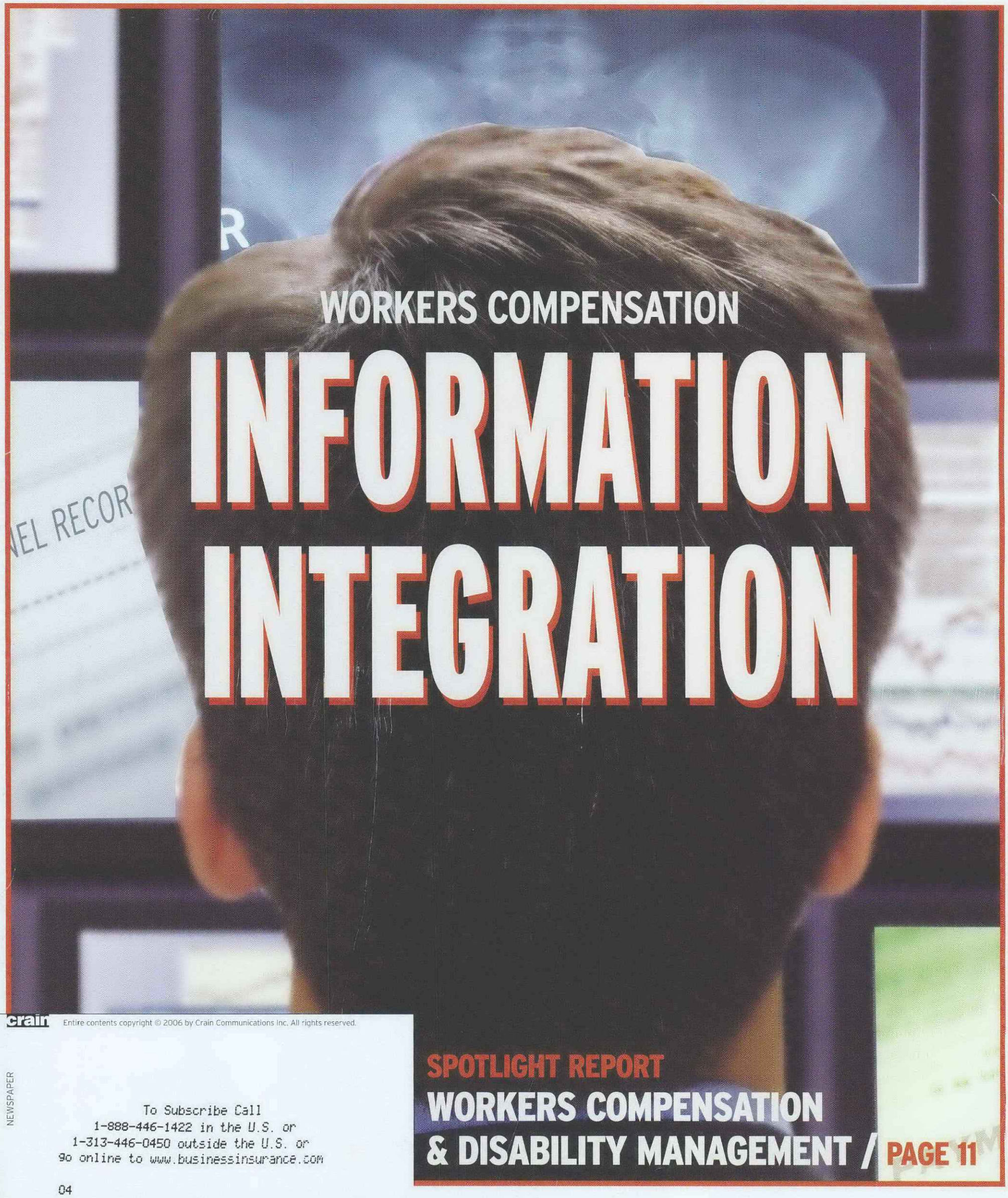
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WORKERS COMPENSATION

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SPOTLIGHT REPORT

WORKERS COMPENSATION & DISABILITY MANAGEMENT / PAGE 11

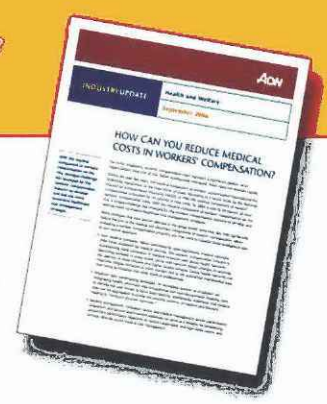
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– **Heidi Mader**, *assistant vice president in Aon Consulting's health and welfare practice*



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DENTAL BENEFITS UPGRADED IN HOPE THAT PERIODONTAL CARE SAVES MORE THAN TEETH / PAGE 3

HEALTH CARE CONSOLIDATION STRAINS PROVIDERS' RELATIONS WITH INSURERS / PAGE 3

USE OF TEENAGE WORKERS CREATES ADDED HARASSMENT RISKS FOR EMPLOYERS / PAGE 4

In Brief

Commercial P/C rates still declining: Survey

Commercial property/casualty insurance rates continued to fall, albeit only slightly, during the third quarter of the year compared with the same period last year, according to the RIMS Benchmark Survey released last week by the Risk & Insurance Management Society Inc. The survey, which was produced by Advisen Ltd., found, among other things, that directors and officers and general liability premiums decreased by less than 1% in the third quarter and workers compensation rates fell 3.4%.

Fairfax restates several periods

Fairfax Financial Holdings Ltd. on Friday issued a previously announced restatement of financial results for 2005 and

See **IN BRIEF** page 42

SPOTLIGHT

WORKERS COMPENSATION AND DISABILITY MANAGEMENT

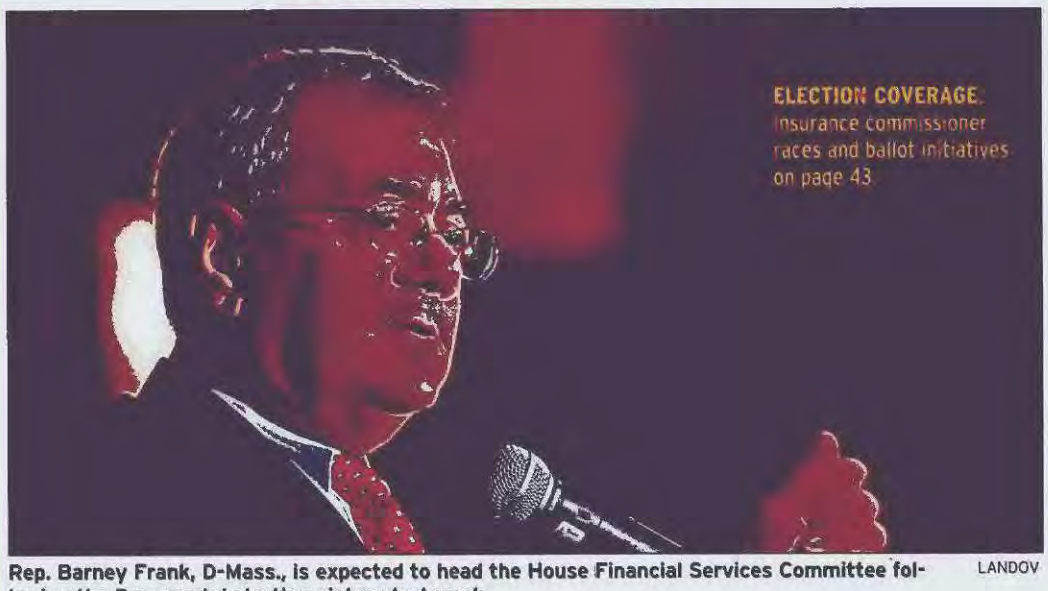
BI ranks rehab service providers, safety consultants; employers strive to integrate data in bid to improve absence management programs; baby boom generation presents new safety challenge; implications of nanotechnology use for workers comp; more hospitals use lifting devices to reduce injuries.

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Election '06



Rep. Barney Frank, D-Mass., is expected to head the House Financial Services Committee following the Democrats' election victory last week. LANDOV

TRIA extension more likely with Democrats in charge

BY MARK A. HOFMANN

WASHINGTON—The election of Democratic majorities in the House and Senate could boost the chances of extending the federal terrorism insurance backstop, according to Washington observers.

That's certainly good news for risk managers and insurers. But that's tempered by the fact that tort reform initiatives will move to the back burner—if not entirely off the stove—while the direction of insurance regulatory reform could veer from the market-oriented changes favored by insurers and risk managers, some observers say.

The Risk & Insurance Management Society Inc. considers its "issues to be bipartisan in nature, and therefore, we look forward to working with whichever party is in power at any given time," said Terry Fleming, a member of the New York-based group's board. "We're looking forward to the new Congress and an opportunity to push our issues forward," including the terrorism insurance backstop, optional federal char-

See **ELECTION RISK** page 43

Health benefits measures stymied as Republican backers lose power

By JERRY GEISEL

WASHINGTON—Several Republican-backed benefits measures that were supported by business groups likely are dead as a result of the election of a Democratic majority in both houses of Congress.

