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Business Insurance®

May 28, 2007

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ABD INSURANCE RETAINS IDENTITY AFTER MERGER OF BANK PARENT WITH WELLS FARGO / PAGE 3

NEW FORMULARY TOOL SHOWS LIMITS OF DRUG REBATE SYSTEM AS MONEY SAVER / PAGE 3

In Brief

Brightpoint risk manager found guilty of fraud

Brightpoint Inc.'s former director of risk management, Timothy Harcharik, was found guilty in federal court in New York court of masterminding a 1998 fraudulent finite insurance deal between Brightpoint and American International Group Inc. AIG in 2003 paid $10 million to settle charges by the Securities and Exchange Commission over a 1998 finite transaction it wrote for the mobile telephone distributor. The SEC had charged that an AIG unit provided Brightpoint with an insurance contract that did not involve any actual risk transfer.

Airline provision allows higher interest rate

U.S. airlines that haven't frozen their pension plans, including AMR Corp. unit American Airlines

See **IN BRIEF** page 25

Silverstein, insurers settle WTC claims

$2 billion settlement paves the way for redevelopment of site

By RUPAL PAREKH

NEW YORK—Nearly six years of legal wrangling over the World Trade Center insurance claim ended last week with seven insurers agreeing to pay $2 billion to WTC leaseholder Silverstein Properties Inc.

The $2 billion settlement—which is on top of $2.55 billion already paid by various insurers—resolves all outstanding claims for the buildings destroyed in the Sept. 11, 2001, attacks.

It also clears the way for the redevelopment of Ground Zero, which was frozen amid court battles.

A key sticking point in the protracted dispute revolved around WTC leaseholder Larry A. Silverstein's argument that the destruction of the Twin Towers was caused by two aircraft, and therefore the loss constituted separate occurrences under his coverage. He argued that the two dozen property insurers on the program were obligated to pay two policy limits of $3.55 billion each.

Complicating matters was the unfinished state of the insurance

See **WTC** page 24

INSIDE: Settlement is unlikely to set precedent for future disputes; array of insurers covered WTC; five years of battle in the courts. PAGE 25.

RUPAL PAREKH

New York Insurance Superintendent Eric Dinallo, left, and New York Gov. Eliot Spitzer helped broker a settlement of World Trade Center property claims.

Profitable D&O market draws new entrants

Softening prices not a barrier for Ironshore, others

By DAVE LENCKUS

The directors and officers liability insurance market is attracting new entrants despite falling insurance rates, rising claims severity and abundant market capacity.

While entering a softening D&O market might seem an odd business strategy, the sector currently is profitable, and other factors make it a good business opportunity for new underwriters, market experts agree.

Last week, Cayman Islands-based Ironshore Inc.—formed in December 2006 with more than $1 billion of equity capital—announced that its subsidiary, Ironshore Insurance Ltd. of Bermuda, is opening a New York-based professional liability unit called IronPro.

On May 21, Greenwich, Conn.-based W.R. Berkley Corp. said it was forming a Chicago-based unit, Select Specialty Manager L.L.C., to offer professional liability and other casualty coverages.

Meanwhile, Bermuda-based reinsurer Ariel Reinsurance Co. Ltd. is developing a U.S.-based liability insurance unit that will offer D&O coverage. Last fall, Gary Dubois left his position as chief underwriting officer of New York-based Liberty International Underwriters, a unit of Liberty Mutual Group Inc., to

See **D&O** page 23

Federal charter issue returns to Congress

Buyers support move but insurer groups remain divided

By MARK A. HOFMANN

WASHINGTON—The cosponsor of a bill that would allow insurers and brokers to seek federal rather than state regulation hopes to get the measure approved by the Senate Banking Committee by the end of the year.

During a Capitol Hill news conference last week, Sen. John Sununu, R-N.H., called getting the National Insurance Act through the committee "very realistic."

The measure, which he and Sen. Tim Johnson, D-S.D., introduced last week, would allow both property/casualty and life insurers to be chartered by federal authorities, much as banks can choose either state or federal regulation. The measure, which closely tracks a bill introduced by the two lawmakers in April 2006, would allow the federal chartering and licensing of national insurance agencies. Unlike last year's bill, the National Insurance Act also would apply to surplus lines insurers.

Current law allows only state chartering of insurers, a situation proponents of the optional federal charter say limits consumer choice and puts U.S. insurers at a competitive disadvantage. "There is no reason why this country's insurance industry, its agents, brokers and consumers they serve should be hamstrung by a system of regulation that is redundant, inefficient, burdensome, complicated and cost-

See **CHARTER** page 26

The National Insurance Act has a 'very realistic' chance of passing a key Senate committee.

Sen. John Sununu, R-N.H.

BENEFITS MANAGEMENT

Regulatory & Legislative Developments

Massachusetts sets the pace for health care reform, but other states off to a slow start; health care is a topic candidates can't avoid; lawmakers say health care tax credit law needs a tuneup; pension law may improve defined benefit system. **Page 11**

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On the Web

ONLINE EXECUTIVE FORUM™

June 27 webinar to look at practical side of ERM

Implementing a successful ERM program requires more than theory—it takes practical advice. Attend "ERM in the Real World: A Practical Approach to Solving Enterprisewide Problems" at 11 a.m. EDT June 27 for an in-depth discussion of how risk managers can understand the approaches of identifying, categorizing and addressing enterprise risks in real-world situations. See *www.BusinessInsurance.com/webinars.*

QUESTIONS & ANSWERS

Mass. health leader talks about progress of reform

Jon Kingsdale, executive director of the Commonwealth Health Insurance Connector Authority in Boston, speaks with *Business Insurance* Editor-at-Large Jerry Geisel on a wide range of issues related to the implementation of Massachusetts' landmark health care reform law (page 18). The full text of this interview is at *www.BusinessInsurance.com/QandA.*

READERS CHOICE AWARDS

Make your opinion count for *BI*'s Readers Choice

BI's Readers Choice Awards recognize the top-performing companies in 11 different categories relating to risk management, insurance and employee benefits. To vote for this year's awards, go to *http://ErdosSurvey.com/B/BI/ReadersChoiceBallot.* The deadline is June 13.

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Business Insurance.

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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Gen Re sues Arch over employee defections

Reinsurer alleges four former managers conspired to steal trade secrets, staff

By JUDY GREENWALD

STAMFORD, Conn.—A state court judge has issued a restraining order against Arch Capital Group Ltd. and four former managers of General Reinsurance Corp. who left to join Arch earlier this year.

The Connecticut Superior Court judge granted the temporary order last week after Stamford, Conn.-based Gen Re filed suit against Bermuda-based Arch and the former employees. who had worked in Gen Re's facultative reinsurance department, alleging the managers "plotted to sell to the highest bidder the Gen Re business for which they were responsible," court documents say.

The managers—Jennifer Apgar, Philip Augur, Steven Franklin and Kenneth Vivian—in April orchestrated an "en masse departure" that included 26 other Gen Re employees, Gen Re alleges.

The suit seeks unspecified compensatory and punitive damages plus costs.

The defendants "engaged in a secret, long-standing plan to misappropriate, disloyally and maliciously, Gen Re's proprietary information and trade secrets, as well as raid Gen Re's (property facultative) employees" in an effort to transfer the business to a competitor for their own benefit, the lawsuit states.

Arch "aided and abetted their breaches of fiduciary duty in order to enter a business in which (Arch) had never competed," the suit says.

Gen Re formed its property facultative reinsurance division in 1956 and has spent "hundreds of millions of dollars to develop (it) into the successful and valuable business it is today," the suit says.

Gen Re wrote $600 million in property facultative business last year during the height of the hard market, and has written about $400 million in business this year, according to a Gen Re spokesman.

The senior managers who left the company accounted for just more than 10% of Gen Re's global facultative staff, the spokesman added.

The spokesman said the departures to Arch, though, will have no impact on its business. "We aim to retain it all and we think we will

See GEN RE page 24

ABD to keep identity after Wells Fargo deal

Broker operations will maintain own style of business

By SALLY ROBERTS

SAN FRANCISCO—Rather than be integrated into Wells Fargo Insurance Services Inc., ABD Insurance & Financial Services Inc. will operate as a separate division of the larger brokerage after completion of their banking parents' merger later this year, according to WFIS' top executive.

"We both recognize that our businesses are different and it's better to operate in different ways," said Dave Zuercher, president and chief executive officer of Chicago-based WFIS.

"When the acquisition is closed, it will be business as usual. (ABD's) name will remain the same and ABD's offices will continue to function as they have in the same locations. Customers will be served by the same people they deal with today," he said.

Questions about a successful integration of WFIS, for the most part a middle-market commission-based general brokerage, and ABD, generally a larger-account fee-based specialty brokerage, arose shortly after Wells Fargo & Co. said it was acquiring ABD's parent, Greater Bay Bancorp, in a $1.5 billion all-stock transaction. Not only did observers question how the disparate brokerages would come together, given the deal was struck between their parents and not the brokerages themselves, but issues of morale also were raised after ABD's CEO Dan R. Francis resigned only days after the deal was announced (*BI*, May 14).

'We both recognize that our businesses are different and it's better to operate in different ways.'

Dave Zuercher, Wells Fargo Insurance Services Inc.

Last week, Greater Bay Bancorp announced that Samuel L. Jones, who left ABD in late 2005 to pursue other interests, had rejoined the brokerage to replace Mr. Francis as president and CEO. Mr. Jones was formerly president of ABD's property/casualty operations.

Bruce M. Basso and Fred de Grosz, who assumed executive leadership of ABD after Mr. Francis' departure, remain chairmen of the brokerage.

As far as ABD's attitude toward the merger, Mr. Zuercher said he has

See ABD page 24

Drug formulary tool casts doubts on rebates

Consultant targets pharmacy costs in savings effort

By JOANNE WOJCIK

ORLANDO, Fla.—Employers may not be saving as much money as they think when they share rebates with their prescription benefit managers, a new formulary benchmarking tool created by Towers Perrin shows.

At least one employer familiar with the new tool expressed reservations about making radical changes to drug formularies based on the findings, however, because of the disruption it might cause for plan members.

Towers Perrin unveiled its new "Reference Formulary System"—an ideal list of drugs prescribed to treat common chronic conditions in the most cost-effective manner, independent of financial incentives such as rebates—at the annual meeting of its Rx Collaborative.

Towers Perrin launched the collaborative in 2004 to save its 75 employer members money on their pharmacy benefit costs by, among other things, providing full disclosure and quantification of all sources of PBM revenue, pass-through of rebates, discounts and dispensing fees and the ability to audit the PBM with which it has contracted: Franklin Lakes, N.J.-based Medco Health Solutions Inc.

