

# Business Insurance

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## Chairman, CEO both resign from Reliance Group Holdings

PHILADELPHIA—Saul Steinberg has resigned as chairman of troubled Reliance Group Holdings Inc., while George Baker has resigned as interim chief executive officer of both Reliance Group and its Reliance Insurance Co. subsidiary, according to a company spokesman.

Both men have also resigned from the Reliance Group's board of directors, the company spokesman said. See **Updates** on next page

# Asbestos claims standards raised

## London insurers to require proof of illness to curb abuses

By DOUGLAS McLEOD

LONDON—London market insurers facing a flood of new asbestos claims are about to impose tougher requirements for proving the claims, a move that some U.S. policyholders fear will make it harder and more costly to resolve asbestos injury cases.

Responding to a surprising rise in asbestos claims over the last two years, London insurers, led by reinsurer Equitas Ltd., say they will now require each bodily injury claim to be backed by medical

evidence of the claimant's illness. Claims must also include proof that the claimant was exposed to asbestos for which the policyholder is responsible. The new requirements will go into effect June 1.

Previously, London insurers reimbursed losses without demanding this level of documentation, particularly in so-called "inventory settlements" that disposed of large numbers of asbestos-related claims at once.

Inventory settlements—accounting for the majority of asbestos-related losses paid by the London market to date—have created abuses in which people reportedly exposed to asbestos but with no actual injury are being paid along with legitimate claimants, according to Glenn Brace, head of asbestos, pollution and health hazard claims for Equitas. Equitas, the runoff reinsurer for Lloyd's of

U.K. labor unions voice asbestos concerns...page 37

London syndicates' pre-1993 long-tail liabilities, was created in part because of the massive asbestos-related losses the Lloyd's market suffered during the 1980s.

"This is one step to limit abuses in what has become an asbestos litigation industry," he said.

"It's pretty clear that increasing sums of money are being paid out to people who are not injured," an Equitas spokesman added. "In many cases, the sums being paid out are not that large, but when you are talking about hundreds and hundreds of thousands of claims, you're talking about a very significant

See **Equitas** on page 41

# House passes pension reform

## Approved by wide margin

By MARK A. HOFMANN

WASHINGTON—The next few weeks could be crucial for long-awaited pension reform.

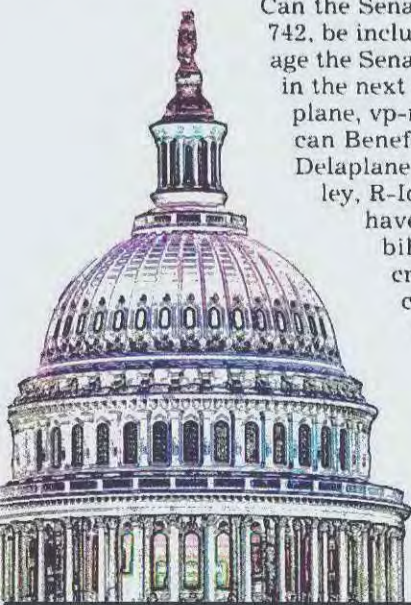
That's because the Senate will be taking up the issue against the backdrop of the House's 407-24 vote on May 2 in favor of H.R. 10—better known as the Portman-Cardin pension reform bill, after chief sponsors Reps. Rob Portman, R-Ohio, and Ben Cardin, D-Md.

The House gave its overwhelming approval to a virtually identical version of the measure last year, but that bill died in the Senate due to disagreements over tax policy.

"The real critical next step is in the Senate. Can the Senate version of this legislation, S. 742, be included in the large tax relief package the Senate Finance Committee will craft in the next two weeks?" asked James Delaplaine, vp-retirement policy for the American Benefits Council in Washington. Mr. Delaplaine noted that Sens. Charles Grassley, R-Iowa, and Max Baucus, D-Mont., have introduced virtually the same bill, with a few additional tax credits for lower- and middle-income workers and small businesses.

"Obviously, the House has decided that this would be a necessary tool" for enhancing American workers' retirement savings, said Kyle Brown, an attorney with Watson Wyatt Worldwide in Washington. "It was passed by the House to-

See **Pensions** on page 43



## Overconcentration may create liability

# Employer stock levels heighten 401(k) risks

By JUDY GREENWALD

Employer stocks in some 401(k) retirement plans could be time bombs waiting to explode.

A significant amount of employer stock in 401(k) plans, an uncertain stock market and massive layoffs could prove to be a volatile combination for some employers, say many observers.

Employees of troubled companies could find themselves not only without jobs but also with diminished retirement funds as the price of their employers' stock declines. As a result, employers could face litigation, increased government regulation or both, benefit experts say.

Plan sponsors are "becoming more and more concerned about it, because, obviously, the markets have not been kind to many companies," said Erik Daley, Seattle-based director of business development for Investmart Inc., a retirement financial services firm that works with employers.

But there also are concrete benefits to employee investment in their employers through 401(k) plans, including improved morale and productivity, observers note. And, until recently, many employees' retirement nest eggs grew by leaps and bounds in the long bull market.

The best approach for employers is to institute better employee investment education, benefit sources say. Other observers advocate voluntary or mandatory limits on employer

See **Stocks** on page 39



**RIMS REPORT 2001:  
Conference coverage  
begins on page 10**

**Buffett addresses  
Berkshire Hathaway's  
future page 3**

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**INSIDE**



● A federal appeals court ruled that the operator of an EAP was justified in terminating a counselor

after she refused to advise a homosexual client. PAGE 4



● The U.S. government is proposing three rules to address the safe operation of Mexican trucks in the United States after a panel rules that NAFTA requires the lifting of some restrictions. PAGE 6

● Congress should make clear that the ADEA does not apply to benefits offered to retirees not old enough to qualify for Medicare, this week's editorial says. PAGE 8



● U.S. global corporations were the main targets for anti-capitalist protesters who on May 1 took to the streets of several cities around the world, including London, Sydney and Berlin. PAGE 37

● U.K. insurers announced they are placing additional limitations on the use of genetic test results. PAGE 37

**DEPARTMENTS**

Advertiser Index	42
Commentary	41
Classifieds	38
Errors & Omissions	6
Global Briefs	37
Insurance Services Guide	36
International	37
Opinions	8
Ticker	43

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**UPDATES**

*Continued from previous page*

spokesman said. Howard Steinberg, a former Reliance Group executive vp who is not related to Saul Steinberg, is now acting president and CEO of Reliance Insurance.



Saul Steinberg

In addition, David Breitling has been onsite since the beginning of April to monitor Philadelphia-based Reliance Insurance Co. operations on behalf of the Pennsylvania Insurance Department, said an Insurance Department spokeswoman. Reliance

was placed under formal regulatory supervision in February (*BI*, Feb. 26). "We continue our discussions with the state of Pennsylvania regarding a restructuring plan for the company. In the meantime, we continue to operate in a runoff mode," the Reliance spokesman said. "The remaining senior management of Reliance Group continues to do what they have been doing in terms of running the operation." Reliance closed its doors and sold many of its operations last year as a result of a huge debt burden and dismal underwriting results. According to an April filing by Reliance Group with the Securities and Exchange Commission, Reliance Insurance Co. recorded an estimated underwriting loss of \$1.9 billion to \$2 billion for last year, excluding net investment income, realized gains on investments and the gain on the sale of its surety operations. The estimated loss includes an increase in net loss reserves of an estimated \$1 billion to \$1.2 billion. These figures are subject to an ongoing audit by Deloitte & Touche L.L.P., according to the SEC filing.

► **LOYD'S GROWS IN U.S.** Lloyd's of London said its premium volume from U.S. business rose 23% for 2000, with substantial growth seen in most lines. U.S. gross premiums placed in the Lloyd's market in the 2000 underwriting year totaled \$5.9 billion, up from \$4.8 billion in 1999. The United States is Lloyd's

biggest market, accounting for more than one-third of its total premiums. "This increase is a reflection of the hardening rates that began to appear in 2000, especially in the areas of surplus lines and reinsurance, in which Lloyd's has historically been a key player," Wendy Baker, president of Lloyd's America Inc. in New York, said in a statement. Direct business showed "considerable growth," rising 21.4%, to \$3.4 billion, Lloyd's said. Property premiums rose 3%, to \$1.3 billion; general liability premiums improved 15%, to \$860 million; and marine premiums increased 41%, to \$391 million. Reinsurance accounted for some \$2.4 billion of Lloyd's U.S. premiums for 2000. Property and general liability lines made up for the majority of this business, contributing \$1 billion and \$500 million, respectively. Lloyd's later this month will publish its full financial results for 1998, the last year to close under the market's three-year accounting system.

► **UNIFI LAYOFFS** Benefit consultant Unifi Network has laid off 188 employees, or about 6% of its staff of 3,100, largely due to a slowing economy. "As the economy has slowed, employers are deferring discretionary purchases," said Reed Keller, an Atlanta-based global business leader of Unifi, a unit of PricewaterhouseCoopers

L.L.P. in New York. Most layoffs are in Unifi's outsourcing operations, which grew by nearly 45% over Unifi's last fiscal year. While outsourcing growth continues at a robust rate, its pace has eased since last year, he said. Another factor contributing to the layoffs are improvements in technology that allow more work to be done by fewer individuals, he said. While not providing specific numbers, company officials said that only a small percentage of those laid off are consultants. A majority of the layoffs were in Unifi's New Jersey offices, where its outsourcing operations are concentrated. Laid-off employees are receiving a competitive severance package, Mr. Keller said. Earlier, PwC said it retained investment banker Morgan Stanley to review a wide range of possible transactions, including the sale of Unifi (*BI*, April 2). No decision regarding Unifi's future has yet been made, Mr. Keller said.

► **NEW CAT REINSURER** Hannover Re Group has established a property catastrophe reinsurance subsidiary in Bermuda. The Hannover, Germany-based reinsurance group's new unit, Hannover Re (Bermuda) Ltd., will write property catastrophe excess-of-loss business and plans to develop a proprietary catastrophe simulation model. Hannover Re (Bermuda), which has shareholders equity of 250 million euros (\$223.3 million), joins a string of other property cat reinsurers in Bermuda. Konrad Rentrup will be managing director of the new Hannover Re unit.

► **RISK CONSULTANTS FORMED** In separate announcements last week, The St. Paul Cos. Inc. and Zurich Financial Services Group Inc. each have launched risk management consulting units. The St. Paul's Oakland, Calif.-based Octagon Risk Services unit will provide risk management consulting, third-party



**ZURICH**

administration and claims handling services through its 14 offices. Octagon comprises the former Professional Risk Management operation and other claim services. PRM was a division of Deerfield, Ill.-based MMI Cos. Inc., a medical malpractice specialty insurer that St. Paul acquired last year. ZFS' Zurich IC<sup>2</sup> SM, which has

offices in Boston; London; and Zurich, Switzerland, formed to help companies assess business risks and capitalize on them. Wolfgang Friedel, president and chief executive officer of Zurich IC<sup>2</sup> SM, said the consulting unit's name was "short for 'intellectual capital.'" Zurich IC<sup>2</sup> SM consultants will also advise customers regarding corporate governance requirements.

► **MARKET HARDENING FORECAST** Risk managers overwhelmingly expect the insurance market to harden further in the next two years, affecting pricing and availability, according to a survey conducted by Liberty Mutual Insurance Co. Liberty Mutual's sixth annual survey, released at the Risk & Insurance Management Society Inc. annual conference last week in Atlanta, found that 74.5% of 200 respondents said the market will continue hardening. Another 17.5% said they expect the market to stay the same, while just 3.5% said they expect conditions to improve for buyers. Asked about the most serious issues they face, one-third of the respondents cited rising insurance prices

and the cost of departmental operations. Those concerns are leading to changes in behavior, said Karl Jacobson, senior vp and general manager of loss



prevention for Boston-based Liberty Mutual. For example, 61.5% of respondents said they are likely to increase their deductibles over the next two years. Also, 46.5% of respondents said they have considered integrated disability management, or the combining of workers compensation with short-term and long-term disability coverages. The survey also found that risk managers are concerned about the challenges that accompany overseas operations and online privacy issues that affect their insurance operations.

► **FOCUS ON LOCAL RISKS** A new Chubb Corp. study shows that despite the emergence of new and more far-flung exposures, risk managers tend to devote most of their focus to traditional risks and those closest to home. In the study, released at RIMS' annual conference last week in Atlanta, 43% of the 315 survey respondents reported that at least one-quarter of their companies' revenues come from international operations. But only 16% indicated they consider international risks a greater threat to their companies than domestic risks. And while 87% reported purchasing insurance for their international operations from the home office, only 28.6% reported a high level of contact with the foreign sites in



designing and managing the insurance programs. Given a chance to rank their level of concern for each of 22 different risks, survey respondents listed general/legal liability, property damage, professional liability and workers compensation as those posing the greatest concern. Meanwhile, more than 70% of those surveyed indicated they expect risks to electronic assets to become a greater concern internationally over the next few years, and over 80% expected such exposures to become more significant on the domestic front. But only 46% reported they currently have a high level of contact with their companies' information technology departments in designing and managing their property/casualty insurance programs.

► **BRIEFLY NOTED** Mary Jane England, president of the Washington Business Group on Health for the last 11 years, will leave the 165-employer member health policy organization at the end of next month. Dr. England will become president of Regis College in Weston, Mass., which she attended as an undergraduate. Kathleen King, WBGH's vp, will serve as interim president until a permanent successor is named....Alfonso Desiata has been ousted as chairman of Assicurazioni Generali S.p.A. and has been replaced by Gianfranco Guty, the insurer's CEO. The move, Generali's third change in chairman in three years, took place late last month at the insurer's annual meeting. The ouster was led by Generali's largest shareholder, Italian investment bank Mediobanca. Mr. Desiata has been a Generali executive for 40 years. **BI**

► To get breaking news as it occurs, visit *Business Insurance's* free online Updates at [www.businessinsurance.com](http://www.businessinsurance.com). All of the material in the Updates column, as well as other content in this week's issue, is generated from daily news postings that appeared on the Web site in the previous week.

# Berkshire to add to its insurance business

By MARK A. HOFMANN

OMAHA, Neb.—Insurance is likely to become an even bigger part of the mix of businesses that make up Berkshire Hathaway Inc., according to the company's chairman.

Insurance already constitutes the biggest single segment of Berkshire Hathaway's holdings, something Chairman Warren Buffett said he would not have predicted years ago. That observation, made by Mr. Buffett during the company's annual meeting in Omaha last month, came in response to a question about what he expects Berkshire Hathaway to look like in 20 years. Last year, Berkshire Hathaway added to its existing insurance holdings—which in-

clude Berkshire Hathaway Reinsurance Group, General Reinsurance Corp., Berkshire Hathaway Direct Insurance Group and personal lines automobile insurer GEICO Corp.—by acquiring King of Prussia, Pa.-based specialty insurer United States Liability Insurance Group.

"Few property/casualty companies are outstanding businesses. We have far more than our share, and U.S. Liability adds luster to the collection," wrote Mr. Buffett in his Feb. 28 annual letter to stockholders.

Growth of Berkshire Hathaway's insurance operations wasn't the only thing on Mr. Buffett's mind as he fielded questions at the company's annual meeting at the Omaha

Civic Auditorium. His responses touched on such varied topics as the civil justice system, the reliability of assumptions made by pension plan managers and consultants, and the impact of state-based insurance regulation on Berkshire Hathaway's operations. Occasionally, Berkshire Hathaway's legendary laconic vice chairman, Charlie Munger, would add his comments.

Unlike last year, Mr. Buffett did not have to spend time at this year's meeting defending his decision to avoid Internet stocks. Instead, he drew praise from his shareholder questioners for avoiding those stocks in favor of "old economy" acquisitions such as paint and building. See **Berkshire** on page 42



PHOTO: AP/WIDE WORLD  
Berkshire Hathaway Inc. Chairman Warren Buffett told shareholders that he expects the company to increase its insurance presence in the future.

## More companies helping employees fund education

By LEE FLETCHER

Tuition reimbursement programs offered by companies as a benefit to their employees are alive, well and growing.

"Work and Life Benefits Provided by Major U.S. Companies in 2000," a survey by Hewitt Associates L.L.C. re-

ported in late April, reported that, of the 1,020 companies that were surveyed, 77% of respondents said they offer education reimbursement programs. This number is up 3% from Hewitt's survey for 1999.



ported in late April, reported that, of the 1,020 companies that were surveyed, 77% of respondents said they offer education reimbursement programs. This number is up 3% from Hewitt's survey for 1999.

Cathy Saka, a work/life consultant with Lincolnshire, Ill.-based Hewitt, said that tuition reimbursement benefits can help cement relationships between employees and employers.

"It's a great work/life benefit, because anybody can take advantage of it," Ms. Saka said. "It's not so specific, like a child care program, where you have to have kids to take advantage of it."

Kenneth R. Dauscher, senior vp at the Insurance Institute of America in Malvern, Pa., which provides professional educational programs, said the growth in tu-

ition reimbursement programs stems from employers' growing awareness that they must develop the "intellectual capital" of their employees.

Mr. Dauscher said that a good employee, when seeking a position, looks for an organization that promotes development through education and training.

"I think companies, every once in a while, realize that they have to invest in their employees. And if they don't have a program, they need to institute one, or they need to beef up the one that they have," he said.

Ms. Saka said employers that offer tuition reimbursement programs pay, on average, \$2,000 annually per participant. She said that money "really covers all levels, whether it's a bachelor's or master's degree."

Mr. Dauscher said that, in general, companies that offer such programs reimburse from 80% to 100% of the cost of an employee's tuition. "Most companies realize that if they don't pay the vast majority of the cost, the employees don't really have the wherewithal to get involved and do it," he said.

Under current law, set to expire Dec. 31, an employer can reimburse an employee for up to \$5,250 in undergraduate educational expenses without the employee paying taxes on the contributions. Under legislation pending in the Senate, the tax-favored status of tuition reimbursement programs would be made permanent and would be broadened to cover graduate education. See **Tuition** on page 43

## SHRM surveys employers

# Work/life benefits growing

By MICHAEL PRINCE

The number of employers that offer benefits designed to help employees balance their work and personal lives has increased significantly since 1997, according to a recent survey.

The 2001 SHRM Benefits Survey was conducted by the Society for Human Resource Management, a nonprofit group located in Alexandria, Va. According to this year's survey, the society's fifth, that 69% of responding employers now offer dependent care flexible spending accounts, up from 58% in 1997.

The results are based on responses provided by 754 human resource professionals, each of whom indicated whether his or her organization offered specific employee benefits.

Virtually every category of family-friendly benefits has become more popular since 1997, when the annual survey was first done. These include flextime, telecommuting, compressed workweeks and job sharing. More respondents also offer child care referral services, up from 15% in 1997's survey to 20% in 2001; and elder care referral services, up from 13% to 19%.

While the survey did not ask employers their reasons for offering such benefits, the study's authors surmised that the increases stem from the competition for employees.

See **Benefits** on page 41

### Adding to offerings

Type of benefit	1997	2001
Dependent care flexible spending account	58%	69%
Flextime	46	58
Telecommuting	20	37
Child care referral service	15	20
Elder care referral service	13	19
Lactation area	3	16
Vision insurance	54	71
Employee assistance program	58	67
Retiree health care benefits	41	33
Legal assistance services	15	21
Retirement planning services	36	43
Financial planning services	20	28
Paid time off plan	33	62
Sabbatical program (unpaid)	23	14
Medical flexible spending accounts	55	69

Source: Society for Human Resource Management

## Successors entitled to coverage

### Company assuming liabilities should get policy benefits: Court

By JUDY GREENWALD

LOS ANGELES—A California appellate court ruled that a successor corporation is entitled to the insurance policy benefits of its predecessor company if it has assumed its liabilities, even if the policies have not been assigned, provided the claims arose during the period before the business was transferred.

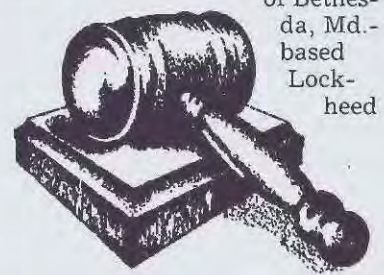
In its April 30 ruling in *Henkel Corp. vs. Lloyd's of London*, a three-judge panel said that under these circumstances, a successor corporation is entitled to defense and indemnity benefits under the predecessor's liability insurance policies as an "operation of law."

"To hold otherwise would provide an unfair windfall to the insurers that had expressly

underwritten these particular risks and had received premiums," the decision said.

The decision added that "permitting the successor to receive the promised policy benefits would not increase the risk to any insurer and would be consistent with the objectively reasonable expectations of all parties."

The case arose out of mass tort litigation brought by employees of Bethesda, Md.-based Lockheed



Martin Corp. in connection with exposure to toxic chemical products.

Gulf Mills, Pa.-based Henkel Corp., a unit of the Dusseldorf, Germany-based Henkel Group, had assumed the metalworking chemical products business of Amchem Products Inc. Henkel paid a \$7.7 million settlement in the Lockheed litigation in 1995, then sought to recoup settlement and defense costs from the insurers involved in this part of the complex litigation—the Hartford, Conn.-based Hartford Accident & Indemnity Co., part of the Hartford Insurance Group; and Century Indemnity Co., which is now part of ACE Ltd.

Also a party in the appeal is New York-based Rhone-See **Coverage** on page 41

# Court overturns religious discrimination award

By JUDY GREENWALD

NEW ORLEANS—A federal appellate court ruled that a medical center that operated an employee assistance program was justified in terminating a counselor after she refused to counsel a homosexual, finding that accommodating her religious beliefs would have caused the center "undue hardship."

A jury in the case, *Sandra M. Bruff vs. North Mississippi Health Services Inc.*, had originally awarded Ms. Bruff \$2.1 million in damages for her claim of religious discrimination, though the trial court later reduced that to \$333,000.

In overturning the verdict, a three-judge panel of the 5th U.S. Circuit of Appeals also concluded

in its recent decision that the trial judge should have granted summary judgment, dismissing the case before it even reached a jury. Ms. Bruff's attorney has asked for a rehearing.

According to the decision, Ms. Bruff worked as one of three counselors at an EAP run by the Tupelo, Miss.-based North Mississippi Medical Center, which provided

counseling to the employees of various businesses in the region. In 1996, Ms. Bruff refused to counsel a woman who asked for help in improving her relationship with her female partner. Ms. Bruff said homosexual behavior conflicted with her religious beliefs.

Ms. Bruff asked to be excused from providing help for those in homosexual relationships. The

medical center's management determined that shifting that responsibility to the two other EAP counselors to accommodate Ms. Bruff would not be feasible, according to the decision. Ms. Bruff was terminated after attempts to find another position within the medical center acceptable to her were unsuccessful.

A focus in the October 1998 trial was Ms. Bruff's religious beliefs regarding homosexuality. Two Baptist ministers testified for the plaintiff that homosexuality was a sin, said the medical center's attorney, Luther Munford of Phelps Dunbar L.L.P. in Jackson, Miss.

A jury awarded Ms. Bruff \$33,000 in back pay, \$326,000 in compensatory damages and \$1.7 million in punitive damages. Acting under a federal statute, the trial judge reduced the total compensatory and punitive damages part of the award to the statutory maximum of \$300,000.

In reversing that court's decision, the 5th Circuit's decision says that Ms. Bruff contends that, under federal law, the medical center "must excuse her from counseling on all subjects of concern at all times." Ms. Bruff "apparently assumed she would only have to perform those aspects of the position she found acceptable," the appellate decision says. But federal law "does not require an employer to accommodate such an inflexible position," the court concludes.

Given the size of the EAP staff and other circumstances, requiring one or both of the other counselors to assume a disproportionate workload to accommodate Ms. Bruff "is an undue hardship as a matter of law," the 5th Circuit's decision says.

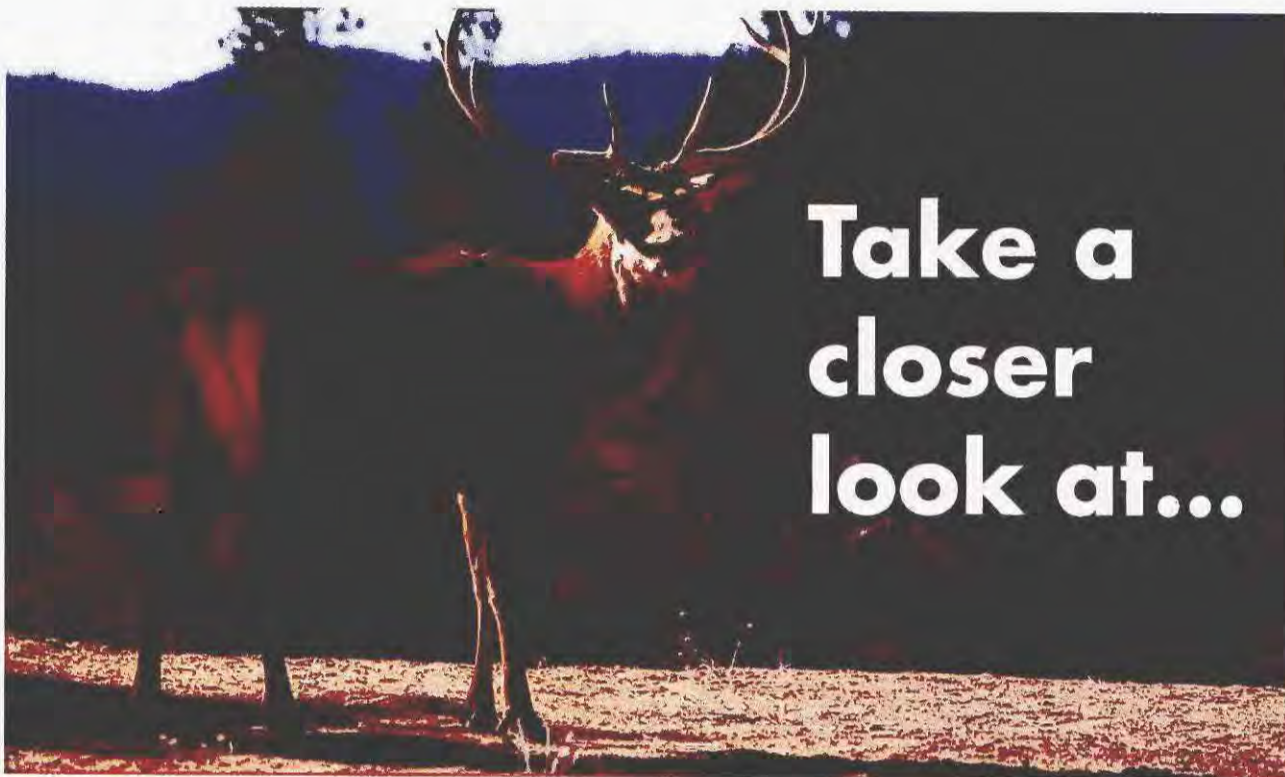
"Considering that Bruff's expressed requirement to be excused from counseling on any subjects that might conflict with her religious beliefs essentially would give her unlimited authority to determine what those conflicts are, and when she must be accommodated, more conflicts would appear to be givens," the court's decision says.

