

business insurance

update:

Work comp self-funding, tort reform die in Texas

AUSTIN, Texas—Companies in Texas will have to wait for product liability reforms and legislative approval to self-insure workers compensation risks.

A bill that would have allowed employers to self-fund their workers compensation risks, H.B. 902, never came to a vote in the Legislature, which adjourned last

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Boeing lands E&O captive in Colorado

By RHONDA L. RUNDLE

DENVER—The Boeing Co., the nation's premier aerospace manufacturer, will land a new captive insurance company here this week.

Colinco Inc. will reinsure errors and omissions coverages for architects and engineers and data processors, said Bob Hoff, Boeing's manager of corporate insurance who will have chief operating responsibility for the captive.

These E&O coverages are difficult to obtain for Fortune 500 companies, Mr. Hoff said. Existing markets require multimillion-dollar deductibles. Boeing hopes to lower its deductibles by providing reinsurance on the front-end portion of the risks.

Colinco will not write any direct business in the near future, although Boeing has a long list of intriguing possibilities. "We're taking it one step at a time," Mr. Hoff said.

Boeing selected a domestic home for its new subsidiary because of some unique tax problems it felt it might have with an offshore domicile, said Mr. Hoff, who declined to elaborate on that aspect of the decision.

He said that Colorado was picked over other sites in the United States for its stability as a home to captive insurance companies. When Boeing began its study of captives more than a year and a half ago, some states, such as Vermont, had not yet passed enabling legislation to permit captives, he added. (See story on Page 3 on Vermont's new captive law.)

"We believe Colorado provides a more stable basis for captives because there are already nearly 30 companies there and legislative changes would not be taken lightly," he said. Colorado also selects a civil servant rather than an elected official to be insurance commissioner, he said.

Colinco will be capitalized with a \$1 million letter of

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When a transit system fails . . .



Photo: Mary Cairns

Chicago commuters are afraid their trains won't come when the funds run out.

Liability claims must be paid

By EILEEN NORRIS

CHICAGO—The mass transit system here may be penniless and about to crumble, but money has been tucked away to pay claims and insurance premiums.

The Chicago Transit Authority, the city's transportation system, self-insures its workers compensation and general liability risks with no excess insurance, its risk manager says. But he refused to divulge how much of the \$9.5 million budgeted for 1981 losses has been paid out in claims.

The Regional Transportation Authority, which subsidizes the CTA and other area transit lines but has run out of money to keep the mass transportation system running, maintains smaller deductibles and is well-funded to pay losses, says its risk manager.

Neither the RTA nor the CTA has business interruption insurance to protect against the transit system's loss of earnings from a shutdown.

RTA risk manager Carrie Cogtella says the coverage is too costly and a public entity is generally deemed a poor business interruption risk.

But the RTA also has reserved \$1.5 million for security and shutdown costs—should the transit system topple altogether.

The CTA did not renew the \$20 million of excess liability insurance it had in 1977 after a tragic elevated

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Firms plot transit strategy

Chicago businesses are preparing to keep rolling if the mass transit system grinds to a halt.

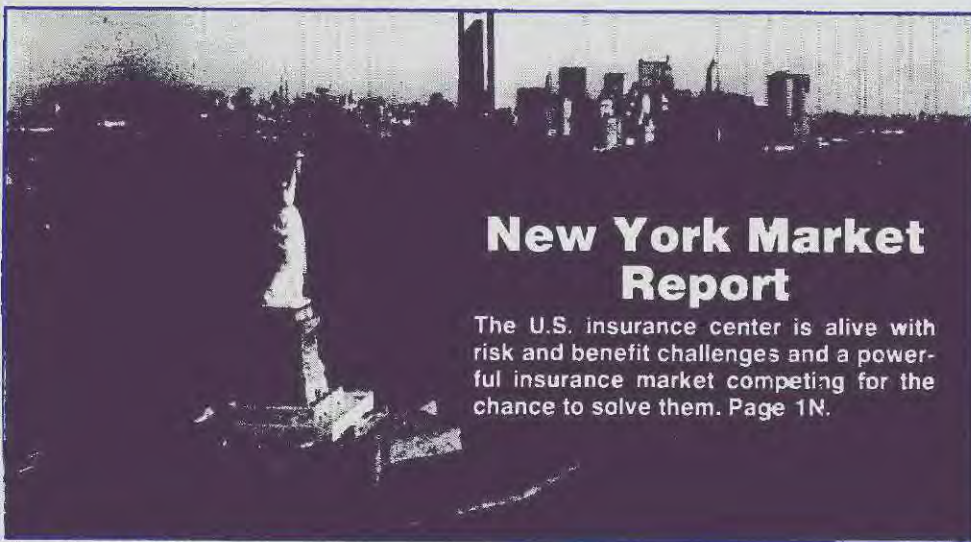
- First National Bank of Chicago has acquired 100 roll-away beds, reserved 700 parking spaces in a city garage, rented a vacant store across the street to park bicycles and formed 171 car pools to make sure that hundreds of "critical" employees are at the bank on time.

- Charter buses and car pools will carry 12,000 Illinois Bell Telephone Co. employees to their downtown offices.

- Continental Bank, picking from among a variety of standing emergency plans, reserved nearly 300 downtown hotel rooms, inaugurated a system of flexible starting times for employees and set up car pools.

- The South Loop Planning Board leased a former piggyback truck lot in Chicago's South Loop and converted it into a 3,000-space parking lot. It is sold out already with 1,000 slots going to CNA Financial Corp., 1,000 to Continental

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New York Market Report

The U.S. insurance center is alive with risk and benefit challenges and a powerful insurance market competing for the chance to solve them. Page 1N.

Photo: Convention & Visitors Bureau

Insurance is in doubt for \$6.8 million award

By JOHN W. MILLIGAN

ROANOKE, Va.—American Motor Inns Inc. and two subsidiaries, recently socked with a \$6.8 million negligence judgment, may have a new fight coming up with an excess insurer.

Should it also lose that battle, AMI would have to eat almost \$5 million of that \$6.8 million award.

To make matters worse, Harbor Insurance Co. of Los Angeles, the excess insurer, vetoed a \$2 million pretrial settlement negotiated by AMI attorneys.

Besides questions of excess coverage, the case also involves a bankrupt primary insurer.

AMI, along with Holiday Inns Inc., was sued by a Milwaukee man who became a quadriplegic after a 1977 swimming pool accident at the Frenchman's Reef Holiday Inn on St. Thomas in the U.S. Virgin Islands.

The plaintiff, Richard Uttesch, was awarded \$6.8 million in compensatory damages following an intense four-day trial before a federal jury in the Virgin Islands that ended May 23.

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NEWSPAPER

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Senator pushes cuts in longshore benefits
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Hospitals use benefits, perks to recruit nurses
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update:

Texas firms receive setback

Continued from previous page week. The bill was supported by 50 large Texas employers, including Shell Oil and Tenneco.

A product liability reform bill, H.B. 2310, was passed by the House but not considered by the Senate. The bill would have allowed several new defenses against product liability suits, but also would have allowed plaintiffs to recover product liability damages even if they were 75% at fault. Presently, a plaintiff in Texas more than 50% at fault cannot sue for product liability.

Continental board OKs ESOP

LOS ANGELES—Continental Airlines' board of directors has cleared the way for employee control of the airline through an Employee Stock Ownership Plan. Such a plan would block Texas International Airlines' attempt to acquire Continental.

Texas International is seeking an injunction to block establishment of the ESOP. But Texas International has agreed not to buy any more Continental stock and Continental has agreed to delay inauguration of the stock plan until a judge rules June 18 on the injunction request.

The ESOP is to set up a trust that would buy 15.4 million new shares so employees would own 51% of the company. Texas International now owns 48.5% of Continental (BI, May 11).

Panel allows abortion coverage

WASHINGTON—A House-Senate conference committee agreed last week to allow health insurance plans for federal employees to cover abortion.

The conference committee action was needed after the House approved an amendment tacked onto an appropriations bill barring federal health insurance plans from paying for abortions. The Senate did not approve the amendment (BI, May 25).

Deadline for appeal extended

PHILADELPHIA—The Insurance Co. of North America and Liberty Mutual Insurance Co. have obtained an extension until Aug. 3 to petition the U.S. Supreme Court for review of an asbestos decision. The original deadline was June 3.

The U.S. Court of Appeals in Cincinnati ruled last November that insurance policies in force when workers were exposed to asbestos are the only sources of funds to pay current claims for recently discovered diseases (BI, Nov. 3, 1980).

This is the highest court decision over the issue of exposure versus manifestation theories of indemnification of long latent injuries. INA and Liberty Mutual prefer the manifestation theory.

Panel approves retirement cuts

WASHINGTON—The House Ways and Means Committee has approved cuts in the Social Security program that would save \$560 million.

The committee voted to change to 72 from 70 the age at which a retiree has to accept reduced benefits if his or her annual earnings exceed \$5,500. The age at which retirees become exempt from the retirement earnings test will drop to 70 on Jan. 1 under current law. It also voted to delay benefits until the first full month in which retirees have met eligibility requirements.

Finally, the committee agreed to eliminate the \$255 lump-sum burial payment if there are no surviving beneficiaries.

Voters approve pension cap

PASADENA, Calif.—Voters overwhelmingly approved a ballot measure last week to cap cost-of-living pension benefit increases at 2% for city police and firefighters (BI, June 1).

An attorney representing Pasadena safety officers said he will soon file suit to challenge the amendment to the city charter.

Ford to appeal Pinto awards

SAN BERNADINO, Calif.—Ford Motor Co. will appeal a \$6.5 million award to an accident victim to the California Supreme Court after an appeals court upheld a lower court ruling in the Grimshaw Pinto case.

Three years ago, a jury awarded accident victim Richard Grimshaw \$3 million in general damages and \$125 million in punitive damages, which were later reduced by the judge (BI, Feb. 20, 1978).

In an unrelated Los Angeles verdict, Ford was ordered to pay \$3.9 million to a quadriplegic injured in a 1973 crash of a British-built Ford Cortina. The plaintiff argued that the passenger seat in the car was defective. Ford says it will appeal.

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Senator pushes cuts in longshore benefits

By JERRY GEISEL

WASHINGTON—Senate subcommittee hearings next week on the federal Longshoremen's and Harbor Workers' Act mark the first major congressional effort to overhaul the costly and controversial law.

For the first time, a Senate subcommittee chairman has introduced legislation to slash benefits and close loopholes in the federal law governing workers compensation benefits for maritime employees.

Sen. Don Nickles, R-Okla., chairman of the Senate Labor subcommittee, not only has introduced legislation to reform the act, S. 1182, but vows to get the bill out of committee to the Senate floor quickly after hearings June 16, 17 and 23.

The freshman senator has labeled the Longshore Act "a free ticket to rip off the consumer and taxpayer. The federal government has turned its back on every consumer and taxpayer by not correcting the injustices



Nickles

GOP counsel on reforms: Page 34

of the Longshore Act."

Sen. Nickles' aggressiveness in battling for changes in the Longshore Act, which covers more than 1 million workers, is a marked contrast to the indifference of Sen. Harrison Williams, D-N.J., the previous chairman of the Senate Labor and Human Resources Committee.

Sen. Williams, who was convicted earlier this year in the Abscam bribery scandal, had once considered the Longshore Act something of a model for future federal standards for state workers compensation programs.

Although Mr. Williams later agreed that there were problems with the longshore benefit act, he refused to hold hearings on a specific bill to clean up the problems.

With Sen. Williams out as committee chairman and Sen. Nickles willing to fight for changes, experts are optimistic that the Senate will approve changes in the

Continued on page 36



Udderly shocking

INDIANAPOLIS—A half-million dollar product liability award could be laughed off as "udderly shocking" if the manufacturer weren't appealing.

But Babson Brothers of Oakbrook, Ill., manufacturer of cow-milking equipment, isn't laughing at a jury verdict awarding \$581,200 to a Central Indiana dairy company.

Tipstar Dairy Co. of Bainbridge, Ind., charged that Babson Brothers' cow milking parlor shocked instead of milked its cows, causing production losses and eventually killing 30 cows.

A jury awarded damages for lost production to Tipstar President Leon Tippin, who had purchased a \$70,000 milking parlor from Babson Brothers in 1975, said Jon Krahulik of Bingham, Summers, Welsh & Spilman, the Indianapolis attorney for Mr. Tippin.

Inadequate electrical grounding of the machinery caused the cows to receive electrical shocks of six to seven volts from the milking parlor, Mr. Tippin charged in a 1979 suit. The shocks reduced milk production.

The shocks also led to an increase in Tipstar's costs because the cows wouldn't move into the parlor, he said.

The shocks also caused the deaths of 30 of Mr. Tippin's 200 cows from a disease called mastitis, an inflammation of the udder, the attorney said. He added, however, that the suit did not seek damages for the lost animals, only lost production.

The company's liability insurers, American Mutual Liability Insurance Co. of Wakefield, Mass., and Connecticut General/Aetna Insurance Co., are discussing their liability. Babson Brothers says it is not at fault and the award is excessive.

—John Maes

Lloyd's must poll members on two divestment issues

By STACY SHAPIRO

LONDON—It's now up to Lloyd's of London members to decide a controversial divestment issue that almost knocked the new Lloyd's self-regulation bill out of the House of Commons.

Parliament shocked Lloyd's last week when it stuck by its demand for separation of managing agents and member agents in addition to broker divestment of managing agents.

Broker divestment of managing agents, which Lloyd's leaders agree should be in the bill, would in most cases break the link between brokers and member agents.

But, under the proposal, brokers could then go buy the member agents which have been separated from the managing agents, paving the way for broker domination of the member agents.

The divestment of managing and member agents will affect 70% of the managing agents at Lloyd's and change another time-honored tradition in the marketplace that is already asking to overhaul its structure.

Member agents hook up new

names with syndicates while managing agents are the managers of Lloyd's syndicates.

Members of Parliament argue that member agents should be impartial in linking new names to syndicates and are faced with a conflict of interest when they are

linked to managing agents of syndicates.

Conceding that brokers should divest themselves of their managing agents within five years, Lloyd's fought the separation of managing and member agents until

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California spares firms additional comp costs

By RHONDA L. RUNDLE

SACRAMENTO, Calif.—California employers have fingers crossed that a plan to institute employer funding of the workers compensation system has been permanently dropped from the 1981-82 state budget.

A proposal to shift the \$36.5 million administrative cost of the system and related services from the general fund to employers was scrapped last week by state legislators who oppose a new user tax for business.

Employer groups were afraid that the user-funding proposal, which was buried in the complex state budget under debate in the Senate and Assembly, might pass virtually unnoticed. Legislators could approve the budget and avoid the appearance of supporting unpopular new taxation.

"It was strategically clever because it's hard to beat one of hundreds of hundreds of provisions in the budget," said Joe Markey, executive director of the California Self-Insurers Assn.

The gambit failed after the provision became the target of heated dis-

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Nurses wanted: Hospitals boost benefits, perks to attract hard-to-find recruits

By STEVE SHERWOOD

DALLAS—Florence Nightingale would shudder at what some hospitals must do these days to recruit nurses.

Higher wages and offers of free housing, cut-rate leased cars, free cab fares and bonuses for working odd hours on top of improved traditional benefit plans are designed to woo nurses from other institutions.

She would probably wonder what happened to the spirit of self-sacrifice so common among nurses in her day.

Then again, like most women in white, she might shrug and say, "It's about time."

With this country's nursing shortage reaching epidemic proportions, medical centers and hospitals no longer can rely solely on nurses' compassion to attract them to the workplace.

So far, higher wages are still the best lure, but improved employee benefit packages are attractive bait.

"The shortage has definitely had an effect on salaries and benefits," says Kay Morris, director of nurse recruitment for Hospital Corp. of America in Nashville, Tenn. The past president of the National Assn. of Nurse Recruiters says, "Hospitals are beginning to do things business and industry have done for years, not that they shouldn't have done them a long time ago. The shortage spotlights the need for more effective benefits."

Nurse recruiter Judith Vincent at Parkland Memorial Hospital in Dallas agrees.

"You're looking at a profession identified with giving, never taking," Ms. Vincent says. "People expect us to keep on giving, but nurses are starting to develop careers. There are a lot of career-oriented people in the profession today who are not embarrassed to ask for what they want."

Benefits have not increased as much as salaries in recent years, but they likely will be the next major area of improvement for the profession, she says. "There are so many things we can still offer, which some hospitals already have, such as dental insurance, child-care services and uniform allowances."

Parkland, which has positions for around 800 nurses, now has 90 vacancies, Ms. Vincent says. Salaries recently increased to \$7.25 an hour from \$6.25 for new graduates, the shift differential for nurses working odd hours was increased and the medical center is now beginning to improve its benefits to be as competitive as a county hospital with budget constraints can be.

Parkland now offers two weeks of vacation, 10 sick days, nine paid holidays, paid life and health insurance (Blue Cross), 100% tuition reimbursement for full-time employees, a credit union, prescription drugs at cost, free parking and pension and annuity plans.

Rather than provide benefits to float pool

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Photo: American Medicorp. Hospitals nationwide are offering innovative benefits to keep nurses' stations staffed.

Vermont beats risk retention bill to punch

By JOHN MAES

NEW YORK—Vermont's new captive law allows companies to form the kind of pools for product liability that the delayed Risk Retention Act envisions.

The Vermont law, which will take effect July 1, creates the first domestic captive insurance company category of Industrial Insured, said Reg Beane, governmental affairs director for the Risk & Insurance Management Society.

RIMS worked closely with Vermont on developing the law and sponsored a seminar in New York late last month to introduce the law.

Vermont officials and RIMS say the newest state captive law gives companies more operating and investment freedom. RIMS prepared a chart of all captive laws in the nation

and overseas to make the point. (See chart below.)

Lower capital and surplus requirements, no tax on reinsurance premiums and provisions for the new Industrial Insured group make forming a captive easy in Vermont, officials say.

In the new category, business groups can band together to form captive insurers if each member has 25 employees, generates at least \$25,000 a year in insurance premiums and has a full-time worker responsible for insurance matters.

The Industrial Insured option provides an alternative to the traditional association captive that is subject to tighter annual reporting requirements, higher capitalization and less investment freedom in other states with captive laws.

"There's nothing else like this in the U.S.," H. Lincoln Miller Jr., special adviser to the Vermont Department of Insurance and Banking, told the seminar.

Mr. Beane of RIMS pointed out that companies anxious to take advantage of the still pending Risk Retention Act can go to Vermont now and form an Industrial Insured captive.

If the Risk Retention Act is passed by Congress, Vermont's new law offers the groups the perfect domicile, especially for offshore-based association captives that might have to redomesticate under the law, Mr. Beane said.

The act also offers freedom from rate and form regulation and doesn't require that the insurance be unavailable in admitted markets to be placed with the Vermont captive. Both aspects are liberalizations of captive laws in other states.

However, the state requires that the captive's principal place of business be in Vermont, at least one Vermont resident be on the board of directors and that it conduct

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Captive regulation by domicile

	Vermont	Colorado	Tennessee	Virginia	Bermuda	Cayman Islands
Captive forms allowed	Pure Association Industrial Insured	Pure Association	Pure Association	Pure Association	Pure Association	Pure Association
Corporate forms allowed	Stock Mutual	Stock	Stock	Stock Mutual	Stock Mutual	Stock Mutual
Capital and surplus	Pure: \$250,000 Industrial: \$500,000 Association: \$750,000 Letters of credit allowed.	\$750,000 Letters of credit allowed.	Pure: \$ 750,000 Association: \$1,000,000 Letters of credit allowed.	\$2,000,000 Letters of credit allowed.	\$120,000 for under \$600,000 annual premium volume; 1/5 of premium to \$6 million; 1/10 thereafter.	No requirements.
Direct lines allowed	All commercial lines except workers comp; no personal lines allowed.	All commercial lines; no personal lines allowed.	Professional liability/e&o; cgl.	All commercial risks; professional liability/e&o; no personal lines.	All lines, but no Bermuda risks.	All lines, but no Cayman Islands risks.
Reinsurance	May assume reinsurance from any source; may cede to Vermont accredited reinsurers.	May assume lines that can be directly insured.	May assume lines that can be directly insured; may cede to Tennessee accredited reinsurers licensed in one state.	May assume lines that can be directly insured; may cede to Virginia accredited reinsurers licensed in one state.	May assume and cede any reinsurance other than from or to Bermuda sources.	May assume and cede any reinsurance other than from or to Cayman Islands sources.
Rates and forms	No approval required.	Both must be approved.	Both must be approved.	Approval required.	No approval required.	No approval required.
Admitted market deficiency	No deficiency required.	Must show that "adequate insurance markets in the U.S. are not available."	Must show that "adequate insurance markets in the U.S. are not available."	No deficiency required.	No deficiency required.	No deficiency required.
Minimum premiums	No minimum premium volume required.	Pure: \$ 500,000 Association: \$1,000,000	Pure: \$ 500,000 Association: \$1,000,000	Pure: \$ 500,000 Association: \$1,000,000	No minimum premium volume required.	No minimum premium volume required.
Premium taxes	1% on direct premiums only.	1% on direct premiums only.	1% on direct premiums only.	1% on direct premiums only.	No Bermuda tax; 4% U.S. excise on direct; 1% on reinsurance.	No Cayman Islands tax; 4% U.S. excise tax on direct; 1% on reinsurance.
Investment restrictions	Admitted market restrictions apply to association captives.	Admitted market restrictions apply.	Admitted market restrictions apply.	Admitted market restrictions apply.	None.	None.
Annual reporting	Pure and industrial file financial statement; Association captive files NAIC blank.	All captives must file a detailed annual statement.	Captives must file form prescribed by commissioner.	Admitted market filings must be made.	Annual audited financial statements and disclosures.	Audited financial statement.

Source: RIMS

Mine pact would hike pension royalties

The United Mine Workers has won its demand that operators of unionized mines continue to pay royalties to UMW pension plans for the purchase of non-union coal.

The proposed contract also increases these payments.

The tentative agreement between the UMW and the Bituminous Coal Operators Assn. will boost employers' wage and benefit costs 37.5% over 40 months, according to the UMW.

The rank and file rejected an earlier tentative contract that was approved by the UMW bargaining council in March. That defeat was blamed on a provision that would have eliminated the \$1.90 royalty that unionized companies pay to UMW pension plans for each ton of non-union coal they purchase.

The miners feared the end of the

benefit beat

royalty would lead to a greater use of non-union coal, resulting in a weakening of the UMW.

During the next three years, the \$1.90-per-ton royalty, which was established in 1964, will rise three times to \$2.24 per ton at the end of the contract.

Pension benefits also will rise sharply. Miners who retired before 1976 and are covered under the 1950 pension plan will have their monthly pension benefits boosted \$40 over the next 40 months.

Benefits of miners covered under the 1974 pension plan will increase \$25 a month over the life of the contract. Benefits of future retirees will jump from \$13.50 per

month for each year of service for the first 10 years to \$15.50 per month over three years.

It also provides a new \$95 monthly pension benefit for the widows of about 45,000 miners.

Weekly sick-leave benefits will climb to \$185 from \$150 over the contract's life.

Life insurance benefits for a natural death will increase to \$25,000 from \$12,000. Benefits covering an accidental death will rise to \$50,000 from \$24,000.

A dental plan that would cover most expenses up to \$750 per person a year will be established by October.

The proposal, which the UMW

bargaining council approved May 28, also calls for a \$150 back-to-work bonus for miners who return to their first scheduled shift.

Union members were to vote on the contract June 6; ratification would send miners back to work June 8, ending the strike after 73 days.

Cancer screening

Wood model and pattern makers in Warren, Mich., have rejected a proposal for a cancer-screening program in 29 independent Detroit-area job shops unaffiliated with the Big Three automakers.

United Auto Workers officials say the owners have asked the union to forego a debt owed to its pension fund in return for the cancer-screening tests. The employers

also want the program financed through the workers' health insurance plan. The workers feel the owners should assume the entire cost of screening, the officials said.

Wood model and pattern makers are suspected of being exposed to unsafe amounts of wood dust in their workplaces (BJ, March 17, 1980).

Benefits to continue

Life and health insurance benefits for some 2,800 Texas Instrument employees who were recently fired will continue for one month, a company spokesman said.

"These are permanent terminations, not furloughs," he said. "However, everyone retains the status of being on leave for one month, so insurance benefits remain."

Declining sales of some TI products, particularly in the semiconductor division, were blamed for the firings May 28 and 29. Most of the fired employees came from departments related to the those products.

Hardest hit among the TI facilities were those in Dallas, where 1,000 of an estimated 30,000 employees were laid off, the spokesman said. The company fired about 300 workers in Houston and another 250 in Sherman, Texas. The remaining workers were fired from plants in other states and 19 countries. TI has about 90,000 employees worldwide.

Each employee received full severance pay, which varied depending on the number of years worked.

Texas Instruments has a comprehensive medical, dental and life insurance policy for employees, written by Aetna Life & Casualty Co., one source said.

Employees pay a \$75 deductible for medical benefits, after which the policy covers 80% of the first \$1,000, 90% of the second \$1,000 and 100% of expenses over \$2,075, to a lifetime total of \$1 million. Premiums are paid, in part, by employees during their first year, after which the company pays.

Emergency care up to \$300 is paid with no deductible. Anything over that amount is covered by the primary medical policy.

All employees receive a basic group life policy of \$4,000, but they can purchase options up to \$20,000 or twice their normal salary, not to exceed \$100,000.

Dental benefits pay 80% of "reasonable charges" up to \$500 annually, including preventive care, and pay orthodontia up to \$750 per person, with total lifetime benefits limited to \$5,000.

Benefits expanded

Members of the International Assn. of Machinists and Aerospace Workers will receive orthodontic and hearing-aid benefits if a three-year contract with General Dynamics Corp. in San Diego is approved.

Workers will be entitled to orthodontic care up to \$500 and one hearing-aid during the length of the contract.

Workers also will get a pension increase of \$14 per month for past and future services and 36 paid holidays for the three-year period.

The union represents 3,500 General Dynamics workers, 3,000 of whom are in San Diego.

Benefit beat keeps insurance and employee benefit managers informed on what other companies are doing and of current developments in the employee benefit field. We'd like to know if you've made any changes. Write Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

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Left to right: Fil Cooper and Foy Watson, Vice Presidents; Don Wilkinson, (CLU), Regional Manager, Knoxville; John Aggen, Regional Manager, Chicago; Tom Tucker, Regional Manager, Atlanta; Bob Anderson, Regional Manager, Cincinnati.

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Youth may collect \$8.3 million award in structured pact

By JERRY GEISEL

WASHINGTON—A 16-year-old California youth who was severely burned by a high-voltage wire while trespassing at a Conrail yard three years ago may collect more than \$8.3 million under a complex structured settlement.

Under the agreement, which Conrail is funding through an annuity purchased from Insurance Co. of North America, Steven Throop will receive \$2,250 each month for the rest of his life.

