

Business Insurance

Reporting Weekly For Corporate Risk, Employee Benefit and Financial Executives / \$4

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Insured damage totals \$1.7 billion for series of storms across South

RAHWAY, N.J.—A series of three severe storms in late April and early May caused \$1.7 billion of insured damage in the South, according to the Property Claims Services division of the American Insurance Services Group.

Taken together, those storms would rank as one of the most costly insured catastrophes ever, just trailing the Blizzard of 1993, which produced \$1.75 billion in insured damages in March of that year. The PCS treats the storms as separate catastrophes.

See Updates on next page

Buyers go it alone on quality

By CHRISTINE WOOLSEY

Concern about the lack of uniformity among existing tools for measuring health plan performance—especially in the area of treatment outcomes—is prompting a group of health care purchasers to forge its own quality assessment standards.

The group of 30 public and private-sector purchasers next month will attend a meeting hosted by Dr. Paul Ellwood, president and chief executive officer of the Jackson Hole Group, to try to reach a consensus on what quality assurance demands they should make of all health care plans.

Existing means of gauging plan performance—most notably the National Committee for Quality Assurance's HEDIS reports—clearly are helping employers evaluate health plans by providing more standardized measures. In fact, most employers now require their health plans to become NCQA accredited.

Goal is devising better standards for health plans

But some health care experts say it is necessary to create a more comprehensive system of measuring care and one that is designed by health care purchasers and consumers.

Indeed, critics of HEDIS—the Health Plan Employer Data & Information Set—point out that the measurement tool was designed with heavy input from health plans. And it is the health plans themselves that pay for the costly NCQA accreditation, which some health care purchasers say is a conflict of interest.

In addition, critics say, there is a great need to audit the data that health plans,

physicians and hospitals are providing to NCQA for its HEDIS reports.

"Using report cards to measure quality is difficult," Dr. Ellwood said. "The lack of comparison due to differences in the measurement tools and differences in the interpretation of the results makes report cards of very little use."

What's more, he noted, "the lack of comparative information on quality makes the system vulnerable to unsubstantiated criticisms about costs being down because quality is deteriorating."

"It's really a misnomer to call HEDIS a report card," said Dwight McNeill, health care information manager for GTE Corp. in Stamford, Conn. "It doesn't have market data that enables you to compare different health plans in the same community and consumers can't read it—it's too technical."

Yet, increasingly, health care purchasers recognize that they cannot hold health

See Outcomes on page 37

Petition to affect implant coverage

Dow Corning move is bold, but risky

By JOANNE WOJCIK

MIDLAND, Mich.—Dow Corning Corp.'s bankruptcy filing effectively gives a U.S. Bankruptcy Court judge in Detroit control over its breast implant coverage litigation with its liability insurers.

The move also is certain to draw the larger of Dow Corning's parents—Dow Chemical Co.—into the heart of the legal fray over liability related to silicone gel breast implants.

Before the bankruptcy filing, lawyers for women with implants were naming Dow Chemical in liability suits. Last month, U.S. District Judge Sam C. Pointer Jr. ruled Dow Chemical could be sued for damage caused by the implants because of its actions in connection with research and testing. Dow Corning is a joint venture of Dow Chemical and Corning Inc.

By filing for bankruptcy protection, Dow Corning could increase the liabilities of other companies participating in global settlement talks. Dow Corning was to have put in the largest share, \$2 billion, of the proposed \$4.25 billion settlement.

Midland, Mich.-based Dow Corning

See Corning on page 39

Exclusions bill welcomed as way to help employees without burdening plans

By JERRY GEISEL

WASHINGTON—Employers and insurers enthusiastically endorse new bipartisan legislation to curb pre-existing medical condition exclusions, which they say would help employees without increasing group health plan costs.

Curbing these exclusions, which are included in a majority of indemnity plans, would help to eliminate "job lock," a condition in which employees can't afford to leave a job because a new employer would not provide coverage for medical problems they already

have.

Benefit managers say job lock can hurt their companies and the economy as a whole because it can keep employees stuck in jobs they don't want and prevent employees from accepting new positions.

In addition, benefit managers view pre-existing condition exclusions as an anachronism at a time when employees more often than ever change jobs because of corporate restructuring or to improve their own careers.

"Pre-existing condition exclusions may once have had their place. But the

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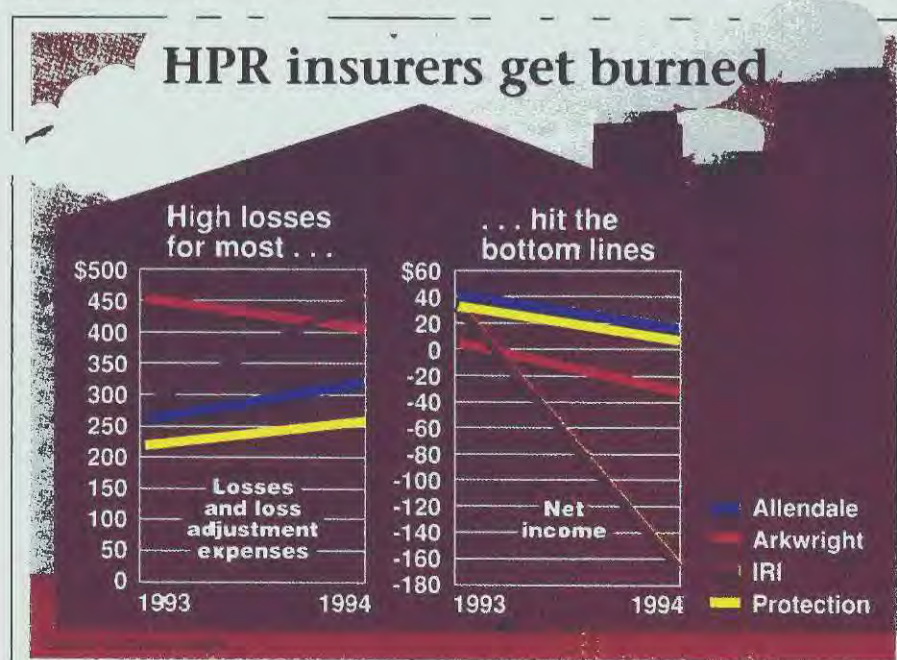
Who is covered by pre-existing condition exclusions?

Data is from 1993, for employees not in HMOs

	Yes	No
Clerical, sales	62%	38%
Blue-collar, service	55%	45%
Professional, technical	54%	46%

Source: Bureau of Labor Statistics

GRAPHIC BY JERRY PARKS



GRAPHIC BY JOHN HALL

HPR insurers play hardball

After dismal 1994, they raise rates, restrict coverage

By GAVIN SOUTER

Practicing a little loss control of their own, highly protected risk insurers are raising rates and deductibles and scrutinizing exposures more carefully in an effort to rebound from a bad year.

Already, the insurers are insisting on double-digit rate increases for some policyholders and say they will not let up the pressure until their results sharply improve. Rates are increasing so much that some policyholders are saying that HPR now stands for "Have Premiums Ready."

And if policyholders won't meet the new demands, HPR insurers are walking away.

"This strategy will be employed for the remainder of this year. And while we can't say what will happen next year, I don't expect rates to go down in 1996," said Gail P. Norstrom, president and chief executive officer of Indus-

trial Risk Insurers in Hartford, Conn.

HPR insurers are doing more than raising rates. They also are trying to more accurately assess the risks they cover. In particular, they are identifying business interruption exposures and trying to contain them with longer waiting periods and updated contingency plans.

Both property damage and business interruption losses hit the industry hard last year, particularly losses from the Northridge earthquake.

"I don't think anybody in this business is doing all that hot. Loss costs are increasing faster than inflation rates," Mr. Norstrom said.

And those costs often wiped out profits entirely or reduced them substantially.

IRI's net loss of \$163.3 million in 1994 followed net income of \$32.5 million in 1993.

At Allendale Mutual Insurance Co. in Johnston, R.I., net income plunged 62.1% to

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Updates

Insured storm losses growing

Continued from previous page

The first storm, which struck north central Texas April 28-30, caused an estimated \$425 million in insured damage. The estimate by Rahway, N.J.-based PCS does not include damage to aircraft, about 100 of which were damaged by hail at the Dallas-Fort Worth Airport, producing more than \$50 million in damage (BI, May 8).

A week later, a storm swept across an area from New Mexico to Oklahoma, causing extensive losses in Dallas-Fort Worth and an estimated \$910 million in insured damage overall (BI, May 15).

A third set of storms May 7-10 caused an estimated \$360 million in insured property damage, the PCS said. The storms deluged the New Orleans area with almost 20 inches of rain, battered portions of Texas with winds of more than 70 mph and caused damage in seven other states as far east as Illinois. PCS estimates insurers will receive more than 163,000 claims from the storms.

American Airlines' parent, AMR Corp., expects a \$16 million to \$20 million impact on its second-quarter aftertax earnings from damage and lost revenue stemming from the April 29 hailstorm. The airline did not disclose aircraft repair costs or the amount of revenue lost.

The airline's hull insurance program was renewed in December at limits written on an agreed upon per aircraft value basis. Coverage is led by insurers in London and France (BI, May 8). American Airlines does not have business interruption coverage.

USI buys another brokerage

SAN FRANCISCO—USI Insurance Services Corp. last week signed a letter of intent to acquire Cincinnati-based Thomas E. Wood Inc.

Terms of the proposed deal were not disclosed.

With the addition of Thomas E. Wood, San Francisco-based USI's annualized gross revenues would total \$53.8 million, which would make it the 15th largest broker of U.S. business (BI, July 18, 1994).

USI, formed in 1993 by Bernard H. Mizel, former chairman of American Business Insurance Inc. and Jardine Insurance Brokers Inc. (BI, Sept. 27, 1993), reported an acquisition-fueled \$43.6 million in 1994 annualized gross revenues.

Thomas E. Wood, the 79th largest broker of U.S. business based on 1993 revenues of \$10.6 million, employs 112 people in Cincinnati and in Edgewood, Ky. Thomas J. Klinedinst Jr. will remain president and CEO and the firm will retain its name and staff.

USI expects to post an estimated \$82 million in annualized gross revenues by the beginning of the third quarter, pending four more acquisitions.

Reinsurers' ratios improve

WASHINGTON—Reinsurers' first-quarter combined ratios improved significantly over 1994, according to a survey released last week by the Reinsurance Assn. of America.

The RAA survey of 50 reinsurers found that their combined ratio improved by 11.2 percentage points to 102.4% during the first three months of 1995. A similar group of reinsurers had a combined ratio of 113.6% a year earlier.

Reinsurers' net premiums also increased by 10.8% to slightly more than \$4 billion during the first three months of this year from less than \$3.7 billion during the same period last year, the survey found.

Insured bomb toll estimated

OKLAHOMA CITY—Insurance will cover \$105 million of \$652 million in damages from the bombing of the Alfred P. Murrah Federal Building, according to KPMG Peat Marwick's estimates.

In a report prepared for Oklahoma Gov. Frank Keating, the accounting firm said the government suffered \$225 million in damage in the April 19 Oklahoma City bombing. The federal government self-insures its losses (BI, April 24).

State, city, county and private damage totals \$426 million, KPMG estimated. About \$105 million of that amount is covered by insurance.

Businesses suffered damage totaling \$257 million, the report said. Of that, \$106 million is lost business as a result of the bombing.

The report shows the state's cost will be about \$34.5 million after insurance payments and other funding is received. The state had exhausted its \$1.5 million property loss retention before the bombing. Its excess insurer is Commerce & Industry Insurance Co., an American International Group Inc. unit in New York.

Grants from the Federal Emergency Management Agency are expected to total about \$33 million, according to the study.

The Property Claims Services division of the American Insurance Services Group estimates insured damage at \$125 million. The Insurance Information Institute projects it at less than \$200 million.

Bermuda names new regulator

HAMILTON, Bermuda—Kymn Astwood, Bermuda's inspector of companies, will assume the post of chief regulator on June 12.

Mr. Astwood replaces Malcolm Butterfield, who is leaving after five years as registrar of companies to head the insolvency and liquidation department at KPMG Peat Marwick in Bermuda. Peat Marwick wants to expand its insolvency and liquidation practice.

As the new registrar of companies, Mr. Astwood will oversee the implementation of the recently passed Insurance Amendment Act 1995. The act classifies insurers in Bermuda into four categories, which determine the capital and other requirements for operating in the domicile (BI, April 24).

Mr. Astwood, 34, joined the registrar's department in 1990 after working as insurance and reinsurance audit manager for Ernst & Young.

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Zurich sweetens Home deal

Additional reinsurance meant to placate regulators

By GAVIN SOUTER

NEW YORK—Zurich Insurance Group is adding another \$300 million in reinsurance to its proposal to take over the profitable business of Home Holdings Inc. in order to seal the approval of state insurance regulators.

Now, Zurich is promising to pay up to \$1.59 billion if Home's assets are exhausted before all claims are paid.

Additionally, the Swiss parent company of all the Zurich units

would guarantee the reinsurance program, which will be issued by Centre International, an Irish subsidiary of Zurich.

The final proposal was filed with the states last week after Zurich met with regulators from New Hampshire, where The Home Insurance Co. is domiciled, and regulators from the six other states where Home has operating units.

"We had a couple of meetings with all of the states involved and said that we would need the addi-

tional enhancements for all of the states to be comfortable," said David Nichols, assistant commissioner for New Hampshire.

In its final form, the reinsurance program would meet policyholder claims not met by Home up to \$1.3 billion. A further \$290 million in reinsurance would be applied if Home's bondholders are paid from Home's assets and the money is needed to pay policyholder claims.

The New Hampshire commis-

See Zurich on page 38

Business sees Clinton plan for OSHA as only first step

By MARK A. HOFMANN

WASHINGTON—Business groups are greeting the Clinton administration's plan for "reinventing" the Occupational Safety and Health Administration with some skepticism.

At a sheet metal works in Washington last week, the president formally unveiled a plan whose broad outline has been known for months. Joseph A. Dear, the assistant secretary of labor who heads OSHA, has said the agency needs

to target its inspections more carefully and work with employers more closely on preventing workplace accidents (BI, Dec. 12, 1994).

Both of those initiatives found their way into president's blueprint, which generally aims to change OSHA from a "command-and-control" structure to a partnership between the regulator and the regulated.

Toward this end, the plan would:

- Implement the "Maine 200"

program nationally.

The 2-year-old safety program targeted 200 companies in Maine that had the highest rates of workers compensation claims. The companies were given the choice of working with OSHA to identify and correct problems or face enhanced safety enforcement. Not surprisingly, all but two of the companies decided to try partnership. Almost 60% of the companies have reduced injury and accident rates.

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Agent, broker questionnaires are due soon

The July 17 issue of *Business Insurance* will contain the 24th annual Directory of Agents and Brokers. The issue also will feature a Spotlight Report profiling the world's 20 largest brokers.

To qualify for the directory, agents and brokers must deal directly with corporate or institutional policyholders, and have at least \$500,000 in gross revenues generated by commercial retail brokerage insurance business.

The directory is published as an editorial service. There is no charge to be included, but organizations must complete and return a BI questionnaire by the extended deadline of June 16.

If your organization provides commercial retail brokerage services and you would like a questionnaire, please contact Directory Editor Kathy Welyki at 312-649-5279.

Sunnier skies in first quarter

P/C results benefit from low cat losses

By DOUGLAS McLEOD

So far, Mother Nature is giving property/casualty insurers a break this year.

While the market hasn't tightened dramatically, the mere absence of major earthquakes, hurricanes, hailstorms and other acts of God in the first three months boosted earnings compared with the catastrophic first quarter of 1994.

The overall first-quarter combined ratio of 27 large insurers improved to 105.8% this year from 113.8% in 1994.

A few companies even posted underwriting gains.

"The one thing that was striking was the lack of weather-related losses," observed Carol D. Manning, vp with Prudential Securities Inc. in New York. "Most companies reported much-improved earnings because there were no weather-related losses."

Excluding the salutary effects



of calm weather and stable fault lines, though, it was business as usual during the first quarter as insurers continued to cope with a soft casualty market and a soft-to-stable property market.

"Boring" is how Ms. Manning described it.

"The cycle continues its slow grind," added Joanne Morrissey, a principal with Firemark Consultants Inc. in Morristown, N.J.

While the \$1 billion-plus in storm losses in Texas and Louisiana earlier this month will hurt earnings of some companies, they are probably not enough to affect property insurance pricing, she also noted (BI, May 15).

Last year at this time, insurers were reeling with losses from the

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North Dakota taps first risk manager as exposure grows

By RODD ZOLKOS

BISMARCK, N.D.—In the state where Gen. Custer set out on what became his last stand, risk management is making its first stand a century later.

The state of North Dakota is implementing its first ever risk management program. Until recently, the state had relied on sovereign immunity as a defense against most claims. But the state Supreme Court last year struck down that defense in a ruling that took effect April 23.

Shortly after that decision, the North Dakota Legislature authorized a risk management program within the state's Office of Management and Budget. A two-year sunset clause in the legislation will allow lawmakers to re-evaluate the program in 1997. Some legislators are hoping a 1996 ballot initiative could help restore the sovereign immunity defense.

Alexander & Alexander Services Inc. of New York, which crafted the state's program, currently handles most risk management functions. It also expects to

provide the state's first risk manager by the end of June.

One central part of the program is a self-insurance pool called the Risk Management Fund.

"The Supreme Court threw out sovereign immunity, so there wasn't any question. They were going to have to start financing losses at some level," said Steve Kahn, a principal with ARM Tech, the Lake Forest, Calif., risk management consulting firm the state hired to evaluate its risk financing options.

"We were of the opinion that they could largely self-insure up to the limits of the state's tort claims act," said Mr. Kahn. State law caps tort claims at \$250,000 per person and \$750,000 per incident.

ARM Tech also reviewed the exposures of various state agencies and set premiums for each to pay into the new pool. Funds in the pool are to be invested by the State Investment Board.

At the same time, the state began looking to hire a risk manager, advertising the position in

See Dakota on page 18

Hawaiians push for comp reform

Employers coalitions drive reform effort

By ROBERTO CENICEROS

HONOLULU—Frustrated with runaway workers compensation costs, two employer coalitions in Hawaii became a driving force behind comprehensive reform legislation now awaiting Gov. Benjamin J. Cayetano's signature.

Hawaii's workers comp legislation would:

- Cap medical charges at 110% of Medicare rates
- Permit collective bargaining over workers comp benefits
- Permit large-deductible programs for companies with good safety records
- Encourage insurers to remove companies from the assigned risk pool
- Promote managed care for workers comp claims

GRAPHIC BY MIKE GARVEY

Among other things, the legislation, H.B. 2133, would impose limits on medical fees, attempt to shrink the workers comp residual market and give employers more options to reduce comp costs.

The bill calls for a fee schedule limiting medical charges to 110% of those prescribed by the resource-based relative value scale, which is used by Medicare to set medical fees. Employers say current fees in Hawaii for treating injured workers typically amount to 200% of Medicare's scale.

The legislation seeks to overhaul the state's workers comp residual market and address complaints that small companies are frequently thrown into the pool merely because they are not as profitable for insurers as larger companies.

Under the reform package, an employer could not be placed in an assigned risk pool without an experience rating plan.

The law also calls for a comprehensive management and financial audit of the assigned risk program.

See Hawaii on page 26

State legislatures lead the way on enacting MSAs

By JERRY GEISEL

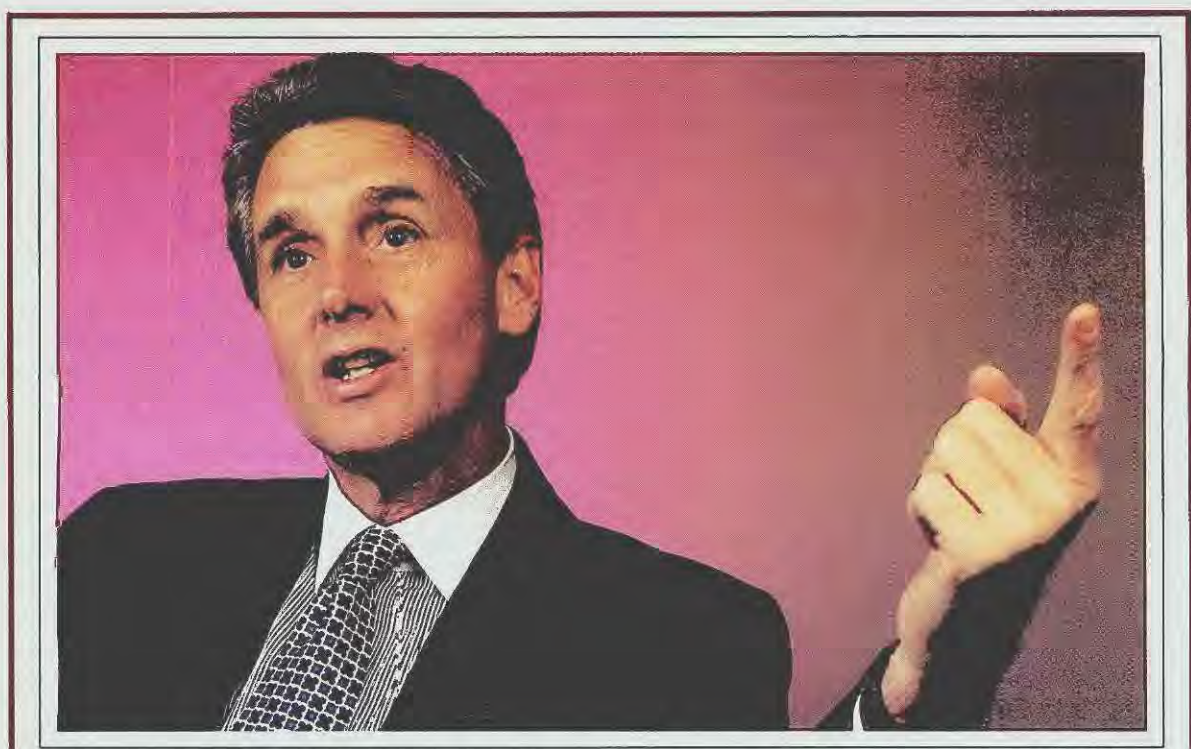
ARLINGTON, Va.—While legislators on Capitol Hill are still talking about whether to give new federal tax breaks for medical savings accounts, many states are enacting their own MSA laws.