The decision also says the center fulfilled its obligation to offer her a reasonable accommodation by giving her 30 days to find another position and offering her the help of an in-house employment counselor.

The appellate decision says the trial court was correct in dismissing Ms. Bruff's claim that the medical center was asking her to violate Mississippi state sodomy laws, which make certain sexual acts unlawful. "Nothing in the record suggests that she, or any other counselor, was ever asked to counsel anyone on the performance of sexual acts," says the decision, noting it found that argument "specious."

Richard Tuschman, an employment attorney in Baker & McKenzie's Miami office, said that the 5th Circuit's decision "does not change the general rule that an employer must accommodate an employer's sincerely held religious beliefs unless doing so would create an undue hardship."

*Sandra M. Bruff vs. North Mississippi Health Services Inc.; North Mississippi Medical Center Inc. 5th U.S. Circuit Court of Appeals, No. 99-60175.*



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PHOTO: NEWSMAKERS

A U.S. Department of Transportation employee inspects a tractor-trailer about to enter the United States at Laredo, Texas. Recently proposed rules aim to improve safety in cross-border trucking.

# NAFTA truck rules proposed

Mexican companies would have to comply with U.S. standards

By MEG FLETCHER

WASHINGTON—The Federal Motor Carrier Safety Administration is proposing three rules addressing the safe operation of Mexican trucks in the United States as it begins implementing an arbitration panel's ruling that the North American Free Trade Agreement requires the United States to lift some restrictions on cross-border trucking.

Several U.S. insurer and consumer groups are concerned that

opening the borders may increase the number of hazardous trucks and unregulated drivers on the highways, overwhelming enforcement efforts and resulting in more accidents (*BI*, March 19). The law, though, requires that all NAFTA trucks operating in the United States meet U.S. safety standards.

Two agency proposals would establish separate application forms and processes for Mexican trucking companies seeking authority from the U.S. Department of Transportation to oper-

ate nationwide or solely within U.S. municipalities and commercial zones adjacent to Mexico, according to a Department of Transportation statement. A successful applicant would receive a USDOT number, allowing the trucking company to operate in the United States.

A third proposal would establish a safety monitoring and enforcement system "to help determine whether Mexican carriers conducting business anywhere in the U.S. comply with applicable safety regulations and conduct safe operations," the statement said.

The proposal would require each approved Mexican entrant to undergo at least one safety audit within 18 months of receiving authority to operate in the United States. The audit would include a review of information that includes records related to a driver's medical qualifications, hours of service and drug and alcohol testing. The audit also would review vehicle records concerning inspections, maintenance and repair.

Under the proposed rule, a trucking company that does not satisfactorily exercise basic safety management controls could lose its operating authority and be required to cease U.S. operations.

The agency also is developing a plan for a comparable safety monitoring system for all new U.S. and Canadian trucking companies applying to conduct cross-border operations, as required by the Motor Carrier Safety Improvement Act of 1999.

The proposed rules can be viewed on the Department of Transportation's Web site, [dms.dot.gov](http://dms.dot.gov). The site also provides details about how to comment on the proposals. The comment deadline is July 2.

The transportation department expects to permit authorized Mexican carriers to operate throughout the United States before the end of the year.

In an unrelated development, a new study confirms that the reflective tape now required on new big trucks makes them easier to see and is effective in preventing collisions. Under the federal law, all heavy trailers will have to be equipped with the reflective tape by June 1. **BI**



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## ERRORS & OMISSIONS

• Due to an editing error, an incorrect source was cited in a graphic listing the U.S. jurisdictions without independent procurement taxes, which appeared in the April 30 issue. The National Assn. of Professional Surplus Lines Offices Ltd. provided the information.

• Due to an editing error, the Cayman Islands captive domicile profile in the April 30 issue misidentified Anthony Stelling as an executive of Marsh Management Services. Mr. Stelling is regional director of the Caribbean captive operations of Aon Insurance Managers.



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## OPINIONS

## ADEA needs clarification

If more ammunition is needed on why Congress needs to intervene to effectively undo a potentially disastrous federal appeals court ruling, U.S. District Court Judge Sean McLaughlin recently supplied it.

As we recently reported, Judge McLaughlin ruled that Erie County, Pa., violated the federal age discrimination law by providing older retirees with a "lesser" health care benefit package than it offered pre-Medicare-eligible retirees (*BI*, April 30).

Under Erie County's arrangement, most younger retirees were offered coverage in a point-of-service plan, while older retirees received coverage through a Medicare health maintenance organization. Judge McLaughlin said the POS plan was "objectively superior" to the Medicare HMO because it allows participants to choose, on a service-by-service basis, to use network providers with low cost sharing, or to go outside the network, albeit with greater cost sharing. No such choice was offered in the HMO.

In addition, the judge ruled that older retirees were discriminated against because they paid a greater portion of health care premiums—chiefly because they paid Medicare Part B premiums—compared to younger retirees, while older retirees' drug benefit was not quite as rich.

It would be wrong to say that Judge McLaughlin ruled incorrectly. In fact, his hands were essentially tied. As a district court judge in the same appeals court circuit, he was bound to follow a ruling handed down last year by the 3rd U.S. Circuit Court of Appeals. The appeals court said that under the Age Discrimination in Employment Act, age discrimination suits can be brought against employers that provide lesser health care benefits to Medicare-eligible retirees than to other, younger retirees.

That ruling stunned employers that thought—for good reason—that ADEA applied only to employees and not to retirees.

The legislative history behind the ADEA shows pretty clearly that Congress intended the law to apply only to the benefit programs an employer

offers to active employees.

While the appeals court acknowledged that history, the judges ruled, perhaps with some justification, that nothing in the legislative language itself excludes retirees and the benefit plans offered to such individuals.

That's a wording glitch that Congress must address, unless it wants to see employers terminate or cut retiree health care plans even faster than they currently are doing.

Regardless of how it is interpreted, ADEA allows employers to prove that plans don't discriminate if they spend the same amount of money for older benefit plan participants as they do for younger enrollees, or if the benefits for the two groups are equal.

In the case of retiree health plans, an equal-cost defense isn't very practical. An employer's cost for older retirees always is going to be much less than for younger retirees, because Medicare provides basic health care coverage for retirees 65 and older. To comply with the equal-cost rule, employers could enrich older retirees' health care packages. But at a time of double-digit health care cost inflation, the likelihood of that is about zero.

Alternatively, employers could provide equal benefits to the two groups, but that too poses difficult, if not insurmountable, problems. For starters, courts could have to wrestle for years to determine what exactly constitutes equal benefit packages, and there is no certainty there would be any uniformity in how courts ruled. While Judge McLaughlin said a POS plan is superior to an HMO, other courts could rule differently. The result: endless litigation and uncertainty—hardly an environment conducive for employers to maintain plans.

There is yet another possibility, but it would not be in the public interest any more than the others. Employers could maintain an "equal" health care plan, such as a prescription drug-only plan, for the two groups. We doubt that younger retirees, whose benefits would be slashed, would endorse that approach.



To be sure, employers could walk away from the whole mess and get out of the retiree health care business. Then they wouldn't have to worry about ADEA being applied to their retiree care plans.

In short, all the strategies for complying with the appeals court decision clash with the result of the public policy goal of encouraging employers to maintain retiree health care plans.

The action that does make sense is for Congress to do what we believe it intended but did not do in crafting ADEA: make clear that the law does not apply to pre-Medicare and Medicare-eligible retirees. Because of the role Medicare plays, the benefit needs of these two groups are different. Congress needs to rewrite ADEA to make that clear.

## LETTERS TO THE EDITOR

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# RIMS REPORT 2001

## RIMS forges ahead with renewed pride, purpose

By MICHAEL BRADFORD

ATLANTA—The Risk & Insurance Management Society Inc. is charging into its second half-century with a new sense of pride and purpose, the organization's new president has declared.

In his first speech as the society's president, David Mair told risk managers that "we will not move forward as a society hesitantly; our profession demands more of us." Mr. Mair added that RIMS will not "advance apologetically"; it will, he said, pursue its goals "with vigor and with strength."

Mr. Mair, who is associate director for risk management at the United States Olympic Committee, spoke at RIMS' annual membership meeting, which kicked off the society's 39th Annual Conference and Exhibition at the Georgia World Congress Center in Atlanta. He urged his colleagues to show pride in their profession and challenged them to raise the profile of risk management.

The meeting also provided the opportunity for RIMS to officially announce its revamped Web site and make an-

nouncements regarding new membership efforts in Japan and a partnership with *Business Insurance* to produce the magazine's annual Risk Manager of the Year award.

Mr. Mair reminded risk managers that they should take "great pride in who we are as a society, as a profession and as professionals," while shedding a sometimes-apologetic attitude.

"As professionals, we can take pride in what we do every day to ensure the health and safety of employees who may never have the chance to meet us," he told his audience, "and in providing risk management solutions to allow our organizations to meet their missions."

Instead of being proud of the profession, risk managers sometimes find themselves "on the verge of being apologetic about what we do," Mr. Mair remarked. He warned that "we have to be very careful about that. In talking with people, I think I've come to understand that the reason we are apologetic is not because we believe that the work we do is of meager quality...but because we, as

See **Breakfast** on page 34



Atlanta hosted the 39th Risk & Insurance Management Society Inc. Annual Conference and Exhibition at the Georgia World Congress Center. At right, incoming RIMS President David Mair spoke about the society's future during RIMS' annual membership meeting.

PHOTOS MICHAEL MARGOTTE



## BI, RIMS to co-sponsor annual awards

*Business Insurance* will partner with the Risk & Insurance Management Society Inc. on future Risk Manager of the Year and Risk Management Honor Roll awards.

New York-based RIMS will assist with promoting the awards and nominations among its membership, though the competition will remain open to all risk managers worldwide. RIMS also will join *BI* at award luncheons held to recognize the Risk Manager of the Year and Risk Management Honor Roll. The winners will be announced at the annual conference of RIMS, to coincide with *BI*'s publication of profiles of the winners.

Criteria for the award will remain unchanged, and the winner will continue to be selected by a panel of independent judges. To further ensure the independence of the award process, *BI* and RIMS will obtain the services of an outside auditor to compile the scores and submit the names of the winners.

The first co-sponsored awards will be presented at RIMS' 40th annual conference and exhibition in New Orleans, April 14-18, 2002.

"We're excited about the partnership with RIMS and

the opportunity to gain wider recognition for the winners among their peers and by the leading risk management organization in the world," said *Business Insurance* Editor Paul D. Winston. "We're quite proud of the awards we've created and the caliber of winners over the years, and we expect that to continue under this partnership."

"This is a huge step forward for both organizations," said Roger Andrews, president of RIMS. "It is especially appropriate as it will be the 25th anniversary of one of the most prestigious honors in the risk management profession."

*Business Insurance* created the Risk Manager of the Year award in 1977, on the 10th anniversary of the magazine. It created the Risk Management Honor Roll in 1980 to recognize other high-scoring candidates in business sectors not represented by the Risk Manager of the Year.

For more information about nominations for 2002, please contact Karen Tucker at *Business Insurance*, 312-649-5319.



PHOTO: STEPHEN NICKSON/RIMS

Past RIMS President Roger Andrews, top left, and *Business Insurance* Editor Paul D. Winston announce a partnership on the Risk Manager of the Year award.

## Award winners honored for accomplishments

By MICHAEL BRADFORD

ATLANTA—Stephen Grebenstein is the recipient of this year's Roy Judd Heart of RIMS Award, the accolade that the Risk & Insurance Management Society Inc. calls its highest honor recognizing outstanding performance on behalf of a society chapter.

Mr. Grebenstein, who is a member of the San Diego chapter and is risk manager of the San Diego Transit Corp., was recognized at RIMS' 39th Annual Conference and Exhibition in Atlanta for his work to raise the profile of risk management. He is a founder of the San Diego chapter's annual golf classic, which raises funds to sponsor worthy causes and provide educational seminars.

Mr. Grebenstein pushed for the expansion of the number of committees within the San Diego chapter to help foster

membership growth. He has served on his chapter's board of directors for nine years and has held a committee position with the national organization.

Donald M. Stuart is this year's recipient of the Harry and Dorothy Goodell Award, the annual RIMS award that honors those who help advance the practice of risk management.

Mr. Stuart, who was not on hand in Atlanta to accept the award, was recognized for his work in the development and expansion of RIMS in Canada. He was a founding member and second president of the Ontario RIMS chapter and an early advocate of self-insurance and a hands-on style of risk management.

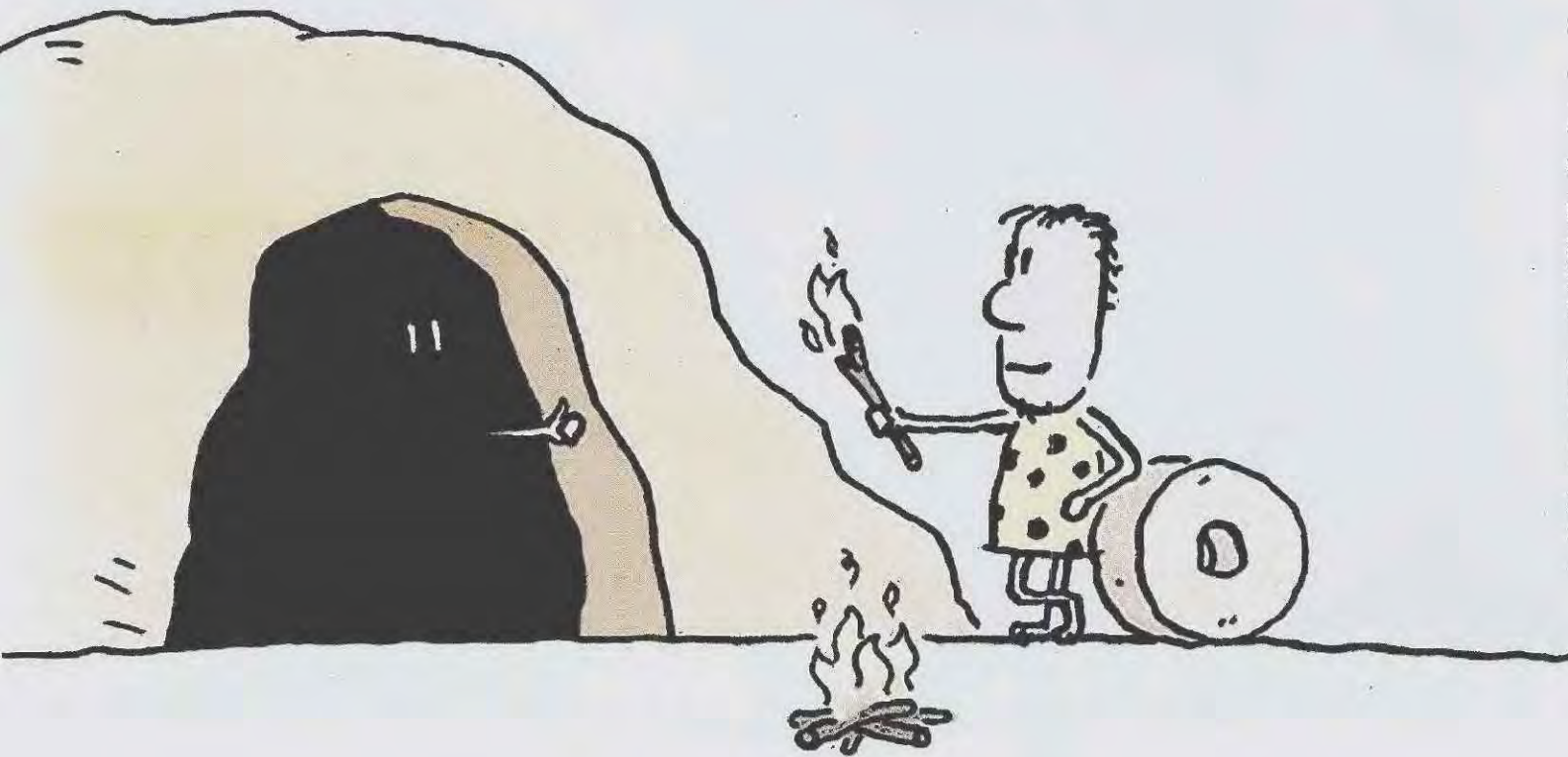
In 1978, Mr. Stuart retired after 42 years with Canada Packers Ltd., where he held various insurance and risk management positions. During his career, he

See **Awards** on page 35



PHOTOS: MICHAEL MARGOTTE

Above, Steven Grebenstein, left, risk manager, San Diego Transit Corp., receives the Heart of RIMS Award from Roger Andrews, past president of RIMS. At right, Richard Heydinger receives the Richard W. Bland Award from Barbara Harris, president of RIMS' Greater Kansas City Chapter, and Mr. Andrews.



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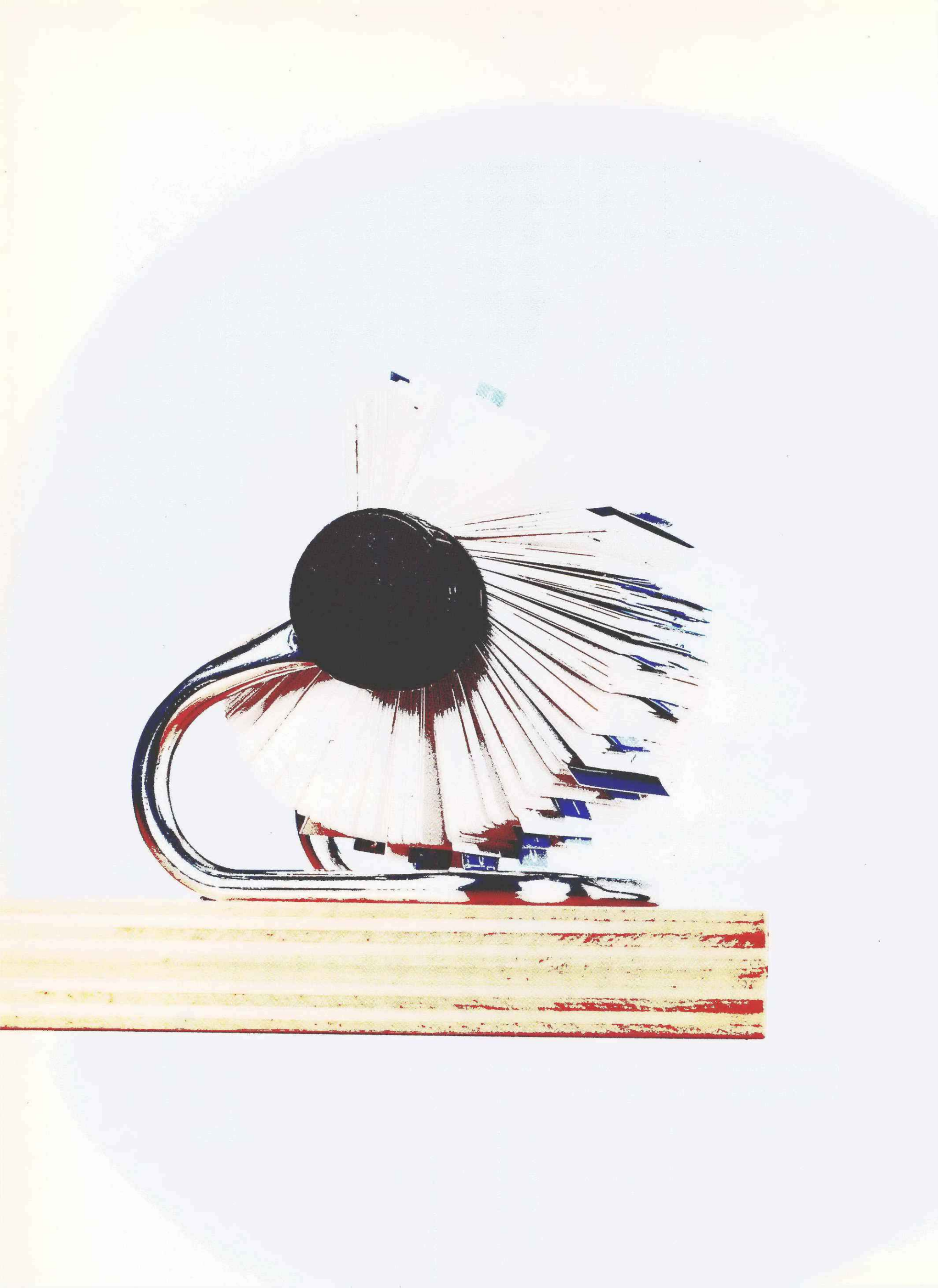
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# Implementation of safety programs poses difficulties

By MICHAEL BRADFORD

ATLANTA—Identify the top four workers compensation injuries, take steps to prevent them and save a bundle of money.

Sound simple enough?

"Unfortunately, it's not quite that easy," said Gregg Schieffelbein, risk consultant with Staff Leasing Group in Atlanta. "The hard part is to integrate it within the organization."

Speaking during an educational session at the Risk & Insurance Management Society Inc.'s annual

conference in Atlanta last week, Mr. Schieffelbein explained that, while it is important to determine the most frequent causes of workplace injuries, programs to prevent them often are developed "in a bubble."

Once the programs are introduced on the job, he said, "you start running into roadblocks."

At Staff Leasing, a company that provides payroll, workers comp, benefits and other services to employers, the top causes of workplace injuries turned out to be slips, trips and falls. The next three causes

were materials handling injuries; "struck by," or accidents in which workers are hit by machinery or equipment; and vehicle accidents.

Taken together, such injuries accounted for 81% of the company's workers comp claims dollars in 2000 and have represented similar percentages in previous years, said Mitzi Dykes, projects risk manager at Staff Leasing in DeLand, Fla. Joining Mr. Schieffelbein as a speaker, Ms. Dykes said it is likely that those are the most common injuries among most employers.

Mr. Schieffelbein said that get-

ting employee and management support is the critical first step. "My thought is, go as high and wide as possible," he said. That means not only selling the idea to senior management but also ensuring that midlevel managers and employees are included in the early stages of the process.

If those groups aren't behind the effort, Mr. Schieffelbein said, "it will never fly."

Part of the process of preventing injuries is determining why they happen, he said. Mr. Schieffelbein said that unsafe behavior accounts

for about 80% of workplace accidents, while unsafe conditions account for the remaining 20%. Most unsafe actions can be traced back to a lack of adequate safety management, he said.

A lot of the methods for preventing accidents are basic "Loss Prevention 101" techniques, Mr. Schieffelbein said. "I'm a huge proponent of drug screening," he said by way of example. Such programs, he said, can reduce accidents, increase

*'My thought is, go as high and wide as possible' when trying to generate support for safety programs.*

— Gregg Schieffelbein  
Staff Leasing Group

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productivity and lower the risk of theft by employees.

Decreasing the occurrence of slips, trips and falls can be as simple as making sure all employees practice good housekeeping by keeping floors free of hazards, prohibiting inappropriate horseplay, making sure workers use appropriate footwear, cleaning up spills promptly and taking other common-sense measures, Mr. Schieffelbein said.

Ms. Dykes stressed the importance of proper materials handling in reducing workplace injuries.

"Training is the best prevention," she said. "We train annually on manual materials handling."

The most common handling injuries are the result of bending too much, twisting the body and reaching for heavy objects on high shelves, Ms. Dykes said. Workers can be taught proper techniques to overcome the potential injuries related to each of those movements, she said.

When injuries do occur, employers should treat workers with respect and not with suspicion, Ms. Dykes said. Often, those workers are not treated in the same way as their colleagues who suffer from ailments or injuries that are not work-related, she said.

In some cases, when dealing with an injured worker, "we have a very different attitude," Ms. Dykes said. "There's a little psychological thing," she said, "and we think, 'Is it really legitimate?'"

Often, Ms. Dykes said, there is little or no communication with workers who are off the job. "Our communication with employees when they are injured on the job stinks for most of us," she said. "We are horrible at it."

Ms. Dykes also suggested that an employer carefully consider what type of return-to-work program it has in place and make sure injured workers don't feel they are simply being given make-work tasks as a way to hold down workers comp claims. "You don't want to do anything that is going to demean someone," she said.

Ms. Dykes also served as coordinator and moderator of the session.

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# Creative approach fosters support for loss control

By JOANNE WOJCIK

ATLANTA—While it's a lot harder to sell upper management on safety and loss control programs during hard economic times, at least one risk manager has found that it can pay to be creative when seeking organizational support for such efforts.

"This is the period of time when safety programs get cut. Loss control suffers when the economy falters," said Lance Ewing, senior director of insurance and loss prevention at Las

Vegas-based GES Exposition Services Inc.

But it's a big mistake for companies to cut back on safety as a means of reducing overhead during tough economic times, especially now that the insurance market is firming, Mr. Ewing said.

In fact, he said, "that's when safety and loss prevention is extremely important."

When finances are tight, risk managers must compete with other parts of the organization for capital and resources, said

Regina Spratt, senior vp and consulting manager at Marsh Risk Consulting in Morristown, N.J.

That's why it's essential that risk managers translate into dollars-and-cents terms how safety and loss control can keep their organizations in the black, Ms. Spratt said in an educational session during the Risk & Insurance Management Society Inc.'s annual conference last week in Atlanta.

"All of us are here because our organizations need to make a profit," said Rich Sarnie, director

of risk management, insurance and security at Engelhard Corp., a Fortune 500 material service company based in Iselin, N.J. But work-related injuries take away from profitability, he said.

"I hate spending money on employee injuries. It's not like we're having 'new and improved' injuries," he quipped.

With this attitude, Mr. Sarnie applied a little creative accounting to persuade his plant managers to invest in safety and loss control.

He said he was tired of hearing

them lament that they didn't have enough money to spend on gloves, one of the relatively low-cost safety measures that helped the company reduce injuries.

Then Mr. Sarnie, who is in charge of the organization's insurance and loss control budget, decided to allocate the funds a little differently.

Rather than treating these costs as fixed line-item expenses that each plant budgeted for annually, he gave each plant a monthly stipend based on the amount they would otherwise have contributed to the organization for insurance and loss control services.

Then, each time a plant had an accident that resulted in a lost-time accident, he "charged" that plant a fee, subtracting it from its monthly stipend. And if the plant manager failed to report the incident in a timely manner, Mr. Sarnie slapped the plant with another fee.

Conversely, if a plant avoided accidents during the month, the manager was permitted to use the sum allocated for insurance and loss control to augment the plant's bottom line.

So, Mr. Sarnie explained, the plant manager could, in effect, make money by reducing lost-time accidents, because that manager's bonus was based on the plant's monthly profitability.

But if the plant had too many accidents, and the charge-backs caused it to outspend its insurance and loss control budget for the month, the plant manager would have to explain to upper management why his or her operational costs were so high, he said.

Mr. Sarnie said the charge-back system quickly dispelled the argument often made by plant managers that they couldn't afford to spend money on gloves and other safety and loss control measures. After they were hit with enough charges for accidents, he would ask simply, "How many gloves can you buy for \$7,500?" or whatever amount they had been charged.

Unfortunately, Engelhard's accounting department objected to the new the system because of its complexity, so risk management took over the function, Mr. Sarnie said.

And Mr. Sarnie said he tweaked the program after its first year, when he discovered that the penalty for late notice wasn't stringent enough.

