A&P revamps insurance; James, M&M on top

The new A&P logo signals round-the-clock shopping to customers

By MARIE KRAKOWIECKI

MONTVALE, N.J.—The Great Atlantic & Pacific Tea Co. revamped its property and casualty insurance programs, choosing new brokers and underwriters. It's also in the process of restructuring its entire employe benefits program, *Business Insurance* learned.

In addition, the supermarket is considering reactivating its captive insurance company, St. Pancras Ltd. of Bermuda, which became dormant in its infancy after paying out heavy losses following a 1973 Chicago warehouse fire.

If the captive is started up again, it could be used as a vehicle for A&P's self-insured workers' compensation program, which A&P's director of insurance and pensions Richard V. Porrett said was the casualty coverage in the biggest state of flux.

Mr. Porrett confirmed that Fred S. James & Co. won out over four other brokers—Johnson & Higgins, Marsh & McLennan, Frank B. Hall and Corroon & Black—in capturing A&P's casualty account.

The business is worth roughly $10 million a year in insured premiums and $10 million in self-insured costs. Richard Payne is the James account executive handling A&P's programs. The underwriter is Ideal Mutual Insurance Co. and the person working with A&P and Mr. Payne is Ideal executive vp and treasurer John Quinn.

Marsh & McLennan won A&P's all-risk property account after competing for the heavily self-insured program with Arkwright Boston and Canadian-based J. H. Minet & Co.

The property account represents premiums of approximately $1.2 million a year. Thomas Johnson is the M&M account executive, working with A&P, assisted by William Fortune. The underwriters include the London market for A&P's stores; American Home Insurance Co. for warehouses and distribution centers; and Industrial Risk Insurers (for-

Continued on page 24

Sears, Xerox acts spotlight decline in profit sharing

By KATHRYN McINTYRE ROBERTS

CHICAGO—Profit sharing as the sole vehicle for company-paid retirement benefits is apparently loosing ground in established companies concerned about providing their workers with a predictable retirement income.

Recent developments and comments by employe benefit experts point to a changing role for profit sharing dictated by uncertainty about the stability of profit sharing fund balances.

Sears, Roebuck & Co. shareholders will vote this month on establishing a pension plan to cover 230,000 employes and on amending the company's historic profit sharing plan to emphasize savings features instead of retirement benefits. Sears' profit sharing plan, with $2.9 billion in assets, is the largest in the country.

And Xerox Corp. will create a hybrid of a profit sharing and defined benefit pension plan by adding a floor to its profit sharing plan effective July 1. Xerox's fund, established in 1945, is the sixth largest in the country with $345 million in assets.

Another indication of the changing profit sharing picture, G. D. Searle Co. in suburban Chicago announced in mid-April it will eliminate its profit sharing plan the end of this year and improve its existing defined benefit pension plan. The profit sharing plan was established in 1960 and has 1,800 participants and a market value of $23 million.

Searle's profit sharing plan incorporates a savings and thrift provision with a profit sharing arrangement. The company had considered making it a true profit sharing device but decided "we really wanted to strengthen our defined benefit plan to have a solid retirement vehicle," said Bill Meehan, manager of benefits and variable compensation for Searle.

The Sears, Xerox and Searle moves all run counter to earlier predictions that the funding requirements of the Employe Retirement Income Security Act of 1974 (ERISA) would scare companies away from defined benefit pension plans.

Consultant Ed Bush, director of the Chicago office of Towers, Perrin, Forster & Crosby, said, "In the post-ERISA era all you read and hear is that defined benefit plans will loose out. But," he countered, "our experience is the

Continued on page 34

Firm sets 2 captive operation

By SUSAN ALT

BOSTON—National Medical Care Inc., a $106 million a year company with a growing medical malpractice insurance cost problem, established what's thought to be a unique captive program using a Bermuda subsidiary and a Colorado subsidiary.

Westminster Insurance Co. was licensed in late December to do business in Colorado, underwriting general liability, professional liability and product liability insurance in a single policy covering losses up to $200,000 per occurrence and $600,000 aggregate. It has paid-in capital of $1 million and a surplus of $600,000.

Westminster is owned by Dartmouth Insurance Co. Ltd. in Hamilton, Bermuda, an insurance subsidiary of National Medical licensed only a few weeks before Westminster. Dartmouth also was capitalized at $1 million using a letter of credit from the parent company, and has a $250,000 surplus. It underwrites the same three liability coverages under a

Continued on page 32

The people column
page 38

Week of May 2, 1977

business insurance

the national newsmagazine for buyers of employe, property and liability protection and financial services

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Product liability groups push bills in 30 states

By JERRY GEISEL

WASHINGTON—The nationwide drive to deal with the product liability crisis through tort reform at the state level has enacted a comprehensive bill in one state with legislative action imminent in two others.

The insurance, trade and business groups that have formed ad hoc committees and task forces have introduced product liability reform bills in at least 30 states. But the movement has suffered setbacks in four states including Indiana, Connecticut, Massachusetts and North Dakota.

To date only one state, Utah, has passed product liability legislation. That bill's key provision includes a 10-year statute of limitations from the date a product was manufactured and prohibits asking for a specific amount of damages.

But at least two other states, Nebraska and Colorado, are on the verge of taking votes on product liability bills.

In Nebraska, a bill establishing a four-year statute of limitations, and allowing compliance with state of the art standards or subsequent product modification or alteration as defenses against liability, is scheduled for a vote in the near future.

The bill, which cleared the judiciary committee earlier this spring, has aroused the ire of the state's personal injury attorneys who have charged that the measure's passage will result in the state becoming a dumping ground for unsafe products.

Glenn J. McEniry, executive vp of the Nebraska Assn. of Commerce and Industry, which sponsored the legislation, concedes that "it will be a tough fight getting the bill passed."

The bill would become law if passed and signed by the governor since Nebraska has a one-house legislature.

Opposition from trial lawyers also threatens Colorado's product liability measure which cleared the state house April 7 by a whopping 59-3 margin.

"The trial lawyers were caught napping in the house, but they're coming at us real strong now," said Carl N. DeTemple, executive vp of the Colorado Assn. of Commerce and Industry.

The bill's provisions include a seven-year statute of limitations from time of delivery and a reduction of awards to the extent that an employer's or employe's

Continued on page 21

The inside story

Multiple Employer trusts

A previously ignored House staff report may pave the way for state regulation of multiple employer trusts. **Page 14.**

Elsewhere:

RIMS report

You couldn't be everywhere at the annual RIMS conference in New York. But the five *Business Insurance* reporters tried and we'll have a comprehensive report in our next issue. Watch for the "RIMS Report" dated May 16.

One case remains to be settled

Paris air crash victims agree to settle out of court

By JOANNE GAMLIN

LOS ANGELES—Forty-three Japanese families, all plaintiffs in the complex case rising from the 1974 Paris air crash of a Turkish Airlines DC-10, in which 346 persons perished, agreed in mid April to accept out-of-court settlement of their wrongful death lawsuits.

The agreement is significant because the Japanese had been the sole group to hold out for punitive damages. Now only one case remains to be settled in the air disaster, that of Doris Lean Kalinsky of New York who is suing for the death of her daughter, Nancy. Ms. Kalinsky is known to want punitive damages. She is represented by F. Lee Bailey and by David Noble, a Los Angeles attorney.

Although the total amount of damages awarded to the families of the mostly young, single Japanese tourists was sealed by U.S. District Judge Manuel L. Real, attorney William Marshall Morgan who, with Lee S. Kreindler, represents the Japanese plaintiffs, said the award totaled about $8 million. He indicated that each plaintiff received considerably more than the traditional $50,000 award that customarily goes to settle the deaths of young single victims.

The total amount of money paid out in settlement of the case, in which McDonnell Douglas Corp., General Dynamics and Turkish Airlines are the principal defendants, is a well guarded secret. However, sources close to the case told *Business Insurance* that the estimate of between $50 to $70 million is correct. About 252 cases are included in that sum.

The DC-10 crashed on March 3, 1974, outside of Paris, when a cargo door opened shortly after take-off, causing the hold to depressurize and the floor of the aircraft to collapse.

The out-of-court settlement of the 43 Japanese families occurred just as a federal court jury was about to return a verdict in four of the cases.

If the Kalinsky case is settled, including a waiver of punitive damages, then the ruling by Judge Real, earlier this year, that California laws prohibiting punitive damages in wrongful death cases are unconstitutional, would remain law, but only in the judge's own court. The defendants are currently attempting to appeal the ruling. That appeal will be moot if the Kalinsky case is settled.

The fact that famed attorney F. Lee Bailey will direct the Kalinsky case, however, is viewed by some observers as boosting the likelihood of a liability trial in 1980 or 1981. The trial cannot take place before that time because the appeal on Judge Real's ruling will be taken to the Supreme Court.

Nevertheless, such a trial might appeal to Mr. Bailey for three reasons, observers state: The significance of the liability question; the publicity that is sure to engulf the case; and the change of a multi-million dollar judgment.

James Fitzsimons, chief attorney for McDonnell Douglas Corp., said that such a trial will probably last for six months and then its verdict could be appealed to the Supreme Court, meaning that Ms. Kalinsky may have to wait about eight years for her money if she opts for the trial.

The Japanese had been pressing the defense for an apology as well as for punitive damages. Although the settlement agreement for the 43 families consented to release the defendants from any claims for punitive damages against them, attorney Fitzsimons confirmed to this magazine that he will go to Toyko on June 5, there to issue a statement of condolences before a group representing the Japanese plaintiffs.

Plaintiff attorney Morgan said that in his opinion his clients had, in effect, been paid punitive damages in the $8 million award. He pointed out that in the award of $253,000 to the husband and two grown children of a Japanese woman who died in the crash, an extra $25,000 was included in return for a release from claims for any future punitive damages.

The defense has maintained throughout the case that they would not contest liability but they would not admit it either, arguing that there is an actual distinction between these two positions.

Mr. Fitzsimons said that, given all the circumstances, he views the settlements to this point as appropriate. He said that a lot of factors, such as the desire to reduce the outstanding number of cases, go to make up a settlement agreement. ■

Gallup poll findings

CHICAGO—The Number of Americans who want the federal government to run a national health insurance system has declined, according to a Gallup Poll. Four years ago a Gallup Poll found 40% of Americans favored the federal government as the administrator of a national health system. By 1976, only 28% favored the federal government. ■

$3.3 million malpractice case settled

SACRAMENTO—The largest medical malpractice jury award in Sacramento county history, $3.3 million, has been awarded to Mr. and Mrs. Larry Meador on behalf of their six-year-old daughter who allegedly suffered severe brain damage because of "improper medical care" by Kaiser Foundation Hospitals and Permanent Medical Group during her birth.

Attorney Morton Friedman, who represented the Meador's during the lengthy Superior Court trial, claimed the child had not been delivered until 45½ weeks after conception instead of the more normal 40 to 42 weeks.

The jury agreed with Friedman's charges that the hospital and medical group, representing Kaiser physicians, had been "negligent in not delivering Cheryl in time to prevent brain damage." ■

GUIDE TO FEATURES

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the benefit beat

U. of C. opens disability coverage to all employes

THE UNIVERSITY OF CHICAGO has made long term disability coverage available to all 8,000 full-time employes for the first time. After more than a year of study, the university discontinued a Prudential Insurance Co. policy which limited eligibility to participants in the school's retirement plan (age 30 or over), and replaced it with a Benefit Trust Life Insurance Co. plan which includes, on a voluntary basis, younger employes. For workers participating in the retirement plan, LTD coverage is required. The new policy provides 60% of an employe's former pay after 180 days of total disability. Benefit payments range from $50 to $2,500 a month, but are reduced by amounts of simultaneous benefits received under social security, workers' compensation, retirement or other university benefit programs. The composite cost of the LTD package according to a university spokesman is $5.10 per employe a month. Worker contributions to the plan equal one-half of three months' base pay— $2.50 a month, say, for an employe earning $1,000 a month. But employes at salary levels of $4,167 monthly or greater pay the total cost.

THE STATE OF CALIFORNIA is paying consultants, The Wyatt Co., $97,000 for a study on providing dental insurance to more than 200,000 state civil service and California university and college employes and retirees. The state legislature, which has had before it various dental plan proposals, requested the study and now has before it all but a computer analysis of costs. A Wyatt Co. actuary projected costs for five years in various plans. The estimates ranged from $10 monthly for each employe under the most inexpensive plan in the least expensive year, to $26.50 monthly under the most expensive plan in the most costly year. The Wyatt Co. study, not intended to recommend or reject dental insurance for the state employes but to explore alternative methods and make recommendations on aspects of a plan, suggests any dental plan stress preventative care. The study also recommends that to avoid adverse selection employe participation not be based on payroll deductions but through appropriate coinsurance and deductibles. Employes should also have a choice of delivery systems but the benefits under each should be the same if possible, the study says.

NEW YORK STATE's 140,000 workers represented by the Civil Service Employes Assn. will receive $5 million in improved medical and dental benefits as part of a new $250 million contract. How the benefit funds will be spent when they become available in the second year of the two-year pact is to be the subject of further talks. The only immediate change is a new workers' compensation regulation which institutes a 10-day waiting period before a disabled employe can begin collecting benefits. An affected worker would have to rely on sick pay until the waiting period expired. The contract settlement, which was reached less than 24 hours before a pending and possibly crippling April 19 statewide strike, also includes the first pay raises for state employes in three years.

THE CITY OF MADISON, Wis., Dane County and the Madison School District are considering self-funding their health care plans. Rising costs, no reports on how their premiums are spent and the inability to monitor benefit design with their current supplier —the Wisconsin Physicians Service (WPS), an open panel HMO —prompted the three entities to investigate alternatives, said Dane County risk manager Robert Tieman. They jointly hired the Chicago consulting firm, The Wyatt Co., and have accepted bids on administrative services only contracts with stop loss coverage at 110%. Response to their request for bids was somewhat sparse, presumably because their life insurance business was not included in the package. From the bids received, Mr. Tieman believes self-funding with an ASO contract offers cost containment, claims control and cash flow advantages, financial savings and the opportunity to monitor benefit design. The three government branches now collectively pay WPS $6 million annually to cover 6,000 employes. Should they opt for self-funding, they plan to choose the same supplier but sign individual contracts. Pooling for the ASO contract was deemed too difficult because of differing tax bases. The three government risk and employe benefits managers plan to make recommendations to their respective boards in mid-May. Right now three suppliers are front runners for the contract, but Mr. Tieman declined to name them.

A VOLUNTARY HYPERTENSION program has been launched by Blue Cross/Blue Shield of Greater New York for its 5,600 employes. The program will test whether intensive education and monitoring at work of persons with hypertension will result in better blood pressure control and patient response to treatment. Screening, treatment and education are involved. Blue Cross said it expects the program to become a model for other employers.

THE 40-HOUR work week is still the standard in American business and will continue to dominate at least through 1982, according to Hewitt Associates. The consulting firm said 76% of the companies surveyed maintain a 40-hour work week for salaried employes while 88% have hourly workers on the job for 40 hours. The figures are almost unchanged from a similar survey taken in 1972. Sixty-six per cent of the companies predict a continued 40-hour work week for salaried employes in 1982; 88% predict a 40-hour work week for hourly employes in that year. The survey involved 300 companies in a cross section of industries.

Benefit beat is designed to inform employe benefit managers and others about benefit trends in other companies and institutions. We'd like to know if you've made any changes in plans or insurance carriers, or if you know of any important developments. Write Benefit Beat, Business Insurance, *740 N. Rush St., Chicago, Ill. 60611 or call (312) 649-5279.*

OSHA rule threatens construction agents

By DAVID KONIGSBERG

WASHINGTON—The Occupational Health and Safety Review Commission will soon rule on the liability of construction managers for OSHA violations and may ultimately decide the fact of construction management itself.

In reopening a case involving Cauldwell-Wingate Co. Inc., a large New York City building concern, the commission will be reviewing principles under which construction managers have been cited for violations they were neither responsible for nor had the authority to force contractors and subcontractors to correct.

While the violations in the case were termed "non-serious" and fines arising from them were minimal, companies in the construction management business fear repeat citations carrying stiffer penalties and the possibility they may also be held liable for major OSHA infractions.

Construction managers claim they are, by definition, agents of the owner on construction projects, giving them the power to administer construction activity but not to enforce compliance with OSHA standards. But during work at a Brooklyn, N.Y. college in 1975, OSHA inspectors cited both the offending contractor and Cauldwell-Wingate for violations which included improper refuse disposal and a lack of proper firefighting equipment. "Cauldwell neither caused (the violations) nor had the funds to abate them," says attorney Alan Cirker, whose Washington law firm, Zimmerman & Obadal, represents a group of the nation's largest building firms in the National Constructors Assn. "And they were cited because the commission failed to recognize the unique role of the construction manager."

In a slightly different case, Bechtel Corp. of San Francisco was cited for minor infractions while managing construction of a nuclear power project in Crystal City, Mo., in 1973. Although by contract with the owner, Union Electric Co. of St. Louis, Bechtel also managed the on-site safety program, the company's attorney claims Bechtel had no means to enforce OSHA standards beyond apprising Union Electric of existing violations.

"If you've ever been on a construction site," says John R. Arness of Washington, "You know you don't pick up a hammer unless it's in your contract. You can tell a contractor there's an OSHA violation and he can tell you to jump in the lake."

Bechtel took the case to the Court of Appeals in St. Louis this year, but Mr. Cirker and Mr. Arness charge the court with sidestepping the issue.

"(The court) just upheld the commission's assumption that because Bechtel had the power to inspect for violations, it had the power to correct them," Mr. Cirker says. And according to Frank Tretter of New York, who represents Cauldwell-Wingate, the effect is that construction managers may cease to offer inspection services in order to protect themselves.

In both cases, the commission further ruled that the two companies were liable because their employes were, or could have been, exposed to violations.

"If you follow that reasoning," Mr. Tretter contends, "anyone who sends employes to a construction site where violations may exist runs the risk of being cited. That includes the caterer who sends in his sandwich truck at lunch time."

Should the commission uphold the original Cauldwell-Wingate ruling, says Mike Rosen of New York's Tishman Realty & Construction Co., the job of construction manager may simply disappear.

"If we have to enforce OSHA standards on the whole site, we will cease to be construction managers and would have to become general contractors," he says. "We would charge for work outside administration to cover ourselves, and in the end, it will mean higher construction costs." ■

As seen on "60 Minutes," CBS-TV.