"The objective is to change the PBM business model, the 'black box' nature of pricing, with more transparent pricing arrangements," said Paul Schott, Towers Perrin principal and Rx Collaborative team leader based in Stamford, Conn. Members of the Rx Collaborative also pay Towers Perrin a management fee to fund "strategic initiatives," such as the development of the new benchmarking tool, he added.

While the Towers Perrin Reference Formulary System is not intended to be used as a stand-alone formulary itself, it will enable employers to take a more active role in customizing their formularies to make them the most cost-effective for their employee populations, its creators say (see story, page 24).

Although the collaborative has contracted with a single PBM for all its members to use, the employers do not use the same formulary. Rather, they have the option of three "off-the-shelf" formularies and one customized formulary.

The tool, which so far has been tested on two members of the collaborative, "demonstrates that expensive drugs (with) the rebates are still more costly than affordable drugs without them," said Bridget Eber, national pharmacy benefit practice leader for Towers Perrin based in Chicago.

"Formularies are designed to list the brand drugs that get the biggest rebates. Typically, the PBM will say these are the drugs that will save

See FORMULARIES page 24

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

MAY 13, 1974 More than 200 of the nearly 8,000 individual names at Lloyd's of London come from the United States, *Business Insurance* reported. The number of non-U.K. investors at Lloyd's of London increased sharply since 1970, after a Lloyd's survey found value in letting overseas names join the marketplace.

MAY 27, 1974 President Richard M. Nixon in a radio address made clear he wanted Congress to pass a national health insurance program in 1974. Health, Education & Welfare Secretary Caspar Weinberger told the Senate Finance Committee the day after President Nixon's address that compromise would be hard to reach on the role of private insurers, deductibles and coinsurance.

Workers comp pool seeks more settlement funds from AIG

By ROBERTO CENICEROS

NEW YORK—American International Group Inc.'s troubles stemming from its nationwide underreporting of workers compensation premiums continue, despite the $1.64 billion settlement reached with New York and federal authorities in 2006.

The National Workers Compensation Reinsurance Pool, which represents 600 insurers, sued AIG last week in U.S. District Court for the Northern District of Illinois seeking additional funds from AIG. The organization says that it was not allowed to participate in the settlement process that resulted in AIG agreeing to pay states more than $300 million for its underpayment of workers compensation premium taxes and residual market assessments.

The NWCRP says its member companies had to pay states more than their appropriate share of residual market assessments because AIG was assigned an improperly small share of responsibility for high-risk workers comp policies.

NWCRP participating companies provide reinsurance for a large portion of the high-risk workers compensation policies issued to employers that cannot find coverage in the voluntary insurance market.

AP PHOTO

AIG's New York headquarters.

The $1.64 billion AIG agreed to pay in 2006 settled civil fraud charges leveled by former New York Attorney General Eliot Spitzer. That amount included the more than $300 million settlement for its admitted underpayment of workers comp premiums and residual assessments.

The NWCRP claims the $300 million is inadequate, and said in a statement that the amount should have been as much as $1 billion.

Its lawsuit seeks to uncover "the full extent of the AIG companies' wrongdoing and obtain full and fair restitution, as part of the NWCRP's due diligence for its participating companies," the statement said.

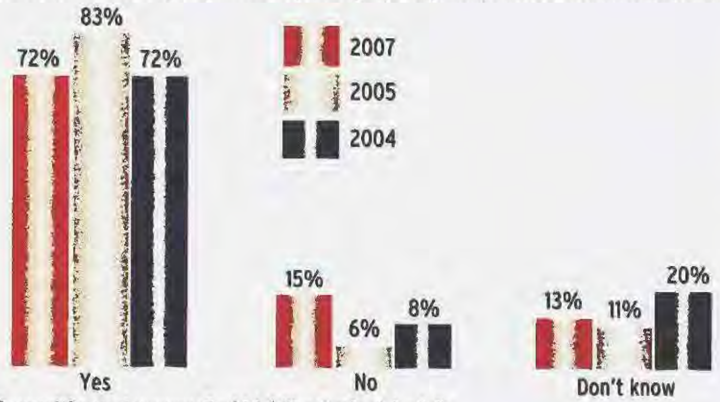
An AIG spokesman said the insurer does not comment on pending litigation.

However, New York-based AIG filed its own suit against NWCRP last week in New York claiming, among other things, that it is not responsible for any amount in excess of its 2006 settlement.

AIG's suit also alleges that the NWCRP refused to seek compensation from the settlement monies the insurer agreed to in 2006. It says that the settlement agreement created a specific mechanism for the NWCRP to recover any losses.

PRODUCTIVITY SAVINGS

72% of executives report productivity savings by integrating two or more insurance lines



Source: Wausau Insurance Cos.' Multiline Productivity Poll

Multiline placements cut some costs: Survey

Middle-market buyers say using one insurer often more efficient

By SALLY ROBERTS

Middle-market insurance buyers are achieving savings in productivity by integrating multiple lines of insurance coverage under one insurer, and most would rather have their coverage handled by one multiline underwriting team than separate teams for each line of coverage, a survey has found.

Eighty percent of the 200 financial executives surveyed recently by Wausau Insurance Cos. have integrated multiple lines of insurance with one commercial insurer, up from 70% in late 2005 when Wausau conducted its previous Multiline Productivity Poll.

And of the 72% who said their company has achieved "significant" productivity savings as a result of multiline integration, 92% said they have seen at least a 4% to 6% savings in their overall risk management program.

The lines of insurance integrated most often are either workers compensation and general liability, or property and general liability, according to the survey.

At the same time, nearly three-quarters of the respondents said they would rather have coverage underwritten by one multiline underwriting team than separate underwriting teams for each line, the survey found. Such an approach is more likely to ensure a fairer price, broader expertise and better knowledge of their business, with which a majority of respondents at least "somewhat agreed."

Through an independent firm that conducted the Web research, Wausau surveyed 200 commercial policyholders to gauge productivity trends across major lines of commercial insurance. Not all those surveyed were Wausau clients.

Financial executives also were queried about the importance of total cost of risk vs. direct cost as well as the ratio of direct and indirect costs for workers comp, general liability, commercial auto and property claims.

Mark Fiebrink, president and chief operating officer of the Wausau, Wis.-based insurer, surmises the multiline integration trend is due not only to potential productivity savings but also to "ongoing interest on the part of policyholders and risk managers to look for, over time, a relationship they can count on," especially when it comes to potential catastrophes.

See **INTEGRATION** page 22

IRS regulations target retirement age

Plans allowing full pensions for those younger than 62 are most affected

By JERRY GEISEL

WASHINGTON—Internal Revenue Service regulations that define the normal retirement age for a pension plan will force hundreds of employers that use a younger age to prove it is reasonable.

The final IRS regulations, which were published last week and imposed immediately, also effectively end an innovative but controversial design used by some cash balance plan sponsors that paid participants smaller benefits than those to which IRS regulators said participants were entitled.

The regulations, though, will have little, if any, impact on employers with pension plans that define retirement age—at which an employee can collect a full pension benefit—as 62 or older.

While the regulations say the retirement age can't be earlier than what is typical for the industry that the employer is in, plans with a retirement age of 62 or older would automatically pass muster under a safe harbor included in the regulations.

'This is going to require some analysis and extra work.'

Nancy Gerrie,
McDermott, Will & Emery L.L.P

Currently, the vast majority of U.S. employers specify age 65 as the normal retirement age in their defined benefit plans, consultants and others say.

Still, as many as 5% of private pension plans specify younger retirement ages, especially those in physically demanding industries where employees retire earlier.

"The nature of the work may be such that working over age 60 is very burdensome," said Bob Walter, a principal and benefits consultant at Buck Consultants L.L.C. in Secaucus, N.J.

The regulations allow those employers to hang on to the way they define retirement age, but now they must justify that age.

"This is going to require some analysis and extra work," said Nancy Gerrie, a partner with law firm McDermott, Will & Emery L.L.P. in Chicago.

For plans that allow full retirement at 55 or older, the regulations require that it not be earlier than "the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed."

Employers are expected to make a "good-faith determination of the

See **IRS** page 22

NOAA predicts active storm season

By MARK A. HOFMANN

ARLINGTON, Va.—There's a 75% chance that this year's hurricane season will be more active than normal, the National Oceanic and Atmospheric Administration said last week.

NOAA's prediction, which was issued at Ronald Reagan National Airport in Arlington, Va., calls for the formation of between 13 and 17 named storms, seven to 10 of which will grow to hurricane-strength. Three to five of those could become major hurricanes packing winds of at least 111 mph, NOAA predicts.

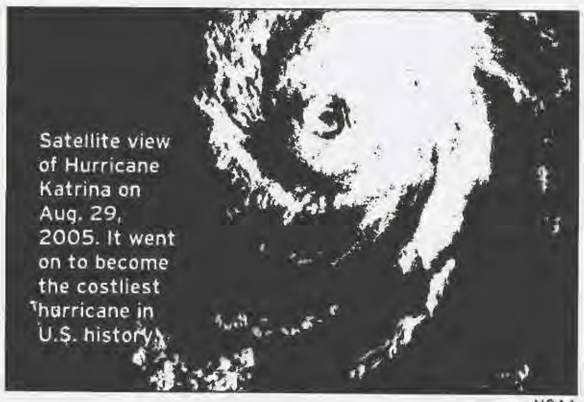
Hurricane season begins June 1 and runs through Nov. 30.

NOAA's predictions track those of the Tropical Meteorology Project at Colorado State University at Fort Collins. In its April 3 forecast, the Colorado State team predicted that 17 named storms would form, nine of which would become hurricanes, of which five would grow into intense hurricanes.

The Colorado State team will issue its final preseason forecast on May 31.

In a statement accompanying its prediction, NOAA noted that last year's hurricane season did not prove to be nearly as active as most forecasters believed it would be.

"Last year, season hurricane predictions proved to be too high when an unexpected El Nino rapidly developed and created a hostile environment for Atlantic storms to form and strengthen," said NOAA in its statement. "When storms did develop, steering currents kept most of them over the open water and away from land."



Satellite view of Hurricane Katrina on Aug. 29, 2005. It went on to become the costliest hurricane in U.S. history.

NOAA

Meanwhile, a bipartisan group of lawmakers introduced the National Hurricane Research Initiative Act in the House of Representatives last week.

The bill, which would provide up to $4.35 billion in funding for hurricane research, closely resembles a similar measure introduced in the Senate by Florida's senators earlier this year.

OBJECTS IN MIRROR
ARE A LOT CLOSER
THAN THEY APPEAR.

