cultural differences are also important, he said. "It's *mañana, mañana, mañana* sometimes in Mexico and the *mañana* can take 2½ months" in negotiations between policyholders and insurers, he said.

The U.S. offices of Mexican insurers can sometimes be used to help speed up the process, he said.

Some truckers in Mexico are seeking out alternative risk transfer instead of commercial insurance coverage, said Robert Weber, senior risk consultant at Midland Financial Services in Mexico City.

A group of 31 trucking firms in Mexico is working with Midland Financial to establish a group captive insurer based in Mexico to cover 100,000 individual truckers, he said.

Besides conventional coverages available from the commercial market, the captive will provide coverage for earthquake and flood risks, which are not readily available in Mexico, Mr. Weber said.

"We also think it will reduce the cost of insurance for the companies," he said.

Mexican companies often have neglected to buy comprehensive coverage since the country fell into an economic crisis at the end of 1994, Mr. Weber said. The peso's value plummeted, sending the economy into a tailspin (*BI*, Jan. 16).

"The cost of other operations exploded and although insurance only had a marginal increase," it was lower on the priority list, he said.

The trucking group's captive will provide additional services, including engineering inspections and loss prevention services, Mr. Weber said.

The captive, which is waiting to receive its license, will run like a conventional insurer and be domiciled in Mexico. Seventy percent of the risks will be reinsured in the U.S. market, he said. BI

Inland marine meeting draws 130

SAN ANTONIO—About 130 people attended the 65th Inland Marine Underwriters Assn. annual conference held May 21-24 at the La Mansion del Rio hotel.

At the meeting, Jenni Ashby, regional inland marine specialist and team leader for the Western region of St. Paul Fire & Marine Insurance Co. in Denver, was awarded first prize in the IMUA annual essay competition.

Ms. Ashby was awarded $1,000, a commemorative plaque and an all-expenses paid trip to the meeting for her essay on "Underwriting Changing Computer Exposures in the 1990s and Beyond."

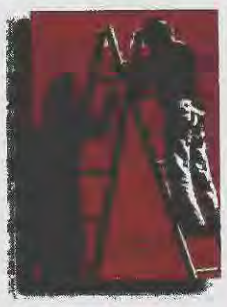
Next year's IMUA meeting will be held at Ponte Vedra, Fla., from April 28-May 1.

For more information, contact Karen Sherbine or Tracey O'Donnell at the IMUA, 111 Broadway, New York, N.Y. 10006; 212-233-7958; fax 212-732-3451.



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Brushing up on fine arts cover

By GAVIN SOUTER

SAN ANTONIO—Owners and insurers of fine art make taxing demands on each other, a broker says.

"The clients will not accept less than immediate resolution to their questions and problems, and the underwriters will not accept less than top-quality clients," said Ann A. Phenix, account executive of fine arts at Huntington T. Block Insurance Agency Inc., a unit of Rollins Hudig Hall Group Inc. in Washington.

Many of the specialist fine art insurers are well-versed in the needs of their policyholders but the policyholders also need to be aware of the loss control needs of the insurers, she said.

First, policyholders should be candid and supply insurers all the information they need on a risk, Ms. Phenix said.

"We tell our clients that what the underwriter doesn't know, he charges for," she said last month at the annual Inland Marine Underwriters Assn. conference.

Insurers also look to see that the policyholder has the right general attitude toward loss prevention, Ms. Phenix said.

"We do not want to make our clients paranoid about safety and security, but we do live in a world where contingency planning is very important and where the risk must be reviewed for all perspectives," she said.

All risks are evaluated individually, but certain basic protections are required before underwriters will accept a risk, Ms. Phenix said.

At the very least they require smoke detectors, fire extinguishers and deadbolt locks. The age and construction of any building also is evaluated, she said.

"A house with a multimillion-dollar art collection without a burglar alarm system is more troubling than a gallery which has invested in the most sophisticated deterrents to crime and burglary," Ms. Phenix said.

In California, insurers also want to know what the building is footed on, how the art is secured to walls or display stands and whether the building is built to withstand earthquakes, she said.

Many underwriters also insist on sprinkler systems despite the risk of an accidental discharge damaging works of art, Ms. Phenix said.

But the alarm and sprinkler systems also must be in working order, she said.

"Recently we have come across several locations where the sprinkler heads had been painted over, rendering them completely useless," she said.

Because conditions can change, underwriters and brokers try to have safety and security inspections for all large accounts every four or five years, Ms. Phenix said.

Brokers should be careful about whom they appoint to make the inspections, she said.

"One problem we have with insurance company loss control engineers is that they frequently make recommendations directly to the insured. This can be upsetting to our clients and make them feel pressured to comply with a specific recommendation which may or may not be appropriate for the risk," Ms. Phenix said.

'We tell our clients that what the (fine arts) underwriter doesn't know, he charges for,' says Ann Phenix.

Clients often feel more comfortable with the recommendations if they come through their broker, she said.

Brokers also can help re-place the coverage if the client feels that the underwriter's demands are excessive, Ms. Phenix said.

Most losses on fine arts business occur during packing and shipping, she said.

Underwriters often place several restrictions on the exposure during the transportation, Ms. Phenix said. "The most common is locked vehicle warranty, limiting loss of art from a private vehicle to that which results from forcible entry. We also inform our insureds that they should not leave art in their vehicle for an extended period of time. It is merely an accident waiting to happen."

Other restrictions limit coverage to times when a vehicle alarm is on and limit coverage to occasions when at least one person is in the vehicle.

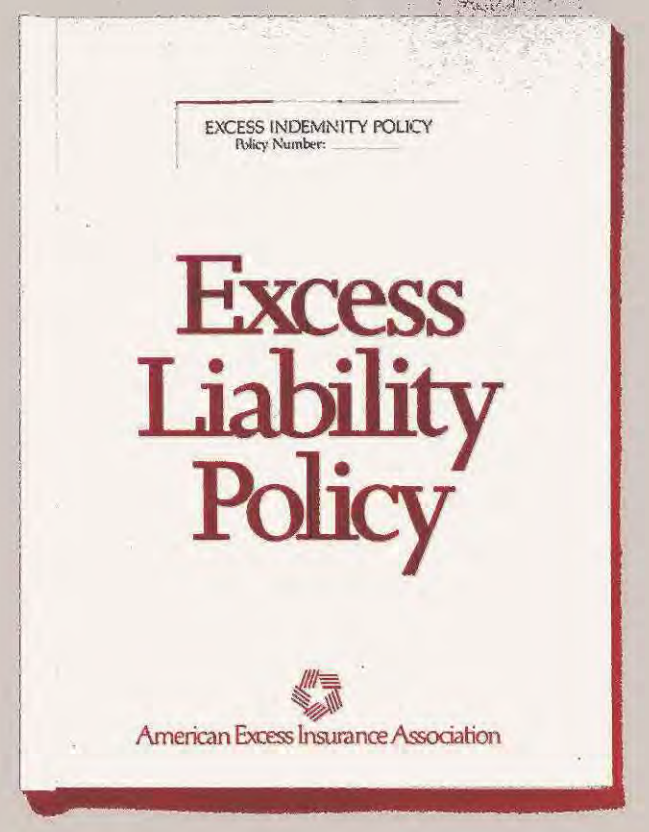
When transporting art, policyholders should always use experienced transportation companies.

"Many of our insureds use the express delivery services which may get the package there by 10 a.m., but we're not always lucky enough to have the work in one piece when it arrives," she said.

On one occasion, an express carrier was used to transport several prints. The carrier delivered the tube carrying the prints but when it arrived the prints had been removed. The carrier then denied responsibility for delivering the prints, saying it was only responsible for delivering the tube, Ms. Phenix said.

"Yet another reason why we don't like express mail."





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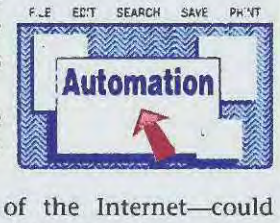
Broker traffic on information superhighway moving slowly

By ROBERTO CENICEROS

Many brokers are intrigued by the possibilities of reaching potential clients via the Internet and conducting business over that global computer network.

Consider this scenario: A curious computer user and potential client browsing the Internet's WorldWide Web comes across a graphic presentation and description of a broker's services and an e-mail address for additional information.

The use of a "home page," or a visual information display which can summarize a company and its products, on the WorldWide Web—a subsection of the Internet—could prove appealing enough to attract potential clients.



That is why Acordia Inc. already has taken steps to develop a home page and is exploring expansion of its Internet use for communications with clients, a spokesman for the Indianapolis-based broker said.

Even though use of the information superhighway is tantalizing, it's not without drawbacks.

Because the Internet currently is open to anyone, information intended for exchange between brokers, insurers and their clients may be accessed by others. And that could present problems.

"Security, security, security," says Ezra Wohlgemuth, senior vp of technology at Marsh & McLennan Cos. Inc. in New York.

"Our clients have entrusted the information we manage on their behalf to be secure. Until somebody can come back and show that the Internet has that characteristic," we will not use it, he said.

Indeed, security remains a huge stumbling block to use of the Internet for commercial insurance and brokerage transactions. Knowledgeable insurers speculate that banks and credit card companies will lead the way in using the Internet for commercial transactions long before the insurance companies and brokers use it extensively. And, if insurers do use it, it won't be until the communications giants such as MCI pave the way by establishing Internet communication lines capable of ensuring privacy and providing appropriate security.

Security worries putting brakes on transactions

For now, the Internet remains an uncontrolled network open to anyone with a computer.

Most computer transfers of information between brokers, their clients and insurance companies now are conducted across dedicated telephone lines rather than on the wide-open Net.

Acordia does use the Net for e-mail communication with some clients, albeit in a limited form. Because of security concerns, only non-proprietary information now is transferred on the Net.

However, Acordia and other brokerages foresee the day when security products will make the Net available for more extensive use.

"We're looking seriously at using the Internet to do bulk file transfers and electronic claims filing," the Acordia spokesman said. "We think that will lead to greater efficiency in dealing with our clients."

For example, dedicated lines are now cost-effective and efficient for clients with bulk transactions. But Acordia believes the Internet could make it efficient to service even more clients electronically.

However, that eventual use depends on the development of secu-

See **Security** *on next page*

Security

Continued from previous page

rity measures. In part because of that concern, computer security is a growth industry with security companies developing products for the Internet that already are being used in conjunction with dedicated lines.

To guard against hackers breaking into their dedicated communication lines, companies have turned to various forms of recently developed computer technology.

A growing number of software firms are creating encryption programs that scramble messages until a key holder unscrambles them, "firewalls" that protect computer systems from outside intruders, and credit card-sized random number generators that produce a new password every 60 seconds.

One of those "dynamic tokens" is sold by a company called Security Dynamics in Cambridge, Mass. Security Dynamics' "SecurID" has a liquid-crystal display of numbers that are synchronized to change with corresponding numbers on a file server.

To log into a company computer system from a remote site, a user must key in a personal identification number along with the current number on the card. Security Dynamics' "smart cards" now are used by some insurers such as UNUM Life Insurance Co. of America in Portland, Maine.

Insurance industry users say they will proceed slowly, and are in no hurry to place information on the Internet that would embarrass policyholders if it became public.

"We find it very effective in that it helps us support dial-up access," said Lynda Fleury, UNUM manager of information security services in Portland. Ms. Fleury said that by using the smart card, brokers, executives, employees and computer support staff can gain access to the company's computer data and electronic mail system.

The card works in combination with a "firewall", or a minicomputer that filters out unauthorized calls and connects legitimate calls to a larger system where pertinent information is stored.

While a growing number of products can bar unauthorized users from entering a system, potential problems posed by someone with authorized access remain the greatest security challenge for companies.

"Sadly, the greatest threat comes from inside your own organization," according to a report titled "Current and Future Danger" from the Computer Security Institute, a San Francisco-based organization for data security professionals.

"Most theft of proprietary information, disruption of availability, corruption of integrity and loss of confidentiality is achieved by those with access to information system resources from within your perimeter—such individuals include employees and independent contractors as well as vendor and client representatives working on-site," the study states.

The report was not written specifically for insurance brokers, but the concern certainly applies, security advisers say.

As for the Internet, insurance industry users say they will proceed slowly because of security concerns. They are not in a hurry to place information on the Internet that would embarrass policyholders if it became public.

"We will just cautiously step along and see how far we want to go," said Peter J. Daboul, senior vp at Massachusetts Mutual Life Insurance Co. in Springfield, Mass.

MassMutual does not have plans to use the Internet to conduct business, but the company is among a few insurers who have placed a home page on the WorldWide Web. MassMutual also uses the Internet for some e-mail communications with policyholders.

After accessing MassMutual's home page, a Web browser can call up further information about topics such as pension management and group life and health benefits.

"As one of the first companies in the life insurance industry to go online, we are taking an incremental approach and will focus on providing general information rather than service or sales abilities," Mr. Daboul said.

MassMutual also is considering using the Internet to dispense agent recruiting information.

But the computer that MassMutual uses for Internet access is not physically connected to the company's other computers, so a hacker working on the Internet cannot gain access to valuable or confidential information.

"Even if the world's best hacker could get in there, physically they would not be able to connect to any of those assets we want protected," Mr. Daboul said. BI

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SPHERE DRAKE INSURANCE P.L.C.

Fred Duncan, chief actuary at Sphere Drake in Brighton, England, monitors a conference linking Sphere Drake's Bermuda office with London underwriters.

Face to face across the seas

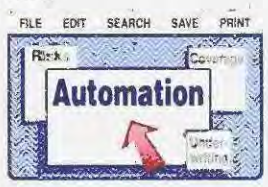
Sphere Drake's video conferences link tradition with technology

By GAVIN SOUTER

Every once in a while, technology—which so often takes the human element out of business—seems to put it back in.

Such is the case at Sphere Drake Holdings Ltd.

A video conference facility between two of its units, Sphere Drake Insurance P.L.C. in London and Sphere Drake Insurance (Bermuda) Ltd., allows underwriters in Bermuda and brokers in London to discuss risks face-to-face.



The video link-up helps maintain the personal relationships between underwriters and brokers that is so valued in the London market. Sphere Drake Bermuda's technology has helped draw business it would not have seen if it contacted brokers by telephone or fax alone, underwriters and brokers agree.

And although Sphere Drake is considering extending the facility to the United States, the set up is best suited to linking up with London, which has a tradition of face-to-face negotiations, underwriters say.

Sphere Drake established a video conference facility between the London and Bermuda companies in December 1993 after Sphere Drake Holdings used $100 million of its September 1993 initial public offering to recapitalize the Bermuda company.

Sphere Drake in Bermuda writes marine and non-marine insurance and reinsurance and much of the business is derived from London brokers.

Run over a leased network and available for use 24 hours a day, the facility links the Bermuda office with the Sphere Drake office in the London Underwriting Center.

Having face-to-face contact with brokers in that London insurance and reinsurance market "is almost like having another underwriter in the LUC," said Richard Carver, an underwriter at Sphere Drake in London.

In the London office of Sphere Drake, there are two large television screens. One displays the image of the Bermuda underwriter and the other shows the image of the London office that the Bermuda underwriter is viewing.

One camera is positioned on top of one of the television screens and another is on a tripod in a corner which is used to view larger groups. Around 25 brokers a day use the facility. Brokers line up to use the video equipment the same way they do to see underwriters in person, Mr. Carver said.

Sphere Drake in London and Sphere Drake in Bermuda underwrite separately, but if the Bermuda company is considering a risk along with the London company the video conference allows the Bermuda underwriters to become part of a group discussion on a risk, he said.

"Being able to see the broker makes it a lot more personal. When you are seeing 25 brokers a day, you eliminate a lot of paperwork by having the video link," Mr. Carver said.

Without the video conference facility, the Bermuda underwriters would negotiate coverages solely by faxed correspondence and telephone conversations.

"We find that it's very useful, but it's not perfect," said David Long, managing director of the Bermuda company.

Mr. Long has been using the

Continued on next page

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Continued from previous page
video link with Sphere Drake's London office for seven or eight hours a day since it was established in December 1993.

"That can be a bit of strain on the eyes and there is a slight time delay. . .but you can see the expression on a brokers face so it is better than just using a fax or a phone," he said.

Bermuda underwriters use the video unit only to obtain information on risks. The actual underwriting is done in Bermuda. "Any acceptance by the Bermuda company has to be done in writing by two officers of the Bermuda company," Mr. Long said.

All of the contracts are mailed back to London, he said.

The video link-up works well for Sphere Drake because it has an underwriting affiliate in London, Mr. Long said.

Both companies have a similar underwriting philosophy so the Bermuda office benefits by having a like-minded underwriter on the spot in London, he said.

In 1994, about $35 million in gross premiums of Sphere Drake in Bermuda represented business that was first discussed over the video link and the costs of the link are probably less than 1% of that, he said. The company's total gross premiums were about $150 million.

Sphere Drake's position as a lead underwriter also allows the Bermuda company to gain a greater control over the risks it underwrites, Mr. Long said.

The video link has helped produce business, said Mr. Long. "There is guaranteed flow of business into the London company which we can hopefully access."

The video conferencing facility also links up the Bermuda office with Sphere Drake's administrative offices in Brighton on the south coast of England and Sphere Drake's yacht insurance subsidiary, Groves, John & Westrup, in Liverpool.

Again, this makes business easier for the Bermuda subsidiary, Mr. Long said.

"It means that we can have a weekly inter-office meeting with the London and Brighton offices," he said.

Sphere Drake has been approached by a U.S. broker that wants to set up a video link with Sphere Drake in Bermuda, an offer the insurer is considering, Mr. Long said.

The problem with setting up a link to the U.S. market is that there is no central marketplace like the LUC in London, Mr. Long said.

The only drawback to the Bermuda-London video link is that Mr. Long has to work on London time, so he has to be in the office at 5:30 a.m. Bermuda time.

"But we finish at 2 p.m. and when you live in Bermuda, that's not all bad," he said.

London brokers also value the video conference facility.

The video conference facility at Sphere Drake allows face-to-face contact and speeds up transactions between brokers in London and underwriters in Bermuda.

"There is so much face-to-face broking in our business because it is essential that we get our points across," said Nicholas Porritt, a director at Swire Fraser Insurance Ltd. in London.

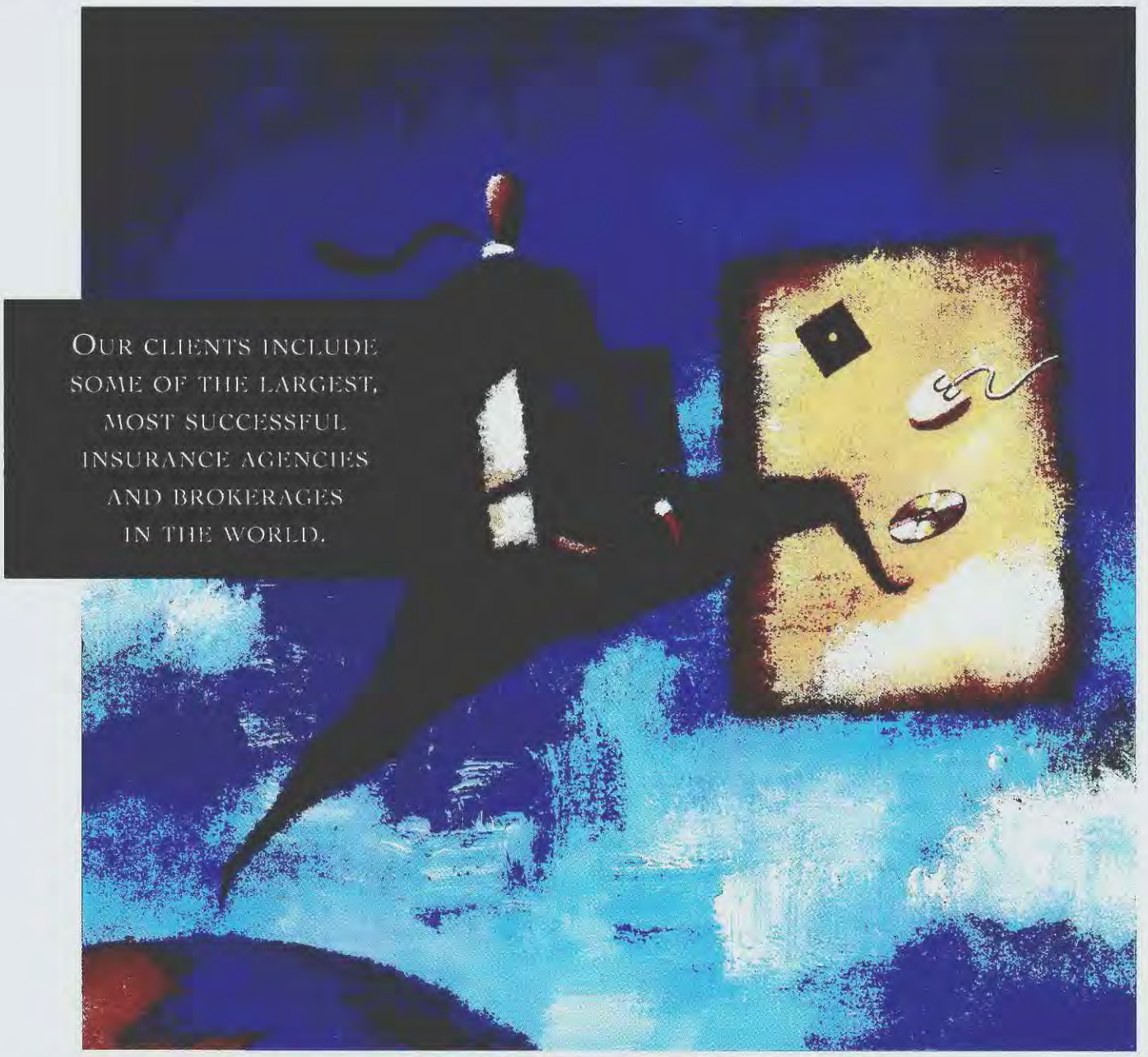
The video conference facility at Sphere Drake allows the face-to-face contact and it also speeds up transactions with the Bermuda underwriter, he said.

As well as speaking to and seeing the underwriters in Bermuda, brokers can show them documents simply by placing them in front of the camera, Mr. Porritt said.

"It is so disjointed using e-mail or faxes. . .I think most people in London wish that other companies with operations in Bermuda or elsewhere had the same thing," he said.

Sphere Drake probably is securing extra business by using the video conference facility, Mr. Porritt said.

All other things being equal, brokers are more likely to show a risk to Sphere Drake than another Bermuda facility that does not have a video link, he said. BI



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Agent/Broker Topics

Keeping agents ahead of the technology curve

New ACORD chair stresses agency investment

By MARK A. HOFMANN

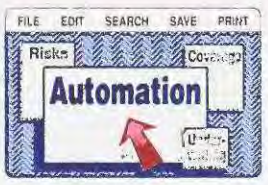
Agents and insurers will have to put more money where their mouths are when it comes to technology, according to the new chairwoman of ACORD.

An investment in office technology is no one-shot deal, says Vernell H. Hogan, president of Hilb, Rogal & Hamilton Co. of Tidewater, the Virginia Beach, Va., office of broker Hilb, Rogal & Hamilton Co.

"Agencies and the companies have to be willing to invest in the technology, and it's an ongoing process," said Ms. Hogan, who in March became the first woman to chair ACORD.

Pearl River, N.Y.-based ACORD is a non-profit, insurance industry-supported association that seeks to increase the efficiency of the independent agency system by improving the electronic processing of insurance transactions.

Ms. Hogan, who was first elected to ACORD's board in 1992, has served on the association's executive and finance committees as well as the interface task force. She also chairs the automation committee of the Alexandria, Va.-based Independent Insurance Agents of America.



She said she's "continually amazed" at the number of agencies that are still using first-generation technology. These agents will not buy upgraded computer software or hardware and that means that they're not getting the full benefit of automation, she said.

Ms. Hogan makes clear that the benefits of automation are myriad.

The drive toward increased automation, with its attendant cost savings, must continue, she said. It reduces cost in the distribution system so that agents and brokers can be more responsive to the customer, as well as be more accurate. When all of a policy's information is already in a system, an agency can pull it up when a customer calls. Relevant information can be printed out and faxed immediately.

"It's essential for our survival in today's marketplace," said Ms. Hogan.

Fortunately, agents and insurers are "well on our way" to realizing the potential of electronic interface, she said. The incidence of downloading of policy data from insurance companies to agencies is more than doubling every year, she said. There were more than 7,400 active uplinks between agents and insurers this spring, compared to 3,600 in 1994, Ms. Hogan said.

The trend toward increased reliance on electronic interface between agents and insurers "definitely" will continue, she said. "Once we see the benefits, there's no turning back. We will want more."

As part of its effort to give agents and insurers what they want, "we really kind of took ACORD apart and put it back together again," during the past year or so, said Ms. Hogan.

Among other things, ACORD developed a planning committee that will take any recommendation for a project from any of the organization's stakeholders and make recommendations to the board, which has the final say, said Ms. Hogan.



Vernell Hogan says that in an effort to satisfy agents and insurers, they kind of took ACORD apart and put it back together again.

This will enhance continuity in the organization, whereas the previous structure allowed a chairman to come in for a year and promote a pet project, she said.

"Development and improvement of standards is the ongoing core" of ACORD's mission, said Ms. Hogan. The organization is in the midst of taking standards "to a new level" by adding a set of standards for object technology, she said.

She described object technology as "almost a plug-and-play" system.

It is a new method for creating software that uses self-contained reusable pieces of code that perform specific, narrow functions such as mathematical calculations. These pieces of code can be linked together to form an application, for example, to update ACORD forms more quickly to reflect changes in regulation.

ACORD seeks to provide its standards and forms as objects, so that vendors can stay up-to-date with ACORD forms that meet the legal requirements set by state legislatures and insurance regulators.

ACORD also recently developed an electronic workbook called "Streamlining Your Agency Work Flow." The software program provides a set of step-by-step instructions for using the agency management system.

ACORD currently is putting together an educational workshop on workflow within an agency. The workshops, which will include a training video, will be held at locations around the country later this year, said Ms. Hogan.

Despite the progress made in enhancing agency/company interface, the No. 1 complaint of agents and brokers remains "that we can't communicate with all of our companies," said Ms. Hogan.

"It's getting better," she said. Once again, enhancing communication boils down to a matter of investment, getting people to invest in the solutions, Ms. Hogan said.

Many insurers and producers have been promoting single-entry multiple-company interface—or SEMCI—as a great step forward for the industry.

As Ms. Hogan points out, SEMCI "just means not having to do our work twice." SEMCI is part of an ongoing process toward uniform interface procedures that is constantly evolving. Nevertheless, "we've come a long way in eliminating redundant work" in the past 10 years, Ms. Hogan said.

As far as tomorrow's marketplace—and the technologies that will serve it—Ms. Hogan predicted that by 2005, technology will be even easier to use. It will be more transportable and perhaps include elements of expert systems and artificial intelligence, she said. Expert systems, also called knowledge-based systems, are computer programs that blend human expertise with automation. Some insurers currently employ these systems for underwriting.

Ms. Hogan declined to speculate exactly how this improved communications technology would be put to use in the agency system.

"If we know what the application will be, then we're already behind the curve," Ms. Hogan said.

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Sharing information made easy with technology

By MICHAEL BRADFORD

Insurance brokers are finding groupware is a revolutionary new computer technology that is changing the way they do business.

The groupware concept—allowing many users to communicate simultaneously from any worldwide location—is so complex that its development took years. But the concept that has brokers embracing it is simple: sharing.

"When we saw it, we said, 'This is our business,' " said Bill Wilson, senior vp at Johnson & Higgins in New York. "It was as if we were a carpenter and someone had invented a hammer."

"It's rapidly developing into the insurance industry standard," agreed Gary Lasko, senior vp of information technology for Sedgwick James' North American operations. More and more insurers are requesting groupware linkups.

Groupware is so unlike traditional software systems that users are able to "think in completely different ways about their businesses," said John Murphy, marketing development manager-insurance at Lotus Corp., the Farmington, Conn.-based company that produces Notes, the market leader in groupware.

When top managers see what Notes can do, they often turn to their information systems manager and say, "Let's get it in here," he added, a reversal of the traditional practice of leaving information systems departments to develop systems databases.

Groupware programs allow brokers to tie together any number of users, who can share information, collaborate on projects, update or track documents and perform a host of other functions any time and in real time. The process eliminates much of the telephoning, faxing, mailing and waiting associated with such processes.

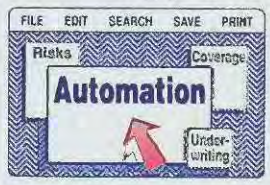
Part of groupware's appeal is the ease with which new databases can be added, in hours as opposed to weeks under traditional methods.

J&H is one of the pioneer users of groupware, signing up in 1990 as one of the first customers to install Lotus Notes. Now, about 4,000 employees use its system, which features a broad range of databases.

One important function of the system is helping employees brainstorm. For example, a producer trying to place coverage for a client can alert fellow employees that there are some gaps that need to be filled in the program. When the coverage requirements are posted, producers in other offices notify the original broker if they can help.