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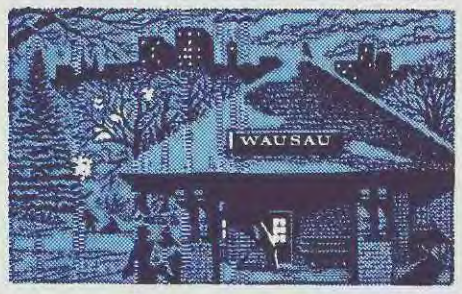

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If this ad gets enough people to act, your insurance may become a better buy.

The threat of being sued is now a big part of your doctor's practice.

Guess why your medical bills are skyrocketing.

Insurance rates are at record levels. Some types of coverage are becoming unaffordable.

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And frankly, rate increases could go on forever if the public is willing to pay for them.

But at The St. Paul we think people ought to know the score. Because ultimately they pay for high claims costs.

So we're running advertising like this. Hopefully, it will inform the public and encourage them to take a long hard look at what is happening and then take action.

And if that happens, insurance rates might just stabilize. That would be a nice change.

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It's full of information on the causes, the pro's and the con's of some possible cures for high insurance rates.

At The St. Paul we feel Enough is Enough.

How do you feel?

---

medical malpractice situation is a mess.

Insurance companies are paying out record settlements in a record number of malpractice cases. The St. Paul's case load, alone, tripled between 1969 and 1975.

Insurance companies, in turn, have had to raise doctors' and hospitals' malpractice insurance rates to record highs.

This cost is added to patients' medical bills which is one of the reasons your medical care costs are rising.

What's more, you may be paying for treatment you don't need and your doctor doesn't want to give. Reason? Doctors and hospitals have been forced into practicing "defensive medicine" to build malpractice defenses in advance. This stacks still more on top of your already high cost of medical care.

On top of that, some doctors and hospitals report cutbacks in high risk treatments for fear of being sued. That means the quality of your medical care could be affected.

About half of all malpractice claims are eventually found to be without merit. Nevertheless, it is costly for the insurance companies to investigate and defend these claims.

So it's not only a vicious circle, it's a vicious escalating spiral that's dipping deep into your pocket every time you need medical care. Or each time you or your employer pay a medical insurance premium.

We at The St. Paul thought you ought to know about this mess, since you help pay the bill. And also because you might want to take some action.

To learn what you can do, send for our "Enough is Enough" consumer booklet. It's full of information on the causes and the pro's and con's of some possible cures for high insurance rates. You'll find out how to register your views where they'll count. Along with some tips on how you can hold down your own insurance costs.

Then get involved. Support the action you want taken.

Write a letter to your legislators. Be heard.

Or you can just do nothing and figure the problem will go away. Of course if it doesn't, better keep your checkbook handy.

Enough is Enough

Write The St. Paul for your Enough is Enough booklet. Or contact an Independent Agent or broker representing The St. Paul. He's in this with you and wants to help. You'll find him in the Yellow Pages.

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editorial opinions

Step up and be listed

ON JULY 25 *Business Insurance* will publish its sixth annual directory of insurance agents and brokers in the U.S. and Canada.

The issue contains details about premium writings, commission and fee revenues and number of employes for leading insurance sellers serving commercial clients.

Over the years, the Profiles issue has become a primary source of information vital to consumers of commercial insurance and risk management services. Corporate executives, risk managers and those who plan, manage and insure employe benefits are provided with a geographical index of agents and brokers according to where the listed firms are based, along with expanded profile interviews with top executives of the 20 largest brokerage firms in North America.

The special issue will, as in other years, contain a supplemental editorial section of stories developed by *BI* editors about the brokerage business itself, highlighting the way agents and brokers work with their commercial clients.

To be included in the Profiles issue, firms must have gross revenues (commissions and fees) of at least $150,000 annually, and at least half the firm's revenues must be in commercial lines. There's no charge for a listing.

All agents and brokers who were listed in last year's issue will be receiving letters and questionnaires to be completed for this year's issue. Please watch for these notices and return them by the June 15 deadline. We need to have new information submitted in order to process your listing; last year's profile won't be adequate to assure this year's entry.

Agents and brokers who weren't listed in last year's issue may obtain a copy of the questionnaire by contacting Kathryn McIntyre Roberts, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611; (312) 649-5286.

Lawyers reap comp $$

A NUMBER OF substantial changes in the Illinois workers' compensation laws during 1975 have proved to be thorns in the side of industry because of greatly increased benefit costs. Many businesses have threatened to move out of the state as a result of upgraded benefits and liberalized rules. While those threats have not been carried out to any great extent, industry in Illinois made its point clear.

Now even a legislative committee is proposing to modify the 1975 law's provisions to correct some of the serious problems caused by the amended law. One point in the law which industry and work comp insurers alike say is terrible was the allowance for a contingency fee paid to lawyers of 20% based on the *entire* work comp award.

Insurers and businesses argue that such allowable attorneys' fees based on the entire award divert workers' compensation money away from benefits—meaning the insured workers applying or suing for such benefits don't actually receive the money paid—and contribute to higher workers' compensation insurance rates.

Thus, some limitation on attorneys' fees is almost surely needed, says the committee. We agree. With attorneys involved in nearly half of all the Illinois disability cases we think there's room for abuse which needs to be removed.

Allowing a fee only on the portion of the award in dispute seems like a much better way to word the rule.

Caveat vendor

ONE OUTGROWTH OF the multiple employer trust situation, as it's been documented in recent issues of *Business Insurance*, is that some people are suggesting agents should be held liable for the benefit claims left hanging when an insolvent MET flies the coop.

In one case in Indiana, for example, the agent may find himself in a tough court case because he switched a customer into an uninsured MET which then became insolvent, although the agent's customer was never told that the MET in question was uninsured.

Thus, it's been suggested that the selling agent should be held responsible to the client. That'd provide a deterrent for other agents thinking about switching unknowing and perhaps uninformed customers to similar METs. There's plenty of incentive for the agents to make such switches, since the commissions we've heard about have been much fatter than most commissions on group insurance.

Courts will determine liabilities of agents putting commercial customers into METs. Until then, agents had best know all the details about the funding of benefits covered by the benefit trusts doing business. And employers had best ask plenty of questions about the financial backing and stop-loss coverage of these benefit trusts.

A central issue here is full disclosure by the agent to the customer about the kind of program being sold. Where METs are concerned, agents are pushing some plans because the commissions to be earned are astronomical. Agents should also disclose to customers what they're earning when they sell the benefit trust program. And wise customers will ask.

"You know you could have avoided all this had you elected to go down with your ship."

letters

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

Multi-company man

To the Editor: In the March 7th Letter to the Editor column, F. X. McCahill commented on the risk to which my "multi-company risk manager" position exposes my employers. As the original article pointed out, while I function on an in-house staff basis for each firm, my arrangement with them is a contractual one on an independent contractors basis.

Payments are made by my employers to my own corporation. This still leaves open the question of liability. As a good risk manager, I adequately provide each of my clients with non-owned automobile liability coverage in their comprehensive automobile liability policy. In order to provide them with employe fidelity bond coverage for my acts, I have arranged with each bonding company to cover me specifically in the blanket bond.

Incidentally, in the process of risk identification at several of my employers, I have found a number of "independent contractor consultants" functioning as I do on an in-house staff basis. None of them would be covered under a blanket employee bond without specific arrangements with the underwriter.

Leonard R. Friedman
Risk & Insurance Managers, Leonard R. Friedman, Manhasset Hills, N. Y.

Executive life plans

To the Editor: Reading your recent Benefit Beat column, in which you refer to the remarks of Mr. D. F. Sullivan of TPF&C and the presumed "death knell" of group term life insurance for executives, prompts me to write.

If you have bowdlerized his statements, you owe Mr. Sullivan an apology. If, on the other hand, you quote him accurately, then he owes his audience an apology for straining their credulity with half-baked statements.

There may be many good reasons to warrant self-insurance. I doubt, however, that the new Table 2 rates proposed by IRS (but withdrawn in the the March 21 *Federal Register*) provide that justification.

Some calculations of mine (using Table 2 rates) indicate the fol-

Continued on page 10

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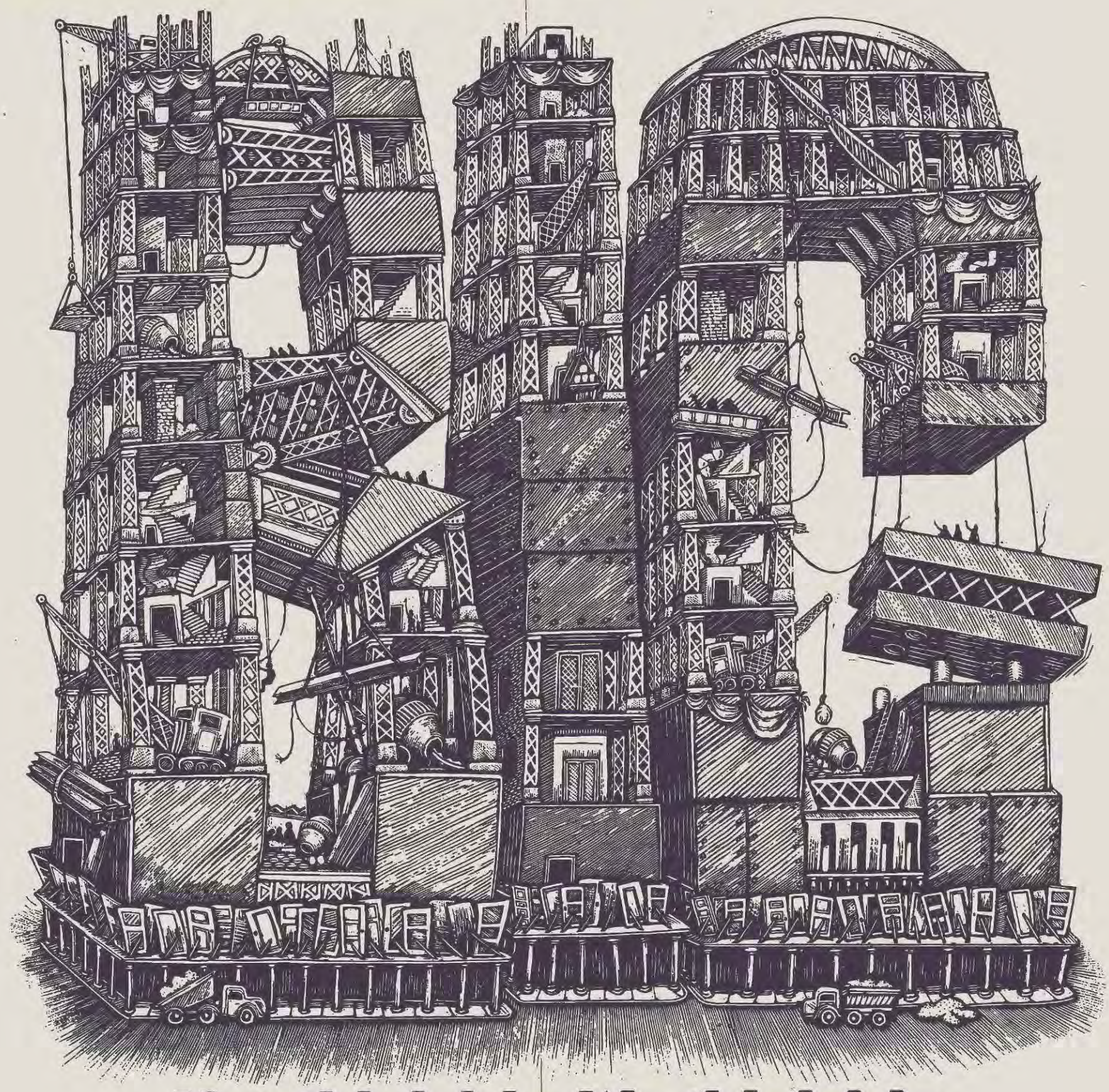

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letters

Continued from page 8

lowing:

On the first $50,000 of death benefit . . . Under Sec. 101(b), $45,000 is taxable to the beneficiary of an uninsured employe death benefit. On this, the tax would be $14,560 under a joint return, assuming that other taxable income would not exceed deductions and exemptions—which is realistic only if death occurred early in the year.

Under Sec. 101(a), nothing would be subject to tax in general, nor would there have been any tax to the insured during his/her lifetime.

If the death benefit was $100,000 . . . Under Sec. 101(b), $95,000 would be taxable to the beneficiary. The tax on this under a joint return would be $39,560—assuming the factors above were still applicable to the first $50,000 of benefit; and that the remaining $50,000 would be taxable at merely 50%.

Under Sec 101(a), nothing is taxable to the beneficiary in general. However, the value of $50,000 of benefits would be taxable to the insured during his/her lifetime under Sec. 79.

Assuming that *this* coverage had continuously been in effect since the insured's age 35 the cumulative exposure to tax would have been $17,010 until age 65—with no further exposure thereafter, if the insured retired then. Since such "additional compensation" under Sec. 79 would qualify for max-tax treatment, at most, the tax thereon would be only $8,505—a far cry from $39,560. And even if it is contended that imputed interest should be added to the Sec. 79 costs since they are payable during lifetime whereas the Sec. 101(b) tax is payable only at death, the following should be noted: At 6% *net after tax*, pre-retirement taxes would still amount to only $17,277—and it would take another 14-15 years for that sum to grow to $39,560. At the more realistic "starting age" of 45, such pre-retirement taxes would amount to merely $7,410 on a "straight-line" basis and to $12,497 at 6% *net* imputed interest—and it would take another 19-20 years for the latter to grow to $39,560!

Of course, Mr. Sullivan might claim that if there were no group coverage there would be no Sec. 79 exposure and tax—and, after all, the executive might go on paying those taxes for years, only to go on and never have his family pay any tax at all 'cause he might not be covered at death. I, for one, would not buy this. I've never believed in comparing the cost of having insurance protection to the cost of being unprotected.

George C. White C.L.U.
Massapequa Park, N.Y.

Air crash update

To the Editor: I have just finished reading the March 21, 1977 issue of your publication and I am appalled at an article written about the State Of Pennsylvania air disaster involving a Piper Cheyenne.

No one ever reported that the anti-stall malfunction caused a loss of cabin pressure since there is no correlation between these two malfunctions.

Donald Lee
President, Aviation Marine Services, Inc. Collegeville, Pa.

INA not CNA

To the Editor: In your March 21 issue, the article that excerpted remarks by Joe Blades in his speech to the Marine Discussion Group, you correctly reported that the Insurance Co. of North America is prepared to write insurance and cede a major portion to a captive insurance company. In fact, INA Corp. is considered an industry leader in this field and recently announced the formation of INA Underwriters Inc. to provide specialized insurance coverages and related services for customers with complex insurance and risk management requirements (such as captive companies). However, you referred to the Insurance Co. of North Amerias CNA, which is another major insurance carrier and not connected with INA.

Denis E. D'Arcy
INA Underwriters Inc., Philadelphia, Pa.

We regret the typographical error.

Plain baloney

To the Editor: The riskWatch column by Marie Krakowiecki in your April 4, 1977, issue is an unbelievable amount of unrelated, untrue statements. It is a typical case of "danged if you do, danged if you don't" as far as the insurance carriers are concerned.

They don't make the problem; they just react to it. If there were no problems to begin with, some free-enterprise insurance company would step in and cut the rates down to the bone. Everyone knows the history of products coverage; the companies not knowing what they had and charging a thin market price—all of a sudden deluged with claims. The column is just plain baloney. Get out of the office and look around.

James A. Harris
President, Harris Agency Inc., St. Paul, Minn.

Insurance clarification

To the Editor: Marie Krakowiecki's article in the April 4 issue concerning the aviation tragedy in Tenerife measures up to your usual writing excellence, and additionally deserves praise for its full treatment of the subject.

I am curious to know whether the $40 million limit referred to as hull insurance covering the KSS Group (which insured the KLM jet) is in fact liability insurance.

Seeman Waranch, CPCU
Insurance Agency of Norfolk Inc. Norfolk, Va.

No, the $40 million is not liability insurance. It is hull insurance for the KLM jet. The reason the limit is higher than the $23 million insured value of the Pan Am jet is that the KLM aircraft, although also a Boeing 747, was newer.

Hospital loss control

To the Editor: Hats off to Harold Hodnick for his excellent and very understandable article on hospital loss control (April 4). His logic makes good sense and I fully support the common denominator concept of the cost-per-hour index.

Safety practitioners of all levels would do well to save this article for future reference as it has many applications. There's no doubt about it, an aggressive safety program with comprehensive training will get the desired results.

Joe W. Heward
Safety Coordinator, Western Electric, Niles, Mich.

Bumpers supported

Nationwide Mutual Insurance Co. says there should be no further delays in implementing standards which would require bumpers that resist crashes at 5 mph. The company also criticized the auto industry for being "notoriously negative" in vehicle safety and damage resistance.

ARE YOUR FOREIGN EARNINGS YOUR ACHILLES HEEL?

The multinational company today may be on sounder footing than Achilles but when it fails to protect its foreign earnings, it exposes its vulnerability.

A recent study by a leading investment company documented the degree of importance of foreign earnings to per share earnings among major companies and concluded that a sharp downturn abroad would have serious effects at home. Dips in per share earnings, stockholder disenchantment, and loss of confidence could easily result.

While companies are diligent in protecting themselves against material damage from earthquakes, fires and windstorms, the loss of earnings on operations abroad is one arrow often neglected. And that leaves even strong corporations vulnerable. Just like Achilles' heel.

A sound insurance program for protection of foreign earnings should be tailor made to fit the individual needs of a corporation allowing for direct and contingent business interruption, extra expense and loss of royalties.

The cost of downtime is well recognized but erosion of market share, expenses involved in restoration of distribution and sales channels, and losses that may result in other parts of a company's operations, are not always covered.

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Congressional report backs state trust regulation

By GREG DAVID

WASHINGTON—A previously ignored Congressional staff report may pave the way for state regulation of multiple employer trusts now filing with the U.S. Labor Department as employe benefit plans.

The January activity report of the Houst Committee on Education and Labor expresses concern that "entrepreneurs" are taking advantage of the Employe Retirement Income Security Act (ERISA) to escape state regulation. These self-funded trusts provide medical and death benefits out of a pool into which premiums have been paid.

The growing recognition of the committee report comes as the Labor Department appears to be moving toward a decision on whether the trusts are employe benefit plans under ERISA and whether state regulation is preempted.

The department has expanded its task force on the problem in recent weeks. It also held in late April a two-day meeting with trust administrators and state regulators to discuss the issue.