WAUSAU COMMERCIAL AUTO AT WORK. While looking at the claim history of a food distributor we insure, we noticed a number of issues with its fleet safety. During the previous two years there had been 15 accidents, including a few sideswipes, that accounted for almost $62,000 (nearly 50% of total costs). Part of the problem was poor visibility, especially when changing lanes. This was easily remedied by installing fender-

PRICE≠COST.

mounted elliptical mirrors on all of the trucks. Another problem was finding the right drivers. With our help, they established new hiring methods (including background checks and road testing) and formalized the driver selection process. As a result, even with a significant increase in annual mileage, the number of accidents dropped 30% and dollar losses dropped 60%. And thanks to fewer collisions, the delivery schedule ran smoother as well. It's all part of Wausau TotalValue℠ and our commitment to lowering your total cost of risk. And it's backed by the financial strength of the Liberty Mutual Group. To learn more, visit wausau.com or contact your Wausau representative.

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Commentary

Insurers turn up heat on global warming

PAUL WINSTON

Associate Publisher and Editorial Director Paul Winston's commentary appears monthly. E-mail: pwinston@businessinsurance.com

Global warming is an abstract phenomenon to most people.

To many, it is the tongue-in-cheek scapegoat for a current spell of hot temperatures or stormy weather. Some see it as a cause associated with liberal politicians, Hollywood activists and tree-hugging environmentalists that remains far beyond the mainstream. Others think it is a crackpot theory advanced by scientists out of step with the truth. And even among people who believe that climate change is a real phenomenon, many have no idea what this might mean to them on a personal level.

For starters, it will mean higher insurance premiums and more restrictive policies.

Long before the average person faces an increased frequency and severity of weather events such as hurricanes, rising sea levels, the spread of new pandemics and more, they will feel the effects of climate change in their insurance coverages with as much difficulty as acknowledging an inconvenient truth.

Even though most businesses and governments will take years to act on the threats posed by global warming, underwriters already are starting to stake out their position. Obviously the industry does not wish to foot the property insurance bill for a likely increase in weather-related losses. If the stakes seem high in disputes over Hurricane Katrina flood losses, consider how bad it will be if sea levels rise as predicted and threaten pretty much all coastal property.

As long as your insurer believes, it is real.

Insurers and reinsurers also wish to minimize their exposure from providing liability insurance to companies that later could be blamed for having contributed to global warming. There are several lawsuits already under way against industries, such as utilities and automakers, whose businesses are alleged to have contributed to global warming. The costly lesson of covering asbestos manufacturers and polluters long after awareness of their potential harm was known hasn't been forgotten.

Before your coverage disappears faster than the Antarctic ice shelf, adopting some simple risk reduction strategies might help to make you a more attractive risk.

If your company currently is situated within 10 miles of a coastline or on an island, explore how costly it would be to convert your headquarters into an offshore oil derrick. Or, relocate to North Dakota. The winters will be fierce, but your risk of being hit by a hurricane drops to zero.

Eliminate air conditioning this summer. Not only will this get you acclimated to the new average global temperature, but also this will stimulate copious amounts of perspiration, which is nature's way of cooling the body. It also will reduce demand on coal power plants and lower your energy bills.

Exchange your corporate automobiles for bicycles, skates and other self-powered modes of transportation. This will cut exhaust emissions, avoid tanks of $4 a gallon gasoline, improve employee wellness (after an initial period of employee soreness) and nix fleet insurance premiums.

Avoid flying for business or vacation travel, and instead work on your conference call skills. Planes not only generate far more exhaust and consume much more fuel than cars, they also have been linked to the artificial creation of cirrus clouds, which apparently are to be avoided.

Go beyond environmentally friendly strategies such as buying fluorescent light bulbs to going without light bulbs entirely. Have you ever noticed how much light your computer screen gives off? Keep the power switch off and save a buck.

Convert your cafeteria to a sushi bar. Cooking food or powering vending machines requires energy, whereas raw fish will be more accessible if sea levels rise outside your door, and only requires the skills of a special chef and lots of wasabi. Sushi is also trendy, giving your firm an edge in the market for Generation X, Y and Z labor.

Hopefully, these suggestions will stimulate your own creative responses to becoming a more attractive risk to insurers as well as a more responsible corporate citizen. And remember: Whether you believe in global warming is beside the point. As long as your insurer believes, it is real.


XL

Business Insurance OPINIONS

Lessons to learn from WTC claims litigation

THE RECENT SETTLEMENT of the protracted coverage dispute arising from the destruction of the World Trade Center has been a long time coming. We have another word for the delay: disgraceful.

Resolving the multibillion-dollar dispute should not have taken nearly six years since the terrorist attacks on Sept. 11, 2001. Coverage disputes are going to happen when parties differ on interpretation of terms, but ambiguity over the World Trade Center's program was brought on by the industry itself.

Why was the WTC property coverage bound July 18, 2001, but no policy issued nearly two months later, when the hijacked planes hit the towers? Moreover, why were two differing forms—one defining a single occurrence and the other lacking any occurrence definition—used to syndicate the risk to two dozen insurers?

Ambiguity over the World Trade Center's program was brought on by the industry.

At the heart of Silverstein Properties inc.'s dispute with its property insurers over the $3.55 billion in limits was what would seem to be a simple question: Was the terrorist attack involving two planes a single occurrence or two? Relying on the wording in the binders, courts held that nine of the two dozen insurers bound on one form were liable for two occurrences, while the others were liable for only a single occurrence.

Certainty is one of the most valuable benefits of insurance, but if terms and conditions are not known at the time coverage is bound, certainty has not really been achieved. The Sept. 11 attacks were a horrific example of why contract certainty is important. Had final coverage wordings been delivered even a week before that fateful day, it's unlikely that one of the largest-ever property claims would have taken six years to settle.

If for no other reason than to honor the memories of the nearly 3,000 individuals who perished on that day, we urge the insurance industry to learn from this and improve.

Optional federal charter is much-needed reform

SEN. JOHN SUNUNU, R-N.H., thinks that the Senate Banking Committee can approve a bill that would allow insurers and producers to seek new federal charters, rather than state charters, by the end of the year.

We hope he's right.

As we report on page 1, Sens. Sununu and Tim Johnson, D-S.D., introduced their National Insurance Act last week. The idea that insurers and producers should be allowed to choose federal rather than state regulation is both sound and overdue. We've argued for years that the current state-based regulatory system, which was designed in response to the realities of the 19th century, can't meet the demands of a 21st century global economy. We've seen nothing over those years to change our mind.

Both senators deserve commendation for introducing this bill relatively early in the session. Even though optional federal regulation strikes us as commonsensical, significant political hurdles stand between now and enactment.

Enactment won't be easy, but we're already nearly a decade into the 21st century. There is no good reason insurance regulation shouldn't get there, and get there quickly as well.

BI beats list

In an effort to ensure continuing timely coverage of risk management, insurance and benefit-related news, Business Insurance has formalized a list of its reporters' assigned beats. This list is not intended to be exclusive but rather to represent core subject areas of importance to BI readers. BI welcomes ideas and tips from readers on these and other areas. Following is a list of the beats and the principal reporters for each:

Agents/brokers: Sally Roberts.

Benefits–health care and ancillary benefits: Joanne Wojcik.

Benefits–retirement savings/pensions: Jerry Geisel.

Bermuda market: Rupal Parekh.

Canada–risk management and benefits: Gloria Gonzalez.

Claims management: Rupal Parekh.

Employment practices: Judy Greenwald.

Environmental risk management: Sally Roberts.

Federal regulation/legislation–benefits: Jerry Geisel.

Federal regulation/legislation–risk management: Mark A. Hofmann.

Health care industry operations: Gloria Gonzalez.

Industry Focus: Rodd Zolkos, Meg Fletcher.

Insurance coverage litigation: Douglas McLeod.

Insurance fraud: Douglas McLeod.

Latin American markets: Roberto Ceniceros.

Property/casualty industry operations: Judy Greenwald.

Professional liability: Dave Lenckus.

Property loss control/cat risks: Mark A. Hofmann.

Regulation of insurance: Meg Fletcher.

Reinsurance: Judy Greenwald.

Risk management profession: Dave Lenckus.

Runoffs/receiverships: Douglas McLeod.

Safety/ergonomics: Meg Fletcher.

Surplus lines/wholesalers: Roberto Ceniceros.

Tort reform: Mark A. Hofmann.

Work/life benefits and EAPs: Sally Roberts.

Workers compensation: Roberto Ceniceros.

Online Poll at www.businessinsurance.com

How often does your organization's risk manager look at enterprisewide data security?

NEXT WEEK'S POLL: *Do you think the protracted coverage dispute arising from the destruction of the World Trade Center could have been avoided by more timely policy issuance?*

***BI* Online Poll tool sponsored by Wausau Insurance Cos.**

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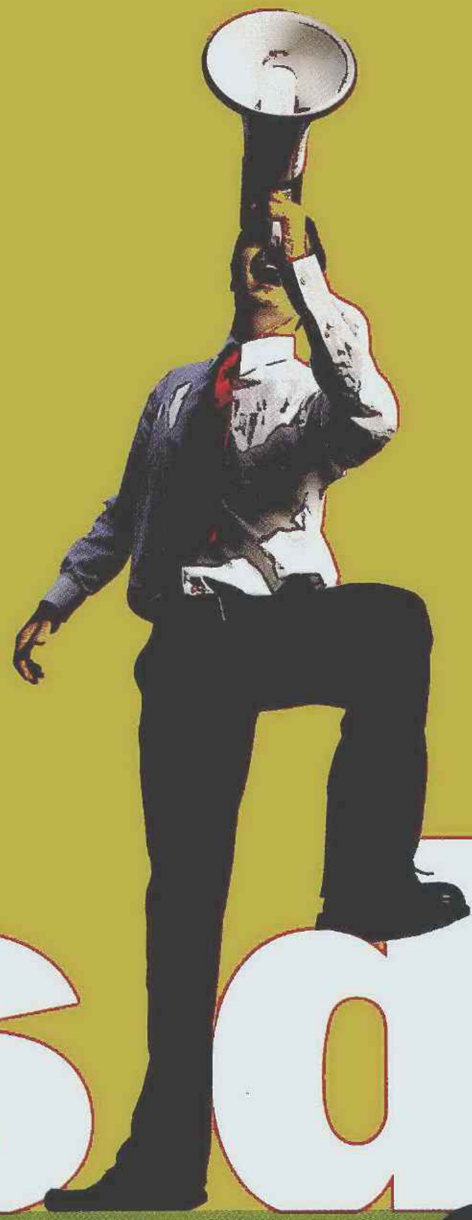

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NEW YORK REALTY COMPANY FORMS CAPTIVE TO COVER TERRORISM RISKS/PAGE 3

PUBLIC RECREATIONAL SITES LOSE LIABILITY PROTECTION IN NEBRASKA/PAGE 3

CONOCO OVER D FOR PO

In Brief

ING unit settles kickback charge

A unit of Dutch financial services firm ING Group last week agreed to pay $33 million to settle litigation in New York and New Hampshire for allegedly accepting kickbacks to promote certain funds as part of retirement plans. Under the settlement, New York teachers and former teachers are eligible for $30 million in restitution, while New Hampshire state employees are eligible to receive a total of $3 million. ING did not admit or deny any wrongdoing.