Indiana this month became the fifth state this year—and the 13th since 1993—to pass pro-MSA legislation.

"One of the great success stories

for MSAs has been what the state legislatures" have been doing, said Duane Parde, director of state affairs for the Council for Affordable Health Insurance, an Alexandria, Va.-based trade group representing small and medium-size health insurers.

"It has been an active two years," said Mr. Parde, who outlined state MSA legislative developments at the trade group's annual meeting this month in Ar-



TOM REED

An agent of change

West Virginia's governor, an ex-insurance agent, speaks out on politics

W. Gaston Caperton was a political neophyte when he first was elected governor of West Virginia in 1988. At the time, the Democrat was best known for having built Charleston, W.Va.-based McDonough-Caperton Insurance Group from a regional agency he had joined in 1963 with about \$250,000 in annual premiums to the country's 18th-largest brokerage by 1987, with annual revenues of nearly \$30 million.

Gov. Caperton joined what was the family insurance agency right after he graduated from the University of North Carolina. In about a decade, he bought out his father and the other partners in the business. He continued to expand the agency until he entered the political arena in 1987, when he resigned as president of the company to run for governor.

American Business Insurance Inc. acquired McDonough-Caperton in 1991, and ABI in turn was bought by Acordia Inc. in 1993.

Gov. Caperton recently discussed how his career as an insurance agent has influenced his political career, his views on regulatory and legislative matters



and his plans for the future in an interview with Business Insurance Associate Editor Mark A. Hoffmann.

You were president of one of the nation's largest insurance brokerages. What inspired you to run for governor?

I had lived in West Virginia all my life and I really loved the state and loved the people. Yet we'd had lousy government. I felt like there was an opportunity for our state to really move forward. It needed a new vision and a new strategy, so I decided to run for governor.

Had you run for public office before?

I'd never run for public office and never held public office. So it was a real change in my life to go from running an insurance operation to run for governor.

How has your insurance background been helpful in facing the challenges you contend with as governor?

I think the same skills that allow you to be a leader in industry allow you to be a leader in government. Basically, you have to have a vision, you have to have a strategy, you have to set goals, you've got to have action plans and you have to know how to recruit the right people to help you do it.

In your most recent state of the state address, you

See Caperton on page 35

Survival of the fittest

By RODD ZOLKOS

Brokers, risk managers had better adapt

CHICAGO—Risk managers and brokers will have to change to survive until 2005, according to debate participants at the 10th Harold H. Hines Jr. Memorial Symposium.

The insurance brokerage business must move toward fee-based compensation rather than commissions; the broker must become more of a professional consultant than a seller of insurance; risk managers need to open their

thinking to risk financing alternatives beyond insurance; and risk managers must move into a more high-level strategic position in corporations, according to the debaters: Judith C. Hanratty, corporate secretary of The British Petroleum Co. P.L.C. in London, and H. Felix Kloman, editor and publisher of *Risk Management Reports* and a recently retired principal and officer of Towers Perrin. They also suggested that as the

risk manager's job moves toward focusing on the broad spectrum of risk financing, organizations should push risk management responsibilities down from corporate headquarters to the individual operating units and ultimately onto each individual employee, a scenario giving the risk manager an additional role, that of "risk management guidance counselor."

This year's symposium, entitled

See Hines on page 37

lington, Va.

MSAs are special accounts established for employees. Typically, an employer will set up an MSA after substantially increasing deductibles for group health insurance. The employer transfers some of its premium savings to the MSAs and employees can withdraw funds from their account as they incur health care expenses during the year.

At the end of the year, employ-

ees can take the balance of their MSA account as taxable cash. MSA proponents argue that if employees have a financial incentive—receiving an MSA account balance at the end of the year—they will use health care services more carefully.

While a number of influential congressmen—including House Speaker Newt Gingrich, R-Ga., House Ways and Means Committee Chairman Bill Archer, R-

Texas, and Senate Finance Committee Chairman Bob Packwood, R-Ore.—all support giving new tax breaks to MSAs, there are no signs that congressional committees will consider MSA proposals any time soon.

And there is plenty of opposition to providing federal tax breaks for MSAs, according to one congressional committee staffer.

On the Finance Committee,

See MSAs on page 28

For the Record

Syndicate of IIE halts underwriting

CHICAGO—Geneva Assurance Syndicate Inc., one of 11 active syndicates on the Illinois Insurance Exchange, voluntarily ceased underwriting new or renewal policies May 9 and began a financial analysis in response to the IIE's concern about the syndicate's capital adequacy.

In 1994, Chicago-based GAS wrote \$50 million in gross premiums primarily for property risks in Florida, Louisiana, Texas and elsewhere. The syndicate had slightly more than \$10 million in surplus, said IIE President James M. Skelton.

As that underwriting pace con-

tinued this year, "the exchange didn't feel our assets were liquid enough to satisfy it for the writings we were doing," said Richard E. Foss, GAS president. GAS' books show assets of \$82 million, he added.

GAS is expected to pay all claims incurred to date, according to both Mr. Foss and Mr. Skelton.

The analysis by Ernst & Young and Coopers & Lybrand, which is expected to be completed by mid-August, will include a business plan outlining where GAS fits within its owner's organization, The JBW & Co. of Concord, Calif.

JBW is affiliated with Concord General Corp. of Concord, Calif., which acquired GAS and a related syndicate in December 1993

(BI, Sept. 26, 1994). Concord General also owns Classic Syndicate Inc.

"We are solvent. The question is whether we can write when we get back in," said Mr. Foss.

Other IIE syndicates are among those insurers stepping in to provide coverages previously written by GAS.

Suit alleges Aetna hid real estate losses

HARTFORD, Conn.—In a wrongful termination lawsuit against Aetna Life & Casualty Co., a former manager in its real estate division claims that Aetna concealed more than \$1 billion in real estate losses from shareholders between 1990 and 1994.

In a suit filed last week in state court in Hartford, Conn., Robert C. Reeves, who between September 1993 and January of this year

was managing director of real estate valuation and portfolio analysis with Aetna, claims he was fired for complaining about the alleged concealment.

Aetna called the charges "baseless and outrageous."

A spokesman said the suit was retaliation for the company's denial of a severance package Mr. Reeves requested when, the company said, he was laid off during recent cutbacks. "He was looking for compensation well beyond what he was offered and what he was due," the spokesman said.

Aetna said its own investigations showed Mr. Reeves' claims that Aetna violated Financial Accounting Standard 5 disclosure rules to be false.

Aetna also said that a May 10 letter from its auditor, KPMG Peat Marwick, states that the company followed generally accepted accounting procedures on

reserving for mortgage and real estate losses.

Ohio department warns MEWAs

COLUMBUS, Ohio—The Ohio Department of Insurance is giving five unlicensed Multiple Employer Welfare Arrangements 30 days to meet all statutory requirements for a certificate of authority, or stop doing business.

The programs, which provide health benefits to about 30,000 Ohioans, are: Builders & Contractors Employee Benefit Trust in Akron, CostLogics Benefit Plan & Trust in Westlake, Greater Cleveland Automobile Dealers Assn. in Independence, Ohio Funeral Directors Assn. Benefit Trust in Columbus and the South Lorain Merchants Assn. Health & Welfare Plan in Lorain.

Ohio Insurance Director Harold J. Duryee said the department has continually worked with these entities over the past 18 months to try and bring them into compliance. The department cites various statutory provisions that the plans do not yet meet.

MEWAs provide basic health care coverage for small businesses by pooling premiums and risk. MEWAs generally lack proper reserves, the department said.

According to the notices, the five MEWAs can request a hearing within the next 30 days to determine their plans to meet statutory requirements or begin an orderly transition of coverage to a licensed health insurer.

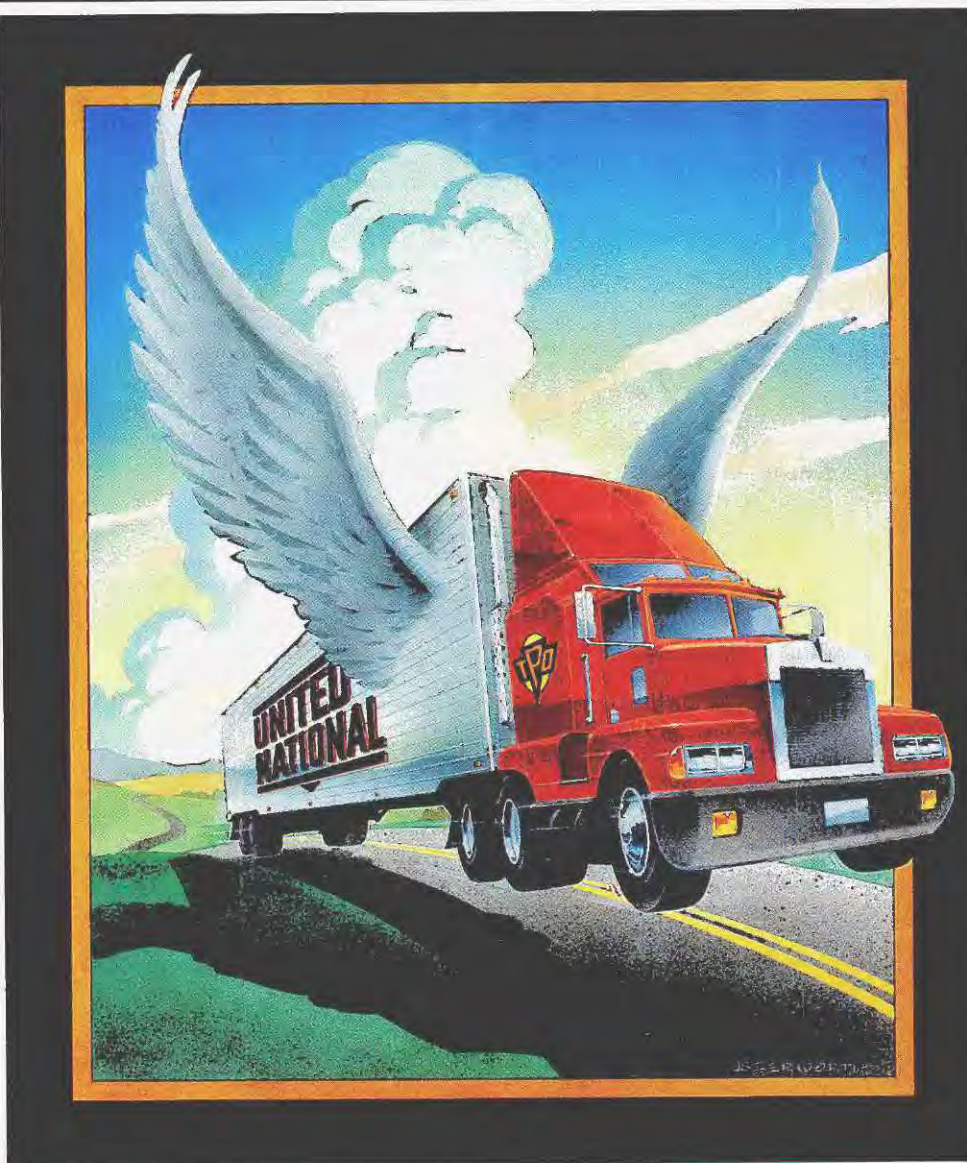
John Stottler, president of the builders and contractors trust in Akron, said he expects his MEWA will receive a license from the department after he delivers a certified audit demonstrating more than adequate reserves, as well as details about reinsurance arrangements. His MEWA was the first to apply for a license, but then decided to establish an insurance company.

Other MEWA spokesmen could not be reached for comment.

Information in brief

George M. Reider Jr., a longtime Aetna Life & Casualty Co. executive, was named **Connecticut Insurance Commissioner**, replacing William J. Gilligan, who was acting commissioner. Mr. Reider was most recently acting vp for property/casualty group claims at Aetna. . . The Pension Benefit Guaranty Corp. will use a 7.15% interest rate assumption in valuing pension plan liabilities in compiling its list of **50 companies with the largest underfunded plans** in 1994, which will be released during the last quarter of this year. The PBGC used a 5.65% interest rate assumption in calculating its 1993 "Top 50" list. . . The **Isle of Man** last week passed legislation enabling captives domiciled elsewhere to transfer to the Isle of Man. . . Three California semiconductor companies will appeal a May 10 **patent infringement award of \$51.8 million** to Texas Instruments Inc. by a federal jury in Dallas. Two of the firms—LSI Logic Corp. and VLSI Technology Inc.—said they have no patent infringement coverage. Officials at the third firm, Cypress Semiconductor Corp., could not be reached. . . The Las Vegas Hilton and its parent, Hilton Hotels Corp., are appealing a \$5.2 million judgment (BI, Nov. 7, 1994) to a woman who was sexually abused during the **Tailhook Assn.** convention in 1991 to the 9th U.S. Circuit Court of Appeals in San Francisco.

Roger Beerworth/United National Group



Some producers struggle with their competition on Truck Physical Damage business. If you are one of those producers, it's probably because you've never discussed the subject with United National Group.

We are now offering innovative and competitive underwriting on Truck Physical Damage risks via an open-minded approach to structuring deductibles. United National seeks medium and large fleets, and we will consider virtually all commodities, including high hazard materials. This program is approved for surplus lines nationally.

At United National Group — one of the largest surplus lines insurers in America — truck physical damage is a hot topic, and our underwriters are prepared to help get your risks written without delay. Our companies are resourceful, flexible, and inventive, and when it comes to writing Truck Physical Damage, we never say never.

United National Group. Wise enough to listen, strong enough to act.

"Never say never."



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Poll gauges workers' benefit satisfaction

Most employees are not as satisfied with their current employee benefit plans as they were with the benefit plans they had five years ago, according to a recent study.

Sixty-four percent of employees surveyed in a national telephone poll sponsored by CIGNA Corp. said current benefit plans do not meet employees' needs as well as benefit plans did five years ago. Fifty-two percent of benefit managers polled separately for the study anticipated that opinion from employees.

Overall, though, 64% of the 300 employees polled said they were very satisfied with their current benefit plans, even though only 45% of the 150 benefit managers surveyed thought employees were generally satisfied. Twenty-five percent of employees said they

Benefit Beat

were moderately satisfied with their current plans and 2% were not satisfied at all.

Employee satisfaction with benefit plans is affected by several factors, according to the poll of people working in companies with 500 or more workers. The more informed a participant perceives him- or herself to be about the plan, the happier that participant is. Seventy-percent of the employees polled said they are highly informed about their plans. By contrast, only 34% of employers had the impression that their employees are well-informed.

Satisfaction with benefit plans also is greater among employees

who are offered flexible benefit plans and among those who belong to unions. Employees of larger companies, higher earners, women, older and married employees also tended to express higher-than-average satisfaction, the survey found.

The survey also asked employees to rank their top concerns about benefits. The top five are: replacing benefits after job loss or retirement, rated as a high concern by 64% of the employees; ability to choose their own doctor, 54%; having sufficient income if ill or injured and unable to work for more than six months, 53%; a negative impact from health care reform, 52%; paying a greater portion of the cost of benefits, 51%.

Concerns about the quality of care and maintaining benefit op-

tions ranked among the 10 most frequently expressed concerns.

When benefit managers were asked to identify the top concerns of employees, they identified six of employees' 10 most pressing concerns.

The executive summary of the survey, "Top 10 employee concerns about benefits," is available free by contacting Mary McConnell at CIGNA, 215-761-4391.

—By Roseanne White

Managed drug program

EUGENE, Ore.—Lane Health Coalition, a non-profit organization formed by mostly small and medium-sized employers in Lane County, Ore., for the first time will provide managed prescription drug services to more than 15,000

public and private employees and dependents covered under the employers' health plans.

Members of Lane Health Coalition include police, fire and school districts in Eugene and Springfield, Ore., as well as private employers like The Register Guard newspaper and Weyerhaeuser Co. of Tacoma, Wash., which has a group of employees in the Lane County area.

The coalition signed an agreement last month with Prescription Solutions, the prescription benefit management subsidiary of PacificCare Health Systems Inc. in Cypress, Calif., to provide managed pharmacy services, including mail service distribution, a retail pharmacy network, claims processing and drug utilization reporting.

The one-year contract with Prescription Solutions is the first purchasing agreement the coalition has forged since its inception in 1992. By pooling its purchasing power, the group was able to negotiate volume discounts on prescriptions that individual employer members would not have been able to negotiate on their own.

"We targeted pharmacy as our first area to contract for because it is a clearly defined benefit that can be carved out" and it's a benefit that employees are generally willing to receive through a network of providers, said Ron Phillips, president of the Lane Health Coalition.

In addition, based on utilization and compliance reports, employers will be able to analyze drug utilization trends so they can better target their benefit management efforts.

—By Christine Woolsey

Health cover dispute

DETROIT—Differences over health care benefits could play a key role in a strike at the Detroit Free Press and Detroit News if on-going talks fail to resolve them.

The six unions of the Metropolitan Council of Newspaper Unions, which represents about 96% of the 2,600 workers at the two papers and the company that handles their business affairs, are ready to strike, said Donald Kummer, administrative officer of the Newspaper Guild of Detroit, Local 22. No date has been set for a walkout and talks continue.

The Free Press is owned by Arlington, Va.-based Gannett Co. Inc. and the News is a property of Knight-Ridder Inc. in Miami. The newspapers are published under a joint operating agreement and business affairs are handled by Detroit Newspapers Inc.

Talks are "going slow," Mr. Kummer said. "There's been a little progress but nothing to shout and scream about."

The guild, one of the six unions of the council, is fighting efforts by the papers to make its members pay for health insurance that is now provided at no cost.

"We have had fully paid medical insurance back to the '70s," said Mr. Kummer.

Detroit Newspapers provides employees with coverage through Blue Cross & Blue Shield of Michigan and health maintenance organizations including Health Alliance Plan of Michigan in Detroit and Select Care of Troy, Mich.

Under management's proposal, employees who choose the HMO will continue to have fully paid coverage but those who don't will have copayments set according to a scale that considers factors such as wages and types of coverage, according to Mr. Kummer.

—By Michael Bradford

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Opinions

Fix the pre-existing problem

THE RECENT HISTORY of political cooperation on health care reform legislation has been, regrettably, a pretty sorry one.

When George Bush, during the last year of his presidency, proposed a modest, though necessary, health care reform package, congressional Democrats blocked it to deny Mr. Bush a victory that could have helped his bid for re-election.

And over the last year or so, Democrats and Republicans might as well have been on different planets when it came to trying to work together on health care reform legislation.

First, there was President Clinton saying he would veto any reform bill—regardless of how many people it would help—if it didn't achieve universal coverage. Republicans weren't much better. Toward the end, many didn't want to see a reform measure pass on the assumption that President Clinton would receive the credit.

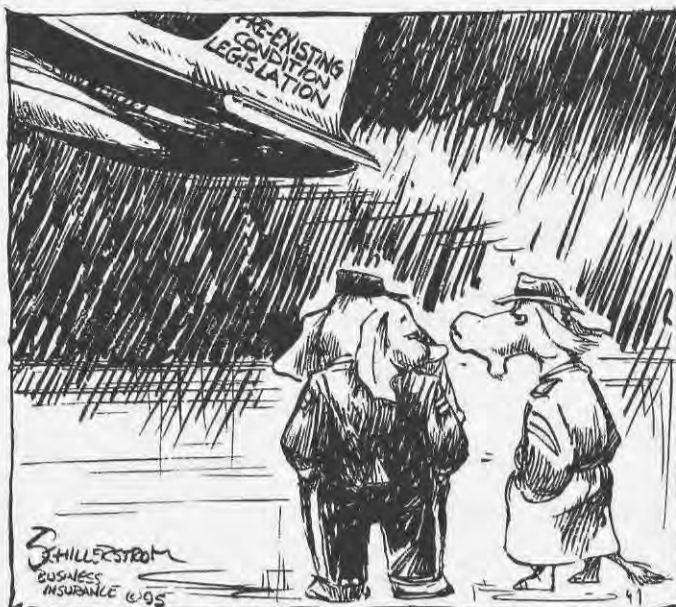
In view of that abysmal record, we were pleasantly surprised that congressional Democrats and Republicans—liberals and conservatives alike—have solidly lined up behind a new reform proposal introduced by House Ways and Means Health Subcommittee Chairman Bill Thomas, R-Calif., and co-sponsored by all members of the subcommittee.

And even better, we think this proposal—to curb pre-existing medical condition exclusions in group health plans—makes perfect sense.

The measure, as we report on page 1, would give employees who change jobs credit for the amount of time they were covered by previous employers' health plans. That credit would be used to offset any pre-existing exclusion in their new employer's plan.

The Thomas bill would ease very much a real world problem: job lock, in which employees with medical problems can't leave their current jobs and work elsewhere because a new employer's plan won't cover their medical conditions.

That's not only bad for employees, but also for the economy if talented individuals are reluctant to move on to new positions because their health insurance, so



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to speak, won't let them.

To be sure, curbing pre-existing medical condition exclusions would increase employers' health care costs. But we think the cost impact would be modest initially and fade over time. Employers would pick up costs for new employees with pre-existing conditions. But, over the long run, those costs would be offset as employees with medical conditions who were reluctant to leave their jobs would be more likely to do so.

We would be the first to acknowledge that the pre-existing medical condition proposal is only a small step toward improving access to health care.

But if it helps, as we think it would, several hundred thousand employees each year without imposing big new costs on employers, then legislators should approve it. Pronto.

And perhaps with this small reform in place, Democrats and Republicans will see that cooperation—not confrontation—is the best way to assure the passage of health care reforms that are in the national interest.

Letters

Flawed legal system drove GM to offer settlement

To the editor: I'm usually mildly amused by the way your editorials dance around, to express a surreptitious anti-business bias without unduly irritating your business subscribers. Your May 1 editorial, "GM Case Symptomatic of Bigger Problem," castigating General Motors Corp. for offering \$1,000 certificates toward the purchase of new pickup trucks calls for a response.

Why didn't you go to the trouble to look at the facts on record? GM pickups, with saddle-style gas tanks outside the vehicle frame, are just as safe as other pickups in the same weight class. They are considerably safer than small pickups and the vast majority of sedans on American highways. You do not have to take my word for it. The U.S. Department of Transportation, some universities and various highway safety institutes have accumulated decades of auto crash data by

year, make and model. You could look it up.