In particular, proposals to expand health savings accounts and to exempt trade association health plans from state benefit mandate laws have little chance of becoming law, observers say.

But a Democratic-backed proposal that would be welcomed by some employers—an expansion of Medicare prescription drug benefits—will likely get more congressional attention as a result of the shift in power.

Business groups had hoped that legislators would pass the HSA measure—approved in September by the House Ways and Means Committee—as part of a broader bill during a special congressional session later this month.

That bill, embraced by committee Republicans and strongly opposed by the panel's Democrats, would allow, in certain situations, larger contributions to HSAs and would make it easier for employers to convert a key component of first-generation consumer driven health

See **BENEFITS** page 42

Defunct reinsurer pursued

Captives seek recoveries for workers comp claims

By DOUGLAS McLEOD and ROBERTO CENICEROS

NEW YORK—Several captive insurers writing workers compensation programs are waiting to see how much they will recover from a Bermuda-based reinsurer that collapsed this summer only two years after it was formed.

Hatteras Reinsurance Ltd., licensed in 2004, was ordered into liquidation by a Bermuda court in June after auditors expressed doubts about the "validity of certain documents" backing the value of one of the reinsurer's principal assets. Documents included a falsified audit opinion attached to the financial statement of a trust fund in which Hatteras claimed an investment, Bermuda regulators charged.

Hatteras reinsured workers comp and auto liability programs for a handful of companies or their captives, including Philadelphia-based food service company Aramark Corp.; Gevity HR Inc., a Bradenton, Fla., staff leasing company; Electronic Data Systems Corp. of Plano, Texas; and Windsor, England-based InterContinental Hotels Group P.L.C.

Separate premium trust accounts that Hatteras set up for all of these companies, except for Gevity, will continue to pay claims under agreements reached with Hatteras' liquidators, court records show. Gevity reached its own settlement with the liquidators in September, recovering most of its premium and retaining a claim against Hatteras for the cost of replacement coverage.

Whether the policyholders ultimately recover all of the losses Hatteras would otherwise have paid remains to be seen.

Ken Coleman, a lawyer representing the Bermuda liquidators in an ancillary proceeding in U.S. Bankruptcy Court in New York, said the extent of Hatteras' insolvency is not yet known. The liquidators, partners of KPMG in Bermuda, are preparing a financial statement for the reinsurer, he said.

Hatteras was incorporated and licensed in Bermuda in mid-2004 by Frank P. Meadows III, a Rocky Mount, N.C., businessman. He recently resigned as chief executive officer of The Nottingham Co.,

See **REINSURER** page 41

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Prescription drugs have been cited as the fastest-rising component of health care spending, and employers continue to struggle with annual increases in health care benefit costs. Controlling the drug expense component can help employers continue to provide these important benefits. "Hard to Swallow: Why Prescription Benefit Costs Are So High" is a new *Business Insurance* Online Executive Forum™ offering that will take place at 11 a.m. EST Dec. 12. To attend this live online panel discussion, moderated by *BI* Editor Regis Coccia,go to *www.BusinessInsurance.com/webinars.*

BI DIRECTORIES

Safety, rehabilitation directories updated

Business Insurance has updated its Safety Consultants and Rehabilitation Management Service Providers directories for 2006. Both are now available online in the Directories area of *BusinessInsurance.com.* All of *BI*'s directories may be purchased in either Excel spreadsheet or PDF file format at *www.BusinessInsurance.com/Directories.*

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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Insurers put teeth into health care benefits

Periodontal care found to reduce severity of other diseases

By JOANNE WOJCIK

Earlier this year when Stamford, Conn.-based Pitney Bowes Inc. started encouraging its employees to floss once a day, it was at the forefront of a trend in dental care that is influencing dental benefit programs nationwide.

Pitney Bowes' daily flossing recommendation is part of its "Count Your Way to Health" program that incorporates numbers to make the various behavior changes easier to remember. The numbers run from zero to 100 and represent such activities as not smoking, zero; eating five fruits and vegetables a day; having a body mass index of 25 or less; participating in at least 30 minutes of activity each day; and using seat belts 100% of the time. Employees who follow these healthy lifestyle rules of thumb can earn up to $200 back a year on their health plan premium contributions.

The once-a-day-flossing activity was added to the program this year because "keeping healthy gums and teeth may impact heart health," explained Dr. Brent Pawlecki, Pitney Bowes' associate medical director.

Just as this discovery—derived from numerous studies by the medical, dental and insurance communities—has influenced Pitney

See **DENTAL** page 40

INSURERS STRESS DENTAL HYGIENE



ISTOCKPHOTO

Aetna Dental, Assurant Employee Benefits and CIGNA Corp. have all enhanced dental benefits to pay for additional periodontal care for pregnant women and plan members with heart disease or diabetes.
Research shows periodontal care can help reduce the number of low-birth-weight babies and lower the cost of treating cardiovascular disease and diabetes.

Consolidation stresses health care market

Disputes between insurers, providers likely to escalate

By GLORIA GONZALEZ

A bitter dispute between the largest hospital chain in the United States and one of the nation's largest health insurers highlights strain in the relationship between providers and health care insurers created by consolidation in the health care market.

While independent analysts see both insurers and hospital systems as having strong negotiating power due to recent consolidation, employers and providers express concern that further consolidation in the managed care sector could limit their options in contract negotiations. Insurers, though, say consolidation is not the cause of pricing disputes and that they are merely trying to hold the line on rising health care premiums.

The battle between UnitedHealthcare, a unit of Minnetonka, Minn.-based UnitedHealth Group Inc., and Nashville, Tenn.-based HCA Inc., the holding company for more than 270 hospitals and other health care facilities, began with the Aug. 31 expiration of contracts for UnitedHealth members to use HCA facilities in Denver and parts of Florida. The failure to reach a new contract escalated into a public feud that included UnitedHealthcare filing suit alleging anti-competitive behavior on the part of HCA (see box).

"It's not the first, but it's the biggest (dispute) and it's going to become more predominant," said Dr. Edward Langston, chair-elect of the board of trustees of the American Medical Assn. in Chicago.

In its public statements, UnitedHealthcare said HCA's reimbursement rates were already among the highest in its network and that HCA was demanding rate increases that were unacceptable. For example, UnitedHealthcare said HCA demanded a commercial rate increase of more than 36% in Tampa, Fla., during the next four years. "The days of just being able to pass on health care rate increases are over," a UnitedHealth spokesman said.

The acrimonious dispute, which was settled on Nov. 3 with a contract, did not initiate a wholesale move of employers away from UnitedHealth plans and only a few employers allowed their employees

See **CONSOLIDATE** page 41

UNITEDHEALTH VS. HCA

Timeline of the United Healthcare/HCA Inc. contract dispute this year:

AUG. 31: Contracts for UHC members to use HCA facilities expire in Denver; Tampa, Fla.; and South Florida. HCA facilities in those areas begin being dropped from the insurer's network.

SEPT. 18: UHC's Colorado subsidiaries file suit in U.S. District Court in Colorado alleging that HCA has used its market power in Denver to attempt to extort anticompetitive rates for hospital, ambulatory and imaging services, and asks for temporary restraining order.

SEPT. 21: Federal judge rejects UnitedHealth's request for temporary restraining order.

OCT. 19: HCA's East Florida division says it will switch employees participating in its preferred provider organization health plan from a UHC plan to a plan offered by a unit of CIGNA Corp.

NOV. 3: UHC and HCA reach a national agreement that provides UnitedHealth members access to more than 250 HCA hospitals and diagnostic and treatment centers into 2011.

Pension reform leads MeadWestvaco to shift to cash balance plan

Age bias protection may spur resurgence of hybrid design

By JERRY GEISEL

RICHMOND, Va.—A huge paper packaging and office products company is converting its traditional final-average pay pension plan covering salaried and nonunion hourly employees to a cash balance plan, the first major company to do so since Congress passed legislation that protected new cash balance plans from age discrimination lawsuits.

Beginning Jan. 1, new employees at MeadWestvaco Corp. will earn benefits under the cash balance plan, and on Jan. 1, 2008, employees under age 40 will move to the new plan. Employees age 40 and older will be given the option of remaining in their current plan or shifting to the cash balance plan.

Under the cash balance plan design, employees will earn benefit credits ranging from 4% to 8% of pay, with the percentage credited based on employees' age and service. Account balances will be credited with interest based on the yield of the 30-year Treasury bond.

Executives at Richmond, Va.-based MeadWestvaco, which last year generated about $6.2 billion in sales, said the company moved to the new design after analyzing retirement trends.

"MeadWestvaco has been listening to its employees and carefully researching retirement trends to determine the best possible defined benefit program," Senior Vp Linda Schreiner said in a statement.

"The implementation of this new cash balance formula provides more options to employees, while ensuring that MeadWestvaco continues to provide outstanding retirement benefits for our employees," Ms. Schreiner added.

In August, Congress passed a broad pension funding reform measure that included a provision that ended years of legal uncertainty surrounding cash balance plans. Among other things, the new law said a cash balance plan would have to provide at least the same benefit and interest credits to older employees as to younger employees to be protected from age discrimination lawsuits.