UnitedHealth loses bid to block probe

Minnesota Attorney General Mike Hatch has the right to investigate UnitedHealth Group Inc.'s executive compensation

See IN BRIEF page 30

Benefits Management **Technology & Online Solutions**

Benefits managers turn to the Internet to speed up processes; personal health

IRS rules create problems for firms launching HSAs

By JERRY GEISEL

WASHINGTON—Employees who start health savings accounts next year could be shortchanged if their employers offer flexible spending accounts with grace periods.

In such situations, the maximum tax-free contribution made to an employee's HSA could be cut by as much as 25% during the first year of HSA enrollment, reducing funds available to pay for current year's health care expenses.

"If you have adopted a grace-period FSA, it can be very damaging for those who want to make maximum contributions to their HSAs," said Jay Savan, health and group welfare leader in the St. Louis office of consultant Towers Perrin.

The problem arises from Internal Revenue Service rules governing HSAs and grace-period FSAs. Those FSAs are so named because, unlike traditional FSAs in which employees forfeit unused account balances at the end of year, employees in

grace-period FSAs can tap balan that remain at the end of a yea pay for uncovered health expenses incurred during the 10 weeks of the next year.

The IRS, under pressure Congress, in 2005 authorized periods for FSAs to reduc impact of the end-of-year FSA ture requirement, which has to be known as "use it or lose IRS rules, though, say that

See HSAs page 6

Drug pricing system nixed by pact

Class settlement may lead to reduced prescription costs

By JOANNE WOJCIK

A proposed settlement of a class action lawsuit against the nation's No. 1 provider of average wholesale prices for pharmaceuticals likely will result in pharmacy benefit managers attempting to renegotiate their contracts to preserve their profit margins, experts say.

Employers, organizations and other PBM users should not pin their hopes on lowering their drug

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MASSACHUSETTS SETS THE PACE

Other states' health reforms off to slow start

Calif., Ill., Pa. paths vary in efforts to boost individuals' coverage

By JOANNE WOJCIK

Massachusetts got the ball rolling in igniting states' efforts to pass legislation to reduce the ranks of the uninsured, but other states have yet to build much momentum.

Governors in at least three states—Illinois, California and Pennsylvania—have led the charge for health care reform. Legislation has been introduced in Illinois, where a gross receipts business tax ran into stiff business opposition and failed to gain even one positive vote in a symbolic House ballot, and Pennsylvania, where the proposal has languished in committee.

Meanwhile, Vermont is putting into place components of its 2006 health reform measure, Catamount Health, which expands coverage through an insurance program sold by commercial insurers in which the state subsidizes premiums for low-income individuals. Increases in the state cigarette tax as well as a $365 per employee annual fee assessed on employers with nine or more employees that do not offer health benefits are funding the effort (see story, page 12).

Other states are "definitely inspired by Massachusetts, but they're also waiting to see how Massachusetts turns out," said Steve Wojcik, vp of public policy at the Washington-based National Business Group on Health.

"All eyes are on Massachusetts after Maryland's legislation was overturned," said Scott Macey, senior vp and director of governmental affairs at Aon Consulting in Somerset, N.J.

Earlier this year, the 4th U.S. Circuit Court of Appeals ruled that Maryland's landmark 2005 law, which required employers with 10,000 or more employees to spend on health care coverage an amount equal to 8% of payroll or pay the difference to the state, was preempted the Employee Retirement Income Security Act. As written, the law would have applied only to Wal-Mart Stores Inc., the giant Bentonville, Ark.-based retailer.

"California, Illinois and Pennsylvania are the key states to watch, because the uninsured problem has become a hot political issue here," Mr. Macey said. "There seems to be a much greater societal recognition that all the little incremental and market reforms haven't solved the primary problem."

"There's a lot of interest and concern among employers with what's going on in the states," said Amy Bergner, a principal at Mercer Human Resource Consulting in Washington. "As a philosophical matter, they're concerned the states are trying to either directly or indirectly regulate their benefit programs. On a more practical level, they're concerned how they can comply with various, differing state requirements."

What "major employers are saying is, 'If you're going to act on a state level, then it should not be directed at employers that maintain or provide coverage for their employees and pay a substantial portion of the cost of it, because we can't operate under 50 different systems.' That's the whole basis of the ERISA pre-emption," Mr. Macey said.

Although Illinois Gov. Rod Blago-

See **LEGISLATION** next page

Health care insurance market transforming in Massachusetts

'Significant' progress seen in implementing 2006 reform law

By JERRY GEISEL

BOSTON—One year after enactment, Massachusetts' landmark health care reform law already is transforming the state's health insurance market, while serving as a template for reform efforts across the United States.

Because of the law, a new state-subsidized health insurance premium program has been launched, enabling tens of thousands of state residents to obtain coverage from commercial insurers, bringing the state much closer to achieving near-universal coverage.

A second program, which was rolled out this month, could provide coverage to tens of thousands of other state residents. That program, while not subsidized by the state, is offering coverage through insurers at a cost that is, in some cases, roughly half of what buyers would have paid in the individual market, state officials say.

All this has been accomplished with remarkably little acrimony, observers say, with state health officials implementing the new law and the programs it created in a measured, careful way.

"The progress that has been made so far has been pretty significant," said Phil Edmundson, chief executive officer of insurance brokerage William Gallagher Associates in Boston.

Massachusetts' efforts have not gone unnoticed by lawmakers in other states. In fact, reform proposals developed by the governors of California, Illinois and Pennsylvania borrow heavily from what many call the Massachusetts model.

"Massachusetts has become not only a model for state-based reform, but also a model for collaboration between the private and public sectors and a model for pragmatism and compromise," said Randy Abbott, a senior consultant with Watson Wyatt Worldwide in Wellesley Hills, Mass.

The Massachusetts model has many elements, but at its core is the concept of shared responsibility. Under the law, unless affordable coverage is not available, state residents are required to obtain health insurance coverage or face fines. To ease that cost burden, though, the state heavily subsidizes premiums for lower-income uninsured residents.

Employers are not required to offer health insurance coverage. However, except for very small firms, those that don't are assessed modest financial penalties. The cost of not offering coverage, though, can be quite steep if their employees seek hospital care with employers then responsible for paying for a portion of the so-called free care.

Much is riding on the outcome of Massachusetts' groundbreaking law. For the uninsured, the law means they have coverage, which reduces the likelihood of facing financially catastrophic medical bills. It also could mean they will receive more preventive care, increasing the chances that medical problems will

See **MASSACHUSETTS** page 14

ON THE ROAD TO NEAR-UNIVERSAL COVERAGE

How Massachusetts is moving to implement its 2006 landmark health care reform law

2006

APRIL: Gov. Mitt Romney signs reform legislation. The law, intended to help the state achieve near-universal coverage in a few years, requires most residents to get coverage, imposes penalties on all but very small employers that do not offer health insurance and provides subsidies for eligible low-income uninsured residents.

JULY: State regulators propose rules detailing requirements that employer-sponsored health plans must meet to avoid assessments mandated by law. Under one test, at least 25% of an employer's full-time employees must be enrolled. In an alternative test, an employer must pay at least 33% of the premium for individual coverage.

OCTOBER: New program, called Commonwealth Care, launched to provide coverage from selected health insurers to eligible uninsured state residents with incomes up to 100% of federal poverty level. No individual premium contributions are required.

2007

JANUARY: Commonwealth Care expanded to provide subsidized coverage for eligible state residents with incomes up to 300% of the federal poverty level.

MARCH: State officials delay by 18 months, until Jan. 1, 2009, the requirement that state residents have coverage from plans that meet certain design standards.

APRIL: Newly proposed rules exempt up to 20% of uninsured adults for whom coverage may not be unaffordable from requirement to obtain health plan coverage. Rules also increase premium subsidies for the uninsured eligible for Commonwealth Care.

MAY: Commonwealth Care enrollment hits the 70,000 mark, beating enrollment projections by two months. Marketing blitz begins for Commonwealth Choice, a new program providing lower-cost—but not state-subsidized—coverage from insurers for individuals and, later, for small employers.

Vermont readies rollout

MONTPELIER, Vt.—So far, implementation of Vermont's 2006 health care reform law—aimed at increasing the percentage of state residents with coverage to about 96% from 90%—is going fairly smoothly, state regulators say.

For example, the first policies under a new program, called Catamount Health, that will provide state-subsidized health coverage to low-income uninsured individuals are expected to be issued by the Oct. 1 deadline set by the law, according to Susan Besio, director of health-care reform implementation in Montpelier.

"Everybody's working frantically. Oct. 1 doesn't seem that far away anymore. In terms of health insurance products and premium assistance programs, we're running along. We're definitely going to be up and running Oct. 1," Ms. Besio said.

Earlier this month, the state contracted with GMMB, a Washington-based marketing firm that specializes in publicizing state programs that provide coverage to the uninsured, to begin its outreach and education program, according to Ms. Besio.

A draft of eligibility rules governing employer-sponsored health plans that would be deemed "substantially similar" to Catamount Health, and therefore exempt from the $365 per employee annual assessment on employers not offering such coverage, has been completed. Regulators have decided that an employer-sponsored plan that has a $500 or lower deductible would qualify, Ms. Besio said. Catamount Health policies, by contrast, will have $250 deductibles. Catamount currently provides only individual coverage. A decision on whether to include families was deferred until next year, according to Ms. Besio.

The increase in cigarette tax that began July 1, 2006, to help fund the program so far has collected $6.6 million, Ms. Besio said.

Two of the state's three licensed health insurers that have agreed to participate in Catamount Health—Montpelier, Vt.-based Blue Cross Blue Shield of Vermont; and MVP Health Care Inc. of Williston, Vt.—have filed initial rates and forms, which are being revised because, as had been expected, "they came in a little too high," Ms. Besio said.

Catamount Health premiums are projected to range from $60 for individuals with incomes of 200% of the federal poverty level to $135 for individuals with household incomes between 275% and 300% of the poverty level.

Perhaps the only hangup has been with the federal government. The state is still in discussions with the Centers for Medicare and Medicaid Services to obtain a Medicaid waiver, Ms. Besio said, which was necessary for the state to implement a chronic care management program for Medicaid members.

—*By Joanne Wojcik*

Legislation: States' momentum is slow

CONTINUED FROM PREVIOUS PAGE

jevich's "Illinois Covered" plan was approved by a Senate committee, the business and medical communities objected. In a separate vote, the Illinois House rejected the tax plan. House Speaker Michael Madigan, D-Chicago, last week said there is little House support for any tax increase.