After the big post-crash fire verdict in Georgia, the Transportation Department was salivating over the prospect of forcing GM to recall the trucks. Why didn't it happen? Simply because the department's own data indicated the facts cited above. If there had been a leg for them to stand on, they would have ordered a recall.

Gasoline spills in high-speed collisions are a common occurrence, with all makes and models of automobiles. Hit them hard enough in the right place and they all gush gas. Post-collision fires, though, are a relatively rare event because an ignition source at the right time and place is typically absent. Burn injuries are even rarer.

Had you been a little interested in even-handedness in your editorial, you could have recalled how GM caught plaintiffs red-handed in rigging crash tests. They overfilled the gas tank, loosened the gas cap and used ignition devices, because that was the only way they could induce a fire.

The purpose of the lawsuit, like most class actions, was to make money for the plaintiffs lawyers. Everyone involved knew this—the lawyers on both sides, the judge and GM. The crime is that our judicial system permits this kind of extortion, not that GM and the attorneys crafted too

clever of a settlement. The settlement was pretty much the same thing as hundreds of class action settlements. The ostensibly injured parties get very little if anything, only the lawyers win.

If there isn't something wrong with the trucks, why did GM settle? They made a straightforward risk evaluation. They knew that a lay jury, highly susceptible to emotional appeals, and with preconceived notions like yours, would decide the issue. Lost, if GM lost, could be in the billions. The relatively nominal settlement value reflected a probable evaluation of 10% to 20% chance of a plaintiff verdict. The huge cost of trial and appeal also figured in their evaluation.

Rather than hand wringing over the poor pickup owners who were not going to receive fair value, you should have lamented the fact that future GM purchasers will be the ones paying for the settlement.

If you were not so anxious to buy into the plaintiff attorneys' propaganda, you could have used the opportunity to point out how unfairly Ford Motor Co. had been excoriated for the Pinto. The same crash data I alluded to has now unequivocally established that the infamous Pinto is no more likely to burn after a collision than other cars of its size.

William N. Edwards
Princeton, N.J.

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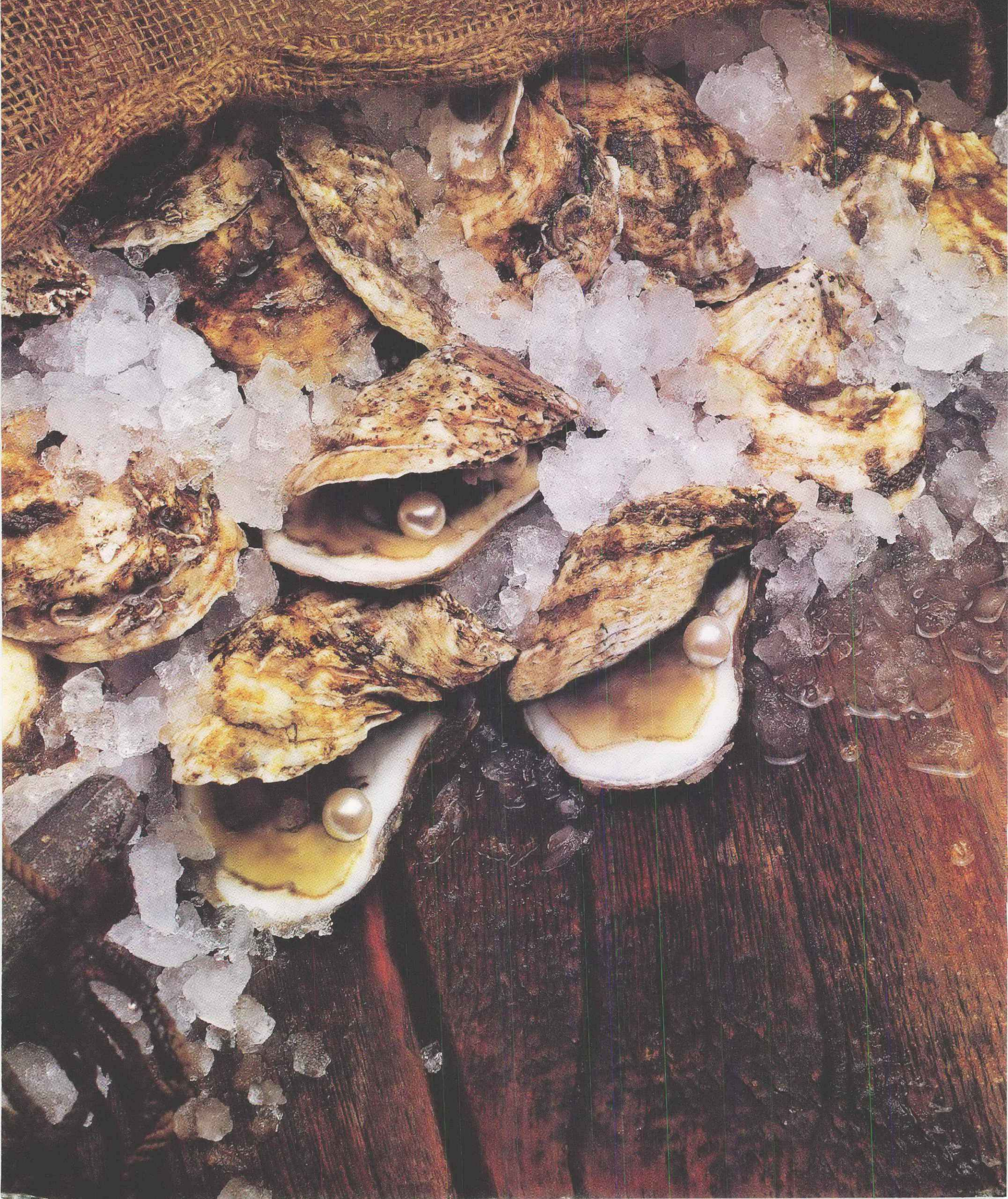


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Summary of major property/casualty insurers' first-quarter results

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

Rank 1995	Corporate					Property/casualty operations								
	Consolidated revenues 1995	Net income 1995	Percent increase (decline) 1994-1995	Combined ¹ ratio 1995	Combined ¹ ratio 1994	Net premiums written 1995	Percent increase (decrease) 1994-1995	Pretax underwriting income (loss) 1995	Percent increase (decline) 1994-1995	Pretax investment income 1995	Percent increase (decrease) 1994-1995	Policyholders surplus 1995	Percent increase (decrease) 1994-1995	
1	TIG Holdings	470,600	17,600	706.9	108.9 ²	120.0 ²	419,400	2.2	(29,000)	57.4	68,000	4.6	902,000	8.2
2	Reliance Ins. Co. and subs.	721,306	21,540	481.3	101.4	109.1	460,919	(7.1)	(5,226)	88.2	62,427	11.4	940,200	8.1
3	Royal Group (U.S. subs.) ²	N/A	39,600	435.6	108.7 ³	134.2 ³	409,800	11.3	(39,000)	69.1	45,400	250.8	911,900	12.3
4	CNA Financial Corp.	3,050,000	152,800	295.6	109.9 ²	119.9 ²	1,840,000 ²	7.6	(195,200) ²	43.6	340,700 ²	23.9	3,504,100	4.1
5	Aetna Life & Casualty Co.	4,484,500	160,800	251.0	112.7 ²	128.4 ²	1,022,700 ²	(5.9)	(126,100)	59.0	212,300	(0.2)	2,644,400	5.4
6	CIGNA Corp.	4,754,000	290,000	154.4	120.0	131.6	845,000	(15.3)	(180,000)	43.0	162,000	(5.3)	2,000,000	29.6
7	USF&G Corp.	791,100	48,900	111.4	108.4 ²	111.2 ²	579,600 ²	5.3	(46,400) ²	25.3	109,700 ²	9.7	1,585,000	2.1
8	Berkshire Hathaway Group	342,761	87,867	100.6	104.1	144.8	538,995	8.4	(9,408)	87.3	111,378	3.1	N/A	N/A
9	Chubb Corp.	1,464,100	146,700	100.4	96.3 ²	109.9 ²	981,900	7.6	29,800	131.8	148,100	8.1	1,995,100	15.7
10	General Re Corp.	1,207,300	183,100	87.0	99.6 ²	113.9 ²	1,006,600	22.8	6,500	108.4	193,400	6.4	3,963,400	6.8
11	The St. Paul Cos. Inc.	1,267,459	110,596	71.6	102.4 ²	110.2 ²	916,363	13.9	(15,452)	81.4	178,418	8.4	2,007,486	14.3
12	Travelers Insurance Cos.	1,172,600	89,900	68.4	107.8	111.1	960,900	(10.7)	(86,500)	34.1	179,200	15.8	2,080,400	(8.1)
13	Ohio Casualty Corp.	381,612	15,112	61.8	109.8 ²	116.9 ²	323,457 ²	(0.3)	(31,824)	39.3	46,453	0.3	712,128	3.8
14	Sentry Insurance Cos. ²	369,856	23,658	20.8	103.9	105.0	296,824	(0.7)	(15,497)	5.8	47,958	9.6	1,012,961	4.0
15	Hartford Steam Boiler	161,600	14,000	17.6	91.1	96.5	98,500	5.6	7,800	169.0	6,800	4.6	277,100	(2.7)
16	SAFECO Corp.	936,164	65,210	16.4	107.1	112.5	529,700	9.3	(37,376)	37.2	72,451	3.3	1,571,857	4.3
17	Old Republic Int'l	385,844	39,064	14.6	101.0	106.2	214,838 ²	2.2	(9,458)	39.7	46,705 ²	9.3	1,269,294	8.3
18	American International Group	6,034,709	572,156	13.2	98.2 ²	100.7 ²	2,878,995	9.8	65,819	1,510.0	379,665	7.2	N/A	N/A
19	Fremont General Corp.	199,157	14,206	5.3	99.7	100.2	126,092	7.8	321	256.6	19,884	16.0	271,765	19.3
20	ITT Hartford Group Inc.	2,974,000	138,000	1.5	101.5	104.0	1,791,000	5.4	(44,000)	47.6	188,000	16.0	3,156,000	2.3
21	Lincoln National Corp.	1,483,700	134,800	(10.7)	104.0	111.6	426,000	(1.4)	(11,700)	75.3	60,800	1.5	1,328,800	(12.7)
22	Argonaut Insurance Co.	71,012	14,031	(37.1)	106.8 ²	102.3 ²	36,017 ²	(39.0)	(6,246) ²	(132.6)	23,272 ²	(6.9)	642,297	9.0
23	Home Insurance Co.	511,000	(64,000)	NM	129.5 ²	113.9 ²	262,000	(38.1)	(104,000)	(76.3)	53,000	(10.2)	566,000	(37.0)
—	Nationwide Mutual Ins. Co. ²	N/A	N/A	N/A	108.1	111.7	1,945,803	7.1	(156,520)	28.2	209,135	(0.9)	4,916,175	11.9
—	Commercial Union Ins. (U.S.)	N/A	N/A	N/A	107.3 ³	113.1 ³	450,700	3.8	(43,800)	32.7	58,800	9.3	963,300	6.1
—	Liberty Mutual Ins. Co. ²	N/A	N/A	N/A	111.6	116.9	1,389,570	(6.4)	(47,739)	(11.0)	82,904	(3.3)	3,662,556	16.3
—	Kemper National Ins. Cos. ²	N/A	N/A	N/A	108.9	118.4	740,977	(9.6)	(72,493)	53.6	79,422	8.7	1,839,130	1.8
Cumulative		33,234,380	2,315,640	68.2	105.8	113.8	21,492,650	2.1	(1,202,699)	52.8	3,186,272	9.6	44,723,349	6.1

¹After dividends ²Statutory ³Before dividends N/A-Company did not provide data NM-Not meaningful

Insurers

Continued from page 2

Northridge, Calif., earthquake and claims from severe winter storms in the Northeast. Those losses triggered a near-40% plunge in insurers' first quarter

1994 net income and a substantial increase in underwriting losses.

This year's first quarter was a much different story.

Aided by a relatively mild winter and the absence of other catastrophe losses, 22 insurers surveyed by *Business Insurance* reported a 68.2% jump in net in-

come to \$2.3 billion from \$1.4 billion in the first quarter of 1994.

While cat losses produced declines in net income for 15 of 23 insurers surveyed last year, only three companies posted drops in net income in the first three months of this year.

Only one insurer—The Home

Insurance Co., the target of a takeover effort by Zurich Insurance Co.—posted a net loss for the quarter.

This year's survey does not include Continental Corp., which is in the process of being absorbed by CNA Financial Corp. and did not respond to the survey.

Other first quarter results for the surveyed companies include:

- Continued slow expansion of net written premium volume.

Net premiums for 27 insurers reporting those figures grew by a modest 2.1% to \$21.5 billion for the first three months from \$21 billion for the same period in 1994.

Eleven of the 27 companies reported declines in net premium volume ranging from less than 1% to nearly 40%, with one of the largest declines reported by The Home.

With Zurich assuming many of The Home's best risks, relatively little Home business is migrating to other insurers in the *Business Insurance* survey, analysts note.

"It's not clear that you see a migration to the publicly traded companies of that business," Ms. Manning observed. "I don't think anyone scored a coup."

"It was not exactly a boon to the market," said Adam Klauber, an analyst with Duff & Phelps equity research in Chicago.

- A dramatic 52.8% drop in underwriting losses to \$1.2 billion this year from \$2.5 billion in last year's first quarter.

Much of this can be credited to greatly reduced catastrophe losses, analysts agree.

CIGNA Corp., for example, saw its aftertax catastrophe losses drop to \$10 million this year from

See *Insurers* on page 16

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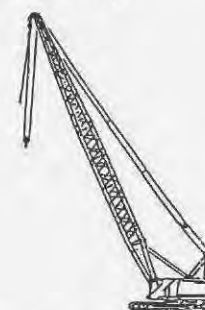
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WEDNESDAY, OCTOBER 11, 1995

- EMPLOYER'S PRIVATE ROUNDTABLE
- EARLY REGISTRATION AND WELCOME RECEPTION

THURSDAY, OCTOBER 12, 1995

- KEYNOTE: THE LATEST ON OSHA'S ATTEMPTS TO PROPOSE FORMAL RULES ON ERGONOMIC STANDARDS AFFECTING ALL BUSINESSES
- ERGONOMICS IN THE WORKPLACE
- DEALING WITH A CHANGING WORKFORCE: TEMPORARY/AT HOME/ON THE ROAD
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- 24-HOUR PROGRAMS AND OTHER INSURANCE OPTIONS
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 - ▶ Battlefield experience in repetitive stress injuries
 - ▶ An effective cost allocation system to control losses
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- RECEPTION

FRIDAY, OCTOBER 13, 1995

- BUILDING YOUR TEAM TO ACHIEVE SUCCESSFUL CLAIMS MANAGEMENT
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Insurers

Continued from page 12

\$85 million in the first quarter of 1994.

Chubb Corp.'s cat losses dropped to \$6.4 million this year from \$147.4 million in the first three months of 1994. These losses accounted for 0.6 percentage points of Chubb's combined ratio this year, but 16.3 percentage points of its combined ratio last year.

Even with \$30 million in losses from the Kobe earthquake, American International Group Inc. still fared better in this year's first quarter than in last year's, when it booked \$55 million in losses from the Northridge quake.

Even as underwriting results improve, though, last year's cat losses continue to haunt some insurers: SAFECO Corp. recently boosted its estimate of Northridge claim costs by \$25 million while still reporting a 37.2% narrowing of its underwriting loss between 1995's first quarter and 1994's.

Only three of 27 surveyed insurers reported continued deterioration of their underwriting results in the first quarter.

- Improved investment performance. The 27 surveyed companies produced a 9.6% increase in pretax investment income to \$3.2 billion for this year's first quarter from \$2.9 billion last year.

Only five insurers reported a decline in investment earnings.

In 1994's first quarter, falling interest rates actually produced a drop in investment income from the first quarter of 1993.

- Slightly accelerated growth in policyholders surplus. The surveyed companies reported total surplus of \$44.7 billion as of March 31, up 6.1% from \$42.1 billion at the end of 1994's first

quarter.

Two insurers—AIG and Berkshire Hathaway, both with large policyholders surplus totals—did not report surplus for the quarter.

"On the whole, the results were

'On the whole, the results were better than usual,' says Carol Manning of the first-quarter numbers.

better than usual," Ms. Manning said of the first quarter numbers.

Excluding cat losses, "the underwriting seems to be holding up pretty well," Mr. Klauber observed.

The modest growth in premium volume shows that insurers have

maintained tighter underwriting standards and are "not looking as much for growth as for profitable business," he said.

Tighter standards are needed to prevent further deterioration, he suggested, since rates haven't risen much. The casualty market is actually a little softer than it was a year ago, Mr. Klauber said, while property pricing changed by region, with pricing remaining firm in coastal areas and softening in some areas of the Midwest.

"In general, not much is happening that would indicate a pricing turn," Ms. Manning said.

The recent hailstorm and flood losses in Texas and Louisiana could have a disproportionately heavy impact on a few insurers writing mainly personal lines in those areas, but the losses aren't likely to have much impact on commercial insurance pricing, she predicted. **B**

HPR

Continued from page 1

\$16 million in 1994 from \$42.2 million in 1993.

Similarly, net income at Protection Mutual Insurance Co. in Park Ridge, Ill., fell 78.5% to \$7 million from \$32.6 million.

The third Factory Mutual company, Arkwright Mutual Insurance Co. in Waltham, Mass., had a net loss of \$31.8 million in 1994 compared with net income of \$4.6 million in 1993. Although the insurer's operating loss was reduced in 1994, its investment income slumped.

HPR insurers have made it clear to brokers and risk managers that they are seeking rate increases for many accounts, said Robert K. Meyers, principal and senior vp at Johnson & Higgins in New York.

"They are getting the rate increases and it's on a risk-by-risk

basis," he said. For companies that have had large losses in the past year, rate increases are in the double digits, with some going as high as 25%, he said.

HPR insurer executives say that all of the rate increases are assessed individually—there are no broad brush rate hikes.

"We have a business plan that has several components, and one of those is increasing revenues. So, we are increasing rates on a selective basis," said James W. Black, executive vp and chief operating officer at Protection Mutual.

Allendale, too, is raising rates to improve its results, said Michael C. McIntyre, senior vp. "All of us are pushing for adequate rating levels. We've been looking at accounts that have had less than attractive results over the past several years and asking them to improve the risk, and if not—let us out."

Continued on next page

**"In Russia, only 1% of industrial enterprises
As privatization continues, business owners
the largest insurance program in Russian**

State may relax policy review

HARRISBURG, Pa.—Pennsylvania Insurance Commissioner Linda Kaiser is seeking comments from insurers and risk managers about her proposal to exempt an array of commercial policy forms from filing and approval requirements.

While Ms. Kaiser is not seeking legislative changes to Section 354 of Pennsylvania's Insurance Company Law, which spells out the state's prior approval policy, said there is ample statutory precedent to exempt certain commercial policies from form and rate oversight.

The proposed deregulation would apply to aircraft hull and liability insurance, kidnap and ransom policies, political risk insurance, inland marine, certain commercial excess and umbrella liability policies, fidelity and surety bonds and flood insurance.

Currently, reinsurance, ocean marine and surplus lines policies do not require prior approval.

"The purpose is to streamline the department's oversight responsibilities, which would give us more time to look at mostly individual, consumer-oriented products. We believe that businesses do fine handling much of the oversight process themselves," a department spokeswoman said. "We're trying to reduce burdensome oversight."

Ms. Kaiser has asked insurers and corporate insurance buyers to respond to her initiative by June 19.

—By Michael Schachner

American Re, through our subsidiary Becher + Carlson Companies, recently placed \$500 million in property coverage for KamAZ, one of Russia's largest heavy truck manufacturers. Always on the lookout for new markets in growing economies, we just became the first reinsurer to open an office in Beijing.

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large industrial corporations, government and international agencies. Together we are addressing environmental issues and identifying emerging technologies that cut both the cost of cleanup and of litigation.

We have specialists in actuarial, claims management, data processing, and numerous other disciplines. Our multidisciplinary teams can customize client solutions involving treaty, facultative, bond, finite risk, and alternative market approaches.

Continued from previous page

At IRI, the average increase since the beginning of 1995 has been 18%, Mr. Norstrom said. And, with increases in deductibles, restrictions in covered exposures and other changes, rates effectively have increased another 4% to 6%, he said.

As a result of the increases, twice as many IRI clients are not renewing with the company this year, Mr. Norstrom said.

"We are making a real attempt at losing the business we want to lose," he said.

Changes in terms are effectively increasing rates for many policyholders, agreed Charles Ruoff, senior vp at Sedgwick James Inc. in New York.

"In some cases, the rate on line has held steady, but the terms have changed. So is that rate a increase? I'd say yes," he said.

Arkwright is not pushing

through blanket increases, but it is looking to increase deductibles for some accounts, said Wolfgang Friedel, senior vp.

"We have parted company with some accounts because of some specific situations and problems. For example, in some cases we were looking for larger deductibles than they were willing to accept," he said.

Some risk managers would prefer increased deductibles to increased rates.

"We have a Dec. 1 renewal, and we have not yet had any discussions with underwriters. But if they increase rates, our response would probably be to increase retention levels," said William L. Mather, director of risk management at The Gillette Co. in Boston.

Gillette has coverage with Allendale, and a significant proportion of its worldwide property is

covered at HPR standards, he said.

HPR insurers are concerned about business interruption accounting for an increasing proportion of their losses, according

'We are making a real attempt at losing the business we want to lose,' says Gail P. Norstrom of IRI.

to both brokerage and insurer executives.

And underwriters have been re-examining accounts to reassess the business interruption element of the exposures.

"Underwriters have been asking us a lot more questions in the area

of business interruption," Mr. Mather said.

Underwriters are recognizing that changing business practices are increasing their exposure to time-related losses, Mr. Mather said.

For example, Gillette is doing more outsourcing, which increases the company's business interruption exposure as it has limited control over its service and product providers, Mr. Mather said.

L.L. Bean Inc. in Freeport, Maine, has been working with its HPR insurer to control its business interruption exposures over the past 18 months, according to Steve Hewitt, director of risk management.

"They are showing more interest in complicated exposures and helping us develop contingency plans," he said.