Benefit experts say the new law is likely to lead to a mild resurgence of cash balance plans, which grew rapidly in the late 1980s and 1990s as employers looked for a new pension plan design that would offer greater appeal to a more mobile workforce while providing a more easily understood benefit formula.

But cash balance plan growth came to a halt a few years ago when the plans became targets of age discrimination suits.

More than 1,000 employers, including many of the nation's largest corporations, sponsor cash balance plans, although some, including Hewlett-Packard Co., IBM Corp. and NCR Corp., either have or are in the process of phasing out the plans in favor of enhanced 401(k) plans.

Companies face increased risks when employing teens

Young workers need extra protection from harassment

By JUDY GREENWALD

Employers that hire teenage workers must take extra care in training the teens and their managers to avoid sexual harassment and the resulting significant potential for liability claims, experts say.

Teens, who often work as part-time or seasonal workers, often are neglected by employers that are more focused on their regular workers. Experts say while some of the same issues apply to all workers, including the need for training and establishing a complaint process, teenagers' youth and inexperience must be factored into employers' approach to this issue.

The cost to employers that neglect the issue can be hefty.

In late October, for instance, a federal district court jury in Rochester, N.Y. returned a $585,000 verdict against Cleveland-based Everdry Marketing & Management Services Inc., a national basement waterproofing company, on behalf of 13 young women—mostly teenagers still in high school—who were subjected to a sexually hostile work environment by male managers and salesmen.

The suit, brought by the U.S. Equal Employment Opportunity Commission, described the sexual harassment as "especially egregious," involving numerous incidents over a four-year period, including one in which a 16-year-old was coerced into having her toes sucked by her male manager in front of her co-workers during her first day on the job. The jury concluded Everdry owed $325,000 in compensatory damages plus $260,000 in punitive damages.

While civil law regarding sexual harassment is the same for adults as it is for teenagers, courts recently have been taking the view that teens' ages should be considered in assessing liability and damages "because the balance of power is even more disparate when the employee is a teenager," said Elizabeth Grossman, New York-based EEOC regional attorney.

Furthermore, employees may face criminal charges for "engaging in any kind of a sexual or flirtatious relationship with a person who is a minor," said Katrina Campbell Randolph, general counsel for Washington-based Brightline Compliance L.L.C., which provides employment training.

The issue has received heightened attention given the scandal involving U.S. Rep. Mark Foley, R-Fla., who resigned in September over reportedly sexually explicit e-

See HARASSMENT page 6



LANDOV

Emergency medical personnel at Christus Schumpert Hospital in Shreveport, La., conduct a mass casualty exercise using a potential avian flu pandemic as a scenario to test the hospital's readiness.

Hospitals not prepared for flu pandemic: Panel

Huge gap between level of concern vs. preparedness

By DAVE LENCKUS

SAN DIEGO—Few hospitals in the world are prepared to respond adequately when the next pandemic strikes, according to a panel of experts.

Based on the timeline of previous pandemics and the progression of avian influenza, the next one should strike soon, said executives with Marsh USA Inc. and affiliate Mercer Health & Benefits L.L.C., subsidiaries of New York-based Marsh & McLennan Cos. Inc.

CONTINUED COVERAGE of the ASHRM 2006 conference on page 39.

But a Mercer survey shows that while hospitals worldwide are concerned about how they will function during a pandemic, there is a huge gap "between their concern and the current state of preparedness," said Melissa Updike, a Louisville, Ky.-based Marsh vp.

Hospitals that were affected by severe acute respiratory syndrome in 2003 are best prepared for the next pandemic, Ms. Updike said during an educational session at the American Society for Healthcare Risk Management's 2006 conference and exhibition. ASHRM held its event Oct. 29-Nov. 1 in San Diego.

SARS, a viral respiratory illness that first was reported in Asia in February 2003, killed 774 people and made about 8,000 ill when it spread to more than two dozen countries on four continents over a few months, according to the World Health Organization.

Only eight U.S. citizens were infected during the outbreak, according to the WHO.

The worldwide economic impact of SARS was $60 billion, said Keith Becker, an Atlanta-based senior vp with Marsh.

But that outbreak was extremely tame compared to the picture of a widespread pandemic, noted Dalena Berrett, a vp with Marsh in Nashville, Tenn.

A true pandemic could kill more than 200,000 U.S. citizens and make 35% of the population ill, Ms. Berrett said. The economic impact of such widespread illness would exceed $166 billion, she said.

The WHO's avian flu alert stage is at level three, which means there is

See PANDEMIC page 38

Labor Department issues guidance on ERISA exemptions for HSAs

Bulletin helps resolve issues not addressed in earlier brief

By JERRY GEISEL

WASHINGTON—A recent Labor Department bulletin provides long-awaited guidance on how employers can offer health savings accounts without the arrangements becoming subject to stringent federal regulations.

Bulletin 2006-02 builds on earlier Labor Department guidance issued after the 2003 law that authorized HSAs went into effect. That earlier bulletin outlined when HSAs would not be considered employee benefit plans under the Employee Retirement Income Security Act and thus exempt from ERISA's numerous requirements. In general, employer involvement must be very limited for an employee benefit arrangement to be exempt from ERISA.

Building on that general rule, the 2004 bulletin said, for example, an HSA would not be considered a benefit plan under ERISA if the employee establishment of an HSA was completely voluntary, even if the employer contributed to the HSA.

Since that bulletin, thousands of employers have adopted HSA-based health care plans. With the spread of the arrangements, more questions have been raised on the actions employers can take without HSAs losing their ERISA-exempt status, said Andy Anderson, of counsel with Morgan, Lewis & Bockius L.L.P. in Chicago.

"These were general principles," said Sharon Cohen, an attorney with Watson Wyatt Worldwide in Arlington, Va., referring to the 2004 bulletin.

"The initial guidance was at a very high level. This is much more detailed," said Jeff Munn, a consultant in the Falls Church, Va., office of Hewitt Associates Inc.

Indeed, the latest bulletin resolves several issues not addressed in the 2004 bulletin.

"They have done a good job of addressing some of the most pressing issues," said Jay Savan, health and welfare group leader with Towers Perrin in St. Louis.

For example, one question that has frequently arisen over the past couple of years is whether employers can open HSAs for employees and contribute to them without violating the earlier Labor Department bulletin that the establishment of the HSA by an employee be "completely voluntary."

Such situations come up when employers, as part of their plan design, automatically agree to contribute a certain amount of money

See HSA page 6

S&P downgrades energy mutual over business model concerns

Loss of A-level rating not expected to cause immediate problems

By RUPAL PAREKH

HAMILTON, Bermuda—Oil Casualty Insurance Ltd.'s downgrade out of the A range by Standard & Poor's Corp. doesn't spell immediate disaster for the mutual insurer, but it might pose problems down the road, energy brokers say.

New York-based S&P last week lowered its financial strength rating of OCIL to BBB+ from A-, citing concerns over the company's business model, which "relies highly on reinsurance and focuses on a single line of business within a relatively narrow industry sector," Laline Carvalho, a credit analyst and director at S&P, said in a statement.

OIL CASUALTY INSURANCE LTD.

Oil Casualty Insurance Ltd.'s required umbrella general liability policy:

Maximum Limit:	$150 MILLION
Minimum Limit:	$25 MILLION
Minimum Attachment:	$50 MILLION

Source: Oil Casualty Insurance Ltd.

Ms. Carvalho in the statement also pointed to OCIL's policy limits as being "relatively high in view of its relatively small net premium base and annual earnings power," and noted that "the high excess nature of the policies it offers inherently exposes OCIL to significant volatility in its balance sheet and income statement."

In an interview, Ms. Carvalho said that there was "not one specific factor that has been a trigger point; it's a situation in which we were looking at several different factors," and in the course of a full review of OCIL, "we felt that the downgrade was warranted."

"We're disappointed in their announcement and their decision," said Jerry Rivers, OCIL's senior vp and chief operating officer. "The items that they mentioned as a concern would not seem to overweigh the positive attributes of strong capital, strong reinsurance and a loyal membership base."

Mr. Rivers noted that OCIL has not "received any formal notices from the shareholders that they will be exiting the company." Under the mutual's rules, members may elect to leave the mutual at any time, he noted.

He also said that following the downgrade, the company received

See OCIL page 41

$

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COMMERCIAL AUTO GENERAL LIABILITY PROPERTY UMBRELLA WORKERS COMPENSATION

Harassment: Employers take extra measures to protect teen workers

CONTINUED FROM PAGE 4

mails sent to congressional pages—including an underage former page.

Since 2004, the EEOC has been promoting Youth@Work, a major educational and outreach program directed at teens. While the number of teen-connected EEOC suits has fallen from 28 in fiscal 2004 to 13 in fiscal year 2006, that does not reflect a decline in sexual harassment litigation, said Lucy Ann Galioto, New York-based vp at National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International Group Inc. Rather, it reflects that "more people are going to state court, where usually there is no cap on compensatory and punitive damages," Ms. Galioto said.