The Illinois governor's plan would create a gross receipts tax of 1% on manufacturers, wholesalers, retailers and construction companies and levy 2% primarily on service businesses. It also would impose a 3% payroll tax on employers with 10 or more employees that do not spend at least 4% of their payroll on health benefits. It would phase out the corporate income tax over four years. The taxes, which would generate about $7 billion, would help fund a statewide pool of low-cost insurance plans and provide premium rebates for middle-income families, as well as education and capital projects.

"The business community and providers have come out against it, so I don't see a big constituency supporting it yet," said Ms. Bergner.

In Pennsylvania, Gov. Ed Rendell's health care initiative, H.B. 700, was introduced in March and referred to a House committee, where it has languished since then.

The bill would require Pennsylvania employers that do not offer health insurance to their employees who work 30 or more hours per week to pay a tax equal to 3% of payroll to a fund that would provide the coverage. The measure provides financial assistance to small employers with two to 50 full-time employees whose average wage is below $40,000 annually. The plan also calls for reforms to make coverage more affordable and eliminating waiting periods and pre-existing condition exclusions.

Most state residents would be mandated to buy health insurance or face financial penalties.

But many doubt Pennsylvania will enact comprehensive reforms this year.

"It's going to be a long road to passage," Mr. Wojcik said.

In California, even though Gov. Arnold Schwarzenegger's proposal—which includes both an employer and individual mandate—has yet to be introduced in the Legislature, it already has competition from two similar measures put on the table by leading Democratic lawmakers.

A.B. 8, introduced by Assembly Speaker Fabian Nunez, D-Los Angeles, would require employers with two or more employees to provide health care coverage and mandate that employees take the coverage. By comparison, S.B. 48, introduced by Senate President Pro Tem Don Perata, D-East Bay, would require employers to provide coverage or pay to cover the uninsured. S.B. 48 contains no individual mandate.

Both California bills would require employers to spend at least 7.5% of payroll on health care for employees or pay that amount to a state purchasing pool, the Connector. S.B. 48 would require Connector enrollees to pay up to 5% of their household income for the coverage.

Gov. Schwarzenegger's plan would require employers with 10 or more employees to provide coverage or pay a 4% payroll tax into a pool that would cover uninsured workers, who would be required to enroll in either employer-sponsored or state-sponsored coverage.

Like Illinois, Gov. Schwarzenegger is meeting resistance from employers.

"We do not support employer mandates," said Michael Shaw, legislative director for the California office of the National Federation of Independent Business in Sacramento, which has opposed both A.B. 8 and S.B. 48. Mr. Shaw said the NFIB has not taken an official position on Gov. Schwarzenegger's proposal because it is not yet been introduced.

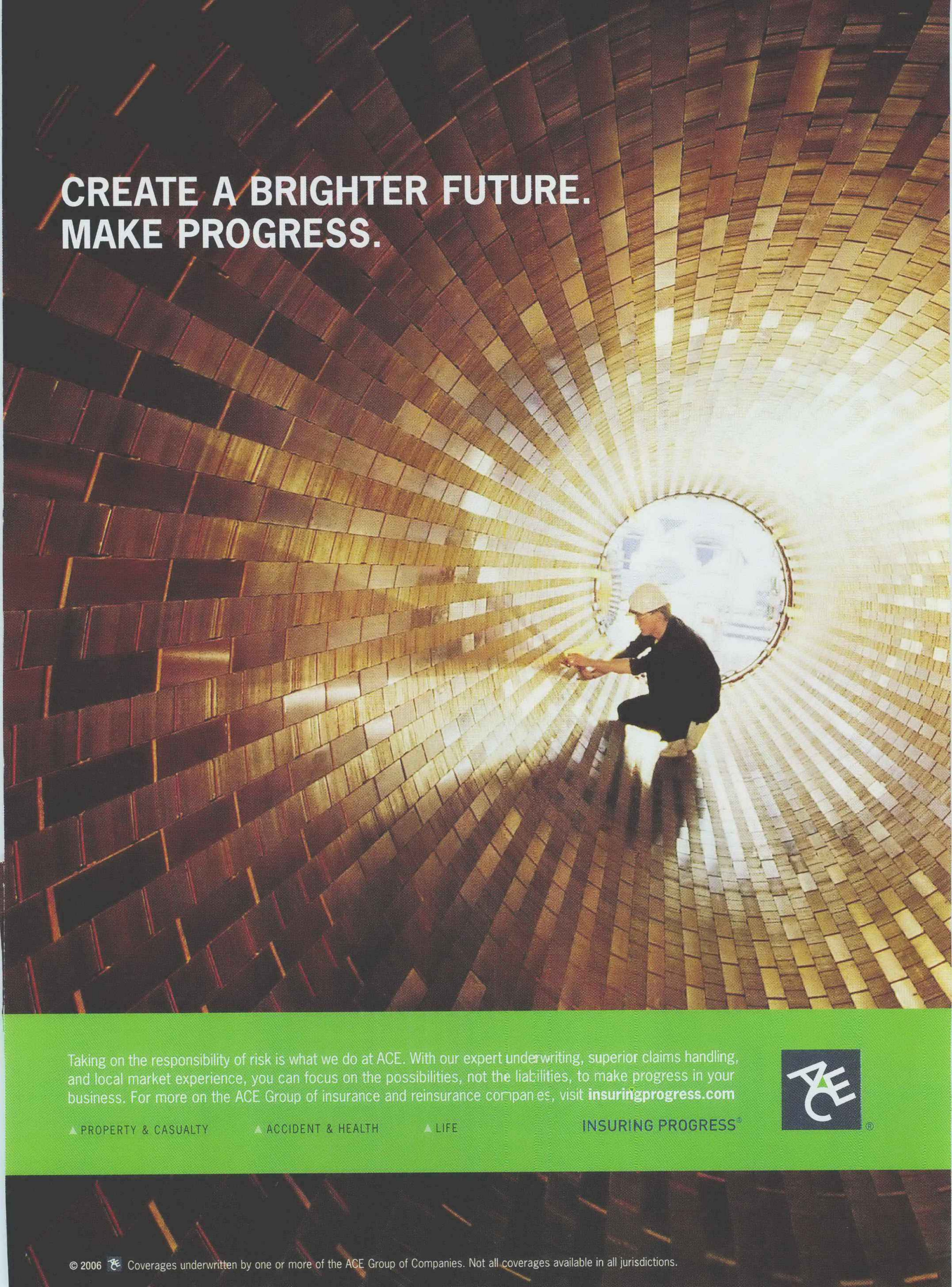
But Mr. Shaw did say he is concerned that the governor's proposal may come through at the last minute, similar to so-called "play or pay" health insurance that then-Gov. Gray Davis signed in 2003 and voters repealed in 2004. Mr. Shaw speculated that "one reason the governor hasn't allowed his proposal to be introduced is because he doesn't want to give the Legislature enough time to monkey with it."

Waiting also enables the governor's office to say he's working with all constituents to devise a compromise solution, Mr. Shaw said, pointing to a recent news conference featuring the governor and Safeway Inc. Chairman Steve Burd, who is spearheading a coalition of nearly 40 large employers and insurers to promote market-based solutions to resolve the health care crisis.

"It seems that ultimately there are a lot of vehicles to start as negotiating points," Ms. Bergner said.

If the measure were to become law, it is very likely to face a challenge by businesses as being unconstitutional and a violation of ERISA.

"The whole question is whether the proposal is a tax. If it is, it needs two-thirds of each house of the Legislature to pass" under the California Constitution, said J.D. Piro, a consultant with Hewitt Associates Inc. in Norwalk, Conn. "The ERISA issue will be there regardless of whether it's a tax or not."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Massachusetts: Health care reform serves as example to other states

CONTINUED FROM PAGE 12

be detected sooner and treated in cost-effective settings and not in emergency rooms.

"If people get more preventive services upfront, you avoid some catastrophic costs," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

Indeed, some believe the cost of subsidizing health insurance premiums for the uninsured may turn out to be less than the traditional health care financing model in which the uninsured can get free care in hospital emergency rooms with states, in some cases, partially reimbursing providers for uncompensated care and providers also inflating charges for insured patients to offset the costs of uncompensated care.

"If health insurance coverage is provided and people are treated earlier, that does save money," said Edmund Haislmaier, a senior research fellow at The Heritage Foundation in Washington.

At the same time, the law will be a test on whether an individual mandate can significantly increase coverage, especially for those for whom the state is not subsidizing premium contributions.

"Will they have enough disposable income to afford coverage?" asked Vince Capozzi, senior vp-sales and marketing for Harvard Pilgrim Health Care, a Wellesley, Mass.-based health care plan.

"We'll have to wait and see how effective the individual mandate is," said Mr. Haislmaier.

For employers, the stakes are high. If Massachusetts is able to achieve near-universal coverage and other states follow with similar initiatives, that could mean a bigger reduction in provider cost-shifting, one of the drivers of group health care plan inflation.

"If everyone, or nearly everyone, has coverage, employers will save money because there will be less provider cost-shifting," Mr. Stover said.

But at this point, there are many unknowns, chiefly how big a dent the law will make in reducing the number of uninsured, though some early signs are encouraging. For example, about 70,000 people already have enrolled in Commonwealth Care, the program in which the state subsidizes—in some cases totally—premium contributions for those earning up to 300% of the federal adjusted poverty level.

Hitting the 70,000 enrollment mark came about two months sooner than state officials expected. "I'm thrilled about our enrollment numbers at this relatively early point in health care reform," said Jon Kingsdale, executive director of the Health Insurance Connector Authority in Boston, which is charged with implementing key parts of the law (see Q&A, page 18).

Current enrollment in Commonwealth Care still is only about 50% of the 140,000 people eligible for the subsidized program.

The bulk of those enrolled in Commonwealth Care have been those whose incomes entitle them to free coverage. How close Massachusetts comes to enrolling all 140,000 uninsured eligible Commonwealth Care likely won't be known until the stiff financial penalties set by the individual mandate kick in next year. That will give the uninsured a strong financial incentive to obtain coverage.

Yet another test is just beginning and involves the program known as Commonwealth Choice, which starting May 1 is available to individuals. Commonwealth Choice also is available to employers of any size that want to provide a health insurance plan to employees, especially part-timers, who are not eligible for group coverage, and for which employees would pay the premium through pretax contributions. Later this year, the program will be available to employers with fewer than 51 employees.

Employers have a powerful financial incentive to offer such a plan. If a part-time employee obtains free care in a hospital, for example, the employer can be forced to pay a portion of the charges.

Six health plans, which submitted successful bids, are offering coverage through Commonwealth Choice. Already, there is significant interest: The program's call center received over 400 calls within a couple of hours of its launch.

For individuals, the program could significantly reduce their premium costs. Mr. Kingsdale, for example, cites an example of a health plan offered through Commonwealth Choice that will charge a monthly premium of $175 for single coverage. By contrast, a plan now being offered in the personal lines market—imposing much greater cost sharing—charges a monthly premium of $335, he said.