Managers soon learned they would be charged the same \$1,000 regardless of whether they waited a week or a month to report an incident. To remedy this situation, he decided to levy an additional \$5,000 fine if the plant manager waited more than one week to report a lost-time accident.

Mr. Sarnie said that the plant managers eventually got the point and now invest in loss control. They are starting to realize, he said, that "you're either going to pay now or later."

Ms. Spratt coordinated the session, and Mr. Ewing served as moderator. **B**

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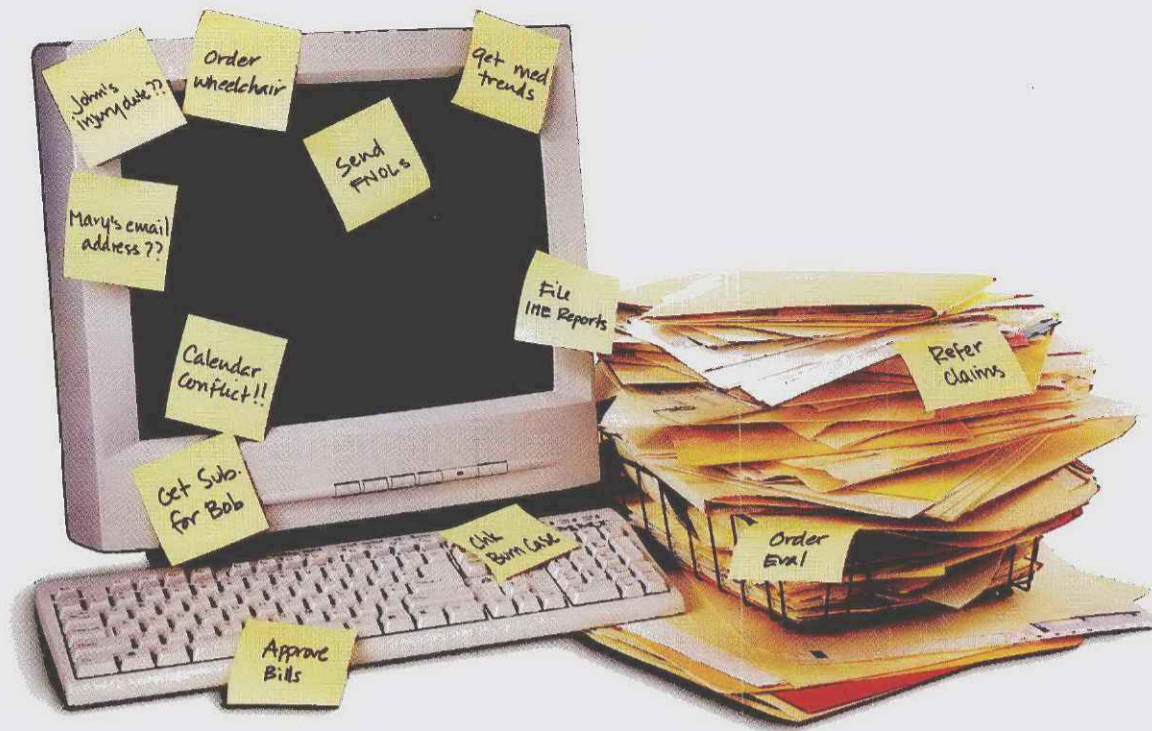


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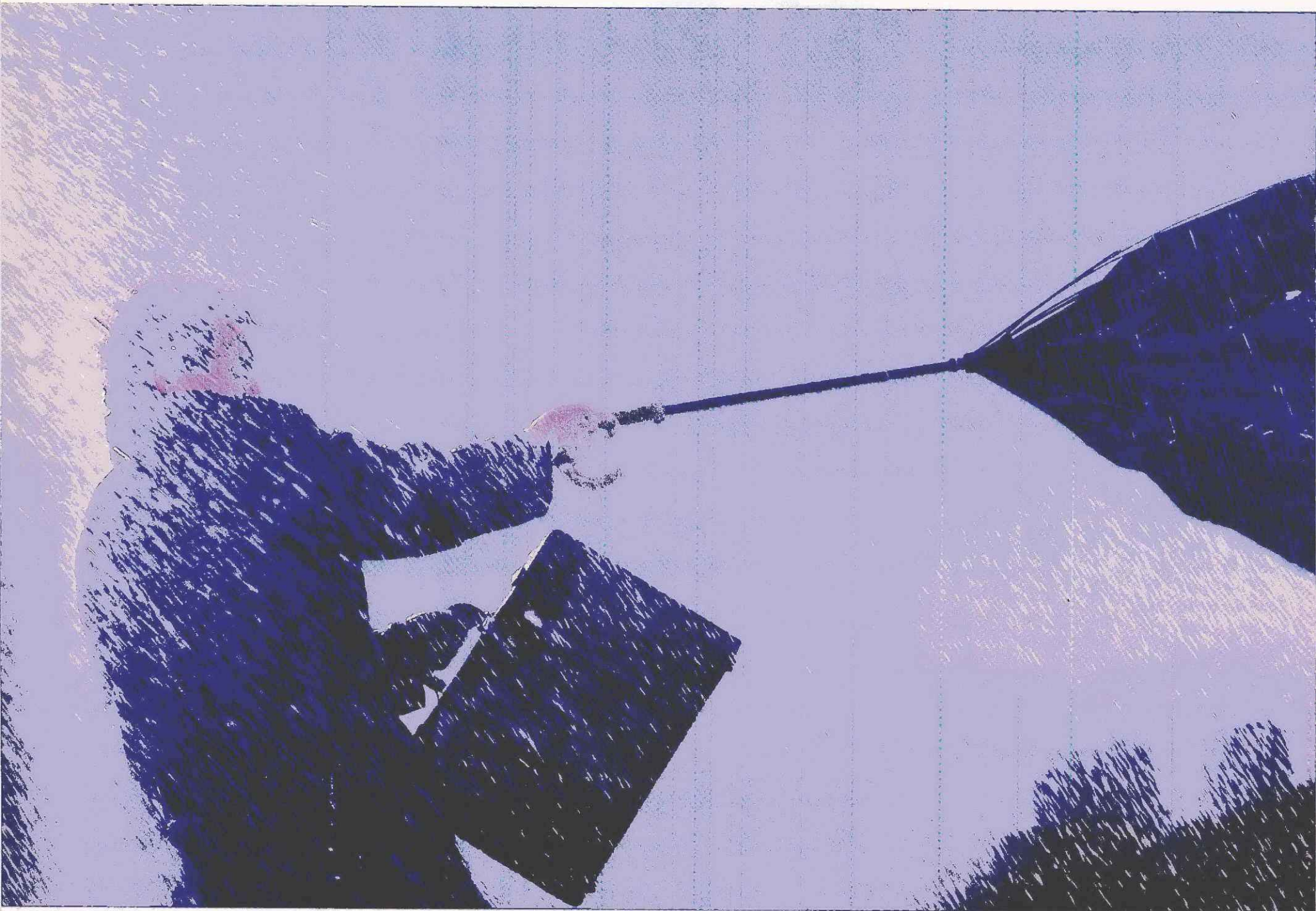
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# Reducing stress can lower employer health costs

By GAVIN SOUTER

ATLANTA—Risk managers should take steps to address the problem of worker stress, two experts say.

By successfully tackling that issue, risk managers will save their organizations a significant amount of money that is lost through prolonged employee illnesses, they said.

Stress is a problem that affects nearly all organizations, said Stephen A. Dawkins, a doctor at Caduceus Occupational Med-

icine in Atlanta. "Stress happens. It's all around us....We need to recognize its existence and its impact," he said.

Numerous factors can cause stress, and often, they are directly related to an individual's job, Dr. Dawkins said.

For example, as companies continue to seek to reduce costs by laying off support staff, the increased workload for the remaining staff causes stress, he said.

Stress also results when fast-growing companies require

workers to frequently take on new responsibilities, Dr. Dawkins said. "People are confused about what they are supposed to do."

And when managers are not supportive of their injured workers, that can cause stress that can exacerbate the condition, he said.

For example, stress can result in increased adrenaline production, and if a worker has an injury—such as a strained back—the adrenaline tightens the tendons in the muscles and increas-

es the pain felt by the worker, Dr. Dawkins said.

So, workers that suffer stress when they are expected to return to their usual jobs after an injury—rather than light duties—may suffer further injury due to the management's return-to-work policy, he said.

"Corporate actions produce stress," he said.

High levels of stress can directly cause an illness as well as lead to a greater incidence of workplace violence, Dr. Dawkins said.

Worker stress also has a finan-

cial impact on organizations, which suffer from lost work time due to stress-related absences. Stress is a major factor in most illnesses that keep employees away from work, he said.

Employers should respond to stress through a variety of approaches, said James G. Sybert, managing director, loss management services for the central region at Willis North America Inc. in Nashville, Tenn.

First, an employer should, where possible, eliminate the cause of the stress. This can be done through processes such as defining an employee's roles or conducting personality profiling to ensure that workers are suited to their positions, he said.

Then, an employer should try to reduce occupational stress through stress management training, health education programs, health screening and other programs, Mr. Sybert said.

Finally, good risk financing programs should be in place to pay for the cost of lost work time due to stress, he said.

Because the cost of stress is paid for out of insurance programs, risk managers should take on the responsibility of developing risk management systems that address stress, he said.

The first step in creating such a system is to identify problem areas. This can be done by examining workers compensation loss data, medical loss trends and absenteeism, Mr. Sybert said. "That gives you a sense of what is occurring."

Then, the cases themselves should be more closely examined to determine whether there is a common underlying problem, he said.

In the next step, workers should be interviewed to find out what they consider to be stressful aspects of their work, he said. "It's amazing what they will tell you when you sit down and talk to them," Mr. Sybert said.

Once the problems are identified, a risk management plan can be created, he said.

The plan should include objectives and measurement criteria, and it should specify who in the organization is responsible for various parts of the implementation, Mr. Sybert said.

For example, an objective might be to minimize employee stress related to proposed layoffs. One part of the plan might be to define roles within the new organization. The plan should establish a time by which the definitions should be in place, as well as the work hours it will take to produce those definitions, the cost associated with that process and the name of the manager or director who is responsible for that part of the plan, he said.

Once the plan is implemented, it should be measured by the agreed upon criteria, Mr. Sybert said.

The session was moderated by Christopher E. Mandel, assistant vp-enterprise risk management at USAA in San Antonio and first vp of RIMS. It was coordinated by Mr. Sybert. **BI**

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# RIMS REPORT 2001

## Preventive safety program brings comp savings

By LEE FLETCHER

ATLANTA—If embraced by an entire organization, a preventive safety program can bring significant savings in workers compensation and other costs.

Four safety-minded individuals spoke about preventive workplace safety programs at an educational session of the Risk & Insurance Management Society Inc.'s annual conference, held last week in Atlanta.

During the session, James J. Waibel, vp-administration for

Dallas-based Elcor Corp., said Elcor has incurred workers comp losses of \$1.5 million over the past five years. That figure, he said, is far below the average costs for similar manufacturers.

Additionally, Mr. Waibel noted that Elcor's estimate of its savings does not factor in costs related to lost productivity and more-severe injuries, nor does it reflect the "intangible cost of physical pain and emotional suffering" by employees, families and co-workers.

At Elcor, safety is at the top of the agenda at every meeting, Mr.

Waibel said. At the company's quarterly regional meetings, he said, the topic invariably precedes talk of sales and profits.

Furthermore, Mr. Waibel said, the company strives to report every workers comp "incident" to subsidiary management, corporate management and loss control consultants within 24 hours of its occurrence.

And it's not only injuries that are logged, he said. The company also reports "near miss" incidents and damaged property. By carefully studying these incidents, Elcor can

determine how to prevent similar accidents from occurring in the future.

"We know that probably every single incident isn't reported, but we simply want to know what happened and how to prevent it from happening again," Mr. Waibel said.

Elcor also uses incentives to promote safety in its various divisions, Mr. Waibel said.

For example, the company grades the safety performance of each division, and each year it awards a trophy to the division

with the best score. Mr. Waibel noted that the winning division always proudly displays the trophy.

The divisions are scored on a variety of factors, including their rate of lost-time injuries. The scores are then distributed to the board of directors, as well as to several other management departments.

Divisions also have a financial incentive to hold down their number of workers comp incidents—their losses, up to the company's deductible, are charged back to them. Such an approach "supports proactive claims management," Mr. Waibel explained.

Elcor also conducts various tests

*'We simply want to know what happened and how to prevent it from happening again.'*

— James J. Waibel  
Elcor Corp.

as part of its safety management program. For example, the company uses pre-employment, job-related physical capability testing for its employees. "We use outside physical therapy people to make tests that are location-specific and job-specific," Mr. Waibel said.

In addition, the company conducts drug tests, including pre-employment, random and post-accident tests.

Mr. Waibel said that Elcor also depends heavily on outside assistance from its "external team," including Scott S. Sherman, president of DCS & Associates, a McKinney, Texas-based risk and safety management consulting firm; Russell D. Payton, an Irving, Texas-based account manager in the risk control services department at ESIS Inc.; and G. Bryant Craig, Fort Worth, Texas-based senior vp at Aon Risk Services of Texas Inc.

Messrs. Sherman, Payton and Craig joined Elcor's Mr. Waibel in speaking at the session.

Mr. Sherman said his firm helps Elcor develop and implement the three "P"s—policies, procedures and programs. In addition, he said, DCS helps Elcor identify safe and unsafe working conditions and practices and conducts "one-on-ones" with division employees when incidents occur.

Mr. Payton said that, to be effective, a safety program must examine a company's loss history; that exercise, he said, "reveals root causes of injuries." ESIS will "drill down to a particular location, shift, day of the week, cause of injury—look at the problem and come up with recommendations," he said.

Aon's Mr. Craig explained that the broker contributes loss control advice and other services.

Mr. Waibel closed the session by noting that positive results are not an "overnight sensation" and that a good safety program requires dedication from all involved.

Mr. Waibel moderated the session.

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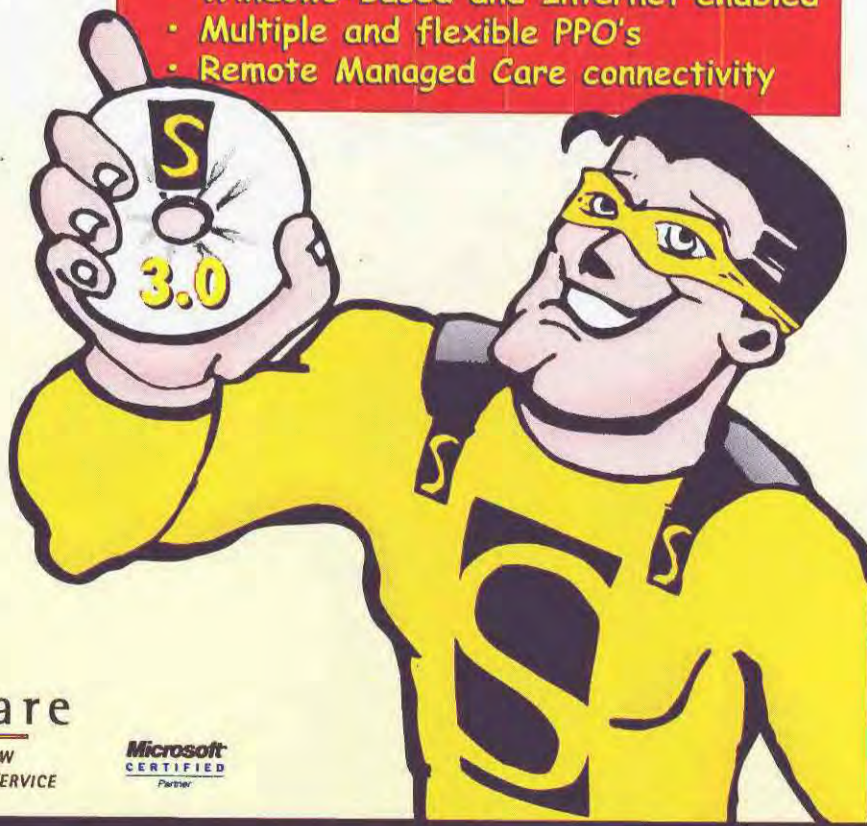
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# Agent / Broker Topics

A monthly editorial section sent exclusively to agents, brokers and consultants



**Logging on  
to improve  
service**

## Inside:

**Agents, brokers  
slow to exploit  
Internet's advantages**      page 22B

**Brokers may get  
IRS tax break  
on overseas operations**      page 22F

**Internet should enhance,  
not replace, sales  
channels, experts say**      page 22F

**XML a promising  
technology for insurance  
industry**      page 22G

# Meeting customers' needs on the Internet

## Agents, brokers in early stages of taking services online

By SALLY ROBERTS

**A**lthough the technology is still in its early stages, more insurance agents and brokers are beginning to embrace the concept of online customer self-service.

Like their counterparts in the banking and securities worlds, insurance agents and brokers are beginning to offer customers the convenience of accessing their accounts online. By doing so, policyholders can gain access to their personal information and insurance coverages, request changes to policies and download certificates of insurance—all at the click of a mouse.

Agency technology experts say that most major agency management system vendors are either offering "customer access" capabilities or are developing such capabilities. At the same time, some third-party vendors are offering customer-access technology that expands on the capabilities offered by system vendors.

Now that the technology is avail-

able and security concerns have been addressed, the next hurdle to overcome is the mindset of many agents and brokers, observers say.

Some intermediaries continue to be intimidated by the Internet, while others think that giving customers direct access to services takes away from the value-added services brokers offer.

Agents, however, are beginning to understand that online customer self-service does not replace the ser-



vices that they offer, but rather that it is an extension of what brokers offer customers.

Self-service "is a concept that we as human beings have become comfortable with," explained Rick Morgan, executive vp of ConfirmNet, a San Diego-based application service provider. ConfirmNet's flagship product, CertificatesNow, allows policyholders to print their own certificates of insurance 24 hours a day. "What promotes that is the concept of convenience, which is a big issue in all of our lives," Mr. Morgan said.

People, he said, are accustomed to banking with automated teller machines, pumping their own gas at gas stations and trading securities on the Internet. "What has been lost to take advantage of this type of technology...has been the insurance industry," Mr. Morgan said. "But that's beginning to change."

Much of the recent movement on the part of agents and brokers, some vendors say, comes as a result of a study conducted last year by the Independent Insurance Agents of America Inc. That study found that insurance buyers, more than agents were aware, expect this capability from their intermediaries.

According to the survey, when asked how important around-the-clock customer service was in their insurance-purchasing decisions, 37% of personal lines customers and 70% of commercial lines customers surveyed said that it was "extremely" or "very" important, while only 34% of the agents responded the same way.

Similarly, 59% of the personal lines customers and 47% of the commercial lines customers surveyed considered online access to account information to be very or extremely important, while only 6% of the agents shared that opinion.

Vendors and some producers say that agents and brokers are beginning to understand the importance of offering customer-access technology to clients, although there still is work to be done toward changing the mindset of many agents.

"When we first introduced the concept in '97, agents were very nervous about it," said Ed Olsen, senior vp-sales for AMS Services Inc., an agency systems vendor based in Windsor, Conn.

"Most agents saw quality service as their top function, and they didn't like the idea of passing some of that on to the customer. Now, agents understand that it's a way for them to expand their service offerings to customers," Mr. Olsen said. "It's a technology whose time

See **Internet** on page 22D



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## Internet

Continued from page 22B has come."

AMS developed and offers "client access" capability options with its Sagitta Browser and AFW management systems. Using the systems, an agent can give a policyholder 24-hour access to his or her own account to view, print or add certificates, check balances and coverages, among other features.

"By offering this capability, we are moving routine maintenance activities to the client, freeing up CSRs

to handle more difficult questions," he said. "The end result is better customer service for everyone."

Mark Parrish, president of Ajasent Inc., a West Monroe, La.-based application service provider, said that when he speaks to agents and agent groups about customer self-service, he often gets such responses as: "Yeah, but you don't know my customers. My customers are not on the Internet," he said.

"The fact of the matter is, 70 to 80 million people have Internet access. I think that the biggest barrier to this, even though the technology has been developed, is if the agents

don't make a mindset change," he said.

"The Internet is all about empowering the end-user—allowing them to do what they need to do when they need to do it," Mr. Parrish said.

David Schuppler, president of David Schuppler & Associates, a small commercial lines agency based in Wauwatosa, Wis., agrees that agents need to change their attitudes about customer self-service.

"When I talk to agent groups about this, the range of reactions from them is from 'Oh my God, this is wonderful,' to 'Oh my God,

what is this guy talking about?'"

Agents need to get away from trying to understand the intricacies and acronyms of technology and understand that the Internet "is the most dynamic means of communication," Mr. Schuppler said. "To enhance the connection of your people, this medium needs to be included in your offerings of services," he said.

Mr. Schuppler's agency offers its clients access to various customer service items on its Web site. By clicking on the "insurance customer services" icon and entering a user name and password, clients can re-

view personal and company information, make changes to that information, review insurance coverages, request changes to policies, file a claim, download a certificate of insurance and find insurance quotes.

"Customer reaction so far has been very, very positive," Mr. Schuppler said. "Clearly, not all customers want to do this, but those that are, they are telling us that it's a 'wow,'" he said.

Diane Roe, a vp at Knight Crock-

*"I think that the biggest barrier to this, even though the technology has been developed, is if the agents don't make a mindset change."*

— Mark Parrish  
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ett Miller Insurance Group, said that "the whole reason" her agency began offering client access technology to its customers was "to bring more convenience to our clients."

The Toledo, Ohio-based agency launched a client service application for its personal lines customers on its Web site at the beginning of April. Ms. Roe said the agency sent out 3,000 brochures to advertise the new service and that, within the first three weeks of its launch, there were 328 visits to the site.

Visitors most often reviewed their coverages or personal information, although nine people e-mailed the agency with changes, she said.

Of the 3,000 customers given login names and passwords, only three called the agency to ask that their information be taken off the site, she said.

"I've been very pleased with the reception," Ms. Roe said.

"We view it as an opportunity to bring clients the best of both worlds. And it's also a great prospecting tool," she added.

Knight Crockett Miller Insurance offers its clients the CSR-24 product, which was developed by Artizan Computing Inc., a Phoenix-based Internet developer.

CSR-24, which interfaces with most major agency management systems, offers 24-hour customer service via either the agency's Web site or telephone. The technology collects the information needed to make a policy change or to provide a quote and then provides someone at the agency with the information they need to complete the transaction.

"The flood gates are starting to open up," said Tim Woods, president of Artizan, referring to interest in this technology.

"For a long time, we were signing on one to two agents a month. We're now signing a couple a day," Mr. Woods said.



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# Making more effective use of Internet

By RODD ZOLKOS

**T**he insurers whose e-business ventures will be most successful are those who use the Internet not to replace existing sales channels but to complement and support those channels, industry experts say.

These experts point to the fact that, while they use the Internet to facilitate purchases, many consumers choose

not to take the final step of concluding that purchase online.

Also significant is that, from a branding standpoint, studies have shown that customers are more likely to buy from a company they see doing business across multiple channels.

While some agents and brokers have feared that the insurance companies' embrace of e-business might lead to direct online sales, thereby cutting them out of the process, those studying the industry say, in fact, that one

key to success is using online technology to help support those agents and brokers.

"Right now, there are a couple of things that are going on in the industry that the producers seem concerned about," said Bennett Cooper, senior consultant-financial services with an emphasis on distribution at Tillinghast-Towers Perrin in New York.

One of those concerns, obviously, is that a portion of the market will be taken away by direct online sales or through strategic call centers.

Strategic call centers are those organizations that are engaged in "telesales, teleprospecting and telemanagement," Mr. Cooper said. "And, normally, if they're good, they're tied to the Web," taking customer information that has been gathered online and using it in sales calls, he said.

But "where the producer doesn't quite get the picture," he said, "is there are a lot of things that can be done in the prospecting process."

Information can be gathered online and then passed to the producer, "and you've already qualified the customers," he said. Insurance companies' use of the Internet in such a fashion can allow the producer to do business more efficiently.

From the agents' perspective, "you still have to build trust, but they don't have to do the first part of that cycle," Mr. Cooper said.

A key reason for insurance companies using the Internet to support agents and brokers is that "a lot of consumers will be in the mixed-channel segment," said Ted Devine, a principal at McKinsey & Co. in Chicago. Many consumers may use the Internet to research purchases, Mr. Devine said, but then, at the actual moment of purchase, they want to talk to someone.

In that context, it is key for the insurance company to get multichannel information in front of the agents, the McKinsey consultant said.

Mr. Cooper noted that some insurers are developing many products for Web distribution. Often, they're simplified, possibly involving the buyer answering a handful of questions online before being directed to a call center or agent.

"The product needs to fit the delivery system, but, most of all, it needs to fit the way the customer wants to buy," he said.

Insurance companies making the most of their e-business opportunities also are using their online capabilities to support agents and brokers. "The Web itself is used by a lot of companies as an administrative or support organization," he said.

"Generally, what you're finding is that companies are communicating now with their producers," Mr. Cooper said. "They're giving them administrative support." Insurers can use the Internet to provide forms, and, in some cases, take applications online or allow agents and brokers to submit and follow claims over the Internet.

While the insurance industry has lagged behind some other businesses in moving online, companies are making serious efforts to catch up.

Mr. Devine noted that his firm's research shows that, of the online consumers surveyed who switched insurers, 45% of them used the Internet to get information and do research. Of the online consumers surveyed two years ago, 10% said they switched insurers. In 2000, 14% said they had switched, suggesting that more are successfully using the Internet to find better deals.

"To date, it is true that the best-in-



class offers out there, the savvy online consumers are finding them out," Mr. Devine said.

Still, a new Conning & Co. study reported that few insurers use the Internet effectively to reinforce existing corporate strategies.

And the Conning study finds that, while insurers initially expected the Internet to be a major source of sales, online sales account, in fact, for only about 1% of today's personal lines property/casualty premium.

The study suggests that, for insurers, the Internet's value will come from a company's ability to integrate its marketing, operations and communications through the Web.

For the insurance industry, Tillinghast's Mr. Cooper said, the emphasis in the Internet age must be on integration, rather than conflict, among the various distribution channels. A company, he said, must present a consistent message across its various channels in a fashion that is "as seamless as possible."

As the Internet is embraced both in the insurance industry and by consumers as one more piece of the distribution system, "that leads to a world where multiple channels win," McKinsey's Mr. Devine said.

Multichannel "is the game," Mr. Cooper said. "It has to be out there for the public when and in the way they want to deal with it."

"Distribution is changing," he said, "and people expect you to bring products to market using the right kind of channel to promote them." **BI**

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## Brokers may get tax break

By MARK A. HOFMANN

**I**f there's one thing insurance professionals don't like, it's uncertainty.

Yet that's exactly what they face each year as Congress considers whether to extend yet again a temporary exclusion of Subpart F of the Internal Revenue Code of 1986, so that U.S. financial services companies doing business abroad can defer U.S. tax on their foreign earnings until the earnings are returned to the U.S. parent company. The exclusion applies to active financing income earned on overseas business operations, but it has never been made permanent for financial services companies.