L.L. Bean has reviewed its con-

tingency plans for each facility and replaced its list of alternative suppliers in instances where the existing alternative is inadequate, Mr. Hewitt said.

An improving economy is increasing the risks of business interruption losses, explained Mr. Ruoff of Sedgwick. With U.S. factories, for instance, running at near-capacity levels, when a loss occurs at one site, other sites cannot pick up the slack to mitigate the loss.

"Previously there was always a great deal of emphasis on mitigating losses with alternative capacity. If underwriters were looking at a \$1 billion exposure, their view was that any loss could be mitigated by 50% or more. But now underwriters have to consider that it may actually be \$1 billion," Mr. Ruoff said.

In addition to a lack of alternative facilities, corporations are also finding that alternative suppliers are not as readily available, he said.

If one supplier goes down, manufacturers cannot easily find an alternative on the open market because providers already have committed to other customers, Mr. Ruoff said.

"Instead of being a secondary consideration to property damage, business interruption is now being put on the same level," he said.

The reduction in alternative facilities is effectively pushing business risks onto insurers, said Mr. Friedel of Arkwright. "That's a dangerous game to play in the long term, because it will manifest itself in prices, deductibles and even the availability of business interruption insurance."

For example, chemical industry risks are presenting significant business interruption exposures, and chemical companies may find that insurers severely limit the capacity for business interruption coverage, Mr. Friedel said.

Already insurers are increasing the waiting period before business interruption coverage is triggered for some risks, he said. Waiting periods on the coverage can run from 72 hours to 10 or more days.

HPR underwriters are also emphasizing loss control measures to reduce their property damage exposures.

For example, Protection Mutual is concerned about the increased use of outside contractors and has recently instituted a program to control the risks of using third parties, said Mr. Black.

"There is an assumption that the contractors are experts and the clients don't exercise much control over them. What we are saying is that they should exercise the same types of control over the contractors as they would over their own employees," Mr. Black said.

HPR insurers are also putting more emphasis on protection against windstorms, said Charles L. Russell, director of risk management at Eagle Industries Inc., a manufacturing company in Chicago.

"They are a lot more interested in windstorm issues and are coming up with recommendations regarding windstorm risks," Mr. Russell said.

The HPR insurers are ensuring that existing roofing is not deteriorating and insisting on higher construction standards for new facilities, Mr. Russell said.

Insurers are also visiting sites more often. IRI, for instance, is doing at least two surveys a year—up from only one—in the tough classes of business and for high-value sites, said Mr. Nor-

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Dakota

Continued from page 3

March. While seeking individuals interested in the position, North Dakota officials also indicated they would entertain proposals from private companies to handle the risk management functions.

Initially, A&A submitted two proposals to the state, according to Ingrid Anderson, a vp in the company's Minneapolis office, which is handling the North Dakota program. One was for providing basic risk management services including claims handling and loss control.

The other—the proposal the state chose—was for A&A to develop a risk management program for the state and to hire an individual at A&A to serve as North Dakota's risk manager, with the possibility that that individual could ultimately become a state employee.

"They will hire a risk manager and that person will be based in North Dakota full time, though that person will have the full backing of Alexander & Alexander in terms of computer services and their expertise," said Sheila Peterson, North Dakota's executive budget analyst.

With the Legislature's authorization of the risk management program, state officials believe the two-year, \$225,000 contract with A&A offers the best chance of attracting top-caliber candidates for the risk manager job.

"We didn't know if we could get high-quality applicants if there was the possibility that their job would be eliminated in 24 months," Ms. Peterson said.

Under the contract with A&A, if the Legislature terminates the state's risk management program in two years, the North Dakota risk manager hired by A&A can be absorbed into the brokerage company's other operations.

But "if two years down the road the Legislature continues the program, A&A would be willing to release their employee to the state if everything is mutually agreeable," Ms. Peterson said.

Though the Legislature could terminate the risk management program in 1997, ARM Tech's Mr. Kahn said he believes "it's there to stay," because there must be some management of the risk financing that has recently become necessary.

North Dakota officials have forwarded the resumes they received for the risk manager's job to A&A. "They have done some initial screening and are contacting those people," Ms. Peterson said.

The pool of job candidates will be whittled down further following telephone interviews. "Then, when they get down to three, four or five we will interview together," Ms. Peterson said.

"We would certainly hope that those final interviews will take place before the end of May, and we would have a risk manager here full time before the end of June," she said.

In the interim, A&A staff members are filling the risk manager role for the state.

"They're operating as if they are our risk manager collectively right now," Ms. Peterson said.

Another major part of A&A's risk management contract with North Dakota is a review of the state's various commercial insurance policies.

The decisions on whether to continue commercial coverage or to self-insure were based on various factors, including: cost of coverage, predictability of the exposure and jurisdiction of claims.

Even when it relied largely on sovereign immunity as a liability defense, North Dakota covered some specific exposures commercially and

probably will continue to do so, Ms. Peterson said. Medical malpractice at the state university medical center and some professional liability exposures were not included in the new state self-insurance pool, for example.

Some state agencies also have purchased coverage from the North Dakota Insurance Reserve Fund—a pool created in the mid-1980s for political subdivisions in the state—for exposures "where sovereign immunity was not an argument," Ms. Peterson said.

"I think we will continue to purchase commercial insurance in some major areas like medical malprac-

tice and aviation," she said. "I suspect those two at least will go out commercially and there may be others."

North Dakota also has some unique exposures that will probably continue to merit some commercial insurance coverage, such as a state-owned grain elevator and mill that have product liability exposures, and a state-owned bank.

"Those things will be reviewed as they come due," Ms. Peterson said. "Alexander & Alexander is currently reviewing all of our existing policies and making that determination as policies come up for renewal. They will make determinations as to

whether they should be renewed or modified or whether we should self-insure."

"Part of our challenge is to gain an understanding of all of their exposures and all of their coverages currently carried by numerous state agencies and individuals and either consolidate coverages or move them into the Risk Management Fund," said A&A's Ms. Anderson.

And in reviewing the state's commercial coverages, Ms. Anderson noted Alexander & Alexander will serve "strictly as a consultant."

"We will not be acting as a broker on any of their activities," she said. It's important the company remain

completely objective in directing the state's insurance purchases, she said.

"We have to think of ourselves as an employee of the state of North Dakota," Ms. Anderson said. "We are the risk manager for the state."

While A&A has done considerable work providing risk management consulting services, the chance to come in and build a risk management program for a client from scratch is a unique opportunity, Ms. Anderson said.

"This is the first opportunity to actually act as risk manager and set this up for an entity," she said. "We are very excited about the opportunity." **B1**

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Coverage may not be available in all states.

OSHA

Continued from page 2

- Focusing inspections for employers with strong safety records on the most hazardous areas. For example, OSHA inspectors visiting a construction company would concentrate on the top four hazards in terms of fatalities: falls; electrocution; crushing injuries, such as those caused by cave-ins; and injuries from being struck by equipment or materials.

- Creating incentives for employers to maintain effective safety programs by reducing pen-

alties that would otherwise be assessed, as long as an employer has a program that meets certain criteria. In addition, employers would be encouraged to include workers in safety efforts.

- Instituting "common sense" regulation, including identifying which hazards should be priorities for OSHA action; clarifying or getting rid of confusing or outdated standards; improving hazard communications; and increasing OSHA's involvement in service industries.

- Streamlining enforcement by reorganizing field offices; strengthening OSHA's ties with

state workplace safety programs; instituting a "quick fix" program that reduces penalties for employers that correct violations during an OSHA inspection; evaluating OSHA inspectors' performance on the number of injuries prevented rather than the number of citations issued; improving the inspection targeting system; and using information technology to help companies comply with standards.

The shift in OSHA's operations comes at a time that the agency is under increased congressional fire. Senate Budget Committee Chairman Pete Domenici, R-N.M.,

wants to cut OSHA's budget in half for fiscal 1996. House Budget Committee Chairman John Kasich, R-Ohio, wants to cut the agency's budget by 20% but have it take over the functions of the National Institute of Occupational Safety and Health and mesh its operations with the Mine Safety and Health Administration.

"I think it's very significant. It's a recognition by the administration that OSHA could do its job better. Will this do the job? I think it's a good step, but more is needed," said Tom O'Day, associate vp-federal affairs with the Al-

liance of American Insurers in Washington. He said it might take a year to determine whether anything actually changes.

History has demonstrated amply that presidents can recommend that an agency change its way of doing things and even issue executive orders and then have the bureaucracy smile and drag its collective feet, said Mr. O'Day. Bureaucracies like laws that clearly spell out what is to be done, and OSHA reform legislation might be needed to make the changes, he said.

"We agree that it is a step in the right direction. There are a number of Republican and Democratic initiatives out there right now that are very similar to this. That is obviously driving the White House to come up with something that is more palatable to industry," said Tom Soles, chairman of the Risk & Insurance Management Society Inc.'s health and safety committee and group director-insurance and safety for the Sheet Metal & Air Conditioning Contractors National Assn. in Chantilly, Va.

"We're looking to put OSHA in more of a partnership role," said Mr. Soles.

"There is so much duplication in what OSHA has out there right now, a regulatory house-cleaning would be very helpful," he added.

"While the president is making an effort to come businesses' way on regulatory reform, this is no substitute for regulatory reform legislation that will require regulators to make smarter and better decisions about how they carry out the rules," said a spokesman for the National Assn. of Manufacturers in Washington.

"NFIB applauds any effort to move OSHA towards a voluntary assistance program and away from a punitive, 'take-no-prisoners' approach. If the administration is successful in preventing OSHA inspectors from issuing citations and instead assisting employers in complying with OSHA regulations and the OSHA statute, then we would be delighted," said Mary Reed, legislative representative for the National Federation of Independent Business in Washington.

"In fact, NFIB believes that the bill that Rep. Ballenger is about to introduce will accomplish the same purposes by changing the statute, which we think will end up being more effective," said Ms. Reed. Rep. Cass Ballenger, R-N.C., currently is drafting a comprehensive OSHA reform bill.

Organized labor, which has supported giving OSHA more rather than less power over the workplace, offered qualified support for the president's plan. The nation's largest labor organization, the AFL-CIO, said that it endorses the report's goal of improving worker safety and health and welcomes President Clinton's pledge "to protect the nation's job safety laws and programs from attacks by the Republican Congress."

The group added that "there is nothing wrong with promoting voluntary compliance, but it is important to remember that under the Occupational Safety and Health Act, OSHA's job is not to be the friend of employers—it's to protect American workers from serious hazards through the promulgation of effective standards and strong enforcement of the law."

"Initiatives directed at voluntary compliance will only work when coupled with meaningful standards and enforcement efforts." EJ



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Living benefits

Continued from previous page

under life insurance contracts and for the sale or assignment of a life insurance contract to a qualified viatical settlement provider. Under this proposed legislation, an individual would be considered terminally ill if a physician has certified that the individual has an illness or physical condition that reasonably can be expected to result in death within 24 months of the date of certification. A maximum benefit is allowed under the provision, but the favorable tax treatment of the accelerated death benefit is part of an income exclusion also related to long-term care insurance plans. The maximum annual amount of long-term care benefits excludable from income would be \$73,000. Both long-term care benefits and the accelerated death benefit would apply to this maximum amount. Of course, this

legislation is still pending, and for those interested, it is recommended that the status of the legislation be monitored.

At Arthur Andersen, we recently introduced the accelerated death benefit to our employees. While such a benefit provision will not have applicability to a large share of the Andersen employee population, this benefit was received warmly by those individuals in such a situation.

Material in this article does not constitute accounting, tax, investment, legal or business advice. You should review your specific situation with professional advisers.

BI

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Benefit Actuary and Ask A Casualty Actuary answer written questions from readers on risk and benefits management issues and actuarial problems.

This month's column on employee benefit management issues is written by Dennis J. Nirtaut, managing director of compensation and benefits for Arthur Andersen & Co. S.C. in Chicago. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers questions on risk management issues. William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago, answers actuarial questions on benefits issues. And, Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field.



Mr. Nirtaut

Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.

Claims

Continued from previous page

Developing a report card

In addition to the analysis set forth above, the selection process should include a quantitative evaluation of the administrator. The following questions will assist the benefit professional in developing a "report card" to be used in comparing different administrators:

- What is the turnaround time for the periods shown below using the actual results during the last three months: Percentage of claims processed within five working days? Percentage of claims processed within 10 working days? Within 15 working days? Longer than 15 working days?

These questions provide the basis for determining whether an administrator can provide an acceptable level of service to the employer and its employees.

- What is the financial accuracy of the administrator? Audits by independent auditors are conducted on a regular basis for most administrators. Request copies of the two most recent claims audits. This information will illustrate the overall claims-paying abilities of an administrator. Industry

practice suggests that an administrator's financial accuracy ratio should exceed 99%.

- Request that the administrator describe its internal and external claims auditing procedures. This information helps the employer evaluate the administrator to determine that the proper check and balance system is in place to ensure claim payment accuracy. Determining how a hospital bill is selected for audit and who bears the cost of the audit will provide further insight into the administrator's level of professionalism.

- What is the source of reasonable and customary tables and how often are they updated? Determining the level of R&C is an important element for an employer to consider during the negotiating process. The level of R&C that an administrator establishes for an employer can have a dramatic effect on the level of reimbursement to the individual plan members.

- Will the administrator provide guarantees for claims turnaround time and financial accuracy?
- How are benefit, enrollment and eligibility changes processed?
- What is the posting time by the administrator for these issues?
- What are the claims staffing levels for every 1,000 members? It is important

to determine if the administrator has adequate capacity to handle additional business without a disruption in the level of service.

Looking for innovation

The rapidly changing health care landscape along with the technological advancements require administrators to search continuously for ways to improve and refine their services to employers. These final questions will provide insight into the administrator's commitment to innovation.

- Does the administrator have the ability to access their computer system via a remote terminal or software from the employer's office? The employer's ability to manage billing and eligibility issues and to have direct access to claims information can be invaluable.
- Is the administrator's system capable of receiving claims electronically? In the future, virtually all data will be transmitted electronically from providers to payers. Many administrators already have made a commitment to this technology.
- Does the administrator's computer system automatically check for unbundling and upcoding by providers?
- What is the administrator's commitment to managed care, and how are these services integrated into the

employer's plan?

A systematic approach to analyzing claims administration services is the most critical aspect of managing employers' benefit costs. Identifying an administrator that will work aggressively to control the unit cost of medical care consumed by employees by integrating managed care strategies, providing administrative expertise, and continuously searching for new and better ways to provide services to employers will insure the employer has done its due diligence. BI

Stuart Freeman Pockross is executive vp of JR Katz, of Northbrook, Ill., which designs and implements employee benefits and compensation strategies.

Robert Valerious is vp of marketing for Allied Benefit Systems Inc., a Chicago-based third-party administrator.



Mr. Pockross



Mr. Valerious

Court holds mental retardation not a pre-existing condition

The Supreme Court of Kentucky said that the workers compensation law does not penalize workers who, before they are injured, have limited occupational ability due to their innate intellectual capacity or their degree of education or training.

Ronnie Blackburn had a ninth grade education with no specialized or vocational training. He worked his entire adult life for the same employer performing duties which included flagging traffic, driving a light truck and manual labor. In June 1986, Mr. Blackburn sustained a work-related injury that aroused a pre-existing dormant venous insufficiency which gradually worsened as he continued to work. His physical limitations with regard to lifting, standing and sitting were reduced. Medical evidence indicated that Mr. Blackburn was either of borderline intelligence or mildly mentally retarded. He filed for and was awarded permanent and total occupational disability.

On appeal, his employer argued that Mr. Blackburn's congenital mental retardation limited his employment opportunities and should constitute a prior, active occupational disability. But, the court said the focus of the state's disability law was on determining the impact of the impairment caused by the work-related injury on the particular worker's ability to earn an income, in other words, on

Legal Briefs

determining what the particular worker has lost as a result of the injury. The award was affirmed.

Commonwealth of Kentucky, Transportation Cabinet vs. Blackburn, Supreme Court of Kentucky, Nov. 23, 1994, as modified on denial of rehearing, Feb. 16, 1995 (BI/05/June-\$10).

Sexual harassment covered under CGL policy

The 5th U.S. Circuit Court of Appeals ruled that a comprehensive general liability insurer had a duty to defend its insured in a sexual harassment suit.

Charles R. Wilson and his wife, Doris Wilson, operated Magic Years Learning Center & Child Care Inc. Theresa L. Alexander, a former employee of Magic Years, sued the Wilsons and Magic Years in a Texas state court seeking damages for alleged sexual harassment by Mr. Wilson. Magic Centers was covered under a CGL policy issued by Western Heritage Insurance Co. The policy covered bodily injury caused by an occurrence further defined as "an accident." The policy also included a special endorsement providing that bodily injury included an act which may be sexual in nature. The insurer brought this suit in federal court

seeking a declaration that it had no duty to defend the sexual harassment action. The trial court ruled against the insurer.

On appeal, the insurer contended that the policy's definition of occurrence did not cover sexual harassment, and even if it does, the allegations in Ms. Alexander's suit were excluded from coverage by an assault and battery exclusion endorsement.

But, the appellate court said the general policy definition of occurrence was "trumped" by the special endorsement. The court emphasized that regardless of whether the general definition of occurrence would exclude allegations of sexual harassment by the insured, the endorsement expressly provided for coverage of such claims. Furthermore, the court said that the assault and battery exclusion was likewise trumped by the special endorsement.

Western Heritage Insurance Co. vs. Magic Years Learning Center, 5th U.S. Circuit Court of Appeals, Feb. 16, 1995 (BI/01/June-\$10). BI

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

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Hawaii

Continued from page 3

gram and would provide credits for insurers that remove insured risks from the residual market.

- In addition, H.B. 2133 would:
- Allow workers comp benefits to be subject to collective bargaining.
 - Allow employers with favorable loss experience to participate in large-deductible programs.
 - Establish a mandatory premium discount of at least 5% for employers with safety and health programs.
 - Offset the amounts awarded for second injuries by benefits for a prior compensable injury. This could occur when an entire permanent partial disability is due to more than one compensable injury.
 - Promote treatment options such as managed care for workers comp injuries.

The measures are long overdue be-

cause workers comp costs in the state soared 227% in the past six years, making Hawaii one of the nation's most expensive states for workers comp, said Deron Akiona, executive of the Haku Alliance in Honolulu.

Haku Alliance is a coalition of industry groups representing small and medium-size employers in the state. The Chamber of Commerce of Hawaii and the Building Industry Assn. of Hawaii are among its members.

Haku Alliance was formed in August 1994, after various industry associations working separately on workers comp reform failed last year to gain legislators' attention, Mr. Akiona said.

"It's the first work comp bill passed in the last 12 years," he said. "It's very significant. The business community was upset because (legislators in 1994) passed nothing. It was so bad the Senate did not even listen. That made a lot of people an-

gry."

It also united them behind workers comp reform. "Normally in Hawaii, it is very difficult to get businesses together," he said.

The governor is expected to sign the legislation.

The effort to enact reforms became vital because workers comp insurers in 1994 sought an 82% rate increase over the next three years for companies in the assigned risk market, said state Rep. Nobu Yonamine, R-Pearl City, and chairman of the House's Labor and Public Employment Committee, which played a key role in its passage.

More than 40% of the state's small businesses are in an assigned risk pool, he noted. Insurers have also requested a 10% rate increase for policyholders in the regular market.

"We looked at every cost driver," Rep. Yonamine said. "One of the things we really wanted to do was regulate the insurance industry. That

was key."

He said the legislation would bring credibility to the rate filing system. It would require public hearings specifically on workers comp rate filings and extend to 90 days from 30 days the waiting period before new rates could take effect.

The Haku Alliance was not the only employer group pressing for workers comp reforms in the state. Some of Hawaii's largest insured and self-insured employers formed CROWD, or Coalition to Reform Obsolete Workers Compensation Design, to push for reform.

The group of 28 employers formed early in 1994 and laid out 10 reform objectives, said Clyde Mark, CROWD's chairman, who also is risk manager for Outrigger Hotels Hawaii in Honolulu.

A CROWD position paper says reforms are necessary because recent legal interpretations have chipped away at workers comp's exclusive

remedy provisions while benefit and medical costs are skyrocketing.

"Without reform of the current system, the cost spiral will continue to the detriment of our economy and our workforce," the CROWD statement says. "With appropriate reform we can return to the original objectives, restore cost control and avert an insurance crisis while maintaining a fair level of benefits for our employees."

Mr. Mark stressed that Haku and CROWD shared some similar objectives, though they worked separately and took different approaches.

CROWD worked quietly, behind the scenes, he said. The group hired a lobbyist and met with labor officials and medical providers to gain broader support for reform.

CROWD also tried to meet with workers comp insurers, but met resistance when insurers claimed that group meetings would violate anti-trust laws.

"They just didn't meet with us," Mr. Mark said. "If they did meet with us, only a few showed up. The same holds true today. This is kind of ridiculous. We're not talking rate setting."

In contrast to CROWD's quieter approach, the Haku Alliance took a "no-holds-barred" approach and actively courted public support.

The group used the media to get out its message that small employers in the state are having to lay off workers, cut benefits and close because of rising workers comp costs.

"We had a lot of coverage, both print and electronic," Mr. Akiona said. "We concentrated on that."

Despite differences in their approaches, both employer coalitions showed that employers banding together can get results.

"Having a coalition works because they bring a unified voice," said Mr. Mark of CROWD. "If you don't have a unified approach, you have a haphazard approach legislators can't digest."

The key is to form the coalition and lay the groundwork even before the legislative session begins, he advised.

Others agree that coalitions with consistent messages are most effective.

Past attempts to introduce workers comp legislation in Hawaii often came from narrower interest groups whose specific requests butted against the desires of other groups, Rep. Yonamine explained. Little resulted until the employer coalitions helped define the need for a comprehensive package.

"For the last six years we've had 35 to 50 specific bills addressing workers compensation," Rep. Yonamine said. "Haku and CROWD have been meeting for one year. So, this is the product of one year's work."