Those monthly payments, which

include a built-in inflation factor, could total \$5.4 million, according to Mr. Throop's attorneys, James Boccardo of San Jose, Calif., and Thomas Rees, a former California congressman and now a Washington, D.C., lawyer.

Mr. Throop also will receive bonus payments of \$25,000 in 1986, \$50,000 in 1991 and additional larger bonuses every five years until 2036 when he will collect a \$275,000 bonus. It is estimated these bonus payments will total \$1.63 million during Mr. Throop's lifetime.

In addition, the settlement calls for the establishment of a \$500,000 trust fund to be set up in three stages. The first payment to the trust will be \$100,000 with future payments of \$200,000 and \$100,000 twice. The trust fund will be administered by Mr. Rees and is intended for unexpected emergencies, such as medical treatment.

The remainder of the award will be raised through investment of the money as Mr. Throop receives it.

Conrail's out-of-pocket costs are estimated at about \$2 million to cover attorneys' fees, court costs and purchase of the INA annuity. Sources said Conrail has a \$2 million self-insured retention, but this could not be confirmed with the company which refused to comment on the case.

The accident occurred in 1978 when Mr. Throop was in Washington on a family vacation. Mr. Throop, who disregarded faded, stenciled "No Trespassing" signs on poles, climbed on top of a parked railroad car in the Conrail yard to get a better view of the annual July 4 fireworks display on the Washington Mall.

Mr. Throop either touched a 12,000-volt wire hanging a few feet above the boxcar or walked within the wire's electrical field.

The electrical shock severely burned him. Eventually, his right arm was amputated above the elbow and both legs were amputated above the knee.

Conrail was negligent on several accounts, Mr. Boccardo said. The quasi-federal agency should have installed a fence around the tracks, he said.

"A railroad should realize protection is needed in an area where children play. A cyclone fence would not have cost that much," he said.

In addition, Conrail should have posted signs warning persons in the area of the danger of the high-voltage electrical wire, he said.

Finally, Mr. Boccardo said, Conrail should have turned off the electricity running through the wires on the evening of July 4, a time a large number of children were in the area to watch the fireworks display.

The accident occurred in the same area where a 1971 mishap killed a 14-year-old Washington youth. After that accident, the National Transportation Safety Board issued a report criticizing Penn Central, which at that time owned the track, for not fencing the area, Mr. Boccardo said.

Mr. Boccardo described the settlement as "not too much and not too little. It is just the right amount."

He said that he doubts that anyone who criticizes the settlement as too high would like to change places with Mr. Throop, a triple amputee.

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editorial opinions

Handguns are bad risks

Right in the middle of the national debate over handgun control should be risk and safety managers—supporting new controls.

The professions of risk and safety management are dedicated to preventing and limiting property, liability, net income and personnel losses. Risk and safety managers traditionally have fulfilled their professional commitments by instituting property loss conservation measures or work safety programs.

We think it's time risk and safety managers extend their professional commitments to areas outside of their nine-to-five world. A doctor's oath to cure the sick, a lawyer's pledge to uphold the law and a clergyman's dedication to God are full-time professions. Risk and safety managers also must view their professions as full-time commitments to protecting the health and safety of people and property. The profession of risk and safety management demands you support and lobby for handgun control.

This is weighty stuff, we admit. But there are practical reasons for risk and safety managers to support handgun control. Wouldn't it be better if the night watchman never had to pull his pistol on an intruder with a gun? How about the safety of your chief executives? Consider handgun control a kidnap/ransom loss-control measure.

The insurance industry already sees its interest in handgun control. Francis P. Story, chairman of the Alliance of American Insurers and president of Holyoke Mutual, is calling on insurers to review their files for losses caused by the negligent or improper use of handguns. He suggests that the information could "add valuable weight to the presentation being made by those who are advocating adequate state legislation in this area."

We believe there must be federal minimum standards for handgun control, to be enforced by the states. Minimum standards of application and registration to own a handgun wouldn't preclude more strict control by states so inclined, but they should stop people with criminal records from walking into any pawn or gun shop and walking out with a handgun.

We suggest that risk managers, especially those for corporations that retain substantial risk and whose losses are not always reported to insurers, also scour their files for information on losses related to improper use of handguns. We bet the research will turn up losses involving handguns, from armed rob-



beries to muggings, proving the problem is far larger than attacks on well-known leaders.

But attacks on our leaders heighten our awareness of the need for handgun control.

Business Insurance called for gun control in 1968 after the slayings of Martin Luther King and Robert Kennedy. The recent slaying of John Lennon and assassination attempts on President Reagan and Pope John Paul II prompt us to do so again.

We must try to stop this violence. Now.

Risk and safety managers also can coin an appropriate response to the anti-handgun-control lobby chant that "guns don't kill people; people kill people."

Does that mean machines without safety guards don't injure workers; workers injure themselves?

Partly, but the safety guard is there and handgun control should be, too.

letters

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. Please send your comments to Letters to the Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611.

HMOs aren't fading away

To the editor: Your article "HMO funding drought could be fatal" (*BI*, May 4) cast a rather ominous pall over an industry that is much healthier than you would lead us to believe.

There is no question that the cutback of federal funding will mean the end of a number of HMOs that are struggling through their early, developmental stage. But that hardly means the HMO industry is facing a downhill slide to extinction.

In 1973, when the HMO Act was passed, 70 HMOs served some 5 million enrollees. Seven years later, the number of plans has more than tripled and enrollment is approaching 10 million. Today, 5% of our population is served by HMOs, attended to by some 55,000 physicians.

The key to understanding the HMO movement is realizing that the majority of these 10 million enrollees are served by well-established, financially sound HMOs, most of which do not depend on the federal government for a dime of support.

Family Health Program is a prime example of this. The company began its prepaid group plan in 1960 with 2,000 enrollees, working out of one medical center in Long Beach, Calif. Today, it provides medical and dental care to more than 190,000 members through 12 medical centers in

Southern California, Utah and Guam. Management projects enrollment growth to reach 320,000 by 1985.

Another measure is the company's annual gross revenues. These rose from \$600,000 in 1967 to almost \$60 million in 1980. By 1985, revenues are expected to reach some \$235 million. FHP has achieved this strong, steady growth entirely through private funding.

We believe that FHP is representative of those HMOs across the country that constitute the strong heart of the industry—those that have demonstrated strengths in management, financing, marketing, innovative services and an ability to compete successfully in their marketplace.

Yes, there will be a shakeout in the industry because of changing conditions. What industry does not experience similar "weeding out" periodically? But the mood of the administration and Congress is clearly changing to greater competition, more alternatives and a better break for the consumer in the health-care field.

In the long view, HMOs as a group will benefit from this attitude and will become an even more productive part of the nation's health-care delivery system.

Robert Gumbiner, M.D.
President
Family Health Program
Fountain Valley, Calif.

Self-funded fallacies?

To the editor: Our company began writing coverage for Colorado cities and towns in 1979, so it appears some of our experience may be included in the three-year survey to which Steve Sherwood referred in "Self-funded pool catches attention of Colorado cities" (*BI*, May 18).

Unfortunately, our results were not quite as favorable as those cited in the story by senior consultant Thomas Wander of Risk Planning Group.

Is the three-year 44% loss ratio that Mr. Wander indicates the entities had a case loss only or does it include a margin for case development and IBNR? Did any of the towns sustain any shock losses during this period? If answers to either of the two questions are negative, then Mr. Wander's statement that the cities were paying too much premium indicates a great deal of naivete on his part.

Mr. Wander has some difficulty with simple arithmetic. The premium for the test cities did not in-

crease 65% from 1977 to 1979 as he states.

It may well be that a pooling concept will prove advantageous to the 21 cities and towns who participated in the survey.

Mr. Sherwood's story, however, leaves more questions than it answers.

Charles R. Jones
Vp
Compass Insurance Co.
Dallas

■ Mr. Wander replies that the loss ratio was based upon information insurance companies provided their clients, but excluded reserves for incurred but not reported losses and case-development factors. Risk Planning Group is trying to prepare more detailed loss information now. An actuarial firm is being hired to prepare loss projections. However, the 44% loss ratio does include several large shock losses, including one more than \$500,000.

Regarding the 65% increase instead of 54%, Mr. Sherwood regrets the mistake was his.

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Big policy covers 'greatest show'

london line

LONDON—The daring young man on the flying trapeze and a cast of 25 have an insurance safety net even before the musical "Barnum" opens in London June 11.

The policy got its first test when Michael Crawford, star of the London production whose cost is estimated at 500,000 pounds, sat out the four preview performances due to exhaustion. The cancellations could cost 50,000 pounds in ticket sales, said a spokesman for the London Palladium, which is staging the play.

A non-appearance policy would probably pick up the cost after a two-show deductible, sources said. But most of the "Barnum" preview audiences are choosing other dates

to see the show rather than asking for refunds, the Palladium spokesman said.

Every member of the 26-person cast is covered by the policy, which is something out of the ordinary, producer Harold Fielding said. The show also carries employers liability, life insurance and public liability policies, he said.

The entire cast must perform such circus stunts as bouncing on trampolines, walking on stilts and flying on trapezes, making the chance of injury higher than in most musicals.

Mr. Crawford, 39, sings while walking on a high wire during the play. He trained for two months at a circus school in New York before rehearsals for the show started.

"It's the most heavily insured show because it's unique in its kind," said the Palladium spokesman. He said the show was insured for 5 million pounds to cover the company for illness, loss of life and loss of limbs among other injuries.

"Barnum was a showman, and so am I," Mr. Fielding said. "I'm a very large insurer. I believe in insurance."

But Mr. Fielding, who bought the insurance and rented the Palladium for the show, said his non-appearance policy isn't as big.

Other sources say the non-appearance policy is around 3.5 million pounds and was written by the Lloyd's of London Harman syndicate.

The policy was written for less than 2% of the maximum sum insured, sources say, which is low considering the potential risks involved. One source said "Barnum" is a special risk and the rate should have been at least 3%.

Mr. Crawford has been known to overextend himself. He broke his arm while appearing in another play. And the risk of staging "The Greatest Show on Earth" as a musical version is enormous. "He could fall off the bloody wire," one source said.

Representatives of Harman, once managed by the troubled Christopher Moran Group and now by Stenhouse Holdings, would not comment.

Catastrophe minimum hiked

NEW YORK—The insurance industry's basic limit for a catastrophe serial number will be increased to \$5 million from \$1 million effective Jan. 1, the Insurance Services Office recently announced.

It will be the first increase in the minimum since 1949 when the current figure of \$1 million went into effect.

The change was recommended by a committee of the American Insurance Assn. in response to requests from company claims executives.

The change would reduce the expense involved in alerting adjusters to catastrophe numbers, in tabulating losses by catastrophes and subsequently coding the information in the statistical plans.

Catastrophe serial numbers are assigned for disasters including fires, explosions, riots and civil commotions, weather-related occurrences and earthquakes.

Eleven of the 51 designated catastrophes that occurred in 1980 involved losses of less than \$5 million.

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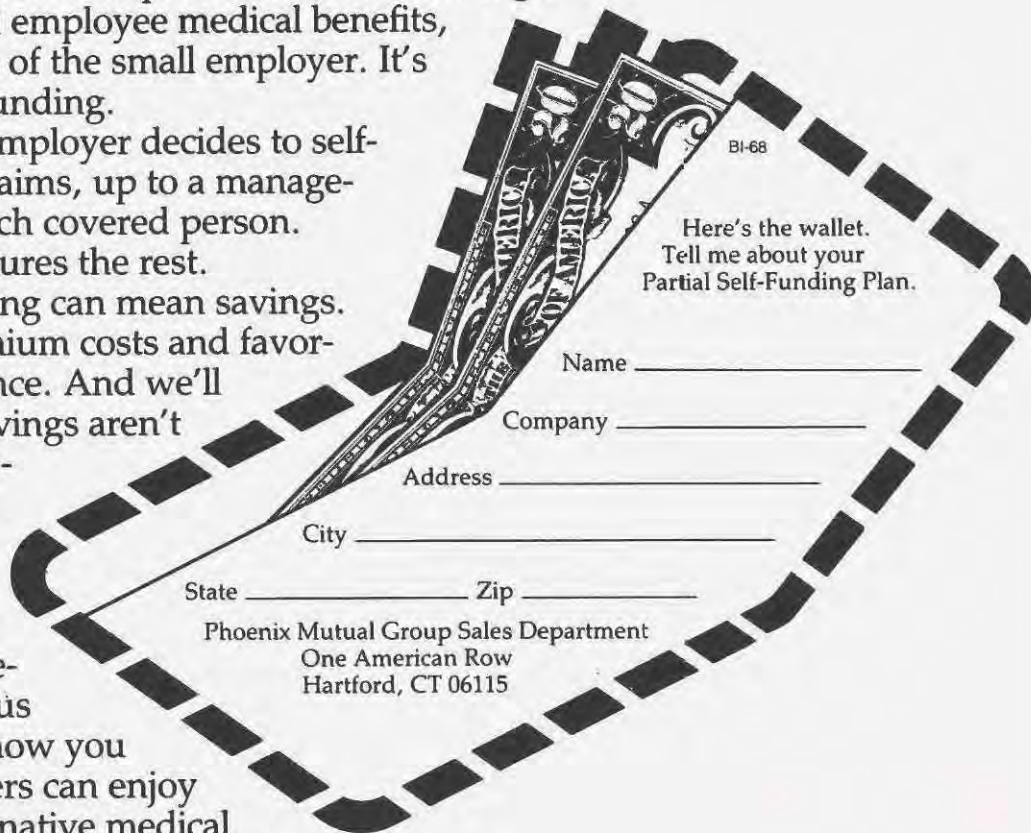
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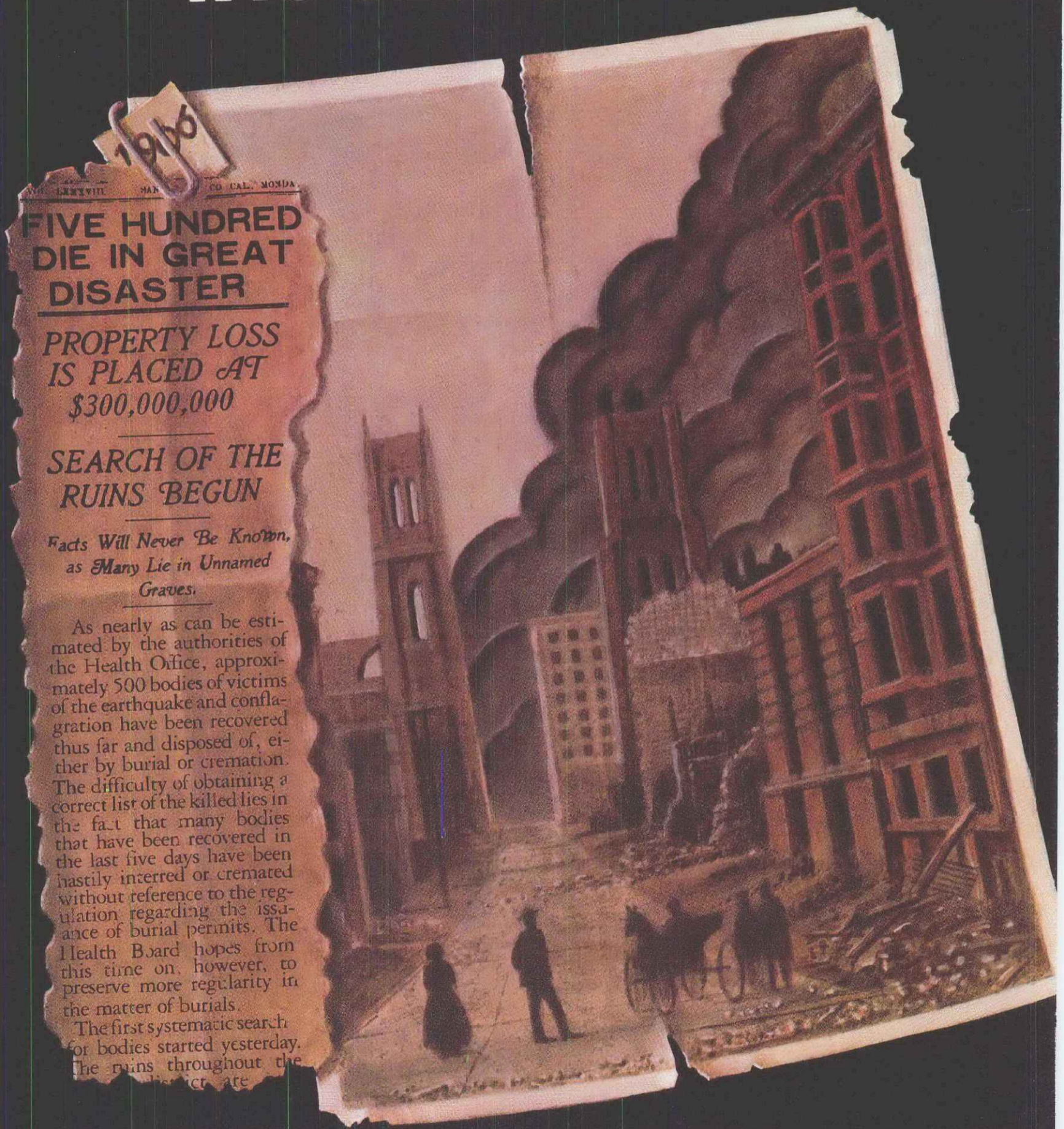
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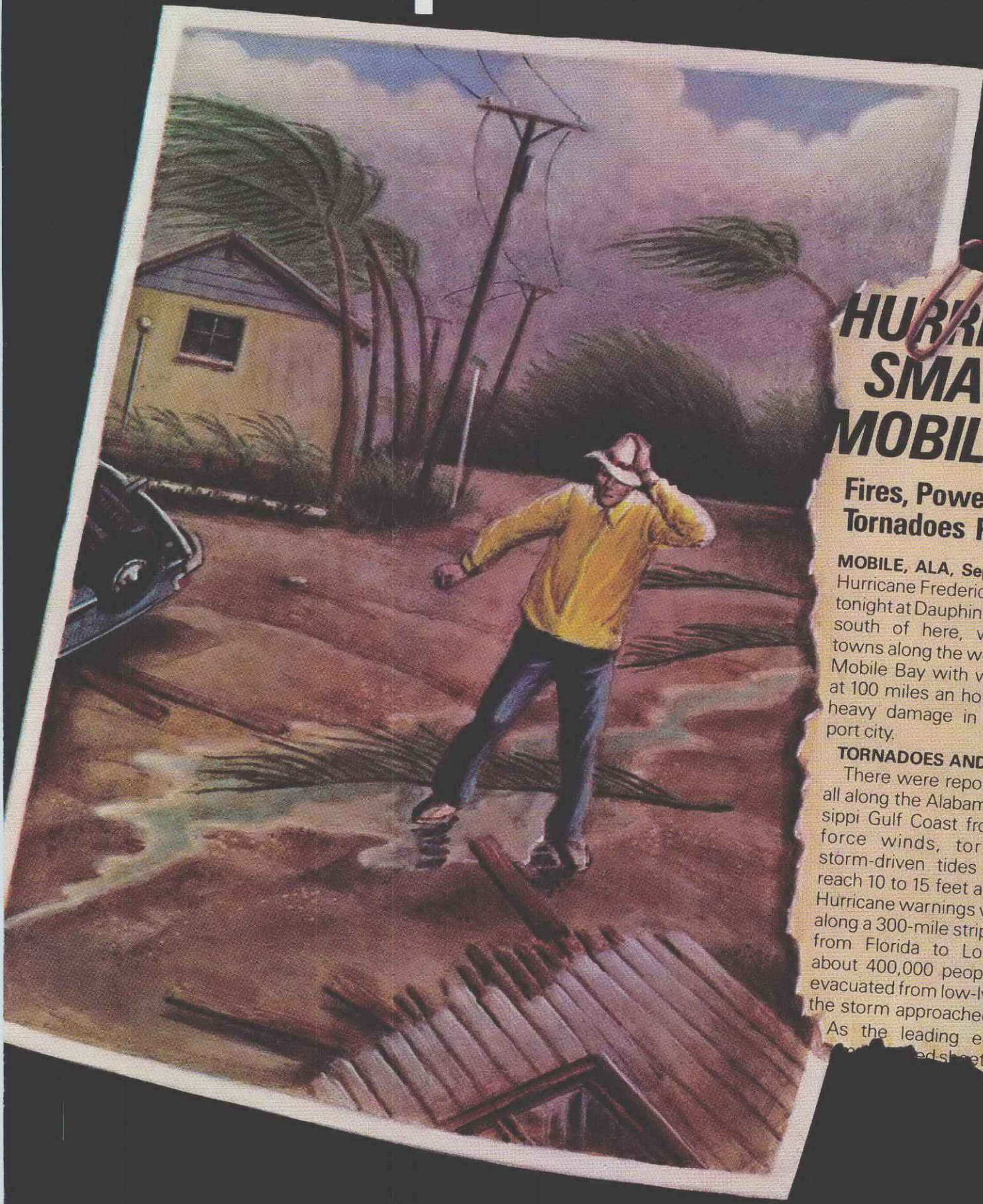
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MOBILE, ALA, Sept. 12, 1979 —
Hurricane Frederic plowed ashore tonight at Dauphin Island, 25 miles south of here, wrecking small towns along the western shore of Mobile Bay with winds recorded at 100 miles an hour and causing heavy damage in this populous port city.

TORNADOES AND HIGH TIDES

There were reports of damage all along the Alabama and Mississippi Gulf Coast from hurricane-force winds, tornadoes and storm-driven tides expected to reach 10 to 15 feet above normal. Hurricane warnings were in effect along a 300-mile strip of the coast from Florida to Louisiana, and about 400,000 people had been evacuated from low-lying areas as the storm approached.

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Maryland reviews work comp rates

BALTIMORE—Maryland's workers compensation insurers are seeking approval of a 1.3% premium increase on new and renewal policies to meet rising benefit costs.

The request was based on an increase in the statewide average wage used to compute maximum weekly benefits and a change in the law raising minimum weekly benefits for total disability, said a spokesman for the National Council on Compensation Insurance.

Because outstanding policies are affected by the higher benefits, the increase is being sought for all policies outstanding as of June 1. However, it would not apply to three-year, fixed-rate policies or

around the states

policies expiring before July 1.

Greenspan resigns

NEW YORK—Superintendent of Insurance Albert B. Lewis announced the resignation of Morton Greenspan, deputy superintendent and general counsel.

Mr. Lewis also announced the appointment of Stanley Epstein as a special deputy superintendent of the liquidation bureau.

Mr. Greenspan will join the law firm of Kroll, Killarney, Pomerantz & Cameron. He had been the department's general counsel since December 1975.

Rate increase

NEW YORK—Public hearings before the New York State Health and Insurance Department were held May 28 and June 4 to consider applications for subscriber rate changes for three non-profit health insurance providers.

On May 28, Blue Cross of Northeastern New York Inc. requested an overall 21.8% average increase. The insurer put a 9.8% rate hike into effect Jan. 1.

At the June 4 hearing, HIP-HMO and the Health Insurance Plan of Greater New York sought overall 14.8% and 9.8% increases respectively.

A spokesman said a decision on the requests would not be made until 10 days following each hearings.

Work comp rates

COLUMBUS, Ohio—Workers compensation premium rates charged to most state agencies will be reduced July 1, according to a new rate schedule recommended by the Bureau of Workers Compensation and approved by the Industrial Commission.

The new rates will save the agencies \$300,000. The lower rates resulted from lower costs of on-the-job accidents.

Premium rates for 69 of the 127 agencies will decrease, rates of 46 agencies will increase and rates of 12 will remain unchanged.

Insurer fined

TALLAHASSEE, Fla.—The Insurance Department has ordered the Utah Home Fire Insurance Co. to pay \$12,500 in fines for allegedly violating state insurance laws.

The order came after a settlement between Insurance Department attorneys and Utah Home representatives. The department agreed to drop charges against the company in return for the company's agreement to correct any violations and pay the fine.

The company was charged with not having sufficient documentation to verify proper ratings for homeowners insurance and with overutilizing consent-to-rate forms for commercial fire insurance.

In addition, it also allegedly used improperly licensed adjusters, failed to maintain complete consumer complaint files, furnished incorrect application forms and failed to provide countersigning agents with copies of records. Other charges were also filed.

In August 1980, Utah Home was fined \$12,500 for alleged violations stemming from a 1979 examination of the company.

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OSHA scraps 'walkaround pay' rule

By JERRY GEISEL

WASHINGTON—Employers have won their battle to keep the federal government from forcing them to pay employees for time spent accompanying Occupational Safety and Health Administration officials on workplace inspections.

OSHA, bowing to employer demands, has scrapped a 1977 regulation requiring companies to compensate workers for time spent with OSHA inspectors during worksite inspections.

OSHA said the rule was junked because a majority of employers already voluntarily compensate employees for time spent on "walkaround" inspections.

"The agency's experience and the supporting evidence clearly establish that non-payment of walkaround compensation occurs only in limited, isolated instances and that the substantial majority of representatives are in fact paid," OSHA said.

The "walkaround pay" rule was scrapped May 29.

Consent order

The Department of Labor has won a consent order barring trustees of an Oregon employee benefit plan from using plan assets to solicit new plan participants or to cover the costs of negotiating col-

lective bargaining agreements for sponsoring employers.

The order settles a November 1980 lawsuit filed against the trustees of the Pacific Northwest Employers Life-Health Insurance Trust.

Under the Employee Retirement Income Security Act, plan assets only can be used to pay benefits to participants and reasonable administrative expenses.

As part of the consent order, the Labor Department agreed to drop its demand that the trustees and plan sponsor, Cascade Employers Assn. Inc., return to the plan losses that resulted from alleged illegal transactions. The losses may be more than \$400,000.

Trustees named in the suit were Forrest Morse, Stanley Hammer, W.R. Sandwith, Wallace Bonsteele, R.D. Slater and Richard Wildish.

Noise levels

The Occupational Safety and Health Administration has shelved until Aug. 1 its controversial rule on protection of employees exposed to high noise levels.

The rule, which was to be phased in beginning April 15 but delayed to June 1, says employers

must provide earmuffs or earplugs for workers exposed to noise levels exceeding 85 decibels daily (BI, Jan. 26).

If the noise level exceeds 90 decibels, employers must provide protective devices. They also must offer periodic hearing tests if workers are exposed to more than 85 decibels daily.

The delay is necessary to permit analysis of comments on the standard, OSHA chief Thorne Aughter said. It has received more than 30 requests to delay enforcement.

Social Security

Any cuts in Social Security benefits must be phased in, says the chairman of the House Social Security subcommittee.

"The committee isn't going to enact any changes in early retirement without a phase-in," said Rep. J.J. Pickle, D-Texas.