Brokers don't currently enjoy even the temporary exemption, said Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers in Washington.

But that may soon change. Companion bills that would make the exemption permanent were introduced

in both houses of Congress early last month, and both measures enjoy bipartisan support.

That's good news for insurers.

"This is a permanent extension of the provision that was enacted several times in the past. We're trying to get it permanent," said Melissa Shelk, vp-federal affairs for the American Insurance Assn. in Washington. She noted that the manufacturing sector "has had it for a long, long time."

The National Assn. of Independent Insurers is "supportive of the permanent extension. It affects a small number of our companies," said Robert Dibblee, who recently left the position of senior vp in the NAI's Washington office to assume a government affairs post in the airline industry.

Based on Mr. Wood's discussions with Capitol Hill staff, the omission appears to stem from a lack of understanding of what brokers do and how they fit into the larger financial services picture, he said.

"We've got a special problem, and I think it's a problem that, in terms of fi-

ancial impact, is de minimus currently, but it is an important issue to resolve to assure the full participation of brokerages in financial services tax treatment," said Mr. Wood.

"We struggle sometimes with the perception that there's a three-headed monster within the financial services industry—securities firms, banks and insurance companies. Brokers are currently not allowed benefits of the temporary active financing Subpart F provision. As a practical matter, Marsh and Aon have the most international activity among U.S.-based brokerages, but this has potential ramifications for a far greater number of regional and national brokerages," he said.

"Now that Congress is considering a permanent extension, we don't want brokerages to be on the sidelines watching the rest of the financial services world pass by. We're going to be working on that as a priority for our association this year. We just have to do a better job of explaining to the tax writers on the Hill why we should not

*Continued on next page*

Continued from previous page  
be excluded," Mr. Wood said.

"We're fighting the battle now because they're talking about making it permanent. That being said, we clearly support the rest of the industry. It is especially important to allow American financial services firms to plan for their international growth. This is an important measure to assure a level of parity in tax treatment," he said.

"While the rules may be different for the various sectors defining what is an active business," they all recognize that "we have a common treatment under the code that we are trying to make permanent. We pay currently lots of taxes and will continue to do so but not be subject to the penalty regime of Subpart F," said Doug Bates, assistant vp-tax for the American Council of Life Insurers.

Subpart F, in place since 1962, is a penalty system to discourage companies from moving money overseas to avoid paying taxes. When the code was amended in 1986, financial services companies such as life insurers were not concerned because as far as the life insurance market was concerned, the U.S. market was all that mattered, said Mr. Bates. But as financial services became more global, companies confronted the fact that they were being penalized when their international competitors were not, and

began a drive to make the exemption permanent, he said.

Sen. Orrin Hatch, R-Utah, argued for change as he introduced the Senate bill, calling it "essential that our tax law adapt to the fast-paced and ever-changing business environment" in which U.S.-based financial services companies operate.

"Let me outline exactly why this bill is needed," the chairman of the Senate Judiciary Committee said. "Regulated U.S. financial institutions with operations overseas need to retain earnings in foreign subsidiaries in order to meet ever-expanding capital requirements," Sen. Hatch said. Unfortunately, he continued, if the tax provision is allowed to expire at the end of this year, as is currently scheduled, such earnings would be subject to U.S. taxation.

"Obviously, current taxation makes it more costly for a growing overseas business to meet those capital requirements, an impediment that is not in place for most foreign-based competitors," he said.

Sen. Hatch added: "our current on-again, off-again habit of annual extension limits the ability of U.S.-based firms to compete fully in the marketplace and interferes with the decision-making and long-term planning.... Permanency is the only thing that makes sense when it comes to this kind of tax policy." **EI**

# XML may live up to its hype as a revolutionary business tool

By KEVIN DAY

**I**t seems that every year a new technology is introduced that promises to revolutionize the way we do business on the Internet.

Some have been more successful than others, but most have fallen short of their lofty goals. XML is the latest acronym that's been buzzing around the e-commerce world, carrying with it as much excitement as any new technology could hope for. But is the hype warranted? What makes XML unique?

In the words of Bill Gates, speaking at Comdex 2000, "If there is one thing I thought was the key in the last year, it was the rise of XML. ...I believe both Microsoft and the industry should really bet their future around XML; the standards around XML are key to where we need to go."

XML stands for "extensible markup language." It was developed by the World Wide Web

Consortium and has rapidly become the standard for defining data interchange formats within the Internet world. A markup language is a set of data descriptions, known as tags, and rules that simplify and enhance the process of data interchange between unlike computer systems.

XML is similar to hypertext markup language—or HTML—in that it uses tags to encode information on the Internet. But the similarity ends there. HTML tells browsers, such as Internet Explorer or Netscape, how to display information on a Web page, whereas XML defines values for the information. Also, unlike HTML, which has preset identifier tags, XML gives users the freedom to create their own tags.

The best way to explain XML is to provide an example. Imagine that you are a broker setting up your database to exchange underwriting information with an insurer. Descriptions of the applications and various fields are



written in HTML so they can be read via a Web browser such as Internet Explorer, but the names and addresses of clients and underwriting information are formatted with XML. Here is an example of a cargo insurance application using XML:

```
<Customer-Details
  id="CompanyX12345">
<CompanyName>CompanyX</
  CompanyName>
  <Address>
<Street>463 Risk Blvd.</Street>
  <City>New York</City>
  </Address>
<UnderwritingInformation>
```

Continued on next page

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### AGENT/BROKER TOPICS

*Continued from previous page*  
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Cargo</InsuranceType>  
<InsuredValue>300000</InsuredValue>  
<Destination>Tokyo</Destination>  
<UnderwritingInformation>  
</Customer-Details>

An actual XML cargo application would be considerably more detailed than this, but this provides an idea of how it would look. If you were to display this application on your browser, the address and underwriting tags would not show up on the screen. Unlike HTML, XML tags do not affect the way information looks. Instead, they assign values to pieces of information. These values will allow companies to exchange the information contained within an application regardless of the particular computer system they are working on.

XML will become the standardized mechanism for the exchange of insurance data and documents. One of the greatest impediments to the development of e-commerce in the insurance industry has been lack of a common standard to exchange information. Until now, companies and brokers using different operating systems, databases and customer management software have had difficulty linking together. XML is the way for the various companies and brokers to exchange information across the Internet.

Information is critical to insurance-related companies' survival in the next decade and beyond. Insurance companies and agents/brokers need to make multiple systems and databases communicate with one another. XML will enable this cross-platform communication.

Some of the advantages that XML has over previous "revolutionary technologies" include:

- **Broad acceptance.** Remember Windows vs. Mac, Explorer vs. Netscape or, even further back, VHS vs. Beta? There are no competing standards with XML. One of the most remarkable aspects of XML is the agreement

between leading vendors such as Microsoft, IBM and Oracle regarding its development. Even longtime rivals Microsoft and IBM have set aside their differences to promote the XML standards.

- **Comprehensive and coordinated standardization efforts.** Standardization of XML is essential to its success. For this reason, many associations and working groups have been formed to establish common standards. The organizations responsible for creating a common standard for the insurance industry is ACORD in the United States and CSIO in Canada. ACORD ([www.acord.org](http://www.acord.org)) and CSIO ([www.csio.com](http://www.csio.com)) have agreed to collaborate so there will be one standard for North America.

"XML is critically important for our industry by allowing us to use Internet technology to be interconnected in real time," said Gregory A. Maciag, president and CEO of ACORD.

- **Platform independence.** XML allows for the easy retrieval of data, regardless of where it is and on what operating platform it sits.

- **Cost effectiveness.** XML is also much more cost-effective and easier to implement than traditional e-commerce systems such as electronic data interchange.

By the end of this year, Gartner Group expects 75% of the Fortune 500 companies to be using XML in at least one prototype project. By 2003, the research firm predicts that 80% of business-to-business Web traffic will be XML-based.

There is no question that XML will have a profound effect on the distribution of insurance products and services. Over the next few years, companies in the insurance industry will have to adopt this new technology in order to stay ahead of the competition.

But XML is still in its infancy. For the most part, the only companies that are involved in the development of XML are large insurers. What, if anything, should the small to medium-sized agents and brokers be doing to prepare for XML? This is a common question. The answer is, everything you can. This is not to suggest that agents and brokers should run out and invest significant resources in a technology that has not been fully embraced by the industry. But there

are many things agents and brokers can do to prepare for XML that are not costly or time consuming:

- **Keep informed** about developments in XML.
- **Ask your insurance markets** about their work in XML and how you can be involved.
- **Incorporate XML** into your Web site, even if only on a very small scale. If nothing else, this will give you an understanding of the workings of XML by seeing it in action. Try building a small search engine on your site using XML.
- **Investigate the advantages** of building your company database around XML.

In a survey by IDG Research Services Group of 500 chief information officers, it was projected that spending on XML will increase by 86% this year over last.

XML may be the future of business-to-business e-commerce but companies that have existing EDI systems do not have to be in a hurry to make the switch. In fact, most companies with large EDI systems are only in an investigation phase of the new XML technology. For these companies, it simply wouldn't make sense to abandon 10 or 15 years of EDI work overnight.

But fortunately, you don't have to look at EDI and XML as being competitive solutions. In fact, they're complementary. And the switchover from EDI to XML need not be a sudden one. One of the advantages of XML is that it can be slowly integrated into an existing EDI system. Rather than replace EDI right away, XML capabilities can be added to complement the EDI system.

Companies looking at XML today can be relatively certain that their investment won't be obsolete. Even though XML won't be standardized and ready for everyday business use in the next year, companies need to start preparing for it. Companies are no longer investing in EDI. The future of insurance e-commerce—and global e-commerce overall—is XML. **BI**

*Kevin Day is president of Riskebiz Internet Services Inc., a Vancouver, British Columbia-based company that builds online applications for the insurance industry.*

### Agent/Broker Topics

## ADVERTISER INDEX

### Issue of May 7

ADVERTISER	PAGE #
AXA Nordstern Art Insurance	22C
Compliance & Filing Solutions	22H
ConfirmNet	22F
Distinguished Programs	22D
FEMA	22E
Freberg Environmental	22G
Greater NY Insurance Co.	22H
ING Employee Benefits	22B

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# In-house ergonomics programs effective, expert says

By SALLY ROBERTS

ATLANTA—Despite Congress' recent decision to overturn the first federal ergonomics standard, now is the right time for risk managers to implement an effective program of their own, an ergonomics expert contends.

"The earlier an ergonomics program is integrated into the fabric of any corporate culture," the sooner the cost benefits can be realized, the better the labor relations and the more productive the organization will be, said Cynthia L. Roth, chairwoman and chief executive officer of Ergonomic Technologies Corp. in Syosset, N.Y.

"Don't wait for the states, feds or international organizations to tell you" to implement a program, Ms. Roth said. "Control your own destiny," she said at a session on ergonomics at the Risk & Insurance Management Society Inc.'s annual conference and exhibition last week in Atlanta.

In March, Congress overturned an ergonomics standard promulgated by the Occupational Safety and Health Administration in the final days of the Clinton administration. Employers had long complained that OSHA's proposed standard was inflexible, overly expensive and lacked adequate scientific evidence (*BI*, March 12).

The main factor that brought down the federal ergonomics standard was a lack of understanding of how much it would cost to implement such a rule, Ms. Roth said. "Everyone was afraid of what it would cost them."

She said that implementing an ergonomics program—as well as the costs associated with that process—can be spread over several years, noting that risk managers need to determine what the cost savings associated with the program are in comparison to the initial expenditure.

Ms. Roth also noted that a revised federal standard could be issued. At the same time, risk managers should keep "their eyes and ears open" to various state ergonomic standard initiatives that are being discussed and introduced around the country. She specifically noted that such states as California, Kentucky, Maine, North Carolina, Washington and Wisconsin either have adopted ergonomic standards or have proposed such rules.

But risk managers should not wait for a law to pass, Ms. Roth told those attending the session. She outlined reasons for developing an ergonomics program and some key elements for success.

According to statistics from the National Academy of Social Insurance, \$40.6 billion was paid out under workers compensation in 1997—\$25.1 billion for income benefits and \$15.5 billion for medical costs and hospitalization, Ms. Roth said.

In addition:

- In 1998, approximately 120.9 million workers were covered by workers comp insurance, a 2.7% rise over the 117.7 million covered in 1997.

- Of the 372,000 total illness cases in 1999, 66% were ergonomics-related.

- Disorders associated with repeated trauma were the most common illness, with more than 253,000 new cases in 1998.

Citing statistics from William M. Mercer Inc., Ms. Roth also noted that direct costs of all employer time-off and disability programs averaged 14.3% of payroll in 1999.

"Why wait for a problem" before implementing an ergonomics program? "Why not be proac-

tive?" Ms. Roth asked attendees.

She outlined several key elements for a successful ergonomics program.

Primarily, risk managers need to get commitment to a program from management, she said. Training and involvement of all employees also is important to develop a successful program, she said.

Another important element is having a written ergonomics program that details the process for identifying the jobs linked to safety and ergonomic-related

risks, she said. This is where the goals and objectives of the program are set, Ms. Roth said. She also noted that it is a good idea to test out a pilot program with part of the company before rolling it out to the entire organization.

Another key step is developing and implementing approaches that address the risks identified, she said. And, she added, "don't think that because you have identified the risks that you can implement solutions without help." She advised risk managers to seek the help of various ven-

dors to come up with solutions.

A successful program needs to have appropriate medical management, she said. It also is important to communicate what works and what doesn't work, she noted.

Keep the ergonomics program simple, encourage early symptom reporting and promote accountability, Ms. Roth told attendees.

Laurence E. Weissman, corporate manager-risk management for Nissan North America Inc. in Gardena, Calif., moderated the session. **BI**



"I guess today's lesson really got them juiced."

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# Employers should establish clear rules on e-mail

By MICHAEL PRINCE

ATLANTA—You have the right to keep your thoughts private, but only if you refrain from sending them to someone through your computer.

Although the concept of a "right of privacy" is more than a century old, it was not until 1965 that the U.S. Supreme Court recognized it, said Frank Steeves, a partner with Crivello Carlson Mentkowski & Steeves in Milwaukee.

"It's been an evolving right,"

Mr. Steeves told attendees at the Risk & Insurance Management Society Inc.'s annual conference last week in Atlanta.

Perhaps the most controversial aspects of privacy law and the Internet relate to the use of e-mail. No right of privacy that covers e-mail has been established in the law, he said.

"The cases have come down reasonably uniformly on the side of employers," Mr. Steeves said.

Instead, courts have held that the employers' interests outweigh any privacy interests of employ-

ees, giving employers the right to monitor their employees' e-mail and even retrieve and read old e-mail.

"All computers and all information on those computers belong to the employer," Mr. Steeves said.

But not everyone can monitor e-mail. The federal Electronic Communications Privacy Act protects e-mails from other prying eyes, even those of the government. Mr. Steeves explained that, in essence, the act extended federal wiretap laws to include e-

mails. Under the law, anyone who intercepts a message in transmission is subject to criminal liability. But the person whose message has been intercepted has no cause to sue the guilty party, he said. Furthermore, the act applies only to messages sent between states, and it applies only to messages in transmission, not those that are stored.

Mr. Steeves said every employer should develop an e-mail monitoring policy. That policy should be put in writing and distributed

to all employees to establish clearly the company's rules for the use of its e-mail system.

"They should be reasonably broad, as people are going to use work e-mail for personal use," he said.

Some employers have their employees sign forms consenting to the monitoring of their e-mail, but Mr. Steeves said that is probably not a good idea. It is not necessary and could mistakenly lead employees to believe that consent must be provided before monitoring can take place, he said.

*'No favors can be played with e-mail or privacy policies. Once the dam is open for one, it's open for all.'*

— Frank Steeves  
Crivello Carlson  
Mentkowski & Steeves

Mr. Steeves also advised applying the policy uniformly to all employees. "No favors can be played with e-mail or privacy policies. Once the dam is open for one, it's open for all," he said.

Another important concern about privacy and the Internet relates to medical records. Last month, the latest rules involving medical privacy under the Health Insurance Portability and Accountability Act were published. These rules are designed to protect the confidentiality of individual health care records.

"It's, basically, a patients' bill of rights with respect to health records," Mr. Steeves said.

He cautioned that the rules apply not just to doctors and hospitals but to any organizations that handle individually identifiable health care records, including health plans and third-party administrators. As a result, many organizations will have to become familiar with the rules and start complying with them.

It's important to realize that the Internet is the electronic equivalent of the Old West, Mr. Steeves said; one doesn't find a whole lot of law governing either of them. "There is no federal legislation governing what private industry does," he said. Therefore, he said, companies may collect data about most individuals and use or sell that information as they please.

But one group is protected. The Children's Online Privacy Protection Act prohibits the operators of Web sites from collecting information from children under the age of 13 without parental consent, he said.

Another limit exists in that a company may not violate its own published privacy policy. If it does, it is engaging in a deceptive trade practice, Mr. Steeves said.

The session was moderated by John Rath, director of risk management and insurance for Milwaukee County in Wisconsin.

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# Mediation a flexible way for both sides to be heard

By LEE FLETCHER

Mediation offers not only an alternative to trial but also an opportunity for claimant and defendant to meet and settle their dispute for less.

David M. Swope, director of Pre-Court Services, and John S. Serpe, an attorney with Sheehy,

Serpe & Ware, both of Houston, discussed the advantages to defendants of alternative dispute resolution through mediation at a session during the Risk & Insurance Management Society Inc.'s annual conference last week in Atlanta.

Mr. Swope noted that media-

tion, which can be either voluntary or court-mandated, can be flexible, confidential, informal and nonbinding.

The difference between a mediator and a judge is that the mediator "does not impose a solution on the parties to a dispute," he said. Rather, Mr. Swope said,

a mediator works with the parties to define their objective and resolve their differences.

"A good mediator will help frame the issues or reframe issues and put things in a way that's a little more palatable to both sides," Mr. Swope said. Furthermore, he said, a good me-

diator creates an environment in which both sides believe that they are being heard.

A real advantage to using a mediator, Mr. Serpe said, is that the parties retain control of the outcome. "Whether you accept mediation or not, you can tell a mediator that you're not going to settle. You never lose control," he said.

Furthermore, Mr. Swope said, mediation is "a great way to keep things confidential and out of the papers."

Mr. Serpe said that it is important to learn who your mediator is, by checking the mediator's references and becoming familiar with the manner in which he or she works. "Every mediator is different and has a different approach. I always work to find a mediator that both sides find acceptable," he said.

Mr. Swope said that the preliminary stage of mediation, when joint and private meetings are being held, is a good time to "talk to the other side." He said, "It's an opportunity to convince the plaintiff that it's not a good case."

Mr. Swope warned against polarizing the other side during what he called "opening bids" by making monetary offers that are either extremely low or high. Sometimes, he said, a claimant wants just an apology or an explanation of an incident.

Mr. Serpe advised defendants in mediation to apologize only when necessary and avoid showy displays of empathy.

"I only apologize when I really feel that it's going to help. Otherwise, it just makes the plaintiff really angry, hearing 'I'm sorry' from some big-gun lawyers," Mr. Serpe said. "Saying 'I feel your pain' can have exactly the wrong effect. The claimant doesn't really care about an attorney's story."

Mr. Swope warned that any agreement should be in writing, because mediation is a nonbinding process. "It's OK to leave it as an oral agreement, but sometimes people have second thoughts," he said.

While one-hour mediations, known as "settlement hours," have a settlement ratio of more than 87%, Mr. Serpe acknowledged that impasses sometimes develop during mediation and cases have to go to court.

Cases also go to court when plaintiffs seek punitive damages and when too much money has been invested by one side, Mr. Swope said. But he stressed that even a mediation that doesn't result in a favorable outcome has not been a waste of time, because the parties have come to know one another better before engaging in litigation.

Mr. Swope said that when mediation fails, it is important to "perform an autopsy on the mediation," recording one's observations in order to understand what took place and to prepare for the impending trial.

The session moderator was Jack Hammond, a risk manager for Atlanta-based Delta Air Lines Inc. **BI**

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# RIMS REPORT

## Training, policies needed to address harassment issues

By DAVE LENCKUS

ATLANTA—Bridgette is a powerful and demanding 34-year-old sales executive for a multinational company. She also is attractive and single.

Malcolm is a former securities executive nearly 20 years older than his former high school intern but whom Bridgette admits she finds attractive. They crossed paths again two years ago when financial and personal problems forced Malcolm to take an entry-level job as Bridgette's assistant.

Malcolm, who was fired after five weeks and allegedly black-balled, says his troubles mushroomed after he rebuffed Bridgette's sexual advances and filed a sexual harassment complaint against her with the company's human resources manager. Before his termination, Malcolm pursued his claim over the HR manager's objections, because he felt Bridgette was retaliating against him by trying to sabotage his job.

Bridgette asserts that Malcolm is attempting to deflect attention from his poor job performance. She says his claim twists the nature of her innocent touches when they worked together and the complimentary remarks she made his first day at work. She says she was joking when she reminded him that she was his boss and would "not take no for an answer" to her invitation for drinks after his third day.

This scenario was the backdrop for a mock trial during a session on employment practices liability at the Risk & Insurance Management Society Inc.'s annual conference in Atlanta last week.

But lawyers who participated in the session advised attendees not to take the dramatization lightly.

"Stuff like this happens all the time," said attorney Daniel L. Berger, a partner with Bernstein Litowitz Berger & Grossmann L.L.P. in New York.

Through 2000, 30 million sexual harassment lawsuits had been filed, noted session moderator Merritt W. Fabel, director of corporate risk and insurance for American International Group Inc. of New York. Plaintiffs whose cases proceed to trial prevail 71% of the time, Mr. Fabel said.

The mock trial largely boiled down to a "he said/she said" argument. But a videotape of Malcolm's working relationship with Bridgette showed that he did not imagine her flirtatious double-entendres, touching and posing. The tape also indicated that Bridgette saddled Malcolm with an unfair workload when he didn't respond to her advances.

By a 7-2 vote, a jury of six men and three women chosen from session attendees awarded Malcolm more than \$900,000 in damages, including \$750,000 in punitive damages. They apparently didn't give much weight to his acknowledgment under cross-examination by defense attorney Mercedes Colwin, a partner with L'Abbate, Balkan, Colavita & Contini L.L.P. of Garden City, N.Y., that Bridgette never explicitly asked him for a sexual encounter.

Mr. Berger noted, however, that a crucial mistake by Bridgette's HR director would have forced real-life defendants to settle before trial.

After failing to dissuade Malcolm from filing his claim, the HR manager apologetically confronted Bridgette and immediately accepted her account of the incident. During the mock trial, the HR manager said he had no reason to investigate further because Bridgette's account seemed truthful and her history had been spotless.

Mr. Berger said HR managers should be trained "intensively" on how to investigate claims. They should interview not only the principals in the case but also the supervisor's colleagues and the subordinate's co-workers and review the claimant's work, he said.

Just as important, Mr. Berger and Ms. Colwin stressed, is that employers establish a clear sexual harassment policy and train managers and supervisors periodically on that policy.

The policy should spell out what behavior constitutes harassment, advised the judge in the mock trial, attorney Carmel Joy Buxton, a partner with Hersh, Ramsey & Berman P.C. of Morristown, N.J. She also warned session attendees that courts have begun ruling that a single act may constitute harassment.

There is no formal guidance on how often employers should conduct such training. But Ms. Colwin noted that one employer lost a case because it had not provided eight hours of training when supervisors were hired and two hours of training each subsequent year.

That much training, though, seems somewhat excessive, she said.

The attorneys also advised employers to create a clearly stated and simple complaint-filing procedure. And, they said, such a procedure should never require an employee to file a complaint with an offending supervisor.

The session's lessons extend to all types of harassment claims, said session coordinator Aileen A. Marchese, vp-employment practices liability for Kemper Insurance Cos. in New York. **BI**

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## Seemingly work-related injuries may stem from age

By MICHAEL PRINCE

ATLANTA—As the workforce ages, it is increasingly important for employers and physicians to work together to distinguish between injuries that are caused by work—and thus are covered by workers compensation—and those that are a result of aging, two experts said.

In many states, workers comp laws are either written liberally or have been broadly construed by courts to bring in all types of worker illnesses and injury under an employer's policy, said James Pocius, a partner the law firm Marshall, Dennehey, Warner, Coleman & Goggin in Scranton, Pa.

For example, in Oregon, if a worker has a pre-existing condition that is not work-related but must be treated in order to properly treat a work-related condition, the employer must pay for that treatment, Mr. Pocius said.

"Employers are under the gun in Oregon," he said.

But Oregon is not unique. Other state workers comp laws Mr. Pocius has reviewed—including those for California, Texas and Pennsylvania—also require employers to pay for numerous injuries not directly related to work, he said during a presentation at the Risk & Insurance Management Society Inc.'s annual conference last week in Atlanta.

In response to such challenges, employers can work with reputable physicians and attempt to establish that a worker's injury is not related to his or her work but actually is the result of the aging process.

For example, most people will experience a spinal disc problem as they grow older, said Dr. David Cooper, director of orthopedic surgery at The Knee Center in Wilkes-Barre, Pa. "It's like wrinkles and like gray hair," he said.

Therefore, when someone suffers from a bulging or herniated disc, it sometimes is unclear whether the condition is work-related or is simply part of the aging process, he said.

In attempting to identify the cause of an injury, a physician must conduct a thorough study of the patient's history, Dr. Cooper said. This should include not only the problem but also how the injury occurred.

"Many times, the injury as reported is not consistent with the mechanics of how the person got hurt," he said. "Mechanism of injury is extremely important to elicit from your worker."

For example, rarely does a serious knee injury result from striking the knee against something, he said. Rather, most serious knee injuries involve a twisting of the knee.

The history should also specify whether the worker smokes—as smoking is associated with back pain—and should include description of all prior injuries, Dr. Cooper said.

It's only by looking at the entire case history, the clinical examination, X-rays and other tests that a physician can really determine whether an injury is work-related, he said.

In addition, Dr. Cooper said he prefers to rule out other, more serious problems when patients complain of back pain. Often, he said, such pain could be a symptom of a life-threatening condition and

should not be ignored. "In an aging workforce, when people complain of back pain, it could be a red herring," he said.

Dr. Cooper also noted that some tests often are unnecessary and result in needless costs for the employer. For example, he said a magnetic resonance imaging scan should not

be used for back-pain cases unless treatment has been unsuccessful for four to six weeks, though the test should be performed if the doctor suspects a neurological problem.

Another common test, the electromyogram, also adds to costs but sheds little light, Dr. Cooper said. This procedure determines whether

a person has any nerve damage from an injury. But, he said, the test will only indicate nerve damage if the injury is more than six weeks old, he said. On the other hand, the test could be done shortly after an injury to prove that any nerve damage seen predates the injury, he added.

Dr. Cooper also noted that if a

worker complains of an injured joint, such as a knee, X-rays should be taken of any corresponding joints, such as the other knee, to allow comparison. If there is an equal amount of injury to both, then the injury is probably caused by age and not the work-related incident, he said.