How many of the roughly 160,000 people eligible for Commonwealth Choice will enroll isn't known. "The next few months will be critical," said Mr. Edmundson, the Boston insurance broker.

Just as important as the number of enrollees will be the demographics of those enrollees. For example, if enrollees tend to be older and use health care services extensively, that could force insurers to increase premiums significantly in future years, making coverage much less affordable and perhaps discouraging enrollment.

"What will be the risk profile? That is a key question and one for which we don't yet know the answer," Watson Wyatt's Mr. Abbott said.

Realistically, Mr. Abbott said, "I have high hopes, but moderate expectations."

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Most 2008 presidential candidates keep quiet on health care

Medical care issues trump economy in voters' concerns

By LOUISE ESOLA

Candidates aiming for the presidency in 2008 will have a tough time campaigning without diving into health care reform, according to analysts who say the nation's health care delivery and finance system is at the top of voters' domestic concerns.

Health care is second to the war in Iraq as the most important problem for the government to address, according to a recent poll of voters by the Menlo Park, Calif.-based Henry J. Kaiser Family Foundation.

"This is the first time we've seen health care before the economy," said Larry Levitt, a Kaiser vp.

According to analysts, the issue is multi-pronged. First, escalating health care costs are affecting businesses, which are more and more asking their employees to help foot the bill, making access to health care coverage increasingly unaffordable for employees and their families.

At the same time, the number of people without health insurance, currently about 45 million, keeps rising, fueling concerns among the insured that they might one day join the ranks of the uninsured.

"The number of uninsured is climbing and the costs are climbing," said Mr. Levitt. "People are more worried about paying more for their health care than they are about terrorists or their income keeping up with inflation."

Since 2000, health care costs have risen five times faster than general inflation, according to Brian Klepper, executive director of the Atlantic Beach, Fla.-based Center for Practical Health Reform, a nonpartisan group working with employers, health providers, insurers and others groups on ways to help reform the nation's health care system.

"If you asked any of the (presidential) candidates, they will all say they plan to do something about health care costs," he said.

As of now, few are speaking up, other than making general campaign promises to address rising costs and to help the uninsured, analysts say. Katie Strong, director of congressional and public affairs with the Washington-based U.S. Chamber of Commerce, said it's too early in the campaign for detailed health care platforms.

"I don't think Americans even know what they want in a health care system," she said. "But I believe we are at the tipping point for reform."

Tackling the issue with details this early in the game would be a bad political move, analysts stressed.

"There is an advantage to not getting too detailed, because if you issue details, interest groups will start mobilizing.... There is a political risk" with that, said Frank McArdle, manager of Hewitt Associates Inc.'s Washington office.

According to Mr. McArdle and others, Democrats typically address health care issues much earlier in the campaign than Republicans, who often see health care as an issue secondary to other concerns, such as the economy and taxes.

"The entry fee for Democratic candidates is to support universal health care," said Neil Trautwein, vp and employee benefits policy counsel with the National Retail Federation in Washington.

"The Republicans, with the exception of (former Massachusetts Gov. Mitt) Romney, have been reticent with health care. You can't even find anything on their Web sites about it," Mr. Trautwein said.

Much of the talk up to this point has centered on expanding coverage, analysts say.

"Most of what I hear from the candidates is broadening coverage and less about improving the quality of care or controlling costs," said Ted Nussbaum, Stanford, Conn.-based director of health care consulting in the United States for Watson Wyatt Worldwide. "It's hard to put your arms around exactly what they are trying to do."

Democrats

The top three Democrats aiming for the party's presidential nomination—Sen. Hillary Clinton, D-N.Y., former Sen. John Edwards, D-N.C., and Sen. Barack Obama, D-Ill.—have touted the term "universal coverage" with only Sen. Edwards providing details.

SEN. HILLARY CLINTON, D-N.Y.

Of all the major candidates, none has greater background on health

Sen. Clinton

care issues than Sen. Clinton. Her husband, then-President Bill Clinton, chose her to develop his sweep-

Continued on next page

CONTINUED FROM PREVIOUS PAGE

ing health care reform package.

The chief reason the package failed to win congressional approval, President Clinton said at the time, was that it tried to do too much too soon.

In contrast to the detail-rich 1,300-page health care reform package she advanced as first lady, Sen. Clinton's current health care positions are sparse in detail. She does support, though, opening up the State Children's Health Insurance Program to enable parents of beneficiaries gain access to coverage.

She says she also supports giving tax credits to small employers to help them provide health coverage. Additionally, Sen. Clinton says prescription drug costs are too high, a problem she says she would address by making it legal to reimport drugs and to improve the process of approving generic drugs.

JOHN EDWARDS, D-N.C.

"How would you pay for health care? A lot of (Democratic) candidates are silent on that issue," said Mr. McArdle. "Edwards is the only

LANDOV

Mr. Edwards

one to say how he would pay for that."

According to Mr. Edwards' plan, outlined on his campaign Web site *www.johnedwards.com*, employers would be required to either cover their employees or help finance their health insurance. The plan also would create new tax credits that individuals could use to effectively reduce the cost of health insurance premiums; expand Medicaid and State Children's Health Insurance Program to cover many more lower-income uninsured individuals; and reform insurance laws so that insurers would not base rates on an individual's age or medical history.

Mr. Edwards also proposes to create regional "Health Care Markets," which he describes as purchasing pools set up by a state or groups of states that would offer a choice of competing health insurance plans. The markets would be available to individuals not covered by group plans or to employers that don't offer insurance.

According to analysts, the Edwards plan would be financed, at least in part, by raising taxes on households earning more than $200,000 annually.

SEN. BARACK OBAMA, D-ILL.

Sen. Obama, like Sen. Edwards, also has stated the goal of providing universal coverage by 2012.

However, the details have been slow in coming; Sen. Obama has promised to release his proposal in

Sen. Obama

the upcoming weeks.

On his Web site, *www.barackobama.com*, Sen. Obama's campaign provides details of the problems that exist in health care and coverage, along with promises to expand health care to children and to fight disparities in the treatment of the poor and minorities.

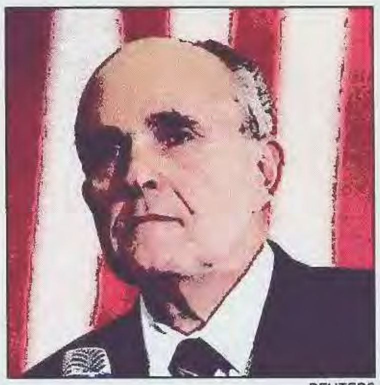
Republicans

As for the top three Republicans seeking the presidency—Sen. John McCain, R-Ariz., former Massachusetts Gov. Mitt Romney, and former New York Mayor Rudolph Giuliani—two have provided little to no information on health care, except for supporting a market-driven approach to reform.

RUDOLPH GIULIANI, R-N.Y.

The former mayor of New York so far has devoted little attention to health care issues.

He has, however, stated that he supports a market-driven expansion of health care coverage.



REUTERS

Mr. Giuliani

He's also drawn a hard line against a universal single-payer approach and has accused Democrats of moving towards socialism with their proposals for universal coverage.

SEN. JOHN MCCAIN, R-ARIZ.

Sen. McCain, while remaining quiet on his health care reform positions, has a record for supporting changes in the system.

Sen. McCain has supported measures to reduce costs of prescription medications for the elderly and expand coverage for children. He's also supported medical malpractice reform by capping noneconomic damage awards, which he says has contributed to the rise in health care

Continued on next page

Pension: Hybrid plan eases administrative work

CONTINUED FROM PREVIOUS PAGE

would be enrolled automatically and defer 4% of pay, of which employers would match at least 50%. The defined benefit portion would provide at least 1% of final pay for up to 20 years of service and employees would be 100% vested after three years' service. Employers could also structure the defined benefit plan component as a cash balance plan in which pay-related credits would increase with employee age.

Employers offering a DB(k) would face reduced filing requirements. In certain situations, they would be exempt from rules that restrict the amount of benefits available to a company's top executives.

DB(k) interest may rise closer to its availability date and after some of the more pressing issues arising from the federal law have been resolved, consultants agreed.

Many small employers that offered a defined contribution plan were reluctant to add a defined benefit plan, mostly because of the administrative setup work, said Rick Lawson, vp of federal government relations at Principal Financial Group in Washington. With DB(k) plans, employers "can do it all in one document," he said.

On a related front, legislation was introduced earlier this month in the House and in March in the Senate. The proposed Retirement Security for Life Act of 2007 would create tax incentives for individuals to invest a percentage of their retirement savings in annuities. Specifically, retirees could exclude 50% of annuity income—up to $40,000—from their taxable income. Both measures have been referred to committee.

SOA says new retirement system needed

For years, U.S. employers have offered defined benefit, defined contribution or both types of pension plans to employees. However, one group is asking whether the nation needs an entirely new retirement system.

Led by the Schaumburg, Ill.-based Society of Actuaries, more than 50 pension leaders—including plan sponsors, academics, pension consultants and other professionals—have started a project called Retirement 20/20, and hope to create a new, more flexible retirement system.

Because the SOA has brought together so many different retirement plan stakeholders, it hopes that when the project is finished it will have widespread support.

In a recently released report, the group discussed the needs, risks and roles of current and future taxpayers, plan participants, markets and employers. The SOA also plans to hold a series of conferences to reach its goal of defining and promoting a comprehensive new pension system.

"We're trying to get a discussion started," said Emily Kessler, a fellow at the SOA. "All of these issues are understood in a fragmented fashion."

Ms. Kessler said a new type of retirement plan is needed because of society's changing needs. Employees increasingly have job and career changes, and retire at different ages with varying years of service. Employers' needs and market needs are changing as well, she said.

Because of the variables, the United States probably needs more than two main types of retirement plans, she said.

"We can't keep tweaking the system," Ms. Kessler said. "We want other options and more space in tax codes."

The group will research systems that can adjust to beneficiaries who work longer or live longer, for example, and how to get financial markets to work more efficiently for retirement plans.

In September the SOA will hold a conference to focus on aligning roles with the skills of plan participants, employers and money managers. It also will address tensions between taxpayers and retirement participants, Ms. Kessler said.

No time frame has been set for the final recommendations, she added.

—By Patty L. Kujawa

International NEWS

Climate change risk seen as growing issue

By SARAH VEYSEY

BRUSSELS, Belgium—Climate change is a growing concern for European risk managers, according to the Federation of European Risk Management Assns.

In its response to a United Nations-sponsored report that highlighted the role of risk management in the mitigation of climate change effects, Brussels, Belgium-based FERMA said that climate change will become a more pressing issue for risk managers as companies attempt to improve energy efficiency and reduce greenhouse gas emissions.

The Intergovernmental Panel on Climate Change, a body of experts established by the World Meteorological Organization and the United Nations Environmental Program, published its fourth assessment report in Bangkok, Thailand, earlier this month.