The Reagan administration had proposed an almost immediate, deep slash in early retirement benefits. A worker retiring at age 62 would receive 55% of the benefit due at 65 instead of the current 80%. The cutback would go into effect Jan. 1.

While Rep. Pickle refused to ac-

cept such a fast or deep cutback in early retirement benefits, he indicated at a press conference he was willing to consider adopting a new index on which to base Social Security increases.

Currently, benefits are adjusted annually to match the increase in the Consumer Price Index.

Railroad pensions

The federal government wants to find veterans who are retired employees of the old New York Central Railroad Co. and its subsidiaries, or their survivors, to determine if they are eligible for additional pension benefits.

A class action suit before the U.S. District Court for the Eastern District of Pennsylvania seeks to have time spent in military service by these employees credited toward pension benefits from their civilian jobs.

Attorneys and benefit managers

who know of former New York Central employees who started working for that company before their military service and served in the armed forces before 1946 or between 1965-1968 should contact James Sheehan, Assistant U.S. Attorney, 3310 U.S. Courthouse, 601 Market St., Philadelphia, Pa. 19106; 215-597-0620.

Woodruff to teach

The former executive director of the President's Commission on Pension Policy is leaving Washington to teach pension and labor law.

Thomas Woodruff, who directed the commission after it was formed in October 1978, will be a visiting professor this fall at Cornell University's School of Industrial and Labor Relations in Ithaca, N.Y. He will teach courses on ERISA and labor law.

The pension commission was disbanded May 24.

Widower awarded \$5.5 million

NEW YORK—A Brooklyn trial court jury awarded \$5.5 million in damages last month to a New York widower, seven years after his wife died following two bunion operations.

The suit was brought by Adolph Goldstein, 63, against Madison Avenue Hospital, which has since gone out of business, and four doctors.

His wife, Florence, died after she was given an anesthetic to which she was reportedly allergic. The anesthetic, called halothane, destroyed her liver, the suit said.

In addition to the hospital, two podiatric surgeons, an anesthesiologist and an internist were named in the suit as defendants.

Mr. Goldstein's attorney, Melvin Block, said that a hearing on post-trial motions is set for later this month and that appeals by the de-

endants could follow.

Mrs. Goldstein underwent surgery in September and October 1974 for the removal of bunions and the straightening of toes on both feet. She reportedly suffered a severe reaction to the anesthesia used in both operations.

Among the medical malpractice charges against the podiatric surgeons and internist was that they did not read Mrs. Goldstein's test results, Mr. Block said.

Mr. Block said that the hospital and all defendants, with the possible exception of an anesthesiologist, Dr. Joseph Rella, were insured. However, Dr. Rella, who has since died, may have been covered by the hospital's plan, Mr. Block added.

The hospital's insurer was Ambassador Insurance Co., Mr. Block said.

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Prior to this, IRI insured the foreign properties of U.S.-domiciled firms and the U.S. properties of foreign-based companies.

Several foreign-based insureds with U.S. properties and their agents or brokers had requested IRI engineers and underwriters to review locations in other countries.

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markets

said IRI vp Blinn McClelland. "This is another step in that direction."

Excess/surplus

Langan, Damon & Spink Ltd. is a new brokerage facility in Grand Rapids, Mich., handling surplus, excess and specialty lines. The company, which also has a Detroit office, was formed by James F. Langan Jr., Peter S. Damon and Donald W. Spink.

The company's main office is located at 6303 28th St. S.E., Box 6468, Grand Rapids, Mich. 49506; 616-942-8930.

Reinsurer

Interamerica Reinsurance Corp. is a newly licensed reinsurance company in New York. The company is headed by President Clyde B. Baver Jr., who comes to his new post from Tre-Fac Inc. He has 25 years experience in underwriting and management activity.

The company is located at 161 William St., New York, N.Y. 10038; 212-732-1601.

Expansion

Miller & Gilbert Inc., adjusters in San Rafael, Calif., is moving ahead with a nationwide expansion program following approval from its board of directors.

The company will open branch offices in key metropolitan centers to provide errors and omissions and product liability adjusting services.

Miller & Gilbert also is planning to develop its other service lines including self-insurance administration, underwriting consulting and claims management consulting.

New consultant

Jay Wolfson Associates is a newly formed company in Houston, created to assist companies in gaining control over health benefit costs, maximize benefit quality and improve health status.

Among its services, JWA offers benefit option analysis and tailored packages to address specific cost problems.

Its offices are at 1700 Hermann Drive, Houston, Texas 77004; 713-529-2403.

Acquisitions

Thomas A. Greene & Co. Inc., a New York-based reinsurance subsidiary of Alexander & Alexander Inc., has reached an agreement in principle with Duncanson & Holt Inc. to purchase that company's reinsurance subsidiary, **First Manhattan Intermediaries Inc.** The merger is expected to be completed July 1.

New offices

Federal Underwriters Agency Inc. has moved to new offices at Suite 1200, 8401 Connecticut Ave., Chevy Chase, Md. 20015. The telephone number is unchanged at 301-468-6850.

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Energy market's capacity could shrink

By STEVE SHERWOOD

HOUSTON—Energy company risk managers who want to cash in on the demand for power sources should not be fooled by excess capacity in the energy insurance market, an insurer warns.

It's a buyer's market now, but all that could all change.

"Even with the energy conservation we are all being urged to practice, the energy industry will continue to expand to meet the world's growing needs," said Arthur H. Liebelt Jr., president of INA Energy Insurance Group.

"At present, there is more than adequate financial capacity in the insurance marketplace to cover energy risks," Mr. Liebelt told 100 risk managers and brokers who participated in an Insurance Co. of North America energy risk seminar in Houston recently.

"Whether there is adequate knowledge backing up that capacity and whether that capacity will be available tomorrow are questions yet to be answered."

Depressed premium pricing does not represent a long-term pattern, he warned. Low pricing is, in part, attributable to inexperienced insurers in the energy field. When the market tightens, the new entries will be the first to exit and capacity will contract.

"This kind of fallout could occur sooner than many of us anticipate," Mr. Liebelt said. "What we must all look for is capacity that will be available now and later."

The energy industry will have a consistently growing need for innovative coverages and services, he said.

An insurer must have specialized knowledge of the unique needs of the energy industry and the ingenuity to shape broad programs that respond to those needs, he said.

An insurer also must demonstrate consistency in marketing and underwriting, coordinate all aspects of the risk, pioneer new coverages, be able to deal with abrupt developments in the market and technology and provide stability through a long period of performance, he said. This is why INA created its energy insurance group, he added.

Douglas P. Chaloult, senior vp of INA's international and special risk division, outlined some of the energy risks INA covers and the insurance problems energy companies face abroad.

"In Korea, we're the lead carrier on three nuclear plant construction projects with combined exposures of more than \$1 billion," he said. "In Turkey, we insure a \$900 million steam generating station, and in Scotland we're involved in another nuclear project that represents a \$2 billion investment."

To illustrate the difference in insurance from country to country, Mr. Chaloult compared coverages in Australia, West Germany and Malaysia, three nations that qualify as prime energy sources.

In Australia, which has tremendous petroleum potential and has seen recent development of "brown coal," an oil-producing mineral, coverages similar to those in the United States are permitted, he said.

There are important differences to keep in mind, however.

Property policies are usually written on British foreign forms, which don't offer coverage for fires following such perils as windstorm and malicious mischief, Mr. Chaloult said.

Employee benefit plans originating in the United States are usually more than adequate for Australian nationals who already benefit from free hospital coverage, he said.

West Germany is an important

market for coal and hydroelectric power, he said. Although non-admitted insurance carriers are prohibited by law, it is easy to duplicate U.S. coverages through German language policies written by admitted carriers.

Protection against fires following such perils as lightning and explosion can be purchased as long as the perils are named, but earthquakes and riots are excluded, he said.

Auto bodily injury and physical

damage insurance is compulsory, the product liability situation may soon be tougher than in the United States and health and hospital coverages for third-country nationals—such as Japanese technicians working for an American company—must be purchased.

Malaysia is a potential source of vast amounts of oil products, Mr. Chaloult explained. "Since 1975 non-admitted insurance companies have been prohibited, but comprehensive coverage can still be obtained through several admitted

carriers."

Risk managers would be unable to obtain coverage for fires following many perils, just as in Australia, and workers compensation coverage for local nationals is under government monopoly.

Product liability suits are not much of a threat there, he said. "In fact, a Malaysian court has never been the setting for a product liability suit."

From a political standpoint, Malaysia doesn't qualify as a high-risk country, Mr. Chaloult said. ■



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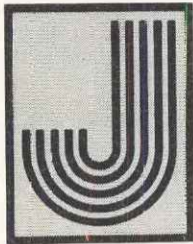


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• A copy of papers presented at the **Cayman Island Captives Conference**, a two-day seminar on captives held in December 1980, is now available. The cost is \$50. Write Risk Planning Group Inc., 722 East Road, Darien, Conn. 06820.

• A revised and updated **United Nations Dangerous Goods Orange Book** has been released. The book contains recommendations by the U.N. Committee of Experts on the Transport of Dangerous Goods. It is published by INTEREG, Chicago-based publisher of hazardous materials regulations. The 474-page volume includes specific recommendations regarding the proper handling of dangerous goods plus an index of hazardous commodities identifying proper shipping names, U.N.

numbers, class division, subsidiary risks, packing groups and other pertinent information. The cost of the publication is \$35. Write Labelmaster, 7525 N. Wolcott Ave., Chicago, Ill. 60626.

• A complete building safety plan and many personal fire survival tips are offered in **Save Your Life, The Executive's Guide to Personal Fire Safety**. Written by a former New York City fire captain, the book costs \$5.95 plus 75 cents for postage and handling. Reduced rates are offered for bulk orders. Write Executive Enterprises Publications Co. Inc., Department SYL, 33 W. 60th St., New York, N.Y. 10023.

• **Business Interruption Insurance—How it Works** is a recently published book that explains the coverage and pricing of the standard forms of business interruption insurance. The book is written for both business and insurance people. The cost of the book is \$5.95 per copy. Write Business Publications, Box 203, Mount Prospect, Ill. 60056.

• A broad set of **general and technical publications on health maintenance organizations** available from the Group Health Assn. of America. Many are reference guides for HMO executive and medical managers. Subjects include marketing, finance, clinical issues, legal issues and administration and general information on HMOs. Discounts are available for association members. For details, write Group Health Assn. of America, Membership Department, Suite 701, 1717 Massachusetts Ave. N.W., Washington, D.C.

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JUNE 28-JULY 2. 17th International Insurance Seminar in Rio de Janeiro, Brazil; members and non-members, \$600. John D. Thomas, John David Thomas Co., 401 E. 80th St., Suite 10F, New York, N.Y. 10021; 212-570-2338; or Dr. John S. Bickley, International Insurance Seminars Inc. Administrative Headquarters, P.O. Box J, University of Alabama, Tuscaloosa, Ala. 35486; 817-729-5845.

AUG 4. One-Day Benefits Briefing seminar sponsored by the International Foundation of Employee Benefit Plans on employee benefits in Milwaukee; members, \$120; non-members, \$147. Also **Aug. 7** in Minneapolis. IFEBP, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53005; 414-786-6700.

SEPT. 14-16. National Conference on Risk and Insurance Management and the **National Conference on Employee Benefits Management** in New Orleans, sponsored by the American Management Assn.; members, \$350; non-members \$405. Registration for one conference entitles one to participate in the other. American Management Assn., AMA Registrar, 135 W. 50th St., New York, N.Y. 10020; 212-246-0800.

NOV. 11-14. Public Employees Conference in Williamsburg, Va., for people involved in the operation of benefit plans for public employees, sponsored by the International Foundation of Employee Benefit Plans; members, \$360; non-members, \$435. IFEBP, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53005; 414-786-6700.

DEC. 4-9. 27th Annual Educational Conference of the International Foundation of Benefit Plans in Acapulco, Mexico, presenting updates on large variety of pension and welfare plan management topics; members only, \$360. International Foundation of Employee Benefit Plans, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53005; 414-786-6700.

JAN. 25-28, 1982. National Insurance and Protection Conference of Financial Institutions in New Orleans for bank personnel involved in security or risk and insurance management programs, members, \$375; non-members, \$475; if registered after Dec. 14, fees are \$415 and \$515. Shell Davis, American Bankers Assn., Insurance and Protection Division, 1120 Connecticut Ave. N.W., Washington, D.C. 20036; 202-467-4047.

APRIL 19-22, 1982. 1982 Hazardous Material Spills Conference in Milwaukee. Conference will bring together government, private industry and academic experts. Sponsored by the Chemical Manufacturers Assn., Bureau of Explosives of the Assn. of American Railroads, U.S. Environmental Protection Agency and the U.S. Coast Guard. For more information contact Chemical Manufacturers Assn., 2501 M St. N.W., Washington, D.C. 20037; 202-887-1100.

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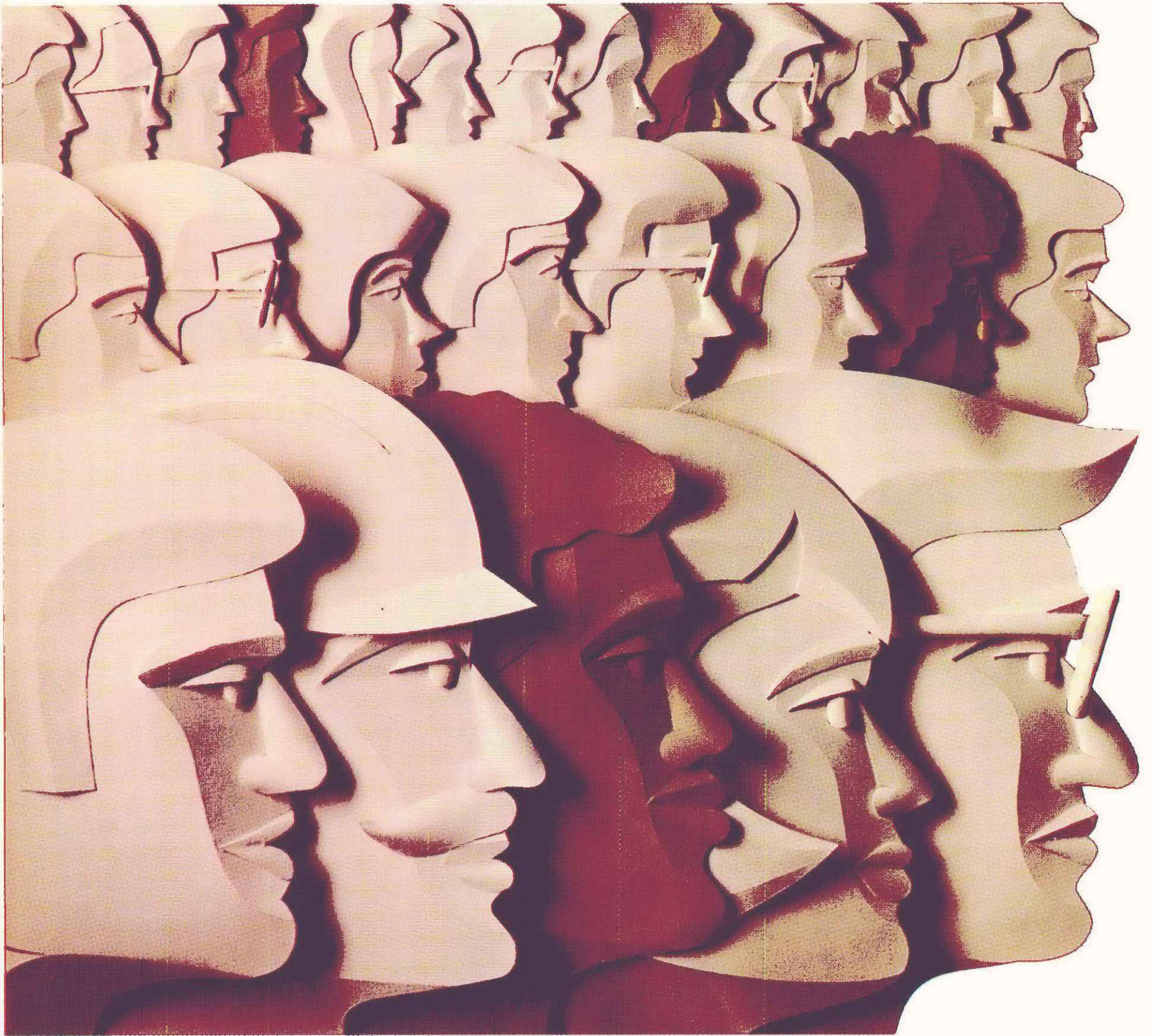
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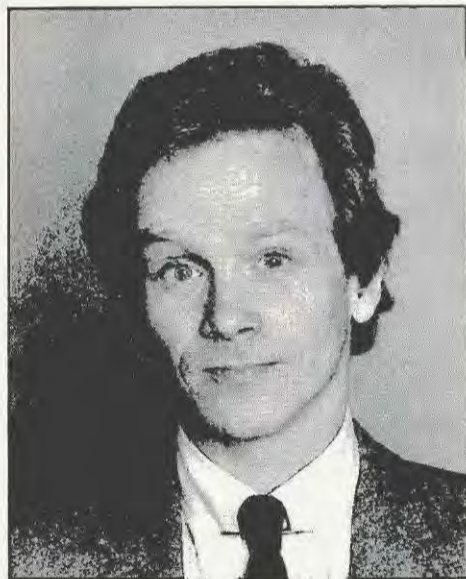
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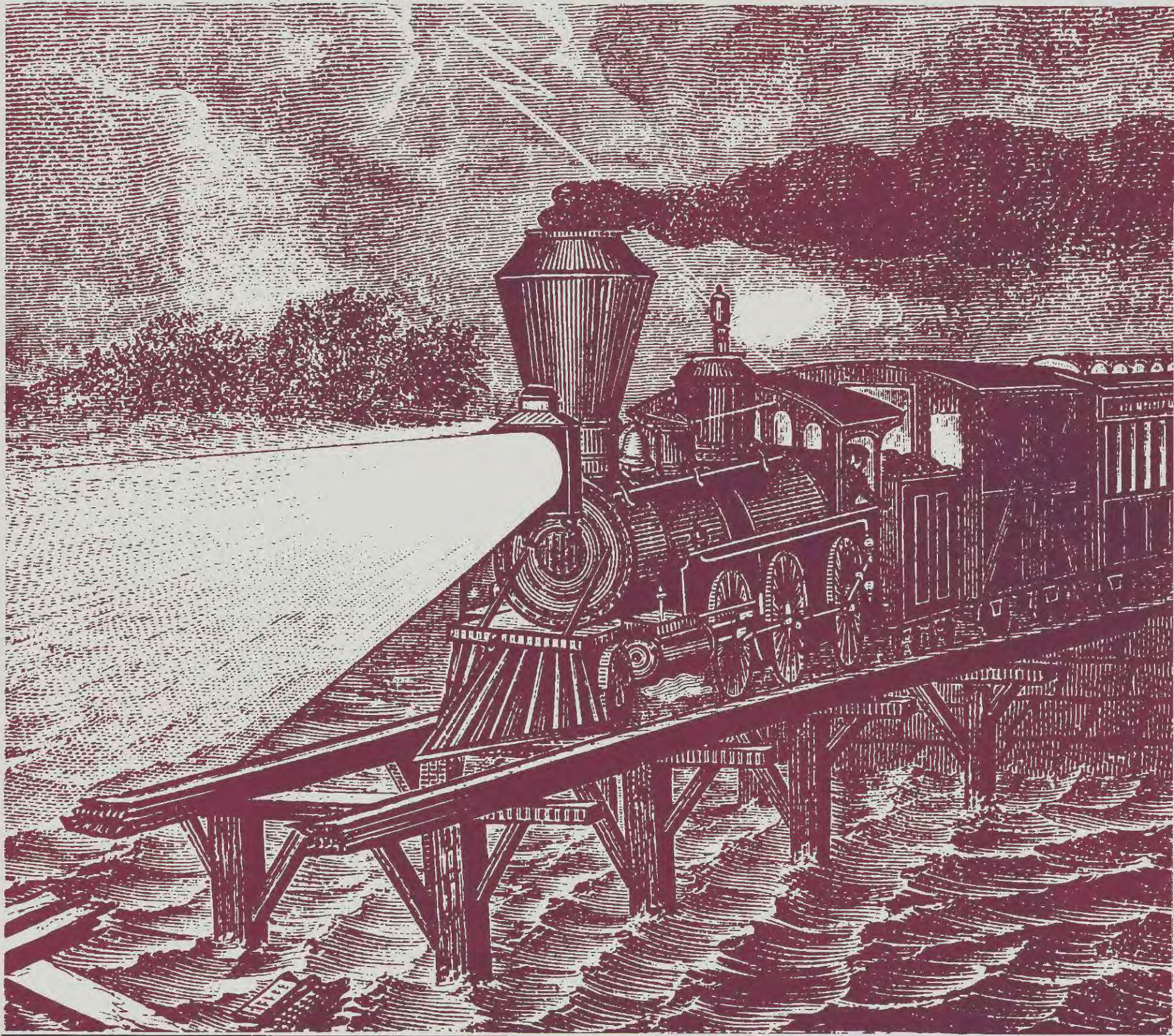
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INSURANCE SERVICES GUIDE:

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see page 40

David Vaughan to head new captive manager

David Vaughan, who has directed the captive management operations of Marsh & McLennan in Bermuda, has been named president of the recently created Continental Risk Services Ltd., effective July 1.

He will direct the development of Continental Corp.'s new company, founded to specifically serve

comings & goings: industry

the captive insurance company industry in Bermuda. It will manage captives, advise Continental agents with clients who are forming captives and develop sources of outside reinsurance business for client

companies.

Mr. Vaughan, who has been with M&M for almost 11 years, previously was with Niagara Insurance Co., a Continental subsidiary that later became Continental Re.



Vaughan

Marsh & McLennan has not yet named a successor at its captive management company, one of the largest in Bermuda.

Insurers

Gerald D. Viste named president and chief operating officer of the Wausau Insurance Cos. He was formerly executive vp.

John A. Schoneman, chief executive officer at Wausau, has been elected chairman of the board, replacing **T.A. Duckworth** who will remain a director and chairman of the executive committee. Mr. Schoneman will remain chief executive officer.

Also at Wausau, **Reinhold R. Klein** and **Lowell H. Tornow** have been elected executive vps.

Thomas B. Creager named general manager of The Hartford's Baltimore regional office, succeeding **John J. Butler Jr.** who has retired after 29 years of service.

Peter Lardner elected chief executive officer of Bitco Corp., succeeding **J.A. Fensterbusch**, who continues as chairman of the board. Mr. Lardner had been president. **Leonard H. Swanson** elected vp and secretary of Bitco, and senior vp-administration and secretary of Bituminous Insurance Cos., a Bitco subsidiary. **Thomas L. Frakes** elected vp-underwriting of Bituminous. **Dennis Keefe** named assistant vp-investments for Bitco and Bituminous.

Agents/brokers

John Allen elected vp/commercial property manager at ANCO Insurance & Risk Management of Houston. Other changes at ANCO include: **Vernon Beutel** elected vp of loss control & risk management; **Randall Green** elected vp/commercial casualty manager; **Wayne Johnson** elected vp of property analysis; **Nancy Kring** elected vp/account executive; **June Lang** elected vp/claims manager and **John Stanton** elected vp/producer.

John S. Hoyt appointed to newly created position of senior vp at the National Association of Professional Insurance Agents.

Betty Fisher joins Worldwide Insurance Brokers Inc. of Baton Rouge, La., in commercial property/casualty underwriting.

Roger Evans appointed state agent for The Insurance House Inc. of Atlanta to service its agents and brokers in Tennessee.

Ivan R. Small has joined Sherwood Insurance Services of San Francisco as manager of its new lumber department.

Other suppliers

William K. Willis named vp of Hewitt, Coleman & Associates Inc., a Greenville, S.C.-based affiliate of Continental Financial Services Co. of Richmond, Va. Willis manages HC&A's Richmond office.

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New York Market

A SPECIAL REPORT ON A REGIONAL INSURANCE MARKET



Photo: New York Convention & Visitors Bureau

New York is alive and well

RUMORS OF THE DEATH of New York as a financial powerhouse are untrue. The city is alive and kicking with corporate headquarters, new ideas and risk and employee benefit challenges.

But the center of the city—Manhattan—is changing as business moves outward from the crowded hub. More and more large companies have been turned off by skyrocketing office rents, crowded conditions and a nationally publicized crime rate. They pack up for the nearby suburbs.

The business, though, hasn't moved very far. The fastest financial growth in the area is just a short commuter train ride away from city center: New Jersey, Long Island and southern Connecticut. No company wants to be far from the financial services, investment bankers, stockbrokers, insurance brokers and other professionals that help corporate America run smoothly.

This business trend, however, has wrought changes in the way insurance service is provided. Once all the insurance action was centered in the cramped neighborhood around William and John streets, around the corner from Wall Street. A corporate insurance buyer used to be able to stroll over from the corporate office to his insurance broker and then lunch with his insurer at the Wall Street Club.

A broker on the second floor of an office building could practically reach out of his window and slap the head of an underwriter walking by to get his attention.

"We used to have brokers who would go and sit on an underwriter's desk until the risk was accepted and rated," noted one long-time observer of the New York insurance scene. "If a claim sat too long, our claims manager would walk across the street and drum his fingers on a desk until a check was issued."

Not so anymore. Many of the largest brokers, including Marsh & McLennan and Alexander & Alexander, have moved to midtown, reflecting the general business trend on a smaller scale. INA, one of the largest insurers, also moved to midtown, though it maintains downtown offices.

The brokers are also following the cor-

porate risks out of town, establishing suburban offices that provide nearly immediate service.

"It's a different way of doing business," says John Sullivan of M&M, overseer of his company's suburban clients. "In New York, you ask for an appointment and it could take a week to get in. On Long Island, you can show up at 15 minutes notice and the client appreciates the speed."

As fast as local companies leave New York, however, foreign investors are arriving, bringing a variety of new risks into the city with new risk management challenges for insurance professionals.

New York still kicks with life, dancing to changing steps.

N.Y. firms join forces to trim health costs
Page 2N

New York's the place for risk managers
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Brokers eye suburbs for new business
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Major N.Y. insurers waging fierce battle
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Changes may help New York exchange
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Benefits:

New York firms teaming up

By DAVID SPERLING

Some of the largest firms in New York City—including New York Telephone, Citicorp, Consolidated Edison and the International Paper Co.—are teaming up to fight the burgeoning cost of health care in the nation's biggest city.

"Only through a cooperative effort can we make a difference," said Nathan Smith, assistant vp and director of employee benefits for American Home Products in New York.

Last year, Mr. Smith helped mobilize other large corporations to form the New York City Business

Group on Health to combat what is widely regarded as the most expensive health-care system in the nation.