The technology that allows collaborative discussions is a moneymaker as well as a timesaver.

Once a client in Singapore needed something done in 24 hours, Mr. Wilson recalled. The project, which he could not identify because of client confidentiality, required the work of J&H personnel in Singapore, New York and Bermuda.



Such quick collaboration would have been impossible without groupware, he explained. "With the ability to share things across different time zones we were able to finish it."

Among J&H's groupware capabilities is a reference system that gives brokers up-to-the-minute information on insurance markets. "It brings in information from eight sources on insurance companies," including A.M. Best Co., Standard & Poor's Corp. and Duff & Phelps Credit Rating Co., Mr. Wilson said.

"It's in one place where people can find out the status of any insurance company," he said. A user is able to tap into an insurer's up-to-the-minute financial history. "If something happened ten minutes ago, you would be alerted right away."

Mr. Wilson said J&H also uses Notes to share presentations. "If someone has written a presentation, say, for a seminar on the D&O market, that presentation can be re-used."

An employee in another city can make modifications to the presentation and have it instantly, he explained. The presentations are stored in the system by subject.

Sedgwick James also takes advantage of discussion and reference databases, according to Mr. Lasko.

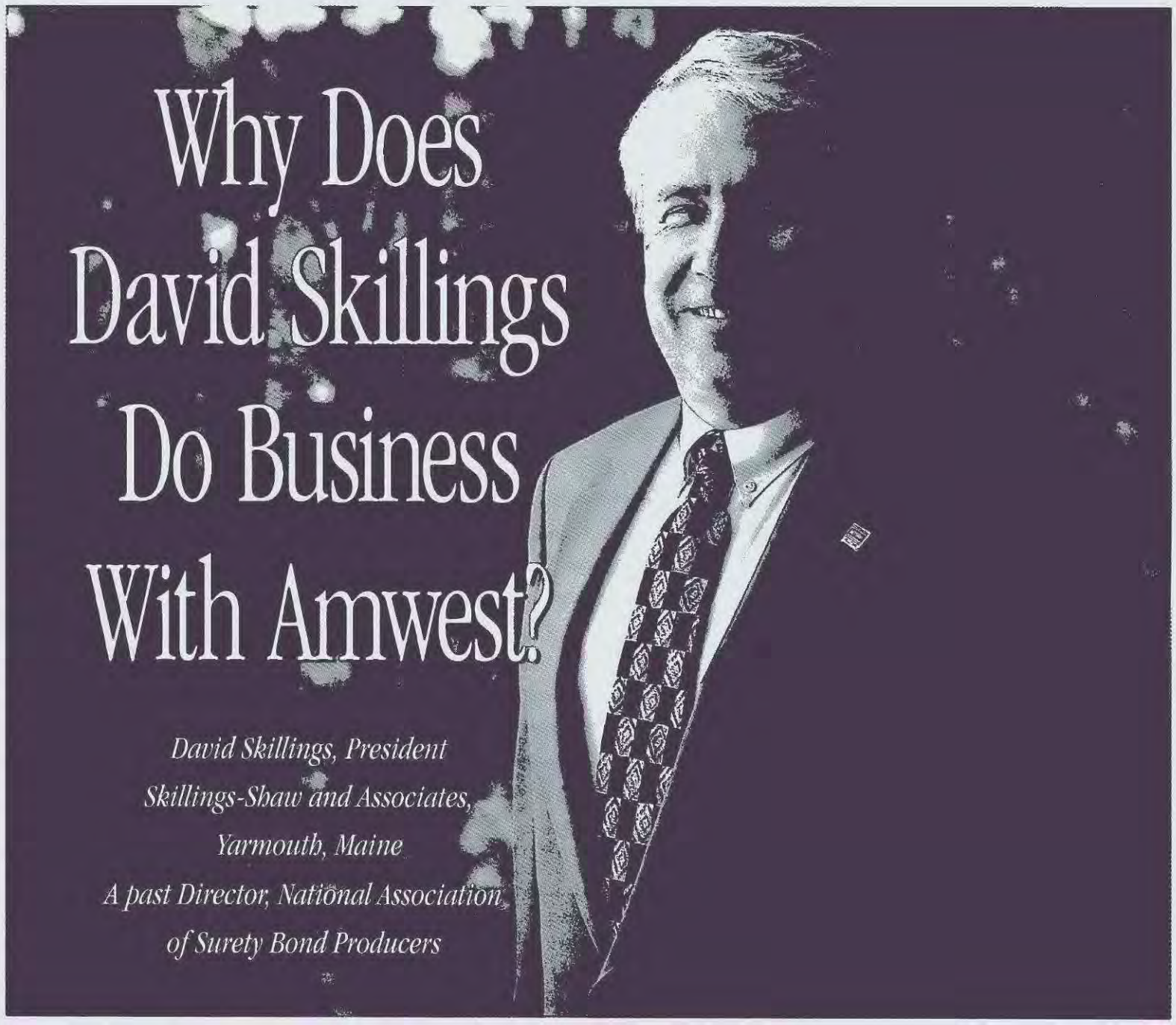
The ability to tie in to worldwide resources means the broker has the "ability to take the Sedgwick expertise, wherever it is around the world, and deliver it to a client's doorstep," he said.

Sedgwick James has around 1,500 worldwide users that tap into Notes in Memphis, Tenn., London, and Australia.

In addition, the broker's clients have some access to the groupware system. For example, risk managers can send the broker data like risk control inspection reports that are necessary for providing coverage.

Jardine is moving into groupware this summer, making Notes avail-

See **Groupware** *on next page*



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Agent/Broker Topics

Groupware

Continued from previous page

able to around 150 users in the United States, London, and Sydney, Australia.

"We're putting all our risk management departments around the country on Notes," said Jeffrey McKinley, managing director of Jardine Special Risks in San Francisco.

Jardine has used Notes in two offices as a communication tool and to handle account management functions with a client, he said.

The expansion, he said, "is a way to enhance the collaboration and cooperation of multiple locations working on an account."

The Jardine system will be structured with an internal and external database, Mr. McKinley explained.

Internally, users will be able to share data on coverage areas, access information on business procedures and swap other information.

Through an external database, managers of large accounts can communicate with clients, swapping and tracking documents and gathering and organizing the many pieces of information that go into placing coverage.

"We are looking for efficiencies, but also are using it as a way to increase revenues," Mr. McKinley said of the new technology. "We think it will be a better way to serve our clients."

The ability to tap many sources instantly is putting an end to the era of the in-house guru who everyone looked to with questions, Mr. Wilson of J&H pointed out.

"There always have been perceived gurus," he said. Questions on directors and officers liability insurance, for instance, are directed to the company expert on that coverage. Not with groupware.

While the guru wonders why his phone isn't ringing, groupware users are plugged into the electronic bulletin board, posting questions that draw responses from all over the world. "To think that it wasn't around 10 years ago is mind boggling," Mr. Wilson said.

Insurers have been eager to link with brokers through groupware.

American International Group Inc. is tied to its producers through Notes and has built links that allow the two sides to discuss risks, coverage information and price and eventually bind coverage from their desktops.

Whereas using old methods took three to four months for AIG and its brokers to complete some of the tasks between them, Notes is cutting that time in half, according to John R. Flynn, senior vp in domestic claims-technology development at AIG in New York.

In addition, AIG offers its policyholders a proprietary product called IntelliRisk, a windows-based risk management information system that includes tools from Lotus Notes and Microsoft Corp. software packages. It allows AIG policyholders and their brokers to retrieve and share information on claims and policies and to generate standardized or customized reports.

The system also allows policyholders to communicate on-line with underwriting, claims and cost containment personnel at AIG companies.

Mr. Flynn said there are around 125 accounts using IntelliRisk and AIG expects that number to double by the end of the year.

Fireman's Fund Insurance Co. also is linked with brokers through Notes and the two sides are able to easily check the status of policies.

"We don't have to track down everybody involved to see what has happened with the contract," said Mark Gire, manager of office information systems at the Novato, Calif.-based company.

While Notes has set the standard for the groupware market, brokers are looking to other software firms to meet other needs or supplement Notes offerings.

J&H uses a service called NewsEdge as an adjunct to Notes. The product monitors 150 publications and provides real-time news reports on the broker's clients and prospects.

Individual brokers are alerted by the system if an article with information on a client is available, Mr. Wilson explained, providing instant access to data on business changes or incidents that could lead to a policyholder claim.

Sedgwick James discovered a product developed by the University of Arizona called Group System V that is "a form of groupware we use for planning purposes," Mr. Lasko said.

Group System V is a LAN-based program that allows Sedgwick James to bring together as many as 15 users in a single planning session to "assemble the issues, prioritize, take a vote and come out with a finished document," he said.

"We've found it to be an effective way to get a cross-section of people to contribute to a meeting," he noted. "Everything is organized instantly."

Willis Corroon also is turning to groupware after realizing the efficiency of using an extensive electronic mail network.

"We were very successful in implementing e-mail from the mid-1980s to the early 1990s," said Paul Hartbarger, the Nashville-based broker's managing director of business system operations. "It involves several thousand users."

Willis Corroon decided the next step should be some form of groupware and is implementing Digital Equipment Corp.'s DEC Notes, a program that ties users together for group conferencing.

Mr. Hartbarger said that after DEC Notes is in place, the broker will evaluate other groupware products in a local area network environment including Lotus Notes and Microsoft's Exchange.

Microsoft introduced its Exchange entry into the groupware field in 1994. It operates on the same principle as Notes, integrating electronic mail, scheduling, electronic forms, document sharing and other functions with users' ability to pass the information easily between them.

Users that have found success with electronic mail can consider a groupware version of the technology called FirstClass. Developed by SoftArc Inc. in Markham, Ontario, it is a product that follows the concept of electronic mail but allows users to do much more than just swap messages.

"The main application is to allow users to collaborate or disseminate information about their business," said Scott Welch, vp at SoftArc. "Groups of users can form virtual communities where they have interactive or collaborative discussions."

He explained that SoftArc operates much like forums found on CompuServe, where users with common interests gather for online discussions. However, FirstClass allows the forums to be built quickly and inexpensively without using an online service like CompuServe.

FirstClass also provides some of the same forms processing and database access that is found in Notes and Exchange.

Mr. Welch said while SoftArc hasn't in the past targeted large companies as prime candidates for FirstClass, a new server for Microsoft Windows makes the product more attractive for companies with many users.

The price of FirstClass is an advantage to companies that need multiple licenses. The server costs $95 and a license for five regular users is $395.

Companies that need the wider range of services provided in Notes will pay around $275 for each Notes user. Lotus Notes Desktop, a simplified version without all the Notes features, sells for about $155 per license. Lotus Notes Express is an introductory version that has an estimated retail price of less than $100 per license. BI

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BSC America

Centering on agents' automation needs

PIA chapters' resource center helps members solve problems

By REGIS COCCIA

Need answers to an agency automation problem? Wondering what kind of computer system is appropriate for your agency's needs?

For insurance agents who have ever needed encouragement or direction on automation issues, help is as near as a telephone.

To smooth their members' path on the Information Superhighway, the Professional Insurance Agents of New York, New Jersey and Connecticut Inc. earlier this year hired an agency automation specialist to answer calls to the three chapters' shared Resource Center in Glenmont, N.Y.

The resource center, believed to be the nation's first such facility specifically for insurance agents, was created in response to PIA members' requests for answers to questions on various topics.

One of the most common concerns agents have about automation is what they should do with it, says David Lohnes, an independent computer consultant in Saratoga, N.Y., and former insurance agent who mans the help line on automation issues.

It's common for an agent to ask, "What do I do? Where am I going?" Mr. Lohnes said. Agents are unsure about spending a lot of money on automation and they're trying to justify the cost.

"In my opinion, five years from now it's how the large majority of transactions are going to be accomplished," Mr. Lohnes said of automated systems.

The benefit of agency automation is twofold. "Agents need an automation system to manage their offices. Inputting data is very time-intensive and costly," he noted. And, secondly, an automation system lets agents download data and transmit it to insurance companies, which saves time and money on both ends.

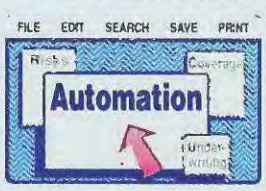
Mr. Lohnes said he receives about five to six—and sometimes as many as a dozen—calls a day from agents wanting to know, for example, what computer hardware to buy to begin automating or to upgrade the equipment they already have.

"Well over 50% of the calls have been from people who are purchasing a new system or upgrading from a current system," Mr. Lohnes said. "The other half are all over the board. There's a lot of interest in the Internet: 'What is the Internet?' 'What kind of software should I use?' "

Mr. Lohnes stresses that his role is to diagnose agents' automation problems and point them toward the proper path.

"I act as an interpreter. I understand what their problems could be and put them in the right direction," he said.

"We're not a support center. We don't want to take the place of management system vendors," he said. But, the PIA Resource Center will do whatever it can to help, he said.



"There's a lot of 'I'm looking for software that will do this for me. . .,' " such as workers compensation software or special rating programs, Mr. Lohnes said. "And I try to find that for them."

Sometimes, local agents in New York state meet with Mr. Lohnes in person to discuss their automation goals and options.

Because software vendors' proposals have different formats and system requirements, "it helps to lay things out and draw diagrams, things you can't do over the phone," he said.

Besides his duties helping agents out of computer quandaries, Mr. Lohnes also writes articles on automation in the three PIA chapters' monthly magazines.

While insurance agents aren't yet becoming computer experts, they are "becoming more computer-aware. They're trying," he said.

"It's very easy to get caught up in system jargon like 486, Pentium, etc.," Mr. Lohnes explained.

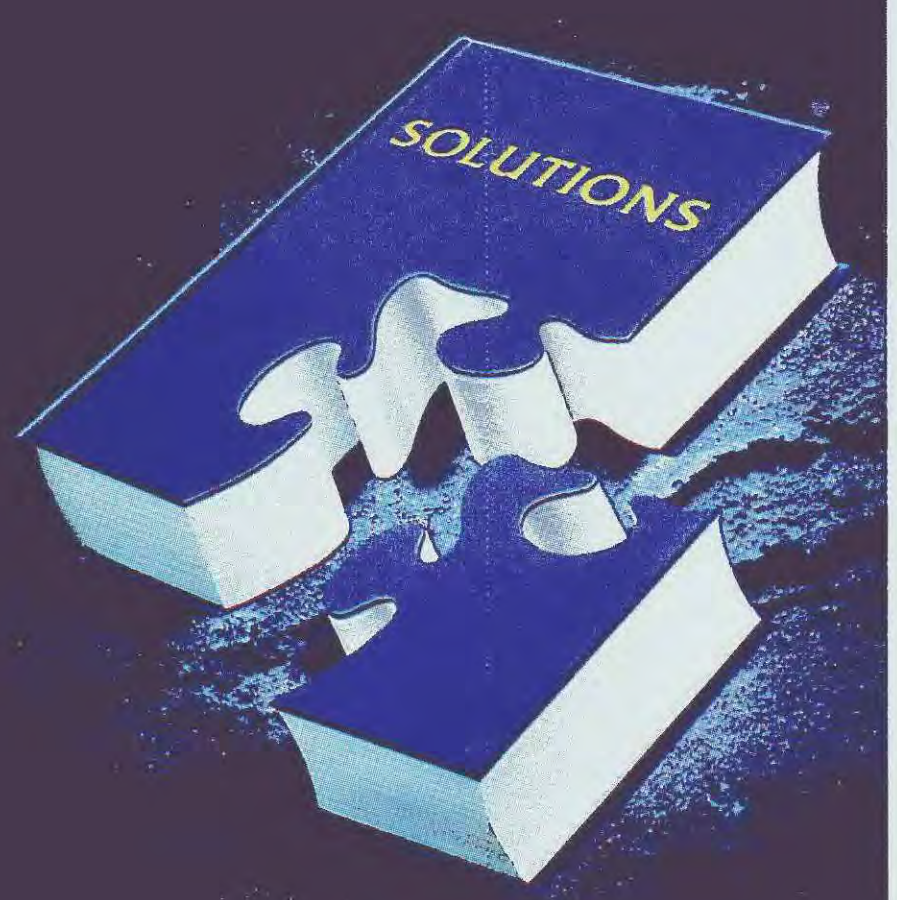
"If an agent calls and says, 'I think I need a computer for my office, what do I get?' that's the wrong question," he said. The right question for an agent thinking about automation is, "How can a computer help me?"

Agents have to think about what their goals are and what their needs are, because each system is unique.

When an agent calls him for help, Mr. Lohnes said he tries to find out some basic information, such as how big the agency is, what lines of insurance it handles and the agency's level of

See **Resource** *on next page*

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Continued from previous page

computer expertise. Such information helps Mr. Lohnes better respond to the agency's needs.

Automating an agency "is a learning process," he said. "So many times I've seen agents jump into full-blown systems and then they just sit there. So I advise them: Do what they can manage."

Since the PIA chapters set up the Resource Center Feb. 1, Mr. Lohnes estimates he has helped 300 agents.

"I'm not here to solve their problems for them, but I will help them solve the problems themselves or point them to someone else who can help them," such as a system vendor, Mr. Lohnes said. "And that seems to work."

The PIA chapters in New York, New Jersey and Connecticut, which have operated a central administrative office since 1960 but remain separate entities, decided to establish an information resource center last summer.

In 1994, the three chapters received about 7,000 calls from member agents with technical questions, said Diane Kattrein, assistant executive director for administration and communication. "We decided what we needed to do was set up a customer service unit," said Ms. Kattrein, adding that the number of calls in 1994 "will be well exceeded in '95."

By calling the resource center, PIA members can get in touch with five technical specialists for answers on topics such as agency automation, legislative changes, coverage issues and insurance regulations. Questions on automation are recurrent.

"Agency automation need has been coming up for the past two or three years," Ms. Kattrein said. "Whenever two or more agents get together they've talked about automation."

The response from PIA members to the service so far has been very positive, said Mr. Lohnes, adding he has received copies of "10 to 12 letters agents have written to the executive directors thanking them for the information they got as a member benefit."

Besides automation help, the resource center also assists PIA member agencies that are seeking insurance company appointments or to buy, sell, merge or form clusters with other agencies.

In addition, the resource center manages the PIA's MarketBase, a database of insurance markets for special and hard-to-place risks, as well as a database of agency consultants.

"We try to offer members as best we can top-notch service, just as they do to their clients," Ms. Kattrein said. "They pay us dues and the reason they do is so we can help them maintain their business."

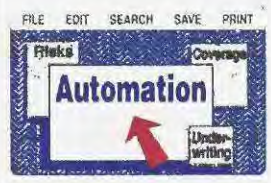
The center is something "we've put a lot of time, energy and resources in" to help agents, said Ms. Kattrein. "That's what we're here for." BI

Taking insurance marketing online

Agents sort out where they fit in brave new world of technology

By SALLY ROBERTS

When John Caldarella, owner of Commercial Insurance Associates, realized he was spending too much money advertising to the wrong people in the Yellow Pages and that other telemarketing and direct marketing avenues had reached their saturation points, he turned to the information superhighway.



What resulted was Insurance OnLine, a Hamden, Conn.-based online marketing corporation that generates qualified leads for approximately 250 independent agency members across the country through the Prodigy online service.

By advertising on Prodigy, Insurance OnLine offers more than 2 million Prodigy users the ability to request quotes on their auto, home, business and life insurance needs. Independent agencies pay an annual fee—up to $2,995—to become a network member agency. Insurance OnLine then gives the information input by the Prodigy user to a member agency on a rotating basis within 48 hours of the request. Once the agency receives the lead, it is the agency's responsibility to respond to the Prodigy user with a quote.

"The results are overwhelming," said Mr. Caldarella, chief executive officer of Insurance OnLine. In April, the Prodigy network generated 28,000 leads, which were distributed to agency members. Of the leads, 50% were on automobile insurance, 25% life insurance, 15% homeowners insurance and 10% business, he said.

"The future of the independent agency in marketing is on the information highway," Mr. Caldarella said.

Within the next few weeks, Insurance OnLine is expanding its business to the Internet, he said. Not only will it have its own "home page" on the WorldWide Web to generate leads like it does on the Prodigy network, each agency member also will have the option to create an individual home page that Internet users can browse.

While Mr. Caldarella, who still runs his full-service agency, has found his niche in the ever-changing world of technology, other agents and brokers need to figure out where they fit in, said William C. Hartnett, worldwide solutions manager-insurance for Microsoft Corp. in Redmond, Wash.

"Agents can play in the new world, but no one is going to tell them exactly how to do it," he said.

What agents need to do is "expose" themselves to technology, he said. The easiest step is to get online with an online service vendor, obtain an electronic mail address and become "familiar with what their customers are looking

Continued on next page

When Bob Diamond of Effective Security Systems talked to us about comprehensive insurance, we immediately "talked to the Brownyards."



Bob Diamond (l.) and Jeff Rubin at Effective Security Systems.

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at," he advised.

Because many of the service vendors allow access to the Internet, agents can go a step further by developing a capabilities brochure on a home page on the WorldWide Web for Internet users to browse through, Mr. Hartnett said. Agents can display their business history, philosophy, services and products on the brochure.

It is also feasible for agents to develop an insurance question-and-answer form on the home page for prospective browsers to fill out and obtain a quote, he said.

Going a step further, agents can group together and create a home page to generate international, national or regional leads.

Mr. Hartnett referred to Insurance OnLine as another model that agents can look to as an example to take advantage of technology.

But, while Insurance OnLine may be at the forefront of the online agency distribution system, "it will go beyond that," he predicted. "Technology is like nailing Jell-O to a wall. . . .The pace of change is incredible."

What is happening is that the insurance world is migrating into the world of online commerce, he said. Therefore, "agents and brokers need to figure out how they are going to fit into that world."

Technology is reality "and if you try to fight it, you'll lose. So, when new technology comes available, figure out how to use it to your best advantage," Mr. Hartnett said.

Even though online commerce such as interactive television will create further competition for agents as consumers start to purchase insurance directly from insurers online, agents still can play a role, consultants say.

Customers will continue to need agents to give the advice and expertise on what insurance coverage is needed, said Kevin S. Kelly, senior consultant with Enlightened Influence Inc., a consulting firm in Stony Point, N.Y. "There is no automation system now that will help (customers) with that." So as long as agents have the tools in-house to communicate with customers and insurers, they will have a part to play in the new world of technology, he said.

Agents need to be aware that their agency computers are "the entry and exit ports of the distribution channel of the future," he said, referring to electronic data interchange and electronic mail.

R. Thomas Bigelow, executive vp-financial service practice for CSC Consulting & Systems Integration in Oak Brook, Ill., gave agents attending the ACORD Technology Summit conference in March some suggestions on what they should be doing now to prepare for the future in technology:

- "Senior management at both agencies and insurance companies need to become familiar with technology. They can't hold it at arm's length anymore."
- Agents need to investigate innovative ways to communicate with their customers.
- "Competition is moving rapidly closer to your customer. . . .Are you?"
- New competition requires agents and insurers to improve coordination between themselves in order to succeed.
- Agents need to read about new technology. "If you're not already reading six to eight hours a week, you're falling behind."
- "The most effective use of technology begins with aligning your organization's goals with technology."
- "Just getting better at what you're doing is not enough." Agents need to be more "radical and ambitious." BI

A/BT Briefs

Agent compensation

ROCHESTER, N.Y.—A new software program is designed to make it easier to calculate appropriate producer compensation.

Hiring & Paying Producers, created by the Rochester, N.Y., consulting firm The Shulman Group, enables agency managers to model current or prospective agents' books of business and project the best methods of compensating those producers, thus avoiding either overpaying or underpaying them.

The software lets managers project the revenue a given producer is expected to generate for up to five years and compare profit or loss with four main compensation options: straight salary, straight commission, draw vs. commission, and salary and commission.

The software package, designed for IBM compatible PCs with at least 640K of memory and 2 megabytes of hard disk space, is available for $195.

For more information, contact The Shulman Group, P.O. Box 18017, Rochester, N.Y. 14618; 716-442-6044.

Specialty software

CHICAGO—A new automation software system is available to managing general agents, insurance wholesalers and excess and surplus lines brokers.

VISTA for Windows, designed by Delphi Information Systems Inc., performs rating, policy printing, claims management, spreadsheet and other functions.

For more information, contact Delphi Information Systems Inc., 3501 Algonquin Road, Rolling Meadows, Ill. 60008; 1-800-433-5744, ext. 800. BI

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Agent/Broker Topics

NAFTA helps U.S. agent find way to tap Mexican market

By ROBERTO CENICEROS

Long before NAFTA became common bumper-sticker material, Carlos Touche took note of the numerous U.S. factories operating in Mexico.

On trips to visit relatives there, the sight of all those factories made him wonder about potential opportunities for his Tucson, Ariz.-based independent insurance agency, Lovitt & Touche Inc. Mr. Touche is board chairman of the agency.

Before the trade agreement was passed in 1993, most agents in the United States didn't give much thought to producing business across the border. Then came the North American Free Trade Agreement and Mr. Touche and his business associates decided it was time to act.

Their first steps were wobbly ones. Mexican insurance officials were uncertain about NAFTA's implications and unable to give much helpful advice. Trips to Mexico City and meetings with insurers seemed to go nowhere.

All forward-looking agents and brokers should strive to cultivate international relations that can help serve clients operating across borders, says Patricia Borowski.

But Lovitt & Touche was eventually appointed by three Mexican multiline insurers—Seguros Comercial America S.A. de C.V. in Mexico City, Seguros Monterrey Aetna S.A. in Monterrey and Mexico City-based Seguros Interamericana S.A.—to sell their products to U.S. customers operating in Mexico.

Observers said such appointments have been extremely rare. The Mexican insurers told Mr. Lovitt that his agency is the first in the United States to receive such appointments.

Mr. Touche, who was born in Mexico, said relatives were eventually able to help arrange the Mexican appointments. One of his cousins is on the board of directors of one of the insurers, while another relative serves on the board for another.

"They've always had an interest in Mexico," said Edmund J. Ralph Muench, vp of international and financial services in Mexico City for Monterrey-based surety insurer Fianzas Monterrey Aetna S.A., an affiliate of Seguros Monterrey Aetna. "Their family roots go way back. They are from Mexico and opportunities arose."

But, Lovitt & Touche's attempts to tap the Mexican market have not been limited to relying on the help of relatives.

In 1994, the agency hired Alan Kohl, an insurance industry veteran of more than 20 years, who worked in Mexico for a joint venture between American International Group Inc. and Seguros Interamericana. Mr. Kohl recently left the agency for a post with a large insurer. His hire by Lovitt & Touche was a definite effort to capitalize on Mr. Kohl's familiarity with Mexico and his bilingual skills.

All forward-looking agents and brokers should strive to cultivate international relations that can help serve clients operating across borders, said Patricia Borowski, a vp of the National Assn. of Professional Insurance Agents in Alexandria, Va., who is responsible for following international markets.

Although Mexico's current economic woes have led many U.S. companies to shelve expansion plans there, others are moving ahead.

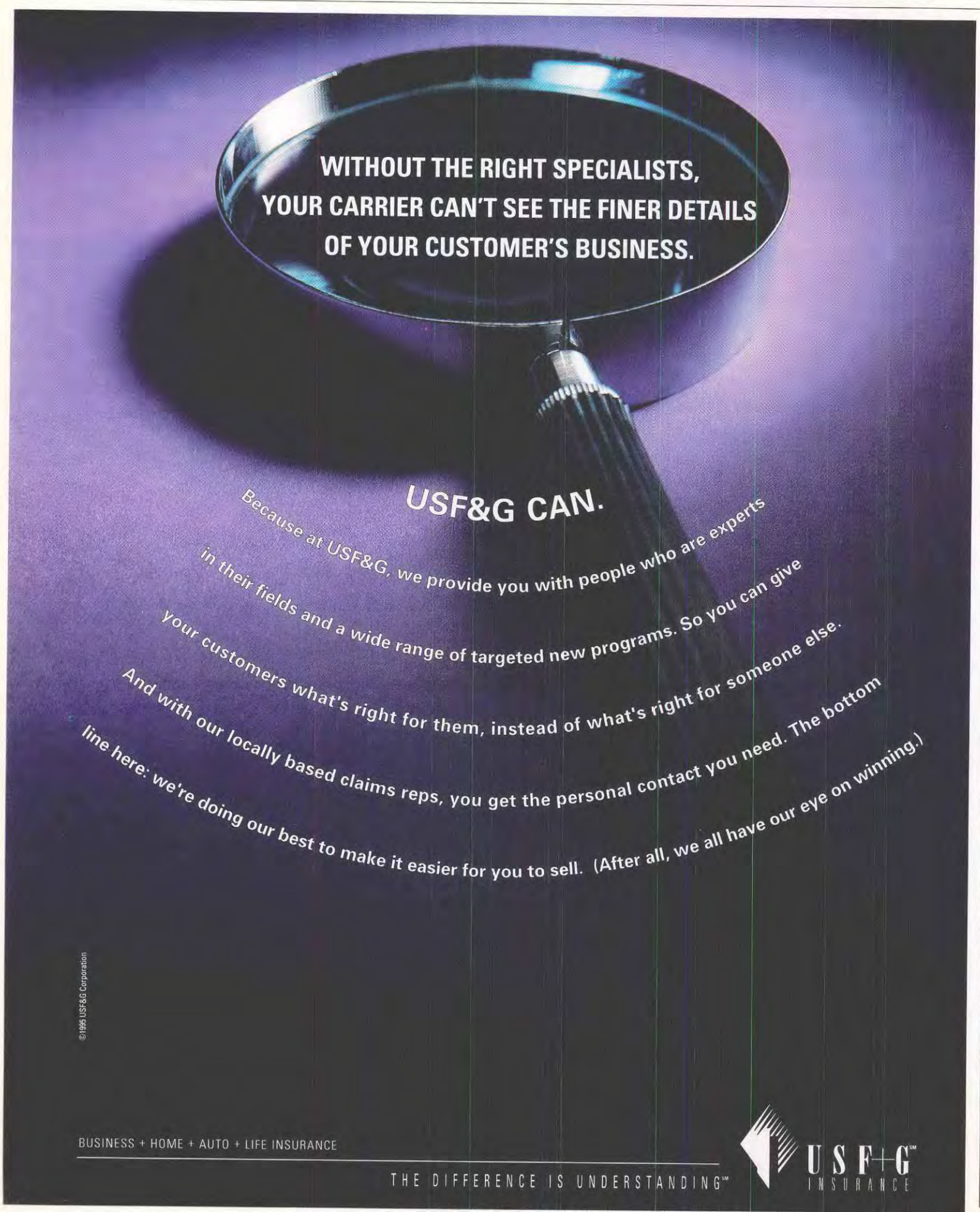
Ms. Borowski reasons that under NAFTA, companies will continue moving across borders and insurance opportunities will persist.