The report highlighted the importance of mitigation in managing the effects of climate change, and stated that changes in lifestyle and behavior patterns can contribute to climate change mitigation across all sectors.

"Decision making about the appropriate level of global mitigation over time involves an iterative risk management process that includes mitigation and adaptation, taking into account actual and avoided climate change damages, co-benefits, sustainability, equity and changes to risk," according to the report.

Marie-Gemma Dequae, president of FERMA and risk manager for N.V. Bekaert S.A., said she believed that as companies seek to address climate change, risk managers inevitably will become more involved in those decisions.

As companies seek to address climate change, risk managers inevitably will become more involved in those decisions.

Marie-Gemma Dequae, Federation of European Risk Management Assns.

Risk management is critical to the success of efforts to improve energy efficiency, she said.

An informal survey of its membership undertaken by FERMA earlier this year revealed that—as yet—climate change does not rank highly in risk managers' lists of concerns.

But, according to FERMA, many respondents said they believed that there would be increasing pressure upon their companies to improve energy efficiency and reduce greenhouse gas emissions.

"Part of the role of the risk manager is to take a longer-term view of the exposures to the company and the problems to be solved, so that we consider whether the way we do things now is going to be sustainable long term," said Franck Baron, director of global insurance and risk management for Geneva, Switzerland-based Firmenich S.A.

"One of those issues is the way we use energy," he said.

In addition, the U.K. Minister for Environment and Climate Change Ian Pearson, told a group of U.S business leaders at the Commission of Sustainable Development in New York earlier this month, that companies' vulnerability to climate change threats is of increasing concern to investors and shareholders.

"Climate change already poses risks to businesses—and these will only increase in future," he said.

"In the future, I expect a company's carbon statement to be as prominent as its financial statement. That's because investors are increasingly demanding reliable information about a company's global carbon footprint as well as what it is doing to reduce its (carbon dioxide) emissions," he said.

Middle East finance centers grow

Economic boom fuels drive to attract more capital to region

By MICHAEL BRADFORD

MANAMA, Bahrain—While insurance buyers in the Middle East need access to more local capacity, the emergence of three nascent financial centers in the burgeoning economic area may only serve to cause confusion, experts say.

Bahrain, Dubai and Qatar all are marketing themselves as financial centers in a bid to attract foreign capital to the area.

But experts said that while risk managers in the region would benefit from increased access to local insurance capacity, three centers are not needed to attract capital.

Others, however, argued that the financial centers can co-exist.

As local insurers compete for the right to handle commercial business on what amounts to a brokerage basis, some jurisdictions are setting up financial centers, partly in an attempt to entice foreign insurers and their capital.

"It looks like the Dubai International Financial Centre took the initiative and has the largest infrastructure," said Carlos Wong-Fupuy, managing senior financial analyst with A.M. Best Europe Ltd. in London, a subsidiary of A.M. Best Co. Inc. based in Oldwick, N.J.

But that center has not attracted herds of insurers looking to invest in the region, he said.

"I think three is far too many," said Vasilis Katsipis, assistant general manager, analytics at Best in London.

"Up to now we haven't seen a significant influx of capital to set up risk carriers," he said.

Three financial centers may serve only to confuse potential investors, said Bhavesh Ghandi, senior manager with Ernst & Young in Manama, who spoke at the fourth annual Middle East Insurance Forum in Manama, Bahrain earlier this month. "Is there enough happening that we need three centers? What is the difference between each one? Right now, to be honest, I'm not sure."

Others defend the presence of three financial centers.

"Each offers something different," said Fetooh Al Zayani, managing director, business development (insurance and reinsurance) at the Qatar Financial Centre Authority in Doha, Qatar.

The Qatar center, for example, is not marketing itself as an international center. "It is being created to help the financial (sector) in Qatar," she said. The Central Bank of Bahrain, which is that country's financial centre, emphasizes Islamic finance more heavily than the others and Dubai, with its dearth of petroleum resources, is focusing on the growth of its service-based economy, said Ms. Al Zayani.

Despite the debate over whether three financial centers are needed, many experts gathered at the forum agreed that the Middle East isn't yet ready to stand on its own when it comes to insuring the risks fueling its economic boom, experts say.

Insurers in areas such as Qatar,

See **MIDDLE EAST** page 22

E.C. urges safer ship dismantling

By MICHAEL BRADFORD

BRUSSELS, Belgium—The European Commission is taking steps to make the dismantling of ships safer and less damaging to the environment.

In a consultation paper published May 22, the commission does not present a completed plan but suggests actions to be taken in the European Union until the process now underway to develop an international convention on safe ship recycling is completed.

E.U. member states need to take action on protecting workers and the environment until that time, Stavros Dimas, the E.C.'s environment commissioner, pointed out in a statement.

The E.C.'s so-called "green paper" calls for a financing plan to fund ship dismantling, which could come from levies on the shipping industry. It also suggests, among other things, more frequent checks of vessels while they are in operation to make sure shipowners are complying with regulations on transporting wastes.

Dismantling is a particular problem in South Asia, where hundreds of deaths and injuries occur each year and coastlines are polluted by the work because of a lack of environmental, health and safety regulations, according to the E.C.

AP PHOTOS

Workers dismantle a ship in Gujarat, India. The European Commission said dismantling is a problem, as hundreds of deaths and injuries occur per year.

The situation is a major concern to the E.U. because around one in three ships in the world sail under the flag of an E.U. member state and even more are owned by E.U. companies, the commission. said.

"The E.U. has a duty to take action to protect the health and safety of workers involved and reduce the pollution these activities are causing," Mr. Davros said of the commission's efforts to address the problem at the E.U. level and work towards international regulations.

The commission is inviting public comment on the paper by Sept. 30. and will decide how to further pursue its ship dismantling strategy after reviewing the feedback.

News In Brief

CONTINUED FROM PAGE 1

and Continental Airlines Inc., would be allowed to use substantially higher interest rates to value plan liabilities under legislation sent to President Bush last week. The provision, tucked into a bill appropriating funds for the war in Iraq, would allow the airlines to use an interest rate of 8.25% in valuing liabilities, just over two percentage points higher than the methodology mandated by a 2006 pension funding bill. The effect of a higher interest rate assumption is to lower the value of plan liabilities for reporting purposes, reducing the contributions they must make to the plans. The airlines lobbied legislators for the change, noting that the 2006 law gave similar favorable interest rate assumption treatment to airlines that had frozen their pension plans.

Lord, Bissell agrees to merge with Texas firm

Lord, Bissell & Brook L.L.C. has announced a preliminary agreement to merge with Locke, Liddell & Sapp L.L.C., a Texas-based law firm. If approved by shareholders, the merger would create a firm with about 700 attorneys and $400 million in revenue, making the combined firm one of the largest in the United States. Lord, Bissell serves U.S. and international clients in litigation, regulatory and transactional business in insurance, reinsurance, banking, health and class actions. Locke, Liddell is known for practice in areas including corporate litigation, energy and real estate finance.

RIMS releases compensation survey

Risk management professionals with enterprisewide responsibilities received average annual salaries of $130,997, according to the Risk & Insurance Management Society Inc.'s 2007 Risk Management Compensation Survey. The survey found that insurance and risk management professionals received average annual salaries of $106,814, while claims managers received an average annual salary of $81,228.

Gen Re: Judge issues restraining order

CONTINUED FROM PAGE 3

cult to say, really, whether all that business is going to follow the underwriters or not."

However, John L. Ward, chief executive officer of Cincinnati-based Cincinnatus Partners L.L.C., an advisory firm specializing in the insurance industry, said, "I would say 30 people with expertise in this specialty area would be a big deal to just about any size operation, because when it comes to property facultative reinsurance, there's a relatively small talent pool that is in great demand globally."

"I could see there would be ripples as a result," Mr. Ward said.

The complaint is based on an initial investigation over the past month that included interviews with current Gen Re employees and a preliminary forensic review of e-mails on selected company computers, court documents say.

"The investigation to date no doubt reveals the tip of the iceberg, because the individual defendants were very careful to do most of their plotting through face-to-face meetings or via their personal e-mail accounts," the suit says. "In addition, defendants sought to cover their tracks by deleting files and wiping clean at least one Gen Re hard drive. In spite of these actions, the substance of their plot is now transparent from the initial evidence Gen Re very recently uncovered."

TREATY VS. FACULTATIVE

Treaty and facultative contracts are the two basic types of reinsurance. Both contracts may be written on a proportional or an excess of loss basis, or a combination of both.

A REINSURANCE TREATY is a broad agreement covering some portion of a particular class or classes of business, for example, an insurer's entire workers compensation or property book of business. Reinsurance treaties automatically cover all risks written by the insured that fall within treaty terms unless they specifically exclude exposures. While treaty reinsurance does not require review of individual risks by the reinsurer, it demands a careful review of the underwriting philosophy, practice and historical experience of the ceding insurer.

FACULTATIVE REINSURANCE contracts cover individual underlying policies and are written on a policy-specific basis. A facultative agreement covers a specific risk of the ceding insurer. A reinsurer and ceding insurer agree on terms and conditions in each individual contract. Facultative reinsurance agreements often cover catastrophic or unusual risk exposures.

Because it is so specific, facultative reinsurance requires the use of substantial personnel and technical resources for underwriting individual risks.

Source: Reinsurance Assn. of America

Charter: Panel likely to approve measure

CONTINUED FROM PAGE 1

ly," Sen. Johnson, who is recovering from a stroke, said in statement.

During the news conference, Sen. Sununu said the Bush administration has not endorsed the new bill, although administration officials spoke "positively" about last year's measure during banking committee hearings in 2006. He said he expected the committee to hold one or two hearings on the new measure later this year.

The idea of an optional federal charter has the backing of the New York-based Risk & Insurance Management Society Inc.

"RIMS has long supported the concept of an optional federal charter and we look forward to reviewing this bill to determine if we can support this specific bill or recommend any specific enhancements," said Terry Fleming, director-external affairs for RIMS and director-division of risk management for Montgomery County in Rockville, Md.

The insurance industry, however, remains divided, splitting along familiar battle lines.

A producer group welcomed the bill as a step in the right direction.

"There is plenty of room for a civil debate over the pluses and minuses of this kind of legislation," said Joel Wood, senior vp with the Council of Insurance Agents & Brokers in Washington. "Indeed, there are unknowns about a radically altered insurance regulatory system. But this we do know—the optional federal charter works very well in the commercial banking arena. This cannot be argued. That is the basis of this legislation, and Sens. Johnson and Sununu are brave and thoughtful leaders, who should be commended for taking these steps."

"Ultimately, this bill is going to be enacted so that regulation of the insurance industry can catch up with the realities of the global insurance marketplace. I would argue that this is a battle not at all dissimilar to the decades-old banks-in-insurance debate. Those who seek to protect themselves from competition may have the political ability to delay the inevitable, but the national marketplace will drive this legislative result," said Mr. Wood.