While health-care costs are rising throughout the nation at rates approaching 15% a year, the problem is particularly acute in New York City.

The reasons: overutilization and unnecessary growth of health-care facilities, the soaring cost of medical malpractice insurance, lack of incentives to economize and a general aversion to group practice.

A recent study by the Equitable Life Assurance Society found the city's average daily rate of \$220 for semiprivate hospital care is the highest in the nation. Hospitalization costs account for the biggest chunk of the health-care dollar.

The employer group represents the first unified effort of New York City businesses, insurers and health-care providers to hold down health costs. Although the group has been active only since the beginning of this year, response from the business community has been very good, say supporters.

"It's absolutely critical for employers to actively become involved in attempts to reduce the costs of health care and health de-

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Stewart Smith 
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Photo: N.Y. Convention & Visitors Bureau
Benefits for New York workers have forced firms to join ranks.

livery," explains Mary Carmichael, vp of indirect compensation for Citicorp. "And the only way it's going to happen is through the cooperative effort of business, medical providers and insurance companies."

Citicorp is one of the 16 paying members of the group. Other members include New York Telephone, Morgan Guaranty, Con Edison, Equitable, Metropolitan Life, International Paper Co., Port Authority of New York and New Jersey and American Home Products. Membership fees range from \$250 to \$3,000 depending on the organization's size.

Although most of the members are large corporations, the coalition is trying to reach out to smaller firms. "They have the same kind of problems, but on a smaller scale and without the in-house expertise," said Mr. Smith.

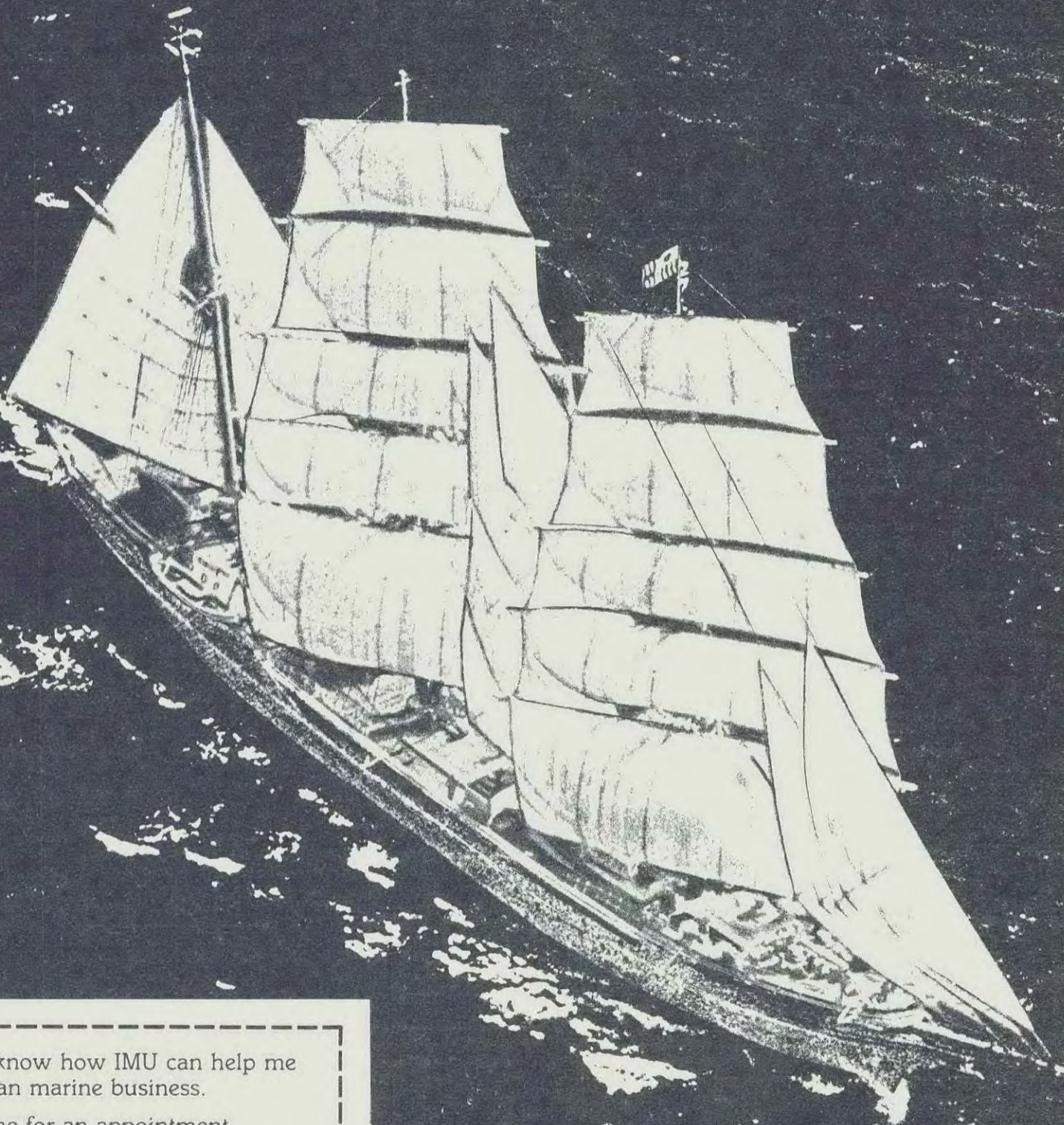
The coalition began with two goals: To educate the business community about different cost-containment techniques and to provide a platform for business to speak with a unified voice on health-care issues.

So far, the group has functioned primarily as an arena for education and the exchange of information and expertise. Last month, the

* 1783 - World's first sustained aerial flight, Montgolfier balloon (Lower Right); 1785 - English Channel crossing, Blanchard and Jeffries (Upper Right); 1793 - First North American ascent, Blanchard (Upper Left); modern hot air balloon (Center).

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N.Y. firms fight high health-care costs

Continued from page 2N
group sponsored a conference on "Health Education in the World of Work" that attracted some 200 participants in the medical, employee benefits, industrial relations and health insurance fields.

Future conferences will examine periodic health exams, benefit design management, second opinion programs for surgery and other cost-containment techniques.

Soralla Poster, a benefits planning specialist at Con Edison, described the seminars as "very informative and useful" for planning benefits and fighting costs.

"We're very interested in containing costs so we're taking back the information from these seminars with an eye toward assimilating it in our own benefits planning," she said. "The possibilities

for cost containment are very exciting."

The group plans to share expertise through a computer data bank. Member companies have submitted health-care data to Blue Cross/Blue Shield, which will compare their claims history with that of other companies.

"We don't expect much difference now," said Dr. Thomas Doyle, assistant vp and chief medical officer of Con Edison. "But there might be significant differences down the road as a result of the utilization of cost-containment procedures," he said.

Dr. Doyle says employers could use the data bank to find out which health-care facilities are used most often by employees.

"It might be wise to concentrate on these hospitals" to try to exert

influence on medical providers, he suggests.

While the employer cost-containment group is the first in New York City, the concept of business health-care coalitions is not new. One of the oldest is Penjerdel, which says its efforts have resulted in a significant reduction in hospital stays and overall admissions among Blue Cross and Blue Shield subscribers.

The Blues are the largest health insurer in the Penjerdel area, which includes several counties in Pennsylvania, New Jersey and Delaware.

A visit by Penjerdel representatives to the New York Chamber of Commerce and Industry last year inspired the formation of the New York group. "We became very ex-

cited by the possibilities," said Mr. Smith.

Although the New York coalition is still attached to the chamber, it hopes to become independent and self-funded soon.

One of the group's chief targets, Mr. Smith said, is the "inefficient distribution of services and physical facilities" in New York.

"There may be too many hospitals in one area, but not enough in another," he said.

Another problem peculiar to New York City is an "aversion to group practice," according to Dr. Leon Warshaw, executive director of the New York City Business Group on Health and former corporate medical director for Equitable. The no-group philosophy was the main reason for the slow growth of health maintenance or-

ganizations in New York City, he says.

Undercapitalization and marketing problems also have hindered their growth in the city, he added.

"They're not the answer to everyone's prayer, but they are beneficial in certain circumstances," he said.

Citicorp, which has 19,000 employees in the metropolitan area, offers 13 HMO options.

"Unfortunately, only about 6% of the eligible population is participating, which is about the norm in the New York City area," said Ms. Carmaichael of Citicorp.

In contrast, she adds, about 35% of eligible Citicorp employees in Buffalo are enrolled in an HMO. Some of the reasons why New Yorkers fail to choose HMOs include a "reluctance to change" as well as geographical inconvenience and premiums that in many cases involve additional contributions from employees, she added.

Citicorp is reviewing a wide range of cost-containment techniques, including out-patient surgery, second surgical opinions, pre-admission testing and nurse/midwife coverage.

"One of the problems is that there is virtually no concrete evidence or data to substantiate cost savings under a benefit program," Ms. Carmaichael said.

To get some solid data on various cost-containment techniques, Citicorp may experiment with a small group of employees and monitor their experience.

One company that can document its savings is American Home Products. The company says it saved \$1.6 million last year through coordination of benefits.

Mr. Smith, its benefits manager, says there is further potential for savings.

"We're going to take a hard look at benefit packages to try to provide incentives for the utilization of health care facilities in more rational ways," he said.

These techniques, he notes, might include higher deductibles, fitness programs or financial incentives to discourage over-utilization of health care facilities.

"It might cost more to begin with, but we hope it will pay off in significant savings down the road," he said.

N.Y. benefits are changing

Shifting job patterns, inflation and changing demographics are giving New York employers a headache, says Carson Beadle, director of William M. Mercer Inc.

The results are "fringe benefit costs that are reaching the credibility-challenging level of 40% to 50% of direct compensation."

The growing number of women at work and the aging of the work force will both have a major impact on benefits planning in the future, he adds.

"We might say that the 1960s was the decade of minorities; the 1970s the decade of women; and the 1980s will be the decade in which issues of growing older will be our central preoccupation."

He sees a trend toward flexible benefits for employees.

"Why, for example, should a working woman with a child have to pay the family rate for medical coverage?" he asks.

He also suggests that employers offer rebates to workers who accept a higher deductible on health insurance. "This helps to create a different attitude toward health services," he suggests, creating a "deterrent effect" against overutilization of health-care facilities.

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Risk managers love New York

By DAVID SPERLING

NEW YORK—If risk managers here had a favorite song, it might well be "I Love New York."

"I don't know of any other place a risk manager would want to work," says Peter Lopez, director of risk management and insurance for St. Regis Paper Co. "It's all here, just a taxi or subway ride away."

The city's advantages are obvious: a vast insurance marketplace, professional contacts and ready access to new ideas and information.

Major urban centers such as New York are the breeding ground for innovation, says Dave Blake, risk manager for Doyle, Dane Bernbach International Inc.

"New York doesn't shape a risk manager's job, but it provides the

opportunity for him or her to be more creative and work on a more current basis."

But for all their wide-ranging responsibilities, there is little that risk managers in New York have in common other than location or title.

"It's all individual," Mr. Lopez says. "It depends on how you view risk. Some are conservative and others are risk takers."

A risk manager's job also depends on how the corporation views his or her contribution.

Mr. Lopez, for example, spends much of his time generating profits from risk-related divisions and overseeing his firm's expansion into the insurance industry. Last year, St. Regis acquired a workers compensation insurer, Angelina Casualty Co. in Texas, and is now

looking to make more insurance-related acquisitions.

"It's a totally higher and different step than pure risk management," he says. Mr. Lopez' responsibilities, however, are considered unique in the risk management field.

"Most corporate risk managers are directly or indirectly involved in acquisition, but in many cases they're brought in when it's already a fait accompli," says Mr. Blake, who is also vp of programs of the New York chapter of the Risk & Insurance Management Society.

Corporations, he says, tend to view risk managers as a "lower middle-management" position. To improve their stature in the organization, Mr. Blake suggests that risk managers become more in-

involved in administrative meetings, strategic planning sessions and discussions on benefits and product liability. There's usually ample opportunity in corporate headquarters.

"Involvement is the key," he says.

Educating top management about risk management is a "long, tedious road," adds Sheila Roberts, director of risk management for Columbia Pictures. "Most corporations view insurance and risk management as a necessary evil, not as part of a planning program. They're more concerned with how much it costs."

Ms. Roberts says working in New York makes the job of a risk manager "a lot easier to do and cheaper for the corporation."

"You've got the best of the brokers and the best of the insurance companies right here," she says.

For risk managers based in New York but with loss-control responsibilities in workplaces throughout the nation, the city offers a special set of advantages and disadvantages.

For Fred Ingerman, insurance manager for Gilman Paper Co., there are the obvious advantages of ready access to New York's vast insurance marketplace.

"I can just pick up the phone or walk down the block to speak to my broker instead of communicating long-distance from Georgia," he says. The only disadvantage, he says, is being 1,500 miles away from Gilman's lumber mills in Georgia, where he is responsible for safety and loss prevention.

Mr. Gilman says he visits the company's work sites "three or four times a year" to keep in close contact with day-to-day operations. The chief area of concern at the mills, he says, is workers compensation costs, which he described as "pretty staggering."

Close to home, another business suffering from heavy workers comp costs is the marine transportation industry.

The market for longshoreman's workers comp has "virtually dried up," says Dave Richmond, risk manager for Sealand Terminals in New York.

He blamed the problem on the Longshoreman and Harbor Workers Act of 1972, which provides benefits for injured workers that greatly exceed state benefits.

"Longshoremen can earn \$600 per week. If they can make \$450 tax free, which would they choose? Where's the incentive to return to work?" he asks.

Since the law was enacted, he says, claims have soared "up to 500%."

Workers comp expenses for longshoremen now exceeds 10% of total revenue for stevedoring and marine terminal operations, he says.

Mr. Richmond says he experimented with a captive a few years ago for workers comp risks, but now relies on self-insurance, reinsurance and excess reinsurance to manage cash-flow operations.

Of special concern to large corporations based in New York is directors and officers liability. The number of D&O claims has been "steadily increasing since the mid-70s," says Nicholas Dutchak, vp of the casualty department for Alexanders & Alexanders.

"The larger Fortune 1,000 companies have limits they are very comfortable with—from \$5 million to \$100 million," he says. "But how much is enough? Nobody can close their eyes and say, 'I'm safe.'"

Mr. Dutchak says the market capacity has "increased tremendously" and is "fairly receptive to a reasonable request."



Risk manager Peter Lopez says, 'It's all here.'



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Looking toward the suburbs

N.Y. brokers keep expansion hopes alive

By **LEN STRAZEWSKI**

With one eye on the skyscrapers and the other on business expansion off Manhattan, New York brokers can look out their windows at a gold mine of corporate clients and risk management challenges.

But even a gold mine can play out if everyone is digging. Although New York is the nation's top city for corporate headquarters, hot competition for the big corporate risks is making the cream of the nation's brokers turn to smaller industrial risks in New Jersey and Fairfield County, Connecticut.

Marsh & McLennan Inc., with nearly 900 employees in New York, is the largest brokerage in the city as well as in the nation. It built its reputation on handling large commercial risks, but the slow exodus of big companies from the city is making this giant look downward, too.

"We are still looking to expansion in large accounts," explained David Holbrook, director and senior vp in charge of the big risks.

"There's still a lot of trading of risks between brokers. One client

John Sullivan, M&M is promoting business in the suburbs of New York and is targeting companies as small as \$50,000 a year in annual premiums.

Banks and financial institutions

are M&M specialties. The brokerage maintains a slim lead over its closest competitor, Johnson & Higgins, for those risks.

"I'd say we have an armlock on the business. M&M has more of the

major financial institutions as clients than any other broker in New York," said Senior Vp Walter S. Tomenson Jr., in charge of M&M's financial institutions group.

"Certainly we look at the major

clearinghouse banks based here Chase Manhattan, Irving Trust Morgan Guaranty and Bankers Trust. But also we handle many commercial banks and savings and

Continued on next page



Most of the business is still in the city, David Holbrook says.

won't necessarily stay with you forever. And it's rare that a single broker will write all parts of a firm's insurance. Most large firms split their plans among several brokers," he said.

Brokers, he added, now provide more than just insurance marketing for clients. The days of the fully insured corporation passed by years ago along with the job of insurance clerk.

Professional risk managers brought complex insurance programs with them, and the movement to creative risk funding began with the big companies based in New York City.

"Most of our major accounts are looking for various methods of risk transfer, self-insurance and captive insurance companies," Mr. Holbrook said. "To back that up, they are seeking loss-prevention services and financial-planning expertise. A portion of our business is strictly on a fee basis."

The business trend that caused big companies to move out of Manhattan is slowing, he added. "Two-thirds of the potential large-firm clients are still based in Manhattan, but we are actively pursuing financial institutions, law firms, stockbrokers and single-location industrial firms in and around the city."

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Address



Photo: Len Strazewski
 Richard Hatcher: 'J&H New York itself is a market for branch offices.'

Brokers harbor expansion plans

Continued from previous page
 loans, though the thrift-institution movement is more popular in California than New York," Mr. Tomenson explained.

Using the resources of its separate division, M&M markets all aspects of bank coverage in an effort to capture all the premium and fees in the financial institutions' risk management budget, a tactic its competitors also try.

"We try to do it all: the bankers blanket bond, property/casualty insurance, workers compensation and kidnap and ransom coverage, coordinated by a senior account executive. In our research and development, we are looking for ways to rewrite the blanket bond to extend

more coverage to electronic fund transfer exposures," he said.

Marine insurance is also a big risk area for New York brokers. Although M&M dominates in size with 115 people in its marine department, the competition is particularly fierce. Regional brokers, including Frenkel & Co., BRI Coverage Corp. and Nausch, Hogan & Murray, help keep any broker, including the giants, from getting a dominating share.

Textiles, or as New Yorkers say, "the garment business," is the city's biggest industry, yet few of the large brokers pursue it. Fred S. James surprisingly mixes a strong chunk of textile coverage in with its predominately large corporate risks and employee benefits accounts, according to Frank McDougal, president of Fred S. James of New York.

Alexander & Alexander, the second-largest broker in New York, has a stronger client base in the New York suburbs than most of the large brokers and, unlike its big competitors, is willing to work with New York's other big industry—small retailers, from department stores to street-corner delicatessens.

The base of smaller risks, including a solid chunk of personal insurance, comes from the days when A&A heavily acquired small local agents.

"The local candy store doesn't need all the risk management services we can provide, but we will still do the business," said Senior Vp Richard Page. "It's one of the responsibilities we have to our community here."

Candy stores, of course, are not the major A&A clients. The brokerage wins a small but significant share of financial institutions, and many medium-sized clients are served by A&A suburban offices.

"We think there's a need to bring some of the traditional big broker services to smaller firms who are just getting into advanced risk management," Executive Vp Herbert Berkely said.

"That's one of our strengths and we feel we can make money this way," he said.

Like most of the major brokers, A&A has targeted the unusual professional liability exposures in New York. As a financial service center, New York is a giant cluster of malpractice exposures for lawyers, accountants and other professionals. The brokerage also competes with some smaller specialists, including Rollins Burdick Hunter, which insures professional liability and employee benefits for some 16,000 accounting firms through the Accountants Professional Liability Trust that it manages.

Corroon & Black, another giant, also claims professional liability expertise, according to President James Corroon, but gives much of its energy to oil and petrochemical companies that still have risk management departments based in New York.

Johnson & Higgins, the third-largest broker in the New York area, plays on its Wall Street address and big corporate image. The brokerage shuns personal insurance. Personal coverage for J&H executives isn't even handled in-house. Local broker John M. Riehle Inc. picks up their coverage.

J&H maintains a giant office of 1,200 in New York, though many focus on corporate or branch office needs, according to President Richard Hatcher.

"J&H New York itself is a market for branch offices."
 Continued on page 14N

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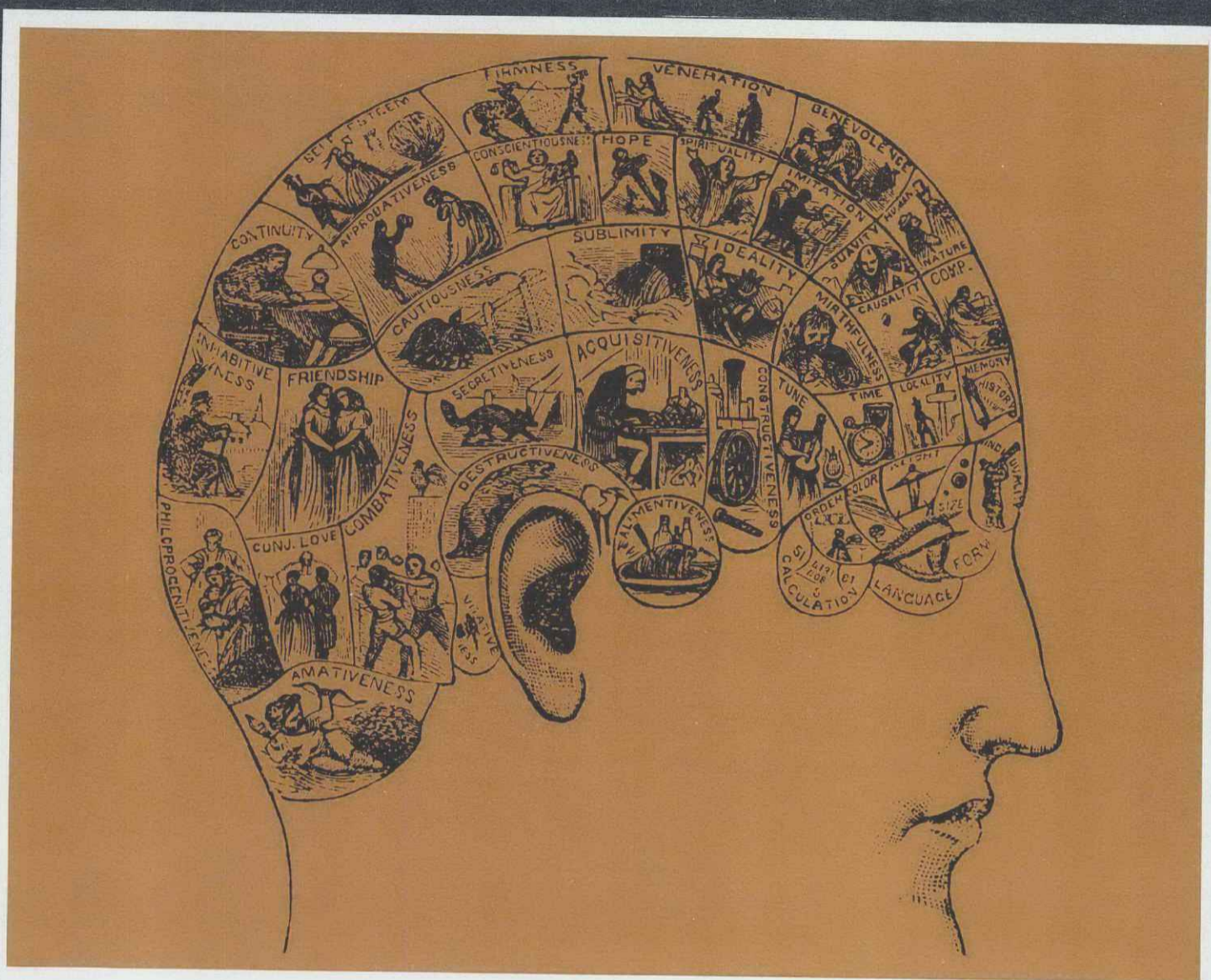
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INA

The Professionals in Insuring Energy Risks





Photo: Len Strazewski

Howard Miller: 'In some ways our relative smallness is an advantage. We are centralized and fast.'

Brokers lure foreign clients

Continued from page 10N
ket for our branch offices," he explained. "About 30% of our time is spent on solutions to problems our branches send to us."

Most of the J&H client base is big: financial institutions, aerospace companies and international companies expanding into the United States.

International business is tricky and particularly competitive among the big brokers. M&M promotes its ties with London's C.T. Bowring to attract international clients. A&A touts its forthcoming merger with the Sedgwick Group. Reed Stenhouse, a small but tough factor for local New York risks, is particularly competitive for international companies, riding on the strong Canadian, British and European offices developed before the brokerage moved heavily into the

United States.

Decisiveness and service helps J&H stay in the forefront of the international scene, Mr. Hatcher said. "They want an immediate answer, yes or no. Risk management doesn't work the way it does in the U.S. Sometimes it takes an order from the chairman of the board before a New York officer—or a drummer from Ethiopia for that matter—can purchase insurance."

Small risks are out of the J&H picture, he added. "Certainly we are interested in the medium-sized commercial clients, but the dress shop in the bedroom community will get greater attention from a small local insurance agent in a nearby shopping center."

The local New York brokerage, however, is big by most other cities' standards. Schiff Terhune

International, for example, started as a local New York firm and expanded to 20 offices around the country, handling many giant commercial risks. It developed the advanced risk management services it needed to compete with giant brokers, including captive feasibility planning and risk-retention analysis, according to Executive Vp Andrew Marks.

The company also competes on the international scene by brokering a French international product liability package through INA (see related story).

"We're not seeing as much activity in captive formation," Mr. Marks noted. "Competitive markets have made the firms more interested in buying excess coverage for a self-insured retention. Risk managers are now looking for long-term deals of three to five years. They want determined, long-term guarantees."

Service, too, is essential for smaller brokers to compete. BRI Coverage Corp., for example, a brokerage with 100 employees, bought its own independence from Integrated Resources Inc. several years ago. It recently added a consulting division called Risk Management Economics to provide some of the skills that self-insured firms are looking for, according to Howard Miller, director of new business development.

"It gives our producers something to sell and talk about, of course," Mr. Miller said, "but also it gives us a firm way to compete with much larger brokers."

Risk Management Economics expands the traditional brokerage services into those areas usually dominated by bigger firms: employee benefit cost control, workers compensation loss prevention, risk-funding research and statistical loss prediction.

"In some ways our relative smallness is an advantage. We are centralized and fast. We pride ourselves on our turnaround time, and some firms dissatisfied with the corporate slowness of bigger brokers come to us and other independents," Mr. Miller said. ■

Reed boasts worldwide ties

Reed Stenhouse is in a unique situation among New York brokers, President Peter Leitch says. Its international capabilities are more strongly developed than its local business.

"We view ourselves as a multinational firm," he said. "Other brokers are working toward developing international expertise, but we already have it. Certainly we want more local clients, but our main reason for being in New York is that this is the hub."

The cluster of U.S. insurers including AIG, INA, the Continental Group and other companies with international risk-making abilities make New York central to the plans of Reed Stenhouse. Reed is also heavily committed to the New York Insurance Exchange (see New York Viewpoint).

Reed is also promoting specialties that tap its access to outside of U.S. markets.