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# Employers can minimize liability during layoffs

By DAVE LENCKUS

ATLANTA—Employers that are downsizing may face certain risks—and further financial woes—if they do not handle layoffs with aplomb and sensitivity, warn two risk management experts.

Risk managers should ensure that organizations follow certain guidelines to minimize the liabilities that layoffs can create, according to Billie Fae Fuschi, director of workers compensation for Methodist Healthcare of Memphis, Tenn.

The downsizing that Service Merchandise Co. Inc. has gone through due to its financial straits also provides risk managers some valuable lessons, Michelle M. Scott, a risk management consultant for the Brentwood, Tenn.-based retailer, said during a session at the 39th Risk & Insurance Management Society Inc. annual conference in Atlanta last week.

Before an employer lays off a single employee, management should be aware of various federal and state laws designed to ensure that employers are not terminating employees in a discriminatory manner, Ms. Fuschi and Ms. Scott stressed.

Among those is the Worker Adjustment and Retraining Notification Act of 1988, which requires employers to notify their workforce 60 days prior to a plant closing or a workforce reduction involving 50 or more employees.

Another potential litigation land mine for employers is the Age Discrimination in Employment Act, the federal law that bars employers from discriminating against workers older than 40.

Ms. Fuschi noted, however, that the ADEA does not prohibit employers from laying off older workers. "They still can be laid off, but you have to be careful" not to unfairly target such employees, she said.

After an organization has laid off workers, workers compensation claims often spike, Ms. Fuschi noted. "The potential for fraud in workers comp claims is always going to be there, whether you're downsizing or not," but the risk is greater for a company that is downsizing, she said.

Offering early retirement options or helping place workers in new jobs with other organizations could deflect part of that risk, she said.

Ms. Scott, the risk management consultant for Service Merchandise, provided a case study on the retailer's recent workforce reduction to underscore what risk managers should do, as well as avoid, during a downsizing. Service Merchandise has laid off thousands of employees and has closed hundreds of stores nationwide as part of its Chapter 11 reorganization under the U.S. bankruptcy code.

Ms. Scott, a former assistant vp of risk management for Service Merchandise, now provides risk management services to the retailer on an outsourced basis as a director with Aon Risk Services Inc. of Tennessee in Franklin.

The retailer did hold down its

workers comp costs as well as employee sick time during downsizing by canvassing businesses, including competitors, in local communities for job opportunities for workers that would be laid off, Ms. Scott said.

Risk managers also should consider how to defuse the tension in the workplace when management informs a group of employees that they have lost their jobs, Ms. Scott and Ms. Fuschi said.

Service Merchandise gave laid-off employees four hours to pack up their belongings and vacate the

premises. The following day, the retailer would conduct a meeting with those employees at an offsite location to discuss severance pay, benefits status and work placement opportunities, among other issues, Ms. Scott said.

"At first, that seems very cold" to ask laid-off employees to leave the workplace within a few hours, she said.

But, "It gives them some time to go home, be angry, be hurt and have all of those emotions you have when that happens to you," she explained. "You've seen the

handwriting on the wall, and you don't get over it in one day, but this gives them time to focus on the business side of, 'Where do I go from here?'"

Ms. Fuschi said Service Merchandise was "generous" with the amount of time it gave employees to pack up and leave. Methodist Healthcare asks laid-off employees to leave their workplaces within 20 minutes, and security escorts those employees to their cars to prevent them from purposely falling and filing a fraudulent workers comp claim, she said.

Ms. Fuschi also advised closing as many workers comp claims as legally possible, even if that means settling with an injured worker for a larger-than-normal sum. A higher settlement in the short run may ultimately be less costly than keeping the case open, she said.

Janet E. Barnes, risk manager for Boreal Properties L.P. of Tacoma, Wash., moderated the session. Catherine D. Bennett, vp of Cost Control Concepts Inc. of Goodlettsville, Tenn., was the session coordinator. **BI**



# Integrating absence management programs takes time

By MICHAEL PRINCE

ATLANTA—Building an effective integrated absence management program can be done one step at a time.

It's not necessary for an employer to rearrange its entire benefits program. Instead, experts advise, employers can select pieces of their program to be integrated and integrate additional parts down the road.

Employers in recent years have increased their focus on employee absence, retention and satis-

faction, said Archie Simons Jr., president and chief executive officer of Synchrony in Hartford, Conn.

One reason employers are addressing these areas is to align benefits with business goals and improve the delivery of benefits to employees, he said.

Many companies leading the charge have started to turn away from measuring success solely in terms of income and earnings per share and have added to those indicators such factors as employee satisfaction, employee retention

and training, he explained.

"There is a much broader view of what the metrics and scorecards should be," Mr. Simons said at a session he moderated at the Risk & Insurance Management Society Inc.'s annual conference last week in Atlanta.

One way for employers to measure and improve these employee factors is through an integrated absence management program, he said.

Integrated absence management, or IAM, is designed to minimize the length of workplace ab-

sences, regardless of their source, said Janet Douglas, managing director at Marsh Risk Consulting in Deerfield, Ill. Along with reducing absenteeism, IAM will also cut labor costs, improve productivity and boost both customer and employee satisfaction, she said.

But it's not necessary to create an entire IAM program all at once to reap the benefits of this approach, she said. Employers can start with an integrated disability management program that combines short- and long-

term disability claims with workers compensation claims, she said. Starting with one area, such as disability management, will change the state of mind of the employer by removing some barriers that may have blocked progress in the past, Ms. Douglas said. It also says, "Let's really approach this from a broad strategic sense and let's really manage this thing," she added.

Employers in more traditional arrangements with separate insurers can start an integration process by creating a common data-intake mechanism, integrating the systems from the various insured programs and adopting a coordinated medical management program, she said. An employer also can try to determine the impact of absenteeism, regardless of the reason.

She polled the audience, which consisted mostly of risk managers, on various aspects of IAM. Most participants said the primary reason to adopt an IAM program would be to save money, followed by increased productivity. The audience also believed that turf battles between risk managers and human resources departments would be the biggest obstacle to adopting an integrated approach.

One company that avoided such a conflict and used the gradual approach is Corning Inc. Two years ago, Corning realized it had to control non-occupational disability costs, which accounted for 75% of its disability payments, said Matthew Buto, supervisor-integrated health and disability for the company in Corning, N.Y. At the outset, Corning formed a task force with members from its employee benefits, corporate medical services, EAP services, health and safety and workers compensation areas. All five departments thereafter reported to the same human resources executive.

"This eliminated the turf issues," said Patricia Berger-Friedman, a principal in William M. Mercer Inc.'s Stamford, Conn., office who worked with Corning on the program.

The first part of the program rolled out last April was a managed short-term disability claim program. This consisted of a toll-free number that all employees are required to call when reporting a short-term disability claim. An outside vendor was brought in to manage employee care under Corning's disability program, and another company was hired to gather the data for analysis. The program was expanded this year to include all disability and workers comp claims coming through a common telephone intake point, Mr. Buto said.

While it's still too soon to fully gauge the program's success, he said, more than 95% of employees call the hot line to report claims, and employees are happy because the program delivers their disability checks sooner. Even with its go-slow approach, however, Corning has still experienced months of delays in getting the program in place, Mr. Buto said.

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# Curbing workers comp costs harder with privacy laws

By JOANNE WOJCIK

ATLANTA—If California's experience is any indication, medical privacy regulations being considered by Congress and numerous state legislatures could make it harder for employers to exercise loss control in workers compensation, industry experts say.

In fact, a medical privacy law that took effect Jan. 1, 2000, in California already is making it difficult for employers there to manage workers comp medical costs and early return-to-work

programs, according to an insurance company executive.

"It inhibits the free exchange of information between the carrier and the employer so they can come up with a unified strategy on how best to get the employee back to productive work," said Robert Van Nostrand, senior vp, business markets and general claims manager, at Liberty Mutual Insurance Co. in Boston.

"The work comp system is designed to be self-executing," said Keith Bateman, vp and director-workers compensation/health for

the Alliance of American Insurers in Downers Grove, Ill. "This slows the system down."

Employers need medical information, said Jim Cronin, director of disability programs at Raytheon Corp. in Lexington, Mass.

"By looking at the data, we can find areas in which we can reduce accidents in the future," Mr. Cronin said. Medical information also is needed for medical management and to determine whether the duration of a disability is appropriate, he said.

But with the push toward medical privacy coming from all political factions, both liberal and conservative, employers soon will no longer have "unfettered access" to employees' medical records, Mr. Bateman warned.

He spoke at an educational session on the effects of medical privacy legislation presented at the Risk & Insurance Management Society Inc's conference and exhibition held last week in Atlanta.

"When medical records were locked up in your doctor's file cabinets at night, there was very little

concern," Mr. Bateman said. But now, he said, there is growing public concern in response to the increasing use of electronic databases and the Internet to store and transmit medical information.

In fact, 23 states are considering some type of medical privacy legislation, Mr. Bateman said.

While California's law may not be the model that other states eventually adopt, "it is better to talk about the law that is on the books than it is to conjecture about what all the other states are going to come up with," Liberty Mutual's Mr. Van Nostrand said.

Assembly Bill 435 "started out innocuously, as a provider measure related to HIV that, in essence, was going to limit providers from being able to give out information relative to HIV status," Mr. Van Nostrand said. "What we ended up with, basically, was a bill that went well beyond that."

While the law does limit the disclosure of patients' HIV status, it also prohibits insurers and third-party administrators from sharing with employers medical information about employees that is needed to resolve workers comp claims, Mr. Van Nostrand said. That information, he said, includes "medical reports, copies of depositions, legal-medical type letters and verbal communications that include medical information."

There are, though, two exceptions, Mr. Van Nostrand said.

The insurer or TPA may disclose pertinent information about an employee's medical condition if that employee's injury is likely to increase the employer's insurance premiums, or if the injury requires the employer to provide reasonable accommodations in returning the employee to work.

But in either case, only information related to the "primary diagnosis" can be disclosed; information about any complicating factors that may increase the cost of a workers comp claim, such as an underlying medical condition, cannot be shared with the employer, Mr. Van Nostrand explained.

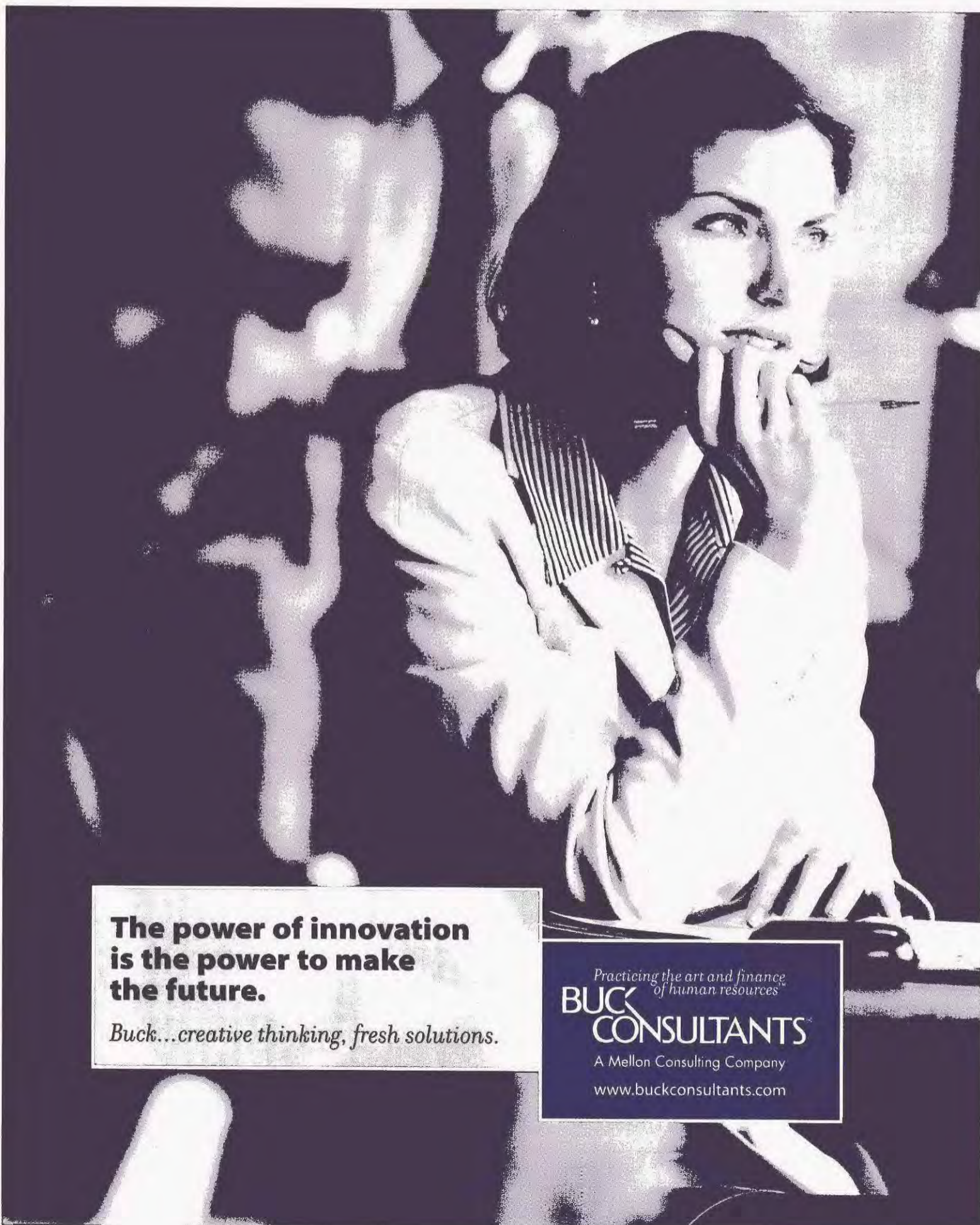
As an example, he cited a hypothetical case in which an insurer is unable to disclose to an employer that an employee with a major back injury requiring surgery cannot be treated immediately because he also suffers from uncontrolled diabetes and hypertension.

"You're going to end up with a higher reserve on that case, because we're reserving on the basis of what we know, not what we can tell you," he said.

The inability to share information about employees' medical conditions with their employers also creates internal operational concerns for insurers and TPAs, whose computer systems often are unable to limit access to injured employees' medical information included in workers compensation claims, Mr. Van Nostrand said.

"We did not design our systems with little hiding places that restrict access," he said.

Mr. Cronin moderated the session. Tracy J. Buckley, marketing services specialist with Liberty Mutual Insurance Co., was the coordinator.



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# Adapting injury risk management to aging workforce

By ROBERTO CENICEROS

ATLANTA—While work-related injuries suffered by older employees are, typically, more severe than those that afflict younger workers, younger employees tend to sustain injuries at a greater rate. Consequently, the workers compensation costs for the two groups are roughly even.

But the average age of the American worker will rise over the next several years. So those employers that want to keep injury-related costs in check and keep older workers healthy and on the job will need to consider the effect of employee aging on their workers comp management strategies.

In particular, employers will have to examine the specific jobs older employees perform and consider whether those jobs match their physical capabilities, two experts told attendees at an educational seminar at the annual convention of the Risk & Insurance Management Society Inc., held last week in Atlanta.

Employers now have access to substantial data on the overall nature of injuries in their workplaces, said Connie Vaughn-Miller, director of strategic market development for disability management at Intracorp, a Lake Mary, Fla.-based case management company. But, Ms. Vaughn-Miller said, they lack data about injuries that is correlated by age and specific job function.

"Generally, companies can tell you how many injuries they have in a prior year and where they occurred," she said. "But if you get down to the job level, that information becomes much more obscure."

Such information increasingly will be necessary to prevent injuries among older workers and to develop programs that help them return to a safe environment after injury, she said.

As Americans live longer, they are also staying in the workforce longer, said R. Wayne Clifton, manager of risk control services in Downingtown, Pa., for ESIS Inc., a third-party administration and insurance services unit of ACE Ltd.

The median age of the U.S. workforce was 35 in 1980 but will reach 41 in 2008, Mr. Clifton said. Meanwhile, the number of young workers available to enter the workforce will decline. The proportion of 45- to 64-year-old employees in the workforce, which was 30% in 1980 and 34% in 2000, is projected to reach 36.7% in 2025, he said.

At age 45, the body begins many physiological changes associated with aging, Mr. Clifton said. The deterioration of eyesight, hearing and muscle mass are a few of the changes with workplace implications.

Deteriorating eyesight, for example, may affect the type of ergonomic programs that employers implement or the tasks they assign to older employees. For example, an employee with deteriorating eyesight may not be a good fit for a job that requires driving an automobile.

Yet it is a myth that older workers are not capable of carrying out many jobs, Mr. Clifton said. In fact, older workers sustain fewer injuries, he said, either because their work experience allows them to advance into jobs with fewer risks or because that experience allows them to accomplish tasks without hurting themselves.

Still, the physiological changes that affect older workers may make them more susceptible to certain injuries under certain conditions. Therefore, Mr. Clifton said, the potential for injury for

older workers who do various jobs must be evaluated on a case-by-case basis. Not all older workers face the same potential for injuries, he said.

The gradual decline of body mass, for example, is one of the biggest problems faced by older people, Mr. Clifton said. Yet that is not necessarily a problem for everyone, because that process can be reversed with exercise. That means employees who exercise are less likely to be injured than those who don't. It also means an employer that provides incentives for its workers to exer-

cise may be reducing the rate of injuries in its workforce.

Overall, risk reduction requires a good understanding of a company's work environment, gained by coordinating of pre-loss and post-loss evaluations and strategies, Ms. Vaughn-Miller said.

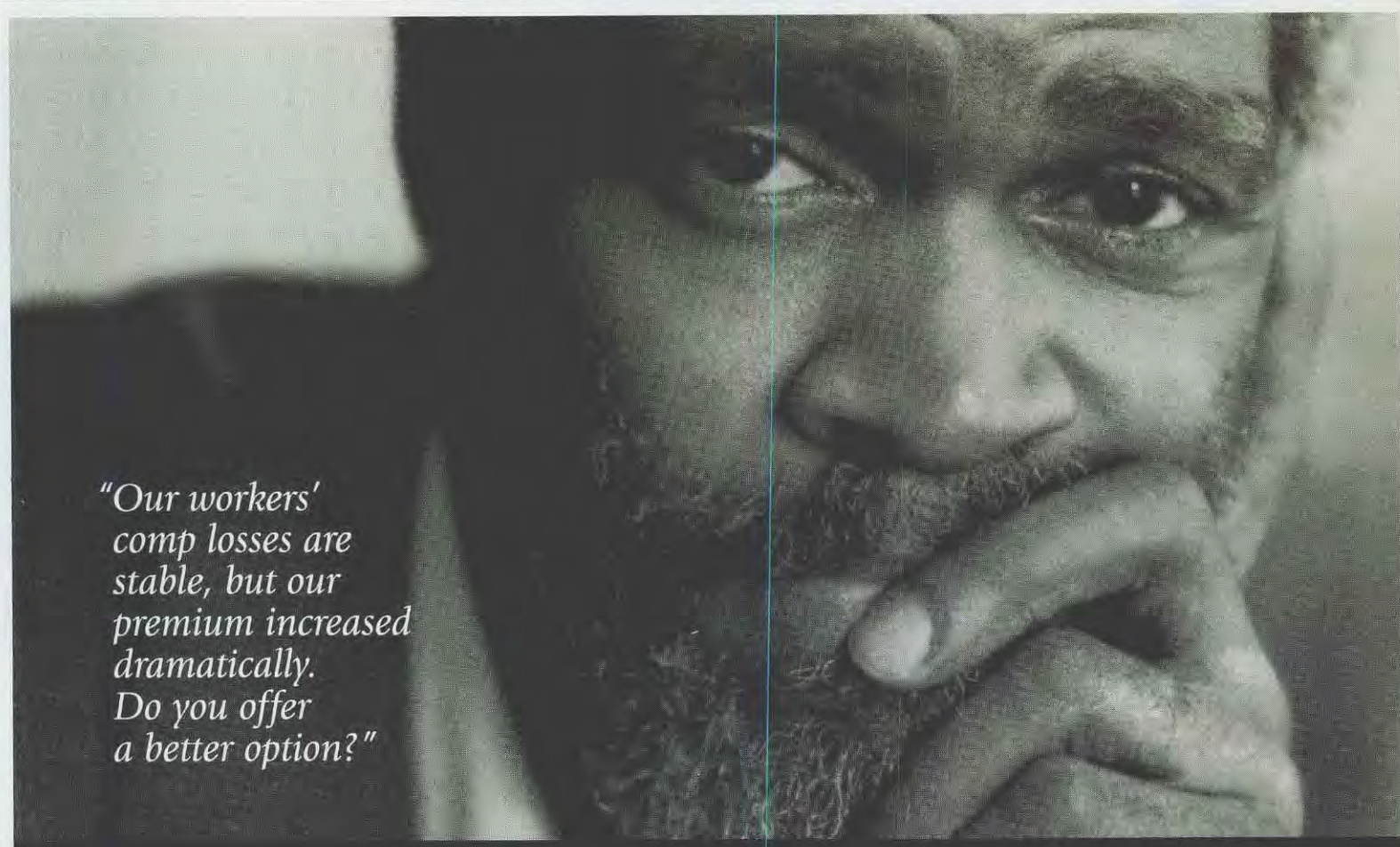
Pre-loss evaluations might focus, she said, on injury risk factors, the impact of aging on those risks, and measures that might mitigate them. To do so effectively, she said, requires compiling information about the workforce correlated by age and job title. That information can then be re-

viewed in conjunction with the company's business plan.

"Are you looking at centralizing, decentralizing, merging or automating?" she asked. "Those types of things will have an impact."

Post-loss work might include steps such as worksite re-engineering, Ms. Vaughn-Miller said.

The session was moderated by James E. Durchak, director of risk and insurance management for Marconi Communications of Cleveland. It was coordinated by Colleen Bergin, public relations manager for Intracorp.



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## Breakfast

Continued from page 10

risk managers, believe we can always be better. We are challenged to improve. We are challenged to a level of excellence I don't see in any place other than in our society and in our profession."

Mr. Mair issued his own chal-

lenge to each risk manager to complete a biannual minimum of 20 hours of professional education. "You're going to hear more about how RIMS is going to help you and me accomplish this in the days and weeks to come," he said.

The society is counting on its revamped Web site to help attract and retain members, by making the organization more

relevant to its membership. The site was officially launched at the membership meeting and was called a "masterpiece of technology" by outgoing RIMS President Roger Andrews, who also spoke at the meeting.

"The unveiling of the new Web site announces to the world that RIMS is serious about maintaining its position as the leader" among risk management

organizations, said Mr. Andrews, who is general counsel and director of risk management at E.D. Bullard Co. in Cynthiana, Ky. "Through this powerful cyberport, RIMS.org, the society will advance the practice of risk management at an unprecedented pace."

At least 27 chapters already have created their own sites through RIMS.org to handle administrative chores, Mr. Andrews said. The site for the Quebec chapter, for example, functions in both French and English.

"A powerful new search engine—AskRIMS.org—already is attracting interested students, educators, researchers and risk managers who are trying to find answers to risk management

announce the recipient of the award and members of the honor roll. "The year 2002 will mark the 25th year that *Business Insurance* has sponsored this successful program, so the time is right and the partnership is a great fit," Mr. Andrews said. The risk manager of the year and honor roll designees will continue to be profiled in the *BI* issue that is distributed at the annual RIMS conference.

John J. Hampton, RIMS' executive director, took the podium during the annual meeting to describe the expansion of the society's professional development activities.

He said RIMS' Executive Council "has issued a mandate" to increase educational activity at the society. In the works are

plans for continuing education credits, risk management workshops, case study exercises that allow participants to share best practices and other educational offerings.

"In our workshops, risk managers, underwriters, brokers and other risk professionals will sit at the same table and share knowledge," Mr. Hampton said. It's a way, he said, for participants to sharpen skills and "identify new tools for managing risks in a changing world. Plus, it will highlight risk management as a profession, as a unique and critical organizational activity."

RIMS elected its Executive Council at the society's House of Delegates meeting on April 29 in Atlanta. Christopher E. Mandel, assistant vp of enterprise risk management for USAA Group in San Antonio, was elected first vp. That position is the traditional stepping-stone to the presidency.

New to the council this year are Joseph Restoule, vp-long-range planning and research, who is senior risk consultant at NOVA Chemicals of Toronto; and Carol A. Fox, vp-governance and secretary, who is director, risk management at Convergys Corp. of Cincinnati.

The remaining members of the council are:

- W. Michael McDonald, vp-conferences, who is director, risk management at Walter Industries in Tampa, Fla.

- Randolph A. Thurman, vp-member and chapter services, who is director, risk management at Gaylord Entertainment Co. of Nashville, Tenn.

- Roger L. Andrews, vp-international.

- Michael D. Phillipus, vp-external affairs, who is manager, risk management at Pennzoil-Quaker State Co. in Houston.

- Nancy L. Chambers, vp-treasurer, who is risk manager for the Waterloo Region Municipalities Insurance Pool.

- Lance J. Ewing, vp-education, who is senior director of insurance and loss prevention at GES Exposition Services in Las Vegas.



## Top Towers Perrin Consultant Joins HealthAllies

Healthcare Benefits Consultant Cathy Cather Named VP of National Client Relationship Management

After helping many of the nation's top companies reduce healthcare costs and enhance benefits as a benefits consultant at Towers Perrin, Cathy Cather is bringing her more than 17 years of experience in the healthcare field to HealthAllies. A frequent speaker and expert in e-benefits and healthcare, she is a founding member of the Integrated Benefits Institute and national Disability Management Employers Coalition. Ms. Cather will develop HealthAllies' relationships with Fortune 1000 companies and will manage relationships with national benefits consultants.

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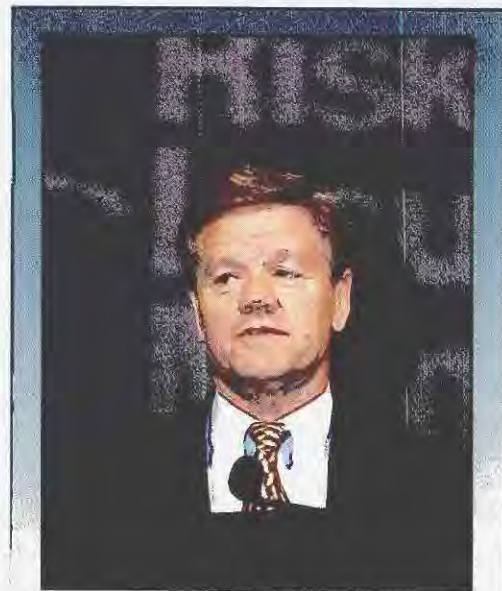


PHOTO: MICHAEL MARCOTTE

Outgoing RIMS President Roger Andrews detailed the society's achievements.

questions," Mr. Andrews said.

Mr. Mair pointed out that the new Web site provides access to information that is "critical to the risk manager and will help us do our jobs better every day. It will also help us manage more efficiently the business affairs of RIMS."

As part of its effort to increase the society's membership, RIMS has looked beyond North America for opportunities to create new chapters. It announced during the annual meeting that the first such chapter outside the United States and Canada recently was formed in Japan.