In the past, when an independent producer's client decided to expand internationally, the producer was generally content to turn over that portion of the client's business to the insurer, Ms. Borowski explained.

But, that is no longer an effective strategy. To ensure future growth, independent producers will have to profit from their client's international expansion. Independent agents also can lose a client's entire business if they do not find ways to place the portion conducted overseas.

"If you go to the alphabet houses, they'll say, 'Sure, we will take care of the international business for you,' and next thing you know you have lost the whole account," Ms. Borowski

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said.

She advises independent U.S. agents and brokers to establish ties and business relations with their counterparts in other countries. Those relations could be similar to the type producers now maintain with their counterparts in other states.

"U.S. agents and brokers really need to become more familiar with independent producers in Mexico," Ms. Borowski said. "If you are going to be active in the U.S. market, it behooves you to establish relations with agents and brokers in other countries."

Even with his new appointments with the Mexican insurers, Mr. Lovitt will rely on just such a business relationship. He has established a "joint venture" with a Mexico City agency.

The two are in the process of working out a stock deal that will give each a degree of ownership in the other's business. The association will help Lovitt & Touche service clients across the border.

"Obviously, our primary goal is to serve our clients," he said."But we can't fly there twice a week to do that."

Ultimately, his new company appointments will make more economic sense, Mr. Touche said. Before, when a client wanted insurance in Mexico, Lovitt & Touche worked through multiple international intermediaries, a service that carried additional expenses.

It was also harder to service accounts.

"We didn't have the contacts to discuss our client's needs and particular risks with the underwriter. Now we will," Mr. Touche said. His Mexican book of business is just getting started.

Among other industries Mr. Touche said he hopes to concentrate on U.S. construction firms that will build factories for U.S. companies operating in Mexico.

About 10% of the agency's business now comes from surety bonds written for the construction industry. Another 60% of their book consists of commercial clients. The agency also acts as a third-party administrator for some self-insured clients.

The Mexican insurers say relations with Lovitt & Touche will help them garner U.S. business.

"They have a book of business that could generate interest in participating in business in Mexico," Mr. Muench said. "It's an added value of getting professionals like Lovitt & Touche to do direct business to us."

Mr. Muench said Fianzas Monterrey will establish relations with other U.S. brokers. The extent of those relations remains to be seen.

Observers of business in Mexico frequently point out that gaining a toehold there usually requires either established friendships or family connections.

"In Mexico, to a large degree, it's who you know," Mr. Lovitt agreed.

Such thinking may fuel cynicism and discourage attempts to enter the market, but Ms. Borowski advises pushing ahead.

She said reliance on personal relations is not altogether foreign to the way business is conducted in the United States. The Mexican insurers face the same uncertainties U.S. interests face when considering moves into foreign markets. They also have many hurdles to clear.

She notes that business-minded people in the United States also turn to those they can trust and those in a position to return favors.

But Mexican insurers largely have remained uncertain and uncommitted about how they will enter the U.S. market, leaving many unanswered questions, she said. To what extent they will rely on U.S. or Mexican agents remains to be seen.

Ms. Borowski advises U.S. producers to understand the needs of Mexican insurers before approaching them, then proceed with a comprehensive program that will benefit both parties.

"Now that you have the NAFTA agreement, you are going to have to look at what arrangements are available," she said. "And yes, appointments have been very limited." BI

Directory deadline approaches

The July 17 issue of *Business Insurance* will contain the 24th annual Directory of Agents and Brokers.

The issue also will feature a Spotlight Report profiling the world's 20 largest brokers.

To qualify for the directory, agents and brokers must deal directly with corporate or institutional policyholders, and have at least $500,000 in gross revenues generated by commercial retail brokerage insurance business.

The directory is published as an editorial service. There is no charge to be included, but organizations interested in participating must complete and return a *BI* questionnaire by the extended deadline of June 16.

If your organization provides commercial retail brokerage services and you would like a questionnaire, please contact Directory Editor Kathy Welyki at 312-649-5279.



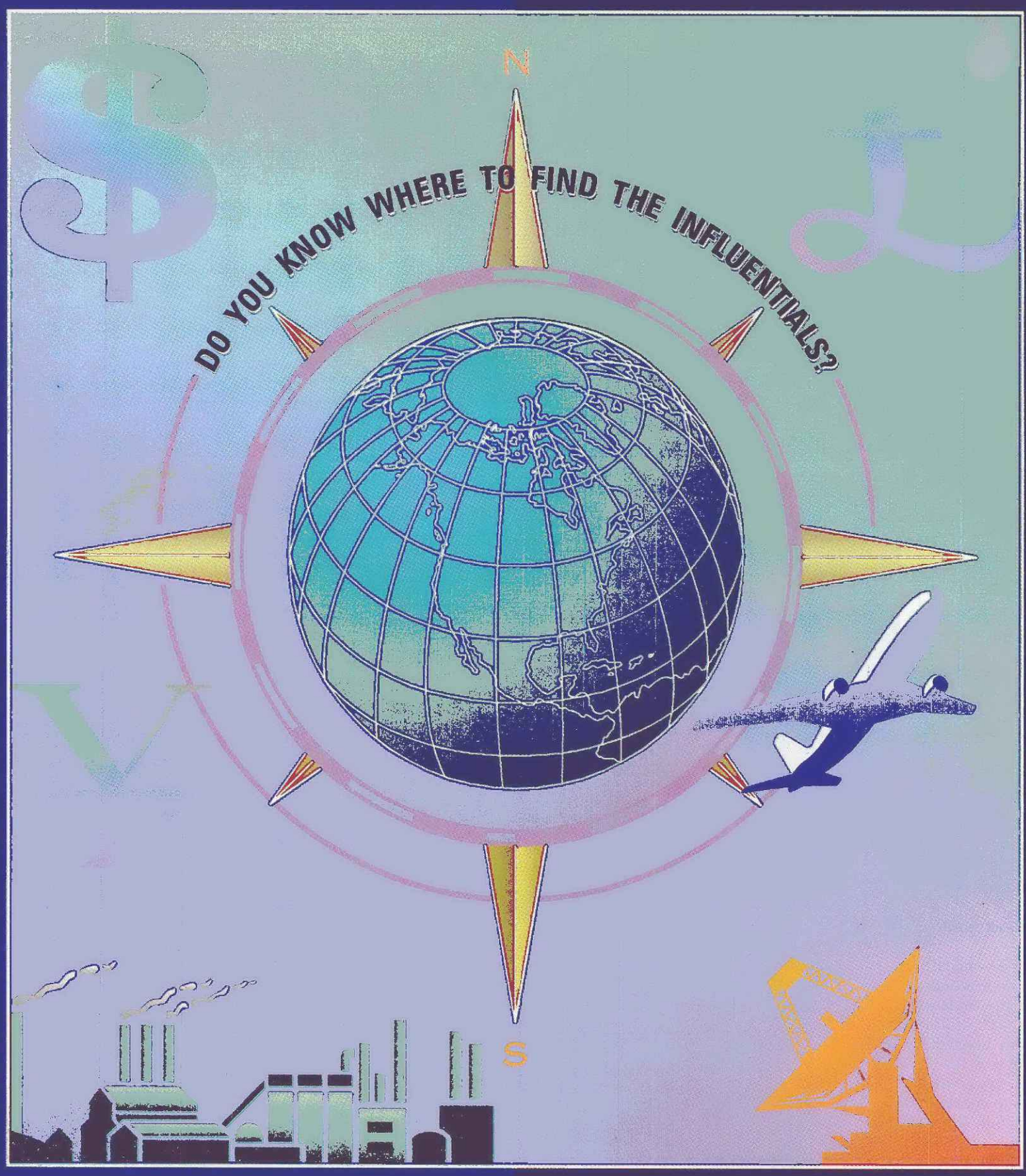
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Professionalism is top concern of group's new leader

By STACY SHAPIRO

There's a lot on the agenda this year for the first woman president of the Aviation Insurance Assn.

But Nancy Gratzer will take it all in stride.

"My goal is to continue to increase the professionalism of this organization," said Ms. Gratzer, who recently joined Marsh & McLennan Aviation in Atlanta. She previously was assistant vp of aviation/insurance services for Sedgwick James of Georgia Inc. in Atlanta.

"It doesn't matter if I'm male or female. I have a job to do and I'm going to do that to the best of my ability. It seems the guys have made a bigger deal of (having the first woman president) than the women have," she said.

Ms. Gratzer admits that when she came to her first AIA conference in 1984, she was one of the few women in the organization. She attended every AIA meeting she was invited to because, as a woman, "if you weren't there you were missed and I didn't want anybody to wonder why I wasn't there," she said.

Since then, as Ms. Gratzer has moved up through the organization's ranks to become vp last year, the number of women attending has grown. "It's a pretty good mix now. I'm happy to see that."

On her watch, the AIA has several goals:

• Working with the Malvern, Pa.-based Insurance Institute of America to establish an educational program to achieve a professional designation known as "Associate in Aviation Insurance Management" for the aviation insurance industry. Ms. Gratzer hopes a report can be prepared in time for the AIA's October board meeting on whether such a program is feasible.

• Publishing a standard "broker of record" letter, which specifies which broker or agent can offer a quote on an underwriter's behalf. Such a universal letter, based on a form written by AIG Aviation Inc., "will keep broker of record letters from being misused," said Ms. Gratzer.

AIA's underwriting division is reviewing the proposed letter and will give suggestions and comments "so we can come up with a standard form that hopefully an underwriter will require before he will accept a broker of record," she said.

AIA already has a standardized insurance application form for members to use.

• Establishing an AIA group errors and omissions insurance program initially for agents and brokers and eventually other AIA members in the legal and claims adjusting fields.

This idea was proposed by AIA's immediate past president, Pat Costello, of Costello Insurance Associates in Tempe, Ariz.

About four years ago, "the errors and omissions insurance market for agents specializing in aviation—with more than 25% of their book in aviation—virtually closed down and we wound up having to go to offshore markets with poor security," said Mr. Costello.

The E&O market has subsequently opened up again and agents can get the coverage now from reputable firms, though it can be expensive, he said.

"But, it's my opinion that two or three years down the line this (contraction) could happen once again," he warned. "So, to be proactive, I've looked into the possibility of creating a group insurance program to benefit (aviation) agents and brokers with 'A' rated domestic insurance companies."

The proposed program would offer a minimum of $1 million per agent or broker with an average deductible of $10,000 to $25,000. So far, three insurance companies with A ratings have expressed an interest in offering the coverage, so the AIA is gathering underwriting information from agents and brokers to initiate the program, said Mr. Costello.

Getting the group coverage up and running, however, "may take some time. We only just started about four months ago," Mr. Costello said.

On a personal note, Mr. Costello also has set up the unique Aviation Insurance Network of five small aviation underwriting agencies around the country to market their products mutually and share information while still remaining financially independent.

It's a way of expanding the agencies' business without opening new offices around the country, which is "very expensive," he said.

As many as 40 agencies have asked to join the network since it began last year, but Mr. Costello said the numbers will remain small, likely only five or six. "We don't intend to accept business from outside agents."

The five agencies in the Aviation Insurance Network are: Alpha/Berlow Insurance Agency in Hasbrouck Heights, N.J.; Costello Insurance Associates; Larry L. Johns & Associates in Waterford, Mich.; Pik*West Insurance Agency in Simi Valley, Calif.; and Professional Insurance Management in Wichita, Kan. BI

IIAA takes aim at banks and the business of insurance

By MARK A. HOFMANN

The question of banks' insurance powers is the "most pressing issue" facing members of the Independent Insurance Agents of America.

That was the assessment offered by James R. Klagholz, chairman of the Alexandria, Va.-based IIAA's government affairs committee, during a briefing at the agent organization's national legislative conference in Washington last month. Mr. Klagholz is also co-owner and secretary/treasurer of Clayton N. Sterling Associates Inc. of Seaside Park, N.J.

The IIAA's position on the issue is clear, he said. It holds that:

• National banks should not be allowed in the insurance business.

• Where banks do engage in the business of insurance, they should be subject to the same regulations, including licensing, as agents.

• The Comptroller of the Currency should not be allowed to contravene congressional intent by issuing directives which give banks greater insurance powers.

Robert Rusbuldt, the IIAA's vp-federal affairs, noted that the association is not aware of any banks that are selling insurance without state licenses.

He added that the IIAA supports H.R. 1317, the Insurance State's and Consumer's Rights Clarification and Fair Competition Act.

The bill, sponsored by House Commerce Committee Chairman Thomas Bliley, R-Va., and Rep. John D. Dingell, D-Mich., specifies that all agents and underwriters—including banks—must qualify under state law to engage in the business of insurance, with states retaining the right to define what constitutes insurance within their borders. States are thus the final regulator of insurance and banks engaged in the business of insurance are subject to state regulation.

"We want the Bliley bill," stated Paul Equale, the IIAA's senior vp-government affairs. The IIAA "will not give up on this fight. We've been fighting it one way or another since 1903."

Mr. Rusbuldt, a former aide to a Republican representative, believes the GOP's congressional leadership must make a fundamental decision.

The leaders want to return many programs to the states, but on the question of national banks' powers, they favor allowing the federal government rather than the states to set the standards. If this trend toward national oversight continues, there will have to be a federal department or division of insurance to regulate the business, he said.

Although the chief concern of agents at the conference was the possibility that banks would receive greater insurance powers, other issues at hand included Superfund reauthorization and creation of some sort of reinsurance mechanism to deal with truly catastrophic events. House Speaker Newt Gingrich, R-Ga., touched on another issue that interests agents—tort reform—during a breakfast address before the agents went to Capitol Hill to visit their representatives and senators.

In order for the United States to compete in international markets, the nation's litigation system would have to be changed, he said.

He also urged agents to become more involved in the public arena.

Rep. Gingrich noted agents' general support for the Republican leadership's Contract with America and urged them to keep pushing for reform through letters to the editor, calls to radio talk shows and attendance at civic meetings. BI

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Agent/Broker Topics

J&H lends kids a hand as it turns 150

By KERRY A. DZIUBEK and REGIS COCCIA

A company that survives 150 years has cause to celebrate. When broker Johnson & Higgins turned 150 last month, children around the world also had something to celebrate.

On May 11, employees worldwide of New York-based Johnson & Higgins had the day off to do community work to help children.

"Let's do something for our communities where our offices are involved" was the consensus of the J&H employees, said Don Carlson, chairman of Johnson & Higgins' 150th anniversary committee and president of Johnson & Higgins of Missouri Inc. in St. Louis.

"We wanted to do something significant" that would focus on what it meant to be in business 150 years, explained Mr. Carlson, who is also a principal with the broker.

J&H, now the world's sixth-largest brokerage, was founded in New York in 1845 as Jones & Johnson. When A. Foster Higgins joined the firm in 1854, it was renamed Johnson & Higgins. Originally a marine broker, J&H placed coverage on ships such as the Titanic.

Mr. Carlson chairs a committee of about 10 people who have planned the year of activities to celebrate the brokerage's anniversary. That committee established parameters for all of the offices and supplied ideas on how the offices could identify institutions that help children and need additional support for the day of service.

Each branch office developed its own project. Some let employees choose projects, and others formed committees to select projects.

All 8,500 employees in 120 offices worldwide participated in projects ranging from taking handicapped and inner-city children on field trips to making repairs and improvements on children's facilities to teaching classes in local schools.

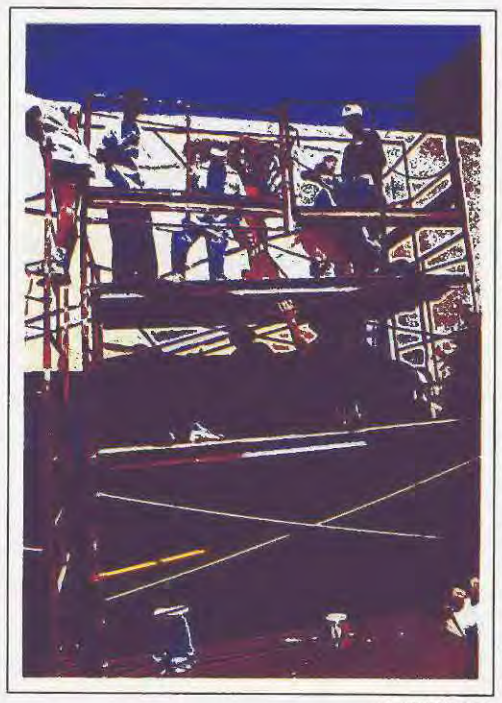
One Chicago executive spent the day teaching sixth grade math, said Mr. Carlson. "He said it was the best day he had spent in years."

Sixty-three employees of Johnson & Higgins of Colorado Inc. worked with the Metro Denver Boys & Girls Clubs to prepare a summer camp for the season. Each week, about 70 inner-city kids come to the camp in Ward, Colo.

Gary E. Smith, principal and president of Johnson & Higgins of Colorado Inc., said the group boarded a bus at 6:30 a.m. to make the two-hour journey by bus to the camp. Some of the Denver group hiked 1½ miles through the snow to plant a tree line. Others repaired a fence and painted various camp buildings, while others made repairs and cleaned the main lodge.

Afterward, the camp staff and the J&H crew had a barbecue, and J&H presented the camp's executive director with a scholarship check for $1,500 for more children to attend the camp this summer.

"It was a great day," Mr. Smith said. "We had some fun and fellowship amongst ourselves—more than we had expected."



JOE COOMBER

For J&H's anniversary, employees in Los Angeles painted a building at a center for children.

"You feel really good about what you're doing for the kids," he said. "We fully anticipate doing this next year, even though turning 151 years old doesn't seem like a significant number."

Carrying on the spirit, each of the Denver staff has volunteered to contribute a minimum of three hours of community service each quarter, in addition to any monetary contributions they may make.

Employees in the Costa Mesa, Calif., office celebrated by putting smiles on the faces of kids at the Orangewood Children's Home.

Orangewood is a facility for wards of the Orange County Court. About 250 kids, ranging in age from infants to teen-agers, live on a 10-acre campus until Orangewood can find foster families for them.

On May 11, the J&H employees painted the facility's gymnasium, planted about 200 bougainvillea vines donated by local nurseries and rebuilt sandboxes.

"The best thing was, at the end of the day, the kids came out and gave us a standing ovation," said Phil Luecht, vp-sales and manager of J&H's Costa Mesa office. "It brought tears to all our eyes."

On Saturday, May 13, the J&H employees took kids from the two county foster children's organizations to an amusement park on Balboa Island. Admission was sponsored by the Balboa Bay merchants, and J&H gave the kids quarters to use for the arcade games, he said.

The two organizations—COPES, or Children or Parents' Emergency Services, and CASA, or Court Appointed Special Advocate—find foster homes for Orangewood's kids.

But, the anniversary day was not a one-shot deal, he said, explaining that J&H's Costa Mesa office employees are known for their year-round volunteer work.

In J&H's Richmond, Va., office, employees took about 65 inner-city children for "a day in the country" at a farm west of Richmond.

The group of third, fourth and fifth graders from George Washington Carver Elementary School rode buses to the farm, where they spent the day fishing and canoeing, riding ponies and playing various games with J&H employees. Afterward, they donated surplus food to a homeless shelter and took the fish they caught to a women's correctional center in the area.

"They had a very good time. You didn't have to ask them—you could just see it on their faces," said Susan Mantlo, administrative assistant in the Richmond office. Many of the kids had never been out of their neighborhoods, she said.

The Richmond office employees, who are very involved in community service, worked with the local Boy Scouts of America to plan the day at the farm, she said.

The 111 people who spent the day with the children included active and retired employees from J&H's Richmond office, Boy Scout staff and the children's teachers.

"A lot of employees said, 'Let's do this again next year,' " Ms. Mantlo said.

In St. Louis, Mr. Carlson's office spent the day sprucing up the Emergency Children's Home. "It was a very tough, physical day" because they painted bedrooms, fixed furniture and benches and shampooed the rugs. But "you get more out of it than you put into it."

Indeed, many offices have plans to continue the service efforts, he said. BI

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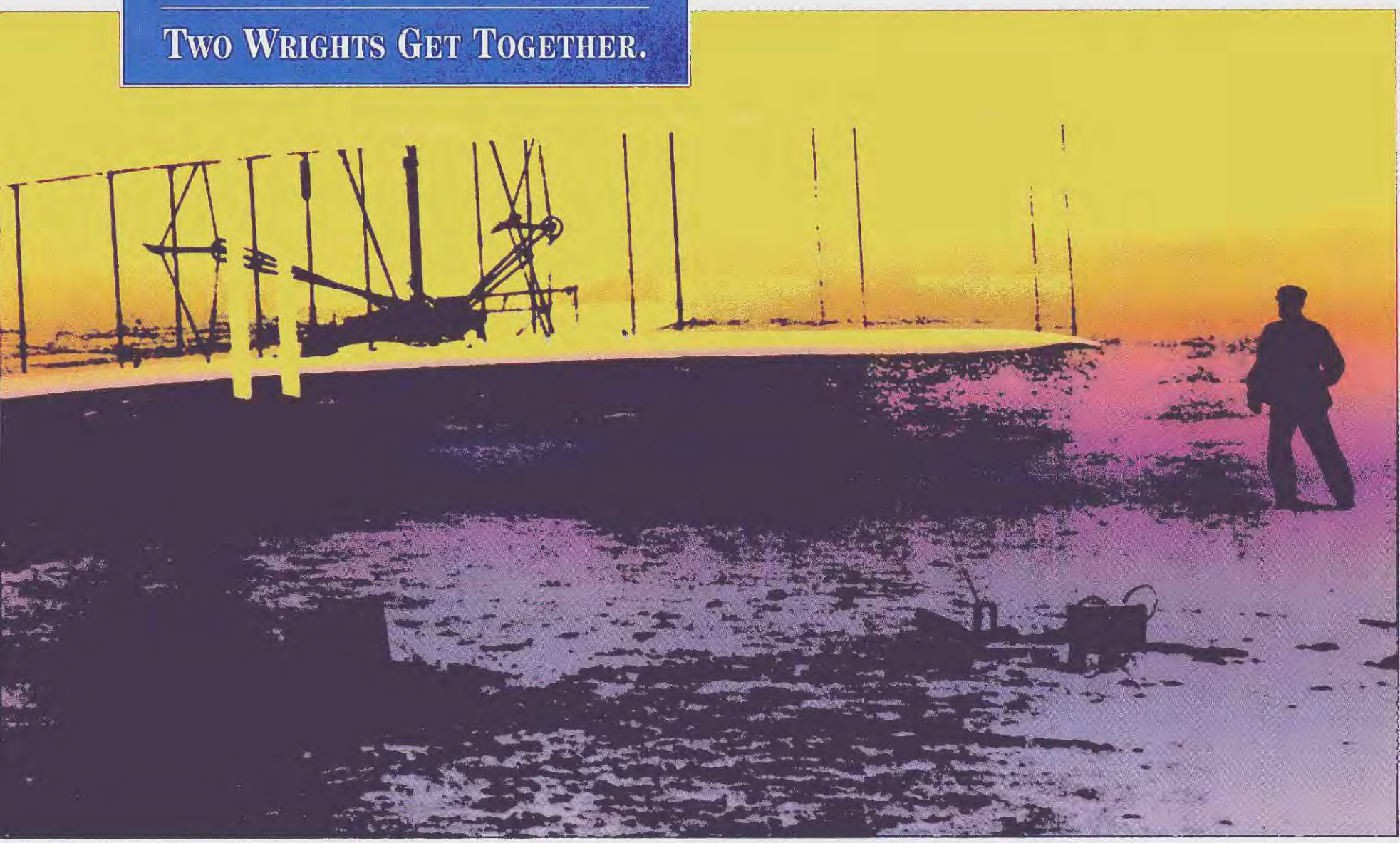
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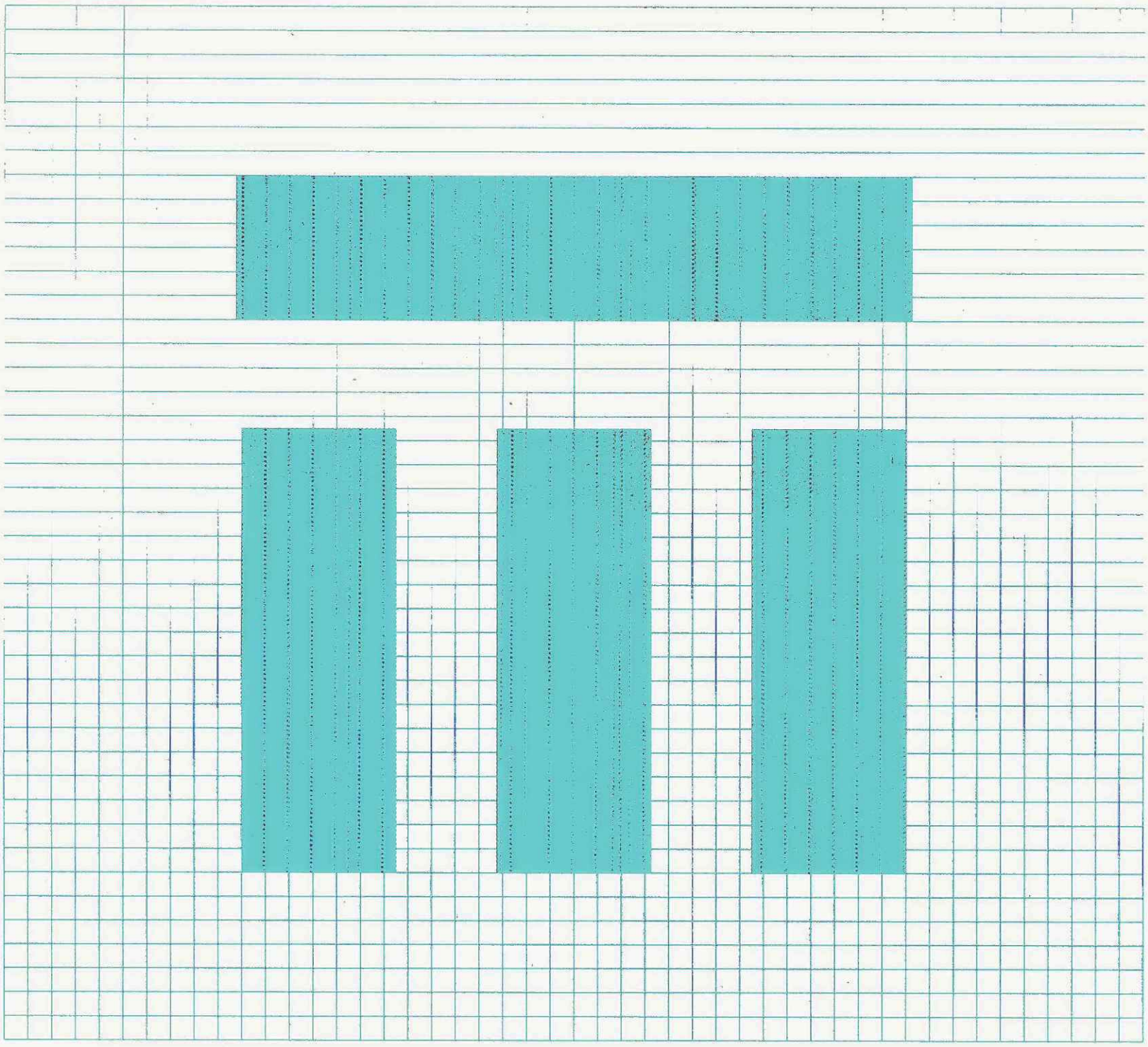
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Luring risk capital onshore

The GOP's chance to establish federal solvency rules

By Charles A. McCrann

LET'S BE HONEST. The electoral fate last year of Reps. John Dingell and Jack Brooks and other "old bulls" of the Democratic Party has left many businesspeople with feelings like Haitian citizens witnessing the demise of the Tonton Macoutes—vengeful elation suppressed by the lingering fear that they will be "back."