"I think we have a pretty good corporate strength in aviation, both here and in London. Most of the other brokers seem to be just finding the advantages of having their own people in London market," Mr. Leitch said.

"This also helps our offshore oil rig expertise which we inherit from the oil fields near Calgary, Alberta. We can walk in and talk to more international energy firms than any other broker." ■



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Photo: Fred Nathan
 When Elizabeth Taylor missed eight performances of 'Little Foxes,' Lloyd's of London paid out \$216,000.

Property package policies make sure shows go on

By JOHN MAES

The scenery for an elaborate musical like "Camelot" is a lot like a family heirloom. If it's damaged or ruined, you can't go to a store and take a replacement off a shelf.

That's why Robert A. Boyar, an insurance broker who serves theaters, designed a new, all-risk package property policy for the theatrical productions.

The policy ties together loose ends in property coverage for risks that previously could have stopped the show from going on.

"The theater now has better coverage than it ever has had before," said Mr. Boyar, president of R.A. Boyar Inc., specialists in theatrical

insurance.

The package, underwritten by the Chubb Group, made its debut last fall and has successfully completed one season without a major claim, Mr. Boyar said.

Covering properties and scenery against theft, including personal possessions of actors, the package also provides extra-expense coverage, a variation of business interruption insurance.

For example, producers of "Brigadoon" at Washington's National Theater were recently concerned that wall cracks in the auditorium would force a postponement because of unsafe conditions.

Luckily, the cracks were not considered dangerous and the

show went on. But since the cracks were not a named peril, the promoters would have been out of luck had a postponement been necessary, Mr. Boyar said.

"Before, we would have had to say, 'You don't have all-risk coverage,' but in this case, it would have been a breeze if they had the new package."

So far, the package policy has been a smash hit among Broadway and off-Broadway producers. Among the current Broadway shows carrying the coverage are:

- "Peter Pan," with \$800,000 worth of coverage for theatrical properties and \$350,000 in extra expenses.

- "Camelot," with \$900,000 in property and \$350,000 in extra expense coverage.

- "My Fair Lady," with \$860,000 in property coverage and \$300,000 in extra expenses.

Other policyholders include: "Death Trap," "Dancin'," "Ain't Misbehavin'," "Children of a Lesser God," "Fifth of July," "Sophisticated Ladies," "Wally's Cafe," "It Had to be You," and the off-Broadway's "El Bravo."

"The scenery, the set, the props are all custom-made stuff and you just can't go around to the warehouse and buy it," Mr. Boyar explained.

Catastrophe accident coverage in case theatrical troupes are killed while travelling is not part of the package but is carried by shows that are taken on the road.

"Most of the exposures are in six figures," Mr. Boyar said. "You don't have much of a show if everything is in place but there's no company to go on stage. You also can't hire 40 dancers, singers and actors and have them ready to perform the next morning."

"If the show is going out of town, we recommend catastrophe accident coverage, but when they don't travel, we don't recommend it."

Though the Chubb Group, AIG and Hartford Insurance Cos. insure many theatrical risks, Lloyd's of London remains the primary market for non-appearance coverage, Mr. Boyar said.

Other insurers don't see it that way, he said.

"The non-appearance of a star is still separate because it's a whole different underwriting situation. It's a whole different ball of wax."

Lloyd's recently paid a \$216,000 claim to the producers of "Little Foxes" after Elizabeth Taylor, a star of the Broadway play, missed eight performances last month because of complications from a respiratory infection (BI, June 1).

Although the entire theatrical insurance market is rather limited, generating only about \$5 million to \$10 million annually in premium volume, there's every indication it will remain healthy, he said.

The Chubb Group, he said, came to him with the idea of property package policy for the theater.

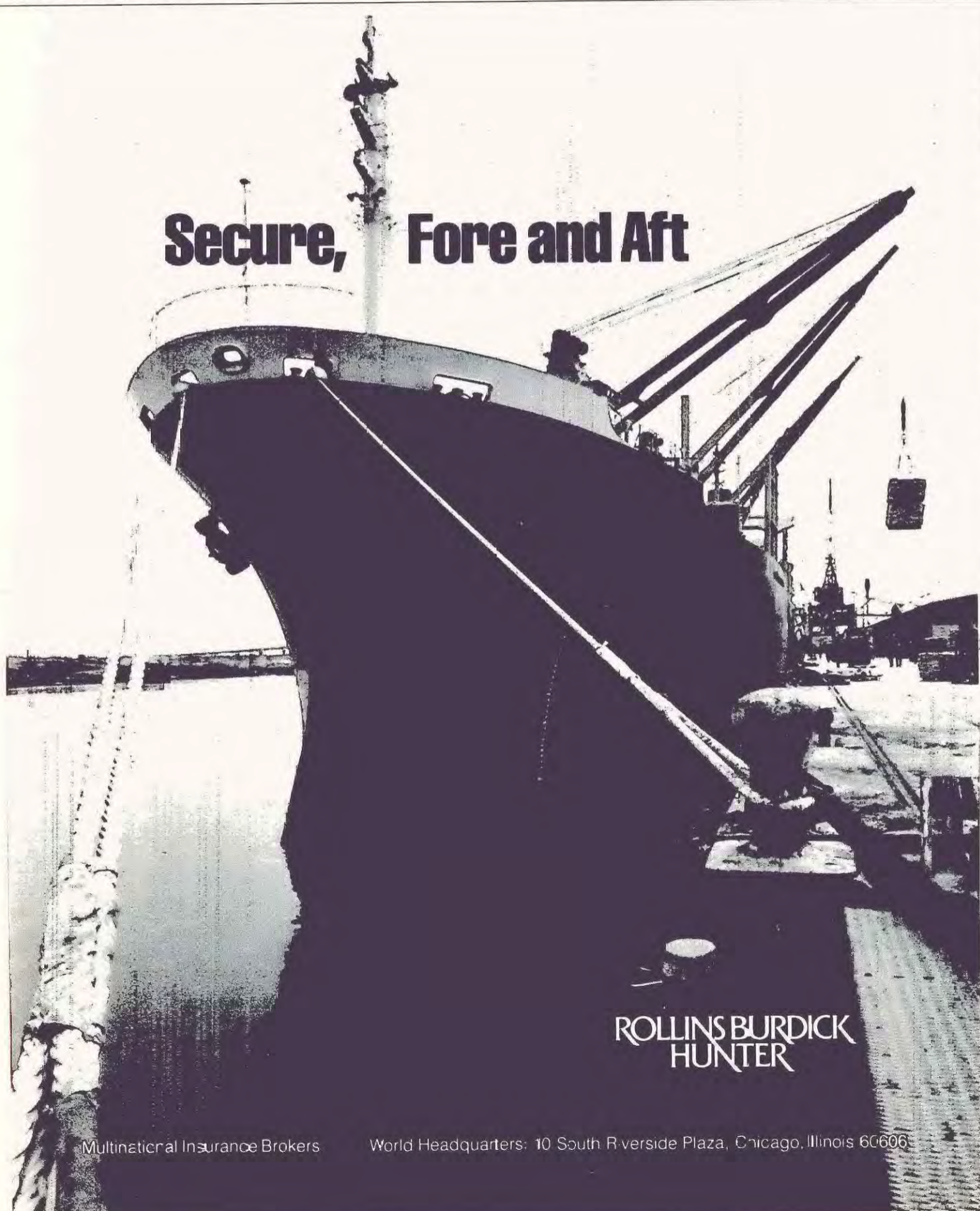
"The market is rather limited but the insurance needs of the theater are real," he said.

Mr. Boyar is more than just an insurance broker who caters to the theater business. He is a devotee of the stage and can shift gears in mid-conversation from insurance underwriting to Miss Taylor's performance in "Little Foxes."

The son of an actor and once an aspiring stage performer himself, Mr. Boyar wandered into the insurance business 32 years ago when his father advised him to find a "more legitimate" line of work rather than risk an uncertain future in the theater.

"And being a dutiful son, I went into the insurance business." ■

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New York-based insurance giants are waging a war

By **LEN STRAZEWSKI**

Insurance titans are clashing in New York City, but the arena is moving from William and John streets, the traditional insurance center.

And the gladiators, industry observers say, are the twin giant insurers, American International Group and Insurance Co. of North America.

Although the major insurance powers, including The Home Insurance Co., Continental Group, Royal Insurance Co., Commercial Union Insurance Co., and the Hartford Group, all have major offices in the insurance neighborhood off Wall Street, AIG and INA face off in the most dramatic stance.

In the competition for the commercial insurance premium dollar, AIG and INA, brokers say, are the most competitive in pricing and coverage packaging.

In insurance product development, these two insurers create the policies that other insurers use as models. In their own development, AIG and INA mirror themselves.

AIG is the smaller of the two

based in the Pine and Wall streets offices of AIG in New York and is the home insurer for the AIG financial institutions and banking divisions.

"Five years ago we decided we wanted to be a factor in the financial institutions/financial services market," explained National Union President Joseph P. DeAlessandro. "Since then we have been able to earn more than 40% of the nation's directors and officers liability insurance and become a major factor in providing fiduciary liability in-

Continued on next page



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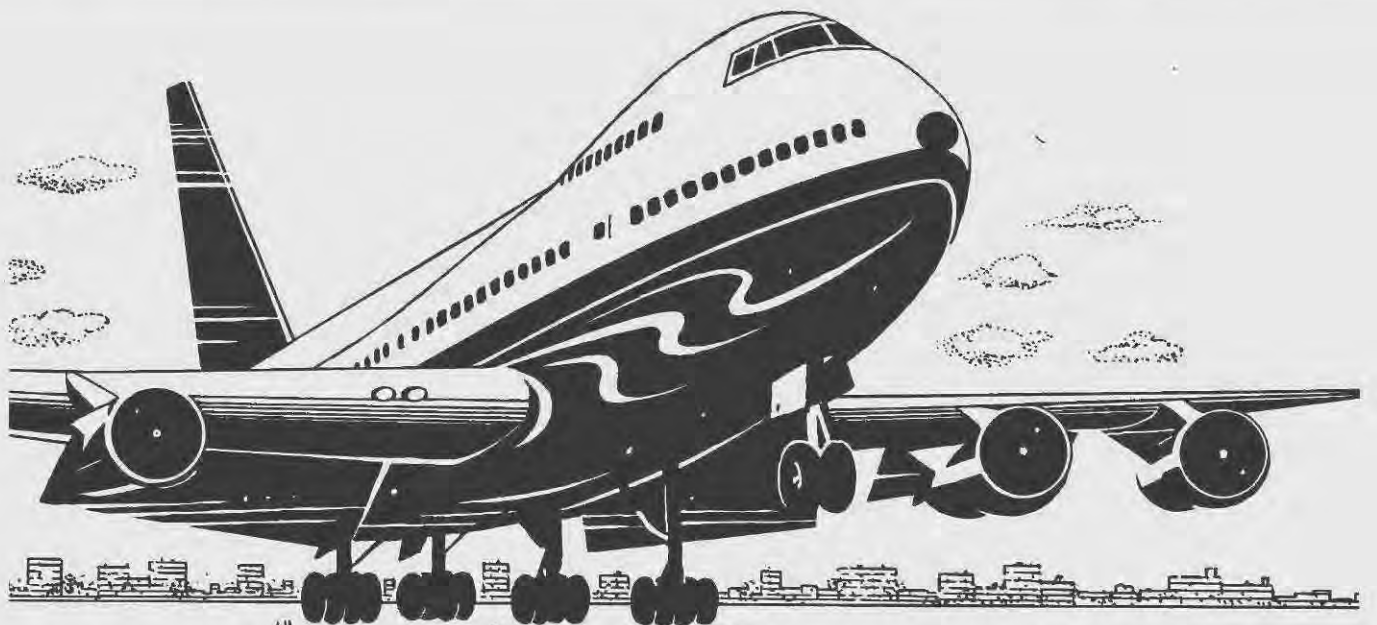
competitors but seems to be the fastest-moving. It drew net written premiums of nearly \$2 billion in 1980, a 12% gain over 1979. The domestic brokerage division, which includes AIG's major property and casualty insurers, provided net written premiums of \$793 million.

AIG seems to lead in specialization. It was the first of the two to promote its global insurance facilities, based in New York and sprinkled around the world. A global accounts department, formed last year, is designed to provide a central insurer for companies in the United States, Europe, Japan and elsewhere.

More than a year ago, AIG began its energy division under the leadership of Michael I.D. Morrison, senior vp of domestic general brokerage business.

The energy grouping, which began as a central department for underwriting offshore oil rigs, has taken on the total energy risk management marketplace and is promoting insurance for all energy risks: utilities to windmills.

But locally, AIG's biggest push is for the community of financial institutions clustered in New York City. National Union Fire Insurance Co. of Pittsburgh is really



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Photo: Len Strazewski

Arthur H. Liebelt Jr., president of INA Energy, says, 'New York is still where most of the action is.'

Insurers battle for business

Continued from previous page
insurance coverage."

Under the general heading of financial services, one of New York's biggest white-collar industries, AIG also sells professional liability insurance for the whole range of service providers, including lawyers and accountants.

In the new banking division, AIG competes for bankers blanket bond premium dollars from huge banks and savings institutions.

"Initially, our goal was to assemble as much of as many coverages as we could for the financial policyholder," Mr. DeAlessandro said. "Now there's virtually no avenue of risk for which we can't put together coverage."

AIG is researching new financial exposures created by electronic fund transfer systems, high-technology banking mechanisms that

many experts say elude coverage included under the bankers blanket bond. Also in the think tank are new products designed to provide financial guarantees against losses in volatile money markets.

"The 1980s will be a new era of equity-based insurance," Mr. DeAlessandro said. "Many firms are now working to quantify the growth and decline of a whole bevy of new concepts relating to financial successes or failure."

Although Lloyd's of London was burned with lease-value guarantees for computers, AIG is researching the general idea of residual-value guarantees and lease values. Although the new products are intended for use around the nation, New York is both a prime market and a major laboratory.

"New York is certainly a major center, along with Chicago, Los

Angeles and other large cities. And though I believe we are a major force in New York, we have yet to scratch the surface of the potential for the New York area," Mr. DeAlessandro said.

What INA may lack in development speed, it makes up in volume. INA, the larger of the two titans, drew net written premium of \$3 billion in 1980, an 8% increase over 1979 for its property/casualty insurance group. Though INA Corp., the parent of the insurance firm, is based in Philadelphia, New York City is fast becoming the INA insurance headquarters.

The international and special risks division, led by President John C. Morrison, provides the nucleus of a growing number of special insurance divisions. Unlike most other insurers, including AIG, the INA headquarters is midtown, in the same building as giant brokerage Alexander & Alexander and across the street from Marsh & McLennan.

Aimed at covering giant commercial risks, the special risks division is drawing the cream of INA staff from around the country. As the staff builds, INA seems to split into even more complex divisions.

In the last year, it expanded its professional liability insurance operations, began a special product liability program for French firms and formed INA Energy, a special underwriting group.

The energy division followed AIG's by nearly a year, but has the same general strategy: to gather the best of INA's experts in energy risks and have them handle all energy-related exposures.

"Our energy group is primarily a marketing group," said Arthur H. Liebelt Jr., president of INA Energy. "Our account executive becomes the entry point for coordinating all the coverage for energy risks, from oil rigs to solar power."

"Our job is to provide all the coverages we can at the best price we can. And right now that's not too hard. There's plenty of capacity."

Oil companies, a major source of INA Energy revenue, have been moving steadily into the Sun Belt, but New York is still the center of energy activity, he said.

"Many of the oil firms are still here and, of course, many utilities are based in the New York metropolitan areas. INA has been a consistent factor in the utility marketplace."

"New York is still where most of the action is, and INA is very strongly committed to New York City as a base for its international spread of risks," he said.

Poised for international risks, INA is watching New York as the main port of entry for foreign companies looking to expand or invest in the United States.

"Certainly our activity in worldwide risks is increasing as a result of this factor," he said. "But New York in general remains a strong source of business."

"Something must be happening. There's a building boom on and a continuing demand for office space. Some corporate headquarters are moving, but they are not moving very far—into New Jersey and Connecticut."

In the New York arena, the test of competition is being run. Insurers' financial results will tell which is more creative and better able to withstand the competitive market.

The underwriting decisions and marketing plans made on William and John streets and uptown are the tactics that could win or lose the battle for business and profits.

"This is what will show the difference between the good underwriters and the inexperienced underwriters in the long run," Mr. Liebelt remarked.



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NY INSURANCE EXCHANGE

Exchange is a success after year of operations

By **HARRY J. HARVEY**

When the New York Insurance Exchange began operations on March 31, 1980, it was indeed the beginning of a new era for the American insurance marketplace.

Architects of the concept and those who supported the exchange from the very first recognized that the facility contained the major elements necessary to become a formidable force in the international insurance structure.

The time was right for the formation of an exchange in the United States. The multinational movement had taken hold and worldwide exposures were increasing at a rapid pace.

The location was right. New York is the seat of some of the

world's most prominent financial institutions, the center of daily million-dollar insurance transactions, and one of the international money markets.

Also, the cautious approach taken by exchange leaders was a correct position. Growth for growth's sake was rejected by the expert underwriters whom the facility attracted. Given the pitfalls in the soft market which existed when the facility started operations—and which still exists today—exchange leaders opted for prudent, steady growth, using sound underwriting judgment and careful risk selection.

The results show that the exchange has had a successful first year of operations.

From its beginning of zero premium dollars, the exchange has recorded \$61 million in written premiums in the first 12 months, mostly in treaty and facultative reinsurance. Professional reinsurers in the regular market have not done as well, primarily because of the fierce competition in today's soft market.

The first-year figure is even more impressive when one takes into consideration that exchange leaders had predicted the facility would do only \$50 million in its initial year.

The number of participating underwriting syndicates on the New York Insurance Exchange has grown from 13 to 23. When the facility was launched, there were 42 broker members. Today there are 53.

In the facility's first 12 months, it

has attracted the interest and participation of many foreign entities, a significant fact.

Continued emphasis on an environment free of any unnecessary restrictions will insure their ongoing involvement and participation in the exchange.

Reed Stenhouse joined the exchange wearing a number of hats: broker member, reinsurance bro-



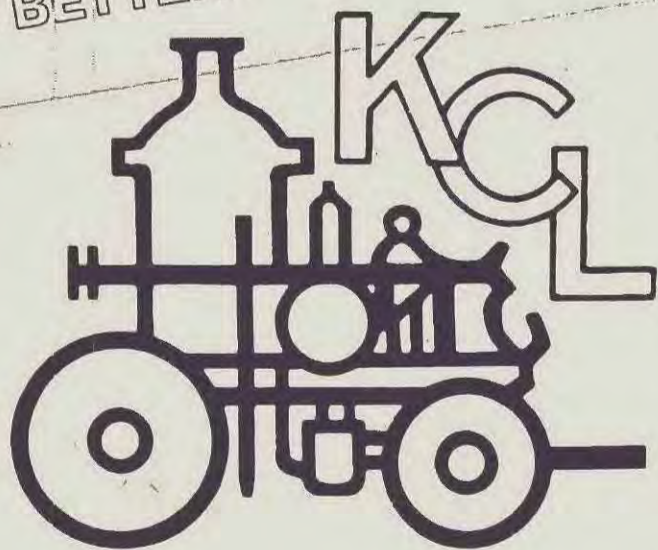
Harry J. Harvey
of Reed Stenhouse Cos. Ltd.

ker member and partner with the Continental Corp. in an underwriting management company, Continental Reed Stenhouse Management Co., one of the original underwriting members of the exchange.

This year, as the first anniversary of the exchange approached, Reed Stenhouse created the South Place Syndicate with Continental

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and with insurance industry participants from all over the world.

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Other foreign-owned entities were there at the exchange's beginning as well. The NRG America Syndicate represented French and Dutch participants, for example.

Today, the number of foreign participants in the exchange has increased significantly. Syndicates boast members from the Japanese, German and Chinese markets.

One underwriting member, the Candon Syndicate, has been capitalized by individual investors through the purchase of shares in its holding company, the International Insurance Investors, listed on the Luxembourg exchange.

It is estimated that roughly 30% of the total capitalization of the exchange comes from foreign funding and that there are approximately 100 foreign entities now represented on the exchange.

However, if the exchange's performance to date is impressive, its potential for growth over the next decade is even more so. The exchange is already insuring many worldwide accounts, including U.S. corporations with facilities abroad

New York Viewpoint

and foreign multinationals with branches and subsidiaries in the United States. That trend will certainly continue as the need for alternative international insurance markets grows.

In addition to its meaningful role as a market for unusual and sophisticated risks, the exchange is expected to become a significant market for large commercial risks of U.S. and multinational accounts.

Furthermore, if the U.S. insurance market begins to harden next year as some in the reinsurance field predict, the insurance capacity of the exchange will represent a viable market for corporate risk managers who have lived through the capacity crunches of past years.

However, the genuine potential for growth of the New York Insurance Exchange will emerge when the facility is permitted to write direct U.S. surplus lines business. At present, there is legislation pending in New York to allow the exchange to write such business in states other than New York.

That legislation has total insurance industry support and its passage will open the door for a significant increase in business. The law could be passed this year.

There are those exchange enthusiasts who have characterized the exchange as a new international market, intended to dilute the domination of Lloyd's.

However, that characterization misses the point. The exchange will achieve growth and, as it does, certainly it will affect markets that have benefited from U.S. premium dollars going overseas.

But international and multinational business exposures have also been growing and will continue to grow at an even more rapid pace. In the next decade, there will be the need for alternative insurance markets capable of assuming the

risks that will emerge.

It is estimated that over the next 10 years, the exchange will have written more than \$1.5 billion in premiums, compared to \$4.5 billion produced by Lloyd's during the period.

New Technologies and new areas of man's exploration will require multiple viable insurance markets. It will be a new era in which boundaries among internal markets will disappear and the world will look upon a global insurance industry.

With such a futuristic outlook, the New York Insurance Exchange truly represents a milestone.

Harry J. Harvey, a 30-year veteran of the insurance industry, is a member of the board of Reed Stenhouse Cos. Ltd. and of its executive committee, where he is responsible for international marketing and development.



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Exchange growth rests on rule changes

By DAVID SPERLING

Anxious to see the New York Insurance Exchange succeed as a worldwide market, state regulators are pushing hard for changes to open the market directly to out-of-

state risks.

The exchange concept, which, like Lloyd's of London, taps the financial resources of underwriting syndicates to insure commercial risks, already has imitators in Illinois and Florida. The insurance

and investment community around the world is carefully watching this toddling marketplace to see if the idea can spread successfully and if the market will have a role in the worldwide insurance business (see related story).

Though growing slowly in the past year, the New York Insurance Exchange is not yet running away with worldwide business.

The exchange is counting on the state Legislature to open a floodgate of new direct business, insiders say. And exchange brokers are pinning their immediate hopes on a bill now pending that would permit the exchange to underwrite out-of-state risks against direct domestic insurance underwriting.

Brokers complain that too much regulation—such as stiff restrictions on New York risks and the prohibition against accepting out-of-state risks—has severely hampered growth of the exchange and therefore limited the profit potential for brokers.

The bill, which was passed by the Senate in early April, would enable the exchange to compete in the excess/surplus markets of the other 49 states.

It is sponsored by Sen. John Dunne, former chairman of the Senate Insurance Committee, and Sen. Warren Anderson, the majority leader. Gov. Hugh Carey introduced the bill earlier this year as part of his 1981 legislative package, an indication of strong support.

Approval of the bill could boost exchange business by more than 100%, said Mario Carfi, chief of the state Insurance Department's Insurance Exchange Bureau.

"With passage of this bill, the exchange could have more direct insurance underwriting than reinsurance," Mr. Carfi said. Reinsurance currently accounts for nearly all the exchange's business.

The legislation, which would take effect immediately, could net the exchange an additional \$50 million in gross premiums by the end of the year, he said.

Prospects for the bill's approval are "very good," he said, but added nothing is certain.

Since opening its doors more than a year ago, the exchange's ability to accept risks has been limited almost exclusively to reinsurance. New York-based risks are eligible for the exchange only after receiving up to five rejections from New York Free Trade Zone insurers, a special group of insurers that can underwrite selected risks without regard for state rate and form requirements.

Foreign risks are legal exchange targets, but a flood of worldwide insurance capacity has kept foreign business down to a trickle.

Despite regulatory handicaps, Mr. Carfi says the exchange's premium volume for the first quarter of 1981 was \$33.7 million—a 120% increase over the first nine months of 1980.

The results, however, are somewhat misleading, he concedes, since insurance contracts negotiated in late fall generally take effect in January.

Nevertheless, Mr. Carfi attributed the slow but steady gains to "greater recognition and familiarity" with the exchange. The Insurance Department, he said, has just recently concluded a series of seminars designed to inform agencies and brokers about the placing of special risks in the exchange.

The exchange is growing not only in premium volume, but in membership, too. The exchange now boasts 48 broker members and 23 underwriting members, Mr. Carfi said. The exchange had 13 underwriting syndicates and \$60

Mario Carfi, chief of the state Insurance Exchange Bureau, attributed the slow but steady gains to 'greater recognition and familiarity' with the exchange.

million in combined total capital on opening day 14 months ago.

Despite its growth, Mr. Carfi concedes that the exchange has a long way to go before making inroads into the worldwide business of Lloyd's of London. While the exchange has an "unstated goal" of competing head-to-head with Lloyd's, he said, the market's more realistic goal is to stem the flow of

insurance dollars to London.

U.S. companies pay \$2 billion in insurance premiums to Lloyd's each year, he said. "We'd like to recapture some of that and compete in foreign markets."

The exchange, he said, plans to become more active in direct-writing business, a "move vigorously into the insurance markets of other countries."



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Times are changing for excess/surplus

By GERARD J. NOLAN

To say that this is an interesting time for excess/surplus brokers would be to understate the case by the proverbial mile. With the advent of the Free Trade Zone and New York Insurance Exchange, and the revision of state rules concerning excess/surplus lines, every New York excess broker is changing his spots or stripes.

The Free Trade Zone is a collection of various licensed carriers in New York State that have applied for a separate license, basically involving a \$1,000 fee and an office in New York state. They can write:

- Risks in excess of \$100,000 in annual premiums.
- Unique and unusual risks "from dollar one."

Previously, latter risks were placed in the excess/surplus marketplace. Without repeating the "laundry list" of categories eligible, special risks can run from "abortion clinics" to "zoos."

The basic goal of the state Insurance Department has been to accommodate classes of risks previously exported to the non-admitted marketplace and make coverage available in the licensed and the Free Trade Zone marketplace. Insurance Superintendent Albert Lewis' major concern is to be assured of securing all necessary premium taxes owed to the department without being concerned with proper reporting by excess/surplus producers on behalf of non-admitted insurers.

One of the major reasons to establish the zone was to permit insurers to have total freedom of rate and form without any necessary

Both the Free Trade Zone and the exchange are now 'alive and well.'

filings or prior approval by the Insurance Department.