The retail, restaurant and hospitality industries are among those most likely to hire teen workers. Companies, though, often exclude part-time and temporary employees from their training programs—usually the largest part of their teen workforce, said Shanti Atkins, president and chief executive officer of San Francisco-based ELT Inc., which provides employment law training programs.

Many teens "fall through the cracks," said Christine A. Samsel, an attorney with Akin Gump Strauss Hauer & Feld L.L.P. in Washington.

Authority figures

One challenge employers face is that teenagers may be more intimidated by authority figures, more likely to endure inappropriate conduct and less likely to subsequently complain about it, say observers.

Teens are "used to answering to an authority figure without question, and they don't understand that in an adult world, there are appropriate ways to challenge authority" if there is harassment, discrimination or other mistreatment in the workplace, said Amy Worley, an employer attorney with Helms Mulliss & Wicker in Charlotte, N.C.

Furthermore, teens "are very scared to come forward about these issues and feel they just have to put up with it as the cost of having a job," said Debra Katz, an attorney with Washington-based Katz, Marshall & Banks L.L.P.

Another factor is that the teens' supervisors may be in their early 20s, "so it's a difficult group to manage," said Ms. Galioto.

During training, employers need to inculcate teens with a sense that "complaining is not only OK, it's encouraged, and they need to do that in a way teenagers can understand," Ms. Worley said.

"One best practice is to create a number of places to which an employee can complain, such as the human resources department as well as a toll-free number, so the teen does not have to worry about running into the complaint's recipient in the hall," Ms. Grossman said.

For instance, at The Finish Line USA Inc., a sports apparel retailer where most salespeople are teens, employees are told to contact their manager first if there is a case of sexual harassment, said Gary Cohen, executive vp and chief legal counsel for the Indianapolis-based chain.

But if that is inappropriate for any reason, the company has posters with a toll-free phone number to its human resource department as well as phone numbers for district and regional managers, said Mr. Cohen. The company takes this issue "very seriously," he said.

This is work—not school

Training also must stress that the teens are at work, not in school, said Ms. Worley. Young employees must "be taught that although high school has a sexually charged environment, they need not bring it into work," she said.

Michael S. Cohen, an attorney with Wolf, Block Schorr & Solis-Cohen L.L.P. in Philadelphia, agreed. Teens need to understand that they are not only protected by the company's policy and the law, "but restricted by it. This is not the classroom. It isn't campus. It's the workplace, and the employees need to conduct themselves accordingly," he said.

Teens "are very scared to come forward about these issues and feel they just have to put up with it."

Debra Katz,
Katz, Marshall & Banks

Managers also should be carefully trained. The manager must be told that having a pretty 16-year-old cashier does not give him license "to say something you would not say to a 40-year-old," said Ms. Worley.

"I worry about the assistant manager in a store or about the co-employee who thinks that because this is a teenager, that 'we can play around more,' it's really fun and games," said Ms. Randolph. In fact, to avoid potential problems, "you have to be more formal" in dealing with teens than you would be otherwise, she said.

Employers must also be sure employees understand that the company's anti-sexual harassment policy applies to all employees, regardless of the number of hours a week they work, Mr. Cohen said.

In addition, managers and supervisors must be trained to pass on complaints, said Mr. Cohen, who noted that several EEOC cases have involved instances in which managers ignored teens' complaints.

"That's the kind of thing the EEOC is going to jump all over," Mr. Cohen said.



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HSA: Guidelines issued

CONTINUED FROM PAGE 4

to employees' HSAs, but those employees opting for HSAs end up not establishing the HSAs.

In that situation, the employer could open the HSA and make a contribution without running afoul of the completely voluntary requirement, the Labor Department said.

"The intended purpose of the 'completely voluntary' condition... is to ensure that any contributions an employee makes to an HSA, including salary reduction amounts, will be voluntary," the Labor Department said.

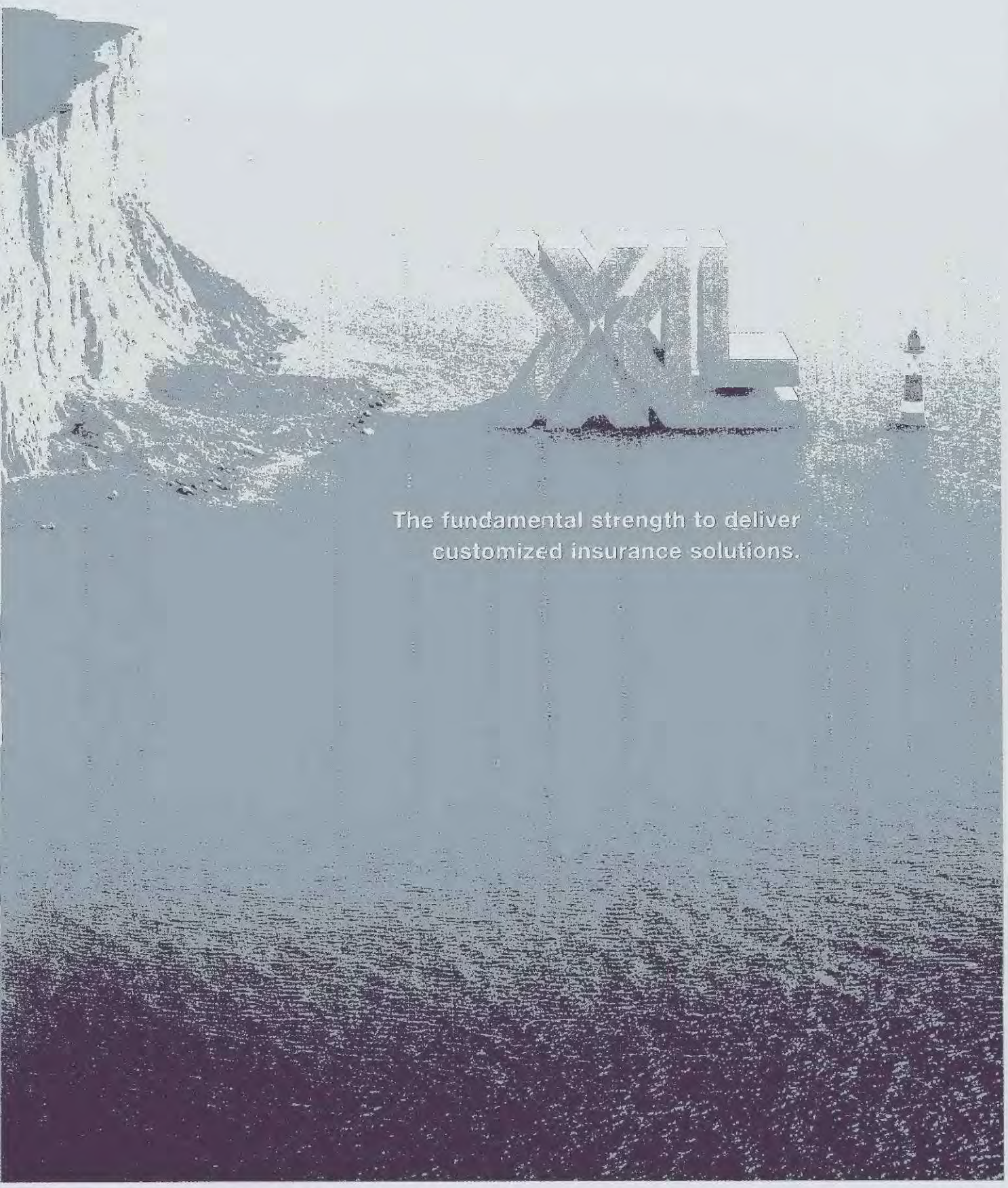
Additionally, employers can—without the HSA being considered an ERISA-covered employee benefit plan—limit to one the number of HSA providers to which it will forward contributions.

While employers cannot "endorse" an HSA provider, endorsement would not result "merely by limiting the HSA providers that it allows to market their HSA products in the workplace or by selecting a single HSA provider to which it will forward contributions," the DOL said.

However, an employer that does limit the number of HSA vendors to which it will forward contributions cannot receive a discount, in turn, from other products offered by that vendor, the Labor Department bulletin says.

Such an arrangement "would constitute the employer receiving a 'payment' or 'compensation' in connection with the HSA. In the department's view, the arrangement would also give rise to fiduciary and prohibited transaction issues."

The bulletin also explains that employers can pay fees charged by HSA providers, noting that the "mere fact that an employer contributes to an HSA does not result in the HSA being an ERISA-covered plan."



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Business Insurance OPINIONS

Democratic victory has advantages for industry

LAST WEEK'S CONGRESSIONAL elections have created an entirely new environment for risk management and employee benefit issues. For at least the next two years, both houses of Congress will be under Democratic control while the executive branch remains in Republican hands.

While conventional wisdom may adhere to the principle of "united we stand, divided we fall," divided government isn't necessarily a bad situation for all issues, provided, of course, that a spirit of bipartisanship prevails.