However, suppression was not much in evidence among another group of Dingell-phobes—state insurance regulators—during their meetings in New Orleans and Miami Beach (*BI*, March 20; Dec. 12, 1994). The congressman's repeated criticism of inept, redundant state regulation had created a palpable fear among insurance commissioners and corresponding hope among many buyers and sellers in the large commercial insurance market, who long for streamlined, market-driven federal solvency regulation to replace a state system better designed to protect homeowners and motorists from non-conforming policy forms.

The anticipated demise of Rep. Dingell's proposed insurance solvency legislation has left large U.S. businesses, their insurance brokers and domestic insurers facing the hydra-headed relic of state insurance regulation at a time of unprecedented globalization in the insurance marketplace.

The great irony of Republican congressional support for state authority in the insurance realm is largely lost on the GOP's natural allies, businesses large and small, that must seek needed risk coverage from slow-moving, overregulated domestic markets, innovative but underregulated alien markets, or some form of self-insurance. Meanwhile, U.S. underwriting capital targeting large commercial risks has "voted with its feet" by moving out of the country, primarily to Bermuda. Several of the largest offshore facilities were created by large U.S. industrial companies for the primary purpose of underwriting their own liability exposures—they are insurance consumers who have fled the smothering embrace of state regulation designed to protect them.

Operating outside the United States entails special disadvantages for insurers servicing American clients. They may not establish an office in the United States. They may not advertise or solicit business through domestic brokers or agents and their clients receive no protection from the relatively generous U.S. guaranty funds. If they write reinsurance, they are subject to special security requirements and most are subject to federal excise tax, in addition to state premium taxes on direct insurance. Despite their excellent solvency record, many states have enacted special penalties for anyone who helps foreign competitors transact business with domestic policyholders, and the National Assn. of Insurance Commissioners is considering additional punitive measures. Finally, the favorable income tax treatment, which once lured investors offshore, was largely dissipated by the 1986 Tax Reform Act.

Despite these formidable disincentives, Bermuda has become home to a $52 billion insurance industry, measured by total assets. And, in the last two years alone, more than a dozen new reinsurers with a combined surplus of more than $4.5 billion have begun operations there. While precise estimates are impossible, the majority of the business written by these facilities clearly is of U.S. origin.

What is the attraction? Ask any U.S. investor associated with the formation of a Bermuda facility: avoidance of state insurance regulation. Note that solvency regulation is decidedly not the issue; most new Bermuda insurers and reinsurers have many times the minimum capital and surplus required of their U.S. counterparts. What drives U.S. capital offshore is the stifling and expensive array of rate and form regulation, residual market charges and the interminable delays in the licensing process.

A comparison may be instructive. In 1986, two new entities entered the high end of the U.S. excess liability market: EXEL Ltd. in Bermuda, the holding company of X.L. Insurance Co. Ltd., and American Excess Insurance Assn., or the American Slip, in Hartford, Conn. They both offered limits of $75 million excess of $25 million to large U.S. policyholders. X.L. is a stock company originally capitalized by major U.S. corporations intent on securing their own liability insurance requirements. The American Slip is an association of 13 U.S. insurers writing business on a subscription basis but treated as a separate entity for licensing purposes. X.L. developed its policy form to the specifications of its founding policyholders and immediately went into business. Today it is a publicly owned company with $3 billion in assets writing annual premiums of $500 million. In 1986, the American Slip began the formidable task of acquiring a license in each state. It took seven years to win its Texas license, and it has yet to be licensed in North Dakota or Wyoming. It also continues to struggle with policy form approvals in numerous jurisdictions. Entering its 10th year, the American Slip writes about $44 million in gross premium annually, less than 10% of X.L.'s volume.

While the American Slip's more conservative underwriting philosophy is partly responsible for this relatively modest performance, there can be no doubt that the regulatory handicap is serious. Meanwhile, the economy of Bermuda benefits from more than 1,400 insurance jobs and about $200 million in annual direct contribution from the insurance industry. For an island half the size of Nantucket, Bermuda now has a huge stake in the continuing misdirection of U.S. insurance regulation.

Rep. Dingell's H.R. 1290 would have addressed the problem by authorizing the creation of a Federal Insurance Solvency Commission, with authority to issue federal insurance licenses to several categories of insurers, including highly capitalized insurers writing exclusively large commercial property/casualty risks. Federally licensed insurers would be exempt from all state rate and form requirements, residual market participation and guaranty fund assessments. A single license would open access to the entire U.S. large commercial market and subject the licensee to strict solvency regulation, while permitting market forces to determine rates, forms and capacity.

Although many GOP representatives have associated themselves with state hegemony over insurance, they have a new chance to move beyond states' rights ideology and instead to rationalize a system that is adverse to U.S. interests.

Will they recognize the legitimate demands of U.S. business for uniform, federal solvency regulation in the large commercial insurance market, or will the United States remain the Third World of risk capital? BI



Charles A. McCrann is a senior vp of Marsh & McLennan Inc. in New York. He is a lawyer specializing in regulatory and legislative matters, as well as environmental claims.

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By Kevin M. Quinley

LEGAL FEES GOT you down? If you're like most risk managers, the answer is a resounding "Yes!!" Never fear, though, help is here. A new resource from an attorney/consultant is a potent tool for risk managers to use in managing their company's legal fees and capturing savings for their bottom line.

Kenneth Moscaret, a licensed California attorney and an expert on legal fees, authored this resource kit, which includes an audio-cassette and written materials that will serve as a useful template for managers who are looking to tame the current costs of risk.

Books & Ideas

Risk managers should pop the 90-minute cassette into their car cassette-players during the morning or evening commute. It includes practical advice on picking the right attorney, negotiating retainer agreements, requiring case budgets and legal price-lists, and rules of thumb for attorney charges.

In addition, the kit includes four different and reusable cost-control forms and worksheets for: case budgets, written attorney billing guidelines, status reports, and interview questionnaires to use when hiring an attorney. These are somewhat "canned" tools which the risk manager can adapt to any given legal assignment. Mr. Moscaret urges clients to assert themselves by requiring lawyers to estimate legal fees up-front. Written billing guidelines help to avoid nasty surprises by establishing ground rules from the outset. Case status forms let clients keep track of case events and legal fees. The attorney interview questionnaires allow proactive risk managers to identify cost-conscious attitudes in candidates for outside work.

Neither an adversarial relationship with your attorney or butting heads is necessary to control costs, Mr. Moscaret stresses. In fact, he suggests that if your attorney chafes at these approaches, that is a warning flag which should cause any prudent risk manager to take note and perhaps look elsewhere. In legal services, it's a buyer's market. This resource kit helps risk managers make the most of the current buying climate by being savvy shoppers. Investing 90 minutes listening to Mr. Moscaret's tape will reap huge savings if the ideas discussed are implemented.

While Mr. Moscaret's appears to have targeted individual consumers initially, his advice works well in either corporate or family law settings, from patent litigation to a contested divorce. Legal fees are back in the headlines again. Experts estimate, for instance, that the tab on O.J. Simpson's legal team is $20,000 a day, more than the daily gross national product of Grenada. Celebrities in high-profile cases aren't the only ones facing the specter of out-of-control legal fees, though. The trade paper Corporate Legal Times recently estimated that legal costs to businesses jumped 18% over the past year.

For executives and risk managers, Mr. Moscaret's legal bill survival kit will be a godsend. Lawyer-bashing is not the answer. . .client empowerment is. BI



Kevin M. Quinley is vp of risk services for MEDMARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. Mr. Quinley holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

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Age bias law exemption upheld

By MARK A. HOFMANN

BOSTON—Companies that force executives to retire at age 65 can take advantage of a narrow exception to federal age discrimination law—one that applies to high officials entitled to a certain level of non-forfeitable retirement benefits—even if companies alter officials' benefits just to meet that standard, a federal appeals court has ruled.

In its May 15 ruling, the 1st U.S. Circuit Court of Appeals in Boston upheld a lower court's decision that the Age Discrimination in Employment Act did not protect William P. Morrissey. The former executive vp for corporate affairs at Boston Five Cents Savings Bank was forced to retire a month after turning 65.

Generally, the ADEA prohibits age discrimination against those 40 and over. But it does not apply to mandatory retirement policies for employees 65 and older if those employees hold executive or "high policymaking" positions for the two years before they retire and are entitled to at least $44,000 in annual non-forfeitable retirement benefits from pension, profit-sharing or deferred compensation plans.

As executive vp, Mr. Morrissey tracked federal and state legislation, recommended merger and acquisitions candidates and developed new sources of business for the bank, where he had worked since 1972. He was also a member of the asset and liability committee and regularly attended meetings of top executives.

After a change in management in 1990, his responsibilities were reduced. The new managers left him out of policy discussions and pressed him to retire at 65. Mr. Morrissey resisted that and offers to remain a paid consultant after stepping down.

Shortly after he turned 65 in 1992, Mr. Morrissey was told that he would be retired as of Nov. 1.

At the time of the notification, Mr. Morrissey was entitled to $38,352 annually under his qualified benefit plan and an additional $17,592 a year from a forfeitable executive supplemental benefit plan.

He filed a federal discrimination claim.

The bank's board decided to declare $6,000 of the forfeitable benefits non-forfeitable, thus increasing Mr. Morrissey's guaranteed benefit to more than $44,000. Mr. Morrissey was told of the increase on Oct. 30 and forced to retire two days later.

He lost his suit in federal court.

On appeal, Mr. Morrissey argued that he was not in a "high policymaking" position after the 1990 changes and that the minimum-benefit standard should be applied for the two years before retirement, just as the high policymaking standard is.

Rejecting his first argument, the 1st Circuit said that Mr. Morrissey remained responsible for evaluating regulatory actions, continued to make recommendations regarding mergers and acquisitions and retained access to top management.

On his second point, the 1st Circuit said that Congress did not extend the same two-year minimum on both components.

•

William P. Morrissey vs. the Boston Five Cents Savings Bank et al., 1st U.S. Circuit Court of Appeals; No. 94-2220, May 15.

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BEYOND THE BELTWAY: Action In The Statehouses

Tort

Continued from page 1
dressed such issues during the current legislative session follows:



The **New Hampshire** Legislature is still considering a bill designed to lower the rate of prejudgment interest awarded in civil cases.

Currently, the state uses a statutory rate of 10% set in 1988. A House-Senate conference committee approved a new formula last week, which would peg the rate annually to the rate on one-year Treasury bills at the last T-bill auction in September. The rate would be the T-bill rate plus 2 percentage points. The measure must be approved by both chambers.

Meanwhile, another bill that would have eliminated joint and several liability died in the New Hampshire Senate.

There was no significant civil justice action in **Connecticut, Maine, Massachusetts, Rhode Island** and **Vermont.**



Delaware legislators are currently considering tort reform measures, including a blanket $250,000 cap on punitive damages.

Lawmakers in the **District of Columbia** and **Maryland** made no major moves on tort reform.

In **New Jersey**, a package of six tort reform bills is expected to be voted on and signed into law this summer.

The bills would eliminate joint and several liability for parties less than 60% liable, unless the case involves environmental liability, in which cases joint and several liability would remain in effect.

Punitive damages would be capped at the greater of five times compensatory damages or $350,000. No cap would apply to damages from discrimination and civil rights cases or suits involving drunk drivers.

Other bills likely to win passage include one that would exempt product sellers from strict liability, and another bill that would exclude medical providers from liability when using medical devices they did not know were defective.

A third piece of legislation that may see some minor tinkering would require a third-party evaluation before medical malpractice or professional liability cases could proceed. The final bill would restrict liability suits against accountants.

Lawmakers in **New York** and **Pennsylvania** have not taken up major tort reform legislation this year.

A comprehensive tort reform package has been drafted in **West Virginia** but will not be considered until next year.



Alabama legislators, in the session that began April 15, have introduced numerous tort reform bills, including a proposed amendment to the state's constitution that would limit punitive damages to the greater of $250,000 or three times economic damages, and a measure that would limit attorneys fees in certain cases and would require that a percentage of punitive damage awards be placed in the state's general fund.

The constitutional amendment must be voted on by the House and the lawyers' fee bill is before the House Business and Labor Committee.

In addition to those tort reform bills, the proposed "Quality in Hiring Act" would provide immunity from civil liability for employers that provide information on the job performance or professional conduct or evaluation of a former employee to prospective employers.

The legislation is currently on the House floor and a companion bill is awaiting action by members of the Senate Judiciary Committee.

Another piece of legislation passed by the House and now in the Senate would provide for alternative dispute resolution mechanisms by encouraging negotiation, mediation and arbitration to settle disputes.

As a matter of public policy, Alabama currently does not encourage such measures.

Florida, Georgia, Louisiana, and **Mississippi** were quiet in terms of tort legislation and the **Kentucky** Legislature is not in session in 1995.

The **North Carolina** House passed an amendment to the state product liability statute that establishes guidelines for defective design cases.

The House also approved a bill that would restrict punitive damage awards to the greater of $250,000 or three times compensatory damages and would give punitive awards to the state general fund rather than a plaintiff. The Senate now is considering the same legislation.

Also, in one of the relatively rare state actions on medical malpractice, the House approved a measure that would require that expert witnesses in medical malpractice cases have appropriate qualifications to testify on the standard of care in question. Two other tort reform bills, dealing with collateral sources and frivolous lawsuits, were put on hold until next year.

South Carolina and **Virginia** took no significant action this year.

Legislators in **Tennessee** are still reconciling versions of the "Employer Immunity Act," which would shield employers that give job recommendations in good faith from lawsuits either by former employees or by their new employers.

Continued on next page

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Continued from previous page



A bill signed into law by **Illinois** Gov. Jim Edgar in March limits non-economic damages to $500,000 in personal injury cases—indexed for inflation—and limits punitive damages to three times actual damages.

The new law also replaces joint liability with proportional liability; requires a plaintiff's contributory fault to be considered as well as the fault of all tortfeasors regardless of whether they are a party to the lawsuit; creates a presumption of safety for products that meet federal and state standards and where no practical or feasible alternative design existed at the time the product was made; makes adequate written warnings to anticipated users of products a shield from liability; makes harm caused by inherent characteristics of product used by ordinary person non-actionable; and creates damage caps so no punitive or non-economic damages go to the plaintiff if the conduct of the manufacturer is in conjunction with and meets state or federal requirements. Already a taxpayer lawsuit is challenging the law on constitutional grounds.

The **Indiana** Legislature, which adjourned April 30, passed its most significant package of tort reform measures in more than a decade.

The Personal Responsibility Act of 1995 was initially vetoed by Democratic Gov. B. Evan Bayh III. The GOP-dominated Legislature overrode the veto, and the law becomes effective July 1.

The act limits punitive damages. For example, when a jury returns a punitive damage award larger than three times the compensatory damages, a judge must reduce the award to three times compensatory damages or $50,000, whichever is greater. The law also stipulates that 75% of punitive damage awards go to a fund for violent crime victims.

The act also strengthens the state's comparative fault statute by applying it to product liability suits that allege injuries were caused by defective design or a failure to warn. Strict liability will still apply in defective products suits.

Under the new law, manufacturers that meet government standards in the manufacture of a product can use that as a defense, but it is not an absolute defense.

The law also attempts to decrease lawsuits by penalizing parties that do not accept reasonable out-of-court settlements. Specifically, the refusing party in a civil action must pay up to $1,000 of the winner's legal fees if he or she rejected a reasonable offer prior to trial and the award came within the parameters of the offering party.

Another new law gives employers that give negative job references immunity from lawsuits—so long as they provide "fair and unbiased" information about an employee's past or present job performance upon request of a prospective employer.

The **Michigan** House passed a general tort reform bill that would apply comparative fault to product liability, among other things. A Senate committee approved a measure that would create a government-standards defense in product liability cases, among other things.

No tort reform measures were passed in **Minnesota**, although several bills were introduced earlier in the year.

Still awaiting committee assignment in **Ohio** is a sweeping bill that would allow defendants in tort actions to: introduce evidence of collateral benefits; require courts to seek settlement offers; and specify that two or more persons "generally" would not be jointly and severally liable for the same injury or loss to a person or property. The bill would also restrict product liability lawsuits in several ways, including providing immunity to a manufacturer if its product met certain government standards. It also proposes that an "incident report or risk management report" would not be subject to discovery and not admissible in evidence against health care providers and facilities.

Three-term **Wisconsin** GOP Gov. Tommy G. Thompson signed into law May 16 a measure that limits defendants found less than 51% responsible for a negligent action to paying only a share of damages proportionate with the defendants' share of responsibility. Under previous Wisconsin law, anyone found to be at least 1% responsible for an act could be liable for the entire amount of damages if the other parties involved were unable to pay their share.

The new law also raises the burden of proof for punitive damages. Now plaintiffs must prove that a defendant acted maliciously or with intentional disregard in order to receive punitive damages.

He signed another bill into law May 10 capping non-economic damages for medical malpractice to $350,000. The state previously had no limit on non-economic damages. The law only affects non-economic damages; there are no limits on malpractice awards for medical costs, long-term care, loss of future wages or punitive damages against health care professionals.

The cap is expected to save the state's Patient Compensation Fund more than $50 million over five years. The fund pays medical malpractice claims for the amount not covered under a health care provider's insurance.



No major tort or product liability legislation has been enacted in **Iowa** this year. Two bills, a medical malpractice proposal and a product liability bill that would provide for a 10-year statute of repose for product liability actions passed the House but were not considered in the Senate Judiciary Committee.

Kansas, where the legislative session ended April 30, has two new tort reform laws on the

See **Tort** *on next page*

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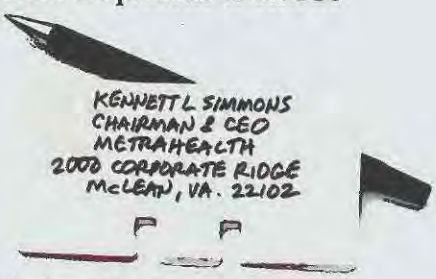


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BEYOND THE BELTWAY: Action In The Statehouses

Tort

Continued from previous page
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One gives employers qualified immunity from liability in civil lawsuits for disclosing information about a current or former employee to a prospective employer.

The new law also gives employers that respond in writing to a written request concerning a current or former employee from a prospective employer absolute immunity from civil liability for disclosing the following information: written employee evaluations conducted prior to an employee's separation from the employer; and whether the employee was voluntarily or involuntarily released from service; and the reasons for the separation.

Employers only get absolute immunity if they provide the employee access to that employment information.

The other measure would restrict the venues where suits can be filed to places where defendants reside at the time a cause of action arises.

Missouri and **Nebraska** lawmakers did not consider any major civil justice legislation in the just-ended sessions.

Two new **North Dakota** laws aim to improve legal climate for the light aircraft industry in the state.

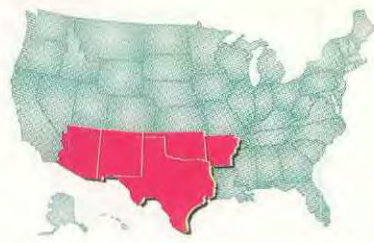
One sets a 10-year time limit in which lawsuits can be filed for manufacturing defects as opposed to the current 18-year limit under federal law.

The other law essentially acts to set liability before accidents occur, by allowing North Dakota to force aircraft buyers and manufacturers to sign agreements stating how much liability risk each side will accept.

While much of the manufacturer's liability is eliminated, manufacturers remain responsible for fraud or defects.

Manufacturers also could continue to be named in third-party suits.

Legislators in **South Dakota** did not entertain significant tort reform proposals in the recent session.



Arizona Gov. Fyfe Symington signed into law a bill in April that makes documents produced for the purpose of self-analysis or product safety inadmissible in court.

Arkansas legislators did not consider tort reform measures.

New Mexico lawmakers passed a bill that would double to $200,000 the amount of insurance medical providers would have to buy to qualify for malpractice immunity. Under state law, doctors with that level of primary professional liability coverage can purchase excess coverage from the Patient Compensation Fund, which is tapped to pay awards to victims of malpractice. Participating health care providers would not have to pay awards exceeding their insurance limits.

A bill signed May 25 by **Oklahoma** Gov. Frank Keating limits punitive damage awards in certain cases and imposes a "loser pays" rule. The loser is determined based on the amount of the last settlement offer made, which side rejected the offer and the ultimate award in the case.

The law also protects doctors acting as "Good Samaritans," an exemption that applies only to those whose liability arises from services provided to non-profit organizations. The exemption applies only when the doctors were not grossly negligent or did not act willfully nor wantonly.

But, the law places a moratorium on additional tort reforms in the state during the next three years.

In some cases, the Oklahoma law may even lead to higher awards, said American Insurance Assn. Senior Counsel Mark Skinner:

The law establishes three levels of punitive damages. Awards are capped at $100,000 when plaintiffs' injuries are caused by defendants' reckless conduct. Courts can award $500,000 of punitive damages, or double the defendant's actual financial benefit, whichever is greater, if the defendant acted intentionally and with malice. Punitive damages can be unlimited if the defendant's conduct was life-threatening.

The loser-pays reform applies to personal injury cases in which plaintiffs demand at least $100,000 and the defendant offers to settle. Under the law, the loser in the case must pay all attorneys fees for both sides. The **Texas** Legislature has passed one of the most sweeping tort reform packages in the country.

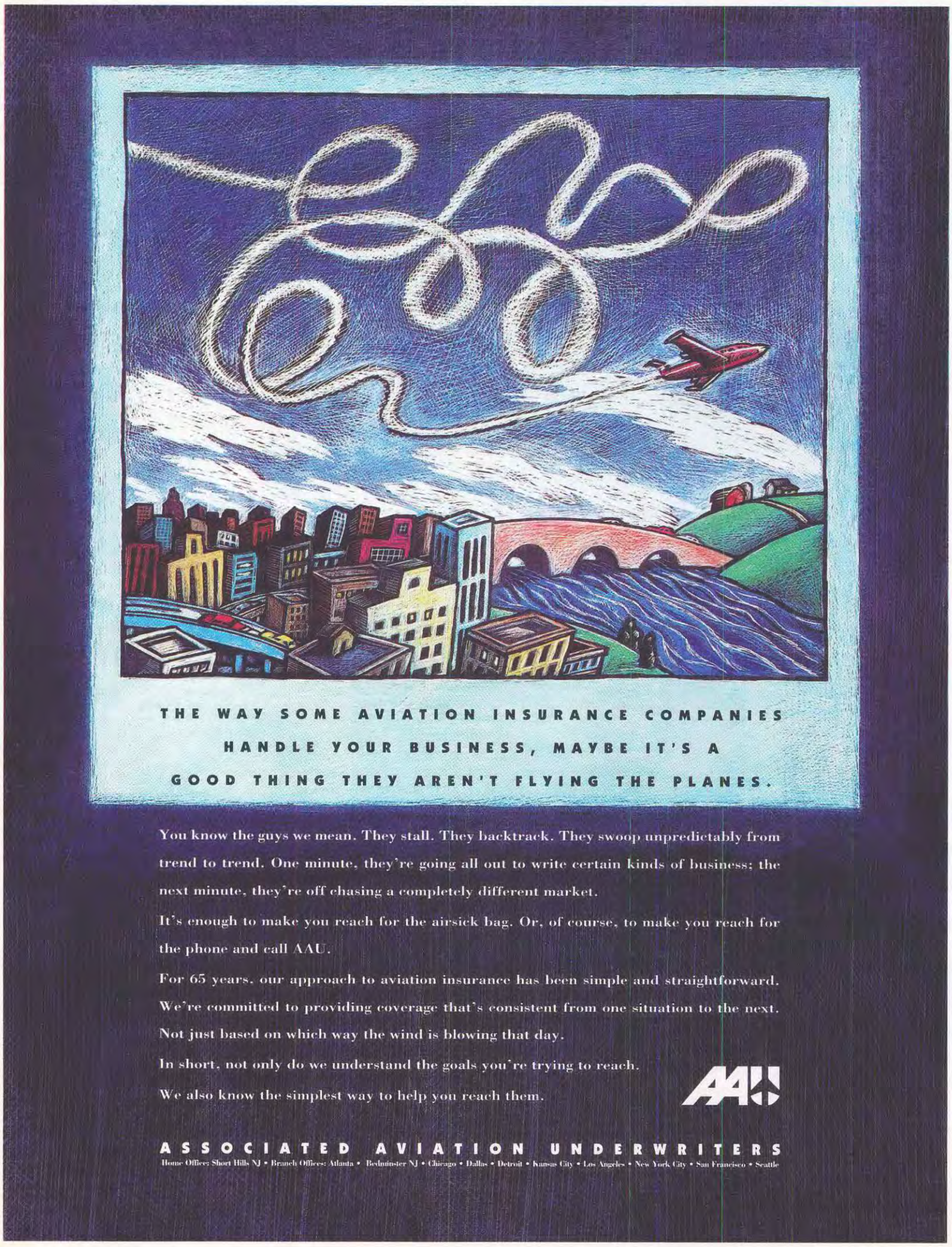
Ten bills await the signature of new Gov. George W. Bush. He has already signed a measure capping damages at two times non-economic damages up to $750,000, or a total award of $200,000.

Of the 12 tort reform bills introduced at the beginning of the legislative session, only one modifying the Deceptive Trade Practice and Consumer Protection Act has not been passed by both chambers. It was passed by the House and is pending in the State Economic Development Committee.

The punitive damage cap is scheduled to take effect on Sept. 1. It limits its punitive damage awards to cases in which the defendant acted with fraud, malice or gross negligence.

And, when seeking punitive damages, the plaintiff's burden of proof increases to "clear and convincing evidence" from the "preponderance

See **Tort** *on page 34*



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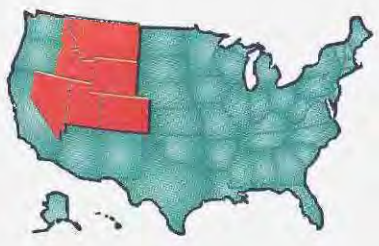
The law also mandates that juries hear and determine evidence relating to a punitive damage award separately from evidence relating to a compensatory award and sets out specific provisions to be given to juries in their instructions.

Among the bills still on Gov. Bush's desk is a measure that would prohibit claimants from recovering damages if they bear more than 50% responsibility. Defendants would only be held liable for 100% of damages if they were more than 50% at fault. In cases of environmental or toxic tort, however, the defendant would be liable for 100% of damages if more than 15% at fault.

Premises owners would be held liable for personal injury, property damage or death to contractors only if they retained control over the manner in which work was performed and actually knew of the dangerous defect or condition of property that caused the harm. Judgments against premises owners, contractors or subcontractors would be reduced by the amount of workers compensation benefits paid if the workers compensation insurer has waived its subrogation rights.

Another measure seeks to eliminate "venue shopping" by setting the venue: in the county where a substantial part of the events or omissions giving rise to the claim arose; where the defendant resided at the time of the action; or where the business-entity defendant had its principal office in Texas. If those provisions don't apply, the venue would be set where the plaintiff resided at the time of the action.

Both chambers have passed a medical malpractice reform that would require plaintiffs filing suit to submit an expert medical report within 90 days of filing or to post a $5,000 bond. If a plaintiff fails to meet that filing deadline, the defendant could seek sanctions against the plaintiff.



Colorado's Legislature rejected measures that would have given immunity to landlords that rented out units containing lead-based paint, as well as for sports officials, volunteer health care providers, innkeepers and drycleaners.

However, the Assembly passed a bill that would allow prejudgment interest in medical malpractice accrued between the time of injury to the time the case is filed to be included in the $1 million cap on compensatory damages that was instituted in the mid-1980s.

Montana lawmakers passed a bill limiting non-economic damages in medical malpractice cases to $250,000. GOP Gov. Marc Racicot signed the bill into law in April.

Elsewhere in the region, lawmakers in **Idaho**, **Nevada**, **Utah** and **Wyoming** did not make major changes to their states' tort laws.



In **Alaska**, a tort reform bill passed the House of Representatives and awaits Senate hearings.

It would, among other things: prohibit punitive damages unless malice or conscious acts showing deliberate disregard of another person can be shown; limit non-economic damages to $300,000, and for specified injuries to $500,000; allow juries to deduct amounts plaintiffs have collected for the same injury from any judgment; require claimants to pay costs and attorneys fees to the defendant if the plaintiff declines an early settlement offer then receives a court judgment less than that offer; reverse current law that allows plaintiffs to sue hospitals for the actions of health care providers that are independent contractors; provide monetary sanctions of up to $10,000 against an attorney for filing frivolous, unnecessary and legally deficient pleadings; and establish a deadline for lawsuits regarding construction liability to eight years from the completion of the last action alleged to have caused injury.