Both the Free Trade Zone and the New York Insurance Exchange are now "alive and well," but with qualifications. Both must contend with today's soft direct marketplace and equally soft facultative and treaty reinsurance marketplace.

Today's conditions almost totally offset a pressing need for either the zone or the exchange. Nevertheless, the framework has been established for both, perhaps one year too early. This framework has provided the basis for writing business free of rate and form without regulatory intrusion.

Long-term value

The consensus among many professional insurance people is that both will be ultimately viable over an extended period of time, even if each is experiencing difficulty in the soft marketplace.

The New York Insurance Exchange's story began on July 21, 1978, the day Gov. Hugh Carey signed legislation that established both the Free Trade Zone and the New York Insurance Exchange. In keeping with this legislation, Superintendent Lewis put Regulation 86 into effect, which implemented the Free Trade Zone section of the legislation.

A committee was established to prepare the exchange's constitution. The committee was chaired by Mr. Lewis and other leaders of the insurance community.

Both the exchange and the zone were established in an extremely

New York Viewpoint

tight marketplace almost totally void of capacity, which seems hard to believe since it has moved almost 180 degrees to a totally open marketplace with abnormal capacity.

The goal of the exchange was to stem the flow of insurance dollars abroad, mainly to London, and to be a U.S. version of Lloyd's of London. This was not necessarily a new idea, but many thought its time had come, although the soft marketplace has had harmful effects.

At any rate, after substantial po-

litical maneuvering, the New York Legislature enacted the exchange's constitution into law. Gov. Carey signed it in September 1979.

There are approximately 90 to 100 licensed zone carriers. Some of our own excess carriers are actively participating in the zone and aggressively seeking unique and unusual lines.

As an excess/surplus broker, I feel that our firm has discerned the inevitable: We have suggested to all of our non-licensed companies that they immediately come into the zone as licensed insurers.

Non-admitted doesn't pay

The reasons for staying non-admitted have been substantially diminished with the advent of the zone. The major reasons for non-li-

censed insurers not joining as licensed carriers are:

- Assessments from the residual plans, such as assigned risk plans and fair plans.
- Regulatory control.
- Taxes.

The assessment feature is minimal since the excess/surplus marketplace represents roughly 3% to 5% of the overall property/casualty insurance marketplace. Further, with the freedom that the Insurance Department has provided in the zone, the regulatory constraints should not be a material consideration.

On the tax issue, we feel that our partners in productivity should accept this feature as a normal burden of doing business.

The New York Insurance Exchange is a separate entity aside

from the zone.

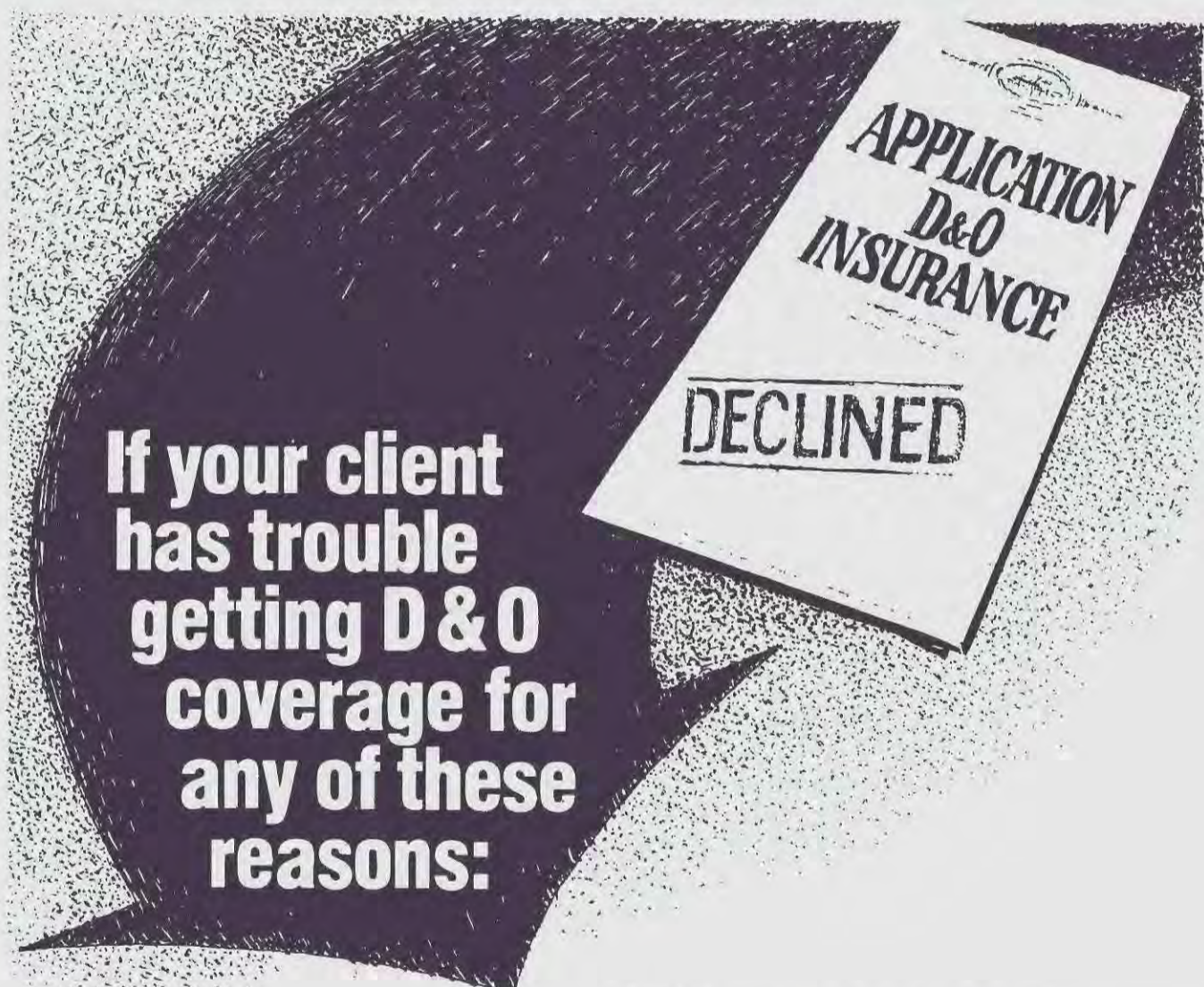
For the present, the exchange is basically handling:

- Treaty reinsurance.
- Facultative reinsurance.
- Direct New York business (theoretically rejected by the zone).
- Other U.S. direct business.
- Foreign direct business.

The exchange's plan is to produce business on classes that heretofore were not acceptable to the standard brokers, whatever that may mean in today's crazy marketplace.

The New York Insurance Exchange syndicates have extreme flexibility in doing whatever they wish to do, subject to their own treaty reinsurance commitments. Most of these syndicates are extremely well-capitalized, the mini-

Continued on next page



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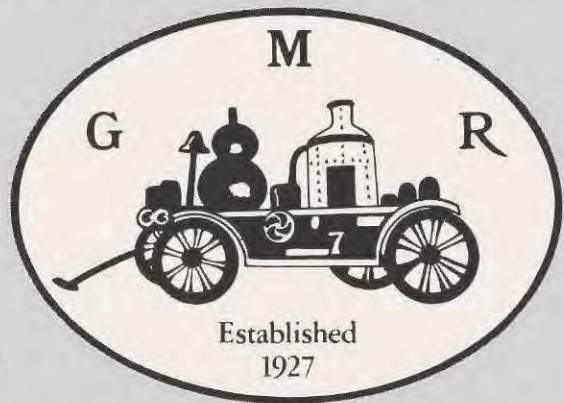
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WORLDWIDE SERVICE

Excess/surplus markets are changing in New York

Continued from previous page
mum capitalization being \$3.5 million.

Nevertheless, many syndicates are capitalized beyond this minimum qualification. If you take the present 23 syndicates plus the 60-odd brokers, you are talking about an overall investment of approximately \$125 million. As of March 1, the exchange had written approximately \$55 million of coverage. This is a tremendous accomplishment in today's marketplace.

All transactions on the exchange must be made through a broker member or an associate broker. The initiation fee for a broker member is \$10,000 and the annual dues, as presently constituted by the board of governors, are \$1,500 at a minimum and \$25,000 at a maximum. There is a further annual assessment for a broker member of \$4,000.

The associate broker must pay an initiation fee of \$1,000 plus a minimum annual assessment of \$1,500, plus a \$5,000 loan certificate, which can be redeemed. Thus it costs an associated broker at least \$7,500 to join.

Assessments can rise

A broker's annual assessment can increase, depending on the size of the staff.

Regulation 83 of the Insurance Department controls the interfacing of the Free Trade Zone and the exchange. Our company is privileged to be designated as a representative of the excess/surplus brokerage community as a member of the Broker Advisory Committee of Free Trade Zone Interface with the NYIE. The point of this "interface" is that risks theoretically are to be submitted to the zone brokers before going into the exchange on a direct basis.

The requisite declarations must be secured prior to submission to the exchange. However, this procedure may not be as difficult as it sounds. Brokers have access to the zone list and can contact the exchange directly on individual risks, subject to the interfacing frame-

work.

It has been said by some people, including this writer, that the exchange is probably the most unique and fascinating concept to come along in one's insurance career.

The zone has been met with mixed emotions on the part of some. Others, including this writer, feel that the exchange constitution provision requiring prior zone re-

why many Lloyd's brokers and underwriters are considering packing their bags and buying one-way tickets. There is no reason why there should be a substantial flow of dollars from the United States into London, particularly if we believe we have the expertise on this side of the water to write unique and unusual business.

All agents and brokers should consider the Free Trade Zone and the New York Insurance Exchange on unique and unusual special risks of an excess/surplus nature. An excess/surplus broker should have access to all Free Trade Zone companies, not just one, as well as good non-admitted excess/surplus carriers and the exchange.

It should be clear, though, that support of the zone is not criticism of the present excess/surplus marketplace, which is an excellent one.

Available markets

The agent/broker should go simultaneously to the standard markets, the zone markets and the excess/surplus markets. With this approach, the agent/broker will maximize the service he gives to his clients by seeking the most competitive premium level in all markets.

There is no doubt that both the zone and the exchange will be a success. It may not be immediate, but very few things can be accomplished in a short period of time. We must wait and see.

Time and time alone will tell whether the exchange will truly follow its original design: an American Lloyd's.



**Gerald J. Nolan
of Parkington Associates Inc.**

ection on direct business may very well be tested in the courts as being a restraint on trade, or unconstitutional.

This "testing" may very well be academic if the state Legislature revises this provision in the law, as is being suggested by some proponents (see related story).

London underwriters are, and should be, worried about a substantial loss of business, although what they will lose on the direct side, they will pick up somewhat on the reinsurance side.

When you consider that approximately 60% of the the London premium market flows from the United States, you can understand

Gerard J. Nolan, CPCU, is president of Parkington Associates Ltd. of New York City, a special risk excess/surplus brokerage. He is an adjunct assistant professor at the College of Insurance, teaching an excess/surplus lines underwriting course. He is also founding president of the New York State Excess & Surplus Lines Assn. and is a charter broker member of the New York Insurance Exchange.

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Harnessing health costs

By Kenneth W. White

HEALTH INSURANCE companies are aware of the impact of increasing costs on employers. To meet this problem, many companies have been introducing cost-saving incentives into their health insurance benefit plans.

For example in a survey undertaken late last year, the 14-largest health insurance companies were asked which cost-containment features their policies now contain were not available 10 years ago. All of the companies responded that they had added second surgical opinions for elective surgery to their standard coverage during this period. Eleven companies reported that they had covered this for more than 10 years.

Other cost-containment features incorporated over the past decade include:

- Coverage for home health care in lieu of hospitalization and as a separate benefit.
- Preventive coverage, such as routine immunizations and examinations for chil-

dren covered by plans.

- Surgical-center coverage, or in some cases, a higher percentage of allowable charges for surgery done on an outpatient basis.

- Skilled nursing facility coverage.
- Exclusion of unnecessary drugs and treatment from coverage.

- Drug and alcohol rehabilitation outside of a hospital setting.

- Organ transplants, especially in cases of advanced renal disease where the short-run cost of the transplant is less expensive over the long-run than dialysis treatments.

- Post-discharge testing, allowing many patients to leave the hospital when well-enough and return on an outpatient basis for post-treatment testing.

- Employment of staff rehabilitation specialists trained to consult with doctors in catastrophic cases in order to facilitate more effective, especially cost-effective, treatment.

As an employer, you should be aware of how common cost-saving measures are

Cost-containment steps save benefit plan budgets

being applied in the design of benefit plans. Here is a brief look at them.

Ambulatory surgery

These benefits are usually treated as an extension of inpatient benefits with the same level of coverage as surgery performed on an inpatient basis.

It is important for employers to encourage their employees to use ambulatory surgery when appropriate, stressing both the advantages to the patient and the potential savings.

Pre-admission testing

The health insurance business believes that pre-admission testing programs offer the potential for reducing both the cost per hospital admission and time lost from work. Pre-admission testing is especially appropriate in cases of elective surgery when a battery of pre-admission tests is required. Testing should be done in a hospital's outpatient facilities.

Such testing requires the extension of inpatient hospitalization benefits to cover outpatient expenses. To prevent misuse, these stipulations are often made:

- Diagnostic tests are not covered.
- Testing is covered for a limited time prior to admission.
- Testing must be ordered by the attending physician.
- A forthcoming admission must be confirmed before testing occurs.
- The hospital should not require duplicate tests.

Pre-admission testing benefits generally can be added to a benefit package at no additional cost. In one survey conducted by the Health Insurance Assn. of America, it was found that 100% of the responding companies offered coverage for cost of outpatient pre-admission tests for elective surgery.

Second surgical opinions

Despite some controversy, insurance companies view second surgical opinions as a valid long-term approach to cost saving and improved quality of health care.

Many second-opinion programs are attached as an additional benefit to an insurance plan. Still other plans automatically cover the cost of a voluntary opinion as an option.

Some programs require patients to seek a second opinion before insurance will pay for the surgery. Other programs are voluntary. In general, assistance in setting up a second surgical opinion program and simplifying the transfer of diagnostic records and tests should increase patient participation.

Home health care

Recognizing that a comprehensive range of health-care services can be provided to a patient at home, many insurance companies offer such coverage whether or not a patient has been in the hospital. This encourages providers to view home health care as separate from hospitalization as

well as an extension of inpatient care.

Preventive care

Because of their experimental nature, preventive-care benefits are not yet widely available, and when available are usually listed in the contract as additional benefits. The most widely covered benefit for preventive care to date is well-baby care. As experience is accumulated, insurance companies are likely to expand preventive care coverages.

Cost sharing

Employee cost sharing through deductibles and coinsurance provides an excellent incentive for people to use health-care services economically and for providers to deliver cost-effective services.

To prevent unduly burdensome out-of-pocket expenses, deductibles are within a reasonable range and often the coinsurance rate, for example 20%, applies only up to a ceiling above which the insurance company pays all additional eligible costs.

Coordination of benefits

Coordination of benefits minimizes duplicate claims payments, thereby cutting expenses. Under benefit coordination, the individual's health-care benefits do not exceed 100% of allowable medical expenses.

A recent study of group medical-care insurance benefits shows that coordination-of-benefits provisions resulted in savings amounting to 3.8% of total benefits.

Benefit coordination, of course, is actually an integral part of the claims process. As benefit plans have become more complex, reflecting the broadening scope of covers and expensive technologies, claims review has become increasingly efficient.

The study of the 14-largest insurance companies, as mentioned earlier, revealed that all have computerized claims payment. Most have had partially or fully operational systems since the early to mid-1970s.

All of the responding companies utilize outside auditing of large hospital bills. Virtually all of them also audit claims to spot excessive charges and submit questionable claims for peer and utilization review.

The design of benefit plans varies, of course, from company to company. Understandably, no one company applies all of the techniques listed above.

But there are enough cost-saving incentives now available to give employers a fighting chance to hold down some of the rising costs of health care and keep future costs from getting out of a firm's control.



Kenneth W. White is vp and general manager of the Health Insurance Institute.



perspective

By C. Frank Aldrich

MMUCH HAS BEEN WRITTEN recently about the "cycle" in the primary property/casualty insurance business. As usually described, it is a process in which the industry plunges from a peak of adequate prices and bountiful profits into a trough of red ink and reckless price cutting, and then bounces back. From top to bottom and back usually takes about six years.

Although the reinsurance business is affected by this cycle, it has a cycle of its own, one that reached its nadir 15 years ago and has not yet touched bottom again. The last reinsurance industry "bottom" was in 1965 when a major hurricane, coming on top of already severe underwriting losses, drove many participants out of the business.

Staying in the business then required professional performance. The companies that could provide it helped overcome the capacity crisis that followed the washout of

Reinsurance needs professional staff

1965. They were well-rewarded.

As time went on and companies in the reinsurance industry continued to make money, a false impression was created. It seemed that reinsurance operations were easy to manage, that it was easy to create large cash flows with a small staff.

Indeed, fast and profitable growth with a small but expert staff is possible in reinsurance, and this was doubly so in the aftermath of the constructed markets of the mid-

1960s.

But all too many of the companies that have entered reinsurance in the current cycle have met only part of the requirement of a small but expert staff. Their staffs have been small but not expert.

Price competition in today's marketplace is very keen. There has been a parade of new entrants to the business who have responded to its apparent attractions. Most of these new entries are soundly financed.

There is considerable anticipation that severe downturn in underwriting results is likely to alter this situation.

Many of the relatively new entrants are expected to abandon reinsurance, not because they do not have the financial resources to weather the expected storms, but simply because they do not have enough people with reinsurance expertise. Many are operating with unsophisticated staff, and many are essentially without staff, depending almost entirely on independent contractors to whom authority has been delegated.

When adverse winds blow through the reinsurance industry, these organizations will find themselves pilotless.

Viewed on a long-term basis, the key issue in reinsurance competition worldwide is staff expertise. No where is this more pronounced than in the United States, where half of the business originates and where domestic reinsurers' share of market has increased dramatically in the last 15 years.

The making of decisions in reinsurance is of particular importance. For the most part, there are no small stakes in this business.

What's more, the business is relatively unstructured. For a lead reinsurer, the question is not so much "yes or no," but "now." The possibilities are uncharted, limited only to the requirements that solutions be responsive to the client's needs and not objectionable from a regulatory standpoint.

Additionally, the individual solution must be consistent with the characteristics of the reinsurer's entire portfolio. To be a successful decision maker in these circumstances requires a broad knowledge of the business and its techniques, and acute analytical talents.

Following this approach will add a small fraction of a percent to the ratio of operating expenses to premium during a period of slow growth. But the approach is one calculated to maintain a better loss ratio than would otherwise be possible, and to maintain a position of strength for the future.

Will it take another major hurricane to send the reinsurance industry to the bottom again?

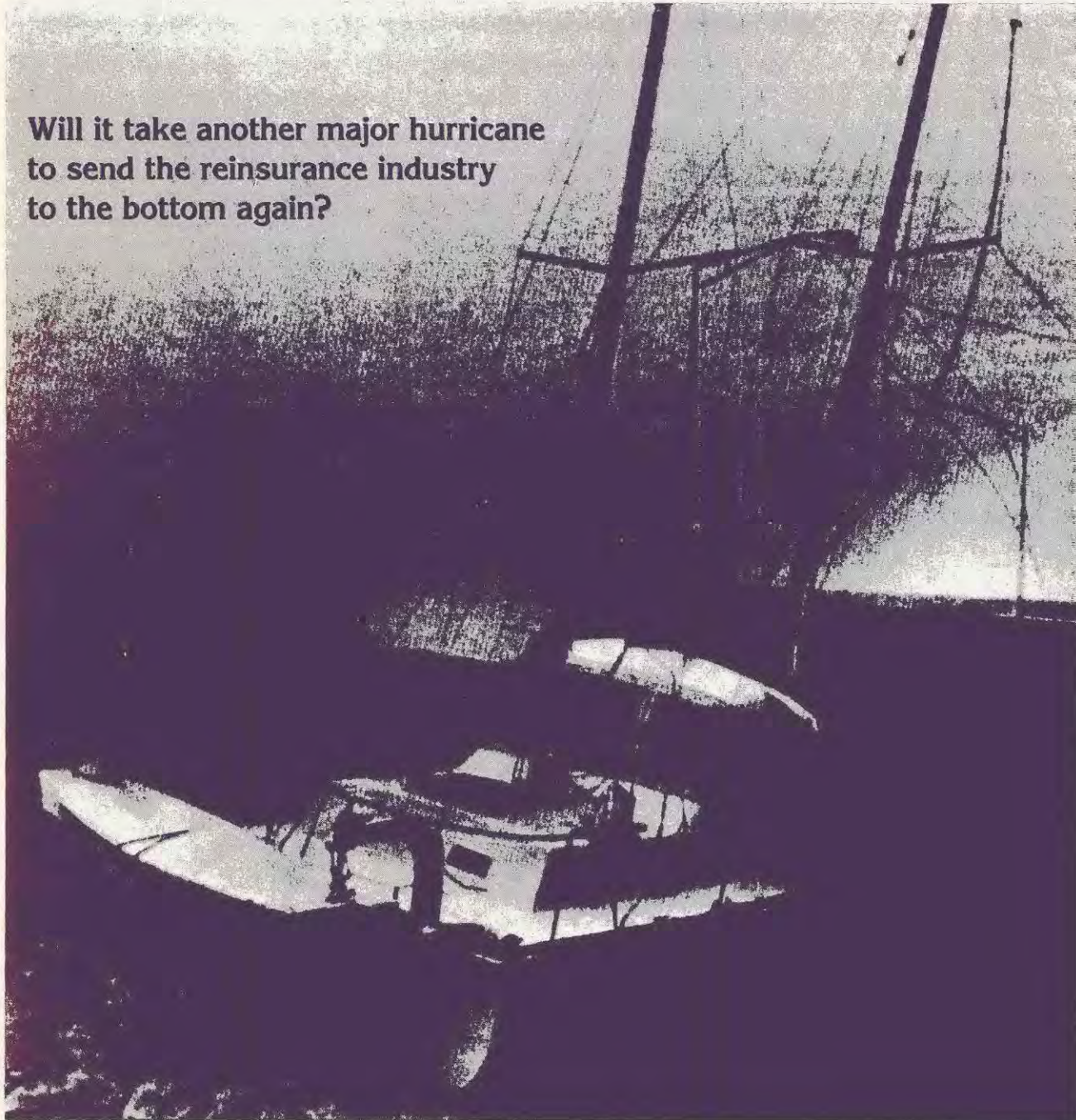


Photo: Wide World

C. Frank Aldrich is president of Kemper Reinsurance Co.



Court says liability policy was not ambiguous

AFEDERAL APPELLATE court ruled that in disputes over the proper interpretation of an insurance policy, the paramount principle of construction requires a court to consider the intention of the parties. The court held that a professional liability insurance policy was not ambiguous and clearly limited coverage to events occurring after the effective date of the policy.

Jones-Western employed T.Y. Lin & Associates to prepare shop drawings and engineering calculations for the construction of an apartment building in Anchorage, Alaska. Lin completed its work in the

legal briefs

fall of 1963. The apartment building collapsed during an earthquake in March 1964.

Starting in January 1964, Lin carried a professional liability insurance policy issued by Continental Casualty Co., indemnifying Lin against "errors, omissions or acts which occur ... during the policy period." Continental brought this action against Jones and Lin seeking a determination that it was not liable under the pol-

icy for damages that may be recovered by Jones against Lin. The trial court ruled for Continental.

On appeal, Jones argued that an event covered by the policy may have occurred during the stated policy period. The court pointed out that while the collapse occurred during the policy period, Lin had completed its drawings and calculations several months before the policy was in effect. "The policy provides coverage only

for the 'errors, omissions or acts' of the insured," the court said, "therefore, it covers only Lin's own acts or omissions and not the collapse of the building itself." *Continental Casualty Co. vs. Jones-Western & Lin*, U.S. 9th Circuit Court of Appeals, Oct. 27, 1980 (BI/03/My.-\$5).

This abstract was prepared by Cases Unlimited Inc. A copy of an entire decision may be obtained by sending a check for \$5 made out to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please list the number for the opinion.



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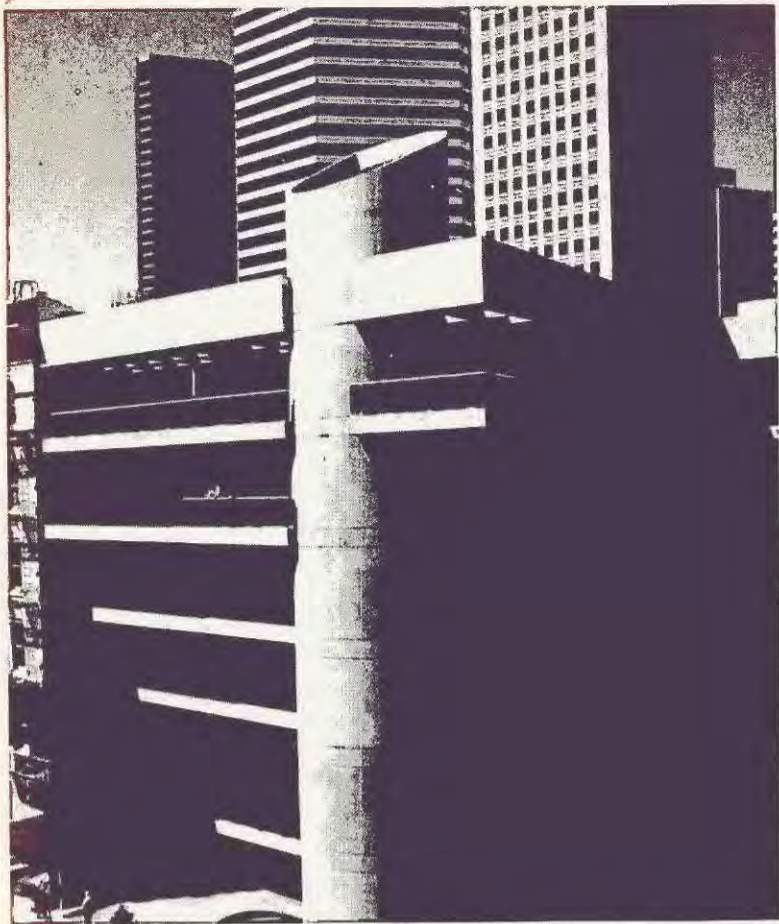


Photo: Golden Gate University

Golden Gate University features modern buildings and facilities.

Golden Gate now offering graduate insurance degree

By CAROL G. BLITZER

insurance education

SAN FRANCISCO—Golden Gate University can boast that 100% of the majors in its graduate insurance and risk management program have gone on to better jobs.