Possibly nowhere is this truer than in the case of extending the federal terrorism insurance backstop beyond its scheduled Dec. 31, 2007, sunset. The backstop enjoys broad support on both sides of the aisle. Unfortunately, one of the relatively few lawmakers who did not share in that sentiment happened to be one who had the most power to block extension of the backstop: Senate Banking, Housing and Urban Affairs Chairman Richard Shelby, R-Ala. Last week's election should elevate Sen. Christopher Dodd, D-Conn., to the chairmanship. Sen. Dodd, a co-sponsor of the original Terrorism Risk Insurance Act, is far more likely to move quickly—and positively—on the matter.

Divided government isn't necessarily a bad situation for all issues.

The change of party control in the House means that Rep. Barney Frank, D-Mass., will assume the chairmanship of the House Financial Services Committee. Rep. Frank, like his predecessor, Rep. Mike Oxley, R-Ohio, is a supporter of the backstop and can be expected to shepherd through bipartisan legislation.

That said, the bipartisan spirit must extend to the other end of Pennsylvania Avenue for the backstop extension to become reality. The administration, a once-avid supporter of the backstop, has slid into opposition based on what we regard as a misreading of the economic realities of insuring against terrorism by seeing a perfect free market where none exists. We hope President Bush will heed the call for a backstop when it comes, and signs an extension into law.

While we realistically cannot hope for much in the way of meaningful tort reform in the next Congress, we nevertheless believe that some limited reform may still be possible. But anything that will pass muster must have a strong bipartisan base of support.

Cooperation needed on benefit issues

The same is true in the benefits arena. There is no question that issues such as expansion of health savings accounts and exempting association health care plans from state regulation—which largely were supported by Republicans and opposed by Democrats—are dead, at least for the next two years.

But we believe there are plenty of employee benefit issues for which both parties can and should work together. While many Democrats, for example, may not be enamored with HSAs, the arrangements are here to stay and will, we think, represent a growing part of the health care market place.

It would behoove Democrats to work with Republicans to make HSAs work better and fix glitches in the law that prevent employers and employees from making the maximum contributions allowed to HSAs.

Similarly, the stability of employer-sponsored retirement plans should be an issue on which bipartisan cooperation is possible. The most significant development in the pension area has been the move of employers away from defined benefit plans in favor of a defined contribution plan only approach. Certainly, the new Congress should be looking at whether there are steps that can be taken that would encourage employers to retain defined benefit programs.

Above all, legislators should know that employers expect them to work together and find a common ground on risk management, employee benefit and many other issues. If Congress fails to do that, we expect that those members who were more interested in bashing opponents than in cooperating with them will be looking for new jobs after the next elections.



Letters

Noneconomic damage caps deny justice

To the editor: According to your Oct. 30 article, "Medical Malpractice Rates Stable, But Still At 'Very High Levels,'" while the frequency of hospital medical malpractice liability claims has stabilized, the severity of claims continues to grow, though at a slower rate, according to a study by Aon Risk Consultants, a unit of Chicago-based Aon Corp.

The drop in frequency is greatest in California, Florida, Pennsylvania and Texas—all of which have enacted some tort reform designed to limit plaintiffs' damages, the study noted.

Insurance companies are winners. Doctors are winners. Most definitely, victims of medical malpractice are losers, especially the elderly, children and stay-at-home parents. Virtually without exception, lawyers find that it is not financially feasible to represent victims who are not working.

Legislators of every state that placed a cap on noneconomic damages should repeal the law and enable medical malpractice victims to pursue the only justice that is available to them.

Jane Marshall
Dover, Tenn.

With transparency, contingents no problem

To the editor: In your blurb Nov. 6 about Marsh Inc. pursing middle-market business, CEO Brian Storms makes a lot of hay about the disparity between Marsh and most other brokers related to contingent commissions.

He fails to mention why this is important to the insured if we in the broker community do our job transparently. Since the insurance companies do not price coverage differently based on the inclusion (or not) of contingencies, where is the beef? If Marsh had not been so deceitful in placing business in the past, treating client accounts like revolving bank accounts, Mr. Storms' comments might make more sense.

David Schaefer
Principal
AH&T Insurance
Leesburg, Va.

Online Poll at www.businessinsurance.com

What changes should the industry make on finite reinsurance?

76.19%
Seek to clarify rules.

23.81%
Stop using it.



NEXT WEEK'S POLL: *Do you think that the Democratic majority in Congress will make it more likely that a government backstop for terrorism coverage will continue?*

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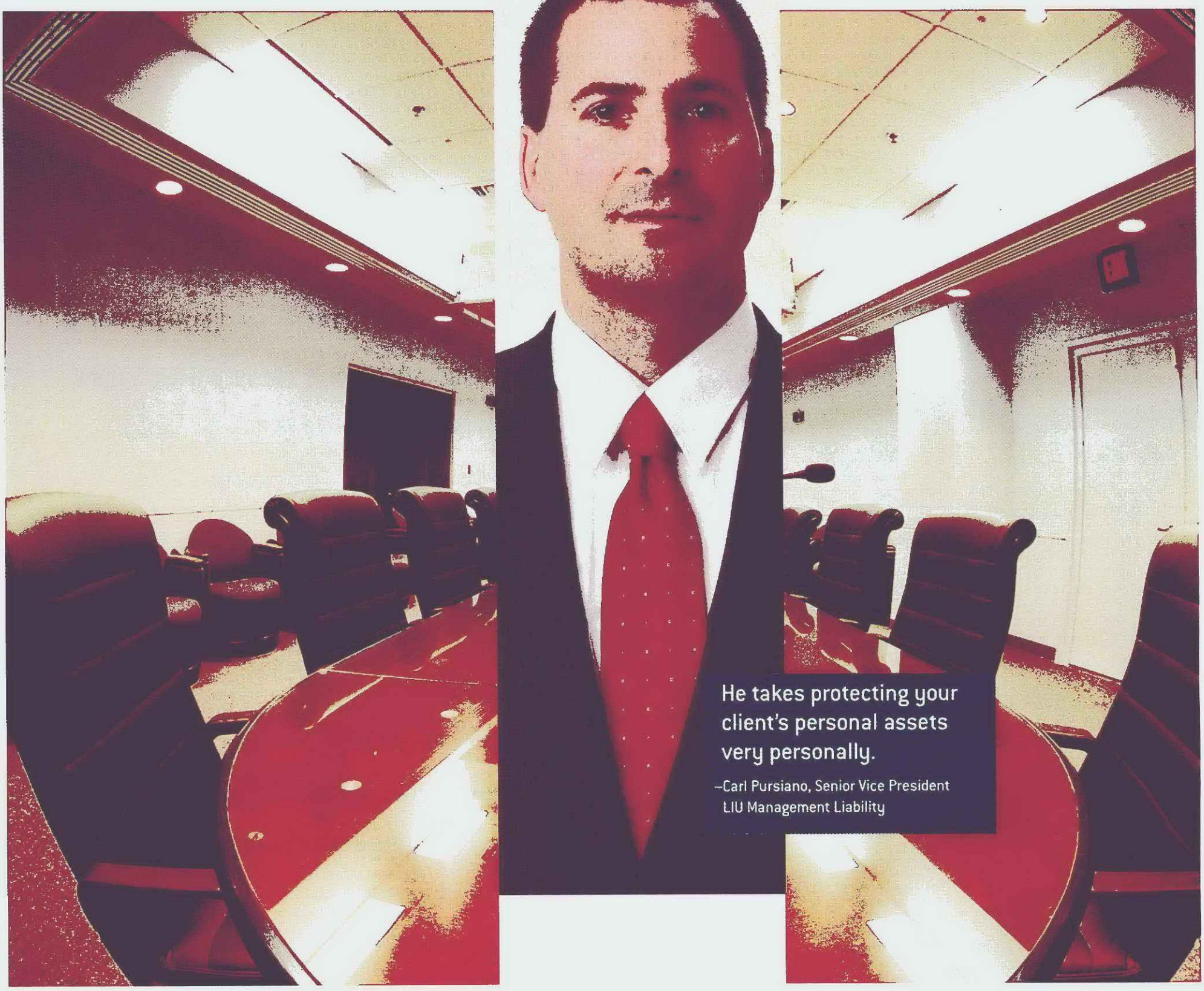
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By ROBERTO CENICEROS

Employers implementing integrated disability management strategies are pushing the various vendors with whom they contract to share employee claims data to improve health and manage absences, vendors and employers say.

The data—collected from disability insurers, workers compensation insurers, family medical leave administrators, disease management and pharmaceutical programs as well as health plan vendors—can be combined and analyzed to learn more about an employee population's claims activity, time away from work and health issues.

Often, such data providers are gathering in "vendor summits" with the common goal of interpreting the combined information to help employers develop unified strategies that address employee health and productivity, said Carol Harnett, national practice leader for group disability and life insurance in Simsbury, Conn., for the Hartford Financial Services Group Inc.

See **DATA** next page

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Data: Integration of information—not systems—takes center stage

CONTINUED FROM PREVIOUS PAGE

The trend is shifting away from the concept that envisioned integrated disability management as evolving to combine claims management for several programs under one vendor, or using one integrated system platform to address all claims regardless of their origin, Ms. Harnett said.