At that meeting, the man in charge of the department's task force suggested states may regulate the trusts in the absence of Labor Department action.

"It would appear that state insurance departments have the leeway until a plan receives an affirmative letter from the department (that it is an employe benefit plan)," said Dallas L. Salisbury, acting director of the research office of the pension and welfare section.

None of the self-funded trusts has asked the department for such an advisory opinion under the Labor department's standard procedures, an official said.

The House committee report was unknown to those working in the self-funded trust area until it was discovered by a Labor Department official in mid-March. Eventually, a department lawyer in early April alerted the Arizona insurance department to its existence.

Arizona is suing Commcn Market Employe Benefit Assn., a self-funded trust in Phoenix which was the subject of an earlier *Business Insurance* investigation. The state charges Common Market is an unlicensed insurer, not an employe benefit plan covered by ERISA. In April, Common Market's attorney asked a federal judge for a summary judgment dismissing the suit.

The judge refused after a hearing during which the department cited the House report. Frederick C. Berry Jr., deputy director of the Arizona department, said he believes the House report was a significant factor in the decision.

The report argues that in general ERISA should preempt state regulation of employe benefit plans. But it goes on to say that self-funded multiple employer trusts are not covered by ERISA and that state regulation should not be preempted.

"Certain entrepreneurs have undertaken to market insurance products to employers-at-large, claiming these products to be ERISA covered plans," the report says. "They are no more ERISA plans than is any other insurance policy sold to an employe benefit plan."

David Brummond, counsel for the National Assn. of Insurance Commissioners, said, "It will be very difficult for the Labor Department to go against the committee report which represents the will of Congress."

In a related development, the department has recinded for further study an advisory letter that says Common Market is not an employe benefit plan under ERISA.

The original letter, over the signature of former pension and welfare administrator James D. Hutchinson, said ERISA "would not include an organization offering or soliciting participation by the public in a master or prototype plan selling insurance or furnishing plan services as the association appears to be doing."

That letter is part of Arizona's case against Common Market and has received wide publicity.

The decision to rescind the opinion was put into motion by William Chadwick, Mr. Hutchinson's successor. Mr. Chadwick resigned and the new ruling was signed by the acting director Jan. 17, a Labor spokesman said. The action was made public in a package of ERISA material released March 31.

However, neither the Arizona insurance department nor the Common Market attorneys were aware of the action until contacted by *Business Insurance* in late April.

Mr. Chadwick, now in private practice in Los Angeles, said the action did not mean the department believed Common Market was an employe benefit plan under ERISA. Rather, the department felt the whole matter needed further study, he said.

At the Labor Department meeting, self-funded trust administrators said they were serving small employers who have been abandoned by insurance companies. They also said they preferred regulation by the Labor Department under ERISA.

"We believe the Department of Labor is ideally suited to regulate this area," said George T. deHueck, a consultant who has helped start 16 trusts.

Mr. deHueck and others suggested the department could establish regulations governing actuarial work, reserves and disclosure requirements. Several trust administrators broached the idea of establishing a guarantee fund to meet claims of bankrupt trusts.

But much of the fire of the trust administrators was aimed at insurance companies for abandoning the market. "Generally speaking, insurance companies have turned their backs on the small employer," said David Manley, administrator of the Ohio Employers Trust, presently covering 31,000 employes and dependents.

M. L. Sholfrock, administrator of a $2 million-a-year insured pension trust for nursing homes, disputed the argument that insurance companies have refused to work with third-party administrators only after repeated bad experience.

"Administrators have not burned insurance companies," he said, "Insurance companies have burned administrators."

Mr. deHueck estimated the market for insured and self-insured trusts at $2 billion a year. He also said 88% of the insurance companies in the field withdrew between June 1975 and September 1976. ■

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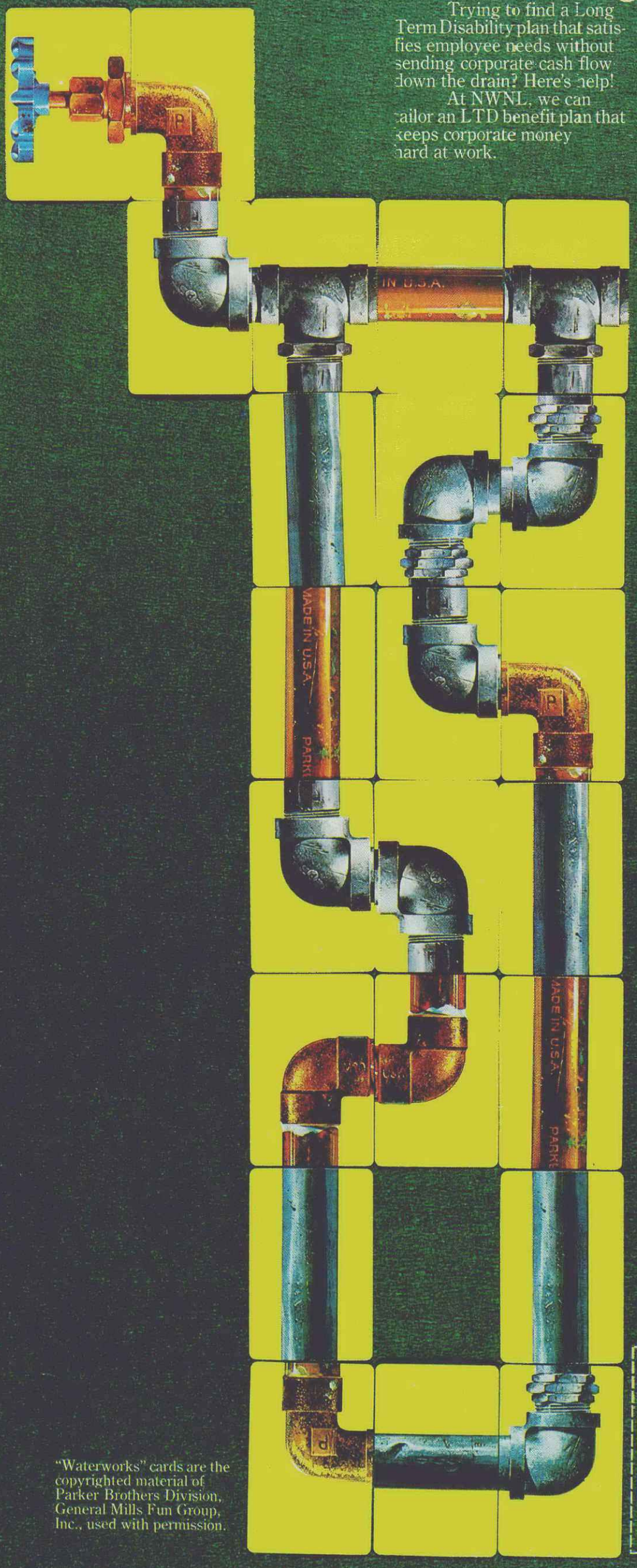

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Employers, HMOs face a long road

By KATHRYN McINTYRE ROBERTS

CHICAGO—Employers still have a lot to learn about health maintenance organizations (HMOs).

Nearly one-third of the 120 persons attending a national conference here on HMOs admitted to "very limited knowledge" of the alternative health care system.

Two days of lectures and small group discussions sponsored by the National Assn. of Employers on Health Maintenance Organizations (NAEHMO) presented them with an overview of HMOs highlighted by some first-hand employer experiences with prepaid medical care.

HMOs are hailed by their proponents as the health care vehicle of the future, but today only six million Americans are enrolled in just 180 HMOs around the country.

And even within NAEHMO, the national organization which assists and informs employers on implementing the HMO option, there is only cautious acceptance of the health care delivery alternative.

A recent survey of NAEHMO's 112 company members, with 59% responding, showed only 37% of them have offered their employes membership in an HMO. Another 32% said it was working on implementing the HMO option and the remainder (31%) is waiting to be activated by a federally qualified HMO. (An employer meeting certain criteria must offer a qualified HMO to his employes if properly petitioned by the HMO.)

The participants at the conference were there to share experiences and glean insights to help them handle the HMO option whether they initiate it or have to respond.

Bruce H. Griset, manager of employe benefits for R. J. Reynolds Industries Inc. ebulliently described the separate non-profit corporation his company established to operate an HMO for its employes. After nine months of operation, Winston-Salem Health Care Inc. currently serves 10,000 members and has target enrollments of 19,000 by the end of the year and 30,000 at maturity in two years.

The Reynolds Industries' employes response to the HMO—22,000 requested membership—was more than the company was prepared to handle at the start. Those who requested enrollment were put on a computer tape for random selection. There's still a waiting list.

"It's met all our expectations. The reactions of our first members confirm that this is the health care system of the future," the employe benefits manager said.

Not only are the members satisfied with the HMO's services, he said, but the advantages of preventative care encouraged by an HMO are also becoming apparent. "We're monitoring the hospital stay of our members and it's substantially below the Blue Cross rate," Mr. Griset said. HMO members are averaging less than 500 patient days per 1,000 compared to Blue Cross beneficiaries who average 800 to 900 patient days per year per 1,000, he said.

But cost-containment was not Reynolds Industries' main concern in putting up $2.2 million to establish and equip the HMO. "We were concerned with providing a higher quality of health care and easier access," Mr. Griset explained. Those considerations pay off later in less absenteeism and healthier employes, he observed.

Regarding treatment costs, Mr. Griset said the company is merely diverting money from the Blues to the HMO since its contract with the Blues is on a cost-plus basis.

From experience, Mr. Griset suggested a new HMO allow extra-leadtime for start-up of service. "You have to be ready to treat people from the first minute you open your doors. You can't have confusion . . . You're selling a new concept and it has to be near perfect."

In addition, Mr. Griset said a new HMO can expect heavy use from the first day. Not only are the members curious and anxious to test the service immediately, he said, but they also have postponed non-emergency treatment and check-ups until the HMO could handle them.

Although intrigued with the Reynolds Industries' project, not all the benefit managers there could envision a similar situation in their company. Instead, they were concerned with offering their employes membership in an existing HMO—particularly if they are petitioned by a federally qualified HMO and must respond.

Lee M. Finkel, attorney for employe relations at Sears, Roebuck & Co. spoke to those concerns. The nationwide retailer has been approached by 25 federally qualified HMOs and has already offered six of them to its employes. Only 1,000 of Sears' 395,000 employes are currently enrolled in an HMO.

When Sears offers the HMO option to its employes in a particular region, it holds a series of employe meetings on company time to explain the HMO concept. The company prepared a filmstrip for its employes called "The Choice is Yours," which it shows at these meetings.

A presentation of the filmstrip at the conference proved Sears is taking a neutral position on HMOs, "even though our medical plan is through Allstate, a wholly owned subsidiary of Sears," Mr. Finkel said, drawing a round of laughter.

Sears also prepared a booklet on HMOs which includes a worksheet for employes to fill out enabling them to easily compare the benefits of the soliciting HMO and their current health care plan. ■

Hospital insurer trains nurses as risk managers

By MARIE KRAKOWIECKI

PRINCETON, N.J.—Health Care Insurance Exchange (HCIE), the first hospital-controlled insurance company established in the U.S., is developing an unusual loss prevention program for hospital malpractice.

It hired Damm & Associates of Cleveland to train two registered nurses as risk managers. The nurse risk managers, both with extensive hospital experience, will work for HCIE.

They will travel to the 65 New Jersey hospitals insured through the year-old reciprocal to evaluate malpractice exposures and to train other nurses how to act as risk managers at their own hospitals.

Howard Scher, executive vp of the non-profit HCIE, explained that the program is unusual because it revolves around enforcement of medical standards. Most hospital loss control programs for malpractice now concentrate on things such as OSHA physical premises inspections, he said.

In fact, a loss prevention service that HCIE already purchases from Federal Insurance Co. has a heavy concentration on OSHA requirements.

But HCIE decided to make its loss control program stronger by striking at the heart of malpractice claims—medical care standards. This will be a top priority for HCIE in 1977, Mr. Scher said.

In the program designed by Damm & Associates, the nurse risk managers will be in charge of enforcing standards for things such as infection prevention, proper laboratory techniques and efficient functioning of medical monitoring and alarm systems on patients.

Damm & Associates, founded by Dr. Henry Damm in 1970 to do research and documentation in professional liability and medically related product liability, believes performance measurement is possible in medical care through enforcement of existing standards. The nurse risk managers it trains for HCIE will operate on the same premise in their malpractice loss prevention work.

Cherry Ames, R.N., risk manager? See riskWatch page 33.

The program will be financed by premiums that member hospitals pay to HCIE. HCIE was established through the auspices of the New Jersey Hospital Assn. during the peak of the medical malpractice insurance shortage in New Jersey in 1975.

Thus far, HCIE has billed about $10.2 million in premiums, Mr. Scher said. It began issuing policies for general liability and professional malpractice in January 1976.

Premium rates for HCIE-insured hospitals range anywhere from $19,000 a year to $800,000 a year. They are set by law by the state insurance department and depend on the size of the hospital, number of physicians it employes and past claims experience.

Federal Insurance Co. has administered claims for HCIE since its inception under a contract resembling an administrative services only contract, Mr. Scher said. Federal also issues the policies written by HCIE. Federal has the authority to settle any loss up to $5,000 and set a reserve. If the loss exceeds that amount, it is reviewed by a committee of hospital administrators.

However, Mr. Scher said in the year of its operation so far, HCIE has not been hit with any major claims or losses. Its interest in the nurse risk manager malpractice loss control program is prompted by preventive action.

The insurance of HCIE is reinsured by the New Jersey Medical Malpractice Reinsurance Assn., a body of all casualty insurers licensed to do business in the state.

All the activities of HCIE are under the wing of the New Jersey Hospital Assn., Mr. Scher said. NJHA president Jack Owen is also president of HCIE. Both are located in the new Center for Health Affairs building in Princeton, which houses more than a dozen services and programs for hospitals in the state.

So far HCIE insures 65 of the 106 hospitals in New Jersey. Of the others, one is self-insured and 40 are insured with St. Paul Fire & Marine, Insurance Co. of North America and the Hartford Insurance Group, Mr. Scher said. Those three insurance companies will not write any new hospital business in the state, but have honored renewals of policies that existed when hospital malpractice became a problem in New Jersey.

Mr. Scher said for those hospitals that can choose either HCIE or one of the three private insurance companies, the incentive to insure through HCIE is that the reciprocal is non-profit as well as competitive. If there is any money left over "down the road," he suggested, it would be returned to the insured hospitals probably in the form of dividends or reduced premiums.

"We stepped in at a time of crisis. If we weren't around, a lot of New Jersey hospitals would have been uninsured in 1976. Right now, I think we've solved the problem of malpractice insurance (shortages) in New Jersey," he said. ■

A&A expansion

Alexander & Alexander has formed a Guatemala operation based in Guatemala City. The office, to be run by A&A's former correspondent broker, Garza, Martinez & Asociados, will service all the broker's business in Central America.

Connecticut moving to hospital captive

By DAVID KONIGSBERG

HARTFORD, CONN.—The Connecticut state senate passed a bill that would empower the 36-member Connecticut Hospital Assn. (CHA) to set up a captive insurance company for underwriting its malpractice risks. Observers expect the quick approval of the state house and Gov. Ella Grasso.

The measure, which gained the support of state insurance commissioner T. R. Gilroy Daly, the joint legislative insurance and real estate committee and Connecticut's medical and dental societies, is considered by CHA to be an essential step toward controlling the soaring cost of hospital malpractice coverage. If implemented, the bill would give CHA five years to develop Connecticut Hospital Trust Inc., and would, at the very least, provide leverage in renegotiating the group's current malpractice contract with Aetna Life & Casualty Co.

Although the malpractice crisis in Connecticut has not been as severe as elsewhere, rates for such coverage have skyrocketed. And Aetna, the lone insurer remaining in the state's hospital malpractice market, has gained a virtual monopoly.

"We are what might politely be called sitting ducks," Dr. Fred Hyde, CHA vp and member of the ad hoc malpractice task force, wrote in the joint legislative committee. "There is no alternative market and the first line of defense for any commercial insurance company is increased premiums."

CHA's premiums have risen in the last four years by 400%. Malpractice costs, which totaled $8,886,000 for the years 1973-1975, climbed last year to $9 million and are expected to reach $12 million this year. Where premiums comprised one-half of 1% of member hospitals' combined budgets in 1973, they now comprise 1.25%.

At the same time, Aetna has expanded its share of CHA hospitals to 35 from a dozen as other companies—Hartford, St. Paul Fire and Marine, Liberty Mutual and Travelers—deserted the Connecticut market. (The lone CHA facility not covered in the association's contract is part of a Catholic hospital group which is also in Aetna's stable.)

The malpractice task force has concluded that despite an admitted increase in claims, the premiums may not reflect CHA's loss experience, and that it is possible insurance can be written at a substantial savings to hospitals—and ultimately to consumers—by forming a captive.

At the core of this contention is a study conducted by Risk Plannining Group Inc. of Darien, Conn., which scrutinizes premiums, losses and projected insurance company profits for the 1973-1975 period.

According to the study, Aetna and other companies spent $7,165,000 to provide malpractice coverage to CHA members while collecting $8,886,000 in premiums. That profit, says RPG, will yield about $594,000 from past investments and some $923,000 in the future. And the total difference of $2,207,000, RPG adds, "is an added expense for Connecticut hospitals on the whole (and results) in higher medical costs for all Connecticut residents."

Enthusiasm for the captive concept is seconded by Connecticut's doctors, dentists, and medical professionals who, under provisions of the pending bill, could join Connecticut Hospital Trust Inc. to cover risks on what services they provide outside the hospital.

Aetna general manager John J. Martin, however, warns that a captive could prove somewhat less attractive than it now seems on paper. He is skeptical, for example, of the aura of success surrounding existing hospital captives.

"We lost money (on the CHA contract) in 1973 because we underestimated our loss, and claims finished at 110% of that year's reserves," he said, adding that he believes it takes "six, seven or eight years before a captive can be judged successful."

Mr. Martin also takes issue with the RPG report, citing what he calls "the questionable accuracy of findings constructed around figures from 35 different sources." And he charged RPG with understating insurance company costs between 1973 and 1975 by $700,000.

He does not, however, deny that the entire study period has and will continue to show a significant profit for Aetna in the final analysis.

Malpractice insurance amounts on Connecticut's hopsitals varies according to size. While the smallest facilities maintain primary layers of $100,000 and umbrellas of $5 million, the state's largest hospital, Yale-New Haven, has primary coverage of $500,000 and excess coverage up to a figure of $10 million.