"In order for RIMS to maintain its position as the leading association for risk management, it must strengthen its influence and leadership in the international arena," Mr. Andrews said. "Today we take a significant step in that direction."

Mr. Andrews pointed out that the annual conference is becoming more of an international event, with attendees from several countries. "This year, in partnership with the United States Department of Commerce, we have an international contingent from Bulgaria, Romania and Croatia," he noted.

RIMS will join *Business Insurance* as a co-sponsor of the magazine's annual Risk Manager of the Year award, beginning in 2002 (see story, page 3).

The society will work with *BI* to nominate, select and an-

# Careful planning eases transition to telecommuting

By **RODD ZOLKOS**

ATLANTA—As telecommuting becomes more pervasive in the business world, with it comes a host of new risks and potential new regulatory headaches for employers.

Speaking about managing the risks posed by telecommuting at the annual conference of the Risk & Insurance Management Society Inc. last week in Atlanta, Bruce S. Zaccanti, a senior manager at Arthur Andersen L.L.P. in Chicago, defined telecommuting as "the ability to allow an employee to work from home or an alternative site to the employer's physical site via an electronic connection."

The alternative site can take various forms, from the employee's home to hotel rooms, cars, airplanes or a client's office.

In the process, though, many new risk-related questions emerge, often involving concerns over what constitutes a work-related activity. "When does the day begin and end?" Mr. Zaccanti asked. "Does it begin with e-mail at 7 o'clock in the morning? Does it end with e-mail at 9 o'clock at night?"

With those questions, concerns over risks and regulations increase, he noted.

"Do you want (the Occupational Safety and Health Administration) coming into your home telling you how to set up your desk?" asked Mr. Zaccanti, who coordinated the session.

He noted that OSHA currently holds that the Occupational Safety and Health Act does not apply to an employee's home or furnishings, and that it will not hold employers liable for work activities in employees' home offices. Consequently, OSHA does not and says it will not inspect home offices.

But, Mr. Zaccanti said, there are proposed regulations that would require employers to visit telecommuters' worksites at least once per year to conduct safety assessments. OSHA has never attempted to circulate or enforce such rules, however.

In considering telecommuting risks, a risk manager should first conduct an organizational assessment, said Daniel J. Ballard, assistant vp-risk management at AMA Insurance Agency Inc. in Chicago. "Organizational culture is the first thing I always look at," said the vp of the American Medical Assn. subsidiary.

The next step is to establish goals for the telecommuting program. Among those goals may be improved productivity, attracting and retaining top talent, cost savings, an improved public image and access to global and untapped labor markets, said Mr. Ballard, who moderated the session.

Allowing employees to telecommute can increase productivity from such factors as improved creative ability, reduced sick time, reduced stress related to commuting, improved morale and job satisfaction and

scheduling flexibility, Mr. Ballard said.

Telecommuting also can improve productivity in disaster recovery situations. "You may be ahead of the game in terms of disaster recovery in that you don't have everybody located at one site if that site goes down," Mr. Ballard said.

With goals set, a company should establish a task force to examine the telecommuting issue, Mr. Ballard said, noting that potential should be included on that panel. The company

should then craft a telecommuting policy that sets out program goals, eligibility and guidelines and the employer's responsibilities.

"If people are going to apply to be a telecommuter, they need to know what the goals are," Mr. Ballard said. And, he noted, "You have to make sure that you have guidelines and people can apply. You certainly don't want a program to be discriminating."

In addition, an employer must spell out its responsibilities for

such elements as equipment, expense reimbursement, compensation and benefits, taxes, training and infrastructure. The employer also should clearly define any home office guidelines.

The telecommuting agreement should also include details of any employer rights to inspect home offices. "What are you going to do when OSHA changes its mind and regulates that you do now have to go and look?" Mr. Ballard asked.

In addition, he said, the agreement should provide for volun-

tary termination of the telecommuting arrangement by either party.

The next step for an employer is to conduct a pilot study of no shorter than six months, Mr. Ballard said. "You have to have it long enough so that people can kind of get up to speed and get into their work habits," he said.

The final step is to analyze the results, including whether goals were achieved and senior management and employee support for the program. BI

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# RIMS REPORT 2001

## Awards

Continued from page 10

was active in legislative activities on behalf of Canadian RIMS chapters. Mr. Stuart was the first recipient of the Richard W. Bland Memorial Award, given to RIMS deputy members who have made significant contributions in the regulatory or legislative arenas.

Richard C. Heydinger was presented the Richard W. Bland Award at this year's conference.

Mr. Heydinger, who retired at the end of last year as director, risk management at Hallmark Cards Inc. in Kansas City, Mo., has long been active in legislative affairs. Most recently, he formed and chaired a committee on federal ergonomics issues. In previous years, he spearheaded

annual visits by chapter members to Capital Day in Kansas and Missouri to meet with government officials about concerns that included workers compensation, surplus lines taxes and other matters of importance to risk managers. He has encouraged RIMS members to participate in the annual RIMS on the Hill summit in Washington and has served on the legislative committee of the Vermont Captive Insurance Assn.

Mr. Heydinger served as RIMS' president, was the 1993 *Business Insurance* Risk Manager of the Year and the 1992 recipient of the Goodell Award.

Thomas H. Worischek, assistant safety director at Whitestone, N.Y.-based Slattery Skanska Inc., received the Cristy Award for the highest cumulative average score in 2000

on the three exams leading to the Associate in Risk Management designation.

John Miller, portfolio analyst with Dominion of Canada General Insurance Co., received the Fred H. Bossons Award for the highest academic average in Canadian Risk Management courses for 2000. The award was given in October at the Canadian Risk Management Conference in Edmonton, Alberta.

RIMS did not name a recipient this year for its Arthur Quern Quality Award. According to a spokeswoman for the society, no nominee met RIMS' requirements for the award.

RIMS' overall chapter excellence awards went to Dallas/Fort Worth in the large-chapter category and to San Diego in the midsize category. No award was given in the small-chapter

category.

The outstanding chapter programming awards went to Houston in the large-chapter category, Oregon in the midsize chapter category and Mid-Illinois in the small-chapter category.

The awards for advancing the profession of risk management went to Dallas/Fort Worth in

the large-chapter category, San Diego in the midsize chapter category and Long Island in the small-chapter category.

Recipients of the outstanding member services awards were Dallas/Fort Worth in the large-chapter category, Oregon in the midsize chapter category and Greater Quad Cities in the small-chapter category. **B**

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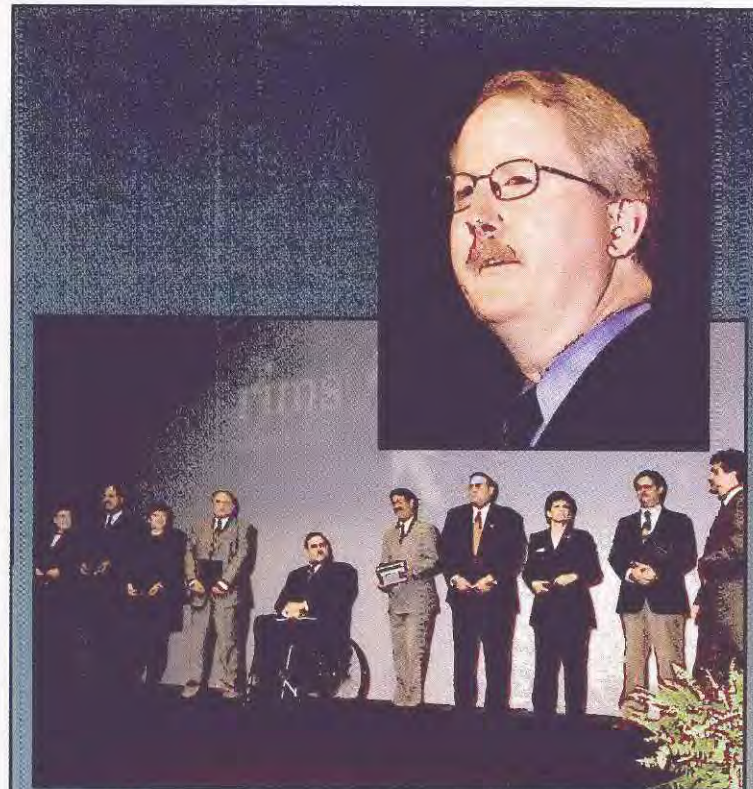
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Chris Mandel, top, RIMS vp of member and chapter services, presented the society's chapter awards at the annual membership meeting April 30. Overall chapter excellence awards went to Dallas/Fort Worth in the large-chapter category and to San Diego in the midsize category. No award was given in the small-chapter category. Outstanding chapter programming awards went to Houston, large; Oregon, midsize; and Mid-Illinois, small. Awards for advancing the profession went to the Dallas/Fort Worth, San Diego and Long Island chapters, while outstanding member services awards were presented to Dallas/Fort Worth, Oregon and the Greater Quad Cities.



PHOTOS: MICHAEL MARCETTE

Yutaka Maekawa, inset, a member of the first RIMS chapter in Japan, received an award from Roger Andrews. Above, Davic Mair presents former RIMS President Susan Meltzer, center and former RIMS Vp Karen Fleming with awards for their service to the society.

## GLOBAL BRIEFS

U.K. High Court Judge Mr. Justice Cresswell last week dismissed an application by a group of disgruntled Lloyd's of London names to amend their charges against Lloyd's to negligence from fraud. The names were originally part of the *Jaffray vs. Lloyd's* fraud case, which Lloyd's won last year (*BI*, Nov. 6, 2000). After the names' fraud case failed, they sought to challenge the Lloyd's Act of 1982—which gives Lloyd's statutory immunity from charges of negligence—and bring a negligence case against Lloyd's. The names argued that the Lloyd's Act is contrary to their rights under the U.K. Human Rights Act, signed into law last October (*BI*, Oct. 9, 2000). Mr. Justice Cresswell threw out the amendment plea and upheld Lloyd's application for all non-fraud related allegations to be struck out. **JLT Risk Solutions Ltd.**, the London-based brokerage operation of Jardine Lloyd Thompson Group P.L.C., has hired a senior executive away from London rival Marsh Ltd. Mark Hardinge has been named to the new position of deputy chief executive for JLT Risk Solutions. Mr. Hardinge had been with Marsh Ltd. for 18 years. Last year, he was appointed deputy chairman and chief executive officer of the Guy Carpenter Reinsurance operation in London and non-executive chairman of Marsh FINPRO U.K. Ltd. Lloyd's of London managing agency **Crowe Syndicate Management Ltd.** is considering options for its ownership following the decision of its current owner, Bermuda-based Stockton Re, to review its involvement in Lloyd's syndicate management. A strategic group of senior managers has been formed to consider options, including a possible management buyout. Stockton Re has indicated that it is willing to consider providing capital support to Crowe's active syndicates. Meanwhile, Moody's Investors Service Ltd. has placed its performance rating of **Crowe auto syndicate 963** under review. The review of the syndicate's B-rating was prompted by concerns over its capital backing. Although Stockton Re had decided to withdraw its support for all Crowe syndicates except 963 and 982, capacity of 963 for 2001 has been reduced to £81 million (\$115.9 million) from £125 million (\$178.8 million) in 2000 after withdrawal of third-party capital, Moody's said. **ACE Europe**, part of Bermuda-based ACE Ltd., has appointed Carl Bach as senior vp of property and casualty operations for the United Kingdom and Ireland. Mr. Bach was previously with Reliance National Insurance Co., where he was chief executive officer of Reliance National (Europe). **inreon Ltd.**, an company launched last December by Munich Reinsurance Co., Swiss Reinsurance Co. and other investors to build an Internet-based reinsurance exchange, has made two senior appointments. inreon's new chairman is Kaj Ahlmann, previously head of Employers Reinsurance Corp. and vice chairman of reinsurance broker E.W. Blanch Holdings Inc. Rob Bredahl, a former vp-operations with U.S.-based Internet Capital, has been named CEO. The insurance practices of London-based professional services firms Bacon & Woodrow and Deloitte & Touche have been merged to form **B&W Deloitte**. The firm has 15 partners, 200 staff and offices in London; Paris; Cologne, Germany; Amsterdam, Netherlands; and Zurich, Switzerland. Duncan Ferguson, senior partner of Bacon & Woodrow, was named senior partner.

# May Day riots hit multinationals

## Damage minimal, but some businesses lose revenue

By CAROLYN ALDRED

LONDON—U.S. global corporations were the main targets for anti-capitalist protesters who on May 1 took to the streets of several cities around the world, including London, Sydney and Berlin.

Although physical damage was limited, including broken windows, many retailers lost business and incurred extra security costs as shops in the protest areas were boarded up as a preventative measure.

The protests were an example of the growing activism on corporate responsibility, an issue that is a rising business risk for many large multinational companies.

Westminster City Council estimates that businesses in central London suffered a loss of revenue of £20 million (\$28.6 million). The city council itself incurred costs of more than £100,000 (\$143,000) for

such tasks as removing trash containers from the streets and cleanup following the protests, a statement noted.

Among the companies targeted in the May Day protests were McDonald's, Nike Inc., Gap and Starbucks Coffee Co. Among the protesters were environmentalists and human and animal rights activists.

San Francisco-based clothing retailer Gap Inc. closed several stores in London for the "safety of customers and employees" and took other risk management measures, said a spokeswoman, who refused to comment in detail.

McDonald's Restaurants Ltd., the U.K. subsidiary of Oak Brook, Ill.-based McDonald's Corp., had not planned to close any restaurants, but a "small number" of outlets did close on May Day, said a London-based spokeswoman. See **May Day** on page 39



PHOTO: AFP  
Police in central London battled rioters during May Day protests that mainly targeted U.S.-based global corporations. Similar protests occurred in several cities worldwide on May 1.



## U.K. insurers agree to limit genetic testing

By EDWIN UNSWORTH

LONDON—U.K. insurers have announced that they are placing additional limitations on the use of genetic test results as well as raising the policy amount above which certain genetic tests will be taken into consideration.

The Assn. of British Insurers said last week that genetic test results would not be used in underwriting life insurance policies of less than £300,000 (\$429,000), increasing the limit from £100,000 (\$143,000) under its existing Code of Practice on Genetic Testing. The ABI said this new arrangement likely would be in place for at least the two-year period recently sought by the House of Commons Select Committee on Science and Technology (*BI*, April 16).

The ABI Code of Practice on Genetic Testing was published in 1997 and was revised in 1999 to recommend that genetic test results be sought by insurers only for life insurance policies of more than £100,000. Under the Code of Practice, insurers may not ask applicants to submit to testing but may require that previous test results be disclosed.

The ABI's announcement fell slightly short of recommendations made the same day by the Human Genetics Commission. The HGC's recommendations to the government call for a moratorium on insurers using genetic tests for at least three years for insurance policies under £500,000 and say that no insurance company should require disclosure of adverse results of any genetic tests. The HGS also said that during the moratorium period the HGS would address the issue of insurers requiring information on family medical history on the grounds that "family history information can amount to genetic information and is not always interpreted appropriately in underwriting."

A spokesman for the HGC said, however, that the ABI's revised code is "not far short" of what the commission now recommends. He said too that the difference between the two proposed ceilings on life policies is not very great, as a £300,000 ceiling still covers 98% of policies. The spokesman said the HGC's recommendations have been passed to the government, but it is not known when, or how, the government will respond.

See **Genetics** on next page

## Unions express asbestos concerns

### Work-related deaths rising: Report

By EDWIN UNSWORTH

LONDON—Britain's trade unions have called for more help for sufferers of asbestos-related illnesses, including full and fair compensation, even in instances in which an insurance company has collapsed, as in the recent case of Chester Street Insurance Holdings Ltd.

The Trades Union Congress, an umbrella organization of U.K. labor unions, issued that call in a report, "Mapping the Misery of Asbestos," published at the end of April.

The TUC report claims that,

over the past four years, more individuals in Britain have died from working with asbestos than from road accidents. It states that 4,500 people a year succumb to asbestos-related diseases and warns that, because it can take as long as 40 years for symptoms to develop, the annual mortality rate by 2020 will rise to more than 10,000.

The report notes that, over the past four years, the number of asbestos-related deaths—18,000—exceeds by more than 4,000 the number of U.K. road accident deaths in the same period.

See **Asbestos** on page 39

## Lloyd's admits first non-U.K. insurance brokers

By EDWIN UNSWORTH

LONDON—Lloyd's of London has expanded its roster of brokers, including the accreditation of its first non-U.K.-based brokers.

Six brokers—two British, two French and one each from Singapore and Luxembourg—have now joined the 128 British brokerage firms that already operate at Lloyd's.

The additions represent the first brokers to be accredited under new rules for direct access announced last year and implemented at the start of this year (*BI*, May 29, 2000).

The brokers are: Benfield Greig Asia Pte. Ltd. of Singa-

pore; Benfield Greig Paris S.A. and Groupe Eyssautier, both of France; Grosvenor Brokers (America) L.L.C. of England; Societe Anonyme d'Intermediaries Luxembourgais, or SAIL, of Luxembourg and England; and BDB Ltd. of England.

Lloyd's said more brokers will be accredited in the coming months. The move should make the market more streamlined in terms of access and should enable more insurance business to be placed directly with the market, Lloyd's said.

David Spiller, chief executive officer of Benfield Greig See **Lloyd's** on next page

**INTERNATIONAL**

**Genetics**

*Continued from previous page*

Last week, the ABI said that applications for life policies of more than £300,000 will consider only tests approved by the government's Genetics and Insurance Committee. Currently, U.K. insurers are permitted to use only genetic tests for Huntington's disease—a fatal, late-onset disease of the central nervous system—though the GAIC is considering insurers' requests to use ge-

netic tests for breast and ovarian cancers.

The ABI's decision to extend the limitations on the use of genetic test results comes shortly after the Committee on Science and Technology strongly criticized insurers for using any genetic test information and asked them to voluntarily suspend the use of tests for two years, until more research has been done on their reliability and actuarial relevance.

In an April 30 letter to Baroness Helena Kennedy, chair of the Hu-

man Genetics Commission, ABI Director General Mary Francis wrote that the increase in the threshold from £100,000 to £300,000 "will have the effect of excluding genetic test results from underwriting other than for a very small number of high-value policies."

Ms. Francis added that the two-year moratorium sought by the Committee on Science and Technology will "provide a period of stability while new and more permanent arrangements can be put in place." **BI**

**Lloyd's**

*Continued from previous page*

Ltd. in London, said in a statement: "We believe there are circumstances where direct access to Lloyd's by our Singapore and Paris subsidiaries will deliver greater value more speedily to customers, not least in the streamlining of the business process. We have chosen these two offices as a first step and, if successful, may broaden this to

other subsidiaries."

Paul-Eric Eyssautier, managing director of Groupe Eyssautier in Paris, said: "As an international marine broker, I felt the next logical step for us was to apply for either the ISO (International Standards Organization) mark or Lloyd's access. I chose Lloyd's because the accreditation process was more practical and efficient, and the Lloyd's name counts for much more in the international marine community." **BI**

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**PLEASE TAKE NOTICE**, that on March 22, 2001, the Circuit Court of Cook County, Illinois, entered an Agreed Order of Liquidation With a Finding of Insolvency and Injunctive Relief against Illinois Environmental Workers Compensation Trust ("ENVIRONMENTAL"). Nathaniel S. Shapo, Director of Insurance of the State of Illinois, is the statutory and court affirmed Liquidator of ENVIRONMENTAL ("Liquidator").

**TAKE FURTHER NOTICE**, that on April 24, 2001, the Circuit Court of Cook County, Illinois, entered an Order Fixing Rights and Liabilities and Providing for the Filing of Claims and the Setting of Claim Filing Deadlines (Fixing Order). Pursuant to the Fixing Order, all rights and liabilities of ENVIRONMENTAL and its policyholders, members, creditors and all other persons interested in its property or assets, are fixed as of March 22, 2001, unless otherwise provided in prior or subsequent orders of the Court.

**TAKE FURTHER NOTICE**, that all persons, companies or entities who have, or may have claims against ENVIRONMENTAL, its property or assets, or against an enrollee or policyholder, shall have the right to present and file with the Liquidator proper proofs of claim on or before March 22, 2002 at 4:30 p.m. (C.S.T.).

**TAKE FURTHER NOTICE**, that pursuant to Section 209(4) of the Illinois Insurance Code, 215 ILCS 5/209(4), any insured under an insurance policy issued by ENVIRONMENTAL shall have the right to present the Liquidator with a proof of claim setting forth a contingent claim, subject to the claim filing deadline of March 22, 2002 at 4:30 p.m. (C.S.T.). The final date by which evidence supporting the liquidation of any such contingent claim may be received by the Liquidator shall be March 24, 2003 at 4:30 p.m. (C.S.T.). No such contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the class "d" priority level, 215 ILCS 5/205(1)(d), unless such claim has been liquidated and the insured claimant has presented evidence of payment of such claim to the Liquidator on or before March 24, 2003 at 4:30 p.m. (C.S.T.).

**TAKE FURTHER NOTICE**, that the form and required contents of all proofs of claim are described in 215 ILCS 5/209. Proofs of claim, along with supporting documents, if any, are to be filed with, and may be obtained from, the Liquidator of ENVIRONMENTAL, c/o the Office of the Special Deputy Receiver, located at 222 Merchandise Mart Plaza, Suite 1450, Chicago, Illinois 60654. A proof of claim shall be deemed "filed" with the Liquidator upon the Liquidator's receipt thereof. The Liquidator reserves the right to require such additional information with respect to any claim filed with him as he may deem necessary. The Liquidator further reserves any and all defenses available to ENVIRONMENTAL upon all filed claims. All proofs of claim must be duly sworn to before an officer authorized to take oaths.

THE LAST DATE FOR THE FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS SET FORTH ABOVE. NO PERSONS, COMPANIES OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIM AGAINST ENVIRONMENTAL, ITS PROPERTY OR ASSETS, OR AGAINST AN ENVIRONMENTAL POLICYHOLDER OR MEMBER, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATOR ON OR BEFORE MARCH 22, 2002 AT 4:30 P.M. (C.S.T.)

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BPA Publisher's Statement

# May Day

Continued from page 37

who refused to give details of the company's security arrangements.

Many other stores and businesses in protest locations also closed for the day and boarded up their premises to reduce damage to property, employees and customers. Westminster City Council also closed four schools and three libraries in London "in the interest of public safety."

Both Westminster City Council and the Confederation of British Industries issued risk management advice to companies prior to the event, and WCC and the Metropolitan Police Service had held briefings with businesses about managing the risk.

WCC advised all companies to:

- Review internal security arrangements, increase security levels and urge employees to be vigilant.
- Ensure that closed-circuit television systems are working.
- Reduce the number of people in reception areas.
- Limit the number of access points to premises.
- Review contingency plans.
- Exercise caution with e-mails received from unexpected sources.

In addition to stepping up existing security measures, the CBI suggested businesses discourage unnecessary employee movement in and out of buildings by, for example, using videoconference facilities; allow employees to wear informal clothes and to work from home, if possible.

In London, more than 6,000 police officers were deployed to control the protests, and a successful campaign to contain protesters at strategic locations resulted in far less physical damage than last year's May Day protests in the City of London, London's financial district.

A Metropolitan Police Service spokeswoman said 92 people were arrested this year for criminal damage, assault and public order offenses, and two police officers and 22 protesters suffered minor injuries.

Such protests, similar to those in Seattle and elsewhere, are an extreme example of growing campaigns by activists, consumers and investors to make multinational corporations more aware of their societal and environmental impact.

Indeed, many large companies al-

ready have responded to growing concerns about corporate responsibility and have introduced into their corporate strategies policies covering issues such as the environment, employment rights, the community and human rights. These policies increasingly are included in corporate annual reports, corporate Web sites and investor documentation.

Such policies and corporate statements have been encouraged by groups such as the U.S.-based Coalition for Environmentally Responsible Economies. The Coca-Cola Co., Ford Motor Co. and General Motors Corp. were among the many companies that helped sponsor the CERES 2001 conference in Atlanta last month, in which more than 300 people from 20 countries discussed matters such as climate change and the environmental responsibility of corporations.

Companies should be aware of the increasing risks of not having corporate governance policies in place, warned Alan MacDougall, managing director of London-based Pensions & Investment Research Consultants Ltd., which advises institutional investors.

PIRC analyses the largest U.K. companies on their level of "stakeholder engagement," which includes employees, customers, the community and shareholders.

"We expect companies to have clear strategic policies and objectives covering issues such as the environment, community, labor and employment standards and human rights," Mr. MacDougall said.

"Investors are increasingly concerned about companies that don't have appropriate measures in place to manage their corporate responsibilities, as it could create more risks for the company," he said.

The issue also has increasing insurance implications, Mr. MacDougall said.

"Some insurers, especially those who underwrite directors and officers (liability) insurance, are looking at boards to understand the potential risks of companies and directors' responsibilities to have (corporate governance) policies in place," he said, adding that "it's a serious issue for companies and shareholders."

Spokeswomen for both Gap and McDonald's confirmed that those companies have adopted corporate responsibility policies covering such

concerns as working conditions.

"We have strategies in place which cover the factories in developing countries" that produce Gap clothing, the Gap spokeswoman said, noting that details of the company's sourcing policies are available online at [www.gapinc.com](http://www.gapinc.com).

Gap has a code of vendor conduct, to which it requires all its garment manufacturers adhere.

"First conceived in the early 1990s, the code focuses on compliance with local labor laws, working conditions and the environment. It also spells out to vendors our expectations regarding wages, child labor, health and safety issues, respecting the right of workers to organize," according to a company statement.

Gap Inc. has a global compliance department wherein 120 employees monitor adherence to the code. Vendor compliance officers conduct health and safety inspections, review payroll records and interview vendor employees worldwide, according to the company.

"Some manufacturers try to comply but fall short of our expectations. When this happens and we believe vendors are earnest in their efforts, we work with them to make improvements," the statement continued, adding that "Gap Inc., non-governmental organizations, workers, garment manufacturers and local governments must work together, every day, to improve working conditions."

McDonald's, too, "takes its social and corporate responsibility very seriously. It is a priority," said its spokeswoman, adding that she believed that "the allegations made by May Day protesters are misplaced."

The company "has an ongoing dialogue with credible and well-organized groups and nongovernmental organizations" about its business and social responsibilities, she said.

A spokesman for Control Risks Group, a risk and security consulting firm in London, said companies increasingly are concerned about risks to their employees and businesses from activist groups.

"Companies should look carefully at their business—what industry they are in, who their suppliers and customers are—to see if they are likely to become a target for activist groups," he said, predicting that the frequency and intensity of activist attacks will increase worldwide. **BI**

ward each of the tens of thousands of claims.

Like the TUC, Mr. Hepburn called on the government and insurers to give assurances that asbestos victims would be compensated in full.

Melanie Johnson, a member of Parliament and the economic secretary to the treasury, said during the debate that the government is trying to find a solution for the victims as quickly as possible. The insurance industry, though, would be expected to offer a constructive approach and not "stand by and let individuals suffer," Ms. Johnson said.

The TUC said that another reason for publishing its report is to raise awareness of the problem and prevent more asbestos-related deaths.