While Republican Gov. Pete Wilson's extensive pro-business tort reform package died in the **California** Legislature this year, other civil justice measures are still being kicked around in the state Assembly. They include measures that would call for a comprehensive overhaul of the auto accident claims system, reform of the collateral source rule, encouraging arbitration, pre-litigation resolution of construction defect claims involving common-interest developments and limited liability immunity for emergency 911 dispatchers.

But two measures that would have capped punitive damages failed in the Assembly Judiciary Committee, primarily because of opposition from business and insurers. While these groups support punitive damage reform in general, they only back those proposals that would limit the amount defendants must pay as punishment for malicious, fraudulent or oppressive conduct. The defeated bills would have diverted a portion of jury punitive awards to charities, legal service programs or education.

Among other things, Gov. Wilson's 10-bill tort reform package would have implemented a no-fault automobile insurance system modeled after New York's, raised the jurisdictional limit for mandatory referral of Superior Court cases to judicial arbitration from $50,000 to $150,000 and limited lawsuits for non-economic damages to cases involving serious or permanent injuries.

Oregon legislators nearing the end of their session were grappling with three tort reform bills. The House is now considering a Senate-approved bill that would allow courts to impose a "loser-pays" rule on plaintiffs whose appeals are dismissed and to impose a variety of prevailing-party fees. Another bill before the House would require that the several liability of defendants be set out separately in judgment based on percentages of fault. A competing Senate-passed bill would have eliminated joint and several liability for non-economic damages and instituted a system of several liability in which a defendant is only required to pay the percentage of damages equal to their percentage of fault.

Major reforms were not considered in **Hawaii** or **Washington**. BI

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Health

Continued from page 1

Other states also have scaled back health care laws. In Minnesota, legislators delayed to 2000 from 1997 the target for achieving universal coverage for state residents.

So far this year, states primarily are doing nothing or tinkering around the edges by, for instance, curbing pre-existing medical condition exclusions in the small group market. Other tinkering included: giving tax breaks to employees who participate in employer-provided medical savings accounts; giving employees who receive coverage through health maintenance organizations more flexibility in receiving services outside the HMO network; and repealing—and in other cases slightly adding to—the list of health care-related benefits commercial insurers must offer in their policies.

There are a number of reasons for the diminished reform activity at the state level.

Perhaps most significant is the changing political tides in Congress and in state legislatures. Under current law, states need specific permission, known as ERISA waivers, from Congress to make changes that "relate to" employee benefit plans, such as requiring employers to offer health coverage.

When Republicans gained control of Congress last November, it ended the possibility—at least for now—that the U.S. Senate and House would approve ERISA waivers. Republicans in Congress generally have been sympathetic to business arguments that letting states act on their own would make health plans more costly and complicated to administer. With waivers out of reach, state legislators would have been wasting their time passing major health reform bills.

At the same time, Republican control of more state legislatures has dampened interest in sweeping reform efforts. For example, the new Republican majority in Washington state spearheaded the drive to repeal the 1993 law that included an employer mandate.

"The attitude in many state legislatures is more hostile to employer mandates," said Frank McArdle, a consultant with Hewitt Associates L.L.C. in Washington.

A third factor in the inactivity is cost.

"States have backed away from universal coverage as the true costs have become better known," said Susan Laudicina, director of research at Blue Cross/Blue Shield Assn. in Washington.

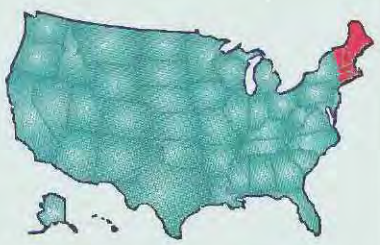
Still, the present relative lull may not last. A Supreme Court decision in late April upholding the right of states to impose surcharges on hospital bills paid by insurers and HMOs came too late to be considered by other state legislatures.

But revenue hungry states next year are certain to consider surcharge proposals, benefit experts say.

With the Supreme Court decision, "the genie is out of the bottle," Mr. McArdle said.

And even though the 1995 crop of state health care laws generally pales in comparison with proposals of earlier years, many of them nonetheless will affect group benefit plans.

Following is a report of health care legislative activity in each state:



In **Connecticut**, a bill signed into law last month by Gov. John G. Rowland requires insurers writing group health coverage or providing COBRA benefits to notify divorced or surviving spouses or dependents if the coverage is canceled due to non-payment, according to Edwina Futtner, deputy clerk of the House Committee on Insurance and Real Estate.

The **Maine** Legislature, which is scheduled to be in session until at

See **Health** *on next page*



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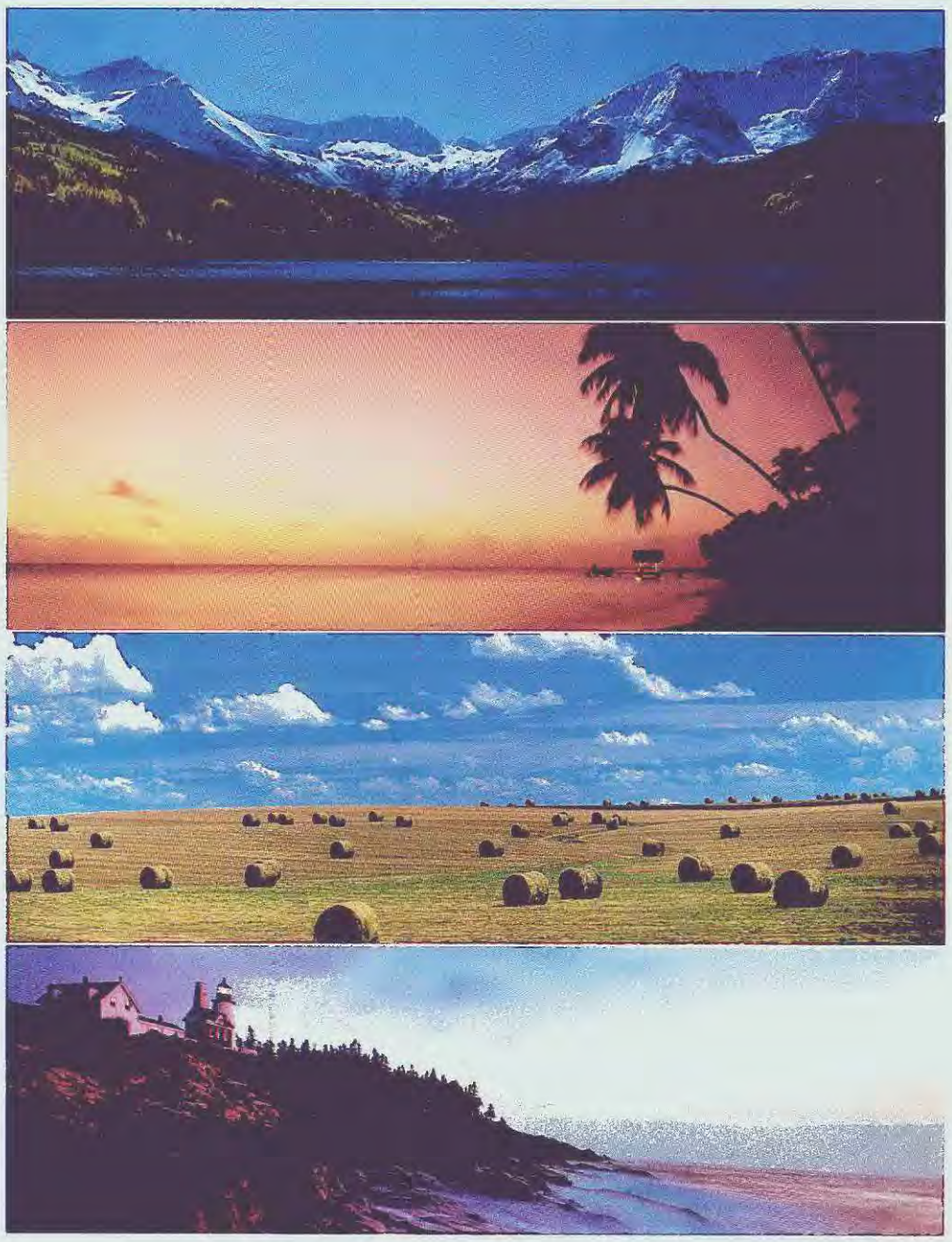
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BEYOND THE BELTWAY: Action In The Statehouses

Health

Continued from previous page
least June 21, has looked at only modest health care reforms this year.

It already has repealed a sunset provision on a law requiring health plans to cover mental illness. Gov. Angus S. King signed the repeal legislation on April 11 and it took effect immediately.

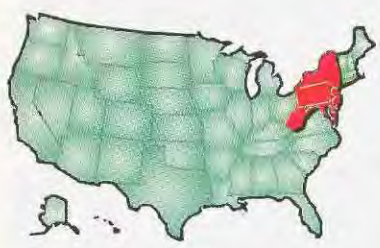
In February, lawmakers scrapped a bill that would have provided the Maine Health Care Reform Commission $150,000 to continue its efforts to develop three comprehensive health care reform proposals for the Legislature by early next year. A commission staffer said she expects that the commission now will receive funding from the Legislature's own budget.

The three plans are to be: a single-payer plan; a managed competition plan; and a plan that incorporates greater cost controls into the state's current system.

In **Massachusetts**, several health care reform bills are pending, including one that would allow employers to contribute $2,500 to employees' MSAs without state taxes on the contributions.

No significant activity occurred in **New Hampshire** or **Rhode Island**.

In **Vermont**, health care reform legislation signed in April by Gov. Howard Dean imposes new taxes on hospitals and tobacco products to expand eligibility for Medicaid coverage. About 25% of the state's 60,000 uninsured will qualify for the new benefits.



No significant activity on health care-related issues occurred in **Delaware** or the **District of Columbia**.

In **Maryland**, Gov. William Donald Schaefer last month signed into law a bill that will require HMOs to offer employers a point-of-service option starting in 1996.

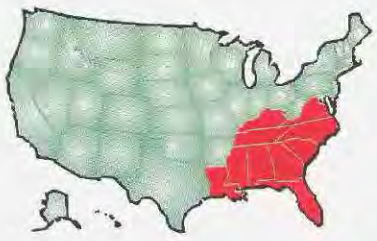
The law—which is the first of its kind in the nation—will allow HMOs to charge additional premiums or impose higher cost-sharing requirements on those individuals who choose the POS option.

No significant activity occurred in **New Jersey**.

In **New York**, several "any willing provider" proposals—which require managed care plans to let in any providers that meet their basic requirements—are now before the State Senate and Assembly.

In **Pennsylvania**, several proposals would affect managed care plans. One would make it unlawful for any health insurer or employee benefit plan to deny a licensed pharmacist the right to participate as a provider in their plan. Another would require drug manufacturers to offer pharmacists the same purchase price for drugs that they offer their most favored purchasers, usually HMOs and hospitals.

In **West Virginia**, a new law allows employers to contribute up to $2,000 annually to employees' MSAs.



In **Alabama**, legislation is pending that, among other things, would limit the use of the use of pre-existing condition exclusions in certain group health plans.

In **Florida**, Gov. Lawton Chiles is threatening to call a special session this summer on health care.

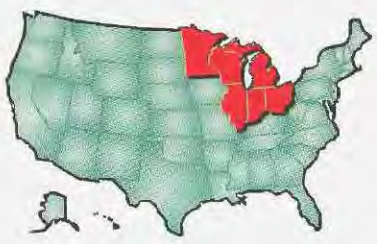
Observers say any new health care package will include an "any willing provider" provision.

Among the bills that earlier failed were measures that would have required health insurers to cover serious mental illnesses, extended Department of Insurance regulation to out-of-state health insurance groups and established a statewide extension of COBRA benefits.

Life and health insurers failed in an attempt to restore a tax offset for Florida Life & Health Guaranty Assn. assessments. Bills passed both houses in the final hours of the session, but were never reconciled.

No significant health care proposals were passed in **Georgia**, **Louisiana**, **Mississippi**, **North Carolina**, **South Carolina**, **Tennessee** or **Virginia**.

The **Kentucky** legislature was not in session in 1995.



No action is expected on several minor bills in **Illinois** and **Michigan**.

"Health care has just not been a top-of-the-ticket issue, so far," said Nancy McKeague, vp-human resources and administration at the Michigan Chamber of Commerce in Lansing.

In **Indiana**, Gov. Evan Bayh signed legislation last month to allow employers to contribute up to $5,000 annually to employees' MSAs. Funds withdrawn during the year to pay for health care-related expenses are not included in employees' taxable income by the state.

The law also limits the use of pre-existing condition exclusions in policies sold to small employers. For example, small group insurers can limit coverage for pre-existing conditions for a maximum of nine months; previously, there was no time limit.

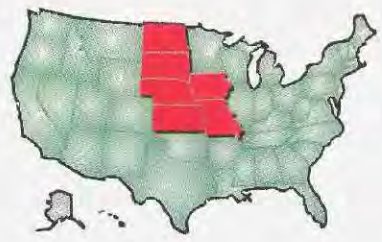
A newly enacted law in **Minnesota** pushes back to 2000 from 1997 the target date for achieving universal coverage, which is defined as having less than 4% of the population uninsured.

The 1995 MinnCare bill also repeals a plan for state regulation of traditional fee-for-service medical plans. Without the bill, that and other scheduled changes were to go into effect this year.

The legislation retained expenditure growth limits set in previous years and requires the Department of Health to report annually to the legislature on health care expenditures in the state.

A new **Ohio** law will phase out a "certificate of need" statute that now requires health care providers that want to make capital improvements to justify that expenditure to a state-established board.

In **Wisconsin**, legislation has been introduced to allow employers to purchase health care insurance through a state agency. The measure also would curb pre-existing medical condition exclusions.



In **Iowa**, several "any willing provider" bills were among a slew of health care measures rejected by legislators.

A newly enacted law in **Kansas** requires health insurers to provide coverage for routine and necessary immunizations for all newborn children of policyholders.

The **Missouri** House approved a measure that would have required insurers to cover breast cancer treatment, but it failed to win final approval.

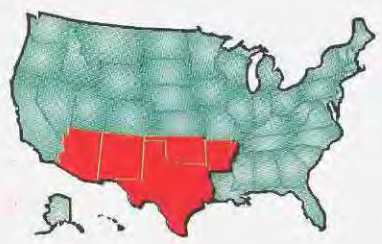
In **Nebraska**, a new law requires insurers to cover mammograms for breast cancer screening.

Legislation enacted in **North Dakota** earlier this year bars health insurers from canceling coverage due to an employee's illness and limits the use of pre-existing condition exclusions.

In **South Dakota**, a law signed by Gov. Bill Janklow in March requires health insurers to issue standard health insurance policies to small firms—those with two to 50 employees—that request coverage. The law also prevents health insurers from charging the oldest plan participants more than three times the rate that the youngest participants are charged.

Health insurers may stop writing small group coverage once that portion of their business exceeds 5% of earned premiums.

Another bill, approved by the House but tabled by the Senate, would have required all managed care plans to offer a POS option and limited plan participants' out-of-pocket costs for obtaining out-of-network care to $250 annually.



Arizona did not enact any substantive health care reform legislation this year.

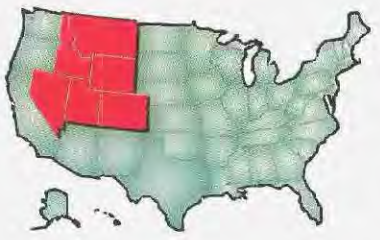
In **Arkansas**, the "Patient Protection Act of 1995" was enacted, which includes an any willing provider provision.

In **New Mexico**, a new law allows employers to contribute up to $3,000 to employees' MSAs. In future years, the maximum contribution will be adjusted to match changes in the medical care component of the Consumer Price Index.

A newly enacted law in **Oklahoma** allows employers to contribute up to $5,000 to employees' MSAs. If the principal is used for approved medical expenses, the contributions and the earned interest are not subject to state income taxes. Unused principal and interest that is withdrawn on the last day of the employer's business year is subject to state income taxes. If any amount is withdrawn from the account for purposes other than medical expenses before the last business day, there is a 10% penalty on the withdrawal and all interest earned for the year is taxable.

Earlier in the session, the Legislature considered but killed an any willing provider bill.

Texas did not pass any significant health legislation.



Colorado didn't pass any significant health reforms in 1995 after implementing small group reforms in 1994.

"Small group reform was done last year, so everything done this year was rule-making," said Robert Ferm, an attorney with Hall & Evans in Denver who closely follows insurance legislation in the state.

No substantial health legislation was passed in **Idaho** or **Nevada**.

Basic health insurance plans offered to small groups in **Montana** will not have to contain all state-mandated benefits under modifications to the Small Employer Health Insurance Availability Act.

Under the law, effective Oct. 1, basic plans can exclude benefits, including coverage for services such as well-child care, mammography, chiropractic care and acupuncture.

Health insurers in Montana must make available to individuals and groups a catastrophic health care plan called the UNIFORM plan.

Applicants must qualify for the coverage, which carries a $1,000 deductible per individual and pays 50% of medical expenses until an individual reaches the annual out-of-pocket maximum of $5,000 or $7,500 for a family.

Another newly enacted law generally allows employers to contribute up to $3,000 annually to employees' MSAs. Funds can be withdrawn tax-free to pay for health care and long-term care expenses.

Another enacted law allows businesses with more than three employees to band together to form purchasing pools that can bargain with health care insurers for reduced rates.

Legislation passed in **Utah** includes creation of an open enrollment period during which insurers in 1996 would have to begin providing coverage for groups of two to 50 regardless of the health condition of group members.

Insurers would be allowed to limit such writings to 0.5% of the people in their plans.

"The idea is that over three to four years, all the people who have been unable to find coverage will be covered through the open enrollment," said Rick Campbell, executive director of the Utah Health Policy Commission.

In **Wyoming**, a package of health care reforms that becomes effective July 1 contains, among other things, requirements for guaranteed renewability of health coverage. Insurers will have to renew group plans unless: premiums weren't paid; fraud was involved; or they are non-renewing all such contracts with employers in the state.



No significant health care legislation was passed in **Alaska**, **California** or **Hawaii**.

In **Oregon**, the Office of the Health Plan Administrator has not officially abandoned attempts to secure the ERISA waiver needed to implement the mandate portion of the Oregon Health Plan, which calls for employers to provide workers with health coverage by 1997.

However, a tightened state budget and opposition from state legislators means that is an unrealistic goal and there is no longer a plan for implementing the employer mandate, said Vickie Gates, Oregon health plan administrator.

"Health care reform isn't dead, it's just changing," she said. "I'm still hopeful we will see insurance reform."

A small group bill that would curb the use of pre-existing medical condition exclusions has passed the Senate and is being debated in the House.

In **Washington** state, legislators gutted a 2-year-old law which was once hailed by Hillary Rodham Clinton as a model for the nation.

Republicans, who gained a new majority last fall in the state's House of Representatives, said they were implementing "true health care reform" this spring by slashing several components of the Washington Health Services Act of 1993.

The new legislation, adopted in April and signed by Gov. Mike Lowry on May 8, eliminated an employer mandate—passed in 1993—requiring insured and self-insured employers to offer a basic uniform package of employee benefits.

Those earlier reform efforts would have instituted a "government-run health care system," said Rep. Phil Dyer, R-Issaquah.

"It's been a two-year battle," Rep. Dyer said. "Bad health care policy was put into place by the 1993 legislature. That law was a one-sided view of health care reform. It didn't work when President Clinton tried to implement it at the federal level, and it did not and would not have worked here."

Gov. Lowry supported the 1993 legislation. But he said he supported this spring's package of reform laws because they kept Washington ahead of other states. The new laws will retain the popular insurance reforms which were contained in the 1993 legislation.

For example, insurers cannot deny health care coverage because of pre-existing medical conditions.

Gov. Lowry also praised the expansion of a Basic Health Plan for the poor, which will provide coverage for up to 200,000 adults and 130,000 children. BI

Workers

Continued from page 1

states on the compensability of a worker's injury or illness.

For example, South Dakota and Montana enacted legislation requiring that work activity be the major cause of an injured employee's accident or illness to be compensable.

Pennsylvania also enacted a law that will reduce the cost of hearing-related claims by acknowledging the loss gradations rather than awarding total workers comp benefits in almost every case. Also, North Dakota enacted a law requiring that a compensatory injury be substantiated by objective medical evidence.

And, Virginia made recreation-related injuries non-compensable unless they were incurred as part of job requirements, even if the employer sponsors the sports team.

West Virginia removed nearly all confidentiality requirements on the handling of an injured worker's medical record. That opens up the employee's entire medical history to review, rather than limiting access to that portion of the record related to the current workers comp claim, Mr. Ellenberger said.

But the changes were not all pro-employer. The changes this year show "more balance," rather than merely favoring employer interests, the NCCI's Mr. Llewellyn said.

For example, Indiana adopted—and Illinois is considering—a law banning balance billing of employees by health care providers dissatisfied with the reimbursement level an employer or insurer pays them.

Also, Alabama, Hawaii, Illinois and Michigan are among the states that considered legislation to allow benefits to be negotiated as part of collective bargaining agreements.

Other states considered providing certain employers more flexibility by exempting them from required workers comp coverage, though that may leave workers unprotected from job-related accidents.

North Dakota enacted such a measure exempting independent truckers. Maine is considering exempting employers with five or fewer employees from buying workers comp coverage, while Alabama is considering a similar measure that would exempt employers with five, full-time employees, or only part-time employees.

Here is an outline of state action on workers comp so far in 1995:



Prospects are good that the **Connecticut** legislature will enact a bill that would close the second injury fund to new participants as of July 1, and the fund would run off claims of existing participants.

The fund's fate has been a subject of debate for more than a year as an avalanche of claims pushed its unfunded liabilities to a projected high of $6 billion. This estimate has been reduced substantially through case management, settlement activity and anti-fraud efforts.

The **Maine** Legislature, which remains in session until at least June 21, has passed some, and is still considering other, modest reforms.

But, it killed legislation that would have created a competitive state fund. Its prior competitive fund, which was replaced with a successful mutual company that covers about 70% of the state's employers, left a deficit estimated at $98 million to $431 million.

Among enacted laws that become effective 90 days after the Legislature adjourns are reforms exempting employers from covering non-resident employees' injuries and allowing workers comp benefits to be offset by an injured worker's Social Security benefits.

Other pending bills would extend employers' immunity from civil suits to cases involving temporary employees and permit suits against employers that willfully place workers in harm's way. Another measure is designed to help create jobs by allowing employers with five or fewer workers to operate without purchasing workers comp insurance if they provide disability and health insurance to their employees.

No significant workers comp measures were passed in **Massachusetts**, **New Hampshire**, **Rhode Island** or **Vermont.**



Pennsylvania Gov. Tom Ridge signed into law a measure which establishes partial disability awards for hearing-loss injuries as well as American Medical Assn.-approved audiometric standards for determining degrees of impairment.

Hearing-loss claims previously were paid out as total losses regardless of the degree of impairment involved, averaging $128,000 per claim.

West Virginia is making radical changes to its workers compensation system to make it secure in the long term.

Earlier this year, it increased premiums and tightened benefits by requiring that a worker be at least 50% impaired before receiving a permanent total disability award; limited second injury fund awards to work-related injuries; required generic drugs generally be prescribed and terminated benefits at retirement age.

No significant activity occurred in **Delaware**, the **District of Columbia**, **Maryland**, **New Jersey** or **New York.**



The **Alabama** Legislature is considering a bill that would make gradual, work-related hearing loss compensable and would provide a workers comp insurance premium discount for employers that maintain a drug-free workplace.

Georgia enacted a law that makes the state's assigned-risk workers comp pool self-supporting and encourages insurers to write coverage for small employers.

In **Louisiana**, several workers comp bills are designed to counter a 1994 State Supreme Court ruling that upheld a $2.5 million punitive damages award—under a special 1984 law—to a worker who suffered severe burns in an oil refinery accident linked to a defective pressure gauge. Employers and insurers responded by supporting a bill which would affirm workers comp as the exclusive remedy for all workplace injury claims. The bill has passed the House and was headed for a floor vote in the Senate last week.

The **South Carolina** Legislature is expected to adjourn without approving any of the technical work-

ers comp proposals it considered.

Tennessee business groups are continuing to press for the creation of a workers compensation commission, instead of relying on a court-based adjudicatory system.

Virginia's Gov. George Allen signed into law a series of technical workers comp bills, including measures that allow employers to file the first report of a worker's injury electronically and require workers comp insurers with deductible policies to pay claimants directly and seek reimbursement from the policyholder later. Other measures limit the benefits payable to injured employees who refuse light duty under certain circumstances.

Another new law permits employers to recover workers comp payments from the proceeds of third-party recoveries paid to employees from the uninsured or underinsured motorist coverages of employers' motor vehicle insurance policies.

Florida, **Mississippi** and **North Carolina** had no significant activity.

The **Kentucky** Legislature was not in session in 1995.



The **Illinois** Civil Justice Reform Amendments of 1995 provided that an employer can never be held liable for third-party claims beyond the amount owed under state workers comp laws, in keeping with a 1991 Illinois Supreme Court ruling.

Also, Illinois' repeal of the Structural Work Act earlier this year greatly improves the litigation climate for construction-related employers because workers injured while using a ladder-type device no longer will be able to sue outside the workers comp system.

However, the Illinois House and Senate failed to agree on versions of a major technical workers comp reform measure which both houses passed separately. The measure was assigned to a joint conference committee, which may reconsider it this fall. Managed care issues and a ban on balance billing were the key stumbling blocks.

Indiana enacted a law to prohibit balance billing of injured workers. Legislators felt it necessary to enact the law after medical providers largely ignored an order last year asking them stop billing injured workers for excess charges. The law allows for civil penalties ranging from $100 to $1,000 per violation.

Iowa and **Michigan** enacted no significant workers comp measures.

Minnesota Gov. Arnie Carlson signed a workers comp reform package that tightens the definition of severely injured workers and reduces cost-of-living increases for workers comp payments, saving $130 million in workers comp costs, according to the Bipartisan Workers Compensation Caucus.

The new law eliminates a two-tier payment system for injured workers with permanent partial disabilities and will repeal lump sum payments to those workers and reduce automatic adjustments to injured-worker benefits to 2% from 4%.

And, workers comp insurers will be required to obtain rate approvals.

Ohio Gov. George V. Voinovich will have more authority over the workers comp system if the Ohio House concurs on Senate amendments to one of its bills as expected.

In addition, Ohio legislators are expected to take a final vote soon on a measure that would make it more difficult for an employee to prove that an employer committed an intentional tort against him. It will counter liberal court decisions, em-

See **Workers** *on next page*

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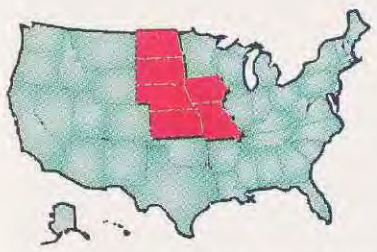
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BEYOND THE BELTWAY: Action In The Statehouses

Workers

Continued from previous page
ployers say.

No significant activity occurred in **Wisconsin.**



The **Kansas** Legislature enacted measures that permit group-funded workers comp self-insurance pools to offer a deductibles option for benefits payable under the workers comp act and requires that all related employer data be kept confidential.

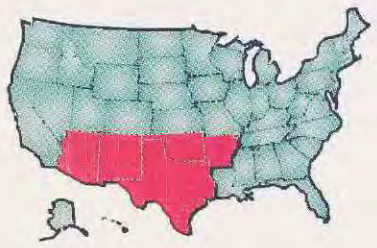
Among 10 workers comp measures signed this year by **North Dakota** Gov. Edward T. Schafer was anti-fraud legislation, a pilot retrospective rating program for employers with premiums of $250,000 or more and attorney fee limits.

Other measures increase the return-to-work options for injured employees; reform the permanent partial impairment award system; establish a worker adviser program independent of the bureau's claims department intended to reduce the need for lawyers; and stipulate that the bureau will not pay benefits for injuries sustained while an injured worker engages in activities exceeding the recommendations of a treating physician unless an employer demanded the activity.

Reforms scheduled to take effect July 1 in **South Dakota** limit coverage to workers whose jobs were a major contributing factor in injuries. The law also allows testing of new employees for physical impairments.

Also, a law gives an incentive to injured workers who cannot return to their old jobs by giving them a benefit equal to the difference between their benefit and their new wages plus another 20% of the full benefit.

No significant activity occurred in **Missouri** or **Nebraska.**

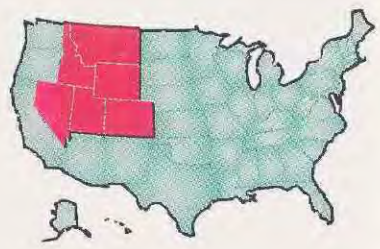


Arizona did not enact any substantial workers comp reform, though management and labor groups are currently holding talks about increasing benefits in the future.