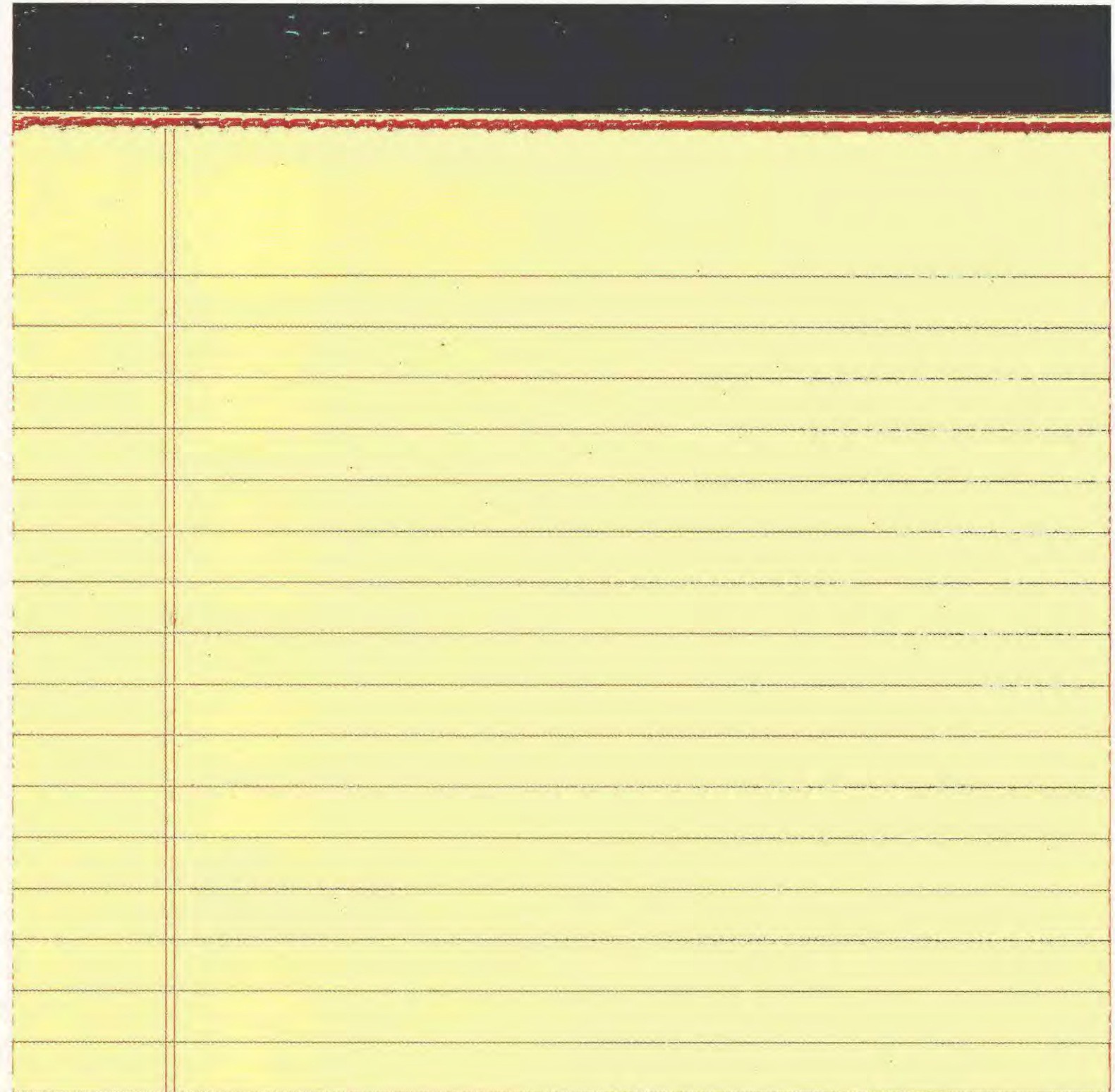
Of course, not everyone is thrilled with the new legislation.

The Hawaii Medical Assn. in Honolulu agrees that workers comp reform is necessary, but the group opposes the limits on medical fees. The HMA contends that H.B. 2133 falls short of adequately addressing the real cost drivers, such as workers comp fraud.

The legislation calls for a \$10,000 fine for each false statement made connection with a workers compensation claim, in addition to providing for criminal penalties for workers comp fraud.

Mr. Akiona said employers did not get everything they wanted, so they will continue their lobbying efforts while Rep. Yonamine noted H.B. 2133 is only the first step in reforming Hawaii's workers comp system.

"This is only Work Comp Reform I," he said. "We need Work Comp Reform II, which is next year. We need to refine the system," Rep. Yonamine said. **BI**



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NCCI takes direct approach to comp rating worksheets

By MEG FLETCHER

BOCA RATON, Fla.—Insured employers in several states will begin receiving free copies of their annual workers compensation insurance rating worksheet from the National Council on Compensation Insurance.

"We are mailing these worksheets directly to the employer, as part of our corporation's ongoing effort to increase their awareness about the impact that workplace safety may have on employees and on each company's bottom line," said NCCI President William D. Hager.

The NCCI is phasing in the program by mailing out worksheets as employers' annual experience ratings are routinely reissued.

Employers in 18 states are in the first group: Alabama, Arizona, Colorado, Connecticut, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Mississippi, Nebraska, New Hampshire, Rhode Island, Utah, Vermont and Virginia.

Businesses in six other states—Arkansas, Georgia, Missouri, New Mexico, Oklahoma and South Carolina—and the District of Columbia will receive theirs by late June.

Business owners in Alaska, Montana and Oregon also are eligible to receive their worksheets but must formally request them from NCCI.

The program is pending in Florida and Tennessee and is under discussion in a few other states where the NCCI oversees experience rating.

The remaining 18 states typically have their own form of experience rating under different rating agencies, or are exclusive fund states.

The NCCI worksheets contain an experience rating factor that shows how the company's losses compare with those of similar companies in the state. "A factor above 1.00 means that company will be paying a higher workers compensation premium than the average company in that industry," Mr. Hager said. "But by improving employee safety, that same employer may decrease its losses to below average and may realize a savings in premiums."

Factors the NCCI considers in developing experience ratings include frequency of injuries, amount of insurance money paid for medical services and in lost wages, additional money needed in reserve to cover continuing benefits for those injuries, and the company's payroll.

Until now, the NCCI sent a copy of an employer's experience rating only to an employer's current insurer. An employer could make the information available to anyone else, such as a competing insurer or broker, but that required the employer to individually authorize the release of the data in writing.

Insurers and agents still may buy worksheets from the NCCI.

Worksheet prices vary depending upon several variables, including the number of states in which an employer operates. The most inexpensive worksheet for an employer operating in a single state is \$25.

In addition, business owners now may authorize the release of their worksheet to other licensed agents, brokers and insurance providers by sending a single let-

ter to the NCCI.

"This will save the employer time and expense involved in preparing numerous individual authorization letters and could even result in additional beneficial competition," according to the NCCI.

The NCCI, which produces the worksheets based on information supplied by insurance companies, said that distribution to persons outside the insurance industry would continue to be restricted to only those presenting a written authorization from the employer.

For more information, call Dick Cohen, the NCCI's director of regulatory and external affairs, 407-997-4866. **BI**

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MSAs

Continued from page 3

MSA backers have yet to line up support from Democratic members, said Mark Mullet, tax counsel to Sen. William Roth, R-Del.

"You need to educate Democrats on the Finance Committee," said Mr. Mullet, who also spoke at the council meeting. A concern among Democrats is that younger, healthier employees will opt for MSAs, leaving older, sicker employees in managed care and other medical plans, Mr. Mullet said.

The uncertain future for MSAs in Congress contrasts sharply with action by the states.

While the new state laws vary in their details, the most common feature allows employers to make contributions to MSAs. Those contributions are not included in employees' gross income for state in-

come tax purposes, as long as the funds are used to pay for health care-related expenses. Some state even allow the funds to be withdrawn for any purpose—without taxes or special tax penalties—once the employee reaches age 59½.

Given that state income taxes are relatively low—often between 2% and 6%—the new state laws only will give a modest, but welcome, tax break for employees covered by MSAs. Until federal law is changed, though, amounts contributed to employees' MSAs are subject to federal income tax.

Under Indiana's MSA law, signed on May 10 by Gov. Evan Bayh, employers can contribute up to \$5,000 to employees' MSAs. Funds withdrawn during the year to pay for health care related expenses are not counted in employees' taxable income by the state.

Funds withdrawn from the accounts for other purposes during

The new state MSA laws will give employees only a modest tax break since state tax rates are generally low.

the year are included in employees' taxable income and an additional 10% excise tax is imposed on such withdrawals. Fund balances withdrawn at the end of the year—for non-medical purposes—are subject only to regular state income taxes.

Other states that have enacted MSA laws this year and the maximum contributions employers can make include:

- Montana. Employers generally can contribute up to \$3,000 annually to employees' MSAs. Funds

can be withdrawn tax-free to pay for health care and long-term care expenses.

- New Mexico. Employers this year can contribute up to \$3,000 to employees' MSAs. In future years, the maximum contribution will be adjusted to match changes in the medical care component of the Consumer Price Index.

- Utah. Employers can contribute up to \$2,000 or an amount equal to the sum of all eligible medical expenses paid that year.

- West Virginia. Generally, the employer contribution will be limited to \$2,000.

Some new MSA laws, though, have more symbolic than real meaning to employees.

A new law in Washington state makes clear that employers can establish MSAs. But since Washington doesn't have a state income tax, employees in an MSA will receive no new tax breaks. **BI**

California insurer rebate tension rises

SACRAMENTO, Calif.—Using rhetoric reminiscent of his predecessor, California Insurance Commissioner Chuck Quackenbush is demanding the payment of Proposition 103 rebates by those insurance companies that "refuse to accept reality and continue to stonewall the department and their customers."

Mr. Quackenbush, a Republican whose election campaign was boosted by more than \$2 million in contributions from the insurance industry, came into office in January pledging to secure within six months the remaining rebates promised under the 1988 rate rollback initiative that have been held up by legal challenges.

The California Supreme Court upheld the rollback provisions last year (*BI*, Aug. 29, 1994), and the U.S. Supreme Court in February declined to hear an appeal of the state's ruling.

But with as many as 150 cases still unsettled, Mr. Quackenbush is beginning to sound more and more like former Commissioner Garamendi, a frequent and loud critic of the insurance industry.

Unlike his predecessor, however, Mr. Quackenbush has approved some rate hike requests—especially for earthquake risks—because insurers have halted new writing of the coverage since the 1994 Northridge quake.

"My patience has its limits," Mr. Quackenbush said in a statement.

"It is time these recalcitrant insurers recognize that the only thing they stand to gain by delaying the inevitable is higher interest payments, bigger legal bills and more public frustration," he said.

At the same time, Mr. Quackenbush asked the state Legislature to appropriate \$19 million to hire judges, lawyers and experts to prosecute rebate cases against insurance companies that won't voluntarily settle their Proposition 103 liabilities.

The department plans to calculate the rebates owed by all remaining insurers and issue a blanket order for payment in July, a department spokesman said. The companies that still refuse to pay will face administrative hearings.

Mr. Quackenbush requested the \$19 million appropriation because the legal costs for the hearings are likely to exceed the department's current budget, the spokesman explained.

Consumer advocates say the unpaid rebates total more than \$1 billion, including interest accrued since 1988.

The two biggest holdouts are State Farm Mutual Automobile Insurance Co. and Farmers Insurance Group, the state's No. 1 and No. 3 property/casualty insurers, respectively.

The department says State Farm owes rebates of \$229 million and has yet to arrive at a rebate figure for Farmers.

In the statement released last Friday, Mr. Quackenbush also announced 10 new Proposition 103 settlements, the largest of which was a \$6.67 million rebate from Chubb & Son Inc.

The others all involve companies with less than one-tenth of 1% of California's insurance market. The largest of those rebates is \$216,000.

—By Joanne Wojcik

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Protection promotes Black to executive vp

James W. Black promoted to executive vp and chief operating officer from vp and director of regional operations for Protection Mutual Insurance Co. in Park Ridge, Ill.

In other insurer changes:

Donald Henderson named president and CEO of Citation Insurance Group in San Jose, Calif. Mr. Henderson, who had been a director since January, replaces **Donald D. Young**, who retired.

Agents/brokers

David A. North Jr. joined Sedgwick James Inc. in Chicago as executive vp of the claims management services division. He had been senior vp and principal in the global risk control services division of Johnson & Higgins.

Also at Sedgwick: **P. Joseph McCarthy** named director of the Northeast region and managing executive of New York metropolitan area; **John D. Riley**, executive vp of Sedgwick James of New England Inc., named chief operating officer; and **Stephen Anthony** appointed manager of the global and custom risk management unit at Sedgwick James of California Inc.

William C. Mills and **J. Addison Ingle Jr.** were named vps with Charleston, S.C., brokerage Heffron Ingle McDowell & Cooper.

Johnson & Higgins announced the following senior vps in various divisions: **Sharon A. Albrecht**, in the casualty department in Minneapolis; **Thomas W. Duffy**, in the property department in Washington; **Joan L. Goldberg**, in financial services in Boston; **Michael G. Heim**, global brokerage services in New York;

Comings & Goings: Industry

Michael J. Hudson, in the property department in Los Angeles; **Yuan-Kee Lee**, in the Pacific Rim business development department in Los Angeles; **Richard P. Magrath**, the sales manager in Minneapolis; **John T. McLane Jr.**, in the utilities and power group in New York; **Mark N. Noonan**, in the global claims division in Boston; **Gordon H. Prager**, client management department in New York; **Donald S. Schubert**, in the property loss control department in New York; **Erik Severeid**, in the international department in Washington; **Dennis J. Wilder**, senior client manager in Minneapolis.

Barbara Hoffman Frank elected vp and counsel for Marsh & McLennan Cos. Inc. in New York.

Reinsurance

Cary R. Stone joined Kemper Reinsurance Co. of Long Grove, Ill., as senior vp of claims. She had been reinsurance claims director at Allstate Insurance Co.

David J. Ensor and **Donald S. Welstead** promoted to vps at General Reinsurance Corp. in Stamford, Conn. **Abbe S. Bensimon** joined the company as vp in Stamford.

Michael F. Gregorio has joined reinsurance intermediary Towers Perrin Reinsurance as vp in Stamford, Conn.

Joseph F. Quinn named director and chief administrative officer at New York-based reinsurance brokerage and consulting firm U.S. Re Corp. He will retain his position as

senior vp and general counsel.

Other suppliers

Larry C. Thomas named vp/manager of the Western region in the Santa Ana, Calif., office of Atlanta-based claims administration firm Crawford & Co.

Dr. David B. Friend will join Watson Wyatt Worldwide as director of the group and health care consulting practice effective July 1.

James R. Rhone joined Delta Dental Plans of Illinois in Downers Grove, Ill., as executive vp. He had been president and CEO of Northeast Delta Dental in Concord, N.H.

Frederick J. Pomerantz and **Martin J. Nilsen** joined New York law firm Wilson, Elser, Moskowitz, Edelman & Dicker as partners specializing in the insurance and reinsurance industries.

James P. Corcoran, former superintendent of insurance in New York, joined New York law firm Cadwalader, Wickersham & Taft as partner.

Cathie G. Eitelberg will become senior vp and director of the government practice in the Washington office of The Segal Co. effective Aug. 1. She had been with the Government Finance Officers Assn.

John Erb re-joins A. Foster Higgins & Co. Inc. as a principal in the benefit consultant's Miami office. He had left Foster Higgins about a year ago to work with a health care purchasing alliance in Broward County, Fla. ■

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MAY 30-JUNE 2. Bermuda Insurance Symposium II in Tuckers Town, Bermuda; \$925. Bermuda Insurance Symposium, The Whitfield Building, 61 Front St., Penthouse, P.O. Box 2550, Hamilton HM KX, Bermuda; 809-292-6386.

MAY 31-JUNE 2. Managed Home Care Congress in Chicago, sponsored by the National Managed Health Care Congress; \$1,095. Managed Home Care Congress, 1000 Winter St., Suite 4000, Waltham, Mass. 02154; 617-487-6700.

JUNE

JUNE 1-2. Managing Prescription Drug Benefits conference in Chicago, sponsored by Prescription Price Watch and Global Business Research Ltd.; \$995 for benefits managers at non-health care companies, \$1,195 for all others. Conference Administrator, Global Business Research Ltd., 151 W. 19th St., 8th Floor, New York, N.Y. 10011; 212-645-4226.

JUNE 2. Banks and Insurance program in Lansing, Mich., sponsored by Olivet College and the Alpha Alpha Chapter of Gamma Iota Sigma; \$45. Mike Hubbel, Director of the Insurance Program, Olivet College, Olivet, Mich. 49076; 616-749-7626.

JUNE 4. Special PRIMA Preconference Sessions in Seattle, sponsored by the Public Risk Management Assn.; \$125 for PRIMA members, \$175 for non-members. PRIMA Conference, 1815 Fort Myer Drive, Suite 1020, Arlington, Va. 22209; 703-528-7701.

JUNE 4-7. PRIMA's 16th Annual Conference for Public Agencies in Seattle, sponsored by the Public Risk Management Assn.; \$480 for PRIMA members, \$605 for government non-members, \$725 for private non-members. PRIMA Conference, 1815 Fort Myer Drive, Suite 1020, Arlington, Va. 22209; 703-528-7701.

JUNE 4-9. Executive Forum for Strategic Benefits Management in Philadelphia, co-sponsored by the International Society of Certified Employee Benefit Specialists and the Wharton School of the University of Pennsylvania; \$3,925 for ISCEBS members, \$4,350 for non-members. International

Society of Certified Employee Benefit Specialists, P.O. Box 209, Brookfield, Wis. 53008-0069; 1-800-645-6702.

JUNE 5-6. Employment Discrimination Litigation course in New York, sponsored by the Practising Law Institute; \$595. Also **June 12-13** in Los Angeles. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 800-260-4754.

JUNE 5-7. Risk Financing: Techniques and Applications in Atlanta, sponsored by the Risk & Insurance Management Society Inc.; \$700 for RIMS members, \$800 for non-members. Also **Nov. 13-15** in Albuquerque, N.M. Risk & Insurance Management Society, Education Department, 655 Third Ave., New York, N.Y. 10017; 212-286-9292.

JUNE 5-16. International Reinsurance in London, sponsored by the Chartered Insurance Institute College of Insurance; \$3,080. The CII College of Insurance, London Training Centre, 19-21 Billiter St., London EC3M 2RY, England; 0171-702-9997.

JUNE 6. Get the Lead Out!: An Extensive Review of the Lead Poisoning Crisis course in Baltimore, sponsored by the Excess/Surplus/Specialty Lines Section of the CPCU Society; \$98 for CPCU Section members, \$123 for non-section CPCU members, \$148 for non-members. Brenda Longacre, CPCU Society, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-2774.

JUNE 6-7. Issues for Integrated Delivery Systems in Nashville, Tenn., sponsored by Willis Corroon Health Care Concepts; no charge. Attn: Leslei Moncrief, Willis Corroon, Conference Center, 26 Century Blvd., Nashville, Tenn. 37214; 615-872-3291.

JUNE 7. New Directions in Healthcare: Navigating the Evolving Healthcare Marketplace spring conference and trade show in Boston, sponsored by the New England Employee Benefits Council; \$150 for NEEBC members, \$225 for non-members. New England Employee Benefits Council, 62 Walnut St., Wellesley, Mass. 02181; 617-239-1767.

JUNE 7. Insurance Coverage for Employment Related Liability Claims seminar in San Francisco, sponsored by the Practising Law Institute; \$495. Christine Garcia, Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

JUNE 7-8. Reinsurance: Poised for Change seminar in Philadelphia, sponsored by the Reinsurance Section of the CPCU Society; \$298 for CPCU Society Section members, \$323 for Society non-Section members, \$348 for non-members. Brenda Longacre,

CPCU Society, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-2774.

JUNE 8. Environmental Insurance Coverage Claims and Litigation 1995 seminar in San Francisco, sponsored by the Practising Law Institute; \$495. Christine Garcia, Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

JUNE 8. Certificates of Insurance & Binders course in Bethesda, Md., sponsored by the Metropolitan Washington Assn. of Independent Insurance Agents and the District of Columbia Chapter of the CPCU Society; \$85 for CPCU Society members and MWAIA members, \$95 for non-members. Brenda Longacre, CPCU Society, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-2774.

JUNE 8-9. Pensions course in Sevenoaks, England, sponsored by the Chartered Insurance Institute College of Insurance. Also **Oct. 23-24**. The Course Adviser, The CII College of Insurance, Churchill Court, 90 Kippington Road, Sevenoaks, Kent, TN13 2LL, England; 01732-450888.

JUNE 8-9. MSIA 1995 Spring Conference in Traverse City, Mich., sponsored by the Michigan Self-Insurers' Assn.; \$165 for MSIA members; \$215 for non-members. Michigan Self-Insurers' Assn., c/o Shella Mahan, City of Grand Rapids Risk Management Office, 300 Monroe N.W., Grand Rapids, Mich. 49503.

JUNE 8-10. The Behavioral Healthcare Outcomes, Guidelines & Report Card Summit in Minneapolis, sponsored by the Institute for Behavioral Healthcare and Centralink; \$795. Centralink-Q, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028; 415-851-8411.

JUNE 9. Solving the Additional Insured Issues workshop in Wyomissing, Pa., sponsored by the Reading Chapter of the CPCU Society; \$80 for CPCU Society members, \$90 for non-members. Brenda Longacre, CPCU Society, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-2774.

JUNE 12-13. Employment Discrimination Litigation seminar in Los Angeles, sponsored by the Practising Law Institute; \$595. Christine Garcia, Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

JUNE 15. Second Annual Conference on Natural Disaster Loss Reduction in Atlanta, sponsored by the Insurance Institute for Property Loss Reduction; \$100 for Institute members and associate members, \$110 for academic institutions and government agencies, \$150

for all others. Insurance Institute for Property Loss Reduction, Attn: Congress Registration, 73 Tremont St., Suite 510, Boston, Mass. 02108-3910; 617-722-0200.

JUNE 15-16. Hands-On Medical Claims Workshop in Chicago, sponsored by Schwabacher Health Insurance Consulting Inc.; \$495. Schwabacher Health Insurance Consulting Inc., 695 Vernon Lane, Buffalo Grove, Ill. 60089; 708-808-9210.

JUNE 15-16. 25th Watson Wyatt Symposium on Directors & Officers Liability in Chicago, sponsored by Watson Wyatt Worldwide; \$795. Mary Maze, The Wyatt Co., 303 W. Madison, Chicago, Ill. 60606; 312-704-2483.