"Thousands of workers have been exposed to asbestos—many have already died, and the plague will go on killing in greater and greater numbers. All we can do to help those already affected is to fight to ensure that they and their families

receive the compensation they are entitled to, that they get the treatment they need, and that the search for a cure goes on," said John Monks, TUC's general secretary.

While the United Kingdom banned the use of asbestos last year, the product has been used extensively over the past 100 years in a variety of products. Consequently, the TUC report warns, millions of tons of asbestos remain in use across the country, mainly in buildings.

In addition to full compensation for asbestos sufferers, the report calls for a global ban on asbestos and the creation of a public register of buildings in the United Kingdom in which asbestos can still be found. There is a voluntary register on the Web at [asbestosregister.com](http://asbestosregister.com).

• *Copies of the Trades Union Congress report "Mapping the Misery of Asbestos" may be downloaded from the TUC's Web site, located at [www.tuc.org.uk](http://www.tuc.org.uk).*

# Stocks

Continued from page 1

stock in 401(k) plans, though some warn that more restrictions may come from courts (see story, page 40).

A sizable portion of defined contribution plans is invested in employer assets, primarily common stock, either through matching funds, an investment option or both.

Company stock accounted for 28.8% of asset allocation in 401(k) plans as of March 30, according to the Hewitt 401(k) Index compiled by Hewitt Associates L.L.C. of Lincolnshire, Ill. A separate 1999 Hewitt survey found 52% of plans offered employer stock as an investment option, and 80% of these placed no restrictions on the amount or percentage of employee contributions that participants could invest in employer stock.

The current situation on Wall Street differs from the last significant market downturn, in 1987, because of the subsequent move away from defined benefit plans to defined contribution plans, in which employees bear the investment risk. Many employees today rely on their 401(k) plans as their primary retirement vehicle.

Furthermore, while defined benefit plans may not invest more than 10% of their assets in employer assets, there are essentially no such restrictions affecting the vast majority of defined contribution plans. A provision of the Tax Relief Act of 1997 places a 10% limit on certain defined contribution plans. Only a handful of plans fall under that provision, though, largely because it applies to employer-directed plans funded with employees' pretax contributions. The 401(k) plans of virtually all large corporations are employee-directed.

The law was introduced in response to the 1996 bankruptcy of Fort Worth, Texas-based Color Tile Inc. More than 83% of Color Tile's 401(k) plan assets had been invested in property occupied by Color Tile stores.

Another well-known company failure involved the 1991 bankruptcy of Los Angeles-based Carter Hawley Hale Stores Inc. Its 401(k) plan lost money, a suit by employees charged, because company executives invested all employee contributions and matching funds in company stock when the business was faltering. Both Color Tile and Carter Hawley eventually settled the suits filed by employees.

More recently, Reliance Group Holdings Inc., whose stock was delisted after falling well below \$1 per share, had made its match in company stock as part of its 401(k) plan and had offered shares to its employees as an investment option. A Reliance spokesman had no comment.

Some observers contend that matching funds and investment options that offer company stock encourage the concentration of risk in employees' retirement plans and could leave employees vulnerable in an economic downturn, particularly if layoffs follow.

"You have a potential crisis waiting to happen," said Michael S. Gordon, a Washington-based attorney. Before the tech bubble burst, many employees of e-commerce companies may have been "absolutely thrilled to death to invest every cent in employer stock because it was going gangbusters and they saw no

downside," he said. "But now we know better."

"It's an issue that plan sponsors face today" because there is no limit on the amount of company stock employees can have in their plans, said Ruth Hughes-Guden, a principal with Morgan Stanley Asset Management in New York.

While people think investing 401(k) funds in employer stock is good for them and their company, "if it's not performing well, you've got the risk of stock-specific risk" because of overconcentration. "It's an issue I think people are getting more and more sensitized to," said Ms. Hughes-Guden, who heads her company's institutional defined contribution business.

John H. Langbein, a professor at Yale Law School in New Haven, Conn., said that "employees are already massively underdiversified in the employer firm as a result of having their human capital tied to the fortunes of that firm. Elementary good financial practice would encourage such persons to invest their diversifiable financial capital anywhere but in employer securities."

Investing in employer stock is "generally a bad idea; 401(k) plans really should be tools for people to save for retirement, and I think most people would say that it's foolish to have most of your eggs in one basket, and if you're largely invested in employer stock, that's exactly the position you're in in some ways," said Norman Stein, a law professor at the University of Alabama in Birmingham. "It's a much better idea to have as much diversification as you can," he said. Otherwise, "it's a recipe for disaster."

## Options and implications

Other observers say the mere availability of an investment option in employer stock may be seen by naïve employee-investors as an implicit endorsement.

William J. Arnone, a member of the national leadership team of New York-based Ernst & Young L.L.P.'s employee financial education and counseling practice, said some employees' attitude is that if the employer matches with company stock, it "must be the best thing to do."

J. Michael Scarborough, chief executive officer of the Annapolis, Md.-based Scarborough Group, which advises individual 401(k) participants, said an employer's generosity in giving matching funds in the form of stock is "well and good" and preferable to no match at all. Furthermore, it benefits the company because the stock is voted by an employer-controlled board, so it need not worry about the stock being used against management in a potential takeover, he said.

But "what we are unwittingly doing, I think, is informally giving the impression to employees that exposure to a single stock issue is not as aggressive as it, in fact, is, and we're having employees who are betting very large chunks of money on single stocks" for their retirement. An employee's attitude is, "if my company is doing it for me, then it must be OK," Mr. Scarborough said.

According to a study of 1999 data by the Washington-based Employee Benefit Research Institute and Investment Company Institute, in plans where the employer contribution must be invested in company stock, participants invest a greater proportion of their own funds in company stock and a much lower percentage in other equity funds.

See **Stocks** on next page

# Asbestos

Continued from page 37

The TUC said it hopes to highlight, by publishing the report, the "shocking" scale of asbestos deaths over this period, and that it will be able, by revealing the extent of Britain's asbestos legacy, to help asbestos victims and their families by speeding up the compensation processes.

Last week, a member of Parliament demanded a public inquiry into why thousands of asbestos victims faced the "scandal" of having their compensation slashed by 95%.

Labour MP Stephen Hepburn was referring, during a debate in Parliament, to the recent case of Chester Street Insurance, the London-based company that collapsed under the weight of asbestos-related claims (*BI*, Jan. 22). Mr. Hepburn said Chester Street, formerly known as Iron Trades Holdings, has assets sufficient to pay only 5% to-

# Stocks

Continued from previous page when compared with participants in plans without employer-directed contributions.

"It strikes me that, at some level, there is an implied endorsement of the investment options offered in a 401(k) plan by the employer," particularly when it is an employer stock, said Bruce L. Ashton, a benefits attorney with Reish, Luftman, McDowell & Reicher in Los Angeles. As a result, "participants may be given a false sense of the appropriateness of investing in what is essentially an undiversified investment."

"My suspicion is that, in most plans, the participants are not adequately counseled" on the risk of investing in company stock, while employers have "some obvious reluctance to do that," he said.

Some companies restrict employees' ability to get out of their investments in company stock, Mr. Ashton said. According to the Hewitt study, for instance, 16% of plans do not permit transfers or diversification of employer stock fund investments.

And, for their part, fiduciaries, who often are also company officers, are "between a rock and a hard place" if they believe their company stock is a poor investment. "The

fiduciaries are going to be reluctant to go to their boss and say, 'Guess what, we just dropped the company stock as an investment.' That will be a tough sell, too," Mr. Ashton said.

"It's increasingly difficult for business owners to separate their responsibilities as managers of an organization with their responsibilities as fiduciaries to the plan," agreed Investmart's Mr. Daley.

One plan sponsor concerned about employee underdiversification is Miami-based Lennar Corp. Although Lennar does offer an employee stock option plan, "we didn't think providing the option in a 401(k) plan was the appropriate thing to do," said Wayne Wright Malcolm, vp and treasurer for the construction firm. "We felt associates should be more diversified, and we didn't want to see...the associates having a significant amount of their retirement savings tied up in the stock. We felt it was just better for the associates, for diversification purposes, to not have that option in the 401(k) plan," he said.

Dow Chemical Co. has a different philosophy. A total of 19.8% of the \$2.6 billion in plan assets is employer stock, said Geoff D. Kusch, director of compensation and benefits at Midland, Mich.-based Dow.

"I think that, clearly, there are some good examples out there

where employees have been over-weighted in their own employer stock in the 401(k) plan, and, usually, that's because the match is always made entirely in company stock, or some other reasons," he said. "We don't feel it is a problem here because the match is made in cash," he said; employees can choose "where they put that cash match, and employee stock is only one of many options they have in which to diversify that matching contribution."

## Investment benefits

Some benefit experts say that 401(k) investment in employer stock not only encourages productivity and raises morale but promotes participation and increases retirement savings.

Dano Bartolai, a principal in Chicago with the Unifi Network, a unit of PricewaterhouseCoopers L.L.P., said, "It allows you to participate in the company a little bit more actively than you would if it wasn't there. I think it allows you to feel a little more involved and secure with the company."

David L. Wray, president of the Chicago-based Profit Sharing/401(k) Council of America, noted that employer stocks have been a part of defined contribution plans since before World War I and that

the United States has made a public policy decision that employee ownership in the companies for which they work is good. Furthermore, employers do not put in benefit programs "that cause their employees to be unhappy," he said. And offering stock ownership creates a higher expected level of success for the company, he said.

"The trend over the past few years has been to provide more options and more education to people so that they do diversify their portfolios, they do broaden their spectrum of investments," said Lynn Dudley, vp and senior counsel at the American Benefits Council, a Washington-based lobbying group.

Among younger employees, she added, matching stock can mean the difference in getting a match at all, she said. "I don't think for one minute that providing stock as a match and as a piece of your plan promotes inappropriate investment in company stock," particularly in light of the "vast quantities of information about savings and investments" that are made available to employees, Ms. Dudley said.

Randy Hardock, a benefits attorney with Davis & Harman in Washington, said, "The question really becomes, does the company get more value from that type of arrangement and therefore is able to

provide a better overall retirement plan" because it is easier to fund a 401(k) with stock and the employees feel much more a part of the business, which leads to a more productive workforce.

Although there is the risk of putting too much in any one investment, without these qualified plans, "we would have substantially less retirement savings in this country," Mr. Hardock said. He added that there has been "a lot more money invested in the stock market during this market runup than would have been invested without employer stock."

Dave Cantor, Charlotte, N.C.-based principal and consulting actuary with William M. Mercer Inc., said, "401(k) plans with lots of company stock can be appropriate if they are part of an employer-sponsored program to help employees accumulate wealth with other parts of the wealth accumulation portfolio, including things like a defined benefit or money-purchase pension plan, a post-retirement medical program, a profit-sharing plan, and perhaps also stock options in an employee stock purchase plan."

Employers need to balance employees' interest with the company's business strategy, "so that everybody's sort of working toward the same goal," he said. **BI**

# Investor education may promote diversification

By JUDY GREENWALD

Retirement plan sponsors that offer employees the option to invest in company stock should be aware of the dangers of overconcentration in employer stock, benefit experts warn.

Heavy investment in employer stock may lead to improved productivity, but plan participants also face the risk of losing retirement funds, which may invite lawsuits and regulations, observers note.

Plan sponsors can avoid overconcentration in a couple of ways, benefit experts advise. First, sponsors could improve investor education to make employees aware of the risks. In addition, they could voluntarily limit the amount of 401(k) plan assets invested in employer stock or eliminate such investments entirely.

Some observers also warn that the issue may be taken out of plan sponsors' hands and ultimately shaped by litigation and emerging case law instead.

"I would caution plan sponsors today that, some years from now, in a bad market decline when employer stock has performed badly, a lawsuit is going to come saying, 'You had a fiduciary duty not to do this to me,'" warned John H. Langbein, a professor at Yale Law School in New Haven, Conn.

"Employers today are told that they can hide behind the claim that plan design issues are not fiduciary. Whether that defense will hold when the full consequences are revealed, I would not like to bet on. Therefore, as a matter of prudence, if I were an employer I would not be running any type of employer stock plan in my 401(k)," he said.

Michael S. Gordon, a Washington-based benefits attorney who is a solo practitioner, said, "People will try to either make law in this area, or at least test the perimeters of existing jurisprudence on it."

He said, "Everybody's got to understand that there are some inher-

ent flaws in 401(k) plans because the adequacy of your account at retirement or termination depends entirely on investment performance, and nobody can guarantee investment performance; nobody can insure the market."

Many observers say further emphasis on investor education is the best approach to take in response to this issue.

Employer stocks in 401(k) plans hold a unique position, said Lori Lucas, a defined contribution consultant with Hewitt Associates L.L.C. in Lincolnshire, Ill. "I think the company stock in 401(k) plans is really a different animal than any other asset class because it's driving two purposes. One is the investment purpose, but also there is the ownership purpose," which is not true for any other asset class. "That makes company stock unique, and I think the key in communicating about the role of company stock is to articulate both sides of the equation," Ms. Lucas said.

"As we've moved from people having the vast majority of their retirement income in defined benefit plans and going to 401(k) plans, this is all part of investor education," said Clarin Schwarz, a senior vp with Aon Consulting in New York. "If we're going to give people control over their retirement assets, they need to be educated on the virtues of diversification."

"It's surprising" how many employees do not know how much they have in company stock, said William J. Arnone, a member of the national leadership team of New York-based consulting firm Ernst & Young L.L.P.'s employee financial education and counseling practice.

Mr. Arnone, who has counseled thousands of employees on their investments, said in one case, a client company offered employees a one-on-one session after a financial planning seminar. One woman who attended said that while it had been a very good workshop, it just rein-

forced what she already knew about the importance of diversification. Yet she was surprised to be told 90% of her own investment was in company stock. She had assumed the company had just put its own name on a fund it liked. "It just illustrates how education is critical, and it's ongoing, too. It's not a one-shot deal," said Mr. Arnone.

Investor education is particularly important for employers that are using company securities or any other type of concentrated investment where there is no "natural" diversification, said Erik Daley, Seattle-based director of business development for Investmart Inc., a retirement financial services company. "Without that education, participants will navigate toward past returns, and, as any prospectus says, and any good stock broker or investment banker should say, 'Past performance is no guarantee of future results.'"

Observers point to the use today of third parties hired by employers to offer investment advice. Investor education is "rapidly changing with the availability of online financial planning and education and advice through various parties out there," said Dano Bartolai, a principal with the Unifi Network, a unit of PricewaterhouseCoopers L.L.P. in Chicago. "I think employers are beginning to offer that more and more."

But some observers say there remains room for improvement in the investment education offered by employers. "I still think very few major employers have what I would call a sustained, adequate program," said Mr. Arnone. Investor education is usually done piecemeal or sporadically "and as a result, it doesn't reach a lot of people in the right way," he said.

He said one way in which investor education falls short is that employees are not taught that when a stock is doing well the portfolio should be rebalanced so it is not

weighted too heavily toward that particular investment. Instead, employees tend to worsen the situation by continuing to put more money into that stock. "They rebalance the wrong way," he said.

Lowell Smith, Investmart's Pittsburgh-based managing director of ERISA Services, said that while investment education is improving, "what we still lack to a degree" is educating employees about "how to invest, not just how to invest in the funds in their plan." Employees' investment strategy, he explained, should also encompass the "three-legged stool" of personal savings and Social Security as well as their firms' retirement plan. "You need to figure out what to do with all your investing," he said.

Rich Koski, a principal with Buck Consultants Inc. in New York, said one message that may not have gotten through to participants is that they should have enough funds to tide them over in a market downturn. The major focus has been on accumulation of assets, he said. "Maybe it's time for that pendulum to swing" toward greater emphasis on liquidity, he suggested.

Some observers would like to see limits imposed. Norman Stein, a professor at the University of Alabama's law school in Birmingham, said, "What I would like to see from a policy perspective is a rule that absolutely limits employee investment in employer stock." A 10% limit "seems to me pretty reasonable," Mr. Stein said.

But "I don't see anything on the horizon" to indicate such a limit is likely to be imposed, he added. "This Congress, I think, is less inclined than previous Congresses to do anything in this area" and seems more inclined to remove rather than add regulatory constraints, Mr. Stein said.

However, Investmart's Mr. Daley warned, "as you know, legislation is largely driven by horror stories...so if you begin to see more and more of

those, inevitably there'll be legislators interested in addressing the issue and putting regulatory limits that would help limit some of that potential loss."

Geoff D. Kusch, director-compensation and benefits for Midland, Mich.-based Dow Chemical Co., opposes mandated limits. "We feel that employees should have the freedom to make independent choices about where they invest money that's in their 401(k) plan," he said. Dow offers employer stock as an option but its matching funds are in the form of cash.

J. Michael Scarborough, chief executive officer of Annapolis, Md.-based Scarborough Group, said he does not believe imposing limits is feasible. "I think the end result that comes out of that is you're trying to legislate intelligence, and I'm not sure you can do that."

"What I would suggest is that corporations simply eliminate their company stock as an investment option, but they need to do it voluntarily." Company matching contributions, he said, should be made in the same investments the employee selects as an option.

One way for employers to protect themselves in the meantime is to offer a wide selection of plan options, said Ann Longmore, senior vp and fiduciary practice leader for Willis North American Inc. in New York. Employers that offer a sensible array of options and give employees the discretion to pick among them will find they are "looking pretty good," Ms. Longmore said.

Bruce Hardock, a benefits attorney with Davis & Harman in Washington, said, though, that he does not anticipate, at this point, numerous lawsuits in this area. "I think if things really went south, then you'd see more," but most 401(k) plans offer a number of different options besides employer stock. And right now, people are "still much better off than they were three or four years ago." **BI**

# Save yourselves all that anguish

An increasing number of employers in Europe are replacing their old defined benefit pension plans with defined contribution plans similar to the 401(k) retirement savings plans offered in the United States.

The latest—and one of the largest—European employers to make this shift is BT P.L.C., the parent of British Telecom (*BI*, April 30).

Companies making this transition say it is a way to give their employees greater control of their future financial security, while also providing them much greater flexibility in their working years than does a traditional pension based on a worker's final salary and years of service. That's all very true and no doubt has many BT employees very excited at the prospect of contributing to their retirement savings and directing how those funds are invested.

But if I can offer British employers a bit of advice from one of the former colonies: That way lies madness.

You see, we have had defined contribution plans for nearly 30 years now. And while one never wants to bad-mouth the generosity of an employer that is providing for one's golden years, these 401(k) plans and similar retirement savings plans have created a new national angst, changed the nature of social interaction and, indeed, threaten to divert national attention from such important matters as global trade, conflict in the Middle East and the fact that the Chicago Cubs are in first place.

Let me explain what I mean and, with any luck, you'll agree that Europeans would be better off abandoning rather than embracing the U.S. retirement benefit model.

Because of the 401(k) plan and other defined contribution plans, Americans today pay far more attention to the stock market than ever before, because their personal and retirement savings are tied to its fortunes. Employees today have an astounding array of investment options to choose from, as well as the ability—via their personal computers—to tinker obsessively with those options on a daily, or even minute-by-minute, basis. So we do.

The growth of 401(k) plans in particular has meant billions of dollars have flowed into the stock market, bringing new volatility and new pressures for performance.

The common person really didn't care about the stock market with such a passion until he or she was given the opportunity to gamble on the market courtesy of his or her 401(k) investment options. Now, perhaps too many people care too much.

In the early 20th century, the cartoonish view of the intense investor was a well-to-do gentleman standing by the stock market ticker in his parlor or office, inspecting a lengthy roll of tape for the latest progress of his investments and screaming "Buy! Sell!"

The ticker tape may be long gone, but now that obsessed investor has merely changed, replaced by millions of people who look like you and me who are checking the minute movements in the price of a stock, mutual fund or the overall market every 15 minutes on their computer screen.

We have become a nation of day traders, who can discuss the performance and P/E ratios of our retirement investments at the drop of a hat. So discuss we do.

Conversations at work, at business gatherings and recreational outings inevitably turn to the stock market. What do you think about XYZ Co.? Did you see that the price of Such-and-Such.com has exceeded 12 cents per share? I just lost a bundle after Whatsit Inc. missed analysts' expected earnings by .002 cents per share last quarter.

And woe unto the person who happens to work for a publicly traded company that has not performed well in the market of late. Such people are besieged not by questions about how they or their family is doing, but instead are asked about how soon before the company's stock moves back to its former levels, or what went so horribly wrong. Or, worse, they are assailed for the investment losses their company has caused acquaintances who happen to invest in their companies, as if their personal failure to try harder were somehow responsible.

If this stock market hysteria is not enough to steer European pension managers away from their current course, there is always litigation. The act of not meeting or exceeding earnings estimates has become a popular new tort for the directors of publicly traded companies. Class-action lawsuits against U.S. companies on behalf of shareholders allegedly wronged by poor stock performance have become routine.

I think a similar deterioration in the social fabric is likely to seep into the culture of countries in Europe and others around the world as their retirement plans change to mimic the U.S. model. I hope they will reconsider and keep their national character intact. But if they cannot be dissuaded, at least give me some advance warning, so I can change my holdings in foreign equity funds.

Editor Paul D. Winston's commentary appears fortnightly and on [www.businessinsurance.com](http://www.businessinsurance.com). He can be reached at [pwinston@crain.com](mailto:pwinston@crain.com).



Paul D. Winston

## Equitas

Continued from page 1  
amount of money."

While insurers say the requirements do not change the terms of policyholders' coverage or existing coverage-in-place agreements, U.S. policyholders express worries that the new rules will damage their claim management efforts.

"These requirements really place policyholders on the horns of a dilemma," said John M. Sylvester, a policyholder attorney with Kirkpatrick & Lockhart in Pittsburgh.

Policyholders can opt to settle claims without all of the documentation London insurers require and take the risk of forfeiting coverage, he noted. Or, they can insist that claimants satisfy all of the new requirements and take the risk—if claimants refuse—of being forced to trial and being hit with large judgments, Mr. Sylvester explained.

The new rules also reserve London insurers' rights to challenge settlements they consider "unreasonable," lawyers note.

"It so lends itself to a game of 'gotcha!' that it's fraught with problems," one policyholder attorney observed.

## Benefits

Continued from page 3

"In a tight labor market, organizations are finding that they need to be more flexible with employees to attract and retain them," the survey states.

Additionally, the increase in work/life benefits "is in reaction to overall societal changes," said a SHRM spokeswoman. In particular, these changes include an increase in the number of dual-income families, who often require greater work flexibility to take care of personal activities.

"Employers have every reason to accommodate their employees' needs for work/life balance," the spokeswoman said.

But not every type of work/life benefit has increased in popularity. The percentage of respondents offering onsite or company-supported child-care centers has remained virtually unchanged, hovering around 5% since 1997, the survey shows.

Two other types of benefits have seen significant gains in the past four years, the survey shows. The percentage of respondents permitting casual dress has jumped, with 86% now permitting casual dress at least one day per week. The number of responding employers that have full-time casual-dress policies has increased from 36% in 1998 to 49% this year.

Domestic partner benefits have also seen a sharp increase. This year, at least 25% of respondents said their companies offer some benefits for domestic partners, up from 6% in 1997.

The survey also shows that the number of responding employers offering paid time-off plans—which put sick days, vacation time and personal days into one plan—has jumped. In 1997, one-third of respondents offered this type of plan. That number rose to 62% in 2001. But that figure may not be completely accurate, the SHRM spokeswoman indicated, because last year's survey stated that 12% of respondents maintained such a plan. Whatever the actual numbers may be, the trend is definitely toward offering this type of plan, the spokeswoman said.

"Inclusive paid time-off plans have increased

## Coverage

Continued from page 3

Poulenc Inc., which eventually assumed Amchem's other business. Rhone-Poulenc said it was Amchem's corporate successor and had asked for a judgment that Henkel has no viable claim for coverage under the relevant policies. Lloyd's has been a party in the underlying litigation but was not involved in the appeal.

In its ruling, the state appellate court overturned summary judgments in favor of

Policyholders may eventually challenge the requirements in court, lawyers agree, though such a move would depend partly on how vigorously London insurers use the rules to reject claims.

"Policyholders may choose to wait until they submit claims for reimbursement and do not get reimbursed," Mr. Sylvester said. "Whether (London insurers) will actually follow through and refuse reimbursement remains to be seen."

The London market's new documentation requirements have their genesis in the unexpected surge of new asbestos claims in the last few years and an accompanying rise in settlement demands.

The spate of new claims has triggered bankruptcy filings by several large asbestos defendants, including Armstrong World Industries Inc., Owens Corning and Pittsburgh Corning Corp., engineering firms Babcock & Wilcox Co. and Burns & Roe Enterprises Inc., and a successor company to GAF Corp. (*BI*, Jan. 8).

With these and earlier bankruptcies limiting potential recoveries, plaintiff lawyers have increasingly targeted "non-traditional" asbestos defendants, ranging from giants such as AT&T Corp., Ford Motor Co. and Chrysler Corp. to small installers and distributors of asbestos.

See *Equitas* on page 42

dramatically over the past five years," the survey states.

"It may be that employers are trying to provide more flexibility to employees by allowing them to decide how and when to take their allotted time off," it suggests.

In other benefit areas, the number of respondents offering health maintenance organization programs has held steady at 62%, while more respondents say they are offering preferred provider organization programs, up to 84% this year from 74% in 1997. The survey shows that vision programs are also seeing an upswing in interest; they are now being offered by 71% of responding employers, up from 54% in 1997. Medical flexible spending accounts are offered by 69% of respondents, up from 55% in 1997.

With health care costs rising rapidly in recent years, it may be surprising that the number of respondents offering wellness and health screening programs has remained steady. Meanwhile, retiree health benefits have declined in popularity, with one-third of survey respondents offering such benefits this year, compared with 41% in 1997.

Financial and retirement planning assistance has become more common, the survey shows. This year, 43% of the employers that responded provide retirement planning services, compared with 36% in 1997; and 28% offer financial planning, up from 20% in 1997. The increase reflects the growing number of employees who own stock and the growing number of retirement accounts invested in the stock market, the SHRM spokeswoman said.

The most-popular benefit continues to be health care coverage, the survey shows, with 97% of respondents this year saying they offer some type of coverage. Next in popularity are dental insurance and life insurance, both offered by 96% of respondents; prescription drug programs, offered by 93% of respondents; and paid bereavement leave and paid jury duty, both offered by 88%.

The "SHRM 2001 Benefits Survey" is available at no cost to members of the Society for Human Resource Management at [www.shrm.org/surveys](http://www.shrm.org/surveys). Nonmembers may purchase copies for \$59.95 each by calling 800-444-5006.

the insurers and Rhone-Poulenc. The appellate court returned the case to the lower court for further proceedings, stating that it perceives "a number of triable issues of material fact to be resolved."

Gregory M. Bergman, an attorney with Bergman, Wedner & Dacey in Los Angeles who represented Henkel in the case, said, "I think this is a very fair, practical decision." The decision, he said, should have "a very profound effect" on business and environmental litigation in California, especially if it involves business acquisitions.

Insurer attorneys had no comment. *BI*

# Equitas

Continued from previous page containing products.

Roughly 2,000 companies are defendants in asbestos litigation, a far larger number than a decade ago, legal experts say.