CHA and RPG officials deny Mr. Martin's charge that because of the rule that insurers should not write insurance above three times their capital base, a Connecticut captive would not be able to provide the same quality of coverage as Aetna. Coverage, says RPG, could be brought up to present levels by turning to the reinsurance industry.

Dr. Hyde admits that CHA is neither prepared nor prefers to act quickly in establishing a captive, and says it would take a number of months to do so. "I think the prevailing attitude (is that) getting a good deal from Aetna and further exploration of the captive idea is the best alternative."

Included in a list of CHA proposals to Aetna are the following:

- The use of deductibles to improve loss control and reduce premiums.
- Possible credit for investments made by Aetna on its profits.
- Elimination of agent commissions based on percentage of premium.
- The taking over of the risk control program, now run by Aetna, by CHA.

Mr. Martin says all four proposals "are negotiable." ■

Kemper agency charters captive

CHICAGO—James S. Kemper & Co. has formed James S. Kemper (International) Limited, a Bermuda corporation for captive management and international insurance brokering.

The brokerage firm entered into a joint venture with the Blades Management Co. to staff and manage their company in Bermuda. Blades is part of the Blades Group of Cos. which has corporate offices in Bermuda and Houston. ■

N.J. reaches liability pact with Conrail

TRENTON, N.J.—The New Jersey Department of Transportation has reached a settlement with Consolidated Rail Corp. (Conrail) over the financing of liability coverage, salvaging commuter rail service to New York City for 35,000 daily riders.

The agreement, which ends the threat of a June 5 commuter line shutdown, includes a promise by the DOT to cover, subject to the availability of funds, catastrophic losses exceeding the railroad's $50 million limit of liability insurance.

Maryland, Rhode Island and the Southeast Pennsylvania Transportation Authority had or were expected to reach similar agreements with the railroad. Conrail ridership within these jurisdictions totals 15,000 daily.

Because of an Interstate Commerce Commission ruling which defined liability coverage as part of operating expenses (*BI*, April 18), Conrail had been seeking guarantees that the state transportation authorities would cover all possible losses exceeding the limit. However, the railroad reportedly has recognized their inability to make such guarantees.

"In effect," said New Jersey deputy attorney general Kenneth Levy, "we've agreed to make available appropriated funds, to seek funds from reserves in other state accounts through the legislature, and to seek federal money in the event of an accident." Beyond that, he added, the state's responsibility would end, leaving Conrail the option of discontinuing commuter service.

Mr. Levy pointed out that the settlement, which provides for passenger service until July 1, 1978, is at best a temporary solution. "The immediate crisis is over, but the real question of how to cover all losses remains. If the worst occurred, (both Conrail and New Jersey) would be in bad shape—they'd have the liabilities and we would be without a railroad."

Mr. Levy and Maryland DOT official Charles Smith said an interstate pool to cover the $2 million deductible and federal legislation to cover losses over the $50 million limit of Conrail's insurance comprise the most likely long term solution to the railroad's liability problem.

Mr. Smith added, however, that increased commercial insurance is not out of the question. ■

Legislature rejects malpractice fund

WASHINGTON—The Maryland House of Delegates killed a bill that would have created a $10 million fund to cover catastrophic medical malpractice judgments.

Opponents of the measure had expressed concern about the fund's effect on a medical society the legislature established in 1975 when the state's largest carrier of malpractice insurance stopped writing policies.

The bill, which had cleared the state senate earlier, would have established a private, non-profit corporation to administer the $10 million fund.

The fund would have paid claims exceeding $100,000 against one of its members up to a maximum of $2 million for a single claim and $3 million in total claims in a year. ■

around the states

Governor vetoes bill limiting city claims

TOPEKA—Gov. Robert Bennett of Kansas vetoed a bill that would have repealed state laws allowing claims against municipalities. The governor said repeal of the procedures for filing claims would not have removed the liability for damages and might have required municipalities to pay higher premiums for liability insurance.

•

COLUMBUS—The governor's office in Ohio announced that one of every 10 state vehicles was involved in an auto accident in 1976. Reliance Insurance Co. of Philadelphia refused to insure the state fleet last year, and the state was forced to use a special self-insurance fund. Last year's accident record prompted the governor's office to provide driver instruction for the vehicle operators.

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HARRISBURG—Pennsylvania's Commonwealth Court upheld a 1974 state insurance department regulation requiring full cost disclosure to prospective buyers of life insurance policies. The Pennsylvania Assn. of Life Underwriters contended the department exceeded its legal authority in promulgating the regulation.

DENVER—A state auditor recommended that Colorado's division of insurance be reorganized to increase its effectiveness. The division, which now is run by a single insurance commissioner, should be expanded to a five-member commission. "We have concluded that the division's overall operation is generally inefficient and, in many cases, may be ineffective," the auditor said.

•

TALLAHASSEE—State officials in Florida have taken the first step toward putting state government in the insurance business by handling health and hospitalization coverage for government employes. A final decision has not been made, but the state has asked for bids on administering the self-insurance program. The state insurance commissioner called for state self-insurance after Blue Cross/Blue Shield, which now has the $33 million state policy, raised its premiums by 75%.

benefit tax slants

Education trusts are ruled taxable income

By JOSEPH S. ROBINSON
Attorney-at-Law

A FRINGE BENEFIT that has gained in popularity over the past several years is the education benefit trust. It plays something like this, as revealed in a recent case before the Tax Court. Under the plan key employes were each able to have up to $10,000 paid by an EBT their employer set up for their children's college costs. IRS contended that the employer's contribution to the trust was taxable to the parent-employe. Such tuition payments were considered as added income to the parents. And the Tax Court agreed. (*Armantrout, 67 TC No. 82*).

* * *

The Treasury has always looked unfavorably on a retirement plan that is top heavy in favor of officers, stockholders or highly compensated employes. What's more, the rules specifically state that a pension trust shall be qualified only where such discrimination does not exist, Such discrimination was found to exist in the following case:

A business employed both salaried and hourly paid personnel but extended coverage only to salaried employes with at least one year of service who had attained the age of 25. Only four employes, all officers, were eligible for plan coverage. Although the company made contributions to the union pension plans on behalf of the hourly employes, it chose not to designate its contributions to the union funds as part of its plan. The company argued that its profit-sharing plan, considered by itself, satisfied the conditions of non-discriminatory coverage required by code section 401.

Restricting eligibility to salaried employes was not necessarily fatal, observed the Tax Court. But the question remained whether the eligibility requirements as a whole operated so as to discriminate in favor of the prohibited group. The significant factor for purposes of plan disqualification was that, of those designated employes permitted to participate in the company plan, a disproportionate number, if not all, were members of the prohibited group. Since the company's plan was deemed not to be a qualified trust, the contributions to the plan were not deductible. (*Babst Services, Inc. 67 T.C. No. 12*).

* * *

An Innocent Error in the operation of an employe benefit plan can cause retroactive disqualification. The following is a recent case in point:

A corporation adopted a plan covering Ms. Myron, its sole stockholder-employe, and five other employes. The plan was approved by IRS, but during its first two years the corporation's contributions were allocated solely for the benefit of Ms. Myron, when in fact five additional employes were eligible for coverage. IRS rejected Ms. Myron's offer to cure this discrimination, disqualified the plan retroactively, and included in her current income the amounts allocated to her in the pension plan's books.

On appeal to the Court of Appeals, Ms. Myron again lost out. The court admitted that "it might seem harsh to deny retroactive qualification of any plan where a claim of innocence has been accepted. . ." But IRS can determine the degree of inadvertent error required for disqualification. "The degree of failure here, where five eligible employes were omitted and the only person covered was the highly salaried manager who was also the sole shareholder of the corporation, is certainly that." (*Myron, Ct. of App. 9th cir. 2/3/77*). ■

New offices

All Risk Management Services Inc. has relocated its New York offices. The new address is 160 Water St., N.Y., N.Y. 10038.

Product liability . . .

Continued from page 1

negligence contributed to the injury, currently is before the senate judiciary committee where action is expected in early May.

While passage of product liability legislation in Nebraska and Colorado is possible during the current legislative sessions, backers of bills in other states already have tasted defeat.

In North Dakota, a measure drawn up by the state's Wholesalers and Manufacturers Assn. cleared the senate only to receive a crushing 70-29 defeat in the house.

The setback, which the wholesaler's association blamed on plaintiff attorneys intensive lobbying efforts, means legislation is unlikely to be enacted before 1979.

Before adjourning, however, the legislature did pass a resolution authorizing the state's legislative council to study product liability problems.

In Massachusetts, the death knell for a product liability bill backed by the state's independent insurance association was sounded at a March 31 hearing of the joint committee on the judiciary.

After hearing testimony from the president of the state bar association and dean of Suffolk Law School, the judiciary committee let the bill die, according to Patricia Maxwell, vp of RETORT in Franklin, Mass.

In Connecticut, in what was described as an "irregular and unorthodox" action, the joint judiciary committee "boxed" or killed a bill backed by the state's business and industrial association with support from the Insurance Assn. of Connecticut.

The bill was killed in a rare Saturday session which only eight committee members were able to attend, said John Anderson, an attorney with the Connecticut Business and Industry Assn.

An effort was immediately underway, however, to circumvent the setback in the committee by introducing a petition allowing the house to vote on the measure.

In Indiana, a complex legislative maneuver came within a hair of getting a product liability bill passed in the house, according to Brian Krenzke, director of public relations for the Indiana Manufacturers Assn.

After a transportation bill cleared the senate, it was sent to the Public Safety Committee where it was "stripped" and most of the provisions of a product liability bill that had earlier passed the house but died in the senate was inserted.

The committee passed the bill by a 8-0 vote, but on the measure's third and final reading in the house, a motion was approved that the bill was out of order due to an alleged minor technicality, Mr. Krenzke said.

The bill's defeat was due to the "overwhelming opposition from the Indiana Trial Lawyers Assn.," Mr. Krenzke said.

In Kansas, whose product liability bill has been cited frequently as a model, the senate voted March 25 to assign the bill to an interim committee that will study the measure this summer.

Alvin Herrington, an attorney and a nationally recognized expert in product liability legislation, said opposition to the bill came from the state trial lawyers association and top officials of the Kansas Bar Assn.

While Mr. Herrington termed the bar association action "ill-conceived and "ill-considered," he said the major factor in the bill's setback was the legislators' desire for more information on the extent of product liability problems.

Kansas legislators are particularly interested in receiving the final report of Interagency Task Force as well as more up-to-date information from the insurance industry on rates and losses on product liability coverage before they'll take action, Mr. Herrington said.

In the big industrial state of Ohio, an insurance subcommittee is expected to approve a bill that offers a 10-year statute of limitations and compliance with government standards as a defense against liability.

Thomas Johnson, executive director of the Ohio Manufacturers Assn., said the speaker of the Ohio house has predicted that the bill will pass the house during the current legislative session.

Product Liability legislation in Illinois has won the support of 31 state senators—one more than is needed for passage—which makes Orville V. Bergren, president of the Illinois Manufacturers Assn., "cautiously optimistic" about the measure's chances of approval.

A delay in the convening of the Mississippi legislature due to a lawsuit involving reapportionment, eliminated any possibility of enacting several proposed product liability bills, said Hugh Ketchum, director of industrial relations for the Mississippi Manufacturers Assn.

Although the New Hampshire senate finance and insurance committee currently is holding hearings on a product liability bill, the short legislative session makes it unlikely that action will be taken.

"If I sat down and took a cold, hard look, I'd say the earliest product liability legislation will be passed is a year from now," said Thomas E. Jackson, marketing manager for Dunfey Agency, Inc. in Hampton, N.H.

Comprehensive product liability reform bills are expected to be introduced in Wisconsin, Michigan, California and New York in the next few weeks.

In New Jersey, Florida and Georgia state action on pending bills is unlikely this year.

But nearly all the individuals contacted said significant progress has been made in the drive to deal with the product liability crisis through tort reform.

"It is important to remember that last year only a handful of states were considering legislation," said Patricia Maxwell of RETORT in Massachusetts. "Now at least 30 state bills have been introduced."

Aside from the number of bills introduced, another barometer of progress is increased awareness among the public and legislators as to the extent of the problem in rates and coverage.

"Legislators now are calling our members to find out about product liability," said John Thodis, director of government relations for the Michigan Manufacturers Assn.

Just as importantly, business and insurance groups in the last few months have organized action groups to draft model bills and to lobby hard for pending legislation.

The National Assn. of Wholesaler Distributors (NAW), for example, has set up steering commit-

Continued on page 22

Arson committee

An ad hoc committee of the Western Insurance Information Service has formed the California arson prevention committee. The committee will attempt to coordinate efforts in the state to halt the growing number of fires caused by arson.

Product liability . . .

Continued from page 21

tees in 12 states to contact legislators and plan strategy to get bills passed.

Each steering committee has between 14 and 22 members and is made up of "activists" who have worked effectively with legislators previously and know the important state senators and representatives," said Bill McCamat, executive vp of the NAW.

The NAW is but one of many groups taking the lead in the reform movement. In Illinois, the Sporting Good Manufacturers Assn. plans to contact the state's 800 sporting goods dealers to urge them to meet with their legislators to press for a recently introduced product liability reform measure.

But one source of disagreement among those leading the reform involves the scope and structure of product liability bills. Tom Addison, chairman of the Georgia NAW product liability steering committee feels that a comprehensive bill "tends to confuse the issue" and says a series of product liability bills, each dealing with one area of reform, increases the chances of enacting legislation.

John Thodis of the Michigan Manufacturers Assn. disagrees, believing that without a comprehensive bill the dimensions of the product liability problem cannot be properly understood.

This philosophical difference has resulted in as many as 11 bills being introduced in one state, Texas, and only one bill introduced in other states.

Nearly all the bills introduced contain statute of limitations and have state of the art, compliance with government or industry standards and product alteration or modification provisions as defenses against liability.

Many other measures provide for periodic payment of awards over a certain amount, reduce awards to the extent an employer or employe was responsible for an injury and forbid asking for a specific amount of damages.

Several heads of trade associations expressed concern at the difficulty in finding out about the status of legislation in other states and called for a bi-monthly newsletter to provide an in-depth review—not a mere listing—of action around the country.

Several experts in the product liability area believe that a significant number of bills won't be passed until at least a year from now.

"Tort reform is a very slow process, so you can't expect instant action," said Louis Marchese, Chicago counsel for the NAW. ■

San Diego to go alone in public liability in 1978

By JOANNE GAMLIN

SAN DIEGO—The city of San Diego will probably go completely bare in public liability in 1978 10 years after the city self-insured its workers' compensation.

That's the word from Robert G. Walters, risk manager for the city and a man who has big plans for all municipalities in San Diego county.

What he envisions is that they can soon join the city in going bare—and not just in public liability.

The Risk Management Group, a San Francisco-based brokerage firm headed by Gordon Beamer, has been hired by 12 cities in the county to help them establish a regional risk management authority or joint powers authority (JPA) which would eventually enable the cities to give up conventional insurance coverage.

"It will be a JPA of 12—possibly 14—cities," Mr. Walters said. The risk management authority will be headed by Mr. Walters and his staff. They will oversee a welter of risk management services for the cities, including claims recovery and subrogation, pooled insurance purchasing and contingency reserve funding, loss prevention, administrative services for workers' compensation and rehabilitation services.

In addition, joint in-house medical services, encompassing workers' compensation and pre-employment physicals, will be part of the package, Mr. Walters said, as will actuarial services, data process and record-keeping services.

Of course, the real aim of the JPA will be to make the cities in the county as totally self-insured as in San Diego. Ultimately, say in five years, there may be no insurance at all among the cities of San Diego county, Mr. Walters predicted.

In all probability, he said that the cities will approach that goal in steps.

"Actually, the city of San Diego does not have that much to gain except spreading out costs," continued Mr. Walters, noting that his staff of 20 will have to add a few more individuals.

The Risk Management Group also is assigning the job of coming up with alternative methods of funding the JPA, Mr. Walters said. ■

First state to insure taxi cabs

LOS ANGELES—The First State Insurance Co. of Boston has been named as the public liability and workers' compensation carrier for the taxicab company clients of L.F.C. Insurance Brokers of Beverly Hills, the firm that has the bulk of the cab companies in California as clients.

"The company is now insuring the major cab companies, including those in Los Angeles and San Francisco," said Ronald Jackson, L.F.C. account executive.

Taxis that once belonged to the now-defunct Yellow Cab Co.—it had the cab operations in six California cities and in Phoenix before it encountered overpowering problems in securing public liability and workers' compensation coverage and went bankrupt last December—are mostly covered in the new package from The First State Insurance Co., Mr. Jackson said.

The First State Insurance Co. has the primary layer of coverage of up to $50,000 per occurrence. Alliance Insurance has the excess layer of from $50,000 to $1 million of coverage.

"The cost is slightly less than what we would have had to pay under the California assigned risk plan," Mr. Jackson continued further.