Arkansas enacted several changes that raise benefits and authorize the Arkansas Workers Compensation Commission, rather than the circuit courts in the state, to levy up to a $10,000 fine on any party that willfully refuses to pay an uncontroverted medical or related expense within 45 days.

The **Texas** Legislature has approved several administrative changes in the state's workers compensation statutes, but they primarily affect state operations.

No significant workers compensation activity occurred in either **New Mexico** or **Oklahoma.**



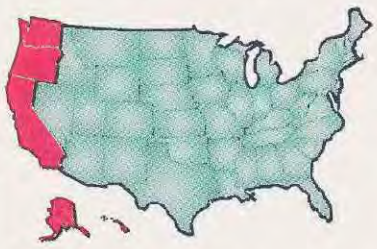
Colorado, Idaho and **Nevada** made no substantial changes.

A number of changes enacted in **Utah** are designed to make employers more safety conscious.

A worker injured because an employer violates its own written safety program will get 15% higher benefits. Also, an existing 0.25% premium assessment will be used after July 1, 1996, to fund safety consultation and promotion services.

A new **Montana** law limits benefits for disabled workers waiting for vocational rehabilitation and job placement services. Also, lump sum permanent partial disability benefits must be discounted.

Insurers also face new requirements to pay claims promptly, though they may cut benefits to a worker who recovers from a third party. The new law also requires compensable claims to be more than 50% caused by the workplace.



No significant activity occurred in **Alaska** or **Washington**.

Several bills are being discussed in **California**, none as far-reaching as the 1993 reforms. One would let workers be treated by a personal physician only after a year has passed after an injury. Current law permits such treatment much sooner.

The first workers comp reform bill to pass in **Hawaii** in more than a decade now awaits Gov. Benjamin J. Cayetano's signature.

The comprehensive measure would limit medical charges to 110% of Medicare fees, rather than the 200% which is typically used.

It also seeks to overhaul the residual market by limiting it to employers with poor loss history and providing credits to encourage insurers to write employers' risks in the voluntary market.

The bill also would allow employers with good loss experience to use large-deductible programs, set a mandatory premium discount of at least 5% for employers with certified safety and health programs and offset the amounts awarded for second injuries by benefits for prior compensable injuries.

Also, the bill sets a $10,000 fine for each false statement made in connection with a workers comp claim.

Oregon employers fear that recent court decisions will eliminate gains achieved by watershed 1990 reforms.

They are backing a bill drawn up in response to an Oregon Supreme Court ruling that an injured worker can go to civil court if a claim is determined to be non-compensable under workers comp law.

The broad bill has passed both the House and the Senate and a compromise with Oregon's Gov. John Kitzhaber is in the works. The governor agreed with parts of the bill, including reversal of the decision in *Errand vs. Cascade Steel Rolling Mills*. But he had threatened to veto the bill, saying it is not balanced because it does not provide a fair support system for workers. BI

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INTERNATIONAL



AP/WIDE WORLD

Russian quake losses are not insured

By ELENA KUDIMOVA

MOSCOW—Neither businesses nor individuals have insurance to ease the losses from the worst earthquake in Russia's history.

The country mourned the deaths last week of more than 2,000 people left in the ruins of Neftegorsk, a small town on Sakhalin Island about 6,000 miles east of Moscow.

The quake, which measured 7.5 on the Richter scale and was followed by a second temblor of similar power 70 minutes later, shook the sleeping town of oil workers at just after 1 a.m. on May 28.

Seismologists expect more tremors to hit the island.

Twenty of the town's 22 buildings were destroyed. By last Thursday, 401 people had been rescued from the rubble, and 619 bodies had been recovered. Identifying the dead has been difficult because the quake killed entire families and their neighbors instantly. Rescue workers have given up hope of finding more survivors due to weather conditions: the temperature is about 43 degrees in the daytime and 27 degrees at night.

Authorities ordered inspections of buildings in Okha, about 18 miles to the north, to ensure that they are still safe to inhabit.

The earthquake was the 23rd since 1980 to strike the highly seismic area of Sakhalin, the Kurils and Kamchatka Peninsula.

There is no estimate yet of the economic damage, but none of the losses is insured. As usual, all com-

See **Sakhalin** *on page 41*

For Lloyd's, devil is in details

Many members like the principles, but differ on the plan's particulars

BY STACY SHAPIRO

LONDON—Many Lloyd's of London members seem to support the principles underlying Lloyd's plan to run off the old market, start a new one and end member litigation.

But at the Lloyd's annual general meeting last week, many leading members also clearly differed with the Council of Lloyd's on the details. For example, some want underwriting agents to contribute more to the £5.9 billion ($9.37 billion) proposal, and others want a tighter cap on their past liabilities.

Meanwhile, at least a few members strongly oppose the plan and seem to want to derail it.

Lloyd's Chairman David Rowland received a sustained round of applause from the more than 2,000 members who packed Royal Festival Hall last week for the annual general meeting.

While explaining the reconstruction plan, Mr. Rowland noted that the Market Board originally devised six options to save the market and end member litigation. Five of those were combined into the existing plan, which includes a £2.8 billion ($4.4 billion) settlement offer. The other option—that Lloyd's go out of business—was considered, but the effects would be dire.

"There's one certain truth," Mr. Rowland warned: Nobody knows how members would be affected if the market shut its doors. Outside experts, the council and the British Department of Trade and Industry did conclude, though, that "the alternative to the proposal we put before you is substantially worse," he said.

The duty of the administrators of a Lloyd's market in runoff would be to discharge the contracts of the market and seize member assets to pay losses, Chief Executive Peter Middleton explained after the meeting. Administrators would be a lot more aggressive in getting at those assets than Lloyd's is now, he said.

Once members' assets and the Central Fund were depleted, only a portion of policyholders' claims could be paid, Mr. Rowland added.

Speaking to the membership, Mr. Rowland said, "we've

See **Meeting** *on page 41*

Baltica, Tryg Forsikring enter merger agreement

By MARIA KIELMAS

COPENHAGEN, Denmark—Baltica Forsikring plans to merge with another company, forming Denmark's largest insurer and ending lingering speculation about the troubled Danish insurer.

A merger agreement between Baltica and Tryg Forsikring, a former mutual insurer, is subject to approval by Danish regulators and the companies' shareholders. The merged company would be known as Tryg-Baltica Forsikring and would be listed on the Copenhagen stock exchange.

Tryg Forsikring and its parent company, Tryg amba, reached an agreement in principle with Den Danske Bank, which owns 90% of Baltica Forsikring, to pay 5.7 billion Danish kroner ($1.03 billion) for the bank's stake in Baltica. Den Danske will then repurchase Baltica's Danica life insurance subsidiaries, Statsanstalten Holding A/S and Danica-Baltica I Livforsikring A/S, and the Danica non-life subsidiary, Danica Forsikring, for 6.8 billion kroner ($1.23 billion).

Insurance analysts are withholding judgment on the future of the proposed merger.

"Baltica is now divided into two. It's difficult to say how it will perform in the future," said one Copenhagen analyst who would not speak on the record. "Historically, Tryg has been one of the most successful players because it has played upon its mutual status in its public relations campaign. They gained market share by adopting the slogan 'We exist for you.' Now, with the merger and the future stock listing, they are an ordinary company."

Tryg was demutualized in 1991 but has not been listed on the stock exchanges.

"From the information released, it looks as though Den Danske Bank is paying someone to take Baltica off their hands," said a London analyst, who also requested anonymity. He suggested this was the only course open to Den Danske Bank.

"Once they said that they wanted to sell Baltica, they had to find a buyer," he explained.

Sweden's Skandia Insurance Co. long has been suggested as a potential buyer for Baltica, but the Denmark-based companies were seeking a "Danish solution," the London analyst said.

The Copenhagen-based analyst disagreed, saying Tryg bought Baltica merely because it was prepared to pay a higher price than Skandia.

When Den Danske acquired a controlling interest in Baltica Forsikring in November 1994, it said that it wanted to continue Danica's life insurance activities but intended to dispose of Baltica Forsikring's other business areas, possibly by selling its shares in Baltica Forsikring (*BI*, Nov. 21, 1994). BI

Allianz goes its own way in setting rates

By DON LEWIS KIRK

MUNICH, Germany—In a blow to Germany's quasi-cartel rating system for large risks, Allianz Versicherungs A.G. plans to set rates independently to better reflect clients' individual exposure.

The move could signal the end of the so-called KOKOs, the consortia that have helped insurers push through large price increases over the last three years.

Citing "pressure from competitors" and nagging underwriting losses, executive board member Manfred Illner announced a "client-oriented" rating system and a change of evaluation criteria for the Munich, Germany-based insurer.

By focusing on the individual risk situation of policyholders, the insurer should be reducing premiums for good clients, hiking premiums for poor risks and completely retreating from unprofitable business, Mr. Illner projects.

With its new strategy, Allianz hopes to realize an underwriting profit within three years and stop good risks from moving to competitors. Allianz has a 16% share of Germany's commercial insurance market.

In 1994, Allianz reported an underwriting loss of 87 million DM ($56.1 million), with industrial fire insurance losses jumping to 42 million DM ($27.1 million) last year from 15 million DM ($8.6 million) in 1993. Allianz expects no substantial improvement this year.

The company's premium volume increased 7.4% to 2.3 billion DM ($1.48 billion) in 1994. It is expected to grow less this year because of increased competition in the market,

See **Allianz** *on next page*

U.K. employers liability law up for review

By CAROLYN ALDRED

LONDON—British risk managers are being urged to help shape employers liability legislation.

The Assn. of Insurance & Risk Managers in Industry & Commerce last week sent out questionnaires to its members, encouraging them to express their views on proposed changes in legislation.

The move follows the publication of a consultative document in late April by the Department of Employment, which seeks to initiate a review of the Employers Liability (Compulsory Insurance Act 1969).

It is the first time the legislation has been reviewed since it took effect in 1972.

The review was prompted by the insurance industry's decision, effective as of January, to cap employers liability policies. In the United Kingdom the policies traditionally have been unlimited (*BI*, Jan. 9).

Also last week, underwriters, brokers, trade unionists and risk managers met at a seminar hosted by the Assn. of British Insurers to discuss the government's review document.

"It is wonderful that the document has come out" seeking a review of the legislation, said Donna Thomas, a risk management consultant who has compiled the questionnaire for AIRMIC and will analyze risk managers' responses.

The "buyers of insurance have a chance to have their say and they should take it," she said. Ms. Thomas is urging risk managers to complete and return the questionnaire by June 19, as AIRMIC has to provide its response to the government by July 31.

AIRMIC will prepare its response after analyzing the views of its membership and consulting other interested parties, such as brokers, insurers and trade unionists, said Ms. Thomas, who sits on AIRMIC's employers liability working party.

Meanwhile, the ABI and the British Insurance & Investment Brokers Assn., also are preparing responses to the paper.

"We want to produce our own views on the consultation paper after talking to other parties during the next month. Our objective is to come up with a consensus,"

said David Thomas, chairman of the brokerage trade group's EL working party.

EL underwriter Ian Helmore, liability manager for London-based Iron Trades Insurance Co. Ltd., and a member of the ABI EL working party, agreed about "the need to reach a consensus (through) discussions with interested parties."

An initial response will be prepared by the ABI's five-member EL working party, following discussion with brokers, risk managers and employee representatives.

See **EL** *on next page*

EL

Continued from previous page
This will then be passed to the association's liability and accident insurance committee and finally put forward to the ABI's General Insurance Council, which represents the ABI's entire property/casualty underwriting membership, said Mr. Helmore.

"A lot of people will have input," he noted.

The government hopes to introduce amendments to the existing law by the end of the year. Industry observers, though, say that several areas would require additional legislation and therefore further parliamentary time, making a deadline prior to 1996 impossible.

Meanwhile, many industry specialists add that there are areas of concern in the EL market that are not touched on at all in the government's document, such as whether the current compensation should be changed.

For example, many people believe a no-fault compensation system would be far more cost effective than the current tort-based system.

In addition, "the document does not address such issues as the use of claims-made policy forms or deductibles," observed Mr. Thomas, who is technical director of liability for Willis Corroon Ltd. of London.

The main question raised by the consultation document is how much insurance an employer should legally be required to maintain.

Should the minimum limit of £2 million ($3.2 million) be increased and on what basis should any higher limit operate?

The consultative document points out that if the original limit had been increased in line with wage inflation since 1972, it would be closer to £20 million ($32 million) today.

Suggestions include a £10 million ($16 million) limit, which has been set by the industry as its standard maximum policy limit since the cap was introduced in January. Other options include higher limits based on formulas relating to employers' size; or that employers would have a duty to assess and insure for their maximum probable loss. The latter option is popular with employers' liability underwriters.

Setting too high a limit for all companies would drain already limited capacity from the EL market. But setting a limit simply based on number of employees can be deceptive, noted Mr. Helmore of Iron Trades.

"There should be a mixed approach," he suggested.

Requiring companies to assess their own exposures and required limits would be a "very efficient way to use the available capacity," he argued.

Fellow underwriter David Howie, assistant U.K. liability manager for London-based Eagle Star Insurance Co. Ltd., agreed that the higher the required limit, the greater the drain on the market's capacity.

The market "has been successfully sustaining a limit of £10 million with the ability to offer up to £25 million ($40.1 million), or even more, for some policyholders," he said.

All capacity offered above the standard £10 million currently is subject to very detailed underwriting, he noted. Mr. Thomas, however, believes that it "would be practically difficult to enforce and monitor" self-assessment of exposures by all employers.

The government paper also questions how the minimum level of cover should apply to disease claims. Insurance market practice has been to treat every employee with a disease as a separate occurrence, with the minimum limit applying per person.

'Whatever the intention of the government, it is likely that the review of the 1969 act will be a catalyst for a wider debate on employers liability,' said Donna Thomas.

This view, though, is open to interpretation, said Mr. Thomas. "If in any circumstances disease claims were aggregated, this would have a significant effect on the adequacy of any proposed limits."

Other issues raised by the document include:

- How should the minimum level of cover apply to groups of employers?

This was the issue that brought the whole EL debate to the government's attention.

When the insurance market introduced a cap for 1995, companies with several subsidiaries were not sure legally whether each subsidiary would be required to hold a minimum of £2 million cover and, if so, whether the group would find sufficient capacity in the market to sustain this level of cover (*BI*, March 6).

- What steps could be taken to ensure compensation to employees of uninsured employers? The document requests solutions that would not involve the taxpayer.

Although industry observers note that the document is "non-controversial" and is in line with their expectations, they point out that issues not mentioned in the paper will be brought into discussions.

"Whatever the intention of the government, it is likely that the review of the 1969 act will be a catalyst for a wider debate on employers liability," Mr. Thomas noted.

AIRMIC hopes that its questionnaire will contribute to that debate.

"We feel there are some issues that have not been addressed and we are asking AIRMIC members their views of these," said Ms. Thomas.

"If we are going to have a debate, we should look at all areas," including alternative forms of compensation and the claims-made issue, she pointed out.

For example, "there is still a question mark over whether claims-made wordings contravene the current legislation," said Ms. Thomas.

Meanwhile, Mr. Holmore is "not surprised that the Department of Employment has steered clear of raising issues of cover."

But, he points out, that although "how the cover is written is not a central issue, it will influence the content of the legislation."

Policy issues, such as claims-made wordings, "will have to be debated in the market," said Mr. Howie.

"There's a whole number of issues which the insurance industry will have to embrace," he said.

However, it is up to the industry to find "workable solutions that take into account that the 1969 Act was introduced to protect innocent employees killed, injured or who sustain illnesses through the workplace," he said. BI



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Allianz

Continued from previous page
which will put downward pressure on rates. As a result, Allianz plans to circumvent the joint industry fire insurance tariffs, which "limited possibilities for individual risk assessment," Mr. Illner said. KOKOs set their own tariffs for large risks, except for fire, which Germany's insurance industry determines.

Beginning in 1996, Allianz will group commercial clients into three general categories: "A," "B" and "C." The new categories will better reflect the type of risk an individual company represents. Unlike the tariffs set by the KOKOs, which grouped good and bad risks together and set one rate, Allianz' new system will reward companies that manage their risks.

"A" policyholders represent companies with an insured exposure of more than 250 million DM ($180.5 million) and a high safety standard that are willing to retain more risk.

To enter the "A "category, companies must have their complete organization assessed by Allianz, a procedure already practiced by competing highly protected risk insurers.

"B" clients must have insured exposures in excess of 250 million DM with undeveloped loss control measures.

"C" clients are those with less than 250 million DM of coverage. All commercial clients will be subject to risk assessment, which initially will concentrate on improving attitudes toward risk management.

"We won't insure a company that is not willing to reduce its risk," Mr. Illner said. But if policyholders have "quality risk management and are willing to retain more risk themselves, we'll honor it."

Mr. Illner pinpointed problem industries in which many companies have poor loss histories that would be subject to more intense underwriting scrutiny. They include the recycling industry and paper manufacturers, which could be abandoned by Allianz altogether.

Mr. Illner believes Germany's KOKOs will make way for a more "individualized" rating system.

In fact, some market observers say that other insurers will follow Allianz' lead and the KOKOs are already essentially a thing of the past.

Growing competition, especially among international fire insurers, made "universal" pricing policies obsolete, Mr. Illner said.

Allianz would even sacrifice premium volume to improve the "quality" of its risks, Mr. Illner said. Allianz possibly could lose 2% to 3% of its volume under its new tariff system, he said.

At the same time, Allianz plans to force the use of deductibles. For clients that take high deductibles for industrial fire and fleet auto insurance, Allianz will offer a separate claim management service.

Allianz sees a strong growth in fee-based claims management. Such services could generate 20 million DM ($14.4 million) annually for the insurer, an Allianz spokesman said. BI

Meeting

Continued from page 39

got a great deal of work to do." By working with the membership over the next few months, "I think we have a very good chance of getting to the other side and reaching the spring of 1996 with agreement between us all."

The chairman also noted that the House of Commons Treasury & Civil Service Committee recently came to the "unsurprising conclusion" that Lloyd's should be regulated by officials outside of the market (*BI*, May 29).

But amending Lloyd's Act 1982 to allow external regulation would be a "lengthy process" and "would be a distraction from the task of market reform with which we are engaged," he said.

Before opening the floor to questions, the chairman pleaded with the membership to concentrate on a constructive solution to the market's problems.

"Anger, however, justifiable, is a bad basis for wise judgment and compromise, and we shall need both wisdom and a sense of compromise in abundance as we study this plan for our reconstruction and renewal," he said.

The first questioner, Lloyd's member William James, set the mainly conciliatory mood of the meeting by thanking the chairman for all his efforts in this difficult task. "I support the Lloyd's reconstruction renewal proposals subject to detail," he added.

However, Mr. James and other members called for changes to the reconstruction package before they could give it their full support.

One member, for example, insisted that underwriting agents contribute £400 million ($635.2 million) rather than the £200 million ($317.6 million) suggested in the plan since they will make three years of profit commissions totalling £600 million ($952.8 million) if the plan is put into action.

The member asked how the proposed charge could be considered adequate when some of these agencies caused the members' "terrible losses." All of the agents also have "collectively failed to manage the market" to prevent this disaster.

If the plan fails, agents also would go bankrupt, so their futures depend on a sound solution, he said. For the plan to succeed "names have to dig deep into their pockets to pay losses," whereas agents will not have any trouble contributing another £200 million to the plan, he said.

"Don't you realize that the reconstruction plan would have a far greater chance of succeeding and less chance of failure if the agents were required to contribute at least two-thirds of their profit commissions?" the member asked Mr. Rowland to a long round of applause.

Promising to take "serious note" of those comments, Mr. Rowland defended the reconstruction plan.

The sum that the agents have been asked to pay is a "judgment call."

He pointed out that a large majority of the market's existing agencies have turned profits and have no connection with the past.

The council also is trying to "retain a market at Lloyd's" as well as shore up the past. Keeping good talent would be difficult if those in the market think there is no money to be made. Already, some of the market's most talented people have jumped to insurance companies.

Any changes in the proposed contributions by agents will be discussed in the next few weeks, Mr. Rowland said.

"But, please understand—it isn't as simple as just taking 'all the money' that we want, because if we do that we won't have a market."

Lloyd's broker Ted Benfield said he would like to see a settlement and an end to litigation. But, he also would like Lloyd's to change its policies retroactively and refuse to pay U.S. liabilities in full.

Mr. Rowland said that the difficulty in walking away from old liabilities is that regulators would not like it, particularly those in the United States, who would bar Lloyd's from doing business there.

Lloyd's member Julian Lloyd welcomed the plan and wanted to see the market remain in business, but he said there were a few flaws in the proposal. In particular, proposed runoff reinsurer Equitas Ltd. will not give members a complete cap on their past liabilities, because if the reinsurer fails, members must foot the bill for unpaid losses.

Mr. Lloyd instead would like to see past liabilities passed on to the new Lloyd's if Equitas fails, rather than back to the existing membership. Then members "could die in peace" because their debts would not be passed onto their descendants, he said.

Mr. Rowland tried to assure members that Equitas is being set up to be an ongoing solvent operation. But, he also pointed out that existing members cannot transfer their existing market obligations to anyone, including the future market.

"I am quite convinced that Lloyd's is currently in the last-chance saloon," said Sir David Berriman, chairman of the Assn. of Lloyd's Members. "Unless we get this settlement offer right, then the alternative (to shut the doors) will happen. I strongly recommend to names that they encourage Lloyd's to continue with the reconstruction plans that they have announced."

However, Sir David requested that Lloyd's give some cash advance to help members meet their cash calls this year and continue in the market in 1996.

Mr. Rowland replied that the market will release 3% of its 1995 capacity to the membership in credit to help them meet their calls. But, the DTI will not allow Lloyd's to release the advance in cash.

Several members at the meeting strongly opposed the reconstruction proposal.

For example, John Donner, a former underwriting agency executive-turned outraged member, said that the Lloyd's reconstruction proposals were "a disgraceful attempt to buy off doomed investors."

Other members lambasted the council for the market's poor regulation in the past. Those shortcomings were outlined by the Treasury committee, which also called for external regulation and an independent inquiry into the losses at Lloyd's.

The Treasury committee's report is "a damning indictment on Lloyd's," said Jessie Munn, a member who has been a critic of Lloyd's. "There are some real eye-openers in this report."

Ms. Munn urged everyone to obtain a copy of the report and read it carefully before coming to any conclusion about the Lloyd's reconstruction proposals.

Lloyd's Head of Regulation Alan Hardcastle came under strong criticism during the meeting because of the lack of confidence shown by the Treasury committee for the regulator. Some called for his resignation, claiming that Sir Alan had been ineffective and done nothing to punish the miscreants.

"There is a truth about this society and this (council) which everybody who has come into it (knows)," Mr. Rowland said. "However immaculate their reputation, however wise they are, they will within a short period of weeks or months be regarded as just as useless as everybody else who has managed Lloyd's."

With much applause from the audience, Mr. Rowland defended his choice of the "very best people" he could find. Those people include Sir Alan, who has had "a most distinguished career," Mr. Rowland said.

"I found myself quite extraordinarily lucky to be able to entice somebody like him to this job," he said. "I do not regard the bludgeoning by a select committee to be any sort of yardstick of his performance."

Mr. Rowland added that he would apologize to no one for the quality of people he has found.

Sir Alan noted that there were five disciplinary cases at Lloyd's last year, involving 14 defendants. Three cases led to prosecutions.

Outside Lloyd's, a woman with a "Just Say No" T-shirt passed out leaflets calling for members to ask their MPs to demand an independent inquiry into the market. BI

Sakhalin

Continued from page 39

pensation will come from the government.

Every family will receive up to 50 million rubles (about $9,919). Families of the dead also will receive a one-time payment of about 8.72 million rubles ($1,729), which is equal to 200 times the monthly minimum wage. Each survivor will also receive an allowance that equals 20 times the monthly minimum wage, or about $173.

Survivors, including those that were only slightly injured, are refusing to leave the devastated zone. They remember the unexpected problems encountered by victims of the earthquake in the Kuril islands last October (*BI*, Oct. 10, 1994). Those survivors evacuated after losing all documentation in the quake. They cannot prove their identities and still have not received government compensation.

Construction Minister Yefim Basin said Neftegorsk will not be rebuilt. Oil workers will commute to the island for short periods. The federal government will build new housing for survivors elsewhere in the Khabarovsk region.

Meanwhile, regional government officials are investigating possible violations of construction rules that may have contributed to the high death toll.

The 56-mile-long oil and gas pipeline connecting Neftegorsk and Okha was damaged in 17 places, but it was closed in time to stop leakage and prevent ecological catastrophe. The pipeline is owned by Sakhalinmorneftegas, a local oil and gas-extracting concern.

A lack of insurance awareness in Russia still leaves business and personal property uninsured. Traditionally, people rely on the Russian *avos*, a belief that nothing bad will happen.

Vladimir Krouglyak, president of Ingosstrakh, the former state-owned insurer, said in an interview that as a citizen of Russia he mourns the victims of the Neftegorsk tragedy.

But, "the earthquake is one more reason for the country's leadership to reconsider their attitude toward insurance and to promote legislation" that would allow business to deduct the cost of insurance as an operating expense, he added.

"Our superpower can't help its citizens; they should help themselves by buying insurance," he said.

Early last month, though, the government unexpectedly revoked decrees that had allowed certain energy companies to include commercial property insurance premiums in their production costs. The question of treating insurance premiums as a business expense is considered important for insurance market development in Russia. It is not clear why the government changed course. BI

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INTERNATIONAL

Policyholders called key to Lloyd's future

BY STACY SHAPIRO

LONDON—Lloyd's of London and its membership must not forget their policyholders if they want the market's reconstruction package to achieve its objectives, a rating agency warns.

"While policyholders may have no formal roles to play in these arrangements (other than through the regulators), they have as important an interest as names—particularly as concerns the future of the 'new' Lloyd's as a continuing market," observed Andrew Campbell-Hart, managing director of Standard & Poor's Insurance Rating Services in London.

"In as far as the old Lloyd's has no future without names, the new Lloyd's will certainly have little future without policyholders," he wrote last week in a review of the plan.

Despite recent problems, there is little evidence in the global results for Lloyd's ending in 1994, which were announced late last month, that suggests policyholders are pulling away from the market, he noted.

"Whether this continues to be true in 1995, particularly now that the need for reconstruction has been frankly admitted by Lloyd's, remains to be seen," he said. "What is clear is that Lloyd's needs to keep faith with its traditional policyholders, as never before, if it is to reinvent itself for the future as well as cope with the problems of the past."

The Lloyd's reconstruction package, announced last month, would "ringfence" all of the market's pre-1993 syndicate accounts into proposed runoff reinsurance company Equitas Ltd. and provide a way to fund the £5.9 billion ($9.37 billion) shortfall Lloyd's faces next spring. The plan includes a £2.8 billion ($4.45 billion) settlement offer to end all members' litigation (*BI*, May 29).

For policyholders, three fundamental questions arise from the plan, Mr. Campbell-Hart said:

- How likely is it that the proposed settlement will be accepted by names (see story, page 39)?
- Will Equitas be able to pay claims stemming from 1992 and prior underwriting years?

Equitas is "essentially an exercise in mutualization," which recognizes that certain names are incapable of paying their losses. If Equitas were to run out of funds, "claimants would have little practical chance of pursuing individual names to effect recovery."

- What security will the "new" Lloyd's be able to offer policyholders in the future?

"The major uncertainty at this stage is the shape and size of the names' capital base for 1996 after each one has settled his outstanding bills," Mr. Campbell-Hart said.

Future policyholders will be concerned with both quality and quantity issues, he said. For example, while there will be no old long-tail liabilities affecting the new Central Fund, the new fund "will be modestly capitalized" at £300 million ($476.4 million), of which only £100 million ($158.8 million) will be paid up. "What is to prevent, over the longer term, the same long-tail problems accumulating once again?" he asked.

The S&P managing director concluded that while policyholders must continue to face many concerns, "the proposal does offer, at least, a finite solution, if not one that is totally satisfactory."

As a result, it will force policyholders to examine the market more closely before deciding whether to use it, he said. BI

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LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
CIVIL JURISDICTION
1995: NO. 206

IN THE MATTER OF HOPEWELL INTERNATIONAL INSURANCE LTD. AND IN THE MATTER OF SECTIONS 99 AND 100 OF THE COMPANIES ACT 1981

NOTICE OF STATUTORY MEETING

NOTICE IS HEREBY GIVEN that by an Order dated 25th May, 1995 made in the above matter the Court directed Meetings ("the Meetings") to be convened of the Scheme Creditors (as defined in the Scheme of Arrangement hereinafter mentioned) of the above-named company (hereinafter called "the Company") for the purpose of considering and, if thought fit, approving (with or without modification) a Scheme of Arrangement proposed to be made between the Company and such Scheme Creditors and that the Meetings will be held at the Royal Bermuda Yacht Club, Hamilton, Bermuda on 23rd June, 1995 commencing at 9:45 a.m. (Class A Creditors), and 10:45 a.m. (Class B Creditors) respectively.