Hoping to speed the resolution of their asbestos liabilities, many defendants and their insurers adopted a strategy of wholesale settlements, disposing of dozens or hundreds of claims at once. The strategy has backfired, though, attracting many new claims, including some from people not yet suffering injuries.

Equitas responded by developing the new requirements with other London market insurers. A draft of the requirements was circulated for comment among more than 100 policyholders, and the final rules, incorporating some changes suggested by policyholders, were announced today.

Among other things, London insurers will now require each claim to be supported by "a medical diagnosis that the claimant suffers from a disease caused in substantial part by exposure to asbestos." Insurers will not accept medical opinions that a claimant's condition is "consistent with" or "compatible with" health problems caused by asbestos exposure.

The requirements go on to specify the supporting evidence insurers will require for various illnesses, including asbestosis, lung cancer and pleural disease. Claimants

must allow insurers to inspect their medical records, including X-rays and lab-test results.

Separately, the new rules call for "sufficient evidence" that a specific product was to blame for a claimant's exposure or that the claimant was exposed on the policyholder's premises or as a result of its operations.

For example, product liability claims must be supported by a sworn statement that a particular product was present at a worksite when the claimant was exposed. London insurers will not accept references to a wide category of products, such as "building materials."

Claimants also will have to give a sworn statement describing how they allegedly were exposed, and must provide a comprehensive work history. The rules outline eight occupations, though, that will automatically constitute proof of exposure, including asbestos mining, asbestos product manufacturing, pipefitting and plumbing jobs.

Along with all of these rules, London insurers will also require policyholders to submit sworn certifications that each claim meets the documentation requirements.

Mr. Brace said that the requirements do not alter the terms of policyholders' coverage and do not affect existing coverage-in-place agreements, under which insurers and policyholders have agreed that certain claims will be reimbursed.

In fact, the new rules demand less evidence than insurers would require in a non-asbestos personal injury case, he maintained. "Underwriters can not take an approach that dispenses with reasonable proof requirements," he said, adding that the rules "should not create an unacceptable burden."

*The new rules 'would bring about a fairly abrupt change after 15 years of working cooperatively.'*

— John Heintz

Gilbert, Heintz & Randolph

Mr. Brace added that the rules do not preclude inventory settlements. "If the inventory deal comes in with the documentation, it will pass," he said.

Policyholder lawyers are less sanguine about the rules, though.

"They would bring about a fairly abrupt change after 15 years of working cooperatively," said John Heintz, a partner with Gilbert, Heintz & Randolph in Washington. "We just don't think (the rules) are workable. They are inflexible and are going to be very problematic."

Policyholders may eventually

sue London insurers over the rules, arguing that they breach existing coverage-in-place agreements, Mr. Sylvester said. While many agreements do not spell out in detail what constitutes acceptable proof of claims, informal standards have been established over years of settlements with the London market, he explained.

"It's really that course of dealing that's threatened to be changed by these requirements," he said.

The requirements are an effort by London insurers to leave policyholders with the burden of making defense decisions while, at the same time, increasing the risk that coverage will be denied if insurers don't approve of the decision after the fact, lawyers argue.

"In the end, it's going to lead to more litigation," Mr. Heintz predicted.

The London market may have motives other than eliminating questionable claims, policyholder lawyers add.

By erecting new hurdles to claim reimbursements, the insurers may be hoping to encourage policyholders to negotiate policy buy-backs, taking a discounted lump sum from the London market to gain a freer hand in decisions on how to resolve claims, Mr. Sylvester said.

Insurer financial considerations may also have played a role, particularly for Equitas, he added. "I think this new initiative is driven by concern about reserves and

about the solvency of Equitas," Mr. Sylvester said.

The Equitas spokesman replied that the rules are simply meant to make certain that insurers' resources are not depleted by unjustified claims and that money remains available for victims suffering real injuries.

"We do have a finite amount of money. We may not be able to afford to pay every claim that may be filed by every person ever exposed to asbestos," the spokesman said. "But neither could the entire insurance industry."

Equitas reported discounted reserves, net of reinsurance, of £7 billion (\$11.17 billion) as of March 31, 2000, with about 65% of the total, or £4.6 (\$7.3 billion) billion, allocated to asbestos, pollution and health hazard claims, the spokesman said.

Policyholders, meanwhile, express worries that the documentation requirements may be only the beginning of new restrictions on asbestos reimbursements in the London market.

The rules note that "underwriters may in the future develop specific guidelines concerning reasonable settlement amounts depending on the severity of the injury and other relevant factors" and "may develop guidelines with respect to reasonable values in the context of inventory settlement agreements."

"This may be only the opening salvo," Mr. Sylvester said of the documentation rules. **BI**

# Berkshire

Continued from page 3

material companies in addition to insurance.

Mr. Buffett said that he hopes insurance will become even more important to Berkshire Hathaway in the future, but added, "we don't have a master plan." He said that he was "certain" that insurance would be a bigger business for Berkshire Hathaway, but then warned that circumstances could change and render that prediction wrong.

In his letter to stockholders, Mr. Buffett pointed out that the three determinants he uses to evaluate an insurance company are the amount of float it generates, its cost and "most critical of all, the long-term outlook for both of these factors." Float is "money we hold but don't own," wrote Mr. Buffett. In insurance, float stems from premiums collected but not paid out in losses, during which time the insurer invests the money.

Mr. Buffett wrote that while Berkshire Hathaway was pleased by the growth of its float in 2000, the company did not like its cost, which was roughly 6%. Float grew to \$27.87 billion in 2000 from \$25.30 billion a year earlier. "Absent a mega-catastrophe, we expect our float cost to fall in 2001—perhaps substantially—in large part because of corrections in pricing at Gen Re that should increasingly be felt as the year progresses."

During the annual meeting, Mr. Buffett said that the company's float cost had dropped dramatically during the first quarter of the year. Asked whether he expected float to continue grow-

ing at 10% a year, he replied that he did expect 10% growth this year. He added, though, that the property/casualty industry's total float is roughly \$300 billion, of which Berkshire Hathaway accounts for about 10%. "When you're as big a part of the pie as we are" it will be difficult to maintain such a growth rate, he said. Mr. Munger added, "I certainly believe that, long-term, it's not going to happen."

Another subject from last year's meeting that did not play a significant role in this year's gathering was Gen Re's performance. In his annual letter, Mr. Buffett said, "the news had turned considerably better" at Gen Re.

The annual report put Gen Re's performance within the context of the reinsurance underwriting market conditions as a whole, which it described as "difficult." While Gen Re's overall results were "unsatisfactory," according to the annual report, the reinsurer's management "continues to take underwriting actions to address these matters with the objective of returning underwriting results to acceptable levels. Although the underwriting losses for 2000 were considerable, \$239 million of the loss was attributed to a single large aggregate excess contract written in 2000," noted the annual report. Gen Re reported a pretax underwriting loss of \$626 million for 2000, according to the report.

"Otherwise, General Re's results for 2000 were improved over 1999. The improvement is believed to be a result of the actions already taken both in the North American and international businesses, as well as signs of improvement in certain seg-

ments of the reinsurance market. However, the impact of underwriting initiatives on international business may take longer to become effective than on U.S. business. Absent large property/catastrophe losses or adverse development with respect to existing loss reserves, Berkshire expects that General Re's underwriting results will continue to improve in 2001," according to the annual report.

Regarding Berkshire Hathaway's other reinsurance opera-

*'Unless there is a legislative solution, I think you will see more and more of the GDP going into liability awards.'*

— Warren Buffett  
Berkshire Hathaway Inc.

tion—Berkshire Hathaway Reinsurance Group—Mr. Buffett once again used his annual letter to praise Ajit Jain, the unit's president. "It is impossible to overstate how valuable Ajit is to Berkshire. Don't worry about my health; worry about his," wrote Mr. Buffett.

Both Messrs. Buffett and Munger also dealt with issues beyond the bottom line, including the civil justice system, as they took questions from the floor.

Without a legislative response, an ever-growing portion of the

gross domestic product will go into liability awards, Mr. Buffett said. He offered that observation in reply to a question regarding the possibility that Dairy Queen International and See's Candies—both of which Berkshire Hathaway owns outright—and The Coca-Cola Co., in which the company invests, could become the targets of mass litigation like that that hit the tobacco industry. Mr. Buffett replied that he is "not worried at all" about potential liabilities arising from such products. But he added that Berkshire Hathaway has declined to acquire some otherwise attractive businesses because of concern over potential product liability.

"Unless there is a legislative solution, I think you will see more and more of the GDP going into liability awards," said Mr. Buffett. He decried what he called the "lottery" aspect of the civil justice system.

Mr. Munger lit into the civil justice system as well, calling the growing political power of the trial bar "particularly pernicious." He added that he believes that judges have not been nearly as tough as they should be on "junk science, junk economics and trashy lawyers," a line that drew appreciative applause from his audience.

Messrs. Buffett and Munger also questioned whether pension fund managers are being realistic in their assumptions about return on investment. "Pension fund accounting is drifting into scandal by making unreasonable assumptions," said Mr. Munger. "You'd think more people would say this is a scummy way to keep the books," he said. Mr. Buffett said that many managers' and

consultants' assumptions are unrealistically high.

On another insurance matter, Mr. Buffett took a question about the impact of state insurance regulation on Berkshire Hathaway. "It really has not slowed down any acquisition," he said, adding that, as an insurance holding company, Berkshire Hathaway has not been impeded by state oversight or regulation. **BI**

## ADVERTISER INDEX

### Issue of May 7

ADVERTISER	PAGE #
American Assoc. Of Orthodontia	36
American Institute For CPCU	28
Aon Corporation	5
ARAG Group	28
AXA Corporate Solutions	16
Blue Cross Blue Shield	23
Buck Consultants Inc.	32
Business Insurance	27
Cambridge Integrated Services	14
Carvill America Inc.	34
Chubb Group of Insurance Cos.	18,19
CNA Corporation	12,13
Commonwealth Risk	33
Corvel Corporation	17
First Health	7
GE Financial Assurance	20
Hartford, The	4
Health Affairs	29
Health Allies	34
Innovation Group, The	11
Lexington Insurance	15
Liberty Mutual	21
Liberty Mutual/IDM	9
Overseas Partners Ltd.	35
PMA Group Inc.	24,25
Private Healthcare Systems	30,31
Reliance Standard Life	6
Royal & SunAlliance	44
Sentry Insurance	26
State Comp. Ins. Fund	27R
StrataCare	22
WLT Software of FL, Inc.	36

# Pensions

Continued from page 1

ward the end of the session last year and came back very quickly. That's yet another sign, in addition to the high vote, of the momentum it has generated on the Hill."

H.R. 10 would streamline the administration of employer plans while boosting the benefits that could be provided to employees, although much of the thrust of the bill seeks to enhance the security of savers as individuals rather than as employees.

"Frankly, if you look at where the dollars are spent, most of the dollars flow through to individuals. In terms of tax incentives, most flow through to individuals," Mr. Delaplaine said.

But the measure also includes "about 15 different provisions that streamline and simplify various of the pension rules that have really become a barrier to the maintenance of plans by employers of all sizes and a real barrier to the creation of plans by small businesses," he said.

"The bill has a number of helpful portability provisions, so that employers can provide the portability options that their employees want," he said. For example, it allows employees who move among the private, nonprofit and government sectors greater portability by allowing them to transfer account balances among the various types of

plans operated by each category of employer.

The bill also has provisions that would eliminate "some barriers to sound pension funding," Mr. Delaplaine said. "For example, in 1986 Congress put in the current liability funding limit. This was not about pension policy. It basically restricted the amount of money companies could contribute to funds; it was about raising revenue. It was an artificially low funding limit, which doesn't allow employers to fund for their full pension liability. H.R. 10 leaves in place a more-appropriate projected liability limit. It varies by the demographics of plans," he said.

Among other things, the measure calls for gradually raising to \$15,000 from \$10,500 the maximum annual salary deferral an employee can make to his or her 401(k). In addition, it would allow every employee 50 and over to make an additional \$5,000 contribution annually, as part of a "catch-up" provision.

The legislation would also increase the amount of employee compensation that could be considered in computing pension benefits. Other changes would ease nondiscrimination testing procedures and speed up vesting schedules for employer matching contributions to 401(k) plans.

But before these reforms can become law, they must be approved by the Senate.

"One of the big, big questions is—is this going to be part of the reconciliation bill they're working

on?" said Dorothy Coleman, vp-tax policy for the National Assn. of Manufacturers in Washington.

"The White House has been silent. They're generally supportive of the idea of pension reform, but they haven't signaled that it would be a good idea to put it on what is, in effect, their tax bill," Ms. Coleman said. The reform legislation could be attached to that bill, be added to a minimum wage bill or be treated as a freestanding bill, she said. Although such a freestanding bill is generally tough to move, she said, "with an issue that has such strong bipartisan support, this is a possibility."

"The chance that this would pass the Senate in a stand-alone fashion is unlikely, but it could if folded into the tax bill," said Watson Wyatt's Mr. Brown. He said the minor differences between the two bills were "the kind of stuff that can usually be hammered out in conference."

"It's incredibly fluid right now. It's a bit of an uphill battle. They're already having to scale back President Bush's tax priorities even before they get to the point of adding anything new. Senators are engaged and trying to make this happen, but, clearly, it's a tough battle because of the limited resources available," Mr. Delaplaine said.

But the NAM's Ms. Coleman remains optimistic about the passage of pension reform. "The big question," she said, "is not whether it will pass but what's the vehicle it will go to the White House on." **[E]**

# Tuition

Continued from page 3

But Mr. Dauscher acknowledged that many employers worry about retaining those employees after they've completed their educational programs. Consequently, he said, some companies have moved away from providing tuition funds upfront and now reimburse their employees only after they've completed their education.

Others, though, have maintained upfront payment, to eliminate a barrier to enrollment. "I think the prevailing philosophy is that this is the risk of doing business," he said.

Another approach that promotes retention is requiring an employee to stay on for a certain length of time after receiving a reimbursement.

Vivendi Universal, a global media and communications company based in Paris, pays for 100% of the tuition costs for executive MBA study, excluding textbooks, said Susan Szuka, the company's New York-based director of human resources. But an employee participating in the company-paid program must remain with the company for two years, she said, "or pay back a pro-rata amount of the tuition costs."

Gail Cooper, the director of benefits at office product supplier ACCO Brands Inc., said that ACCO's tuition reimbursement program is an effective way to motivate and retain talented employees. "It gives us an opportunity to get a return on our investment in people," Ms. Cooper said.

Lincolnshire, Ill.-based ACCO has a policy of reimbursing an employee anywhere from 75% to 90% of tuition costs, depending on the employee's grade.

At ACCO, a letter grade of "A" or "B" earns reimbursement of 90% of tuition costs, and a grade of "C" will

get an employee reimbursement of 75% of tuition. Grades of "D" and "F" earn no reimbursement.

Supplemental education usually takes place on employees' own time, Ms. Saka said, with employees typically taking evening classes. But she noted that circumstances vary with the employer.

"On a case-by-case basis, an employee may go to their manager and say, 'Gee, there's this class that I really want to take; it happens to meet during the day,'" Ms. Saka said. In such cases, she said, the employee and employer work out an arrangement that meets the company's needs.

"You leave early to go to the class or you take off a couple hours in the morning to go to class, and you make up the hours later in the day," Ms. Saka said.

Supplemental education takes place both inside brick-and-mortar classrooms and online. Employees need to find the right fit.

"We have to recognize that people learn differently, and not everybody will want to self-study and not everybody will want to go to a formal class; not everybody will want to take an online class," Mr. Dauscher said. "We're trying to provide different delivery vehicles for people to get their educational programs accomplished, and online learning is just one of those avenues that fits some people today."

Karen J. Skayhan, director of educational services for the Insurance Institute of America, said that some companies are a little more concerned about reimbursement for an online class than for a live class.

"I think, because it's kind of new, maybe they're afraid that the students aren't going to use it or aren't going to go to it," Ms. Skayhan said, "whereas in a live class held at their own office, they might know the person teaching it."

about online classrooms, Ms. Skayhan said, the IIA offers grades for its online classes.

The grade, she said, is there "because some employers want to be sure that their employees are participating when they're shelling out the money for the class."

Ms. Saka said that the classes that an employee enrolls in typically must relate to his or her role within the company. Employers "want to make sure that, although it may not be exactly be what your role is, it's in the ballpark," she said.

A spokeswoman for Hewitt said that, of its 9,700 employees who are eligible for its tuition reimbursement program, about 350 participate. Hewitt reimburses 85% of tuition costs, excluding the cost of books, up to an annual per-employee limit of \$5,000.

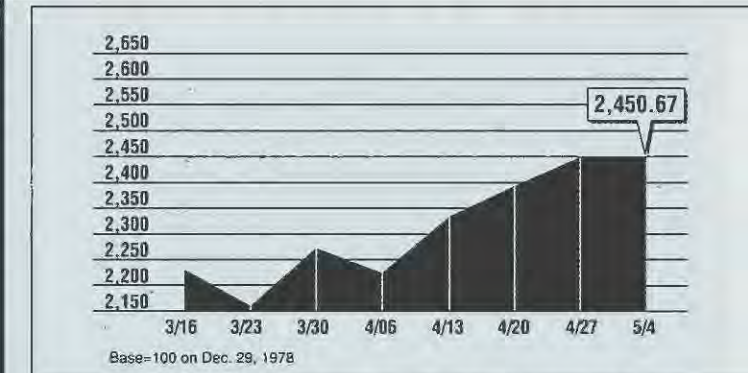
If an employee's education expenses exceed the \$5,000 annual limit, the money will be "banked" and reimbursed over the following years, until 85% of the tuition costs have been met. The spokeswoman said that this policy gives employees an incentive to stay on and "get it paid off."

Ms. Saka earned her second master's degree completely on a tuition reimbursement program.

"My employer was very flexible with me and very accommodating in terms of my work schedule and when I needed to be in class and when I needed to be doing research," Ms. Saka said. "It's really a benefit for both the employer and the employee, and you can really boost people's professional growth by so much by letting these kinds of situations happen."

The study, "Work and Life Benefits Provided by Major U.S. Companies in 2000," is available, at a cost of \$100 per copy, by calling 847-295-5000, or by e-mail at specbook@hewitt.com

# B/Stock Index - 5/4/2001



	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	
<b>BROKERS</b>							
Aon Corp.	NYS	33.02	-0.30	-3.59	42.31	24.44	4406
Brown & Brown	NYS	42.60	-1.05	21.71	46.10	19.75	227
Clark Bards Holdings	NDQ	14.00	16.67	38.27	17.88	7.25	319
E.W. Blanch Holdings Inc.	NYS	13.37	1.06	-23.33	29.50	6.70	631
Gallagher Arthur J. & Co.	NYS	24.84	-4.20	-21.92	34.25	17.28	2306
Hib. Rogal & Hamilton	NYS	39.87	1.76	-0.01	42.13	28.00	62
Kaye Group Inc.	NDQ	13.70	0.29	76.77	13.80	5.00	81
Marsh & McLennan	NYS	99.50	1.15	-14.96	135.69	80.30	3361
BROKERS	AVERAGE		1.92	9.12			

	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	
<b>INSURERS/REINSURERS</b>							
ACE Ltd.	NYS	34.89	-0.9	-17.78	43.94	23.44	8016
Accel International Corp.	NDQ	0.07	0.00	-76.42	0.88	0.07	0
Acceptance Insurance Cos.	NYS	4.25	10.39	-19.05	6.94	3.70	55
AEGON N.V.	NYS	31.29	-6.43	-24.49	43.00	25.92	619
AFLAC Inc.	NYS	39.90	-3.13	-14.39	37.47	22.50	4225
Allmerica Financial Corp.	NYS	52.70	4.38	-27.31	74.25	46.30	2103
Allstate Corp.	NYS	41.35	-2.15	-5.08	44.75	21.94	6088
Ambac Financial Group	NYS	53.42	-1.44	-8.39	64.00	29.75	4551
American Financial Group	NYS	27.40	4.26	3.15	29.00	18.69	448
American General	NYS	44.99	3.38	10.40	44.99	26.69	11463
American Intl Group	NYS	84.35	4.52	-14.42	103.75	72.64	22650
American Safety Insurance	NYS	8.25	2.48	34.69	9.10	3.25	2
Argonaut Group	NDQ	17.49	2.38	-16.71	21.25	13.50	168
AXA-UAP Group	NYS	60.23	1.57	-16.13	81.50	49.16	427
Baldwin & Lyons Inc.	NDQ	25.90	-0.65	11.40	28.75	15.25	10
Berkley W.R. Corp.	NDQ	41.45	0.73	-12.16	48.75	18.13	994
Berkshire Hathaway Inc.	NYS	68900.00	2.83	-2.96	74600.00	51600.00	1
Capitol Transamerica Corp.	NAS	12.90	-0.77	3.72	14.44	10.00	7
Chubb Corp.	NYS	68.35	3.40	-20.98	90.25	58.56	4936
Cincinnati Financial Corp.	NYS	39.73	1.98	0.42	43.31	31.00	1201
Citigroup	NYS	50.78	-0.26	-0.55	59.13	39.00	42522
CNA Financial Corp.	NYS	35.90	1.84	-7.35	41.94	28.31	534
CNA Surety	NYS	13.65	-0.58	-4.21	14.94	10.38	754
EMC Insurance Group Inc.	NDQ	11.84	-1.58	0.77	13.13	7.00	4
ESG Re Limited	NDQ	2.31	0.87	25.29	4.63	1.72	5
Everest Reinsurance	NYS	64.25	9.41	-10.30	74.75	28.75	1439
Fremont General Corp.	NYS	5.04	25.63	79.20	6.88	1.50	1173
Gainsco Inc.	NYS	1.37	-2.84	-47.81	6.00	1.10	244
Hartleyville Group	NDQ	25.20	-3.45	-13.85	30.63	14.63	214
HCC Insurance Holdings	NYS	27.50	-1.79	2.09	29.66	11.31	990
ING Groep N.V.	NYS	65.00	5.87	-18.88	83.94	52.44	412
IPC Holdings Ltd.	NDQ	22.92	3.43	9.14	24.50	12.13	317
Hartford Financial Services	NYS	62.96	2.54	-10.85	80.00	49.44	5491
John Hancock Financial Serv.	NYS	38.42	-1.57	-3.20	40.00	17.38	3956
Lincoln National	NYS	46.75	2.43	-1.19	56.38	32.50	3414
MAIC Holdings Inc.	NYS	15.10	-7.25	-9.51	18.50	10.00	66
Market Corp.	NYS	198.05	-3.39	9.42	207.47	133.50	156
MBIA Insurance Group	NYS	48.32	0.60	-2.22	55.86	32.00	2165
Meadowbrook Insur. Group	NYS	2.60	-7.14	-68.00	8.38	2.50	43
MetLife	NYS	29.60	1.79	-15.43	36.63	16.19	4560
Mutual Risk Mgmt. Ltd.	NYS	6.58	4.44	-56.67	23.75	3.40	1281
Navigators Group	NDQ	13.80	-0.72	3.66	14.70	8.63	2
NYMag Inc.	NYS	20.21	-1.17	7.07	20.55	13.00	4
Ohio Casualty Corp.	NDQ	9.31	1.97	-6.90	17.06	6.13	723
Old Republic Int'l	NYS	28.35	-1.56	-11.41	32.06	14.31	1356
Partner Re Ltd.	NYS	49.00	0.00	-19.67	62.50	34.81	490
Penn-America Group Inc.	NYS	10.00	0.00	31.15	10.60	6.88	14
PMA Capital Corporation	NDQ	17.70	4.73	2.61	19.03	15.19	25
Philadelphia Cons. Holding	NDQ	26.70	-2.91	-13.52	31.92	15.13	155
PXRE Corp.	NYS	17.30	-3.89	2.52	20.10	12.50	79
RenaissanceRe Holdings Ltd.	NYS	64.60	0.48	-17.51	84.19	36.50	485
RLI Corp.	NYS	40.65	1.63	-9.03	46.16	31.25	40
St. Paul Cos.	NYS	45.37	0.11	-18.46	57.00	32.75	3181
SCOR	NYS	42.40	-2.77	-15.62	53.75	38.38	28
SAFECO Corp.	NDQ	26.88	-0.30	-18.24	35.88	19.56	2358
SCPIE Holdings Inc.	NYS	19.75	2.33	-16.40	31.40	18.31	NA
Selbels Bruce Group	NDQ	2.00	2.04	255.56	2.25	0.53	93
Selective Ins. Group	NDQ	26.30	2.73	6.45	26.94	15.25	122
Tokio Marine & Fire	NDQ	52.65	-0.09	-7.63	61.00	45.25	52
Torchmark Corp.	NYS	37.22	-2.57	-3.17	41.19	23.00	2104
Transatlantic Holdings	NYS	108.90	1.36	2.86	109.60	80.38	33
Trenwick Group Inc.	NYS	19.79	-1.54	-20.24	27.13	13.00	149
Unico American Corp.	NDQ	5.50	-8.33	-6.38	7.75	5.30	6
United Fire & Casualty	NDQ	25.75	9.57	30.38	26.40	15.50	33
Unitrin	NDQ	38.97	7.09	-4.07	41.94	27.19	229
UNUM Corp.	NYS	29.95	0.00	11.44	30.44	15.25	5009
Vesta Insurance Co.	NYS	7.58	7.82	49.73	8.39	4.13	261
XL Capital Ltd.	NYS	67.55	-2.88	-22.69	89.25	43.75	3119
Zenith National Ins.	NYS	27.30	3.21	-7.06	30.70	20.00	58
INSURERS/REINSURERS	AVERAGE		0.77	-2.42			

	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	
<b>MANAGED CARE ORGANIZATIONS</b>							
Aetna Inc.	NYS	26.72	-5.75	-34.93	42.69	24.05	3005
CIGNA Corp.	NYS	89.50	-16.36	-32.35	136.75	73.38	11891
Health Net Inc.	NYS	20.60	-2.88	-21.34	26.94	8.63	3416
Humana Inc.	NYS	9.31	-7.73	-38.95	15.81	4.75	6604
Oxford Health Plans	NYS	28.36	17.49	-28.23	42.75	13.50	2666
Pacificare Health Sys.	NDQ	27.04	-16.08	80.27	72.31	9.81	6510
Sierra Health Services	NYS	5.22	1.56	37.37	6.70	2.44	203
United HealthGroup	NYS	61.15	-6.24	-0.37	67.40	30.13	12511
Wellpoint Health Networks	NYS	89.85	-8.54	-22.04	121.50	66.75	4784
MANAGED CARE COMPANIES	AVERAGE		-4.95	-6.73			

ALL COMPANIES -0.75 -0.01

Top advancing issues: Fremont General Corp., Oxford Health Plans, Clark Bards Holdings. Leading decliners: CIGNA Corp., PacificCare Health Systems, Wellpoint Health Networks. Most active issue: Citigroup. The B/ Index increased 0.1%; the Dow Jones 30 Industrials rose 1.3%; the S&P 500 went up 1.1%, and the NYSE Composite increased 0.4%. Average P/E: Brokers, 21.2; insurers/reinsurers, 31.7; and managed care companies, 15.6.

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