He said that the program was a last minute affair and that his clients are the first cab company clients of The First State Insurance Co. ■

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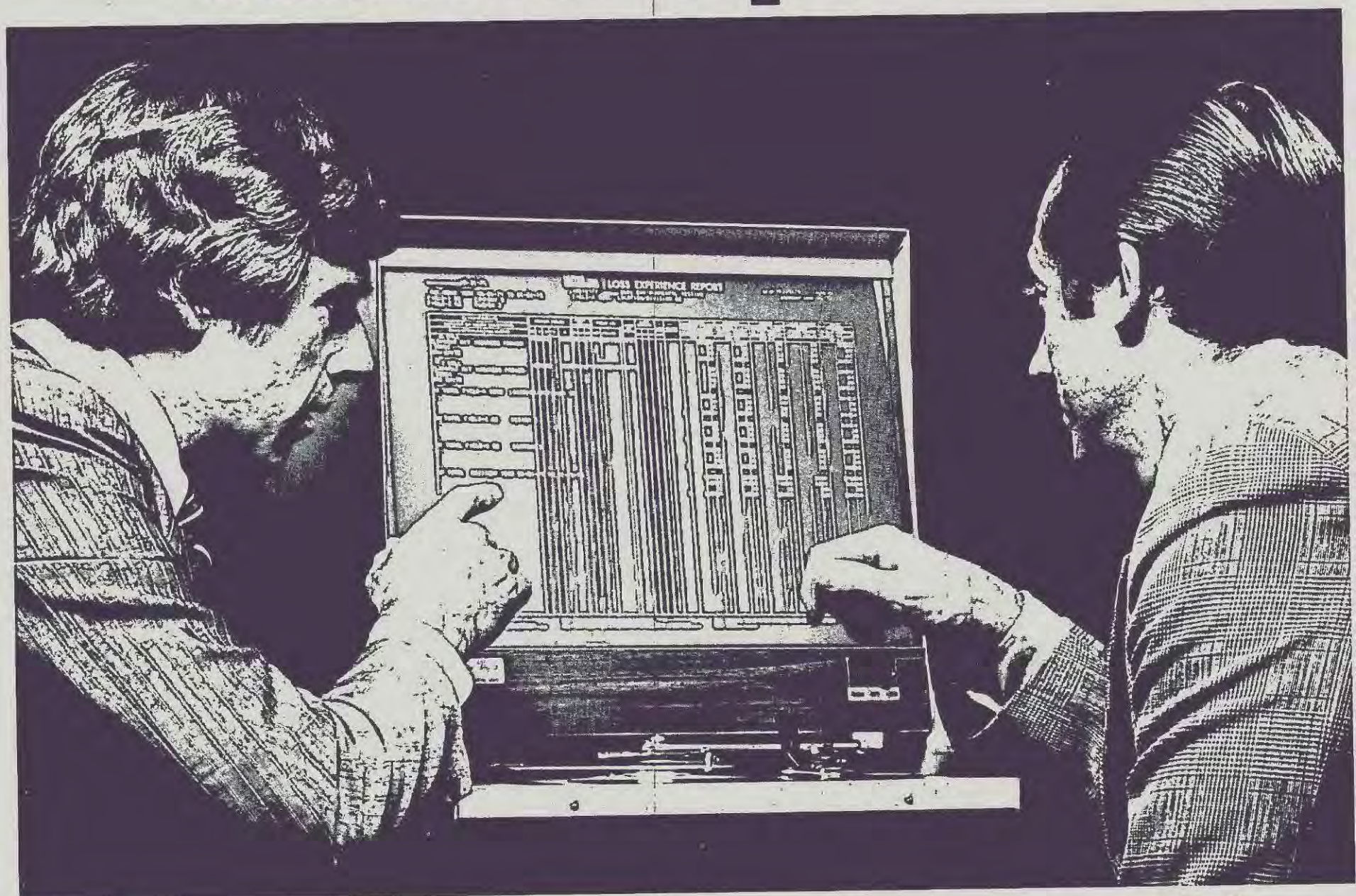

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A&P restructuring . . .

Continued from page 1

merly Factory Insurance Assn.) for major manufacturing locations.

Johnson & Higgins, formerly A&P's only broker since the 1950s, lost out on its bids for the casualty and property business, but Mr. Porrett said he was highly satisfied with the way the broker handled employe benefits and he kept J&H on the $25 million a year premium account.

J&H account executive Robert Laible, assisted by Peter Abma, is at work now on proposals to restructure the A&P employe benefit account to shave costs while maintaining benefit levels.

Mr. Laible and Mr. Abma are reviewing quotes submitted by Prudential Life Insurance Co., Equitable Life Assurance Society and Provident Life & Accident Insurance Co. of Chattanooga for new life and health coverages that will give A&P better cash flow and lower retentions.

Mr. Porrett said some of the proposals under consideration include administrative services only (ASO) contracts. He hopes the new program will be ready by the end of May.

As part of the negotiations to set up the new casualty program, Mr. Porrett got Ideal Mutual insurance Co. to agree to let A&P select an outside adjusting firm. A&P picked Crawford & Co. of Atlanta, Ga., after working on proposals from Crawford executive vp Forrest Minix.

Crawford is adjusting claims both on portions of the program, which are insured by Ideal Mutual, and on A&P's self-insured workers' compensation. According to Mr. Porrett and to Louis P. Mongeluzzi, A&P's assistant director of insurance, the use of Crawford is already starting to save money on the self-insured workers' compensation portion of the casualty program.

This was formerly administered by A&P's own personnel until management realized it would make better sense to have a third party adjusting claims instead of having A&P employes decide settlements for other A&P employes. Crawford & Co. set up a claims office in Ramsey, N.J., not far from A&P's corporate headquarters in Montvale, to adjust this account. It is coordinated there by R. Bruce Smith.

In addition to working out this rather unusual arrangement with Crawford & Co., Mr. Porrett insisted on some other points during his negotiations with brokers and underwriters which reflect what might be called a new militancy on the part of corporate insurance consumers.

When Mr. Porrett, who was formerly the risk manager for Eastern Airlines, began negotiating for new coverages for A&P in March 1976, his goals were improved cash flow, low retentions, reduced expenses, better loss control and more co-operation from underwriters.

He rejected many of the usual practices that are common between brokers, underwriters and insurance buyers when the buyer puts programs up for bid.

For instance, to cut down on expenses, Mr. Porrett negotiated to have A&P compensate the brokers directly, rather than letting the insurance companies pay the brokers a percentage of premiums as is the usual practice.

He also insisted on three-way meetings between brokers, underwriters and A&P instead of letting the broker take his company's message to the underwriter. He believes that these three-way arrangements are necessary for a buyer to have his interests accurately represented.

Mr. Porrett's corporate consumer stance is also evident in his low opinions of insurance company methods of charging expenses to their clients. He is determined to know where every penny of his premium dollar is going, especially, he points out, since property/casualty insurance companies made $4.6 billion in investment income last year. This is a figure that insurance buyers should pay close attention to when they negotiate with their underwriters, he said.

As a condition of doing business with A&P, Mr. Porrett asked insurance companies to break out all their charges for expenses. He found tremendous variation among companies agreeing to do this. He refused to work with companies that would not.

Some underwriters charged an expense factor equal to 3.5 times the salaries of their employes assigned to an account; other underwriters charged only two times salaries for the same service. A&P checked salaries in some instances to make sure expenses were figured accurately.

A&P also discovered that some insurance companies will add up their total costs for servicing all their clients and then charge each client an averaged figure. A&P refused to accept any arrangement unless charges were on an exact expense-paid basis instead of being averaged.

Excess insurance for workers' compensation, which Mr. Porrett said was one of the most difficult lines to place, was arranged through Henrijean & Cie, the Brussels-based broker that handles A&P's cargo insurance (*BI*, July 26, 1976). Account executive Daniel Vanderlinden of Henrijean acts as the overseas broker on the excess lines and Fred S. Jame's Richard Payne is the American broker.

This team managed to get excess coverage for A&P from lead Belgian underwriters and the London, U.S. and Japanese markets that was one third less expensive than quotes from other brokers, Mr. Porrett said.

He's convinced the only competent way to get good loss prevention services is to go directly to loss prevention specialists rather than to rely on insurance companies providing the services as part of their coverages.

So A&P looked at 10 proposals from loss prevention suppliers for its workers' compensation and general liability. It picked Fred S. James for the job. In addition, it took competitive bids from property conservation engineers, and selected Marsh & McLennan Protection Consultants. Barry Sperman of that organization is on the A&P property account.

To bolster the loss prevention work, A&P created a new position, manager of national safety, hiring David Grubb for the job.

Mr. Porrett says that all the negotiations, three-way meetings and bargaining over quotes for new insurance coverages for A&P have paid off. The costs on the property program have held steady, and because of Ideal Mutual's recognition that only paid losses should be charged to A&P, the supermarket chain has been able to realize a cash flow advantage of $5 million a year on its casualty program. (This is compared to a proposal from Aetna which A&P considered before choosing the Ideal Mutual program.) The actual expense reduction works out to approximately $2 million, Mr. Porrett said. ■

City liability decision worries public officials

By JOANNE GAMLIN

SACRAMENTO—A California Supreme Court ruling that forces cities and counties to issue building permits only to contractors with full insurance coverage is raising the hackles of public risk managers.

"A horrendous burden," declared Robert G. Walters, risk manager for the city of San Diego. "The court was asleep when it made its decision," said Stanley Fontez, treasurer and tax collector for Marin County.

The case involved Richard Morris who fell from a ladder while working on a Marin county-sponsored building project at Muir Beach. The state Workers' Compensation Board awarded Mr. Morris $200,000 for injuries that left him a paraplegic. But the contractor had no insurance, so Mr. Morris sued Marin County arguing it should not have issued a permit without checking the insurance.

The Supreme Court agreed extending a new liability to cities and counties.

Marin County will most likely pay the $200,000 from its self-insurance fund, said Stanley Fontez, treasurer and tax collector. He said the fund has over $2 million in assets.

Because of the ruling, the city of San Diego has had to revise its system of issuing building permits, Mr. Walters revealed, to insure that all recipients of building permits have workers' compensation, a function his staff did not perform prior to the ruling.

"But I have to question whether it is really the function of the city to insure that contractors are covered by insurance," he said.

San Diego county already has received a workers' compensation claim based on the Morris case, according to Stan Forsythe, claims manager for the county. The claim is under investigation.

Likewise, Don Blackhurst, insurance/risk manager for Santa Clara county, pointed out that the sheer volume of building permit applicants causes strict administration of the ruling to be difficult.

The long time-lapse that can occur from the date the building permit is issued to the time when actual construction begins, and the fact that the person who receives a permit may hire someone who is uninsured to do the job, also concern Mr. Blackhurst.

The county did move at the time of the court ruling, he said, to upgrade its procedure for ascertaining that building permit applicants have the required workers' compensation coverage.

Although he is confident that few lawsuits will arrive from the ruling, he indicated he would support legislation that would shift the responsibility for checking on a contractor's insurance coverage to the person who wishes to work for the contractor in question.

"How much responsibility and paperwork cost can government assume when taxpayers are screaming about taxes," he said.

Other public entity risk managers expressed concern about whether the ruling will apply to ordinary citizens who take out building permits to do weekend or other small scale construction jobs.

Rod Umscheid, risk manager for Orange county and Vincent W. Pisani, who has the same job for Sacramento county, agreed that extending the ruling to individual homeowners could complicate the new enforcement task assigned to cities and counties. The fact that California has a new law mandating workers' compensation coverage to all citizens who employ occasional household help could improve the situation, they said, in view of the fact that companies writing homeowners insurance are now including workers' compensation in that coverage.

To Don Jack, risk manager for Beverly Hills, the question is what happens if citizens or contractors misrepresent their possession of insurance coverage.

"Cities have to believe what people state on their permit applications," he said, adding that a warning about the dangers of lying about insurance might be attached to the permit application.

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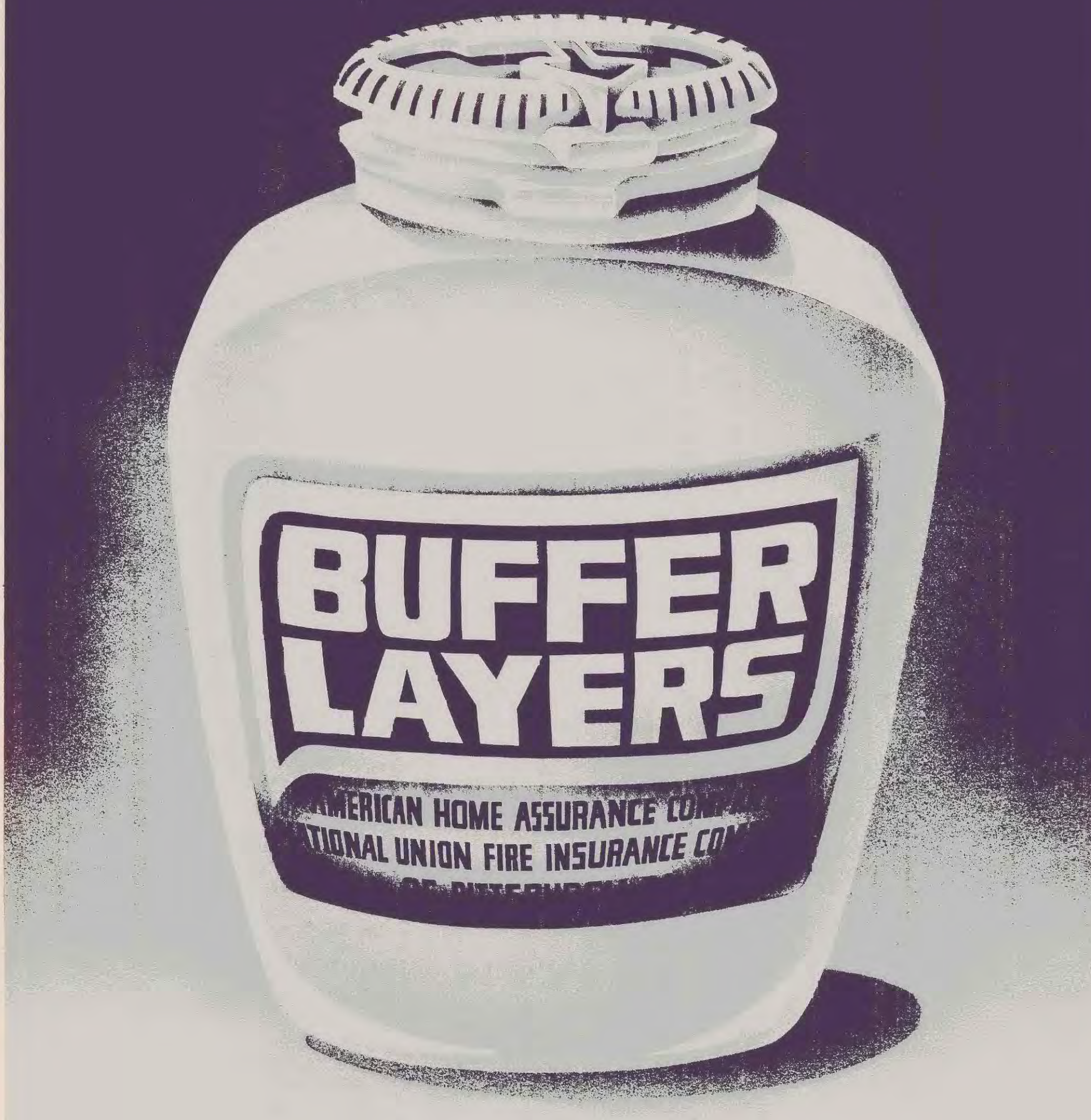

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PERSPECTIVE

Diabetes: A debilitating disease which costs time, money, accidents

By James Bosarge
University of Alabama
Birmingham, Ala.

BECAUSE THERE IS little or no awareness of diabetes and its often disastrous effects upon business, employers are faced with a runaway health problem that threatens ever-increasing financial losses which could be reduced with a relatively inexpensive screening program.

While a health insurance plan, some kind of first-aid service, and a mandatory physical checkup for key personnel may be a part of a business' operation, too often the total health of employes is overlooked. Detection and education are the key words management should use in helping to alleviate human suffering due to diabetes and in the process save millions of dollars.

Dr. Burris R. Boshell, director of The University of Alabama in Birmingham (UAB) Diabetes Research and Education Hospital, says, "The magnitude of this particular health problem is evident in the fact that an estimated 5% of the population is diabetic or potentially diabetic, and that figure is increasing."

It is difficult to compute financial losses incurred through undiagnosed disease states that may impair an employe's effectiveness at his job. Assessing the costs involved when an employe is rendered semi-permanently or permanently unproductive before the disease is diagnosed is even more difficult.

However, a recent case involving a top level executive illustrates quite well the effect that diabetes can have on profit-loss statements if management does not adopt the total health concept in its planning.

This executive was an undiagnosed diabetic until last year when he checked into UAB's Diabetes Hospital. Like many people who are in the early stages of diabetes, he was becoming increasingly irritable and was losing his ability to make quick accurate business decisions. Physical weakness and an increased number of illnesses kept him off the job for prolonged periods.

After months of emotional upheaval caused by the chemical imbalance in his body, his sometimes irrational behavior eventually forced his company to place him on medical leave.

He was sent to Birmingham where, after a number of tests, diabetes was diagnosed and treatment begun. In addition to medicine, he was placed on a regulated system of strict diet and rigorous exercise. Since the regimen also calls for elimination of excessive stress and tension, he is required to take a minimum of one week of vacation every three months.

Fortunately for the patient and his company, diabetes was diagnosed before it could reach the point where other complications begin to arise. Diabetes in its advanced states can lead to blindness, kidney failure, cardiovascular disease, circulatory problems in the extremities which may lead to amputation of limbs, hypertension, and stroke.

There is no denying that the patient's company has paid for the inset of diabetes in this case, but the cost could have been much higher than it has been.

What a company can save in the long run indicates the importance of early detection to head off the worst symptoms of diabetes. Consider the cost to a company when diabetes is diagnosed under circumstances similar to those experienced by this patient.

While a health insurance plan and a mandatory physical checkup for key personnel may be a part of business' operation, too often the total health of employes is overlooked.

A company might normally pay six months of salary during sick leave, with three to four months of that at full pay. There may be an adjustment period of two to three months at half salary coordinating with a long term disability (LTD) policy which has a 90-day elimination period.

Over the short-term, salary paid to an unproductive employe would not constitute a great loss even if the employe is earning $35,000 to $50,000 per year in executive management and upper middle management. When other cost factors are considered, the direct loss incurred because of totally disabled employes rises sharply

As an example of the immediate costs that a company may expect if disability due to diabetes and its complications occurs, assume that a 40-year-old executive of a large firm develops this problem.

This hypothetical executive management level employe earns an annual income of $40,000 and has another 25 years of productive life ahead. Then he is declared totally disabled by diabetes and an accompanying problem of kidney failure.

If the company makes payments to its former employe for 50% of his benefits-income until age 65, an immediate loss of $500,000 is on the balance sheet. This figure would include pension and profit sharing, and other estimated salary continuation with full coordination of benefits.

The firm may have a life insurance policy for the executive with a face value of three times his annual income. That means a 75% reserve charge, or $90,000, is made automatically against the policy's $120,000 face value. The final expense on the policy will be $30,000.

For the first year of total disability, hospital, surgical, and major medical benefits will amount to $15,000. Another $75,000 should be expected as long as the employe continues to accrue these benefits.

These figures are all highly conservative. On the major medical benefits, for instance, it must be remembered that our imaginary executive has developed kidney failure because of his diabetes and treatment is very expensive. A kidney transplant may be possible, but dialysis maintenance treatments will probably be necessary. Dialysis, according to a study sponsored by the National Institutes of Health, may cost from just under $7,000 to $24,000 annually depending on the setting in which they are given

Conservatively, then, the company of the former executive has lost an estimated $680,000 at the outset in corporate dollars spent directly through payments, insured benefits, reserve charges and increased premiums.