That idea never panned out, observers say.

Yet employers haven't given up on integration, a spring survey of 624 employers by the San Francisco-based Integrated Benefits Institute showed.

The survey found that 79% of employers now are coordinating a broad range of programs—including health benefits, disability and workers comp—and they are doing so faster than vendors have provided integration products.

Employers are coordinating programs by internally gathering data or aligning their various programs under the same department, the survey revealed.

Now, at the urging of employers, vendors also are transferring employee claims information to data integrators, Ms. Harnett said.

"This is much more about the integration of data than about the integration of claims systems," she said. "That is by far the biggest trend we are dealing with this year."

'We are seeing the demand to share information with workers compensation vendors and health care'

insurers.

Michael Fradkin, Metropolitan Life

The data integrators, also known as data management warehouses, are organizations that can help employers develop a comprehensive look at employee absence patterns and help understand absence costs.

"There certainly has been more of a focus on data sharing," said Michael Fradkin, vp of group disability for Metropolitan Life Insurance Co. in Bridgewater, N.J.

"As a disability carrier that is primarily focused on disability, Family Medical Leave Act (administration) and other leave coverages, we are seeing the demand to share information with workers compensation vendors and health care," insurers Mr. Fradkin said.

Mr. Fradkin, however, said employers still would like a single vendor managing as many programs as possible.

"It makes for a better service experience," Mr. Fradkin said.

He agrees, however, that an all-in-one solution generally is not available, so the next best alternative is to transfer data. To do that, insurers increasingly must be able to partner with other vendors, he added.

In addition to demanding the synchronization of vendor data and collaborative vendor meetings, employers also are using sophisticated payroll systems that collect employee benefits eligibility and absence information, said Jarrod S. Magan, assistant vp and technology implementation manager for Sedgwick Claims Management Services Inc. in Memphis, Tenn.

They are sharing the payroll system data to develop an "employee centric" view of how absence is impacting employers' bottom line, Mr. Magan said.

Approaches vary

As has always been the case, though, employers are approaching integrated disability management practices in a variety of ways.

Chevron Corp., for instance, is integrating data from its disability programs, family medical leave administration, workers comp, vacation days, personal leaves and military leaves, said Mark Huggins, Chevron's team lead for disability management in San Ramon, Calif.

The oil company is doing so by sending the information to OCI, a Cheyenne, Wyo.-based data integrator and unit of Chattanooga, Tenn.-based UnumProvident Corp.

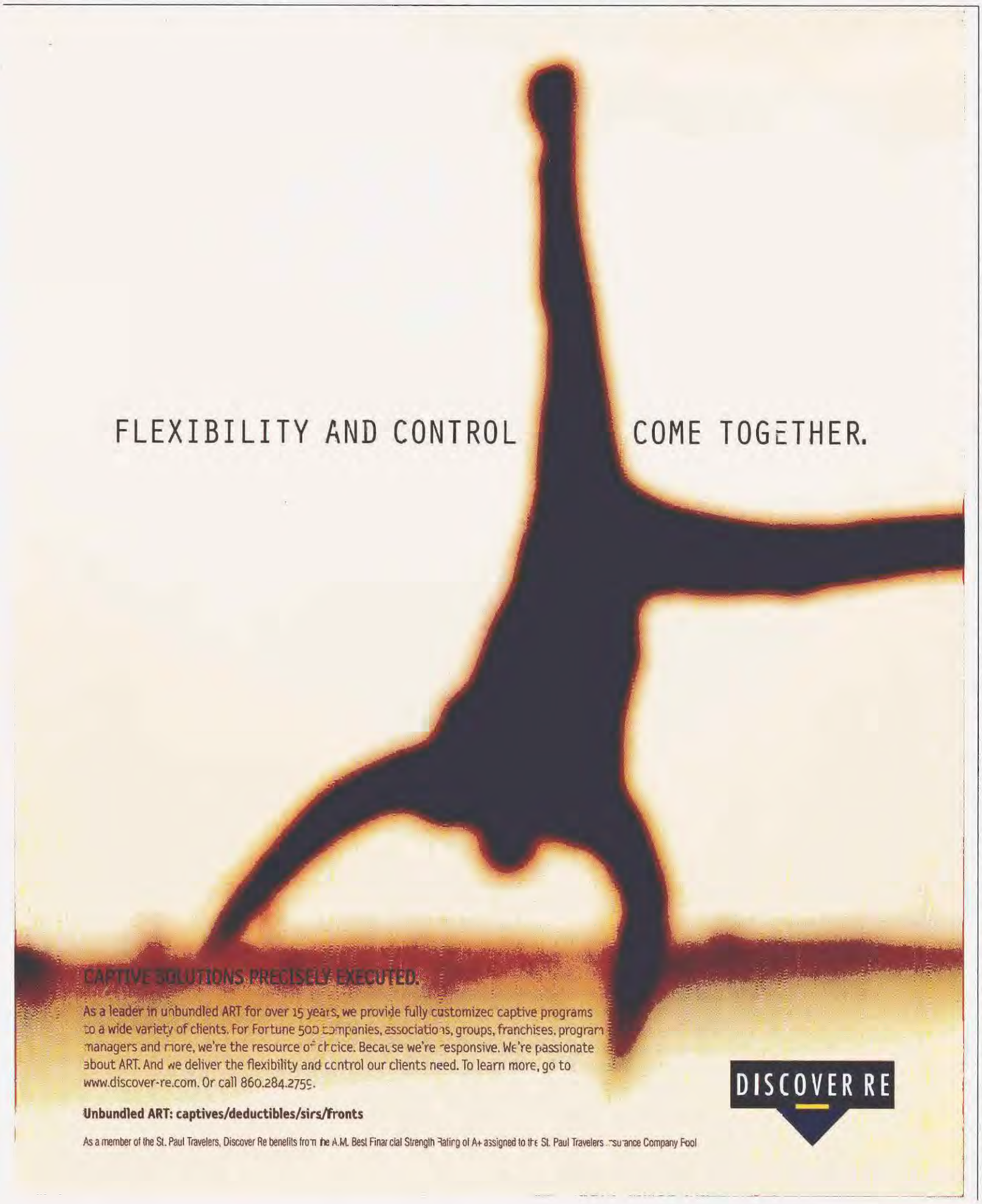
The short-term goal is to obtain an absence management report, Mr. Huggins said. But the long-term goal, one that is shared by other employers, Mr. Huggins said, is to obtain a "health report card," or a productivity report.

That could be done by looking at pharmacy and medical benefits data, for example, to see what health conditions plague employees the most, whether those conditions are causing absences and what specific health programs would best help employees.

Chevron sponsors several health programs such as those for disease management and smoking cessation, Mr. Huggins explained. But data integration could help determine "what are the true health concerns of our employees" and which programs or treatments would best address those concerns.

For instance, employees could be receiving prescription drugs that minimize symptoms stemming from certain illnesses, but not receiving the medical treatment necessary to actually treat the problem's real cause, Mr. Huggins said.

Data integration could help illuminate such issues. But Mr. Huggins stresses that the data being examined by the employer would be aggregate data and not information on specific employees as that would violate privacy laws.



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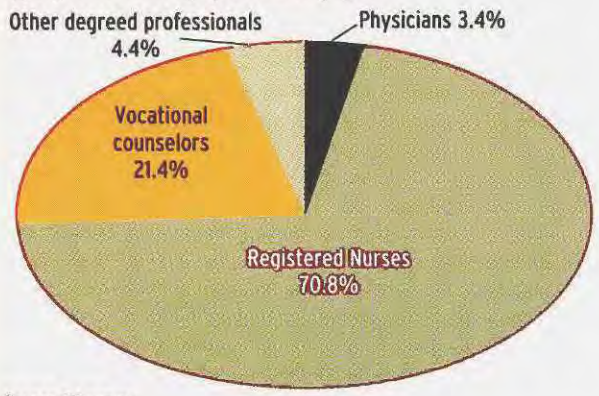
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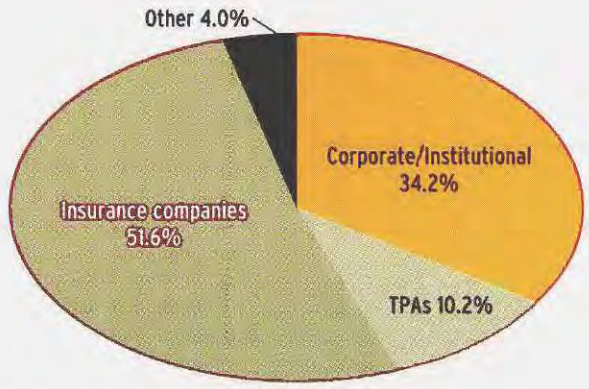
PROFESSIONAL STAFF