The catch is there has only been one graduate in the brand new program, says Robert K. Enriken, dean of the School of Risk Management and Insurance.

That graduate is George H. Breslin Jr., resident vp for Fireman's Fund in Phoenix, Ariz., and "a very able young man," Mr. Enriken says. Mr. Breslin was an assistant vp at Fireman's home office in San Francisco before he completed the program and was transferred.

He said the most important thing he gleaned from the program was the ability to sort out details and get into a decision-making mode.

"I had to get into the habit of being organized," he says, noting that anybody going through an evening M.B.A. program with a family, job and job-related travel to contend with has to be motivated.

Although the master's program

is very new, the university has been involved in insurance education since 1927 and has offered Chartered Property/Casualty Underwriter courses since 1946.

Thirty-seven students now are enrolled in the master's program and 13 are taking the final courses required to complete it. (Golden Gate has 10,250 students, 7,450 of whom are graduate students.) Of those about to finish, three are vps and another five are middle management, says Mr. Enriken.

Upward mobility is the prime motivator for participants in the program, Mr. Enriken says. "Most of them see it as a specialized M.B.A. program in risk management and insurance that falls into the same category as a M.B.A. does for the main business community.

"It used to be good enough to have a B.A. with a major in business or economics, but that's like having a high school diploma used to be. Now the M.B.A. is a sign to most employers that you have a career, you're serious," he says.

The need for further training in the field is demonstrated by local companies that are willing to subsidize their employees' education.

"There are scholarships available, but not all are used," says Mr. Enriken, noting that most companies pay for at least part of the tuition and offer release time.

Classes are offered mostly in the late afternoon or evening to accommodate professionals. Because students are drawn from all over the Bay area, classes are only twice a week to cut down on travel time. The school year is divided into three 15-week semesters.

To be admitted a student must have a bachelor's degree from an accredited school, have a minimum 2.5 grade point average and have a CPCU, CLU or ARM designation or equivalent experience.

While designing the master's program two years ago, Mr. Enriken sat down with insurance industry people to learn their needs. This process was repeated again last month.

"We don't have professors teaching out of 10-year-old textbooks," he says. "That's what makes our program fairly effective—matching the faculty to industry needs."

The program consists of 30 units of graduate work, half in general business topics and half in specific risk management and insurance courses. The insurance courses include advanced topics in risk management, actuarial science and underwriting, economics of insurance, research, development and marketing and social and political

issues in insurance.

Those who have not completed their CPCU designation will be required to fill in with advanced business courses, including mathematics, financial accounting, economics, marketing, organizational behavior, and computer technology.

"Our master's program utilizes case materials more than any other single approach," Mr. Enriken says. "The first required course is a case-study class. It also serves as a washout class."

Besides the master's program, Golden Gate offers an undergraduate major in insurance and courses corresponding to the 10 parts of the CPCU examination.

About 300 students are enrolled in the CPCU program with 5% of them in the undergraduate insurance program, too.

The age of the students ranges from those in their 20s to some in their 50s. "We have not nearly enough women," says Mr. Enriken, adding that five women are now in the master's program.

"In our CPCU preparation program, we have had an increasing percentage of women coming in. In some areas it's about 50-50," he says.

Women returning to work are interested in the CPCU program "because this is a way to identify themselves as career-committed and prove that they can handle the problems of the industry," he says.

The undergraduate insurance program requires completion of 123 units for the bachelor of science degree, including 57 upper-division units of which 30 must be in insurance. The program was designed for persons just beginning careers in insurance and those who have had a few years' experience.

Mr. Enriken, who received an M.B.A. from Golden Gate in 1961, is the only full-time faculty member in the master's program, but faculty lecturers are drawn from a pool of 40 to 50 local industry people. Faculty members from related fields, such as management or economics, also contribute.

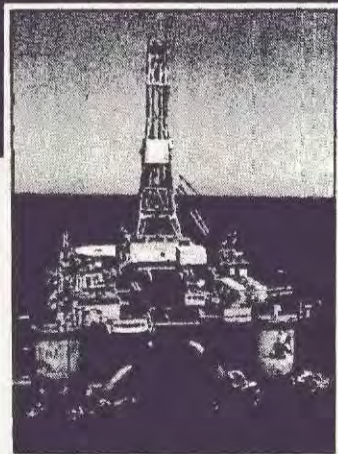
Mr. Enriken has been teaching at Golden Gate since 1953, the year he earned his CPCU. He also worked in the insurance industry until 1974 when he switched to full-time academic work.

Tuition is \$100 per unit for graduate courses and \$66 per unit for undergraduate courses, plus various registration and application fees. The school is at 536 Mission St., San Francisco, Calif. 94105; 415-442-7219.

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Robert K. Enriken is dean of risk management and insurance.

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Self-insurers:

Don't pay bogus medical claims: Physician

By STEVE SHERWOOD

SAN ANTONIO, Texas—Misconceptions about occupational diseases have made industry the underwriter of all human frailty, one physician says.

Dr. Ronald E. Gots, president of the National Medical Advisory Service, a consulting firm in Washington, D.C., urged members of the National Council of Self Insurers at their annual meeting last month to take a strategic, systematic approach to court cases involving doubtful or alleged new types of work-related diseases.

Dr. Gots said that it is commonly believed today that industry is responsible for many of the diseases and illnesses plaguing society.

"Public perception, emotional special interest groups and press that loves to print this type of story are adding fuel to the fire, along with a plaintiff bar that is quick to jump on the latest expose.

"Emotionalism is becoming the basis for court decisions."

People with relatives who die of cancer are consulting forensic pathologists to determine what caused the cancer, he said. "In most cases the workplace is blamed, or if not, then the chemical plant down the street.

"We as physicians know most cancers can't be attributed to specific origins, but there is growing assumption that it can. This has tremendous implications for workers compensation."

Courts have ordered companies to pay compensation for some so-called causes that have not been clearly linked to work-related illnesses. One of these is stress.

Stress has become an umbrella

used by claimants to obtain workers compensation benefits, Dr. Gots said. It is said to cause everything from heart disease to cancer.

"This is more in the area of popular mythology—Redbook and Good Housekeeping medicine—than medical fact," he said. "Stress is not quantifiable. It is outside medical ability to define. Stress at home may be greater than stress at the office. It is a matter of individual perception."

Still, the issue of stress has become something to be reckoned with.

"A common and popular perception is that workplace stress is related to heart disease. When this is assumed, you are into mythical data and out of hard fact," Dr. Gots said. There is argument and debate on the issue, but no concrete evidence. The same is true of cancer.

"When you move into cancer, you are in the realm of absolute science fiction," Dr. Gots said. "There is no scientific evidence that stress causes cancer."

When companies come across cases claiming illness or disability due to job-related stress, they should fight them to the hilt, he said. Expert testimony, citing the latest medical literature, should be given to show there is no solid documentation to support the argument.

The same goes for any case that might set an expensive precedent, such as one alleging a new inhalation agent is causing pulmonary disease, he said.

"You need to take a systems approach to the alleged disease and to the defense. A task force of the best experts around should be

Financing of black lung benefits in doubt

SAN ANTONIO, Texas—Assessments paid by the coal industry to cover black lung compensation benefits for miners do not come close to paying the bills, the director of the black lung program says.

Ralph M. Hartman, director of the Office of Workers Compensation for the Employment Standards Administration, a Department of Labor agency, said he is concerned about the black lung compensation program because the Treasury Department is picking up the tab for increasing amounts of benefits to disabled coal miners.

"The employers are to pay the benefits," Mr. Hartman said. "But around 90% of the cases are appealed and during the appeal the benefits are paid out of the trust."

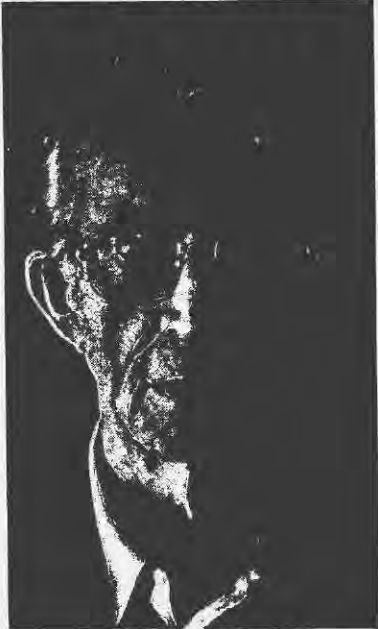
Mr. Hartman, who heads the department that administers workers compensation for 3 million federal employees and those covered by the Longshoremen's and Harbor Workers' Act and the Black Lung Compensation Act, was in San Antonio for the recent National Council of Self Insurers meeting.

The black lung trust was created in 1978 and was to be financed by an assessment of 50 cents per ton of coal mined underground and 25 cents per ton strip mined, he said. "The Treasury loaned seed money to the fund to get it started, but this was to be repaid with interest."

With so many mine operators appealing claims made by miners who say they have black lung, or pneumoconiosis, the Treasury Department has been forced to loan the trust money so it could meet interim expenses, he said. If the operator loses the case, he takes over payments and repays the fund for what has already been spent.

When no responsible operator can be found or if the operator wins

Continued on page 34



Ralph M. Hartman

Photo: Steve Sherwood

brought in to point out what is true and what is not."

Attorneys for the plaintiff often fail to establish causal links between exposures to allegedly harmful elements or traumatic events and the claimed disabilities, he said. There are several reasons for this.

First, the art of winning a case for plaintiffs lies not in logic but in emotional appeal, he said. Juries relate to a grieved claimant. Why confuse them with a probing medical analysis?

Second, their physicians, unschooled and uninterested in causation analysis of such diseases, often provide hasty reports and testimony without weighing the available data.

"The physician testifying is the treating physician," Dr. Gots said. "The patient says he has had trouble breathing since he started work and the doctor takes his word for it."

As long as the defense accepts these unsubstantiated allegations, doubtful and marginal cases will continue to succeed.

"One whose claim is valid should be compensated, but others should be forced to prove their cases," Dr. Gots said. "By adopting a logical,

systematic approach, causation analysis, the defense can make the claimant bear the burden of proof."

A thorough analysis yields facts that can be used to discredit unprepared witnesses and support the defense, he said. Used properly, the facts are powerful tools.

"What was the element breathed and what literature supports the relationship between this element and pulmonary diseases?" Dr. Gots asked.

"These are questions that need to be asked, but it is not something defense lawyers have done well. They haven't had the kind of guidance they need to ask questions that eliminate attributions not well-founded in fact."

The question of what qualifies as an occupational disease has become so distorted in recent years that most rational physicians shake their heads in disbelief, he said. "They can't believe some things being called occupational diseases are being compensated. What has happened is that industry has become the underwriter of all human frailty."

The response on industry's part has not been effective and won't be until it adopts a global or systematic approach to defense, he said. A

patchwork approach, where each case is handled one by one, does nothing to solve the long-term problem.

"The plaintiff organization is much more organized than the defense," he said. "The number of physicians concerned about corporate problems is low and few of them are intimately involved in cases."

A systematic approach identifies all potential defenses, he said. These include determining if there were pre-existing conditions that could have caused the disease, if timing were wrong between exposure and illness, if the exposure to an allegedly harmful element was too low, if there was documentation of complaints at work and others.

If these arguments are strong, defense attorneys have the tools to whittle away at the plaintiff's claims, Dr. Gots said. When the plaintiff's witnesses make unsupported claims, they can be impeached. When the exposure or injury did not or could not have produced the disorder, it can be shown why.

"The result is that the burden of proof remains where it belongs: with the plaintiff."

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Structured awards can benefit both sides

By STEVE SHERWOOD

SAN ANTONIO, Texas—Who benefits when a liability or workers compensation claim is paid by a structured rather than a lump-sum settlement?

"Everyone," Kenneth H. Wells, president of Settlement Advisors Inc. of Englewood, Colo., told members of the National Council of Self Insurers last month.

"A structured settlement benefits the claimant by having money flow to him tax-free in amounts he can manage; it benefits the claimant's counsel because he is doing a better job for his client; it benefits the court because it clears the calendar and prevents people from coming back as wards of the court; and it benefits the company because of savings in up-front cash," Mr. Wells said.

Mr. Wells' company specializes in negotiating and setting up structured or time-period settlements in cases with large claims, he said. "We address ourselves to the needs of the injured party—loss of income, future damages, medical expenses—and devise ways to meet those specific needs."

By avoiding a lump-sum payment, not only are the individual's needs satisfied because of the protection afforded to his money, but the company paying the claim can save 10% to 40%.

That's the difference in cost between the lump sum and time payments when taxes and the time value of money are considered, he said.

The lump sum needed up front to provide a certain amount of future income would be more than the amount needed to provide the same benefits if spread out over time.

Avoiding the lump sum also protects claimants' money from themselves and from others, he said.

"Industry statistics show that 90% of all lump-sum settlements are dissipated within five years," he said. "They are not spent for the

purpose intended and frequently fall into the hands of the unscrupulous or are wasted because of well-meaning relatives."

Most claimants are not professionals at handling money and do not know how to make a large lump sum last, Mr. Wells said.

If the settlement is spent too quickly, it is not going where it is supposed to and the claimants may end up on the welfare rolls, with society having paid for them twice.

Taxes on investments of lump sums may also eat away at the claimant's money since he may not have the financial background needed to devise tax shelters, Mr. Wells said. "But money spent over a period of time, if structured properly, will flow to him tax-free."

Most of Settlement Advisors' work over the past five or six years has been in liability cases, Mr. Wells says. However, workers compensation has been demanding increasing amounts of the company's time, making up 15% to 20% of its business.

Cases in which structured settlements are advisable usually involve total or partial loss of the ability to earn income, he says. They become financially practical when the award is more than \$100,000, with most cases ranging from \$300,000 and \$500,000.

Purchasing annuities for the claimant to provide future income is an important part of a structured settlement, but Mr. Wells emphasized other features are also important. The claimant may receive out-of-pocket expenses up to the time of the settlement, medical rehabilitation funds, attorney fees, educational annuities for dependent children and even lump sums paid at intervals to cover cost of living increases.

Unlike the traditional method of setting up trust funds, which may become open for invasion by the claimant at too early an age, the structured settlement, if properly set up, provides guaranteed income for a given period.

National Council of Self Insurers

The National Council of Self Insurers, which held its annual meeting in San Antonio last month, was organized in 1945 to serve as a national forum for self-insurance associations of various states.

Its objective is to promote and protect the interests of self-insurers on matters affecting workers compensation. In 1972, the council's constitution was amended to allow a broader membership base, including corporate members and a special category of professional membership that includes attorneys and third-party administrators.

"With the structured settlement, we know that 20 years from now the individual still will be getting a check each month and will be able to pay his bills," Mr. Wells said. This is not always true in the case of a trust.

"Those who set up trust funds for a minor seldom do him a favor," he said. "The age of majority now is 18. If any of us as 18-year-olds were suddenly able to invade a \$200,000 trust, I doubt if many could manage it well."

Structured settlements carry with them the ease of setting up a vehicle for payment of claims without going into spendthrift clauses and trying to save the claimant from himself.

Major barriers to structured settlements include future medical

costs and attorney fees, he said. These can be overcome by careful planning.

"Future medical costs are always a stumbling block," Mr. Wells said. "Sometimes they are put into monthly payments, but more often they are put into a special trust that can be invaded only for specified reasons."

In extreme cases, a revisionary medical trust is established whereby a time limit is put on the medical funds and if not used within that time, the remainder and interest reverts to the defendant. "If the money is truly meant to cover medical costs, the claimant will not object to such a fund," he said.

Attorneys' fees can be a problem in structured settlements because

the claimant's counsel may fear a reduction of income when compared with what he would have received under a lump-sum settlement.

"If you want to enter into a structured settlement, don't phone the claimant's counsel and tell him you want to discuss structured settlements," Mr. Wells said. "When that happens he will wonder: 'My God, what is happening to my contingency fee?'"

If a company asks the attorney to step into unexplored ground, he will likely refuse and demand cash, he said. The attorney should be approached with a stated willingness on the company's part to settle but with several alternatives, one of which is the structured settlement.

Once the plaintiff's attorney sees the structured settlement is to his client's advantage, the issue often becomes one of fees.

"Frequently we get rid of the attorney fees up front," Mr. Wells said. "If not, and the settlement is put together in the best interest of the client and within the company's reserves, but if the attorney's fee is all that is holding it up, it puts the company in a good bargaining position."

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Black lung trust low on funds

Continued from page 32

the case, the trust fund keeps paying the benefits, Mr. Hartman said. "It hasn't worked out well because of the drain on the treasury and budget."

Before long, the trust fund's deficit will reach \$1.5 billion, he said. "Unless something is done, by 1935-86 there could be a deficit of \$6 billion."

Currently, the Labor Department is paying some 90,000 coal miners under the black lung portion of the Federal Coal Mine Health and Safety Act of 1969 and mine operators have accepted responsibility for 3,500.

Amendments in 1972 and 1978 brought strip mining under the act and created the trust fund.

"All claims made before Jan. 1, 1970, were processed by the Social Security Administration," Mr. Hartman said.

"That money was financed totally from the federal treasury. It is my understanding that those claims amount to around \$1 billion a year."

The cost of the Department of Labor's black lung program is about \$800,000 a year, 20% of which is funded by the assessments on coal operators. The remaining 30% comes from Treasury Department loans.

Benefits are equated to a GS-2 wage level on the Civil Service scale, Mr. Hartman said. "It is 50% of that, running from \$252 a month for a single disabled miner with no dependents to \$540 a month for a miner with three or more dependents."

An indexing factor tied into the federal pay scale assures an escalation of benefits each time salaries are increased. The benefits are lifelong, and there are survivor rights for widows and dependent children.

Some method will have to be found to finance the trust fund if it is to remain solvent.

"The statute clearly provides that loans to the trust fund be paid back," he said.

"We will have to come up with some type of formula to assure increased income to the fund."

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GOP counsel says reforms in Longshore Act needed

SAN ANTONIO, Texas—The Longshoremen's and Harbor Workers' Act is a monstrosity and desperately needs to be reformed or repealed, says Bruce C. Wood, minority counsel to the House Committee on Education and Labor.

Speaking to members of the National Council of Self Insurers during its recent meeting, Mr. Wood said bills by Rep. John Erlenborn, R-Ill., and Sens. Don Nickles, R-Okla., and Sam Nunn, D-Ga., are designed to amend the worst portions of the act.

He said amendments passed in 1972 "perverted what had been traditional workers' compensation into a new form of social welfare."

"The Longshore Act, as I'm sure many of you realize who are unfortunate enough to be covered by it, is unlike any other workers' compensation law," he said. "Workers' compensation is meant to compensate workers for wages lost due to an employment-related injury."

But the Longshore Act adds pension, life insurance and punitive damages to workers' compensation, he said.

"This excess baggage is entirely incompatible with its philosophy. Not surprisingly, the upshot has been a truly stratospheric increase in premiums, retention rates and workers' compensation costs."

He said one self-insured employer, covered under the act, faces an annual loss-retention cost of \$1 million.

The act's average per-claim cost jumped from \$1,378 in 1971 to \$5,840 today, an increase of 324%, Mr. Wood said. The cost of living

during the same period rose 78%.

Any remedial legislation must at least rid the statute of its pension, life insurance and punitive damages provisions, he said, adding that both the Erlenborn bill, H.R. 25, and Nickles-Nunn bill, S. 1181, would do this.

"Gone (in the proposed bills) are the pension characteristics of paying benefits for life—past retirement—for permanent partial and temporary total injuries," Mr. Wood said. "Payment of these benefits could not extend beyond the prevailing retirement age."

While the bills provide for life-long payment of compensation for permanent total disability, its definition has been tightened, he said. In addition, they provide an offset formula for Social Security, pension and unemployment benefits.

"Gone as well are the act's life insurance characteristics that provide lifetime survivors' benefits even where a permanently disabled worker dies from causes unrelated to employment," he said.

Punitive damages crept into the Longshore Act through the awarding of permanent partial disability benefits on the basis of anatomical medical ratings and alleged loss of future wage-earning capacity, he said. Such awards can now be made despite an employee's return to work with no loss of wages.

"To rid the law of this absurdity, both bills redefine wage-earning capacity," Mr. Wood said. They place on the worker the burden of proving his wage loss was due to a work-related injury.

"If an employee voluntarily limits his income, his wage-earning capacity is that amount which he

would otherwise have earned. If he fails to accept employment up to his abilities, his wage-earning capacity is the amount he would have earned in appropriate employment."

These changes, coupled with mandatory rehabilitation of injured employees, should encourage a worker to return to work and eliminate abuse, he said.

The bills also attempt to redefine the Longshore Act's jurisdiction, Mr. Wood said. The act has been stretched far beyond the scope of its original intent, which was to provide workers' compensation to maritime employees, and now covers grain elevator operators, recreational boat builders, marine operators and others, he said.

He blamed this on vague language and extremely rich benefits, which encourage workers to file claims under the Longshore Act rather than under state compensation programs. The new bills narrow the types of workers covered.

A big sore spot in the act is its Section 20 presumption, which states that claims are presumed to be valid.

Mr. Wood quoted Sen. Nunn as saying, "Our hearings identified that presumption as one of the main factors contributing to the success of the fraudulent claims racket. Time and again we heard that the Section 20 presumption presented a nearly insurmountable hurdle for an employer who attempts to dispute the validity of an apparently fraudulent claim."

The presumption has led to simple abuse, Mr. Wood said. Employers have cited it as the most damaging provision of the act.

Self-insurance group wants expertise of risk managers

SANTA ANA, Calif.—The Self Insurance Institute of America needs the expertise of risk managers, says its executive director.

The SIIA, an organization designed to promote communication and professionalism among suppliers and buyers of self-insurance services, began its membership drive April 20. It already has 22 brokerage, insurance and third-party administration member firms and is now trying to enlist risk managers, said Jim Kinder, the institute's executive director.

Risk managers will play a key role in educating other members about services their companies need and want, Mr. Kinder said. "I believe risk managers will be our backbone."

The SIIA's purpose is to promote self-insurance and establish educational programs for members, he said. By pooling resources and sharing expertise from both industry and consumer viewpoints, the institute hopes to improve management of self-insurance programs.

"We want buyers to tell us what they are looking for and we, in turn, shape the administrators to meet the needs of the market," Mr. Kinder said.

"We want self-insurance administrators to anticipate and plan the future, not to react to it as they have always done."

One goal is to make sure the end product given to the buyer meets professional standards, he said. The SIIA is developing a code of professional conduct and standards that deals not only with standardization of administrator-client contracts but attempts to set levels of professional behavior.

A long-range objective, which may be met within a year, is to begin a professional certification

program for third-party administrators, Mr. Kinder said. A committee is being formed to outline the program.

"With the amount of movement toward self-insurance, some sort of certification program is needed," he said. "If the industry doesn't do it, the government will."

Too many small companies without access to risk management do not know the proper limits of their programs, Mr. Kinder said. "A lot of times those selling them do not identify the maximum liability they face. We want to be sure consumers using alternate funding techniques do so within their limits."

To be sure the certification committee remains objective, it will be made up of risk managers, not administrators, he said. "We don't want the administrators certifying themselves."

Also in the wings are plans for the formation of a political action committee to monitor and act upon state and national legislation that could affect the use of self-insurance.

"This is probably 24 months down the line," Mr. Kinder said. "Self-insurance is the way of the future; therefore, we want to counter any legislation that tries to block it."

Annual dues range from \$500 for administrators to \$25 for students. A consumer firm can join for \$350.

For more information contact the Self Insurance Institute of America, 1700 E. Dyer Road, Suite 165, Santa Ana, Calif. 92705; 714-979-6318.

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Insurance in doubt for \$6.8 million award

Continued from page 1

Mr. Utesch broke his neck when he dived into the hotel's swimming pool from the diving board and struck his head on the bottom. He claimed that the diving board should not have had a spring because of the small size of the pool. He also cited inadequate depth markings and illumination and the lack of bottom markings.

Mr. Utesch also claimed there was no lifeguard present at the time of the accident and that he was removed from the scene without a backboard, which could have aggravated his injury.

The jury ruled against two AMI subsidiaries, the Atlas Motor Inns Inc. and the Flamboyant Investment Co., and against Holiday Inns Inc., licensor of the hotel.

Flamboyant developed and owns the luxury hotel; Atlas operates it, and Holiday Inns is paid for the use of its franchise name.

Flamboyant was tagged with 40%, or \$3.2 million, of the liability in the judgment. Atlas has to pay 25%, or \$2 million. Holiday Inns was judged 20% liable for \$1.6 million.

However, all of Holiday Inns' loss exposure has been indemnified by AMI so it must pay Holiday Inns' share, according to Holiday Inns spokesman Jerry Daly.

Of the two insurance companies listed in court records as providing coverage for AMI, one has been liquidated in Puerto Rico and the other seemingly wants to limit its liability for the award.

At the time of the accident, the primary insurer for Atlas Motor Inns was the Commonwealth Insurance Co. of Puerto Rico, which was placed in liquidation by order of the San Juan Superior Court on Dec. 8, 1977.

A spokesman for the Puerto Rican Commission of Insurance indicated that no funds from Puerto Rico's guaranty association are available to Atlas since the company's claim was not filed in Puerto Rico or against Puerto Rican property.

Atlas must instead go through a liquidator, in this case Puerto Rican Commissioner of Insurance Rolando Cruz. While the Insurance Commission has "some funds available," the commission spokesman would not cite the exact amount available for claims.

Harbor Insurance Co. is listed in court records as an excess insurer for Atlas for an undisclosed amount above \$300,000.

In an interrogatory filed with the court by AMI, the company states that Harbor also has agreed to be the insurer for Flamboyant for up to \$5.3 million. There is no indication in court records that Flamboyant has either primary or excess insurance coverage through any other insurer.

But Ed Hughes, executive vp at Harbor, said his company is not automatically assuming that it will insure Flamboyant's \$3.2 million share of the judgment.

"We have a disagreement on that part," Mr. Hughes said, and he suggested that Harbor may go to court over the coverage.

"The probabilities are that there will be (litigation) if none exists now," he said.

Mr. Hughes also said that Harbor is not automatically required to dip

below its excess coverage and plug the gap left by Commonwealth. Atlas, he pointed out, self-insured the first \$300,000 of its loss exposure after Commonwealth was placed in liquidation.

If Harbor has not decided that it will cover the entire \$6.8 million judgment, AMI officials are assuming it will. Robert S.D. Moore, a Roanoke-based attorney who acted as trial counsel for AMI, said the company assumes Harbor will provide the coverage not only for Atlas, but for Flamboyant and Ho-

iday Inns as well.

Mr. Moore cited an order entered in U.S. District Court for the Western Division of Virginia directing Harbor to provide \$5 million in excess coverage for AMI.

"We interpreted that to include Atlas, Flamboyant and Holiday Inns because of the contract," he said.