JUNE 16. ARIAS U.S. Insurance & Reinsurance Arbitration workshop in Chicago, sponsored by the AIDA Reinsurance & Insurance Arbitration Society; \$350. AIDA Reinsurance & Arbitration Society, c/o Chase Communications, P.O. Box 9001, Mt. Vernon, N.Y. 10552; 800-951-2020.

JUNE 18-21. Forty-fifth Annual Group Health Institute conference in San Diego, sponsored by the Group Health Assn. of America; \$1,050 for GHAA members, \$1,175 for non-members. GHAA, 1129 20th St. N.W., Suite 600, Washington, D.C. 20036; 202-778-3225.

JUNE 19-21. Investments Institute in Williamsburg, Va., sponsored by the International Foundation of Employee Benefit Plans; \$685 for IFEBP members, \$775 for non-members. Registrations Department, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 257.

JUNE 19-23. Fundamentals of Industrial Hygiene course in Williamsburg, Va., sponsored by the American Industrial Hygiene Assn.; \$995 for AIHA members, \$1,095 for non-members. Hollee Stubblebine, Continuing Education Department, 2700 Prosperity Ave., Suite 250, Fairfax, Va. 22031; 703-849-8888.

JUNE 19-23. Injury Management Training Program workers compensation program in Glastonbury, Conn., sponsored by Aon Management Institute; \$3,900. Also **July 31-Aug. 4**. Aon Management Institute, 628 Hebron Ave., Corporate Center II, Glaston-

bury, Conn. 06033; 203-659-6780.

JUNE 19-23. Planning for Nuclear Emergencies seminar in Boston, sponsored by the Harvard School for Public Health; \$1,145. Harvard School of Public Health, Office of Continuing Education, 677 Huntington Ave., LL-23, Dept. B, Boston, Mass. 02115-6023; 617-432-1171.

JUNE 20. D&O, Fiduciary Liability, and Employment Practices Liability workshop in Clarks Summit, Pa., sponsored by the Northeastern Pennsylvania Chapter of the CPCU Society; \$85 for CPCU Society members, \$95 for non-members. Brenda Longacre, CPCU Society, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-2774.

JUNE 20-21. Disaster Planning & Preparedness seminar in Calgary, Alberta, Canada, sponsored by Factory Mutual Engineering & Research; \$495. Seminar open to policyholders of Allendale Insurance, Arkwright and Protection Mutual Insurance only. Also **June 22-23** in Seattle; **July 27-28** in Halifax, Nova Scotia, Canada; **Aug. 29-30** in Norwood, Mass.; **Sept. 21-22** in Greenwich, Conn. FME&R's Insured Education, 1151 Boston-Providence Turnpike, P.O. Box 9102, Norwood, Mass. 02062; 617-255-4606.

JUNE 21. Sexual Harassment Litigation course in New York, sponsored by the Practising Law Institute; \$495. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 800-260-4754.

JUNE 21. Best Practices in Tomorrow's Group Health Market breakfast meeting in Wheeling, Ill., sponsored by the Chicago and Northeastern Illinois Assn. of Health Underwriters; no charge for members and first-time guests, \$15 for non-members. Karen May or Richard Sackley, 708-564-9922.

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INTERNATIONAL

Market anxious for Lloyd's recovery plan

By EDWIN UNSWORTH

LONDON—Investment in Lloyd's of London, including the increasingly important inclusion of corporate capital, could dry up if Chairman David Rowland does not unveil an acceptable recovery plan at the market's annual meeting on May 30. Speakers hammered that point home last week at a two-day symposium organized by DYP Conferences.

Suit alleges Lloyd's broke E.U. rules on competition

By EDWIN UNSWORTH

LONDON—As it struggles to devise an offer that would persuade thousands of its members to drop their lawsuits, Lloyd's of London is facing a £1 billion (\$1.57 billion) legal action by yet more investors.

In a pre-emptory strike, the Writs Response Group, which represents about 2,000 members, filed an action last week accusing Lloyd's of anti-competitive measures that allegedly violate the Treaty of European Unity, formerly known as the Treaty of Rome. The group, which includes members who belong to other action groups, was formed several years ago specifically to contest writs to collect Lloyd's debts.

These measures are related to: Lloyd's bylaws; its Central Fund, which is used to pay claims if members cannot; and from reinsurance provisions, including provisions for reinsurance to close. Together, the members say, these measures allow Lloyd's to operate as a cartel.

Executives at Lloyd's, which itself is expected to issue writs this week against some members with unpaid Lloyd's debts, downplayed the significance of the new action.

Members, including those in the WRG, have already agreed to be bound by the ruling in a similar action brought by an individual member, John Stewart Clementson. In October, a court is to take up his contention that some Lloyd's practices violate European Union rules on competition (*BI*, Nov. 14, 1994).

In fact, Lloyd's asserts, the only reason members brought the new action is to ensure that their claims will not be barred by the statute of limitations.

See Suit on next page

Later in the conference Lloyd's Chief Executive Peter Middleton responded that Lloyd's will unveil an "action program" this month.

"Until uncertainty is removed, I would say it is going to be impossible to bring in new capital in the form of corporate finance," said Sir Laurie Magnus, deputy head of U.K. corporate finance with London-based merchant bank Samuel Montagu & Co. Ltd.

He told 150 conference delegates

that he hoped the Council of Lloyd's will come up with a plan over the next few days that Lloyd's members will support.

To ease the burden on traditional investors, for whom unlimited liability is a condition of membership in Lloyd's, the market introduced corporate capital in 1994. This year, corporate capital already contributes some 23% of Lloyd's capacity.

Peter De Vos, managing director of Baltimore-based investment bank

Alex. Brown & Sons Inc., told the conference that potential U.S. investors in Lloyd's "will look closely at the restructuring plan to be announced on May 30."

Alex. Brown & Sons represented Lloyd's unit Wellington Underwriting P.L.C., in its not-entirely successful attempt last year to raise capital in the United States. Apart from such obstacles as the availability of other attractive insurance investments and competition from

30-year Treasury bonds, Wellington's fund-raising efforts ran into difficulties directly related to problems within Lloyd's and the associated bad publicity, Mr. De Vos said.

Lloyd's attempts to straighten out these problems, especially liquidity concerns and litigation by thousands of names, will be at the forefront of potential investors' concerns, said Mr. De Vos.

Among the issues investors want See Lloyd's on page 33

Mine owner insured for claims from disaster

By KATE TILLEY

JOHANNESBURG, South Africa—Anglo American Corp. of South Africa Ltd. is insured for workers compensation, property damage and business interruption losses from a mine accident earlier this month that killed 104 people.

On May 10, an underground locomotive and carriage plunged down the Vaal Reefs gold mine's No. 2 shaft, striking an elevator cage carrying night-shift workers.

The carriage fell from a level more than a mile below the surface onto the elevator, causing its rope to snap. The cage then fell more than 1,600 feet to the bottom of the shaft, said an Anglo American spokesman.

Chris Sanderson, Anglo American's risk manager, confirmed that 104 people were killed.

Four hundred miners in the No. 2 shaft at the time of the accident were brought to the surface uninjured through a connecting shaft, the spokesman said.

Anglo American Corp., a major mining, resources, steel and chemical

company, partly owns and manages the Vaal Reefs mine at Orkney, 100 miles southwest of Johannesburg, through its subsidiary, Vaal Reefs Gold Mining Co. The mine, one of the largest in South Africa, has 11 shafts and employs 54,000 people.

Mr. Sanderson would not disclose the extent of Anglo American's coverage, saying the issue was "of a very sensitive nature." But he confirmed that the company has coverage. "I'm totally confident of the programs we have in place," he said.

A law passed only two months ago requires South African employers to purchase workers compensation insurance for all employees through a government-run program.

Julian Ogilvie Thompson, chairman of Anglo American, said a full investigation of the "catastrophic event" will be conducted.

The company will take "every possible step to prevent a recurrence," Mr. Ogilvie Thompson said in a statement.

Visiting the mine last week, President Nelson Mandela said there will be an inquiry into the accident.



Bodies are removed from the Vaal Reefs gold mine in South Africa. This sign urging safety is placed near the shaft where the accident occurred.



Insurer appeals liability judgment

By KATE TILLEY

1989 Newcastle earthquake losses at heart of ruling

SYDNEY, Australia—Sydney-based insurer GIO Australia Ltd. is appealing two New South Wales Supreme Court decisions that it must indemnify a public entity policyholder for millions of dollars in claims arising from the 1989 Newcastle earthquake.

The ruling stems from a case in which the Newcastle Workers' Club alleged that the Newcastle City Council negligently approved plans to build extensions to its building

that later collapsed during the Dec. 28, 1989, earthquake. The city also was sued for injuries caused by the collapse of awnings whose support posts had been removed under the city's approval. The city reached out-of-court settlements of these claims and then sought coverage to its policy limits from GIO, its liability insurer, which denied coverage.

David McLachlan, in-house solicitor for the insurer, said appeals are expected to be heard by the Court

of Appeal for the Supreme Court of New South Wales before September, but no dates have been set.

New South Wales Supreme Court Judge Russell Bainton on March 2 ruled that GIO's policy would be liable to indemnify the Newcastle City Council if the council were found liable for the club's damage.

The council agreed in March to pay \$8.5 million Australian (\$11.5 million) to the club to settle its claim. The club had sought \$67 mil-

lion Australian (\$90.4 million), of which \$28 million Australian (\$37.8 million) was for the cost of rebuilding the club, and the rest was business interruption losses.

In addition, a September 1994 decision by Supreme Court Judge Barry O'Keefe found the Newcastle City Council was entitled to indemnification for claims against it under a public liability section of a general liability policy written by GIO.

See GIO on next page

London insurance community bands together to boost clout

By EDWIN UNSWORTH

LONDON—Under intense competitive pressure from abroad, many members of London's insurance community are jointly exploring ways to maintain London's position in the international insurance marketplace.

Although the groups have been working together quietly for some time, they decided to make the relationship more formal and to "get their act together and speak with one voice," said Tony Baker, who is deputy director of the Assn. of British Insurers.

The ABI is a member of the recently formed London Insurance Market Strategy

Committee, which includes: the London Insurance & Reinsurance Market Assn.; the Institute of London Underwriters; Lloyd's of London; and Lloyd's Insurance Brokers' Committee.

One reason the industrywide body has taken so long to form is that the London market is more complex than others, said Mr. Baker. In addition to individual companies, it includes entire markets—like Lloyd's and the ILU—and many international brokerages.

He contrasted London with Paris, where the insurance market is much more straightforward. The French market is made up only of insurance companies, just a few of which are internationally minded,

and they enjoy the backing of "a government determined to promote Paris both domestically and internationally," Mr. Baker stated.

Asked if this was a criticism of the British government, Mr. Baker said, "No. If anything, we are critical of us as an industry."

U.K. insurers have not marketed themselves as efficiently as they should have in the past, they have allowed their reputations to slip and they have had no source of industrywide coordination and statistics, he added.

U.K. Board of Trade President Michael Heseltine welcomed the insurance industry's cooperation.

"We have entered an era of international competitiveness unprecedented by its ferocity and ruthlessness. We have to compete to survive," said Mr. Heseltine.

U.K. industry in general has too many trade associations per sector, which tend to be "too many, too weak, too ineffective," said Mr. Heseltine. He added that he would like "to see a single, powerful, well-resourced and effective trade association in every sector."

Mr. Heseltine also cautioned that he has already instructed the Department of Trade and Industry not to deal with all of the existing trade bodies, but to single out one through which it can channel its dealings with each industry sector.

INTERNATIONAL

GIO

Continued from previous page

GIO also has been granted leave to appeal that decision, even though the normal time for appeals to be filed has expired. The council's policy in 1989 carried limits of \$20 million Australian (\$15.8 million at appropriate exchange rate) and provided both public liability and professional liability coverage.

GIO contends that the club's claims against the city are professional liability, not public liability claims. As a result, GIO argues that it is not liable because the insurer was notified too late under the terms of coverage.

Under the policy, public liability was written on an occurrence basis, while professional indemnity coverage was on a claims-made basis,

meaning the insurer must be notified within the policy period, which ended on Dec. 31 of the calendar year, or in a reasonable time after the expiration of the policy.

The club sued the council on the grounds that extensions to its building that were approved by the council were unsafe, and should not have been approved. During the earthquake (BI, Jan. 1, Jan. 8, 1990) the roof of the new section, built in 1972, collapsed, killing 12 people and injuring many more. Extensive rebuilding was required and the club did not re-open until July 1992.

An unspecified portion of the club's claims were paid by its property insurer, Zurich Australian Insurance Ltd., which then sued the city council on its policyholder's behalf. The industrial special risks policy was originally written by GRE Insurance Ltd., which was acquired

by Zurich in 1992.

Kevin Gibbons, an attorney with the Sydney office of Phillips Fox, whose firm represented the Newcastle City Council, said the council and the club, through its insurer, reached the settlement because it was in the council's best commercial interests.

GIO took no part in negotiations between the council and the club to reach the settlement figure, Mr. Gibbons said.

Without the settlement, he noted, the insurer could be facing a much larger liability.

Mr. Gibbons said GIO also had been ordered to pay the council's litigation costs for the court hearings. He did not know the amount, but said it was "very expensive."

At the time of the earthquake, and for the two years following the quake, GIO wrote a combined liability

policy for the council that covered public liability and professional indemnity exposures.

Kevin Kinsella, manager-commercial insurances for GIO, said the insurer no longer insures local councils' liability insurance programs.

In addition to the club's claim, the Newcastle City Council received personal injury claims for deaths and injuries arising from damage in Hamilton, a Newcastle suburb where awnings collapsed during the quake.

GIO late last year paid \$1.5 million Australian (\$1.2 million) for a total of 12 personal injury claims arising from the quake in Hamilton and Newcastle.

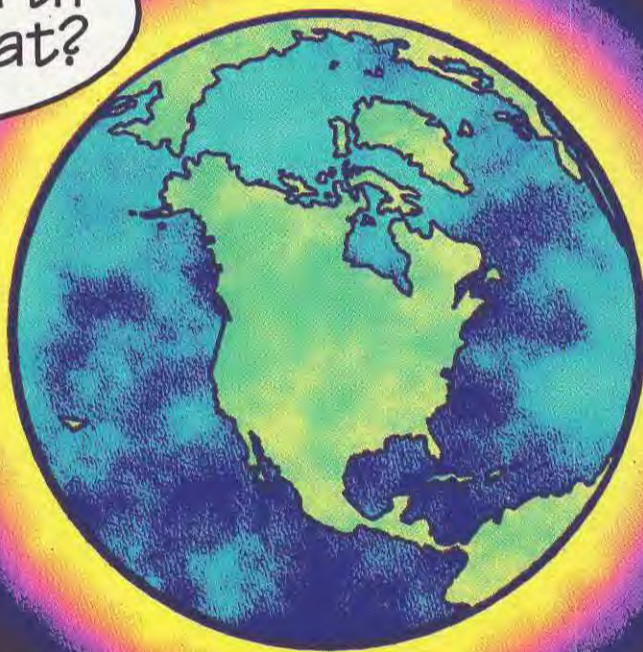
It had initially denied liability for five claims filed after the Dec. 31, 1991, expiration of the policy, but then agreed to pay all the claims last year, Mr. McLachlan confirmed.

Judge O'Keefe's 1994 ruling found that the council's function of approving building extensions to the club, and its removal of support posts holding awnings in Hamilton, were part of the council's statutory duties and functions, not a professional service. Therefore, they were not subject to the professional indemnity section of the policy.

Judge O'Keefe also rejected GIO's argument that it was not given sufficient or timely notice of circumstances leading to a possible claim. A council officer told the court that a newspaper article about a 1990 coronal inquiry into the deaths was faxed to GIO.

In it, a barrister testified that he considered the council responsible for the deaths and injuries. Judge O'Keefe said that was sufficient, but it will be one of the grounds for GIO's appeal. **BI**

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Jul 18	Agents & Brokers
Jul 25	Dependent Care Resource & Referral Services
Aug 1	Risk Management Information Systems
Aug 15	Benefit Communication Systems
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Suit

Continued from previous page

The members, though, say they hope their legal action will prevent members agents from succeeding in lawsuits brought against members to recover money owed to Lloyd's. Under a new Lloyd's rule, members agents that do not do their best to recover Lloyd's debts can be subject to disciplinary action including fines and even loss of its registration as an agent.

Philip Holden, head of Lloyd's financial recovery department defended the rule and said that members agents "have a clear contractual right (to pursue members) which will be successful in courts."

Separately, an appellate ruling in another Lloyd's case may lead other litigating members to accelerate their legal actions or to accept a general settlement offer from Lloyd's.

Three Court of Appeal judges on May 12 unanimously ruled in favor of the "first past the post" principle under which members would be paid any court awards as they win their cases.

Because only limited amounts of errors and omissions coverage are available to pay these potential awards, members who do not get to court fast enough may be unable to recover damages.

The Appeal Court decision means that members of the Gooda Walker Action Group will be entitled to receive the £230 million (\$362 million) that they have already been awarded (BI, Jan. 23).

In yet another development, Lloyd's is in talks that may bring in yet another form of corporate capital.

Negotiations are under way with the Building Societies Commission to enable building societies, which are similar to U.S. savings and loan associations, to invest in Lloyd's on a limited liability basis.

Their investments probably would be restricted mainly to selling household-related policies, including mortgage payment protection policies. Demand is expected to increase significantly for the latter type of policy, which would make payments on a homeowner's mortgage if the owner fell ill or became unemployed. Demand for these policies is expected to increase after recent changes in U.K. law significantly reduce social security mortgage payments to the unemployed.

Building society investment in Lloyd's would coincide with planned rule changes to allow building societies to set up wholly owned insurance subsidiaries by early next year. This would mean they could invest in Lloyd's in 1997. **BI**

INTERNATIONAL

Lloyd's

Continued from page 31

to see addressed are the possibility of a levy on names, which could extend to agents and brokers; a move to a one-year accounting system from Lloyd's three-year system; and expansion of the scope of Equitas Ltd., a runoff reinsurer Lloyd's is setting up to take over names' liabilities for past losses.

He added that "due to the perceived risks of investment in Lloyd's vehicles and unfamiliarity with the market," potential investors would be looking for a rate of return above the 10%-20% return they would expect on public equity financing or the 20%-30% or higher rate they would get on private equity financing.

Another speaker, Patrick Hanratty, a vp at Citibank N.A. in London, said he felt certain that the British middle classes, traditionally the mainstay of Lloyd's investment, "have had enough of investment at Lloyd's."

Given recent sharp declines in the number of Lloyd's names, Mr. Hanratty said Lloyd's underwriting capacity could fall in a few years to about £5.5 billion from its current £10 billion level (to \$8.8 billion from \$16 billion).

Giving an outsider's view of the market, Eric Herve-Bezin, a senior manager specializing in international affairs with French insurer AXA S.A., said the London insurance market "should reduce the importance of U.S. business, which has ruined the names and almost killed Lloyd's." In particular, it should restrict its intake of third-party liability business, which has been a major source of losses at Lloyd's.

Lloyd's has concentrated too much on winning U.S. business, while other European insurers have sought business from the more profitable European sector, he added.

If Lloyd's wants to attract more corporate capital, it will need to take more control of its business, tighten up on self-regulation and fine-tune its insurance techniques, Mr. Herve-Bezin added.

Outside the conference, the call for Lloyd's to come up with an acceptable recovery strategy (BI, May 15) was backed last week by Sax Riley, chief executive of insurance broker Sedgwick Group P.L.C.

He said that worries about Lloyd's future—particularly in the United States—are forcing clients to look at other ways of funding their risks, including self-insurance.

Lloyd's needs to end this uncer-

tainty by devising "a positive plan" for its future, Mr. Riley said.

Later in the conference, Lloyd's Chief Executive Peter Middleton said that Lloyd's will present an "action program" setting out a recovery course from its existing problems before the end of this month.

Mr. Middleton stressed that most of Lloyd's financial problems stemming from several years of underwriting losses are behind it. He said the action program will draw together views on what needs to be done as a result of these problems and their continuing effects on the market.

The main lasting effect has been legal action against Lloyd's and its agents by thousands of names who believe that their losses are the result of poor administration

and bad underwriting decisions.

The action program that will be presented this month is partly the result of discussions with some 50 groups representing these litigat-

program recognizes that "we will not get a resolution of the past unless we can offer finality to Names in respect of their open years," he said. He added too that this final-

all comes together." He hoped the reaction of names would be to see the program as a basis for further discussion on a settlement.

The action program should represent "the last phase of the turnaround" initiated when Lloyd's launched a business plan at the start of 1993, added Mr. Middleton. In that time, Lloyd's has built up "a quality of trust that was most certainly absent two years ago" by transforming the relationship between the governing bodies and the rest of the market.

He stressed that Lloyd's has put its losses behind it and "has an excellent future."

Although Mr. Middleton would not specify when Lloyd's will unveil the action program, there is a strong possibility it could be done May 30 at Lloyd's annual general meeting. **BI**

Lloyd's has focused too much on winning U.S. business, while other European insurers have sought business from the more profitable European sector, says Eric Herve-Bezin.

ing names, Mr. Middleton said.

Although Lloyd's is working with these groups on a settlement that would put an end to litigation, he said that the action program will not itself constitute a settlement offer. However, the

ity can only be achieved through Equitas Ltd., the runoff reinsurance company that Lloyd's is creating to take over these open years.

Mr. Middleton said that the action program "will show how this



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AIG denies offering Lloyd's E&O

NEW YORK—American International Group Inc. says a British press report that the insurer is considering offering errors and omissions coverage to Lloyd's underwriters is incorrect.

"AIG is not contemplating any errors and omissions coverage for any party at Lloyd's," the New York-based insurer said in a statement last week.

—By Meg Fletcher

The Professional Marketplace

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Sub-total	30,001
Associations	343
Government, Unions and Educational Institutions	950
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Insurance Companies	7,687
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Caperton

Continued from page 3
mentioned changes in the state's health care system. What reforms are you seeking?

We're in the midst of changing our whole Medicaid program to managed care. It's a very big undertaking. You have to get waivers from the federal government. It's a very big system and it's a big challenge for us.

I think in early 1996 we will be able to make that conversion. It's a way to better manage the system, it's a way to save cost and it's the future.