Forms of Proxy appointing proxies must be lodged with the Managers at the office of the Company, situate at Belvedere Building, Pitts Bay Road, Pembroke, or mailed to International Risk Management (P.O. Box HM 660, Hamilton HM CX, Bermuda, Fax No.: (809) 295-5033), Attn: Mr. Graham Brice, and must be received by the Managers by 5:00 p m. on 22nd June, 1995.

Copies of the Scheme Document and Explanatory Statement n relation thereto can be obtained from the Company's offices at the above address.

By the said Order, the Court has appointed Graham Brice, or failing him such person as he may appoint, to act as Chairman at the said meeting.

The said Scheme of Arrangement will be subject to the subsequent approval of the Court.

DATED this 25th day of May, 1995.

MILLIGAN-WHYTE & SMITH
Bermuda Commercial Bank Building
44 Church Street
Hamilton HM 12

Attorneys for Hopewell International Insurance Ltd.

HELP WANTED

CONTROLLER

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REQUEST FOR PROPOSALS

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RFP No.	Date/Time
2-01-95050-0	6/30/95, 4:00 pm

For: Actuary & Risk Management Consultant Services.

LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
CIVIL JURISDICTION
1995: NO. 206

IN THE MATTER OF HOPEWELL INTERNATIONAL INSURANCE LTD.

AND IN THE MATTER OF SECTIONS 99 AND 100 OF THE COMPANIES ACT 1981

NOTICE OF STATUTORY MEETING

NOTICE IS HEREBY GIVEN that by an Order dated 25th May, 1995 made in the above matter the Court directed a Meeting ("the Meeting") to be convened of the Scheme Members (as defined in the Scheme of Arrangement hereinafter mentioned) of the above-named company (hereinafter called "the Company") for the purpose of considering and, if thought fit, approving (with or without modification) a Scheme of Arrangement proposed to be made between the Company and such Scheme Members and that the Meeting will be held at the Royal Bermuda Yacht Club, Hamilton, Bermuda on 23rd June, 1995 commencing at 9:15 a.m..

Forms of Proxy appointing proxies must be lodged with the Managers at the office of the Company, situate at Belvedere Building, Pitts Bay Road, Pembroke, or mailed to International Risk Management (P.O. Box HM 660, Hamilton HM CX, Bermuda, Fax No.: (809) 295-5033), Attn: Mr. Graham Brice, and must be received by the Managers by 5:00 p.m. on 22nd June, 1995.

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DATED this 25th day of May, 1995.

MILLIGAN-WHYTE & SMITH
Bermuda Commercial Bank Building
44 Church Street
Hamilton HM 12

Attorneys for Hopewell International Insurance Ltd.

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Sub-total **30,001**
Associations 343
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Commercial Consumers
Sub-total **31,294**
Insurance Agents and Brokers 8,285
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Accountants, Actuaries, Attorneys & Consultants 3,563
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers 1,844
Others Allied to the Field 1,028

Total Qualified **53,701**
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TOTAL CIRCULATION **53,781**

★ *Source Business/Occupational breakdown of qualified circulation, November 28, 1994 Issue, as submitted to BPA for December 1994 BPA Publisher's Statement*

Mathis named chairman of Kemper National Insurance

David B. Mathis, chairman and chief executive officer of Kemper Corp., has been named chairman of Kemper National Insurance Cos. in a move to ensure a smooth transition to his role as CEO.

He is replacing replacing **Gerald L. Maatman** who retired from the Long Grove, Ill.-based insurance company.

Mr. Mathis will assume his new role as CEO when his responsibilities in connection with the sale of Kemper Corp. to Zurich Insurance Group are complete.

In the meantime, **Alfred K. Kenyon**, president and chief operating officer of Kemper National will continue as acting chief executive officer.

At other insurers:

American International Group Inc. announced several promotions in New York: **Ronald J. Anderson, Robert J. O'Connell, B. Michael Schlenke** and **William D. Smith** named senior vps; **Hamilton C. DaSilva, Florence A. Davis, William A. Freda, David M. Hupp, Thomas G. Kaiser, Jeffrey M. Kestenbaum, Stanton F. Long, Kurt R. Schwamberger, Martin J. Sullivan,** and **Nicholas C. Walsh** named vps.

Peter D. Noris named executive vp and chief investment officer at The Equitable Life Assurance Society of the United States in New York. Previously, Mr. Noris was a vp at Salomon Brothers Inc., where he managed the New York-based investment banking firm's investment strategies group for insurance companies.

Gregory E. Murphy named chief financial officer of Selective Insurance Group Inc. in Branchville, N.J.

Mark B. Grier named chief financial officer of Prudential Insurance Co. of America in Newark, N.J. Previously, Mr. Grier was executive vp and co-head of global markets at Chase Manhattan Corp. He succeeds **Eugene O'Hara**, who is retiring.

Agents/brokers

Johnson & Higgins has announced several promotions:

Michael O. Bice named chairman of J&H's health care unit in Washington. Previously, Mr. Bice was chairman of the Graduate Department of Health Services Administration at the University of Florida; **Gary E. Smith** named president of J&H of Colorado Inc. in Denver; **Willis E. Urick III** named president of J&H Honolulu; and **Alina Llera Leathers** named vp and professional liability practice leader for the Costa Mesa office of J&H of California.

Robert J. DeValle joined Acordia Inc.-unit Acordia Lloyd Insurance Services as vp in San Francisco. Previously, Mr. DeValle was with his own firm.

Richard B. DeCoster named chief executive officer of Willis Corroon Corp. of Missouri in St. Louis. Mr. DeCoster succeeds **Pat Doyle,** who became chairman of the Willis Corroon Group P.L.C. subsidiary.

Cesar Goldman named president of the new voluntary benefits division of Jardine Insurance Brokers Inc. in Chicago.

Reinsurers

Henry J. Anderson, Mary Ellen Burns, and **William J. Hunt** named senior vps at National Re Corp. in Stamford, Conn.

Gregory P. Aristoff, vp and chief underwriting officer-international division of American Re-Insurance Co., was named to the additional post of senior vp of Am-Re Brokers in Princeton, N.J.

Also at American Re-Insurance, **Louis D. "Pete" Talmadge** named vp-domestic insurance company operations' facultative department in Princeton.

Russell Anderson resigned as senior vp and chief financial officer of Sydney Reinsurance Corp. and Melbourne Reinsurance Corp. in New York. Mr. Anderson is returning to Sydney, Australia, to assume new management responsibilities within the financial division of the QBE Group, the parent company. **Timothy Kenny** is assuming Mr. Anderson's positions.

Richard S. Brownfield named vp in the Columbus, Ohio, branch of Employers Reinsurance Corp. Also at Employers Re, **Jorgen K. Jensen** named vp-corporate business development department in the Overland Park, Kan., headquarters.

Leslie J. Davis and **Richard G. McCarty** named vps at General Reinsurance Corp. in Stamford, Conn.

John B. DiBuduo joined TIG Reinsurance Co. as vp and director of information systems in Stamford, Conn. Previously, Mr. DiBuduo was vp and partner with ReSystems Group in New York.

HMO/PPOs

Robert J. Sheehy named chief executive officer for the eastern region of United HealthCare of Ohio Inc. in Columbus. Mr. Sheehy succeeds **Dr. H. William Porterfield**, who was named chairman of the American Managed Care & Review Assn.

Dennis Conley named chief financial officer of Dental Care Plus Management Inc. in Chicago. Also, **Mary McGinnis** named vp-provider services and **Richard Walstrom** named director of claims and customer services.

Patricia L. Rowland named to the new post of senior vp-distribution at CIGNA HealthCare. Ms. Rowland has served as president of the Berwyn, Pa.-based subsidiary, Intracorp. **Donald M. Duford** succeeds Ms. Rowland as president.

Other suppliers

Michael R. Levin named risk management practice leader for Deloitte & Touche L.L.P. in Chicago. Previously, Mr. Levin was head of Towers Perrin's property/casualty consulting practice.

Sandra T. Martin named director of William M. Mercer Inc.'s administration center in Deerfield, Ill. BI

Comings & Goings: Industry

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44RSA

Fees

Continued from page 2

While it's difficult to predict legal costs two or three years in the future, the first three to six months are doable, he said.

To manage costs beyond the 120-day window, Mr. Zeughauser advises risk managers to prepare a "rolling litigation plan" that allows fees to be reviewed periodically or as problems arise.

For example, if after 120 days it appears that a motion for summary judgment could be filed to wrap up a case, negotiate a flat fee for that final legal service, he suggested.

But Mr. Zeughauser was wary of adopting flat fees across-the-board.

While alternative billing arrangements such as "flat fees" and "defense contingency agreements" are in vogue right now, "these are not always in the best interest of the client," he said.

Some attorneys who work for a flat fee may not be as service-oriented since they know they'll be paid the same amount regardless of how much time they spend on a case, he explained.

And, in some cases, the fee arrangement may discourage early discovery that could lead to speedy resolution of a case, he added.

Rather than embracing alternative billing arrangements wholesale, Mr. Zeughauser suggested that risk managers arrange for hybrid payment formulas that combine the hourly and flat fee arrangements for various services.

He also recommended offering bonuses to lawyers as an incentive for superior performance.

According to a recent survey by the Chicago-based American Bar Assn., two-thirds of lawyers say they would work harder if they were offered a bonus, he said.

"Have them estimate the cost of the case and then ask them if they'll cap their fee at that amount," he suggested. "Then offer them a 50% bonus" for a quick resolution.

While at first it may appear that a risk manager who offers to pay such a large bonus is overpaying for legal services, he or she really isn't since outside counsel more often than not underestimate the cost of defending a case by as much as 100%, he explained.

Mr. Zeughauser also warned risk managers to watch for outsourcing by their outside legal counsel.

Some firms contract with non-staff lawyers and paralegals and then bill their clients a markup of up to three times the hourly rate they are paying for these outsourced legal services, he said.

This keeps firms' overhead low and profits high, he explained.

In addition, many firms use their first- and second-year associates to conduct legal research, "so, essentially, you are paying them to learn on the job," he pointed out.

"The legal profession is becoming increasingly competitive," he observed. As a result, some services, such as legal research, are being outsourced, and law firms increasingly are unbundling their services for clients that have some internal legal resources of their own, such as in-house and general counsel.

For example, a new legal support service in the Los Angeles area uses moonlighting law professors to do research for 60% to 80% less than it would cost firms to pay their own lawyers to do the work.

Risk managers who suspect their outside counsel is using contract attorneys and paralegals should scrutinize their legal bills to determine how much of a markup they are being charged.

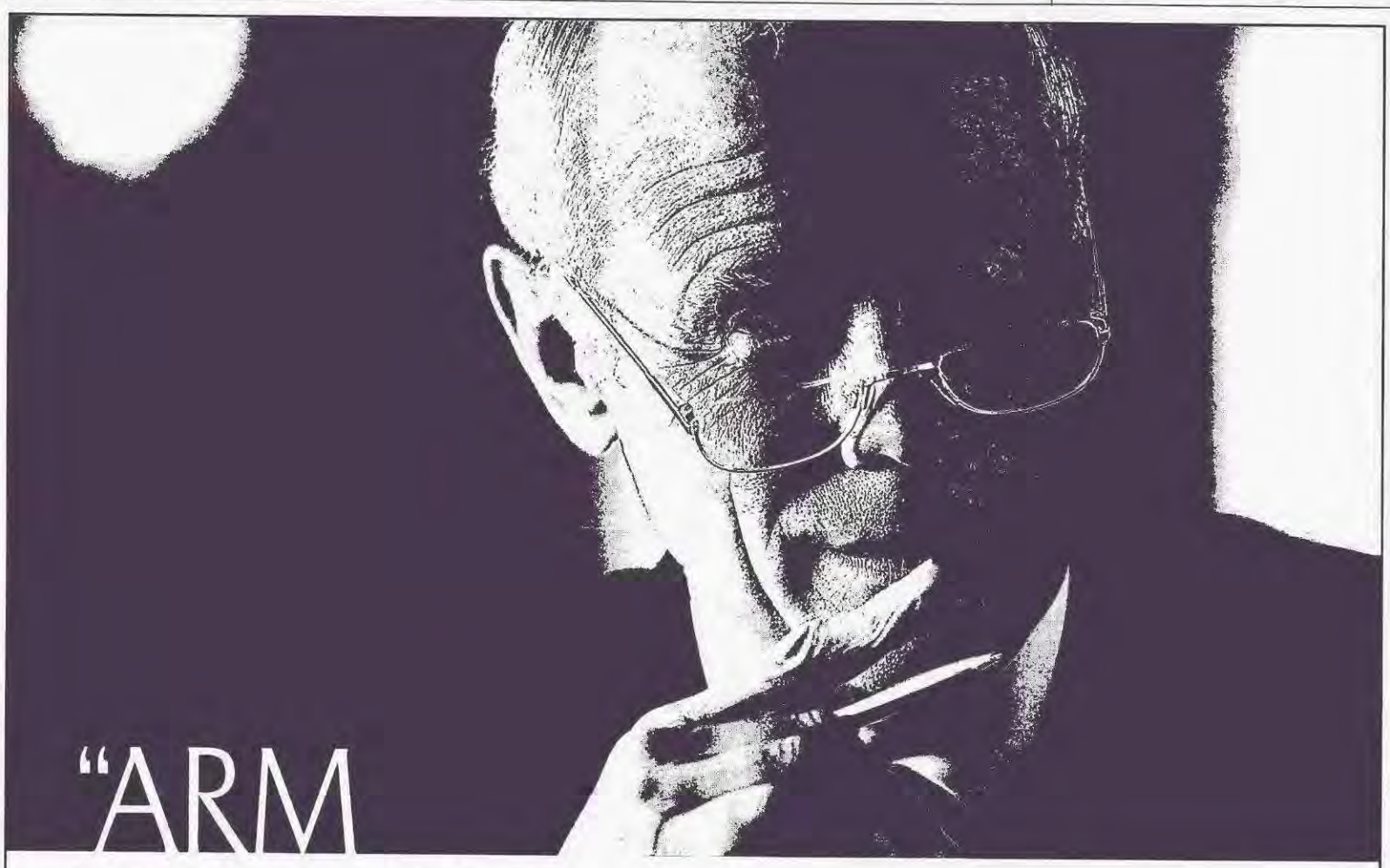
Don't pay the markup unless the firm is adding some value to the services, such as an analysis of legal research, Mr. Zeughauser said.

In some cases, risk managers themselves may want to take advantage of outsourcing by hiring their own legal temporaries to work with their outside counsel on specific cases or when the workload exceeds their staff capabilities, he suggested.

"The Irvine Co. uses outside attorneys extensively," he said, adding that he currently has a temporary lawyer on his payroll.

However, there are some disadvantages to using contract counsel, he warned.

Among them are higher turnover and the fact that they can't always be used for some internal discovery work, which often requires the lawyer to be familiar with a client's operations, he said. BI



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Cleveland

Continued from page 1

we have?" said Patrick Casey, executive director of the Health Action Council of Northeast Ohio, a group of Cleveland-area businesses. "What we have is five releases of data that are beginning to show trends in outcomes and patient satisfaction over time. And, the business community has some rudimentary (price) data. The question is, what does it mean?"

The data is of limited use because consumers, including corporations, lack the skill to interpret it, Mr. Casey said. "I like to explain that using an automotive industry analogy," he said. "Despite all the auto information out there, some people still bought Yugos."

What's more, local businesses and health care providers aren't doing enough to get the information into consumers' hands, he said.

Booklets containing comparable hospital data are published twice a year and are available to the public for $7.50, but Mr. Casey and others say it would be more effective to get consumers to use the information when they are preparing to seek medical treatment.

"The book hasn't gotten the circulation it needs," agreed Tom Kroeger, vp of human resources at Sherwin Williams Co. in Cleveland and chairman of the Health Action Council, the members of which provide health benefits to about 350,000 people. "We as employers are in the process of aggressively addressing that in our internal benefit communications."

Among other things, employers plan to purchase the Cleveland Health Quality Choice summary reports on a discounted basis and distribute them to employees. The companies also plan to incorporate the information into broader articles published in employee newsletters.

But, Mr. Kroeger said, employers themselves must become more aggressive in using the information, particularly as a tool to selectively contract with the best health care providers.

Several Cleveland companies, including Sherwin Williams, had direct hospital contracts when the Quality Choice program began. But as more managed care networks entered the community, employers came to view them as a cost-effective and less administratively complex alternative.

"What has prevented selective group purchasing among employers here is that while we have quality outcome data, we have yet to find a way to marry it with financial data," Mr. Kroeger explained. "Our ultimate goal is to identify and reward providers that produce value. And, value to us is both quality and cost."

"For a given treatment, we can see similar outcomes with similar patients at different hospitals. But when you look at rudimentary charge data, there is a wide variance," said Mr. Casey of the Health Action Council. "We want to go beyond measuring quality and look at charges with the same rigor as outcomes and satisfaction."

The next step for Cleveland area employers is to gather and analyze hospital charge data.

"We in the employer community need to make that a front-burner initiative. It's in our best interests," Mr. Kroeger said.

"It's a big, complex next step," he acknowledged. And, it's something some local health care providers may resist. "But it was also difficult for providers to accept that outcomes could be measured, and we got over that hurdle."

But hospitals will not be able to meet employers demands without reducing overcapacity, pointed out Scott Lyon, director-group benefits for the Council of Smaller Enterprises, a Cleveland-based coalition representing small employers.

"We still have too many beds here," he said. "If anyone thought that as a result of the Quality Choice program we'd decrease hospital beds, it hasn't happened. And, excess capacity means more money is being paid in than should be." BI

For the Record

Florida inaction puts NAIC status at risk

TALLAHASSEE, Fla.—The Florida Legislature's failure to pass a model act could threaten the state insurance department's solvency accreditation under the National Assn. of Insurance Commissioners' program.

The House passed a change to the state insurance code that would comply with the NAIC Material Transactions Act, but a similar measure never reached the Senate floor.

Under current NAIC rules, the state would have to pass the bill, which defines when insurance companies must report material information, by Jan. 1, 1996, to retain the accreditation. However, the Florida Senate is not scheduled to reconvene until March 1996.

Gov. Lawton Chiles is considering calling a special session on health care, and the Department of Insurance will push to have the model act considered then. But, a special session may not be called unless the governor and Senate Republican leadership can make significant headway in resolving their differences over Gov. Chiles' health care proposal.

Florida Rep. Stan Bainter, a Republican and the incoming president of the National Conference of Insurance Legislators, blocked the passage of another model act as a protest to what he considers to be excessive NAIC accreditation requirements. However, that act, the Risk-Based Capital Act, does not need to be approved by the Legislature until January 1997.

HMO formed to serve entertainment industry

WOODLAND HILLS, Calif.—The Motion Picture & Television Fund has established a health maintenance organization designed to serve the entertainment industry.

The new plan, The Industry Advantage/CaliforniaCare HMO, will rely on the fund's medical facilities and staff to act as "gatekeepers" for the HMO, giving the organization control of care guidelines. But the plan also will utilize CaliforniaCare's hospital and doctor networks.

The new HMO will be operated in conjunction with CaliforniaCare Health Plans, an affiliate of Blue Cross of California. A fund spokesman said the new HMO plan was designed to make a network of hospitals, health care centers and physicians more affordable for entertainment employees.

The Woodland Hills, Calif.-based fund is a non-profit, charitable organization that serves trade unions, movie studios, radio facilities, production companies and other units in the entertainment industry. The more than 70-year-old organization operates a hospital, four clinics and a child care center. All are in the Los Angeles area.

Fund administrators said the alliance with Blue Cross will help their organization spread its risk and attract more entertainment employees to its services.

Universal City, Calif.-based MCA Inc. already has added the HMO to its benefit package and about 150 employees have enrolled. Fund administrators estimate 500,000 entertainment workers and their family members living in California could select the plan.

The concentration of industry workers in one geographical area, the fund's ownership of medical facilities, and industry unionization are all contributing factors that make the unique arrangement possible, said Glenn Meister, a principal at A. Foster Higgins & Co. Inc.'s health and welfare practice in Century City, Calif.

"There are not that many industries that could do that," Mr. Meister said. "It is industry-specific and secondly, the fund has actually gone out and hired many of the physicians working in their primary clinics."

In that sense, the clinics operate like a staff model HMO, but the plan also will rely on contract physicians.

Wisconsin advised to control derivatives

MADISON, Wis.—Tighter internal controls are needed to prevent the Wisconsin Investment Board from repeating two recent losses from investments in financial derivatives, according to Price Waterhouse L.L.P.

In March, the board disclosed a $95 million loss in a $6.7 billion short-term cash fund it manages for Wisconsin municipalities (*BI*, April 10), while in May it announced another $93 million loss on interest rate and currency swap transactions made for the state's $30 billion pension fund.

In response to the losses, the board already had stepped up its efforts to track derivative investments and is considering stricter investment guidelines. Price Waterhouse has suggested the investment board also should improve its reporting and risk management.

Ohio considers bill on COLI disclosure

COLUMBUS, Ohio—A bill now before the Ohio Legislature would require employers to notify employees before insuring their lives with the company as beneficiary.

Employers often use the proceeds of corporate-owned life insurance to fund future benefits (*BI*, May 8).

Sixteen states currently allow this practice.

The bill, H.B. 330, would require an employer to give the employees, directors or retirees 30 days' notice that the employer planned to purchase life insurance on them. It would bar employers from insuring anyone who provided written notice that he or she didn't wish to be covered.

Current Ohio law is silent on notification. Some companies that buy the policies tell their employees; others do not.

The bill, which was introduced by State Rep. G. James Buchy, R-Greenville, is nearly identical to one that died last session.

The Ohio Insurance Department is recommending a stricter "affirmative consent" approach, which requires an employee to pre-approve in writing such a policy.

High court declines shooting case

WASHINGTON—Buckeye Insurance Co. of Columbus, Ohio, must pay more than $23 million to the victim of an accidental shooting after the U.S. Supreme Court let stand a 1993 Ohio Supreme Court ruling reinstating a $13.3 million jury award.

The court did not comment on why it declined to review the case.

Buckeye Union had argued that the Ohio Supreme Court violated the company's due process rights by reinstating the award because the court did not rule on several assignments of error that Buckeye attributed to lower-court decisions.

Interest on the original award has now pushed the amount to more than $23 million.

The lawsuit stems from a 1979 incident in which a deputy sheriff slipped on ice and accidentally shot a motorist as the deputy approached the man's car.

At the time, the Erie County Board of Commissioners was insured by Buckeye Union. BI

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Florida

Continued from page 2

premium volume. That program would be phased in over one year, and the JUA can file rates as frequently as every quarter.

Risks for which admitted, voluntary market coverage at approved rates is available are ineligible for the JUA.

The JUA also is offering $100 "take-out bonuses" to insurers for each risk they remove from the JUA. To qualify, an insurer must remove at least 25,000 risks from the JUA, issue three-year guaranteed renewal policies and place the money in escrow for three years, removing it only to pay claims.

Any insurer that removes at least 50,000 risks from the JUA is exempt from assessments with respect to those policies up to 100% in the first year, 75% in the second year and 50% in the third year.

New insurers are exempt from JUA assessments for three years or until the insurer reaches a market share of 0.5%, whichever comes first.

The Joint Underwriting Assn. is offering $100 'take-out bonuses' to insurers for each risk they remove from the JUA.

Any insurer that increases its windstorm exposure by 25% or more in one year is exempt from a JUA assessment that year.

Insurers are allowed to pass deficit JUA assessments onto their policyholders and to include their entire catastrophe fund premium in their rates.

Separately, Insurance Commissioner Bill Nelson has created two groups to study catastrophe reinsurance in Florida and issue reports by Aug. 15.

The academic task force consists of four Florida university presidents and the state university system chancellor.

The technical advisory committee includes: former Texas Insurance Commissioner Bob Hunter; Bob Sheets, former director of the National Hurricane Center in Coral Gables, Fla.; John Richards, who was South Carolina's insurance commissioner during Hurricane Hugo; Sean Mooney, senior vp and economist at the Insurance Information Institute; and several academic and business representatives.

—By Sara Marley

Comp medical partnership forms

BOSTON—Liberty Mutual Insurance Co. of Boston and Comprehensive Managed Care, the workers compensation managed care affiliate of Blue Cross & Blue Shield of Minnesota, have formed a partnership to bring CMC's managed care expertise to Liberty Mutual's workers comp business.

The partnership will pair Liberty Mutual's occupational health and safety and disability management experience with CMC's statewide network of workers comp health care providers, which includes 330 primary care clinics, most occupational medicine providers and all non-government-run hospitals in Minnesota.

Comprehensive Managed Care, based in Eagan, Minn., will coordinate and manage medical care, 24-hour telephone triage, initial case management and utilization review, provider network services and medical information for Liberty Mutual's insured and self-insured workers comp customers.

Liberty Mutual will provide overall medical management, vocational case management, underwriting, risk management, medical bill payment and benefit coordination.

Separately, Liberty Mutual has formed an alliance with Chicago-based AHA Insurance Resource Inc. to examine issues related to occupational and non-occupational disability insurance for hospitals and other health care providers.

A subsidiary of the American Hospital Assn., AHA Insurance Resource designs and markets insurance and financial products to member hospitals and other health care providers. It also provides support services for all AHA-sponsored products.

For more information, contact Margaret Sheehan at Liberty Mutual, 617-574-5874, or Dixie Arthur at AHA Insurance Resource, 800-242-4677.

RHH acquisitions

ROTTERDAM, The Netherlands—Rollins Hudig Hall Holdings B.V. has acquired four brokerage firms.

The recently completed acquisitions are: CORGRUP Correduria de Seguros S.A., a Barcelona, Spain-based commercial broker; CONSEGURO, Corretores de Seguros S.A., a Lisbon, Portugal-based commercial broker; Steeves Lumley, a Melbourne, Australia-based broker specializing in government insurance coverages, group packages for professionals and professional indemnity insurance; and ABP Behrens & Partner Versicherungsmakler GmbH, a fine arts specialist broker in Wuppertal, Germany.

RHH Germany and ABP Behrens' art insurance activities have been merged into a new company, Artscope International Kunstversicherungsmakler GmbH.

ECS restructures

EXTON, Pa.—ECS Underwriting Inc. plans to restructure its operations.

The Exton, Pa.-based underwriting management company, a unit of ECS Inc., will replace its current product-oriented structure July 1 with six "customer business units."

Those business units are to be: Transportation, Environmental Facilities, Environmental Services, Construction, Industrial and Commercial Facilities, and Risk Management.

Markets

ECS says the reorganization stems from a quality service initiative it began recently.

For more information, contact ECS Corporate Marketing, 520 Eagle Blvd., P.O. Box 636, Exton, Pa. 19341-0636; 800-327-1414.

New consulting firm

ST. LOUIS—Robert E. Mathieu has formed his own consulting firm, The Mathieu Group Inc., to provide consulting assistance in the areas of benefit and compensation plans. Mr. Mathieu, president of TMG, has 40 years of experience in compensation and benefits at various corporations.

St. Louis-based TMG's consulting services include: benefit design and administration; health and welfare, pension and savings plan management; health care cost containment; safety and health program management; expatriate benefits; flexible compensation; executive compensation; rabbi trust alternatives; wage and salary programs; and employee pre-retirement education.

TMG has formed alliances with international benefit companies to provide TMG clients professional specialists who can meet their needs wherever they are located.

The Mathieu Group can be reached at 314-822-3891.

London office

LONDON—Media/Professional Insurance has opened a London branch and created an underwriting office there. Operating as Media/Professional International Ltd., the London facility expands Kansas City, Mo.-based Media/Professional's program of media liability insurance to create a global media perils insurance program.

The expansion offers coverage for the worldwide media exposures of companies based anywhere in the world. The international aspect of Media/Professional's program is supported by International Insurance Co. of Hannover Ltd., a subsidiary of Hannover Re, and is coordinated with Media/Professional's U.S. program, which is supported by Scottsdale Insurance Co. and its affiliate, National Casualty Co.

As with the U.S. program, all brokers can access the international component. The policy can be tailored to meet a company's particular needs and can be written on either a primary or excess basis. The available limit is $10 million or £5 million.

Mark Rebein, managing director of the London office, can be reached there at 0171-626-6500.

New Royal unit

NEW YORK—Royal Insurance has formed a new operating unit, Royal Global Management Inc., to manage Royal Global's U.S. underwriting efforts.

Royal Global is a subsidiary of London-based Royal Insurance P.L.C. and handles the insurance needs of larger multinational clients. RGMI is a contract underwriting manager and a wholly owned subsidiary of Royal Group Inc., the holding company for Royal's pooled group of insurers in the United States.

With offices in New York, Chicago and Los Angeles, RGMI will operate under an exclusive management contract with Royal's U.S. companies.

For more information, contact Royal Global Management Inc. at 704-522-2000.