Top this off with the necessity to replenish the company's 501(c)(9) account at the rate of $3,000 per year for 25 years and one begins to see the impact of diabetes on the company.

Upper management is not the only vulnerable segment of the work force when it comes to diabetes. The same imaginary company may have a 25-year-old administration staff person who also develops diabetes.

Applying the same formula to this person's $10,000 annual salary, the most conservative estimate possible on immediate loss to the company is slightly in excess of $300,000.

In its report to the U.S. Congress, the Department of Health, Education and Welfare's (HEW) National Commission on Diabetes said there were an estimated 2.8 million diabetics employed in this country in 1975.

These people were between the ages of 16 and 75 years of age with the greatest number, 1.03 million, between 45 and 54 years of age. An additional 495,388 diabetics in the 25-44 year age group and 703,974 between 55 and 65 years of age, brought the number of employed diabetics in what should be their most productive years to 2,239,352.

A total of 32,507 work years were lost to employers due to diabetes and accompanying illness during 1975. Of this figure, 24,-

Continued on following page

Pregnancy disability benefits

Substituting inequity for inequity?

By C. E. Cook
Vp of Personnel
Southwestern Electric Power Co.
Shreveport, La.

IN HIS ARTICLE on pregnancy disability pay in your March 21 issue, Peter Downes accurately comments that people who argue on either side of the case have studiously avoided saying a few things out loud. Some of these omissions are basic. This is particularly true concerning the definition of the proposed benefit itself. The term "pregnancy disability pay" is usually treated in the press as just another benefit and one that is subject to discrimination.

What we are really talking about is the question of some form of pay—sick payments, salary continuation, or a percentage thereof—to be given to persons who are away from work for maternity reasons.

In considering a possible benefit such as pregnancy disability pay, it would be wise to anticipate some of the problems that must be encountered in administering such a benefit. In these problems we might find some basic difficulties that could well determine the wisdom of embarking on such a plan or not.

Those of us who administer both personnel and employe benefit functions know that it is quite common for expectant mothers to continue working almost to the date of delivery before beginning their maternity leave. They continue to be efficient employes and, particularly for those who have desk duties, few problems are encountered. Others, however, elect to take maternity leave two or three months prior to delivery in order to make preparations for the new arrival. These choices can be based on pure election on the part of the expectant mother as well as on physical differences in both the employe and the work involved.

After the delivery, a similar elective situation frequently exists. The more career-oriented wish to reduce the amount of absence and return to work as soon as possible. Others stay away as long as the maternity rule permits such absences without the loss of service continuity.

In addition to the frequent elective nature of the new mother's absence from work, we have the question of what is the object of her need for this absence; that is, is it her physical problem or that of the newborn? Again, we have a situation that departs from the usual case of sickness. Where the mother needs to continue her absence in order to give special care to her infant, we have a case similar to that of any other person who might find it necessary to care for members of the family who might have physical needs. Ordinarily, this type of absence is not awarded pay beyond possibly emergency excused absence. Certainly, no disability plan makes provisions for an employe to receive benefits because of the natural needs of a member of the family.

It is not reasonable to place the decision to pay or not to pay disability benefits on an attending physician because he cannot be reasonably expected to make a hard money decision against the wishes of his patient.

It is further true that employes generally regard their company benefits that are available to them as actually being vested. Many feel that to fail to take advantage of their benefits in the fullest extent is rejecting what is rightfully theirs. It would be naive to believe that if any form of pay is available, any but the most career-oriented mothers would take less than the maximum available time off with pay, creating not only a high cost benefit but also lengthened absences and greater problems of maintaining emergency leave relief in the work force.

As Mr. Downes wisely points out, it will be the public in general who will pay. The question of whether the individual or the public should pay for such absences would be more valid if we were only considering the question of pay for time that a mother is physically incapable of coming to work. In real life, this amount of time cannot be determined, and if we create a benefit that invites a greater use than physical needs dictate, we have built a burden that should not be borne by the group as a whole.

This could well be another one of those questions involving people that start with good intentions but have to be abandoned because of nightmares of application and more injustice is created than eliminated. ■

SPEAKING OUT

Prudential serves up a Kafka-esque exercise

By Peter Downes
Manager of Insurance
American Trading & Production Corp.,
Baltimore, Md.

Mr. Downes, a regular contributor to Business Insurance's *perspective pages, speaks out on insurance issues that concern him.*

KAFKA WAS NOT off his rocker but was surely one of the sanest men to have lived in this century. This was not always my opinion. There was a time, before I was out of my teens, when I was obliged to read his books and thought them to be products of a diseased mind. And then I happened on the annuity department of the Prudential Insurance Co. of America.

A short time ago I erupted in the manner of a Vesuvius about to engulf Pompeii. My first inclination was to tell that benighted annuity department that they could take their piece of the Rock, fasten it securely around their several necks and then jump in the middle of the nearest deep lake.

I actually called their local office, tore a few strips off the person who responded but with magnificent self-restraint refrained from telling her what should be done. Subsequently, when reflecting on the incident, I decided I had been unkind to the girl who responded since she was caught in a trap and had no notion of how to escape from it.

I thought of talking to her boss. But since, willingly or not, he too is caught in the same trap there seemed little point to it. In addition, I had to admit to myself that my own corporation had likewise been ensnared by a plethora of rules and regulations.

About four years ago we terminated a small pension plan at one of our plants. All active employes were transferred to another fund leaving four elderly pensioners to be provided for. This required IRS approval which was not forthcoming for almost four years. The exasperating thing about this was that nothing changed. The thing we sought to do four years ago was accomplished exactly as planned, but in the meantime a mound of correspondence had accumulated wherein the IRS demanded to know this and disputed that.

But at last we got the IRS off our backs and sought annuity quotations. We appreciated that nobody was about to get fat on the piece of business we were offering them, but Prudential provided a quotation which was acceptable. Thereupon we were caught up in a further tangle of rules. We needed the money to pay for the annuities and when the pension trustee was asked to provide it he replied that he was sorry but it would take him six weeks to accomplish this. "Very well," we said naively, "we will pay for the annuities and you may reimburse us when you have liquidated the necessary cash."

The trustee reacted with all the pious horror of a Puritan divine whose wife had been caught dancing around a maypole. Under no circumstances could this be done, there are rules that forbid this kind of commonsense. But what about the pensioners, don't they matter? Kafka answered this question with total clairvoyance when he remarked, "(The Castle) concerned itself about the common welfare, of course, but it couldn't simply interfere with the natural course of events for the sole purpose of serving the interest of one man."

This evidently is also the attitude of the Prudential's annuity department. We obtained signed applications from three of the pensioners, paid over the price of the annuities and requested that payments begin Jan. 1. To protect the interests of the pensioners we asked the Prudential to confirm if such payments had indeed been made. They never said a mumbling word! After frantic inquiries disclosed that no payments had been made, we paid them ourselves. When we later discovered from our pensioners that the February payments had not been made, we did it again.

A Prudential official then had the unmitigated gall to say that such payments were illegal. For myself, I fail to see how they could be illegal since we can pay money to whom we choose for any purpose we like, except for the commission of a crime. I deem it no crime to accomplish what the Prudential has failed to perform.

Space forbids a blow-by-blow account of all that happened. Suffice it to say that three contracts have been delivered indicating that payments began on Dec. 28 last. Accompanying the contracts were photocopies of the application forms. The Prudential had amended them in certain minor particulars and now were peremptorily ordering the applicants to re-sign them. Failure to do so within 14 days would mean outright termination of the annuities, presumably ab initio.

This was the point where I exploded, generating as fine a stream of invective as any I have ever invented. But why get heated over a trivial matter involving a few pieces of paper and frugal monthly payments to a few insignificant, elderly men and women? To my mind this is not a trivial matter at all, and these men and women are of the greatest importance. They were made promises and I, at least, had an obligation to see that these were kept.

Throughout this whole affair I wondered how the participants might rationalize their conduct. Kafka again had the answer. In "The Trial" he has one character say, "It is not necessary to accept everything as true, one must only accept it as necessary." And another replies, "A melancholy conclusion, it turns lying into a universal principle."

Those responsible for misused state and federal regulation, Watergate activities and the accused at the Nuremberg trials said the same thing somewhat less obscurely. And I would bet that the participants in this affair will say the same thing: "We were only following orders."

I am not suggesting that there was any malevolence in this case—mindlessness, yes, but not malevolence. Indeed there are many who maintain that such mindlessness is an inevitable concomitant of a modern technological society which can only function when it is streamlined, automated and homogenized. Lewis Mumford put the case very well when he said that in such an environment, "instead of functioning actively as an autonomous personality, man will become a passive, purposeless, machine-conditioned animal whose proper function, as technicians now interpret man's role, will either be fed into the machine, or be strictly limited and controlled for the benefit of depersonalized organizations."

As I see it, this is just what has happened in this case. There was a departure from an established pattern, the configuration of which is known only to technicians at the Prudential.

Am I perhaps being unfair to the Prudential? After all, I might have gone to a dozen other carriers and receive the same treatment. Perhaps so, but on this occasion it happened to be the Prudential. In the press and on the air we are continually urged to get a piece of the Rock. The inference to be drawn from all these advertisements is that the needs of individuals will be met. The Prudential had the opportunity of meeting such needs in this particualr case—and they failed! ■

What diabetes costs . . .

Continued from preceding page

163 work years were lost within the employe population between the ages of 25 and 64 years because of diabetes.

Death claimed an additional 5,289 work years from employers that year with an estimated 3,335 work years falling in the 25 to 64 year age group.

As large as these figures may seem, they do not include the undetected diabetics nor all those individuals whose diabetes may have contributed to death because of heart attack, stroke, or other disease not yet medically connected to the onset of diabetes.

While such statistics are relatively easy to acquire, the somewhat unsettling picture that develops cannot be seen in its entirety. Determining what a business might lose if an undetected diabetic employee makes errors due to impaired visual, mental, or manual faculties is nearly impossible until after the mistake is made.

A person suffering from one of the symptoms of diabetes might push the wrong button or pull the wrong lever, causing a shutdown on a production line until the error can be corrected. Impaired judgment in a top management person may cost a company an immediate loss in the hundreds of thousands or millions of dollars.

An impairment brought about by undetected diabetes may result in disability or death through an on-the-job accident.

Thus far, we have only considered the visible costs of diabetes to a company if employes are disabled. There are other, less measurable aspects to be considered.

An employer may lose a highly trained person who had acquired skills through long years of practice and education. If that happens, another individual must be found and trained. In the case of someone who may be doing the job for two or more people, the responsibilities may have to be given to more than one replacement.

Training costs and productiveness lost during the training period could add considerably to the overall cost of developing a suitable employe for a vacant position. In the case of an executive management person, decisions affecting company profits may fail to be made or may fall into the hands of persons less able to make the best choice of alternatives.

Before detection, diabetes can also have a debilitating effect on the people who must work with a victim. The undiagnosed diabetic's actions may alienate co-workers, create working conditions that discourage productivity, or literally drive away employes.

How does a company manage the risks involved in employing diabetics? One answer might be to release them as they become known. That would hardly seem sensible if one considers the investment each of these people represents or the morality of such an answer.

The key elements to be considered in reducing the losses a company may encounter in dealing with diabetic employes are early detection through company health programs; management and patient-employe education in cooperation with medical authorities and company cooperation in dealing with the special dietary and physical needs of these individuals.

It is possible for a company to establish a regular detection program for undiagnosed diseases at relatively little cost, especially if one considers the alternative if a disease like diabetes is allowed to progress to its advanced stages.

Through the facilities of the UAB Diabetes Hospital and working with company management, Dr. Boshell has developed such a program for 10 business organizations in the Birmingham area. Screening for undiagnosed diseases—specifically diabetes—includes annual physicals for the junior and senior executives of participating companies.

The program, instigated by several businessmen benefactors of the hospital, calls for an annual physical examination that requires a full day and costs approximately $200 per person. If an irregularity shows up, the participating employe may be required to return for more detailed tests.

All results are discussed with the employe and a complete report is furnished to his or her company.

Dr. Boshell says, "The detection program has been quite successful for the involved companies. Of the approximately 800 individuals participating on an annual basis, 235 cases needing immediate medical attention have been detected over the past three years."

Diseases diagnosed and the number of cases included hypertension 69; diabetes, 15; heart problems, 14; hypoglycemia, 14; possible diabetes, 12; thyroid problems, 11; and tumors and cysts, 11. The remaining 89 cases varied from bronchitis to a malignant polyp of the colon.

Dr. Boshell and his staff concern themselves with the need to restore normalcy to the lives of diabetic patients through education and proper treatment.

Every patient is allowed to review the records of his or her case. The attending physician, as well as other staff members, take whatever time is necessary to answer a patient's questions regarding those records and goes into detail about every aspect of the disease.

Dr. Boshell believes that since it is the diabetic and his family who must deal with the problem on a daily basis, these individuals must be given all available information to help them understand what they can expect in years to come.

This approach aids in the patient's personal adjustment to the real world of business, which for the most part does not grant any special privileges to diabetics.

Helping the patient adjust to his or her new life is one matter of primary concern for the diabetes hospital staff. This concern has also resulted in a willingness to work with employers attempting to deal with the problem of the diabetic employe. By helping the employers understand the problems of these special employes, UAB Diabetes Hospital staff is also helping the patient return to "normal" life.

A controlled diabetic can be as productive as a non-diabetic. To obtain this end, it is necessary for company management, as well as the patient, to make mental and physical adjustments.

Management must be aware of the diabetic's limitations and his strengths. If they give consideration to the problem, they will find they have a highly productive employe who does not have to be replaced. Many of the problems created by work time loss, increased insurance rates resulting from too much hospitalization and, worst of all, complete loss of a valuable employe, can be avoided. ■

Cover of a brochure by the University of Alabama explaining the problems of diabetes.

A message from Robert H. Tullis, Jr., President, The Home Insurance Company

Everyone is talking about insurance rates and why they are skyrocketing.

Here are some practical solutions to the problem.

Everybody has felt the economic strain of soaring auto insurance rates and, in fact, the tremendous increase in the cost of all types of liability coverage.

We all know that a large part of the predicament shared by insurance purchasers and insurance companies is caused by the tort explosion and the increasing incidence of enormous jury awards, far exceeding any economic loss that claimants have suffered. This new theory of entitlement must be controlled if the level of insurance premiums is to be returned to the point where policyholders generally consider them reasonable.

But how can the system be changed so those who suffer losses are still properly remunerated, while the cost of liability premiums remains reasonable enough for everyone to afford? How can we bring about the return to a system based on what insurance truly is...a means of equitably spreading the losses over the large numbers exposed to the risk of loss? It must be understood that basically premiums are the policyholder's money, collected from the many to pay the losses of the few. If these losses, over any extended period of time, are inflated or exceed the actuarial assumptions, the company must raise the price of the insurance if it is to remain solvent and continue to provide the protection its policyholders have paid for.

How can the forces of "social inflation" be controlled so that insurance companies may again be able to satisfy the basic need of people by providing protection that is both available and affordable?

Here are some reforms of the tort system that we recommend to solve this problem:

- Establish more reasonable statutes of limitations
- Eliminate punitive damages
- Limit awards for non-economic loss
- Limit contingency fees for attorneys
- Limit liability with regard to products which have been altered after sale
- Adopt annuity-type awards
- Assess defense costs against plaintiffs when suits are found without merit
- Allow damages to be set by competent arbitration panels rather than juries
- Eliminate the ad damnum clause in pleadings which permits attorneys to file suits in amounts far exceeding what they can reasonably expect to win, thus inflating the jury's assessment of the value of the suit
- Allow the "state of the art" defense so that product improvements resulting from technical advances could not be admissible in court as evidence of negligence in the manufacture of an earlier version of the product
- Consider other benefits plaintiffs may be receiving as a factor in awards to offset economically wasteful duplicative payments

These legal reforms require action by state legislatures, many of whose members are attorneys. An informed public, demanding reform, will make possible legislation that will return reason to the situation and permit insurance companies to fulfill their basic role for the public of making proper protection available at a reasonable price.

Robert H. Tullis, Jr.

The Home Insurance Company

INSURANCE HOME COMPANIES

Medical firm captive . . .

Continued from page 1

single policy for losses of $800,000 per occurrence excess of Westminster's $200,000, up to an aggregate of $2.4 million excess of Westminster's $600,000.

National Medical Care, which operates 62 outpatient dialysis centers and also manufactures and distributes dialysis equipment, is paying annual premiums of $150,000 to the Colorado captive and $250,000 to the Bermuda company, said David G. Lubrano, senior vp of the parent company.

Capitalization of the Denver insurer was accomplished with a letter of credit from First National Bank of Boston.

Unlike many corporations that set up captives to solve insurance problems, the publicly held National Medical captives aren't reinsured at all, and won't be, said Mr. Lubrano. The firm had run into a situation in late 1975 where premiums of $3 million a year were being quoted by Hartford Fire Insurance Co. for medical malpractice coverage, for $1 million/$3 million limits. Thus, the board of directors made a decision to self-insure the entire risk throughout 1976, until the captives could be readied. Because the company could well afford to self-insure the risks during that period, it can just as well afford to carry the financial risks being taken into the captives now, reasons Mr. Lubrano. The parent firm's umbrella liability policies pick up on losses over those underwritten in the captives.

Frank B. Hall & Co. is managing the captives in both places. Mr. Lubrano said that until he talked with Hall about his idea to use an offshore and a domestic captive in tandem, Hall hadn't ever heard of such an idea. Mr. Lubrano said it took quite a bit of discussion before Hall felt it could implement the idea.

The reason for this choice? The company wanted a U.S. insurer for primary coverage because of stronger capital requirements, tighter regulation by the state insurance commissioner, and the desire to have a domestic insurer providing certificates of insurance which the parent firm often has to show as evidence for lease and other purposes. Credibility of the underwriter was a consideration. But National Medical also wanted a Bermuda insurer for the high-limit excess coverage because of more favorable capitalization requirements and other financial considerations.

Mr. Lubrano's reasoning behind having the Bermuda insurer own the Colorado insurer is simple—that way, both companies are outside the consolidated tax return of National Medical Care Inc.