Have there been any changes in the state's risk management program during your tenure as governor?

We haven't done as much in that area as I'd really like to. As a governor, you have to set priorities, and that really wasn't one of our major crises.

One of the difficulties you have in managing a state program is the ability to pay for the talent you need to run such a big program.

Industry can so much more afford to pay the costs for the talent that you need.

That's real challenge for us, and just the whole purchasing process that gives you less flexibility than you have in the private sector.

Do you have any opinions on the National Assn. of Insurance Commissioners' state accreditation program?

West Virginia has been accredited. We find it's very important to us.

It gives a state like West Virginia that does not have a major domestic insurance industry the opportunity to use the best thoughts and brains of people around the country.

I think it's a strong and important alternative to federal regulation of the insurance business.

I'd much rather have the states regulate the industry than I would the federal government.

I gather from your response that you do not prefer creation of a federal option for regulating multistate commercial insurers.

I prefer the state system and I think as long as the state system is doing its job, there's the expression in West Virginia, if it's not broke, we don't have to fix it.

Which do you think is preferable, an elected insurance commissioner or an appointed one?

I think a state insurance commissioner should be appointed.

It is a very specialized skill that is needed. It is like the person who runs an environmental agency, or the person who runs the department of highways. Those kinds of jobs where specialized professional skills are needed I think are much better filled by appointments than by elections.

Voters basically should choose people for positions with more political responsibility, not those that require more professional skills.

Do you think a uniform federal product liability code such as the one sponsored by your state's Sen. John D. Rockefeller IV, D-W.Va., that passed the Senate earlier this month is a good idea?

I think Sen. Rockefeller very much recognizes the world marketplace American industry is in. And if product liability laws that put our products in a non-competitive pricing situation mean a loss of jobs, it means a loss of opportunity in this country. I support him in this legislation.

If it fails?

I would think it would continue. Sen. Rockefeller is a tenacious person, I think he feels it's an important thing that he's doing and that he would continue to provide that leadership.

And you would continue to support him?

I would.

Congress will soon take up the question of Superfund reauthorization again.

Do you think environmental law reform is possible or desirable? What sort of reform would you support?

What we have done in West Virginia is to really get the parties together that are affected by environmental legislation and try to use their expertise to work that

out rather than to just be a political football that is thrown in the middle of the political process. And I think that works. I think in today's world, everybody is basically an environmentalist, a thinking person is an environmentalist.

The problem is we have ex-

that if you can have that opportunity, that the sense of purpose, the sense of being able to be a part of some important changes is extremely rewarding and that if people who have the skills to do that aren't willing to get out and to work in the public sector, then we're going to end up getting the

professionalism. You also bring the perspective that you can't let the bureaucracy slow everything down, that quality is extremely important and the realization that we are living in an extremely competitive international marketplace.

Your term ends in 1997. What are your future plans?

I have not yet made up my mind. I am very much leaning toward going back to the private sector.

Are you considering a return to the insurance industry?

Insurance is certainly one of the things I've considered strongly. I haven't confined myself to insurance.

Having had this eight years' experience in running a big organization, I have gained a lot of new skills, a lot of perspective.

But I really always have loved the insurance industry. I think with the right strategy and the right kind of people, that the opportunities there are remarkable, so that's certainly one of the things I will consider.

I might want to go back into the public service, but probably not for a long time.

'I prefer the state system and I think as long as the state system is doing its job, there's the expression in West Virginia, if it's not broke, we don't have to fix it,' says Gaston Caperton.

tremes on both sides. And they take positions that make this thing almost impossible sometimes.

We've had just this sort of conflict over a plant that's coming into West Virginia. Environmentalist extremists have taken one position and industry has staked out another. . . . Actually, industry today is much more cognizant of the importance of the environment. . . . than some of the environmental extremist groups.

I have a very good environmental record and consider myself an environmentalist but I think there are those extremists who think we can live without jobs when jobs are deeply important, that we can live without an economy and I don't think that's what the American people want.

Would you encourage other insurance professionals to seek political office?

I think public service is the most rewarding of all work. It's very purposeful.

It gives you a unique opportunity to serve your state in my case or your country. I don't think everybody's cut out for it. I don't think everybody would be willing to put up with a lot of the tough parts of being in public office, but I do think the rewards are tremendous.

I had the opportunity to speak to a youth organization the other day with two other people who are presently employed in high positions in the federal government. All three of us basically came to the same conclusions:

government that none of us want.

I also think that there's tremendous advantages for people who have worked in the private sector because they bring certain skills and certain perspectives that I think are very important to the better running of the government.

What would those skills and perspectives be?

First of all, the skills of running an organization in the private sector: Accountability, efficiency,

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Interest rates top life insurer executive concerns

By MEG FLETCHER

NEW YORK—Future surplus adequacy for life insurers could be seriously impaired by higher interest rates, according to Tillinghast's 1994 survey of chief actuaries for major life insurance companies.

About 84% of the 105 chief actuaries responding to the survey identified that as their leading concern. Meanwhile, 73% identified tax law changes as a worry, 71% named inadequate pricing and 65% cited new insurance regulations.

"Surplus adequacy is a key measure of financial stability for life insurers. Significantly, almost half—49%—of the study respondents thought higher interest rates could cause a 'severe problem,'" said Patricia Guinn, a managing principal at New York-based Tillinghast and co-author of the study.

"Perhaps the life insurance companies could use the recent decreases in interest rates as an opportunity to reassess their risk vis-a-vis interest rate increases and take action, if needed, to pro-

tect themselves against potential future increases," she said.

Large life insurance companies—those with at least \$2 billion in assets—were more concerned about the potential impact of higher interest rates than smaller companies, Tillinghast reported. That is most likely because the smaller companies have less interest-sensitive business and generally view higher interest rates as an opportunity to have more attractive products, the consultant concluded.

Other key findings include:

- Almost half—47%—of the companies surveyed have taken steps to improve their market conduct compliance procedures. Of those, 55% have upgraded policyholder complaint processing, 52% are reviewing complaints for patterns, 44% are modifying agent training and 39% are establishing revised company monitoring systems.

In addition, 36% of companies now are controlling agents' use of advertising material and illustrations.

- More than 85% of those surveyed believe life insurer profit-

ability could be improved by reducing home office expenses and distribution costs.

However, ownership structure dictates priorities, the survey shows. Respondents from mutual companies focused on cutting distribution costs, while those from stock companies identified more opportunities to reduce home office costs.

- About 61% of respondents are dissatisfied with the ability to measure the economic contribution of their individual lines of business. Almost eight in 10 do not determine the value of new business written during the year on any systematic basis.

However, that may change as more senior managers with banking and other financial services experience who are familiar with "economic value-added analysis" apply it to the life insurance arena.

Douglas A. French, a Tillinghast principal, co-authored the report.

Copies of the survey report are available by contacting Linda Hasset, at Tillinghast, 203-843-7067.

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Outcomes

Continued from page 1
plans and their providers accountable unless purchasers can better compare the cost and quality of those plans.

Now that many large employers have a better handle on comparing health plan costs, they are pushing for a better way to measure health plan quality.

"There are a lot of tools out there, some public and some private. As employers we try to sort out which ones to trust," said Alan Peres, manager of benefits planning for Ameritech Corp. in Chicago. "More important though, when we get the information back, is using it and interpreting it carefully."

Some health plans may resist employers' efforts to push for a uniform system of health care accountability, "but the reality is purchasers have a more dominant position now and we can drive competition in the marketplace," said Mr. McNeill of GTE.

"We believe, as Dr. Ellwood believes, that the only way to make a marketplace work... is to get competition based on relevant results," Mr. McNeill explained. "People need information on health outcomes and price in order to make the best decisions."

And, "If we don't drive competition based on outcomes, we will fail. We will lose our shot at improving the health care system," he said.

Dr. Ellwood agreed, noting that if health care purchasers want to see true change in the U.S. health care system, they will have to agree on a set of standard quality criteria by which to assess the health care system.

"If employers keep creating

their own quality guidelines, it'll be a disaster," he said. "It's not a question of whether the instruments exist to measure quality, it's a question of agreeing on what you want to measure."

"The state-of-the-art in measuring quality is good enough to use—we don't need to mess around with coming up with new instruments," he added. "But, we need some agreement about the demands you want to put on the health care industry."

Dr. Ellwood, known as the "father of HMOs" and most recently recognized for promoting the theory of managed competition to the Clinton administration, is encouraging health care purchasers to select and possibly endorse a uniform set of data disclosure requirements for health plans.

Under the auspices of the Jackson Hole Group, an informal collection of health policy experts, professors, physicians and others, Dr. Ellwood has invited a veritable "Who's Who" of American business to discuss the subject at a June 25-27 meeting at his Jackson Hole, Wyo., residence.

Those attending include benefit experts from GTE Corp., PepsiCo, AT&T, Southern California Edison Co. and the California Public Employees Retirement System.

Collectively, the health care purchasers invited, including representatives of Medicare and Medicaid, provide health care to 80 million individuals.

The group will hear about the Jackson Hole Group's latest set of health care market reform proposals, known as "Responsible Choices," which proposes a variety of actions the public and private sector should take to improve the U.S. health care system.

Among other things, that proposals call for building a Health

Accountability Foundation that would be responsible for the research, design and evaluation of a new system of health accountability measures.

The non-profit foundation, which could be funded by employers and other health care purchasers through a modest surtax on health plan premiums, would be responsible for choosing a uniform means of gathering information on health plan quality. It also will serve as a clearinghouse that will distribute outcomes and other health plan information to purchasers and consumers.

Specifically, the Jackson Hole Group—and many large employers—want to design a health plan evaluation system that moves beyond traditional measures like mammography and immunization rates to include assessments of patient satisfaction and quality of life.

One of the shortcomings of the HEDIS data is that it only gives purchasers a small piece of the whole picture, Dr. Ellwood said. For example, data on the rates at which various plans perform mammograms for breast cancer doesn't reveal much about how those mammograms are affecting the health of plan members.

"Research shows that the rate at which mammograms are done is a matter of demographics, not the type of health plan," Dr. Ellwood explained. In addition, "the accuracy of the mammograms varies extensively," so purchasers cannot rely on frequency alone to evaluate a health plan.

Similarly, data on the number of low birth weight babies born to members of a particular health plan provides little evidence of the quality of health plans' prenatal care programs, Dr. Ellwood said. "A low percentage of low birth

weight babies means good prenatal care, right? Not always. Again, it has more to do with the demographics of a population—low income families are more likely to have premature babies."

As a result, purchasers "need a report card based on standard methodologies and risk adjustment measures" that eliminate the possibility that a health plan's results will be skewed because of the types of patients it treats.

Tom Elkin, assistant executive officer for CalPERS, agreed that current methods for measuring health plan quality need to be improved.

"Lots of folks are coming forward with instruments to measure and quantify quality. We are still in the infant states of determining what works. I think NCQA is doing a marvelous job in forwarding this initiative, but whether it's the answer for the whole country, I don't know," he said.

CalPERS has used HEDIS measurements as "our first, and somewhat primitive, attempt to get information about health plans into the hands of consumers," Mr. Elkin said. "But, anything we can explore to improve existing outcomes measurements is in our best interest."

Specifically, Mr. Elkin and other purchasers would like to get data from health plans that tells consumers more than the frequency at which they perform preventive screenings like mammograms. "The next step is to ask plans, 'When you did the screening, what happened? Did you catch a number of cancers earlier? And if so, what was the outcome?'"

At the meeting in June, Dr. Ellwood and other health care experts will propose a system of common quality indicators that will address three specific areas:

- The functional well-being of patients following an episode of care, including how they feel, their mobility and capabilities in performing tasks of daily living.

- Patient satisfaction with the health plan, including satisfaction with waiting times in doctors' offices and doctors' bedside manners.

- A common tool for measuring the severity of health risks in individual health plans. Identifying a common tool for this will help employers accurately determine whether a plan's statistics are worse because they treat sicker patients.

Employers and consumers "ought to be using patient-centered outcomes to make health care purchasing decisions," Mr. Peres said. "Individual health plans also must realize they have to be accountable to customers, be it corporate purchasers or individuals, for performing in objective, measurable ways."

Many health plans and providers traditionally have rejected the idea of using outcomes measurements, he noted. "There are some who say 'we don't know enough about what works and what doesn't work to put much credence into outcomes measurements.'"

That excuse "has been something for health plans to hide behind and to stall—at the disadvantage of quality plans," Mr. McNeill said.

Employers say, even if the current methods for measuring outcomes are imperfect, it is still important to move forward.

"There is strength in numbers: strength in numbers as data and strength in data formed as useful information," Mr. Peres said. "It is this data, imperfect that it is, that is leading to accountability in health care." **BI**

Hines

Continued from page 3
"2005: Who will Survive, the Risk Manager or the Broker," featured a debate format rather than the panel discussions of the past.

Participants responded to a number of deliberately provocative statements from the moderator and from the audience suggesting either the broker or the risk manager may not be critical to risk management.

Responding to the point that a good broker can do everything a fully staffed risk management department can, Ms. Hanratty said, "In essence, if the broking industry is going to develop into a truly professional organized system, then it ought to be able to do everything that I see in the risk management departments that I've studied."

But Ms. Hanratty said she believes that as long as brokers rely on a commission system of compensation, there will be problems reaching that point.

Ms. Hanratty's debate opponent, Mr. Kloman, differed as to whether brokers could match the job done by risk managers.

"Unfortunately, brokers are too highly focused on insurance," Mr. Kloman said, adding that he believes brokers don't look closely enough at risk management controls and systems.

"I would agree with you, however, as times change and some of these firms evolve there will be more opportunities for outsourcing some services," he said.

Mr. Kloman also agreed with a debating point that a broker's effectiveness is inherently weakened by the fact that chief financial of-

ficers will never reveal all the details of their organizations' inner workings.

There are some good reasons for that secrecy, he conceded, including the fact that information might be less secure with an outside organization and that information frequently is more subject to discovery in legal proceedings when it's been shared with an outside party.

Mr. Kloman suggested, though, that to a large extent a CFO's unwillingness to share information with brokers "is a very serious mistake."

"Full information includes both the good and the bad," he said.

Ms. Hanratty said, "I do have a difficulty in seeing how a CFO can not take the best advice and to get the best advice he has to be open with his adviser." She said, however, that she believes certain "questions of propriety" would be eased if brokers achieved a professional status, and that in the absence of that status there will continue to be a reluctance among CFOs to share much information.

Again, the commission nature of the broking business came up as Mr. Kloman asked, "If a broker is receiving commission, is not the perception that of a seller or a vendor rather than as an adviser?"

Ms. Hanratty agreed that "the structure of reward in the industry is absolutely essential for cracking this problem."

The two disagreed on the notion that a broker is essential to placing a difficult insurance program. Ms. Hanratty joked that she agreed with the statement "because I come from London," noting that there's no way to get into the Lloyd's "web" without a broker.

Mr. Kloman questioned, though, whether London is really the only arena for sophisticated underwriting, arguing that the notion that there's no substitute for using a broker to place sophisticated coverages is inherently wrong.

Improved information technology and travel expand the options available to risk managers, he said, citing the opportunities the Bermuda market affords for placing complicated programs.

The problem for risk managers, though, is that there are "too many small companies" in the insurance business, Mr. Kloman said, meaning a company frequently has to look to several insurers to assemble the needed coverage.

But that process of spreading risk around the market is one area where a broker can add value, Ms. Hanratty countered. "Ultimately it is the way (the broker) is working that process that is going to determine the price," she said.

Assembling tricky coverages will be made easier by the Information Superhighway, Mr. Kloman suggested, as the debaters agreed that improved information technology will change the industry.

"The Information Superhighway is going to permit a risk manager in a corporation to talk to underwriters in London, Zurich, Johannesburg and Singapore, all in a matter of hours and put together a program," Mr. Kloman said.

He added the Internet "will eliminate the need for a lot of the communication/information services provided by brokers over the years."

Ms. Hanratty sees the Information Superhighway opening the door to a system of trading risk. "How you're going to do it I don't know," she said, though she be-

lieves once risk trading mechanisms are developed it will prompt other changes in the industry.

Ms. Hanratty disagreed with the debating point that a broker could never communicate as well with a company's field operations as could a company's risk manager.

"My view is you can organize it and the broking community should be able to service the operating units as well as a remote central function," she said.

At BP, local brokers work directly with BP units in their territories, she said, and are expected to be able to deal with operations in their regions within the context of the company's overall strategy.

She said in large corporations the operating units are inevitably suspicious about activities at the company's corporate center, a risk management problem that can be overcome by "pushing things down" to someone at the local level.

"I think risk is managed at the operating level," Ms. Hanratty added later in response to a point raised by the audience, adding that "Risk managers need to be risk educators." Mr. Kloman suggested they need to be "risk management guidance counselors."

Both agreed some risk managers continue to choose brokers on the basis of the perks those brokers offer.

"I think it's utterly disgusting that the broking community should use fancy perks of this kind to capture clients in this way," Ms. Hanratty said.

"I have to answer to my shareholders and in order to answer honorably to them I cannot go, however much it would amuse me, and spend two weeks with a broker in Florida," she said.

"The offering of perks and the acceptance of perks... are mutually demeaning," Mr. Kloman said. "It takes two to play the game."

The two agreed that risk managers are evolving, by necessity, away from focusing solely on insurance, though Mr. Kloman suggested too many risk managers "still are mired in insurance."

"Those risk managers who know only insurance and don't want to know anything else will become extinct very rapidly," he said.

Ms. Hanratty said she believes risk management is moving away from a "reactive financing" function in many companies to a more holistic strategic one.

And Mr. Kloman said he believes there eventually will be situations in which the risk manager will leapfrog the CFO into a strategic position in the organization, while insurance brokerage will evolve into a highly sophisticated consulting service industry.

He cautioned, however, that his predictions have sometimes been wrong in the past. "In 1971 I boldly predicted that fees would replace commissions within the next five years," Mr. Kloman said.

The debating points were developed by the Hines Symposium committee and posed by the event's moderator, Kathryn J. McIntyre, publisher and editorial director of *Business Insurance*.

The symposium, honoring Harold H. Hines Jr., who was president of Rollins Burdick Hunter, now Rollins Hudig Hall Group Inc., at the time of his death in 1984, is sponsored by the Chicago and Northeastern Illinois chapters of the Risk & Insurance Management Society, the Insurance School of Chicago and *Business Insurance*. **BI**

Exclusions

Continued from page 1

workforce has changed and become more mobile. Health care plans have to reflect those changes," said Kathy Ann Dupree, director of employee benefits at MetroVision Inc. of Atlanta, which recently completed a joint venture agreement and now operates as Time Warner Entertainment-Advance/Newhouse.

It may be difficult to eliminate the exclusions, though, unless all employers were required to do so by federal law. Otherwise, employers say, the limited number of employers without exclusions would be more likely to attract employees with medical problems.

But benefit managers see little, if any, health care plan cost increases if a federal law were to stop all employers from imposing health care coverage restrictions on new employees with pre-existing conditions.

Employers would incur additional costs of providing coverage to new employees who now would be excluded due to pre-existing conditions. But in the long run, that expense would be offset by two key factors:

- More employees with medical conditions would leave to go on to a new job because they no longer could be denied coverage by their new employer.

- Employers would have lower overall COBRA costs. Under federal law, beneficiaries can hold onto their COBRA coverage benefits—even after joining a new group health plan—if the new plan denies coverage for pre-existing conditions.

Because pre-existing condition exclusions would not be an issue, COBRA beneficiaries would have no need for dual coverage.

In the end, the cost-shifting that would result from enactment of the legislation would result in a kind of "cost wash."

"Everyone's costs will shift. I will pick up some costs that I wouldn't have had before. But someone else will pick up costs that I would have paid. It is a wash," Ms. Dupree said.

"If all employers are treated the same, there is no additional risk to us," said Michael Pikelny, benefit consultant and actuary with apparel manufacturer Hartmarx Corp. in Chicago.

While employers' costs wouldn't change, curbing medical condition exclusions would enable group health plans to improve access to coverage.

"This would help medical plans better achieve their purpose: provide coverage to employees," Mr. Pikelny said.

This corporate support for restricting medical condition exclusions mirrors backing in Congress for a new bill.

All members of the House Ways and Means Health Subcommittee

have co-sponsored legislation introduced by Subcommittee Chairman Bill Thomas, R-Calif., that would severely restrict pre-existing medical condition exclusions in group plans.

The bill would give employees who change jobs credit for the amount of time they were covered by previous employers' plans. This credit would be used to offset any pre-existing medical condition exclusion in their new employer's plan, including self-insured plans.

For example, if an employee changing jobs had been covered under a group health plan for one year and his or her new employer had a six-month pre-existing condition exclusion, the exclusion would not apply to that employee.

Many indemnity plans now include so-called "3-3-12" exclusions. Benefits are denied or reduced for conditions that were treated within three months of a new employee joining the plan. That exclusion would be triggered if the employee received treatment for the condition during the first three months of coverage under the new plan. If that happens, the employee either would receive no benefits or a reduced benefit for that condition for the first 12 months of coverage under the plan.

However, if the employee with the pre-existing condition first received treatment after his or her first three months of coverage in the new plan, the pre-existing medical condition exclusion would not apply.

Not all health care plans, though, exclude coverage for pre-existing conditions. Under federal law, federally qualified health maintenance organizations are barred from denying coverage for pre-existing medical conditions. Non-federally qualified HMOs, for competitive reasons, typically also do not deny coverage for pre-existing conditions, said Jonna Kurucz, director of health care policy at Prudential Insurance Co. of America in Roseland, N.J.

Some self-insured employers, especially larger companies with relatively low employee turnover rates, though, do not include pre-existing condition exclusions in their indemnity plans.

Jim Bell, director of benefits at Mead Corp. in Dayton, Ohio, says pre-existing condition exclusions actually can increase health care costs.

"If the exclusion delays an employee from receiving treatment, the medical problem can get worse and the plan may pay more in the end," Mr. Bell said.

Still, indemnity plans like Mead's that do not deny or limit coverage for pre-existing conditions are in the minority.

A 1993 U.S. Bureau of Labor Statistics survey found that 57% of employees working for companies with at least 100 employees were enrolled in plans with pre-existing

medical condition provisions.