Type of rehabilitation professionals employed



Source: BI survey

BREAKDOWN OF CUSTOMERS



Source: BI survey

REHAB SERVICE OFFERINGS

Percentage of surveyed companies providing services



Source: BI survey

BI Ranking

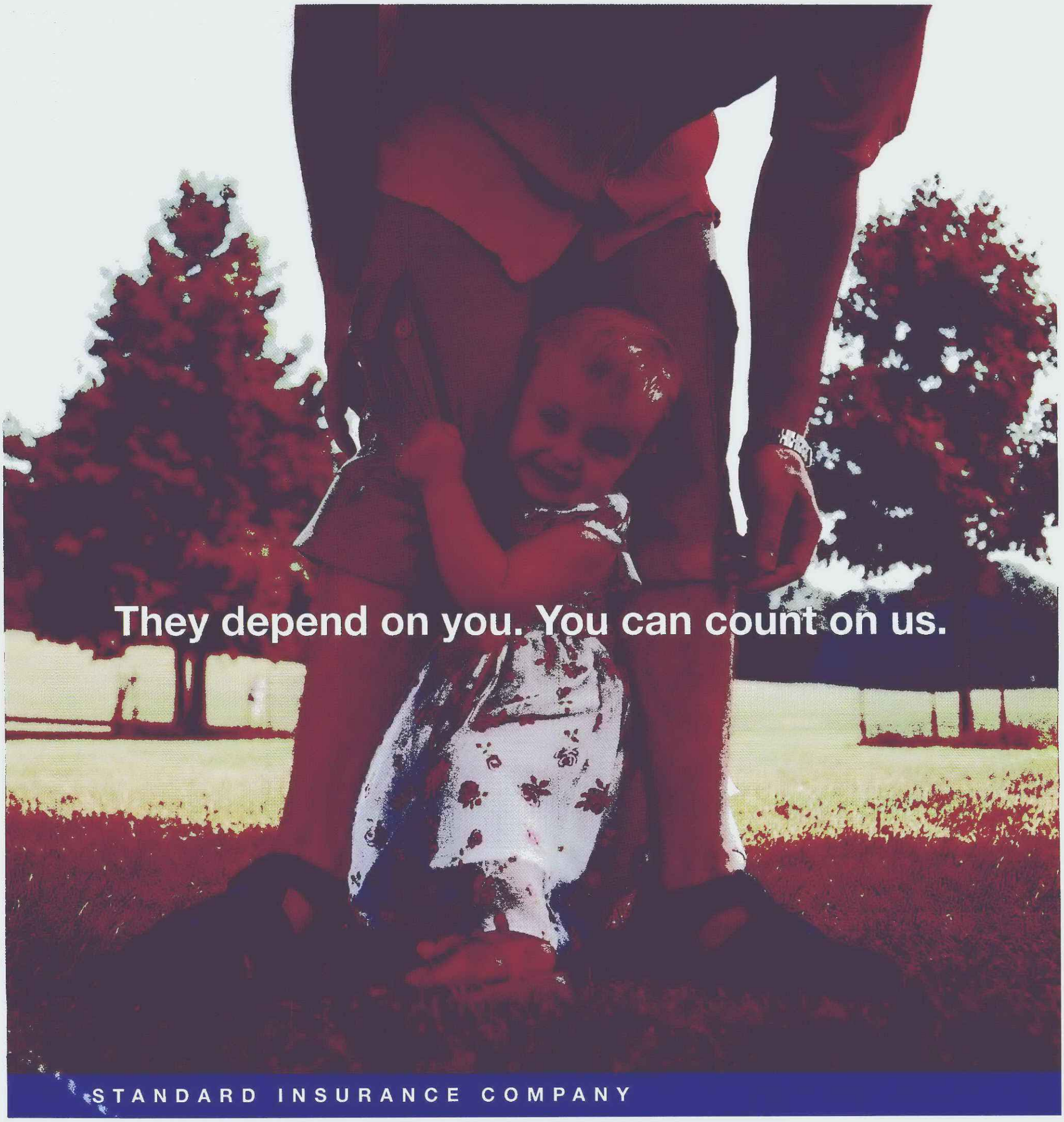
Largest rehabilitation service providers

*Ranked by 2005 revenues from rehabilitation services provided directly to employers**

Rank	Company/Address	Phone/Fax/Web site	Revenues from rehabilitation services	Professional staff	Total clients	Closed cases in 2005	Independent medical exam cases	Expert opinion cases	Principal officer
1	Concentra Inc. 5080 Spectrum Drive, Suite 1200W, Addison, Texas 75001-4648	800-232-3550 Fax: 972-387-0550 *www.concentra.com*	$171,000,000	1,097	1,700	240,000	60,822	60,000	Dan J. Thomas, CEO
2	Intracorp 1601 Chestnut St., Philadelphia, Pa. 19192	215-761-7100 Fax: 215-761-5538 *www.intracorp.com*	$155,000,000	988	642	168,812	1,011	6,492	Archie Anderson, president
3	CorVel Corp. 2010 Main St., Suite 600, Irvine, Calif. 92614	949-851-1473 Fax: 949-851-1469 *www.corvel.com*	$115,000,000	775	2,000	10,000	40,000	0	Gordon Clemons, CEO
4	GENEX Services Inc. 440 E. Swedesford Road, Suite 1000, Wayne, Pa. 19087	610-964-5100 Fax: 610-964-1919 *www.genexservices.com*	$100,000,000	1,220	1,178	93,000	13,200	0	Peter C. Madeja, president/CEO
5	Broadspire, a Crawford Co. 1601 S.W. 80th Terrace, Plantation, Fla. 33324-4036	404-847-4074 Fax: 404-847-4148 *www.choosebroadspire.com*	$94,279,000 [1]	711	1,694	65,715	4,733	2,105	Bob Kulbick, CEO
6	MedInsights Inc. 3039 Premiere Parkway, Suite 900, Duluth, Ga. 30097	770-813-0997 Fax: 770-476-3045 *www.medinsights.com*	$14,000,000	45	150	25,000	0	0	Rob Meyers, president
7	F.A. Richard & Associates dba FARA 1625 W. Causeway Approach, Mandeville, La. 70471	800-259-8388 Fax: 985-624-8489 *www.fara.com*	$9,750,000	100	300	28,500	0	0	M. Todd Richard, president/CEO
8	Injury Management Resources Inc., a division of MCMC L.L.C. [2] 187 Billerica Road, Chelmsford, Mass. 01824	978-614-1000 Fax: 978-614-1050 *www.mcmcllc.com*	$7,000,000	46	79	2,000	200	200	Mike Lindberg, president/CEO
9	Archer Consultants Inc. 1101 Stewart Ave., Suite 300, Garden City, N.Y. 11530	516-683-0100 Fax: 516-683-0259 *www.archerconsultants.org*	$925,000	21	78	217	0	121	Morris Ehrenreich, president
10	Total Care Management P.O. Box 6528, Greenville, S.C. 29606	800-638-6829 Fax: 864-233-5337 *www.hewittcoleman.com*	$900,000	9	89	104	10	73	Charles R. Warne, president

*Rehabilitation management services are defined as providing all services included in the medical management or vocational rehabilitation of an injured or ill individual. They do not incluce the delivery of physical rehabilitation or treatment, or case management for group life and health cases. 1 Pro forma to include the Crawford & Co. and Broadspire merger. 2 Includes CareSys.
Source: *BI* survey

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Biggest not always best with workers comp claims systems

Smaller vendors can offer advantages over larger rivals

By ROBERTO CENICEROS

Workers compensation claims management systems vary widely from vendor to vendor, say professionals who evaluate the systems for self-insured employers, brokers, insurers and third-party administrators.

Among other significant differences, the systems vary in how easily they adapt to a purchasers' business model, how intuitive they are to navigate and how simple they are to configure without requiring vendor programming modifications.

It pays, therefore, for self-insured employers to know what to look for when purchasing a claims management system from vendors eager to tout their products' capabilities, the claims system consultants add.

While the products differ greatly, vendors also have divergent business models. Some are small, independent startup companies, while large, established brokers also provide some of the best-selling claims systems, said Anita Schoenfeld, a Dallas-based senior consultant and national practice leader for risk management information systems at Tillinghast, a business unit of Towers Perrin.

But a vendors' size or business affiliations do not guarantee their product has state-of-the-art capabilities or offers the best fit for a particular employer's business needs, Ms. Schoenfeld said.

"There are small applications (developers) out there that are extremely good and may be right for you," Ms. Schoenfeld said.

Nor is a recognizable brand a guarantee that the vendor will stick around, added David Duden, national practice leader–risk management information systems for Deloitte Consulting L.L.P. in Hartford, Conn.

"You would think that the larger company or the broker sponsored (system) might have more stability, but I'm not sure that is the case," Mr. Duden said.

"There have been very large companies with large clients that have simply said, 'We are no longer going to support that product anymore,'" Mr. Duden continued. "So the size of the organization, or who is behind it, sometimes has very little to do with the viability of the company or how much longer they are going to support those products."

Additionally, a system purchaser might obtain more research and development benefits from a start-up company with few clients, Mr. Duden said. In contrast, an established system provider with several hundred clients may have to expend so much of its resources supporting an older product that it limits the amount of time and money it can devote to research and development.