American International Group is the carrier for the umbrella policy that's primary over the captives' risks, for $1 million on top of the layer insured in Bermuda. National Medical is also buying from AIG risk management services to round out its elaborate incident reporting system for its operations. AIG records all serious incidents, and provides investigation services on all potential claims deserving of quick action. Sources outside National Medical told *Business Insurance* the firm pays AIG under $15,000 for this extensive service network, but Mr. Lubrano declined to confirm or to comment on that figure. He said that the rate is a "very attractive" one.

National Medical Care's disenchantment with the traditional medical malpractice and product liability insurance markets was sparked by the company rate classification which it felt was unfair. "It was a reflection of the carriers' unwillingness to look at our company separate and apart from the hospital industry as a whole," he stated. The firm's loss experience had been excellent—practically loss-free—yet the dialysis operations were being classified in the same group as general medical care facilities.

Despite attempts to get Hartford to reclassify National Medical Care, taking into account the special nature of dialysis centers and the one-to-one relationships built up with patients who return each week for care, malpractice underwriters refused to budge, said Diana Pedersen, insurance supervisor for the company. ■

Louisiana ferries eye $10 million for liability

BATON ROUGE—The Louisiana Department of Transportation and Development may increase the liability insurance on its Mississippi River ferryboats to $10 million each. All but one new ferryboat are currently insured for only $300,000.

Last October the state's ferryboat George Prince collided with a Norweign vessel and 78 people were killed. Property and liability insurance on the George Prince was only $300,000 per occurrence with Southern American Insurance Co. and already claims are climbing to the $100 million mark.

Southern American still underwrites $300,000 policies on seven other state-operated ferryboats.

Since the accident the state has insured a new ferryboat, the New Roads, with Lloyd's of London for $10 million for property and liability coverage and $2.3 million for the hull. The annual premium is $62,000.

The Louisiana DOT went to London for the insurance because "we were having one hell of a time trying to get anyone to insure it," under-secretary Roger Guissinger said. The policy carries a $5,000 deductible on property and liability and a $10,000 deductible on the hull insurance. Southern American declined to quote on the policy.

The department is expected to decide within the next 45 days whether or not to extend the insurance on its other ferries to $10 million. After an internal reorganization the department will operate 12 or 13 ferryboats on the Mississippi River.

The state maintains an extensive ferryboat system because "we have an awful lot of river and not enough bridges," one employe in the department said. ■

New offices

Insurance Management Services Inc., one of Cleveland's largest insurance agencies, has moved to new offices at 1510 Euclid Ave. The firm now occupies the entire second floor of its new building.

riskWatch

By MARIE KRAKOWIECKI

Cherry Ames, RN, risk manager: An approach to controlling losses

When I was 10, my friends were addicted to Cherry Ames, who was nursing's answer to the Hardy Boys. They cried through what seemed to be an endless series of her exploits with titles like "Cherry Ames, Student Nurse." I never read any of them. I disliked needles, bedpans and most of all Barbara, the whining child who owned the whole collection. But if the books were updated today, one might have a more offbeat title: "Cherry Ames, RN, Risk Manager."

As part of a new and experimental program for New Jersey hospitals, a Cleveland consulting firm will train registered nurses as hospital risk managers to help reduce malpractice losses.

Krakowiecki

Damm & Associates, which calls itself a "medical and medicolegal standards" firm, reasons that it should be easier to teach risk management to experienced hospital nurses than it would be to teach medicine and the inner workings of a hospital to risk managers.

One central concept it promotes is that employers who purchase health care services for their workers can measure and monitor those services in hospitals simply by applying existing medical standards.

Nurses know those standards. They also know the places in a hospital where the dangers can most easily translate themselves into malpractice losses: Emergency rooms, intensive care units, post-surgical recovery rooms.

■ Karl Bunkelman, an associate of Damm & Associates, says between 20 cents and 40 cents of every benefit dollar is going "right down the tubes" these days into spillover costs for disability payments, retraining and rehabilitation because hospitals don't rigidly adhere to standards and health care purchasers don't force them to.

He used what may have been an apocryphal example of a newspaper pressman who broke an ankle on the job and went for treatment to a hospital. Because the hospital was lax in its standards for preventing infection, the man developed a serious staph infection unrelated to his injury, but which made him seriously ill and unable to work.

As the story goes, the pressman used up all his workers' compensation benefits, all his disability benefits and was even forced to sell his house. His employer had to make outlays for job retraining and rehabilitation. All those costs, except for the broken ankle, could have been avoided if the hospital had followed existing standards on infection prevention. (Mr. Bunkelman claims hospitals today have a worse infection problem than they did in the 1930s).

■ In fact, according to Damm & Associates, 85% to 90% of preventable damage occurs in hospitals because of a noticeable lack of back-up systems and non-enforcement of standards.

Temperature controls in a lab refrigerator may function improperly and cause inaccurate test results. RH problems may go undetected if routine blood typing in an obstetrics ward is overlooked. A patient may lie dying in a coronary unit and no one will know, if monitors and alarm systems don't function properly.

Hospital malpractice largely is not a matter of medical incompetence, according to Dr. Henry C. Damm, founder of the consulting firm. It is more a matter of unenforced standards.

In the past, hospitals have operated on a cost-plus, pass-through basis which made audit procedures and concepts like risk manager nurses impractical.

But as hospital malpractice claims proliferated, so did the popularity of self-insurance for hospitals. And under newly proposed regulations by the Bureau of Health Insurance, all hospitals that self-insure must show evidence of adequate risk management programs.

■ Using registered nurses as risk managers could be one of the best solutions hospital managements might ever find if they want to go self-insured.

In the New Jersey program now being put together by Damm & Associates (see page 17) two registered nurses trained as risk managers will travel to hospitals across the state to teach other nurses loss control procedure as well as forensic medicine, which is the application of medical facts to legal problems like liability.

Cherry Ames, you've come a long way.

Doctors plan fund to fight some claims

WASHINGTON—A local medical society is asking doctors to create a $100,000 fund to fight "frivolous and unjustified" malpractice claims.

"The fund will serve as a warning to lawyers that frivolous malpractice actions will be challenged," said John Lewis Smith, counsel for the Medical Society of the District of Columbia.

The fund will be used to screen and possibly countersue lawyers and plaintiffs who file malpractice claims even though experts tell them they don't have a strong case or evidence, Mr. Smith continued.

"The time has come to let lawyers know that physicians will no longer tolerate these no-merit suits," Mr. Smith said.

Washington area doctors now pay $3,000 to $21,000 a year in malpractice insurance premiums.

Mr. Smith said about 100 malpractice claims are filed against the city's 2,000 practicing physicians each year. He said about 25% of the claims became lawsuits though many are without merit. The counter-suit movement, though fairly recent, has become nationwide. In Montana, where an orthopedist won a $109,000 judgment, the number of malpractice suits last year dropped 50%. ■

Profit sharing . . .

Continued from page 1

reverse. I'm working on four or five now that are minimizing their profit sharing and increasing their pension plans. They are good sized plans with good sized companies."

He hastened to add, however, that the shift in emphasis from profit sharing to defined benefit pension plans is not ERISA-related. "Profit sharing has a lot of pluses, but its minus is it's subject to stock market performance and the company's experience, and they are unpredictable."

Peter A. Biggins, manager of corporate benefits and personnel policy at Xerox agreed. "Recent economic conditions have accentuated the natural problems you have with profit sharing. You're left with the value of the account going up and down—and the down is the problem."

He also pointed to profit sharing formulas producing lower contributions. At Xerox, for example, the company contribution to the employe retirement account is based on return on assets.

In 1972, and generally throughout the preceeding decade, Xerox contributed an amount equal to 8¾% of an employe's salary to his retirement account—the maximum under its plan. But in 1974 the contribution went down to 7.56% and in 1975 it fell to 5%, the minimum Xerox promised to contribute. In 1976 the contribution rose slightly to 6.35% of an employe's salary.

He added, however, his own suspicion that the movement by large companies to defined benefit plans is not a revolutionary development. Rather, it represents the gradual evolution of employe benefit in mature companies. Mr. Biggins said when Xerox explored alternative retirement plans it found that of the top 50 Fortune industrial companies only two were without pension plans—Xerox and The Procter & Gamble Co.

Mr. Bush confirmed that, "Long before ERISA and the development at Sears it wasn't uncommon to see a combination (of profit sharing and a defined benefit plan) as a company matured."

But the announcement by Sears that it was amending its profit sharing plan and establishing a pension plan for all its full time employes raised eyebrows in employe benefit circles. Jack Cooper, vp in the trust department at Chicago Harris Trust & Savings Bank, said, "I'm a real proponent of profit sharing. I hated to see it happen."

He too acknowledged the toll the stock market has taken on profit sharing plans. "The securities market has been devastating on plans and tough on morale. I hape to say it is a trend because with the funding requirements of ERISA, why would a smaller company start a pension plan? But the more mature, large companies will end up with a pension plan arrangement because the market is so tough."

There are, however, ways to ameliorate the problem, Mr. Cooper said. A company can make installment payments out of the profit sharing fund to retirees, giving them a chance to recoup losses; it can transfer the employe's funds into a short term reserve fund, at, say, age 55; it can pay on the average balance of the fund over three years instead of on the date of retirement; or it can guarantee the retiree a minimum payout.

Some of these arrangements have been adopted by Procter & Gamble in maintaining the oldest continuing profit sharing plan in the country and the second largdefined benefit pension plan and its profit sharing plan is supported solely by company contributions based on an employe's years of service, salary and company profitability.

The P&G profit sharing fund vests in 10 years and a vested participant can request his accumulation be converted to a differed annuity; or he can request the annual credit go into an annuity instead of stock. Upon retirement, the employe can take his account in an annuity, in a lump sum of P&G stock, or he can take it in payments over a period up to 15 years.

But even the president of the Profit Sharing Research Foundation, Bert Metzger, admits, "We're going to see more companies move to a combination of a pension plan and a profit sharing plan." That includes, he said, not only arrangements such as the one proposed at Sears, but also companies with only a defined benefit plan adding profit sharing, he said.

He maintains that profit sharing has always provided wider benefits than pension plans. "They are a source of supplemental retirement income, a death benefit, a disability benefit, an estate accumulation, and a source of preseverence withdrawals for a home, education of children and medical expenses. And they provide the employe with a direct interest in the success and the performance of the company."

Harris Bank started its profit sharing plan in 1916, just a couple of months after Sears started its. But the bank made a defined benefit plan the primary source of retirement income in 1974 and kept profit sharing as a supplement. Mr. Parfitt said, "With a pension plan, profit sharing provides for the fun and games of retirement, like a trip to Floriday."

Profit sharing also meets the needs of younger employes in a way a pension plan can't, Mr. Parfitt said. "It has a meaning to younger employes that a pension plan doesn't have. With profit sharing they have an account; it's more tangible—more real. And accounts are being opened up so it's not all deferred until retirement."

Xerox Corp. agrees that profit sharing favors the younger employe. That's why, Mr. Biggins said, with the average age of Xerox employes at 35, the company decided to add a floor to its profit sharing plan rather than establish a pension plan.

Currently the Xerox profit sharing plan has two parts, a retirement account and a savings account. The floor applies to the retirement account, which does not provide for employe withdrawals. The floor, also called a feeder plan, guarantees that at retirement (defined as age 65 with 30 years of service) an employe will annually receive at least 50% of his average compensation during his best five years of service minus 50% of his Social Security benefit.

Before ERISA, the Internal Revenue Service ruled that feeder plans could not be funded. Then ERISA required funding of anything related to retirement, in effect leaving profit sharing plan floors caught in a Catch-22 situation. But last year, on appeal from several companies including Xerox, the IRS reversed its ruling to allow funding of the floors.

Xerox's retirement account is vested 25% after two years of service and another 25% each year until it is fully vested after five years. Vesting on the additional benefits under the floor plan is after 10 years of service.

The savings account, which

vests immediately, will continue. Under that plan the company contribution ranges from nothing to 6¼% of an employe's salary depending on the company's return on assets. An employe may contribute up to 10% of his salary to the savings account.

Mr. Biggins said Xerox was not so much concerned with keeping employes motivated through continued profit sharing but rather wanted a plan that meets the needs of younger employes and provides a guaranteed retirement income.

Sears said its new retirement plan is intended to "provide assured and predictable" retirement benefits for all its employes. Currently its 19,000 salaried employes are covered by a supplemental pension plan established in 1944. But all hourly employes rely on the profit sharing plan to provide Sears' share of their retirement income.

Under the new retirement program, the profit sharing plan will be amended and the supplemental pension plan will be amended and extended to all full-time Sears employes and some part-time workers.

The retailer denied its new plan could be related to a concern that by heavily investing its profit sharing fund in its own stock—by 75%—it was creating a potential liability under ERISA. In fact, in announcing the changes in its profit sharing plan, Sears said, "No change is anticipated in the objective of the fund, which is to invest primarily in Sears stock so participants may acquire a proprietary interest in the company."

Whether or not a profit sharing fund invested in the company's own stock is a potential liability under ERISA is debatable. Some experts flatly say no because ERISA recognizes the unique nature of profit sharing and does not require the fund to be diversified. Others, like Harris' Mr. Cooper, say, "Though ERISA is structured to say there is no diversification requirement, the law is interpreted by the courts and a judge might decide a prudent man would have diversified. So on a practical level there is more of an exposure."

A suit against the Mariott Corp. by a former employe whose retirement account plummeted to $8,638 in 1975 when she retired, from $17,764 in 1972, is pressing the court for an answer to the diversification question.

In addition to concern for a guaranteed retirement income, Sears said its new program is needed because increased Social Security deductions are making it difficult for employes to also stay in the profit sharing plan.

Currently an employe participating in the profit sharing plan contributes 5% of his annual compensation which does not exceed $15,000. Sears contributes 11% of its income before taxes to the fund and the fund members' shares of that is determined by length of service and also age where there is at least 15 years of service. The fund is open to all full time employes and some part-time employes meeting certain hourly service requirements.

Sears' supplemental pension plan for its salaried employes provides them with a fixed annual retirement benefit. It is 1.5% for each year of service times the average of annual compensation over $15,000 in the highest five consecutive years of the last 10 years of service.

Employes currently eligible to participate in profit sharing can join the new plan which will still be voluntary and with benefits vested immediately. However, the new profit sharing plan offers the employe the option of contributing from 2% to 5% of his annual compensation up to $15,000. Sears will cut its contribution to the fund to 6% of earnings before taxes and fund members will equally share in the contribution based on their own deposits. Participants will also have more rights to partial withdrawals from the new plan compared to the one now current.

The proposed pension plan will cover all full-time employes and part-time employes with 1,000 hours of service in one year who are at least 25 years of age. Benefits under the program will be vested 50% after five years and fully vested after 10 years. It will provide for pensions payable on all final average compensation, not just that in excess of $15,000; the benefit will be reduced (subject to limitation) by a portion of Social Security benefits and unlike the existing pension plan increased benefits will be earned by older employes with long years of service.

The annual retirement benefit for all employes participating in the new program after 1977 will amount to 1.5% for each year of service prior to age 50 or less than 15 years early service, and 2% for each year of service after age 50 and 15 years of service (senior service), times the individual's final average compensation minus 1.5% for each year of service and 2% for each year of senior service times the individual's Social Security benefit, but not to exceed 50% times the Social Security benefit.

Sears estimates that if the new program had been in effect for the last fiscal year ended Jan. 31, the pre-tax cost would have been $97 million more than the cost of current program at $383 million. Those costs include $204 million in employer paid Social Security taxes.

The projected cost of the new program for 1978 is $69 million more than the projected costs the current program.

Improvements in Searle's pension plan will include changing the definition of pensionable pay from base salary to W-2 earnings, an improved formula for determining the retirement benefit, and new provisions for early retirement.

Under the new formula, a retiree's benefit will be determined by multiplying 1.7% times his average pay times his years of service minus 1.6% of Social Security benefits up to 25 years.

Also, a career employe, defined as someone at age 60 with 25 years of service, may retire at 60 without suffering reduced benefits. An employe with 10 years of service may retire as early as age 50 (previously age 55).

TPF&C consultant Ed Bush said a company will normally modify but not eliminate its profit sharing plan while strengthening its pension plan.

Searle, however, is subject to unique circumstances.

The company's employe benefit manager explained, "The way the plan was structured it guaranteed an employe 15% of his salary each year. It wasn't profit-sensitive to begin with." In addition, the plan was open to only Skokie-based employes who represent a small percentage of the company's 23,000 employes world-wide. "That made the plan internally inequitable," Mr. Meehan said, "and the cost was prohibitive to begin with, so we couldn't extend it to all our employes."

The blow of losing the profit sharing plan has been lessened somewhat by salary increases for the participants (10%) and those coming up for eligibility (5%)—plus the pension plan improvements. ■

info for buyers

To receive literature listed in Info for Buyers write directly to the name and address accompanying each item, mentioning that you saw the offering in *Business Insurance*.

• **A Computer Security Bibliography**, which cites 135 computer security sources and includes summary descriptions of more than 100 of them, is available from the Computer Security Institute. For a free copy of the 12-page booklet write John C. O'Mara, Computer Security Institute, 43 Boston Post Road, Northboro, Mass. 01532.

• A new brochure, **Industrial & Commercial Fire Detection Devices**, from Fenwell Inc. describes a complete line of smoke, flame and thermal fire detection devices. The brochure outlines the basic features of ionization and photoelectric smoke detectors, thermal detection devices, ultraviolet response detectors and continuous fire detectors. For a free copy write Fenwell Inc., 400 Main St., Ashland, Mass. 01721.

• **AIG Oil Rig Inc.**, a member of the American International Group, is offering a brochure that describes its coverages and services for the off-shore petroleum industry. The brochure outlines the property and liability protection AIG Oil Rig can provide through issuing companies for oil rigs, platforms, related service businesses and others with interests in oil-related off-shore exposures. For a free copy of the brochure write Product Information, Corporate Communications, American International Group, 102 Maiden Lane, New York, N.Y. 10005.

• **Workmen's Compensation in Illinois**—Urgent Need for Legislative Action in 1977 is a 10-page brochure from the Joint Employers Policy Committee for Workmen's Compensation explaining why premiums for the insurance in Illinois have soared 86% to 400% since 1975 and recommending solutions to the Illinois General Assembly. Single copies are available for free by writing Thomas L. Reid, Illinois Manufacturers Assn., 135 S. LaSalle St., Chicago, Ill. 60603.

• **North American Managers (NAM)** can provide foreign businessmen in the U.S. an opportunity to work with an insurance company from his native country. A member of the American International Group, NAM specializes in commercial lines for domestic clients as well as foreign businesses in the U.S. For a free brochure describing NAM, write Product Information, Corporate Communications, American International Group, 102 Maiden Lane, New York, N.Y. 10005.