While benefit managers support curbing pre-existing medical condition exclusions, they do have some concerns about provisions in the Thomas bill.

For example, some worry about the additional administrative burdens that could result because employers would have to verify whether an employee had prior group health care coverage.

"The principle involved—restricting medical condition exclusions—is a good one. But administratively, it could be messy," said Nina Falci, supervisor of benefits and compensation at Engineering Research Associates Inc. in Vienna, Va.

Benefit managers are more worried about possible changes to the legislation. They say it is essential that all employers be required to comply so no firms would be at a competitive disadvantage.

"If there is a level playing field, you don't have a cost impact," said Sally Bullen, vp-compensation and benefits at Kemper National Insurance Cos. in Long Grove, Ill.

In addition, legislators should not do any tinkering with a provision in the Thomas bill under which the limit on pre-existing medical condition exclusions would not apply to individuals with a 60-day break in group coverage, according to benefit experts.

That provision is essential to prevent gamesmanship, in which individuals wait to join a health care plan until they get sick.

"The individual has an obligation not to let coverage lapse," said R. Lucia Riddle, second vp-group life and health compliance with The Principal Financial Group in Des Moines.

"The 60-day requirement is a fair and reasonable one," said Mike Waltemyer, employee benefits manager at Sedgwick Noble Lowndes in Charlotte, N.C.

Others applaud legislators for fashioning a reform bill that deals with a single problem.

"Reforms work best when done one at a time," Ms. Riddle said.

Lobbyists say the lack of opposition means the bill has a good chance of clearing Congress this session.

"We have not heard of a group opposing the measure," said John Troy, executive vp with the Health Insurance Assn. of America in Washington.

While President Clinton last year said he would veto any health care reform bill that did not achieve universal coverage, administration officials earlier this year said the administration now is more amenable to an incremental approach to expand coverage.

"It would be difficult for President Clinton not to sign the bill" if Democrats and Republicans support it, said Frank McArdle, a consultant with Hewitt Associates L.L.C. in Washington. **EB**

Updates

Product liability reform delay

WASHINGTON—House Speaker Newt Gingrich, R-Ga., believes Republican congressional leaders may want to delay a vote on comprehensive product liability reform until September 1996 so the issue will be alive in the presidential campaign.

Rep. Gingrich noted that President Clinton has threatened to veto the sweeping tort reform measure passed by the House in March, and that the president's spokesman has said that a milder bill approved by the Senate earlier this month still didn't offer adequate consumer protections (*BI*, May 15). "If he's going to veto it and we don't have the votes to override the veto, I may prefer to wait and pass it in September of next year," Rep. Gingrich said last week.

Appeal suspends cigarette suit

NEW ORLEANS—A massive cigarette class-action suit has been put on hold while tobacco companies appeal the class certification.

U.S. District Court Judge Okla B. Jones II, who certified the class of "all nicotine-dependent smokers in the United States" in February, halted the case to allow the appeal.

The class, which also includes the heirs, children, spouses, relatives and "significant others" of deceased nicotine-dependent smokers, is expected to exceed 50 million and is one of the broadest and largest class actions ever (*BI*, Feb. 27).

The judge cited "substantial difference of opinion" and a recent decision by the 7th U.S. Circuit Court of Appeals, which decertified a class of 10,000 hemophiliacs suing the sellers of HIV-contaminated blood-clotting products as factors in his decision (*BI*, March 27).

The appeal to the 5th U.S. Circuit Court of Appeals in New Orleans is expected to suspend the case at least until the end of the year.

New venture for Haverland

NEW YORK—Insurance Partners L.P. and insurance executive Richard M. Haverland are forming a holding company to identify and invest in small to mid-sized regional and specialty property/casualty insurers with total capitalization of \$250 million or less.

This is not the first time Mr. Haverland has joined forces with the \$540 million investment group. In October 1994, after Insurance Partners agreed to infuse \$200 million in capital in Continental Corp., Mr. Haverland was named chairman and chief executive officer-designate of Continental (*BI*, Oct. 17, 1994). He later resigned when CNA Insurance Cos. bought Continental for \$1.1 billion (*BI*, Dec. 12, 1994).

Mr. Haverland was the natural choice to help in the acquisition of several smaller insurers that could be operated under one holding company, said Daniel Doctoroff, a managing partner with Insurance Partners, which worked alongside Zurich Insurance Group in the acquisitions of Home Holdings Inc. and Kemper Corp.

Until last year, Mr. Haverland, 54, was an executive vp at Cincinnati-based American Premier Underwriters Inc. Mr. Doctoroff said there is a good chance that Mr. Haverland will run the holding company once it has grouped together some smaller niche insurers.

MBIA backs Orange County

SANTA ANA, Calif.—Bankrupt Orange County, Calif., took a major step in its attempt to repay participants in its failed investment pool May 15 when bond insurer MBIA Inc. agreed to back a \$275 million county recovery bond issue.

Proceeds of the tax-exempt, 30-year bonds will help repay the nearly 200 cities, school districts and other government agencies that had money in the Orange County investment pool that suffered a \$2 billion loss (*BI*, Dec. 12, 1994). The bonds are to come to market in early June.

While Orange County was expected to pay a high premium for the bond insurance, the AAA rating it provides will produce lower borrowing costs than Orange County would have faced selling the bonds at its own sub-investment-grade credit ratings.

Separately, California Insurance Commissioner Chuck Quackenbush took steps to ensure that licensed insurers in the state don't suffer similar problems by issuing guidelines May 16 for insurers' derivatives investments.

In a bulletin to insurers, he outlined state regulations that restrict insurers' derivative investments to relatively straightforward instruments like stock index-based options, and described the internal controls insurers should have in place.

Briefly noted

Michael J. Kevany, former chairman, president and chief executive officer of X.L. Insurance Co. Ltd., died at his home in Massapequa, N.Y., last week. Mr. Kevany, 69, joined X.L. in 1988 after working seven years with CIGNA Corp. and 20 years at Royal Insurance Co. X.L. has established a memorial fund for Mr. Kevany which will be used to purchase medical equipment at a Bermuda hospital. . . . AT&T Corp. and Lockheed Martin Corp. have settled lawsuits they filed against each other over the 1994 loss of AT&T's **Telstar 402 satellite**. AT&T charged the satellite maker with failing to correct known defects in its propulsion system, while Lockheed Martin claimed AT&T failed to pay for the satellite (*BI*, April 3). Terms were not disclosed. . . . **Employers Reinsurance Corp.** has signed a definitive agreement to acquire a majority stake in Frankona Ruckversicherung A.G. from affiliates of Gerling Konzern Versicherungs-Beteiligungs A.G. (*BI*, March 27). . . . A House subcommittee has approved a measure that would require federal agencies to review all regulations that have an annual economic impact of at least \$50 million every seven years. Rules will expire automatically if they are not reviewed. The **regulatory sunset bill** is part of a comprehensive regulatory strategy being pushed by the House Republican leadership.

Zurich

Continued from page 2

visioner has until June 15 to make a finding on the proposal.

Six months ago, Zurich unveiled its controversial plan to take on around \$1 billion in premium of Home's profitable business (*BI*, Dec. 26, 1994).

Under the proposal, the remaining business would be run off by a new company, Risk Enterprises Management Ltd., which would be headed by Peter D. Johnson, who is now president of Integrated Runoff Insurance Services Corp., a Jamesburg, N.J., firm owned by Zurich and Aon Corp.

The Zurich offer trumped a proposed conventional takeover of Home by an investor group led by John J. Byrne (*BI*, Dec. 12, 1994).

The Zurich deal sparked protests from policyholders, who wanted the insurer to take over the whole of Home, and bondholders, who feared Home would not have the resources to repay the bonds.

Over the next few months Zurich made several amendments to the deal to placate bondholders, policyholders and regulators. Then the deal was scrutinized at public hearings.

Further changes were made after the hearings, including clarifying the wording of the reinsurance

contract to ensure that it would kick in as soon as Home's assets are exhausted and then adding the \$300 million in reinsurance.

Meanwhile, Zurich and Insurance Partners Ltd. have signed definitive agreements to acquire Kemper Corp. The terms have been modified from the original proposal in April (*BI*, April 17).

Now, Kemper stockholders will receive \$49.50 a share instead of \$47.50 in cash and \$2 in preferred stock.

Also, Kemper's life insurance companies will be owned 80% by Zurich and 20% by Insurance Partners. Previously Zurich was expected to take 51% and Insurance Partners 49%. **EB**

Corning

Continued from page 1

announced last week that it was seeking protection under Chapter 11 of the U.S. Bankruptcy Code to shield it from increasing liabilities related to silicone gel breast implants. Only a week earlier, Judge Pointer had ruled that the proposed settlement would be inadequate to cover existing claims (BI, May 8).

So far, more than 400,000 women have registered to participate in the global settlement. But another 11,123 women have filed complaints on their own.

Dow Corning said in a statement that its decision also was influenced by ongoing coverage litigation.

"It appears that the insurance companies have driven Dow Corning into bankruptcy by their refusal to pay legitimate claims and honor promises like those pledged in the 'hall of promises' at RIMS," said Robert Horkovich, a partner at Anderson, Kill, Olick & Oshinsky, referring to the exhibit hall at the annual Risk & Insurance Management Society Inc. conference where insurers and other vendors hawk their products and services to risk managers.

New York-based Anderson, Kill is one of several firms representing Dow Corning in its coverage litigation.

So far, insurers have paid \$100 million on breast implant claims. The company is suing 73 liability insurers with policies dating back to 1962, the first year the company manufactured and sold silicone breast implants (BI, July 12, 1993). A total of \$3.48 billion of coverage is at stake.

Since insurance policies are considered assets in a bankruptcy, the Chapter 11 filing "will definitely have implications for the coverage case," said Dean Hansell, a partner with LeBeauf, Lamb, Greene & MacRae who had been involved in an early stage of the coverage litigation.

Bankruptcy courts have a great deal of authority and can "exercise a great deal of control over a bankrupt's life," Mr. Hansell explained.

Every payment that Dow Corning makes to its insurance lawyers from now on will be subject to approval by the bankruptcy court, he explained.

In addition, the consolidated Dow Corning coverage lawsuit that is set to go to trial Sept. 18 in state court in Detroit will be subject to an automatic stay under bankruptcy law, pointed out Gregory Hopp, a partner of Blatt, Hammes-

fahr & Eaton in Chicago. He is the lead attorney representing a group of insurers in coverage litigation with Bristol Meyers Squibb Co., another manufacturer involved in the settlement talks.

Under federal bankruptcy law, once a company files for protection, generally all efforts to collect prior debts—including lawsuits over disputed debts—from it are automatically stopped. In this case, all Dow Corning's activities in preparing for the trial would be stayed unless the bankruptcy judge approves them.

"An automatic stay is an automatic stay," he said.

Dow Corning would not be the first company that used bankruptcy at least in part to encourage insurers to settle coverage suits.

Asbestos manufacturers used it for that end in the 1970s and 1980s, recalled Kirk Forrest, a partner with Carroll, Burdick & McDonough in San Francisco who has represented insurers involved in large-scale settlements of asbestos liability claims.

"I believe in Keene and in Manville there were settlements reached with insurers that may not have been reached if the companies hadn't filed for bankruptcy protection," he said.

Johns-Manville Corp. of Denver and Keene Corp. of New York were two of the many asbestos companies that filed for bankruptcy protection with thousands of personal injury suits pending against them.

However, the strategy could backfire on Dow Corning, some attorneys say.

"The bankruptcy court will clearly have its own opinions about what should happen and when it will happen," said Mr. Hansell. "By pursuing this tactical move, Dow Corning has given up some of its power to the bankruptcy court."

In the legal and insurance communities, the hardball tactic could also call Dow Corning's credibility into question.

Company executives would not discuss their strategy, though Mr. Hopp said that all through the global settlement talks there has been heavy pressure on insurers.

For example, Dow Corning's suggestion that its insurers' reluctance to pay claims contributed to its decision to file bankruptcy "could be an attempt to buttress its argument for bad faith," he said.

"But the idea that somehow insurers who owe a whole lot less than Dow Corning's contribution to the global settlement could have that great of an effect is stretching one's imagination," Mr. Hopp said.

Dow Corning's bankruptcy filing also may draw Dow Chemical into the silicone gel breast implant litigation, which it has tried vigorously to avoid. Though Dow Chemical has kept its distance from the global settlement talks, a connection was drawn last month when Judge Pointer ruled it could be sued for actions involving implant research and testing. Another factor in the ruling was that a Dow Chemical subsidiary was a major distributor of the implants. The decision reversed a 1993 order barring such claims (BI, May 1).

The other joint venture partner, Corning Inc., played no such active role in product development or distribution. The judge ruled that it could not be liable because it was merely an investor in Dow Corning.

Dow Chemical has asked Judge Pointer to reconsider this decision.

Dow Chemical, which has been named as a defendant in approximately 4,900 implant cases, in April persuaded a Texas judge to overturn a jury verdict holding it liable for a portion of a \$5.2 million breast implant judgment (BI, Feb. 20).

However, Richard Laminack, a partner with O'Quinn, Kerensky, McAninch and Laminack in Houston, says that as a result of the bankruptcy filing, he will simply concentrate his litigation strategy on Dow Chemical.

Mr. Laminack and partner John O'Quinn represent several hundred Texas plaintiffs who have opted out of the settlement, including the woman who initially won the judgment against Dow Chemical.

Meanwhile, the other manufacturers sued in connection with silicone breast implants remain committed to the global settlement.

"We're confident that the talks are going to move forward and that Dow will continue to be involved," said a spokeswoman for Baxter International Corp. of Deerfield, Ill.

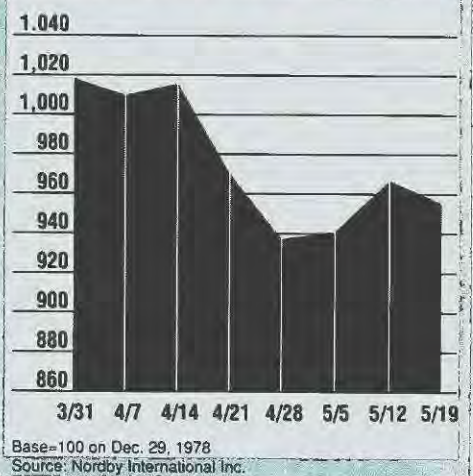
Those sentiments were echoed by spokespeople for New York-based Bristol-Myers Squibb and Minnesota, Mining & Manufacturing Co. of St. Paul, Minn.

But, Mr. Hopp said he thinks these companies are deluding themselves if they believe Dow Corning will increase its contribution.

It is much more than coincidence that Dow Corning filed for bankruptcy only a couple of weeks after Judge Pointer's ruling, he said. "It's Dow Corning serving notice that its pockets are only going to be so deep."

"This could well effect a reallocation of the amount the manufacturers will have to pay," Mr. Hopp said.

BI Insurance Index



Catastrophe insurance option call spreads

As of May 19			As of May 19		
Call spread	Price bid/ask	Rate on line %	Call spread	Price bid/ask	Rate on line %
Eastern September 1995			Western Annual 1995		
45/65	6.0/6.9	30/34.5	20/30	—/—	—/—
50/70	5.4/5.9	27/29.5	30/40	0.3/1.8	3/18
60/80	4/5.5	23/27.5	30/50	0.5/2.5	2.5/12.5
100c	8.5/12	6.5/12	50/70	0.6/1.8	3/9
150c	4/5	8/10	60/80	0.3/3.5	1.5/17.5
Total volume: 26			Total open interest: 2,269		

For quotes, call the CBT trading floor at 312-341-3342. For general information, call 312-435-3674.
Source: Chicago Board of Trade

British Issues

May 18 Companies	Price pence	P/E	Div. pence	Yield %	1 week high-low
Comml Union	592	11.7	33.0	5.7	589-582
Genl Accident	539	8.8	36.3	6.1	599-589
Gdn Royal Exch	137	N/M	10.3	5.2	197-126
Independent	236	7.9	11.9	4.2	286-285
Royal	318	6.0	15.0	4.7	320-314
Sun Alliance	345	11.6	19.7	5.7	349-342

Brokers	Price pence	P/E	Div. pence	Yield %	1 week high-low
Bradstock	£2	9.2	7.1	8.6	82-82
Fenchurch	156	10.9	10.0	6.4	158-156
CE Heath	246	12.3	20.0	8.1	248-246
JIB Group	127	11.0	9.4	7.4	129-126
Lloyd Thompson	154	10.7	9.8	6.4	154-149
Lowndes Lmbt	165	9.7	10.4	6.3	167-165
Nelson Hurst	146	11.3	8.3	5.7	147-145
PWS Holdings	18	N/M	0.8	4.4	18-18
Sedgwick Grp	151	13.7	8.1	5.4	167-151
Steel Br Jones	104	12.3	11.3	10.9	104-104
Willis Coroon	160	N/M	8.3	5.2	167-160

Source: Philip Olsen, London * Estimated 1994 data

BI Industry Stock Report MAY 15, 1995, THROUGH MAY 19, 1995

BROKERS	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value			
				High	Low										High	Low									
Accordia Inc.	NYS	30.63	0.82	-8.58	34.50	24.63	46	0.72	2.35	15	13.24	2.31	NAC Re Corp.	NDQ	30.50	-5.79	-8.96	35.25	24.25	25	0.16	0.52	15	19.75	1.54
Alexander & Alexander	NYS	25.13	-0.99	35.81	28.44	14.13	462	0.10	0.40	-13	6.08	4.13	National Re Corp.	NYS	30.63	-1.61	16.67	29.88	20.50	339	0.72	2.84	11	27.09	0.94
E.W. Bianchi Holdings Inc.	NYS	18.25	0.00	-11.52	23.00	17.50	61	0.40	2.19	15	4.55	4.01	Navigator Group	NDQ	13.75	6.80	-5.17	19.75	12.75	15	0.00	0.00	-17	10.21	1.35
Gallagher Arthur J. & Co.	NYS	35.00	-3.78	9.38	36.38	29.00	50	1.00	2.86	15	6.48	5.40	Nobel Insurance Ltd.	NDQ	9.44	2.03	14.39	9.63	7.63	39	0.20	2.12	4	6.84	1.38
Hill, Rogal & Hamilton	NYS	12.13	4.30	0.00	12.88	10.50	99	0.56	4.62	15	4.72	2.57	Ohio Casualty Corp.	NDQ	29.50	-5.60	4.42	34.25	26.50	470	1.52	5.15	10	24.68	1.20
Marsh & McLennan	NYS	77.00	-1.60	-2.84	88.75	71.25	865	2.90	3.77	15	19.40	3.97	Old Republic Int'l	NYS	25.63	-0.97	20.59	26.25	18.88	211	0.48	1.87	10	24.60	1.04
Pae & Brown	NDQ	23.50	2.17	8.05	24.25	19.00	27	0.48	2.04	16	4.49	5.23	Orion Capital Corp.	NYS	39.25	3.29	11.35	39.25	28.13	82	0.80	2.04	9	25.86	1.52
BROKERS AVERAGE			0.1	4.3					2.6	11			Partner Re Holdings Ltd.	NDQ	22.88	-2.92	10.24	25.25	18.50	268	0.40	1.75	7	N.A.	N.A.
													Penn-America Group Inc.	NDQ	8.75	7.69	18.64	9.00	6.50	23	0.12	1.37	10	6.21	1.41
													Philadelphia Cons. Holding	NDQ	14.25	1.79	16.33	14.25	9.50	43	0.00	0.00	15	8.43	1.69
													Progenix RE Corp.	NDQ	21.88	-4.89	-22.57	29.25	21.75	490	0.60	2.74	4	22.86	0.96
													Provident Life	NYS	25.38	6.84	16.67	29.88	20.50	339	0.72	2.84	11	27.09	0.94
													Reliance Group Holdings	NYS	6.13	-2.00	18.07	6.75	4.88	626	0.32	5.22	10	3.48	1.76
													Reliastar Financial Corp.	NYS	36.25	1.05	25.00	36.75	27.00	364	1.00	2.76	10	24.81	1.46
													RLI Corp.	NYS	25.00	-2.44	21.95	25.75	19.88	31	0.64	2.56	10	20.51	1.22
													St. Paul Companies	NYS	48.75	-2.74	8.94	51.88	38.00	720	1.60	3.28	9	31.88	1.53
													SAFECO Corp.	NDQ	57.25	-1.29	10.10	59.75	46.75	769	2.12	3.70	12	46.94	1.22
													SCOR U.S. Corp.	NYS	8.88	1.43	5.97	12.25	7.50	3	0.20	2.25	16	13.60	0.65
													Seibels Bruce Group	NDQ	1.00	0.00	-60.00	3.50	0.81	106	0.00	0.00	-1	1.05	0.95
													Selective Ins. Group	NDQ	28.75	-0.86	13.86	30.00	23.25	32	1.12	3.90	9	23.36	1.23
													Sphere Drake Holdings	NYS	15.75	-2.33	13.51	17.00	10.75	65	0.16	1.02	8	13.15	1.20
													TIG Holdings	NYS	23.25	0.54	24.00	23.50	17.00	823	0.20	0.86	21	17.25	1.35
													Titan Holdings, Inc.	NYS	10.88	2.35	11.54	11.38	7.75	85	0.28	2.57	8	9.31	1.17
													Toxic Marine & Fire	NDQ	57.50	-1.92	-5.35	66.00	49.88	25	0.44	0.77	-	57.72	1.00
													Toysmark Corp.	NYS	39.25	0.00	13.77	44.50	32.38	538	1.12	2.85	11	17.49	2.24
													Transatlantic Holdings	NYS	63.50	-2.50	13.65	65.50	47.75	54	0.40	0.63	13	32.43	1.96
													Transnational Re Corp.	NDQ	19.75	-0.63	-15.96	25.50	18.75	308	0.30	0.00	6	N.A.	N.A.
													Travelers Corp.	NYS	42.13	-0.30	30.12	44.00	30.38	3095	0.30	1.90	11	24.26	1.74
													Travelers Group Inc.	NDQ	43.38	-0.29	2.36	45.75	36.00	42	1.12	2.58	11	29.20	1.49
													United Fire & Casualty	NDQ	27.25	-4.39	-1.51	29.81	25.66	14	0.30	2.94	8	28.96	0.94
													Urthir	NDQ	48.75	0.00	13.37	51.50	38.50	255	2.00	4.10	15		

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