"We assume that Harbor has excess coverage for all the defendants and we're proceeding on that basis," he said. "If it (the judgment) is not reversed or appealed, Harbor

is going to have to pay it."

Harbor did have a chance to approve a pretrial settlement worth \$2 million and made two settlement offers of its own.

The insurance company first offered Mr. Utesch a \$650,000 cash settlement with structured payments over 20 years worth an additional \$300,000. Mr. Moore said. And on May 18, the day the trial began, Harbor made a second offer of \$1.5 million to Mr. Utesch.

"Harbor fully assumed the role of excess insurer in making that

offer," Mr. Moore said.

Both settlements were turned down by the plaintiff, however. Peter Martin, Mr. Utesch's attorney in the Virgin Islands, said the AMI attorneys indicated that they could get Harbor to approve a \$2 million settlement. Mr. Utesch would have accepted that offer if it was done "quickly," Mr. Martin said, but AMI could not get Harbor's approval.

AMI has indicated it will appeal the judgment to the U.S. Court of Appeals.

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Lloyds to poll members on divestment

Continued from page 2

it appeared the opposition would kill the bill.

Lloyd's retreated by announcing its members would have to approve of both broker divestment of agents and separation between member and managing agents by a special mail ballot. And they warned that the members won't approve of separating member and managing agents.

"We don't think we'd get support for this," warned Lloyd's counsel Peter Boydell, trying in vain to convince the members of the parliamentary committee against pushing the issue.

To break up all members agents from all managing underwriting agents would "be disastrous for Lloyd's," said a Lloyd's member.

"I think the parliamentary committee was misled. I think this is terribly serious. It would damage Lloyd's enormously," said a Lloyd's source. It would create an unprecedented fissure in the marketplace where member and managing agents have been linked for ages.

"It's an absolute shock," whispered a spectator in the House of Commons when he heard committee Chairman Michael Meacher announce: "It is the view of this committee that we are requiring separation of interests between all member agents from

managing agents."

To poll its members as quickly as possible, Lloyd's has to tackle another complicated procedure.

Lloyd's must change its present bylaws under its Act of 1871 to provide for a postal ballot. Lloyd's will hold what are called two extraordinary meetings of its members responding to posted meeting announcements. The meetings will be held June 9 and 17 to fulfill the bylaw procedure. The recorder of the city of London must approve the bylaw.

With the new bylaw, Lloyd's can conduct a referendum of its 19,000 members on these issues and expect an answer by July 20 when the parliamentary committee discussing the bill reconvenes.

The Lloyd's bill faces more trouble then. The four-man committee could kill the bill if Lloyd's members vote against one or both of the divestments. Or the committee could pass it to the full House of Commons for a vote with or without the new provisions.

More debate over the immunity from liability clause is also expected. Malcolm Pearson, a supporter of two Lloyd's members who are petitioning against the bill, is strongly opposed to this immunity and says he hasn't exhausted his options against this clause.

Senate to consider longshore reform

Continued from page 2

act. "I couldn't see anything happening before with Sen. Williams in control," said Andre Maisonpierre, senior vp of the Alliance of American Insurers.

"Now I'm optimistic about getting a bill out of the Senate," he continued.

Advocates of longshore reform also are banking on the Reagan administration to drop its public silence on the issue and support change.

"I hope and expect support from the administration," said Rep. John Erlenborn, R-Ill., who has introduced a bill, H.R. 25, similar to Sen. Nickles' in the House of Representatives.

The administration is studying the two bills and is aware of problems employers face with the Longshore Act, said Robert Collyer, deputy undersecretary for Employment Standards Administration at the Department of Labor.

But even the most zealous advocates of reform concede that accomplishing it will be an uphill battle when the legislation is considered in the Democratic-controlled House.

"I expect that liberal Democrats on the House Education and Labor Committee (which has jurisdiction over the legislation) will be strongly opposed," said Eric Oxfeld, associate director of employee benefits at the U.S. Chamber of Commerce.

"I'm optimistic about the Senate," said Thomas Wilcox, executive director of the National Assn. of Stevedores. "The House is a different story."

Lobbying efforts

A growing coalition of insurers and employers will launch an attempt to convince Congress that previous amendments to the federal Longshore Act, which quadrupled benefits and extended the scope of the act to cover a huge new class of workers, have created nightmarish costs for the maritime industry.

For example, in 1972, Fairhaven Marine Inc., which operates a shipyard and construction yard in Fairhaven, Mass., paid \$21,000 in benefits for injured employees. Today the company pays five times as much—\$100,000—for longshore benefits.

"These costs are killing the small boatyard companies," said William H. Potter, president and treasurer of Fairhaven Marine, which employs about 60 workers.

Both Sen. Nickles' and Rep. Erlenborn's bills may offer shippers and stevedoring firms relief from rapidly escalating longshore premiums.

The National Council on Compensation Insurance earlier estimated that premiums would drop by about 10% annually if three major provisions contained in both the bills were enacted into law:

- A 3% limit on annual benefit increases, which would cut by premiums 7.4%.

- Elimination of death benefits payable to survivors of injured employees who die from causes unrelated to an on-the-job injury.

- Capping death benefits at 200% of the national average weekly wage.

The combined effect of these last two reforms would cut premiums 2.5%, NCCI says.

The 3% cap on annual benefit increases would replace the current formula of linking benefit hikes to increases in the national average

weekly wage.

Last year, the average weekly wage increased 7% and compensation was increased by the same amount.

"Without a benefit cap, insurers can't estimate what their costs will be, making it impossible for them to set up reserves for a claim," Rep. Erlenborn said.

The two bills also would overturn a 1979 Supreme Court decision that widows are entitled to up to two-thirds of the deceased workers' weekly wages without an upper limit (BI, March 5, 1979).

Under the new legislation, survivors' death benefits would be limited to 200% of the national average weekly wage, subject to a weekly maximum of \$456.

Since some maritime workers can make as much as \$800 a week, the savings from these limits on death benefits would be substantial.

The bills propose that longshore benefits for the first time be integrated with other benefits, such as Social Security and unemployment compensation.

Without benefit integration, an injured maritime worker can earn more by not working than by returning to the job, making it difficult for rehabilitation programs to work, experts say.

Under another section of the bills, the jurisdiction of the Longshore Act would be limited to the "point of rest," the spot where the cargo comes off the ship and is put on the ground.

This proposal is important because recent court decisions have vastly expanded the scope of the act to cover more classes of employees, such as workers who "strip" cargoes in warehouses.

In many cases, no one is sure where jurisdiction lies until after a claim is filed.

Resolving this issue is vital because benefits payable under the federal act are more than double the benefits payable under many state workers compensation programs.

Without a solid definition of the scope of the law, underwriters face enormous difficulties setting proper reserves for claims, maritime experts say.

Workers who build and service recreational boats—vessels less than 70 tons or 65 feet long—also would be excluded from the federal program unless they were unable to obtain benefits from a state workers compensation program.

More criticism


The Longshore Act, which was passed in 1927 to provide compensation for maritime workers injured on the job but not eligible for state compensation, came under fire last year in a contractor's report ordered by the Department of Labor.

That report, prepared by Cooper & Co. of Stamford, Conn., found that high benefits have created a "negative incentive to return to work," inflating costs and stretching out disability periods (BI, Jan. 21, 1980).

Rep. Erlenborn warned that if Congress doesn't act on the Longshore Act, jobs will be lost as shippers shun American ports for foreign docks because of high workers compensation costs in the United States.

Meehan Seaway Service Ltd. of Milwaukee confirms that it has lost business to Canadian ports partly because of high workers compensation costs mandated by the act that have to be passed on to customers.

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California rejects user-funding plan

Continued from page 2
 cussion in the Assembly Ways and Means Committee, which was under pressure to move ahead last week on final action on the budget. The user-funding plan and enabling legislation were dropped from the budget package to quiet further debate.

There is still a dim possibility that the plan could be resurrected when a legislative conference committee meets soon to iron out differences in the Senate and Assembly versions of the budget, said Sara Cory, chief of ancillary services at the Division of Industrial Accidents, which administers the workers compensation system.

Senate Bill 2031 remains as a vehicle for user funding, strongly urged by Franklin O. Grady, administrative director of the Division of Industrial Accidents.

"The ability to maintain a viable workers compensation program within the state ... under current condition in California (is) probably dependent upon a program of user funding," concluded Mr. Grady in a 16-page written analysis prepared last December.

In that report, Mr. Grady pointed out that the Division of Industrial Accidents staff is inadequate to perform the services required of it, creating delays in the litigation of disputed claims and other services.

His recommendation calls for funding of 135 new positions at an additional cost of \$4.8 million. The staff increase is needed to reduce the present backlog of work at the appeals board, rehabilitation bureau and the information and assistance program, he explained.

By requiring business to foot the bill, costs would be passed on to the public through the pricing mechanism, argued Mr. Grady. "In a competitive market, those industries with a lower workers compensation expense would have a competitive market advantage over those with a high expense."

Staff expansions would streamline delivery of services to employers and injured workers, which eventually would reduce the costs of the system, Mr. Grady said. These advantages to employers include:

- Speedier approval of vocational rehabilitation plans, increasing their prospects for identifying new employment for injured workers and cutting costs of temporary disability.
- Speedier litigation of disputed claims, reducing the demand for costly medical/legal reports.

Employers, however, are skeptical of a budgetary process that appears to invite unrestrained growth in the administrative bureaucracy. "How much growth or staff augmentation will there be with this proposal?" asks the California Self-Insurers Assn.

When the user-funding proposal first surfaced out of the Division of Industrial Accidents, it envisioned 121 new positions. Since that time, the request has grown to 135. According to Ms. Cory, this is because the department is falling further behind in its work.

The mechanism for allocation of the workers compensation tax among employers has undergone numerous changes, some of which have not yet been incorporated into S.B. 2031, sources close to the proposal report.

For insured employers, the charges probably would be based on a percentage of standard earned premium. The assessment would be collected by workers compensation insurers and remitted to the state Department of Industrial Re-

lations. It is estimated that 64.4% of the administrative budget would be charged to insured employers.

For self-insurers, the assessment probably would be pegged at a percentage of indemnity payments made during the prior calendar year. Medical-care costs would be excluded from the calculation. Remittances would be collected by the director of the Department of Industrial Relations, of which the DIA is a part.

According to a formula established by the DIA, self-insurers would provide 19.5% of the funding for the system. The general fund would provide the remaining portion of the cost related to public sector employers.



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Boeing captive ready to fly

Continued from page 1
credit and an operating fund of about \$250,000, according to the Colorado insurance division. The minimum capital and surplus requirements in Colorado are \$750,000.

Commissioner J. Richard Barnes said that Boeing did its homework when it set up the captive. "I've seldom seen a parent analyze its needs so thoroughly. It was a very solid, top-level business decision with them," he said.

"They told us that they felt our supervision and regulation is in

their best interests. We also feel strongly that we have regulations that should overcome IRS objections to tax deductibility of premiums."

But federal income taxes had "little or no bearing" on Boeing's decision to form a captive insurance company in Colorado, Mr. Hoff said.

Aetna Casualty & Surety Co. will front the Colinco program, he said. However, he declined to discuss details of the arrangement or the levels of risk that would be

reinsured through Colinco.

Johnson & Higgins in Denver will manage the new captive. "They have been our brokers for many years and we have faith in their ability," Mr. Hoff said.

"To run a captive in Colorado, we will need a separate corporation there," said Richard E. Meyer, J&H senior vp and director in charge of risk management services. "We anticipate that will be established within a few days," he said last week.

J&H already has accounting and claims staff in Denver, and the New York office will provide support to the new management company. "We don't intend to transfer anyone out there for now," Mr. Meyer said.

He said that formation of a Colorado captive management company demonstrates the J&H approach of following their clients to domiciles that meet their business needs.

"We're very interested and active in the captive movement," he explained. "Up to now we've concentrated in Bermuda because that's where the opportunities were. Last year J&H opened a company in the Caymans. With the tax situation, people are beginning to look more at domestic domiciles."

Officers of Colinco Inc. include: Harold Haynes, president; John M. Look, vp; Andrew Stephen, secretary; and Wayne A. Travis, treasurer.

Firms devise transit strategy

Continued from page 1
Bank, 500 to the Chicago Board Options Exchange and the rest to other nervous South Loop companies.

● Sears, Roebuck & Co. employees will gather at its former West Side headquarters and will be shuttled to the Sears Tower headquarters downtown. Car pools are being formed at outlying stores.

Despite the best-laid plans, however, these emergency strategies can keep the city running for only so long.

The Chicago Assn. of Commerce & Industry predicts a \$3.7 million loss to retailers per day in a total shutdown, with an added loss to the state of \$182,000 in sales tax revenue.

First National Bank economist Nina Klarch said those figures are

acceptable only if the downtown area is socked with an 82% absenteeism rate, which she does not think is likely.

"What's really going to hurt companies is the loss of productivity, not to mention the overtime fees to employees who do make it in, and the prices of hotel rooms and food. Those costs won't be made up," she said.

No clear consensus on pay policy emerges from a survey of Chicago companies.

The U.S. Postal Service and Commonwealth Edison Co. reflect many employers who expect their employees to get to work during a transit shutdown or be docked a day's pay, unless they choose to take a vacation day.

—Crain News Service

Vermont beats risk act

Continued from page 3

at least one annual meeting in the state.

The definition of principal place of business has not been established, but it appears that management of the captive will satisfy the requirement.

To maintain the integrity of applicants, Vermont Insurance Commissioner George A. Chaffee said he will oversee an advisory committee that will screen all applicants, monitor legal developments and guarantee orderly growth of the captive industry in Vermont. The state then will conduct spot examinations and require special deposits "if we see trouble," Mr. Chaffee said.

Although the law prohibits direct underwriting of workers compensation risks, captives can reinsure workers compensation risks from a fronting insurer. Reinsurance of a fronting company is required anyway under state laws mandating use of approved workers compensation insurers.

Despite the reduced regulation, Vermont does not expect to displace other captive jurisdictions, Mr. Chaffee added.

Risk managers at the seminar agreed.

"I don't expect a great exodus from Bermuda," but the Vermont law will make it desirable to operate onshore," said Thomas A. Duffield, vp of insurance and risk management for Archer Daniels Midland Co. of Decatur, Ill.

Vermont probably will turn out to be the most favorable of the on-shore domiciles for companies that want to be close to their captives, other risk executives said.

Mr. Chaffee hopes to receive four to five applications a month and 100 captives operating within three to four years.

His office has been receiving two to three inquiries a day about the new law, many from potential applicants and others from captive management companies, consultants and attorneys.

Captives wishing to reincorporate in Vermont should have little legal trouble, said John J. Sarchio, an attorney with LeBoeuf, Lamb, Leiby & MacRae in New York, which advised RIMS on the law.

"There are no restrictions on the mode of redomestication should you decide to go that route," he said.

He said a "sunset provision" in the pending Risk Retention Act may force some offshore operations insuring product liability risks to return to the United States and some may incorporate in Vermont.

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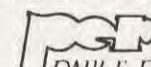
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*Source: Business/Occupational breakdown of qualified circulation, Nov. 3, 1980 issue, Dec. 1980 BPA Publisher's Statement.



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Transit risks are funded

Continued from page 1
 train crash that left 11 dead and 210 injured (BI, Feb. 21, 1977).

"We're looking at excess again, but the market is not that soft for rail service," said CTA risk manager Sal Bianchi.

The CTA, which moves 850,000 commuters daily on buses and elevated trains, paid \$8.7 million for workers compensation and general liability claims in 1980 and budgeted \$9.5 million for claim settlements in 1981, he said.

Just how much of this year's allotment already has been eaten up cannot be made public, Mr. Bianchi said. He only acknowledged that "some funds have been set aside."

The funds are adequate to cover losses now, but Mr. Bianchi admits the CTA does not have enough money in its reserves to cover claims that might linger five years down the road.

The transit authority has never defaulted on paying claims in the 18 years he has been with the CTA, he said, and during that time the transit authority has experienced a few other near collapses, he added.

Another view of the CTA's liability was outlined recently on the editorial page of The Southtown Economist, a Chicago-area newspaper. It said the CTA had \$100 million in personal injury lawsuits pending against it and that 35% of its employees have filed workers compensation claims.

The CTA won't give out any "financial information" to support or refute those figures because of the pending transit shutdown.

Mr. Bianchi denied they were accurate, however, saying Chicago's transit system "in no way has \$100 million in claims pending against it. It's a lot less."

The report that 35% of the CTA's employees have filed workers compensation claims also is erroneous, he said, adding that about 3,000 employees, or 22% of its workers, filed workers compensation claims in 1980.

He would not say how many of those claims from last year were paid or are still pending.

Group benefit plans for employees are a top priority for the CTA. "As long we're in business and employees are working, the health insurance will be in effect. If there is a temporary shutdown and employees go without a payday, they will keep their benefits," he said. "If they strike, benefits will lapse."

The CTA's group health and accident insurance is underwritten by The Travelers Insurance Co.

The Regional Transit Authority, the funding authority for the CTA and bus carriers and commuter railroads in six Chicago-area counties, says it's in pretty good shape to cover its liabilities.

The RTA has a \$100,000 deductible for its general liability insurance with Transit Casualty Co. in St. Louis and up to \$40 million in umbrella coverage with Transit and three other insurers, Ms. Cogtella said. The premium averages about \$25,000 a month.

The RTA has some \$630,000 left in its coffers specifically reserved for liability claims under its deductible for this year, Ms. Cogtella said. Already \$80,000 of the \$710,000 budgeted for losses has been paid.

The agency paid out \$325,000 in 1980 under its liability deductible.

Shutdowns of suburban bus lines in the last couple of weeks have stranded riders but have actually helped to keep the agency's liability losses down and reserves healthy, Ms. Cogtella said.

The mild winters that northeastern Illinois experienced for the last two years also helped hold down liability and property losses compared with losses during the bad winter of 1979.

All eyes in the Chicago area are now on the Illinois Legislature, which is trying to prevent the pending transit crisis.

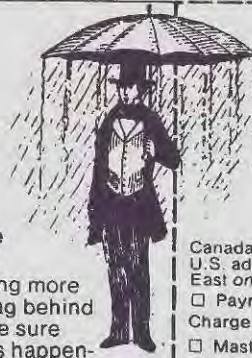
"I have to be optimistic that the money is there and that we won't be shut down for long, if at all," said Ms. Cogtella. "I don't want to see all my programs go down the drain," she added.

Before a money crunch struck, Ms. Cogtella was investigating self-insuring the authority's workers compensation risks, which are insured with Zurich Insurance Co.

In 1979, she said, the RTA paid \$2.5 million in annual premium to 12 carriers. Today, the RTA is paying \$500,000 to some 25 insurers.

"I'm going to stick with the ship," said Ms. Cogtella. "And if that means not being paid for a while, I'll work without pay. This is a project that's too important for me to let go of."

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Hospitals use benefits to lure nurses

Continued from page 3

nurses, they are paid 25% more.

Ms. Vincent predicts both benefits and wages will continue to rise for at least the next year but will eventually level off. If not, nurses could price themselves out of the market, she says.

Betty Moore, a nurse recruiter at Cedars of Lebanon Health Care Center in Miami, also foresees richer benefits for nurses.

"We are headed that way. Soon nurses will have a wide range of flexible work schedules and benefits," she says. "They will be up there with any other middle-class profession."

Ms. Moore says the first thing a nurse looks at when choosing a hospital is the hourly schedule. Cedars recently adopted a scheduling program pioneered by Baylor University Medical Center in Dallas. One group of nurses works 8-hour shifts Monday through Friday, while another group works 12-hour shifts on Saturday and Sunday. Those working 24 hours on the weekend receive 36 to 40 hours of pay and full benefits.

"Before the new scheduling, we had 60 positions open," Ms. Moore says. "With a total of 350 nurses, we now have only 30 positions open."

Salaries at Cedars range from \$8.50 to \$12 an hour, with differential pay of 20% above base for the 3-to-11 p.m. shift and 40% for working 11 p.m. to 7 a.m.

The medical center self-insures employee medical coverage, offering a \$200 deductible with 100% coverage if employees are admitted to Cedars and a \$500 deductible with 80% coverage if they are admitted

to another facility.

Life insurance is free up to \$5,000 and employees have the option to buy more at 25 cents per month per \$1,000. There is a \$500 relocation allowance available with no waiting period, 100% tuition reimbursement for continuing education and 100% payback for tuition or loans incurred by nurses during their senior year in school.

New benefits

"We're working on a dental plan now," says Ms. Moore. "The administration is working on new benefits in response to what employees said they wanted, including thrift savings plans and pension plans."

Most benefits in hospitals are available to all employees, but there are some aimed directly at nurses.

One of these is a car-leasing plan available only to nurses willing to work 11 p.m. to 7 a.m.

The plan originated at Iowa Methodist Hospital in Des Moines, where nurses can lease Ford Fairmont Futuras for three years in exchange for differential pay they would otherwise receive.

"We started doing this 1½ years ago to attract nurses to the late-night shift since it is difficult to keep staffed," says Kay Montgomery, director of nursing at Iowa Methodist. "It didn't work really well—we had no overwhelming stampede of people, because most already had cars."

Aimed at nurses who were unable to finance a car shortly after finishing school, the plan did have limited success. "We were able to

attract 11 nurses to the 11-to-7 shift."

Conventional benefits at Iowa Methodist include: Blue Cross major medical with a \$100 deductible, for which the hospital pays 75% of the premium; free life insurance coverage up to the annual salary, with an additional \$2,000 for spouse and \$1,000 for each child and options for up to twice the annual salary; two weeks of vacation per year; nine paid holidays; 10 sick days; 100% tuition reimbursement for a maximum of 18 semester hours a year; long-term disability coverage equivalent to 60% of income and eight hours of fraternity leave for expectant fathers.

"We don't have dental insurance," she says. "We would like it and are working toward it."

All Saints Episcopal Hospital in Fort Worth, Texas, last year adopted a car-leasing program similar to Iowa Methodist's with like results, says Mel Pickering, director of human resources. "We lease seven cars to nurses working 11 p.m. to 7 a.m., our most difficult shift, to slot."

"Probably our single biggest draw is our 24-hour-a-day child-care center," Mrs. Pickering says. Built during the late 1960s and heavily subsidized by the hospital, the center charges working mothers just \$2.50 per day.

"We are currently planning to double capacity from the present enrollment of 325," she says. "It is a good draw, especially for nurses who would otherwise be left out of the job market."

All Saints has 200 nurses and, like other institutions, is always looking for more, she says. "But we do not aim benefits at one group without the other, with the exception of the leased car."

The hospital self-insures medical coverage, Mrs. Pickering says. "If employees use our facility, they pay \$25 for hospital charges, that is all." If another facility is used, there is a small deductible and 80% of the charges are covered.

Other benefits include: free life insurance up to an employee's annual salary; a pension plan based on length of service and salary; a \$600 relocation allowance; 50% tuition reimbursement (the remaining 50% would be returned after three years on the job); free parking; a 50% discount on cafeteria meals; a 10% pharmacy discount; several tax shelter annuity plans in which employees can contribute up to 20% of salary; two weeks of vacation;

seven sick days and seven paid holidays.

Those nurses preferring free or low-cost housing to leased cars can find it by shopping around.

Cedars of Lebanon in Miami offers new nurses free housing for three months in a building adjacent to the health-care center, says Betty Moore. "We've been doing it for about five years. I'd say 98% of our out-of-state nurses take advantage of this. It saves them money and gives them time to look for a place to live. It's been a good draw for us."

At Mount Sinai Medical Center in nearby Miami Beach, nurses are offered the option of living in one of 150 apartments on hospital grounds for \$90 a month.

Cab rides

Transportation benefits are an innovation in Chicago.

Illinois Masonic Medical Center pays Chicago's Flash Cab Co. a regular fee to drive nurses working 11 p.m. to 7 a.m. to the hospital. Those leaving work at 11 p.m. are driven home at no charge.

Rush Presbyterian St. Luke's Medical Center in Chicago offers large cash bonuses to nurses working night and evening shifts, says Linda Del Monte, the hospital's nurse recruiter. By working three months of nights, a nurse can earn a \$400 bonus. After a year, the bonus is \$1,200 and two weeks of vacation. This is in addition to the normal shift differential.

Rush Presbyterian also offers 100% tuition reimbursement, three weeks of vacation, nine holidays, 10 sick days, health care for full-time employees under either Blue Cross, Blue Shield or an HMO plan that covers 100% of medical expenses except for prescriptions, a \$100 relocation allowance, \$12,000 of life insurance, a pension plan and a payroll savings plan.

Rush Presbyterian does not yet offer dental insurance.

The hospital's biggest draw is its flexible weekend schedule, similar to that originated by Baylor and now used in around 30 other hospitals nationwide.

Benefit plans for two California hospitals may indicate where things are headed in the health-care industry.

St. Francis Medical Center in Lynwood, Calif., gives all employees eight holidays a year, two weeks of vacation, life insurance equal to annual salary with an option to buy more, one paid sick day

per month, a 50% education reimbursement up to \$400 yearly, a retirement plan, a tax-deferred annuity, a credit union and a \$500 bonus for referral of new "special-need employees" to the hospital.

Free medical insurance for full-time employees through Multi-hospital Shared Services includes 100% of hospital and emergency expenses, 80% of major medical up to \$300,000 a person over a \$100 deductible, eye care and maternity care.

Free dental insurance for full-time employees covers 100% of oral examinations, prophylaxis and X-rays, 80% of basic dentistry, 50% of major dentistry and 50% of orthodontics. Oral surgery is covered by the medical plan.

El Camino Hospital in Mountain View, Calif., improved a similar benefit package by adding salary continuation coverage and a minimum of 28 paid time-off days that employees can accrue each year including vacation, sick leave and holidays. If not used, each day may be exchanged for 100% of the salary an employee normally earns.

The hospital offers group life insurance of \$10,000 at no charge and Blue Cross dental insurance with 80% coverage up to \$1,000 a year. Blue Cross basic and major medical insurance and 100% coverage for outpatient X-ray and lab work done at the hospital.

"We have nursing positions open, but since we are more progressive compared to other area hospitals, we don't have as much problem filling them," says an El Camino spokesman.

Are benefits like those offered in California on their way to the rest of the country? Baylor's Kristie Rosset, coordinator of nurse recruitment, expressed some doubts.

Baylor offers a full benefit package that excludes dental insurance, but includes such things as a gasoline co-op that sells fuel to employees at 7 to 10 cents a gallon cheaper than pump prices, a physical fitness center (for paying members), and reduced hotel rates for nurses traveling to Dallas from outlying regions to work the weekend schedule.

Even so, Ms. Rosset says the trend is toward people wanting more money, rather than better benefits.

"You need a satisfactory benefit package, but I feel if nurses had their choice between a pay raise or better benefits, most would pick the pay raise," she says. "Money is the number-one consideration."

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