• **Builders Risk Insurance** from American Home/National Union is described in a promotional brochure titled No Parking, Construction. It's available for free by writing Product Information, Corporate Communications, American International Group, 102 Maiden Lane, New York, N.Y. 10005.

• How do insurers explain the rising cost of insurance to the public? Nationwide Insurance is offering a brochure, **The Problems of Insuring Our Changing Society**, which defends the industry against attacks on its rising premiums using automobile insurance as an example. For a free copy write Public Relations Dept., Nationwide Insurance, 246 N. High, Columbus, Ohio 43216, Attention: corporate literature manager.

• A 51-page booklet from the Hartford Insurance Group explains in clear and concise language the various insurance policies and bonds offered by the Hartford. However, all the rules and requirements of each policy are not included because of the variations in policies in different states. For a free copy of **Insurance**, write Public Requests, Public Relation & Advertising, The Hartford Insurance Group, Hartford Plaza, Hartford, Conn. 06115.

• **Risk Management Information Systems** explains how those systems are an extension of forecasting, allocating and communicating premium budgets throughout the corporate structure. Included in the 24-page booklet from Corporate Systems Corp. are sample specifications used by risk managers when soliciting proposals for account services in connection with insured and self-insured programs. The system is designed for large risks at multiple locations. For a free copy write Marvin Gwinn, Corporate Systems Corp., P.O. Box 2827, Amarillo, Tex. 79105.

• Revised and updated, **GAB's Little Red Book 1977** is a comprehensive director of address and telephone numbers for the more than 650 GAB branches throughout the U. S., Canada, Caribbean and Europe. Also listed are the company's services and key executives. The 62-page booklet is available for free by writing J. W. Weatherstone, Marketing & Products Division, GAB, 123 William St., New York, N.Y. 10038.

• Are you about to decide whether to install a carbon dioxide or Halon 1301 fire extinguishing system? If you are, Walter Kidde & Co. has prepared an eight page brochure—**Making a Professional and Economical Choice**—to help you compare the costs and advantages. For a free copy write Advertising Manager, Walter Kidde & Co., 675 Main St., Belleville, N.Y. 07109.

• A step-by-step guide to preparing a claims management survey and auidit is presented in **Claims Review and Service Analysis** published by RIMCO Inc. The booklet is designed for workers' compensation, general liability, automobile and automobile physical damage policies. Copies free to buyers of insurance are otherwise $5. Write George Rutherford, RIMCO Inc., 10300 North Central Expressway, Suite 180, Dallas, Tex. 75213.

• The 14th edition of **The Insurance Marketplace** contains a listing of the coverages that are available, a directory of insurance home offices and sections on aviation, international, marine and regional insurance. The listings

Info for Buyers is intended as a forum for the exchange of educational information as well as promotional material from suppliers. Studies, guidebooks, and results of surveys are wanted for inclusion in the column. If your association, or think-tank is publicly offering any insurance, risk management or employe benefit-related material, please send a copy to Info for Buyers. And as a risk manager, if you come across something you think would be helpful to your colleagues, tell us about it. Write Info for Buyers, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

are developed from an annual questionnaire sent to insurance companies and underwriting managers. For a free copy of the 130-page book published by the Rough Notes Co. write Wallace L. Clapp Jr., Rough Notes Co. Inc., P.O. Box 563, Indianapolis, Ind. 46206.

• Kwasha Lipton has published in booklet form the full text of a speech on **Fundamentals of Savings Plans Administration with References to the Effects of ERISA,** given by Leonard Mactus, president of the consulting actuaries division. He describes in detail the basics of sound record-keeping for savings and thrift plans with emphasis on points of interest to fiduciaries as a result of federal pension reform legislation. For a free copy write Deptment M, Kwasha Lipton Inc., 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• **UAC Director** includes general information about Underwriters Adjusting Company, its services and a list of the nearest regional service center and chief adjusters. For a free copy for the 68-page booklet write Sylvia T. Jurkovich, Underwriters Adjusting Co., 224 S. Wacker Drive, Chicago, Ill. 60606.

• A brief promotional brochure describes the risk management services of **SWS Risk Management Services** (Scott Wetzel Services Inc.). Staff personnel and its loss control engineering are featured. For a free booklet write Robert Benton, sales director, Scott Wetzel Services Inc., P.O. Box 418, Bremerton, Wash. 98310.

• **We've Had Some Thoughts About Losses,** Johnson & Higgins says in their 24-page booklet of that name. How companies should prepare for a loss, what should be done when a loss occurs, preparing claims and potential problems like exclusions, co-insurance and red flag losses are described. For a free copy write Judith L. Cromwell, assistant manager, production & coordination dept., Johnson & Higgins, 95 Wall St., New York, N.Y. 10005.

• **The Employe Benefit Programs** and consulting services of Reed Shaw Stenhouse Inc. are described in a brief, promotional brochure. For a free copy write Matt Feldman, Reed Shaw Stenhouse Inc., 230 W. Monroe St., Chicago, Ill. 60606.

• How to administer an **On-Line Computerized Claims Administration System** for medical, dental, drug and vision claims is outlined in a brochure by Automation Business Equipment. For a free copy write Herbert Schaffer, Automation Business Equipment, 221 E. Walnut Ave., Suite 271, Pasadena, Calif. 91101.

• **Which Way Should You Go?** on health benefit plan choices. A brochure from Bankers' Life describes self-funded health benefit approaches with administrative services for employers having at least $200,000 of annual paid health claims. For a free copy write John Farrington, Regional Director of Group Sales, Banker's Life, 711 High St., Des Moines, Iowa 50307.

• **Z-A Tames The Energy Monsters** is the title of Zurich-American's brochure explaining its boiler and machinery policy. For a free copy write M. Montgomery, Communications Dept., 111 W. Jackson Blvd., Chicago, Ill. 60604.

dates for buyers

May 16-17: Product Liability Exposure Control Symposium, conducted by the Milwaukee School of Engineering in Milwaukee, Wis. The goal of the symposium is to answer the question, "What can I, as a manager, do to control my company's producing industrial, not consumer, products. How salesmen, advertising, warranties, records, quality control, recalls, warnings, disclaimers, engineering and service and maintenance programs effect the effort will be examined. Cost is $250. Contact: Darlene Sullivan, Milwaukee School of Engineering, P.O. Box 644, Milwaukee, Wis. 53201; phone (414) 272-8720.

May 16-17: Multi-Assn. Action Committee (MAAC) II Conference on Product Liability Solutions in Washington D.C. Coordinating MAAC activities with pending legislation, organizing for future legislation and review of the product liability insurance problem are on the agenda. The conference is open to business and professional firms, trade and association executives, attorneys, government regulators and legislators. Cost is $100. Contact: J. Gehbauer, MAAC II Conference, c/o Sporting Goods Manufacturers Assn., 200 Castlewood Road, N. Palm Beach, Fla., 33408; phone (305) 842-4100.

May 22-25: Washington Legislative Update in Washington D.C., sponsored by the International Foundation of Employe Benefit Plans for trustees, administrators, professional fund advisors and all other employe benefit managers. Legislative and regulatory agency developments will be discussed concerning both pension and health and welfare plans. Topics include the social security system, ERISA (federal pre-emption of state law and multiple employer trusts), national health care, health care cost containment and HMOs. Registration fee for members is $195 and $255 for non-members; late registration at the door is an additional $60. Contact the foundation at PO Box 69, Brookfield, Wis. 53005; phone (414) 786-6700.

June 2-3: Health Care Facilities Security Workshop in Hershey, Pa. sponsored by the American Society for Industrial Security (ASIS). Topics to be discussed include a panel discussion on hospital security problems, the standards for safety and security issued by the Joint Commission on Accreditation of Hospitals and use of a security checklist. Cost is $125 for members and $175 for non-members. Contact ASIS Education and Meetings Dept. 2000 K St., N.W., Suite 651, Washington, D.C. 20006; phone (202) 331-7887.

June 14-16: Safety Expo/77 in the Philadelphia Civic Center; Occupational Hazards Magazine's fourth annual safety and health conference and exposition. Includes an OSHA update workshop; safety film festival, problem solving clinic and 150 exhibits covering industrial safety, health and plant protection technology and services. Cost for early registration for three days of exhibits is $2, with seminars is $40 and for one day of seminars and exhibits is $25. Regular rate for three days of exhibits is $5, plus seminars is $50 and one day of seminars and exhibits is $35. Write Safety Expo/77, 614 Superior Ave. West, Cleveland, Ohio 44113.

June 26-28: Annual meeting of the National Crime Prevention Assn. in Washington D.C. focusing on crime prevention efforts of community organizations, business and industry, law enforcement and private citizens. Executives from insurance, security, banking and other industries will discuss how private business can unite with government and private citizens to reduce the opportunity for crime. Cost is $95 for members and $120 for non-members. Contact the National Crime Prevention Assn., 985 National Press Building, Washington D.C. 20045; phone (202) 393-3170.

people

Pearsall named as manager at Firestone

Albert W. Pearsall was named manager of corporate insurance for The Firestone Tire & Rubber Co., Akron, replacing Robert C. Wall who recently retired. Mr. Pearsall, 41, was formerly corporate director of risk management for Peabody Galion Corp. in Galion, Ohio. He reports to Firestone's treasurer, James M. Denny. He has a bachelor's degree in history and an MBA from Northwestern University in Evanston, Ill.

* * *

Vern Duguid, 45, was named corporate director of risk management at Peabody Galion Corp., replacing Mr. Pearsall who left to take an insurance management position with Firestone Tire & Rubber Co. Mr. Duguid was formerly manager of accounting for the Quincy Shipbuilding division of Gulf & Western Corp., in Quincy, Mass. At Peabody Galion, Mr. Duguid reports to the treasurer. His replacement has not yet been named at Quincy Shipbuilding, although the company expects to hire a replacement by about early June.

* * *

Jennie Jones, 25, has been named to the new position of manager of insurance administration for Max Factor & Co. in Hollywood, Calif. Ms. Jones reports to Alan Greenberg, vp finance. Her duties encompass property/casualty and workers' compensation insurance. A graduate in economics of Stanford University, Ms. Jones was formerly treasury assistant for the Republic Corp. Prior to that, she worked for the state attorney general's office. She has a CPCU-I designation.

* * *

Jim Strang, 36, has been named corporate director of insurance for Tiger International in Los Angeles, a newly created position. He was formerly corporate insurance adminstrator for Northrup Corp. in Los Angeles. Mr. Strang will report to Ray Vingo, assistant treasurer in his new position. He has been with Northrup for over three years. Prior to that, he was with Hughes Aircraft in an insurance capacity. No one has been named to replace him at Northrup.

* * *

Charlayne Rowsel, 23, has been named insurance technician for the city of Beverly Hills, Calif. Ms. Rowsel had worked for the city for three years in the accounting department. Her new job is a new position for the city. She reports to Don Creighton Jack, permanent part-time risk manager for the city and to the assistant to the city manager management services.

* * *

George Obelensky, 46, has been named manager of insurance at Shell Oil Co. of Houston, Texas. Replacing W. F. Reed, Mr. Obelensky is responsible for Shell's entire insurance program. The former manager of chemical sales in Shell's chemical division, Mr. Obelensky previously held several financial management positions with the company. He reports to Shell treasurer D. R. Wolfe.

* * *

Dominic J. Zullo Jr., 30, has been promoted to corporate risk manager at ITT Rayonier Inc. of New York City. Mr. Zullo, who replaces Michael McCarthy, administrates Rayonier's property/casualty and group insurance programs. Before joining Rayonier in 1974 and serving as an insurance administrator there, Mr. Zullo worked with CIT Financial and American Electric Power Co., both of New York. He is a graduate of the College of Insurance in the city's financial district, and holds a degree in business administration/insurance.

* * *

Ron McCartney, 32, has been chosen as risk administrator at Becton, Dickinson & Co. of Rutherford, New Jersey. In his position, Mr. McCartney assists and reports to John Stetina, the firm's corporate risk manager. Mr. McCartney was formerly supervisor of casualty insurance, general insurance and risk management at Allied Chemical Corp. of Morristown, New Jersey, and is a graduate of the College of Insurance. He has not yet been replaced at Allied Chemical.

* * *

David Grubb, 30 has been named national safety manager at The Great Atlantic & Pacific Tea Co. of Montvale, N.J. Mr. Grubb, who runs the firm's occupational safety program, reports to Richard Porrett, A&P's director of insurance and pensions. A graduate of Susquehanna University, Mr. Grubb was manager of safety at Thomas J. Lipton Inc. of Englewood Cliffs, before assuming his new position. Lipton hasn't yet named Mr. Grubb's replacement. ■

President proposes cost control policy

WASHINGTON — In what promises to ignite a major battle with the private health care industry, the Carter administration sent to Congress a program to control health costs that places a ceiling on increases in hospital charges.

The President's cost containment program, which Health, Education and Welfare Secretary Joseph Califano said could save the government and consumers $2 billion next year, would limit the increase in hospitals' revenue to about 9% in the first year.

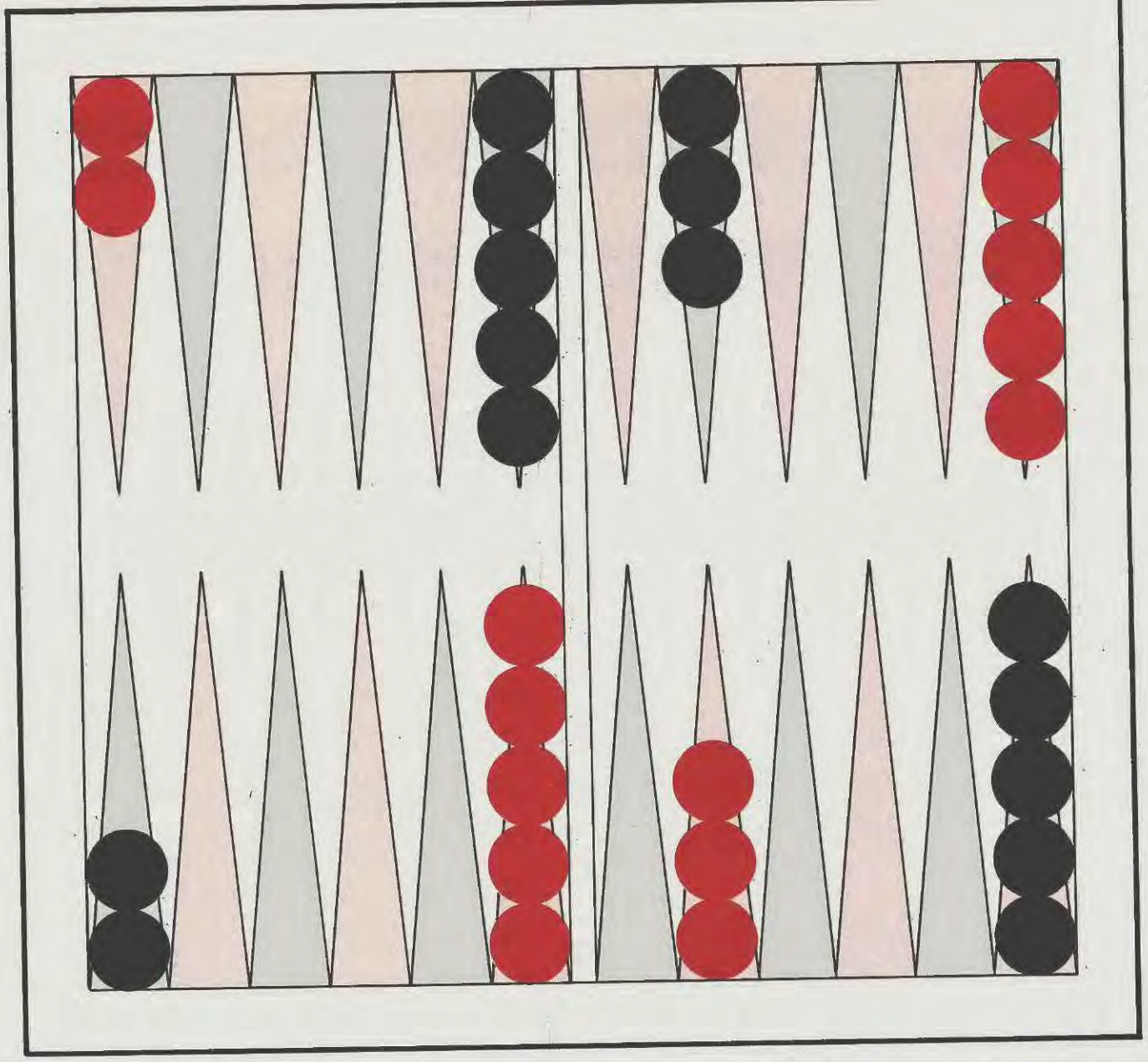
Under the program, which is scheduled to go into effect Oct. 1, federal limits will be imposed on increases in payments from Medicare, Medicaid, private insurers such as Blue Cross and persons paying hospital bills out of their own pockets.

The legislation covers in-patient charges of short-term acute-cure hospitals. Hospitals less than two years old and hospitals that receive 75% of their revenues from prepaid Health Maintenance Organizations (HMOs) would be exempt from the limits.

At a White House press conference, where the plan was announced, Mr. Califano denied claims that the program would force a reduction in the quality of patient care.

"We're just asking hospitals to cut out the fat," he said, noting that hospitals could save hundreds of millions of dollars annually by adopting energy conservation policies, buying and sharing equipment with other institutions and eliminating excess beds.

The House Health and Environment subcommittee is slated to hold hearings on the proposal May 11-13. ■



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On May 30, BUSINESS INSURANCE will publish its annual special *RISK MANAGEMENT SERVICES* issue. But, for the first time, this feature will also encompass the broad subjects of Safety and Security. A recent editorial in B.I. noted:

"The reason for combining these subjects with other loss prevention topics in the Services issue was simple: the overall shift in the way the risk management and insurance business now approaches loss prevention and claims handling dictated that we devote much more attention to the myriad suppliers of advice and counsel to risk and benefit managers.

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The BUSINESS INSURANCE audience of nearly 100,000 risk, financial and top management executives, leading insurance brokers, agents and consultants, underwriters and other industry influentials will be looking forward to this special *RISK MANAGEMENT SERVICES* issue (including Safety and Security) with keen interest. They know this is must reading when they are considering the purchase of services and systems which help them protect corporate assets and employes.

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