French reinsurer

PARIS—French insurance company Preservatrice Fonciere Assurances Tiard has created a reinsurance company named PFA RE to be based in Paris.

PFA RE will be assigned Paris-based PFA's reinsurance operations pursuant to European Community directives.

The insurer can be reached in Paris at 1-42-91-10-10.

New Atlanta HMO

ATLANTA—Principal Health Care has received authorization from the Georgia Department of Insurance to provide health maintenance organization products in the metropolitan Atlanta area. Principal Health Care of Georgia Inc. will provide a full range of managed care products and services to members throughout Atlanta.

The company currently operates 22 HMOs and 23 PPOs throughout the country. Formed in 1987 to acquire and develop HMOs, PPOs and other managed care companies, Principal Health Care, a member of the Principal Financial Group, provides managed care plans for nearly 1.6 million members nationwide.

For more information, contact Mary Huff at Principal Health Care of Georgia, 404-231-9911.

Consultant formed

WESTMONT, Ill.—Carlson Consulting Inc., a reinsurance consulting firm, has formed in Westmont, Ill.

S. Lennart Barkinge, the firm's president, brings 25 years of experience in reinsurance to consulting.

Carlson Consulting will specialize in solving reinsurance problems for insurers, reinsurers, captives, risk retention groups and other reinsurance buyers.

Carlson Consulting's business includes the areas of strategic ceded reinsurance administration, underwriting, marketing and production, commutations and collections, arbitration, litigation support, broker and reinsurer selection and research.

For more information, call 708-325-5970.

Managed care firm

NEW YORK—J.W. Duva & Associates Inc. has formed as a new managed health care adviser, specializing in acquisitions, financing and consulting.

Joseph W. Duva is president of the new firm, located at 90 Park Ave., Suite 1600, New York, N.Y. 10016.

For more information, call 212-984-1843.

NAIB relocates

WASHINGTON—The National Assn. of Insurance Brokers has moved its offices.

The organization's new home, in Washington's Franklin Square Building, is two blocks from its old offices. The new address is: NAIB, 1300 I St. N.W., Suite 900 East, Washington, D.C. 20005. NAIB's telephone number remains the same: 202-623-6700.

NAIB represents commercial insurance brokers. BI

Updates

DuPont settles pipe claims

EUTAW, Ala.—E.I. du Pont de Nemours & Co. Inc. is self-insured for the $120 million it agreed to pay to settle its portion of some 6 million claims by homeowners related to leaking polybutylene pipes.

The settlement, given preliminary approval by Alabama Circuit Court Judge Eddie Hardaway in Eutaw, Ala., accounts for 8% of the cost of installing new plumbing for owners of low-cost homes, apartments and mobile homes.

The $120 million settlement includes payment of attorneys fees up to 7% of the total, or $8.4 million.

DuPont, which provided material for pipe fittings that were used in the piping that leaked, was named in a class-action suit by homeowners. Shell Oil Co. and Hoechst-Celanese Corp. also were named as manufacturers of materials used in the pipes. Those companies have yet to settle claims.

A tentative $750 million settlement the three companies had reached was scuttled by a Texas state judge earlier this year on jurisdictional grounds (*BI*, Feb. 27). Plaintiffs' counsel and DuPont planned to move the suit from Texas following that decision.

Texas gives NAIC requirement

AUSTIN, Texas—The Texas Legislature's recent passage of a bill needed to maintain its Insurance Department's accreditation by the National Assn. of Insurance Commissioners is expected to spark controversy because it would link a future accreditation requirement with NAIC disclosure of its finances.

The Texas department avoided a threatened loss of accreditation in March 1994 when a last-minute compromise gave it until May 1995 to tighten its law in accord with NAIC requirements on extraordinary dividends (*BI*, March 14, 1994).

H.B. 1243, which Gov. George W. Bush is expected to sign, would meet that condition by requiring insurers to pay dividends out of net income rather than net investment income. The bill also would bring accounting rules for insurer debentures in line with NAIC requirements. And, the bill would define when insurers must report material transactions—an NAIC accreditation requirement that takes effect Jan. 1, 1996.

Japanese insurance reforms

TOKYO—An insurance reform law passed last week by the Japanese parliament, the Diet, will allow brokers to operate in Japan, increase policyholder protection and allow life and non-life insurers to compete in both sectors.

The new law, to take effect April 1, 1996, replaces two previous laws governing domestic insurers and foreign companies.

Provisions contained in the new law have been under consideration since an insurance advisory council to Japan's Ministry of Finance made reform recommendations in 1992. Another report was issued last year (*BI*, Aug. 8, 1994).

English translations of the law are expected to be available in July.

Interstate compact hopes high

SPRINGFIELD, Ill.—A first-ever, insurance-related interstate compact is expected to become reality soon because three state legislatures have passed essentially identical legislation.

Illinois, Nebraska and New Hampshire have approved legislation designed to improve the handling of insurer receiverships.

The compact is designed to make receiverships and the laws governing them more orderly, efficient and uniform, as well as to coordinate interaction between receiverships and guaranty associations.

The governors of Nebraska and New Hampshire have signed the bills, and Illinois' governor is expected to, said James W. Schacht, acting director of the Illinois Insurance Department and a prime mover of the concept. "That's OK. We knew we would have to start small."

Similar bills were considered but not passed in California, Indiana, Missouri and Texas (*BI*, March 20).

Briefly noted

Gov. George V. Voinovich late last week received legal authority to take control of the **Ohio Bureau of Workers Compensation** for the next three years. . . **AT&T Corp.** and officials of labor unions representing 101,000 workers last week put off talks on retiree health care until after the two sides resolve wage and pension issues. AT&T had wanted to discuss its retiree health proposals, including charges to retirees, first. The workers agreed to continue working under terms of union contracts that expired May 27. . . .Benefit consulting firm **Kwasha Lipton** of Fort Lee, N.J., is acquiring Becker & Rooney, a Teaneck, N.J., investment management firm specializing in guaranteed investment contracts for defined contribution plans. Terms were not disclosed. . . .**General Electric Co.** has no insurance to cover the $110 million of patent infringement damages that a New York federal jury ruled it must pay Fonar Corp. in a case involving magnetic resonance imaging technology. GE plans to appeal the verdict. . . .**Allstate Insurance Co.** expects to pay about $200 million of mostly personal lines losses caused by storms that socked Texas in late April and early May. The storms caused a total of $1.3 billion of damages, says the Property Claim Services division of the American Insurance Services Group Inc. in Rahway, N.J. . . .The so-called **KWELM companies** will make a second payment later this year to policyholders that are owed about $10.6 billion, administrators for the companies' scheme of arrangement say. The payments, to be set this summer and distributed in the fourth quarter, will be a fraction of 6% of claims distributed in the first round of payments that began last September (*BI*, May 15). Chris Hughes, a KWELM administrator, estimated the five insurers will ultimately pay between 27% and 50% of total claims over 15 to 20 years.

Maxwell

Continued from page 2

sets of the pension funds of the publicly traded companies to underpin his troubled private companies, started to emerge.

In the 3½ years between Mr. Maxwell's death and the start of the trial, the two Maxwell brothers have resigned their directorships of the public companies, and Kevin Maxwell has become bankrupt after being ordered by the British High Court in July 1992 to pay £406 million ($759 million) to the liquidators of Bishopsgate Investment Management Ltd., which managed pension funds for the Maxwell companies.

Despite Kevin Maxwell's inability to pay, some 32,000 Maxwell company pensioners who had faced a bleak retirement have had their full pension rights restored. Most of the £417 million ($779.6 million) that has been returned came from the European and U.S. banks that received repayments on credit extended based on backing from the allegedly fraudulent sale of pension fund assets (*BI*, Feb. 20; Nov. 14, Jan. 10, 1994).

Importantly, the Maxwell affair led to a review and proposed tightening of U.K. pension law (*BI*, Dec. 26, July 4, 1994). However, the pensions bill, now going through Parliament and expected to be passed this summer, has been watered down to such an extent that some experts believe it would do little to prevent another Maxwell-type occurrence.

Among the proposed pension law changes are the imposition of a minimum solvency requirement, the creation of the position of regulator over employer-sponsored pensions and the establishment of a compensation system to cover 90% of a loss of pension funds through fraud if the employer becomes insolvent or is unable to make up the deficiency.

Last week the pension scene shifted to an annex of the Old Bailey criminal court in London's famous legal district of Chancery Lane.

The courtroom is equipped with computers to assist the lawyers in presenting documents to the jury members, who are supplied with computer screens. Ironically, the trial was delayed for more than an hour the first day as the room's sound system malfunctioned, and then, once repaired, began picking up the clacking of the court stenographer's typewriter.

Kevin Maxwell is alone accused of conspiring with his father between July 3, 1991, and Nov. 6, 1991, to defraud the trustees and beneficiaries of the pension schemes that participated in the Common Investment Fund managed by BIM. He allegedly did this by using 5.4 million shares in Scitex Corporation Ltd., an Israeli printing equipment manufacturer. Although the shares were owned by the pension funds, proceeds from their sale were used to support Robert Maxwell Group P.L.C., which included Robert Maxwell's private companies.

All four defendants were charged with conspiring between Nov. 5, 1991, and Nov. 21, 1991, to defraud the CIF pension funds by dishonestly using 25.2 million shares in Teva Pharmaceutical Industries Ltd., another Israeli company. Again, the shares were owned by the pension funds but were sold to prop up Robert Maxwell Group.

Mr. Suckling used the first three days of the trial to outline the prosecution's case. He began by describing in detail the complex makeup of the Maxwell business empire and the process through which the accused transferred shares owned by the pension funds and then promised a number of banks that proceeds from their sale would be used to meet debts.

Although he cannot be put on trial, Robert Maxwell features prominently in the proceedings as he is said to have done in the business affairs and the lives of his sons. Apart from being mentioned in Count One of conspiring with his son Kevin to defraud, Robert Maxwell was noted by the prosecution as being "the driving force" who "exercised dominant control in the group and the operation of the pension funds." The prosecution also said that Kevin Maxwell "worked under the dominant control of his father."

Despite this, Mr. Suckling said of Kevin Maxwell: "Of the defendants, he was the one most responsible for the misuse of pension fund assets."

Mr. Suckling explained that Bishopsgate owned 5.4 million Scitex shares worth around £100 million, ($186.9 million) and that these and other Scitex shares owned by RMG, taking the total to 7.1 million, were pledged as security with various institutions for loans to RMG and other private Maxwell companies. In 1991 the shares were sold and the proceeds given to the banks, despite some of the money being due to Bishopsgate.

Mr. Suckling accused Kevin Maxwell of "dodging and diving" and of lying to banks as he used pension fund assets to repay debts of the private companies. In evidence, he produced minutes from Maxwell directors' meetings and letters to and from banks which he said showed that Robert and Kevin Maxwell had indicated these shares belonged to the Maxwell companies, rather than to the pensions.

The prosecutor created a picture of increasing desperation on behalf of the accused as during the summer of 1991 the financial difficulties of the Maxwell companies could no longer be ignored.

By July 23, 1991, at a meeting between lawyers, accountants and RMG directors, including the three Maxwells and Mr. Bunn, it was acknowledged that borrowings totaled £845 million ($1.58 billion). Although a reduction in debt was forecast, Mr. Suckling said the company could only remain solvent if it sold assets and its banks agreed to extend credit by rolling over loans.

Mr. Suckling asked rhetorically of the jury: "If you were a trustee of pension fund assets, would you part with £100 million in pension fund assets to such a company?" The answer, he said, had to be: "You must be joking."

Mr. Suckling then explained how banks were persuaded to lend or roll over loans on the promise of payment from the sale of the Scitex shares.

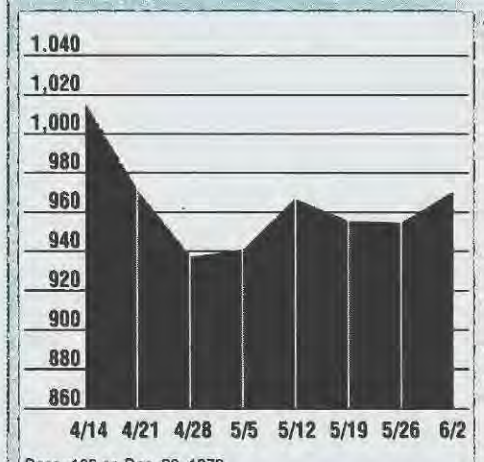
These lenders included the Bank of Nova Scotia, National Westminster Bank P.L.C., Barclays Bank P.L.C., Lloyds Bank P.L.C., Citibank, Lehman Brothers International Inc., and Goldman Sachs & Co.

Of the Teva shares, the prosecution alleged that despite proof that all four defendants knew the shares belonged to Bishopsgate, they allowed the shares to be transferred to National Westminster Bank in return for credit facilities granted to RMG.

The trial dragged during the opening days as everything was carefully explained to the jury. The Serious Fraud Office's reputation is on the line. It has failed to convict in other important fraud prosecutions, partly because the lay juries were unable to follow the complex details of the cases during months-long trials.

The Maxwell trial is expected to last six months. The judge, Mr. Justice Phillips, is well regarded among High Court judges for his handling of several other major fraud trials. To ease the burden on the jury, he has ordered that they be present only for four hours in the morning, while legal arguments with which they need not be concerned are dealt with in the afternoon. BI

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

Catastrophe insurance option call spreads

As of June 2

Call spread	Price bid/ask	Rate on line %	Call spread	Price bid/ask	Rate on line %
Eastern September 1995			Western Annual 1995		
45/65	6/7.5	30/37.5	20/30	—/—	—/—
50/70	5.4/5.9	27/29.5	30/40	0.3/1.8	3/18
60/80	4/5.5	20/27.5	30/50	0.5/2.5	2.5/12.5
100c	8.5/12	8.5/12	50/70	0.6/1.8	3/9
150c	4/5	8/10	60/80	0.3/3.5	1.5/17.5

Total volume: 0 Total open interest: 2,301

For quotes, call the CBOT trading floor at 312-341-3342. For general information, call 312-435-3674.

Source: Chicago Board of Trade

British Issues

June 1 Companies	Price pence	P/E	Div. pence	Yield %	1 week high—low
Comml Union	617	12.6	33.0	5.3	617—608
Genl Accident	621	9.1	36.3	5.8	623—619
Gdn Royal Exch	207	N/M	10.3	5.0	207—203
Independent	288	8.0	11.9	4.1	288—288
Royal	340	6.5	15.0	4.4	340—334
Sun Alliance	354	11.9	19.7	5.6	354—349
Brokers					
Bradstock	82	9.2	7.1	8.6	82—82
Fenchurch	150	10.5	10.0	6.7	150—150
CE Heath	245	12.2*	20.0*	8.2	246—245
JIB Group	129	11.2	9.4	7.3	129—129
Lloyd Thmpson	177	12.3	9.8	5.5	178—177
Lowndes Lmbrt	165	9.7*	10.4*	6.3	166—165
Nelson Hurst	148	11.5	8.3	5.6	148—147
PWS Holdings	18	N/M	0.8	4.4	18—18
Sedgwick Grp	155	14.1	8.1	5.2	155—154
Steel Brl Jones	98	11.5	11.3	11.5	98—98
Willis Corroon	166	N/M	8.3	5.0	166—165

Source: Philip Olsen, London * Estimated 1994 data

BI Industry Stock Report MAY 29, 1995, THROUGH JUNE 2, 1995

		Price	Weekly % change	Year to date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt./Bk. value
BROKERS												
Acordia Inc.	NYS	30.88	2.07	-7.84	34.50	24.63	7	0.72	2.33	15	13.24	2.33
Alexander & Alexander	NYS	24.63	-0.51	33.11	26.44	15.63	377	0.10	0.41	-13	6.08	4.05
E.W. Blanch Holdings Inc.	NYS	18.25	0.69	-11.52	23.00	17.50	55	0.40	2.19	15	4.55	4.0
Gallagher Arthur J. & Co.	NYS	34.38	-2.83	7.42	36.38	29.00	24	1.00	2.91	15	6.48	5.30
Hilb, Rogal & Hamilton	NYS	12.63	2.02	4.12	12.75	10.50	82	0.56	4.44	15	4.72	2.67
Marsh & McLennan	NYS	79.25	0.16	0.00	88.63	71.25	477	2.90	3.66	15	19.40	4.09
Poe & Brown	NDQ	24.00	0.00	10.34	24.25	19.00	59	0.48	2.00	16	4.49	5.35
BROKERS	AVERAGE		0.2	5.1					2.6	11		
INSURERS/REINSURERS												
ACE Ltd.	NYS	25.25	2.02	8.02	27.50	20.75	412	0.56	2.22	-11	22.45	1.12
Acceptance Insurance Cos.	NYS	14.38	5.50	-4.17	18.00	12.38	186	0.00	0.00	8	9.83	1.46
AEGON N.V.	NYS	81.63	1.40	28.54	81.63	51.00	28	9.08	11.12	13	43.84	1.86
Aetna Life & Casualty	NYS	59.88	1.48	27.06	60.75	42.25	1653	2.76	4.61	12	57.21	1.05
AFLAC Inc.	NYS	42.00	-2.89	31.25	43.50	31.63	519	0.52	1.24	14	57.21	0.73
Allied Group Inc.	NDQ	28.25	0.89	14.14	31.00	22.00	48	0.68	2.41	6	23.43	1.21
Allmerica Prop. & Casualty	NYS	20.75	0.61	22.96	21.00	14.25	198	0.16	0.77	9	19.45	1.07
Allstate Corp.	NYS	30.50	1.67	28.42	31.63	22.63	1197	0.78	2.56	11	19.60	1.55
American General	NYS	35.00	4.09	23.89	35.00	25.63	1500	1.24	3.54	14	20.39	1.72
American Heritage Life Ins.	NYS	19.38	1.31	1.97	19.75	16.25	27	0.68	3.51	11	12.42	1.55
American Indemnity/Fin'l	NDQ	10.75	4.88	6.17	12.75	10.00	9	0.28	2.60	3	15.92	0.68
American International	NYS	116.25	3.22	18.62	116.88	86.38	2275	0.51	0.44	16	49.75	2.34
American Re Corp.	NYS	37.63	-0.99	16.67	39.88	25.25	572	0.32	0.85	15	16.85	2.23
Aon Corp.	NYS	36.50	0.00	14.06	38.00	29.25	762	1.36	3.73	11	21.96	1.66
Argonaut Group	NDQ	29.50	-1.67	4.42	31.25	26.75	69	1.32	4.47	10	29.80	0.99
AVEMCO Corp.	NYS	16.88	-0.74	9.76	18.25	13.38	14	0.44	2.61	13	6.30	2.68
Baldwin & Lyons Inc.	NDQ	16.25	3.17	10.17	17.63	14.00	1	0.32	1.97	12	13.56	1.20
Berkley W.R. Corp.	NDQ	35.81	-2.88	-4.50	42.00	32.50	79	0.48	1.34	19	36.47	0.98
Berkshire Hathaway Inc.	NYS	22600.00	-1.09	10.78	25200.00	16100.00	1	0.00	0.00	55	9157.79	2.47
Capital RE Corporation	NYS	25.00	2.04	-8.68	27.38	20.00	52	0.20	0.80	9	21.48	1.16
Capsure Holdings Corp.	NYS	14.00	-0.88	-4.27	16.13	12.13	9	0.00	0.00	13	13.72	1.02
Chubb Corp.	NYS	83.00	0.91	7.27	85.25	68.63	1229	1.96	2.36	12	48.40	1.71
CIGNA Corp.	NYS	75.00	0.67	17.88	76.38	59.00	901	3.04	4.05	7	80.98	0.93
CNA Financial Corp.	NYS	85.38	1.34	31.60	85.63	60.00	45	0.00	0.00	20	73.83	1.16
Continental Corp.	NYS	19.88	0.00	4.61	20.13	12.00	0	0.00	0.00	-2	29.69	0.67
EMC Insurance Group Inc.	NDQ	12.00	7.87	26.32	12.00	8.50	2	0.52	4.33	8	10.77	N.A.
Emphesys Financial Gr. Inc.	NYS	25.88	5.08	-18.50	39.50	23.50	216	0.60	2.32	7	N.A.	N.A.
EXEL Ltd.	NYS	47.38	0.80	19.94	47.50	36.00	508	1.32	2.79	21	31.62	1.50
Fremont General Corp.	NYS	25.75	1.48	10.16	26.13	17.16	428	0.80	3.11	8	22.90	1.12
Frontier Insurance Group	NYS	23.88	-3.05	9.14	37.50	16.75	72	0.48	2.01	18	14.94	1.60
Gainsco Inc.	ASE	9.94	-1.85	20.45	11.00	7.25	59	0.04	0.40	13	3.79	2.62
General RE Corp.	NYS	135.13	1.98	9.41	136.88	104.50	755	1.96	1.45	15	57.17	2.36
Guaranty National Corp.	NYS	17.25	1.47	-6.12	18.50	14.63	238	0.48	2.78	9	11.84	1.46
Harleysville Group	NDQ	24.00	-2.04	-1.03	26.50	19.75	20	0.68	2.83	10	20.18	1.19
Hartford Steam Boiler	NYS	43.88	-0.57	10.03	47.38	35.88	95	2.20	5.01	17	14.62	3.00
HCC Insurance Holdings	NDQ	24.06	1.32	14.58	25.75	17.75	13	0.00	0.00	14	10.75	2.24
Home Holdings Inc.	NYS	10.13	1.25	8.00	14.50	3.00	78	0.00	0.00	-1	22.36	0.45
ITT (Hartford Group)	NYS	110.88	1.26	25.11	114.50	77.00	1398	1.98	1.79	14	49.95	2.22
Lincoln National	NYS	45.38	3.71	29.64	45.38	34.63	600	1.72	3.79	14	31.99	1.42
Markel Corp.	NDQ	54.50	-1.80	31.33	56.25	39.00	10	0.00	0.00	15	25.15	2.17
Mid Ocean Ltd.	NDQ	29.00	3.57	6.42	30.38	22.25	154	1.00	3.45	12	20.24	1.43
Mutual Risk Mgmt. Ltd.	NYS	35.50	5.58	35.24	35.50	21.13	87	0.32	0.90	19	9.11	3.90
NAC Re Corp.	NDQ	30.25	2.54	-9.70	35.25	24.25	162	0.16	0.53	15	19.75	1.53
National Re Corp.	NYS	31.13	0.40	18.57	31.88	22.25	36	0.16	0.51	18	17.31	1.80
Navigators Group	NDQ	13.38	0.00	-7.76	19.75	12.75	9	0.00	0.00	-17	10.21	1.31
Nobel Insurance Ltd.	NDQ	9.50	0.00	15.15	9.66	7.63	23	0.20	2.11	4	6.84	1.39
Ohio Casualty Corp.	NDQ	30.00	-0.83	6.19	34.25	27.00	327	1.52	5.07	11	24.68	1.22
Old Republic Int'l	NYS	26.38	3.94	24.12	26.38	18.88	265	0.52	1.97	10	24.60	1.07
Orion Capital Corp.	NYS	38.38	-0.32	8.87	39.75	28.13	12	0.80	2.08	9	25.86	1.48
Partner Re Holdings Ltd.	NDQ	24.50	8.89	18.07	25.25	18.50	702	0.40	1.63	8	N.A.	N.A.
Penn-America Group Inc.	NDQ	9.13	0.00	23.73	9.75	6.50	8	0.12	1.32	10	6.21	1.47
Philadelphia Cons. Holding	NDQ	13.88	-0.89	13.27	14.25	9.50	1	0.00	0.00	14	8.43	1.65
Phoenix RE Corp.	NDQ	23.00	6.98	-18.58	29.25	21.00	278	0.60	2.61	4	22.86	1.01
Provident Life	NYS	24.63	2.07	13.22	29.88	20.50	70	0.72	2.92	11	27.09	0.91
Reliance Group Holdings	NYS	6.63	6.00	27.71	6.75	4.88	583	0.32	4.83	11	3.48	1.90
Reliastar Financial Corp.	NYS	38.63	5.46	33.19	38.63	27.00	429	1.00	2.59	11	24.81	1.56
RLI Corp.	NYS	26.00	2.97	26.83	26.13	19.88	12	0.64	2.46	10	20.51	1.27
St. Paul Companies	NYS	51.13	3.28	14.25	51.88	38.50	1057	1.60	3.13	9	31.88	1.60
SAFECO Corp.	NDQ	58.50	3.08	12.50	59.75	46.75	709	2.12	3.62	12	46.94	1.25
SCOR U.S. Corp.	NYS	8.88	-1.39	5.97	12.25	7.50	6	0.20	2.25	16	13.60	0.65
Seibels Bruce Group	NDQ	1.06	-5.56	-57.50	3.50	0.75	96	0.00	0.00	-1	1.05	1.01
Selective Ins. Group	NDQ	29.25	0.00	15.84	30.00	23.25	41	1.12	3.83	9	23.36	1.25
Sphere Drake Holdings	NYS	14.88	-6.30	7.21	17.00	10.75	15	0.16	1.08	7	13.15	1.13
TIG Holdings	NYS	23.75	1.60	26.67	24.00	17.00	521	0.20	0.84	21	17.25	1.38
Titan Holdings, Inc.	NYS	10.88	2.35	11.54	10.88	7.38	14	0.24	2.21	9	9.31	1.17
Tokio Marine & Fire	NDQ	58.50	-0.85	-3.70	66.00	49.88	23	0.44	0.75	-	57.72	1.01
Torchmark Corp.	NYS	40.13	2.56	16.30	44.50	32.38	422	1.12	2.79	11	17.49	2.29
Transatlantic Holdings	NYS	63.38	-1.55	13.42	65.50	47.75	57	0.40	0.63	13	32.43	1.95
Transnational Re Corp.	NDQ	19.75	0.00	-15.96	25.50	18.75	157	0.00	0.00	6	N.A.	N.A.
Travelers Corp.	NYS	44.50	6.27	37.45	44.50	30.38	3080	0.80	1.80	11	24.26	1.83
Trenwick Group Inc.	NDQ	44.13	0.86	4.13	45.75	36.00	41	1.12	2.54	11	29.20	1.51
United Fire & Casualty	NDQ	29.00	7.41	4.82	29.81	26.25	23	0.80	2.76	8	28.96	1.00
Unitrin	NDQ	49.00	-1.01	13.95	51.50	38.50	375	2.00	4.08	15	38.64	1.27
UNUM Corp.	NYS	44.38	6.29	17.55	50.00	35.13	1046	1.06	2.39	23	27.78	1.60
US Facilities Corp.	NDQ	15.25	3.39	52.50	15.38	9.13	244	0.20	1.31	10	11.07	1.38
USF&G Corp.	NYS	17.13	5.38	26.85	17.25	12.13	1918	0.20	1.17	7	10.04	1.71
USLIFE Corp.	NYS	40.00	3.56	14.70	40.25	30.88	93	1.32	3.30	10	40.82	0.98
Washington National	NYS	20.00	0.00	5.26	23.13	17.75	67	1.08	5.40	8	23.61	0.85
Zenith National Ins.	NYS	21.63	0.58	-4.95	27.38	19.38	37	1.00	4.62	11	17.54	1.23
Zurich Reinsurance Centr.	NYS	28.75	-4.17	-0.43	30.88	25.00	101	0.00	0.00	-39	22.26	1.29
INSURERS/REINSURERS	AVERAGE		1.4	12.4					2.3	11.3		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	NDQ	22.50	-0.55	-12.62	31.00	19.50	1143	0.00	0.00	12	12.22	1.84
Humana Inc.	NYS	21.88	4.79	-3.31	27.13	15.88	4789	0.00	0.00	18	6.04	3.62
Pacificare Health Sys	NDQ	65.25	-0.76	0.19	79.50	44.25	88	0.00	0.00	20	14.21	4.59
Safeguard Health Enter.	NDQ	10.75	4.88	16.22	14.25	8.25	3	0.00	0.00	72	6.16	1.75
Sierra Health Services	NYS	27.00	2.37	-14.62	33.63	21.25	94	0.00	0.00	15	6.04	4.47
United Healthcare Corp.	NYS	38.75	7.27	-14.13	55.38	34.13	3332	0.03	0.08	22	6.57	5.90
U.S. Healthcare	NDQ	31.00	0.40	-24.85	49.00	26.50	6253	1.00	3.23	13	5.04	6.15
Wellpoint Health Networks	NYS	29.13	2.19	0.00	39.00	24.25	183	0.00	0.00	14	12.73	2.29
HMOs	AVERAGE		2.6	-6.6					0.4	21		
ALL COMPANIES	AVERAGE		1.4	3.6					2.5	14		

Top advancing issues: Partner Re Holdings Ltd.; EMC Insurance Group Inc.; United Fire & Casualty. Leading decliners: Sphere Drake Holdings; Seibels Bruce Group; Zurich Reinsurance Centr. Most active issue: U.S. Healthcare. The BI Index rose 2.1%; the Dow Jones 30 Industrials rose 1.7%; the S&P 500 increased 1.7% and the NYSE Composite gained 1.8%.

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