"We strongly support the legislation because it would bring about a market-oriented regulatory system for insurers," said a spokesman for the American Insurance Assn. in Washington. "The market would regulate rates and products as opposed to the current system of state-regulation of rates and products. Ultimately, consumers benefit," he said.

However, the National Assn. of Mutual Insurance Cos. does not share that view, and opposes any optional federal charter.

"We think that regulation is better accomplished at the state level where companies and their consumers have better access to their local regulators," said Justin Roth, senior federal affairs director in NAMIC's Washington office. "I think small and medium-sized commercial policyholders would have a difficult time dealing with an additional layer of federal bureaucracy."

Mr. Roth also disputed the contention of the bill's supporters that the federal system would be more streamlined and efficient than the current system.

"I think by the time this legislation, which was just introduced, goes through the wringer of Congress, it might more likely look like a California-style regulatory system than an Illinois-style regulatory system," he said. Illinois has received praise from the industry for its free market-driven approach to regulation.

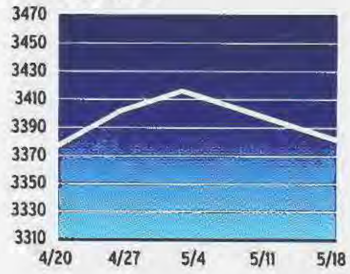
"This bill shows us that the possibility of federal intervention in insurance regulation is for real," said a spokesman for the Property Casualty Insurers Assn. of America, which has not taken a position on the bill. "It's our hope that the reintroduction of this legislation will spur the states to modernize their regulatory environment."

Stock Index

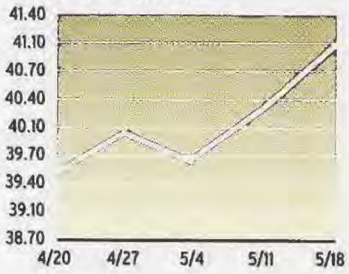
[5/21 -5/25]

Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.BusinessInsurance.com.

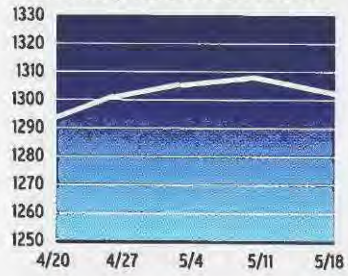
BI STOCK INDEX



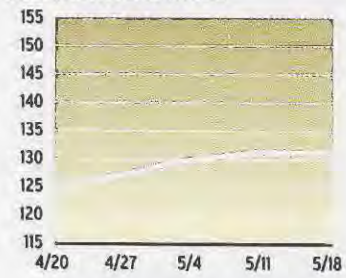
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

BI STOCK INDEX 3382.92	-0.50%
DOW JONES 13507.28	-0.36%
S&P 500 1515.73	-0.46%

LARGEST GAINS

Marsh & McLennan	5.91%
Selective Insurance	4.00%
SCOR S.A.	3.27%
Harleysville Group Inc.	2.85%
Tower Group Inc.	2.79%

LARGEST LOSSES

Ambac Financial Group Inc.	-5.87%
Meadowbrook Insurance	-5.61%
MBIA Inc.	-3.79%
American Safety Insurance	-3.08%
Axis Capital Holdings Ltd.	-2.89%

Source: Financial Content Inc. http://financialcontent.com

Business Insurance END PAGE

Contributing: Roberto Ceniceros, Mark A. Hofmann, Sally Roberts, Joanne Wojcik

Old banana peel skit yields little laughter

It's vintage slapstick: a character steps on a banana peel, his legs fly out from under him and he lands on his rear end—all to a chorus of laughs.

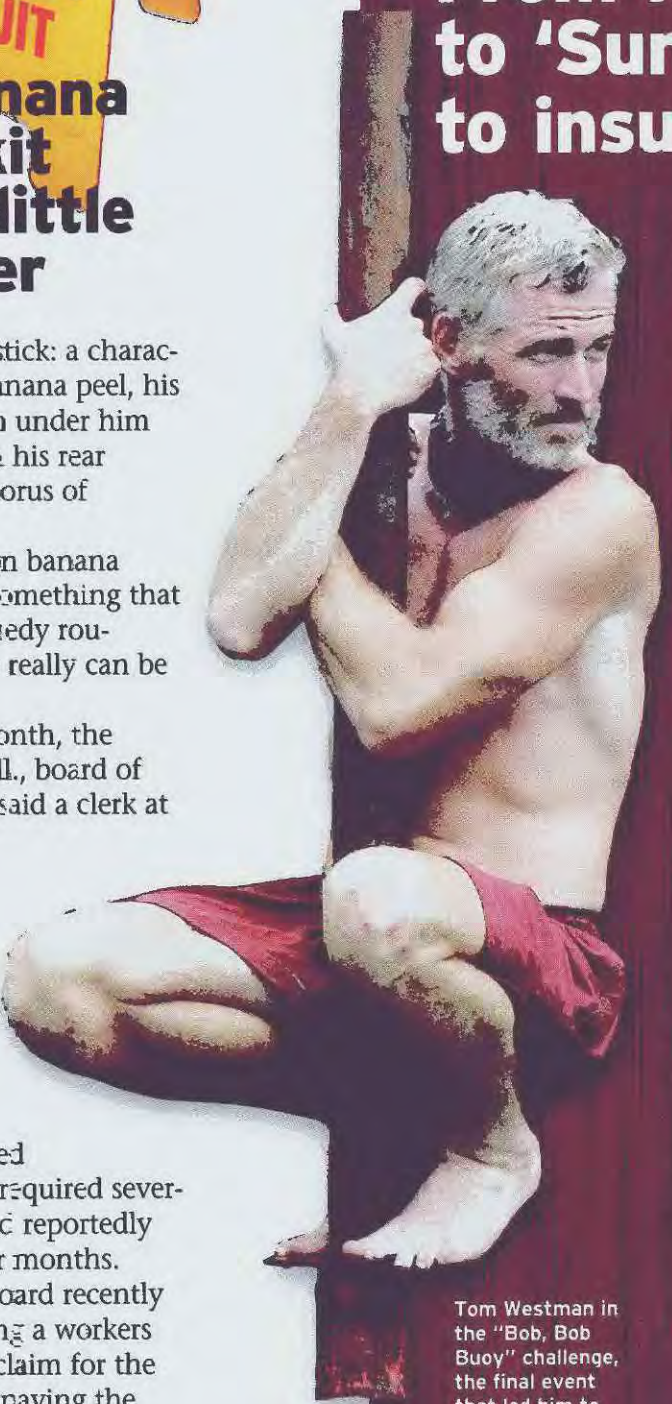
But slipping on banana peels isn't just something that happens in comedy routines—the peels really can be dangerous.

Earlier this month, the Cook County, Ill., board of commissioners said a clerk at the county-run Stroger Hospital in Chicago slipped on a banana peel outside a bathroom. The employee injured her right knee, required several injections and reportedly missed work for months.

The county board recently approved settling a workers compensation claim for the 2003 injury by paying the clerk more than $4,100.

That's no laughing matter.

From firefighter to 'Survivor' to insurance sales



LANDOV

Tom Westman in the "Bob, Bob Buoy" challenge, the final event that led him to victory in the 2004 CBS reality TV series "Survivor: Palau."

After winning the $1 million prize as the last man standing on the reality TV series "Survivor" in 2005, Tom Westman didn't go to Disneyland. Instead, the retired New York City firefighter opted for another type of adventure: selling insurance.

"This was the job I was looking for," Mr. Westman said.

Mr. Westman said that his relationship with the Hartford Financial Services Group Inc. predated his appearance on "Survivor" by several years when he and other firefighters who were first responders to the Sept. 11, 2001, terrorist attacks were invited to attend the insurer's annual Ski Spectacular in Colorado, the largest winter sports event for people with physical disabilities.

"They have a corporate mindset that matches my own," Mr. Westman said.

"Even though he didn't have a background in sales, his life experiences made him a real good candidate for us," said Bob Raiff, vp and director, distribution and field service organization in Hartford's group benefits division, who recruited Mr. Westman to be a group life and disability salesman after he returned from Palau, where the 2004 "Survivor" was filmed.

"His celebrity status is one thing, but when you take a look at his involvement with the Ski Spectacular and having a daughter with a disability, he had a lot of connection points to the product we sell," Mr. Raiff said.

Mr. Westman's 11-year-old daughter, Meghan, lost her hearing to meningitis as an infant.

Mr. Westman also became familiar with the financial services industry having had to invest his "Survivor" winnings.

After taxes, "most of the money went into three 529 plans to pay for the kids' college," he said.

Red Sox board the universal health care bandwagon

The Boston Red Sox have become the latest organization to join Massachusetts' efforts to achieve near-universal health care coverage.

The 2004 baseball World Series champions are partnering with the state in a public education campaign titled "Cover Your Bases-Connect to Health" to let uninsured residents know that health insurance in the state is not only more affordable and easier to get, but also required for most residents under the state's 2006 landmark health care insurance law.

In addition to lending the use of its logo on informational materials and adding a full-page informational insert in its home game program in September, the Red Sox also will provide a kiosk at all home games for fans to learn more about the health insurance plans being offered and to enroll. Advertising spots also will run during pre-game ceremonies throughout the season.

At the news conference held last week at Fenway Park to announce the new partnership, the Commonwealth Health Insurance Connector Authority, the agency overseeing the law, also detailed plans to launch an enrollment van, which will feature the Boston Red Sox logo, that will travel across the state this summer to help individuals with the enrollment process.

Under the law, all state residents are generally required to obtain health insurance by July 1, although there are certain exceptions. To achieve that goal, the state is heavily subsidizing premiums of eligible low-income uninsured individuals.

AP

Massachusetts Gov. Deval Patrick (right) joined Boston Red Sox Executive Vp Charles Steinberg May 22 as the team backed the state's health care coverage efforts.

Insurers thumbs down on claim

Insurers believe that a man in Thailand—far from cutting off his nose to spite his face—may have cut off his thumb to line his pocket.

According to published reports, Phuket, Thailand, resident Pichet Porntantipong filed an insurance claim for accidentally chopping off his thumb during a kitchen mishap.

But Siam Commercial Samakki Insurance—from which Mr. Pichet had purchased four policies over a two-year period worth 5 million baht ($153,374)—doubted his story.

The doubts stemmed in large part from Mr. Pichet's purchase of policies from about 30 other insurance companies, worth 60 million baht ($1.8 million), for the thumb. In a display of industry solidarity, those companies joined in asking police to investigate the matter of the severed appendage.

Mr. Pichet has denied any wrongdoing. If he were to be found guilty of insurance fraud, he could face several years in jail and a fine of 6,000 baht ($184).