Look for systems that are easily configurable by the employer and are available on platforms provided by an application services provider, Ms. Schoenfeld advised.

In some cases, the company selling its claims system is also the application service provider. But the providers often are third parties that maintain servers and allow self-insured employers and others, such as TPAs, to access the claims application and data via the Internet.

The evolution of application service providers has allowed employers to forgo large capital investments in system hardware and data processing staff, Ms. Schoenfeld said.

An easy-to-configure system allows employers to change data fields to input information specific to their business, create a drop-down menu or run reports without having to contact the vendor to customize their product, Ms. Schoenfeld said.

Because employers increasingly want greater control over their data, a rule-enabled system is also a key consideration, added Mr. Duden.

Rule-enabled means the system allows the purchaser to, for example, determine routing and access to claims and which claims should be flagged for fraud analysis rather than going through a vendor to make such changes.

Because of consolidation, there are now fewer claims system vendors, and those that garner respect are producing products that are easier for users to configure without requiring vendor programming changes, said Mark Heinemeyer, president and chief executive officer in Dallas for P2P Link, which electronically connects claims payers' systems with medical providers.

The easier-to-use systems offer another advantage over older models in that they allow users to connect to outside data and software designed to augment their claims systems, Mr. Heinemeyer said.

Increasingly, employers want to connect their claims systems to outside data sources, such as those providing diagnostic and analytic information that can help predict when a claim might be fraudulent, according to Deloitte Consulting.

While vendors are moving to make their systems easier to manipulate, there are still plenty of products requiring vendor programming to make changes, observers say.

See **VENDORS** page 20

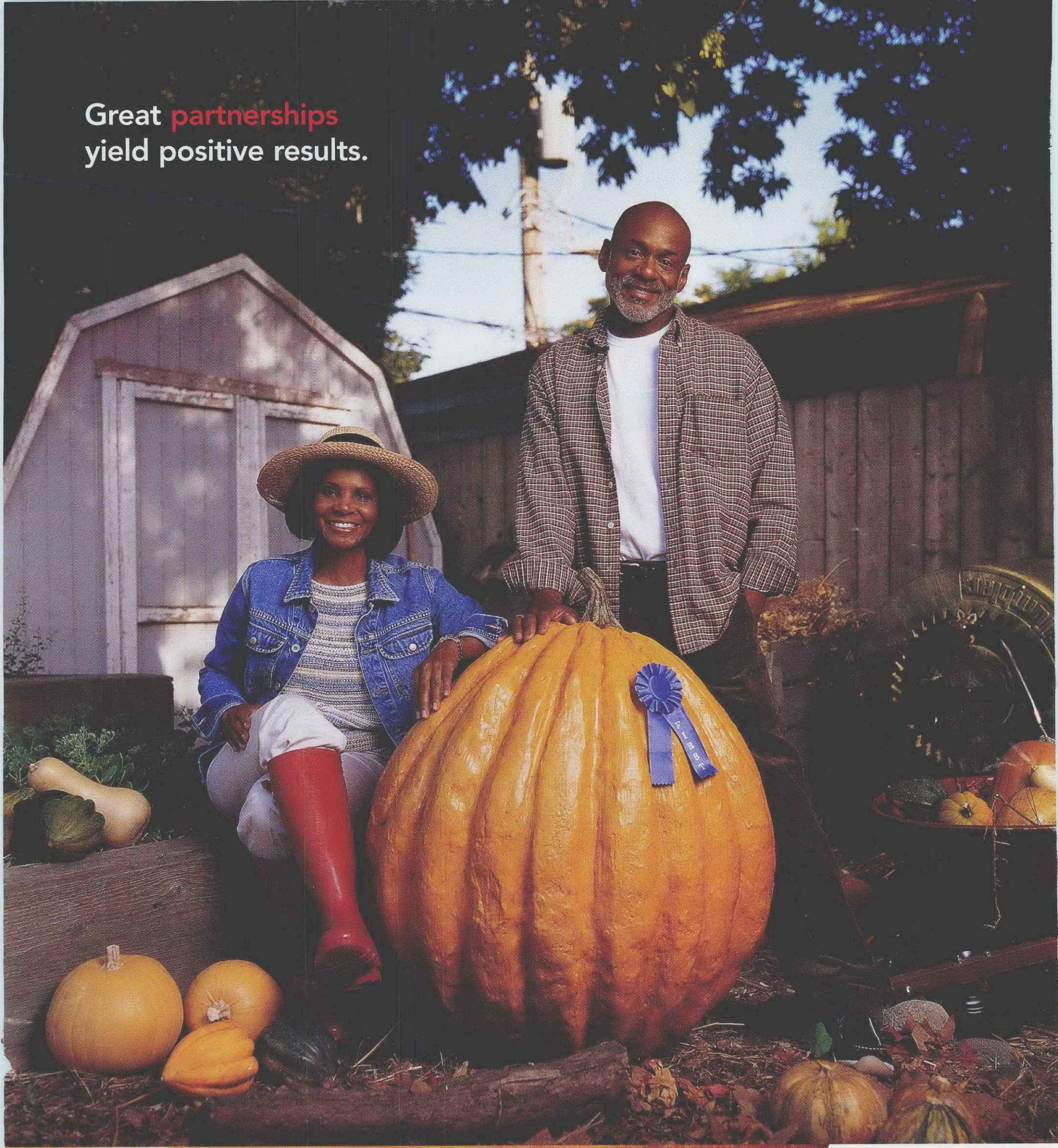
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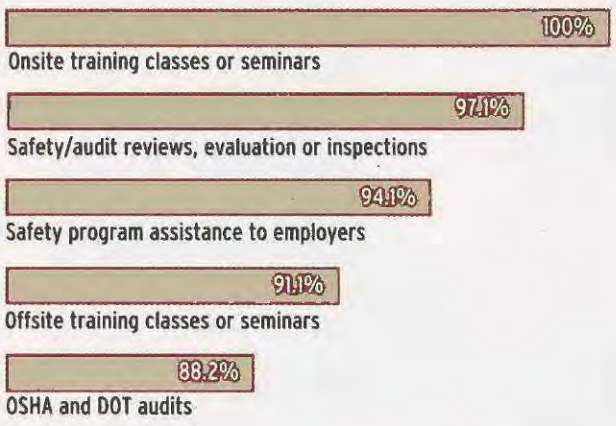


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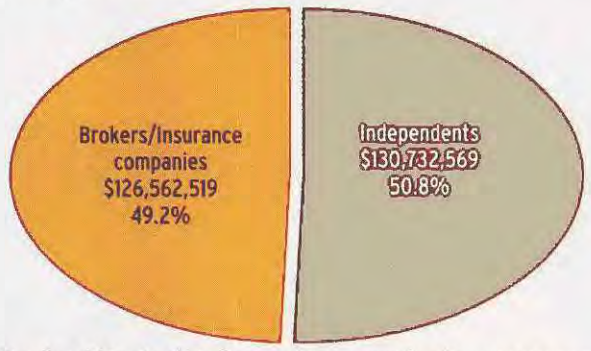
MOST COMMON SERVICES OFFERED



Source: BI survey

SHARE OF THE SAFETY CONSULTING MARKET

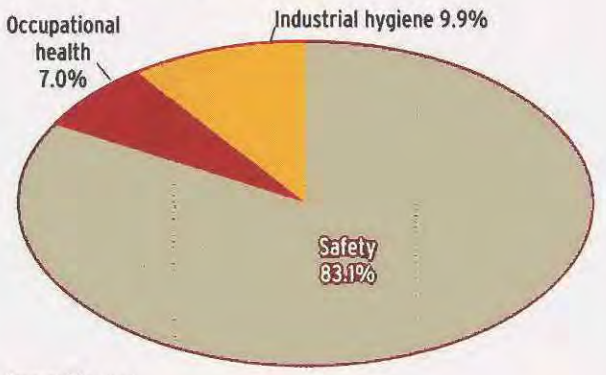
*Percentage of market controlled by independent consultants vs. consultants owned by brokers/insurance companies**



**Based on 2005 unbundled safety consulting revenues for all companies surveyed*
Source: BI survey

BREAKDOWN OF CONSULTANTS STAFF

Percentages reflect total professional staff of all companies surveyed.



Source: BI survey

***BI* RANKING**

Largest independent safety consultants*

*Ranked by 2005 revenues from safety consulting services***

Rank	Company/Address	Phone/Fax/Web site	Unbundled safety consulting revenues	Staff	Total unbundled clients	Corporate/ institutional clients	Principal officer
1	Bureau Veritas [1] 11860 W. State Road 84, Suite One, Fort Lauderdale, Fla. 33325	954-236-8100 Fax: 954-236-8108 *www.us.bureauveritas.com*	$39,900,000	355	1,825	1,050	Dick Wright, CEO
2	Safety Resources 239 New Road, Building C, Parsippany, N.J. 07054	973-575-0900 Fax: 973-575-0901 *www.safetyresc.com*	$18,763,000	193	107	107	Jack Leonard, president
3	Regional Reporting Inc. 40 Fulton St., New York, N.Y. 10038	212-964-5973 Fax: 212-608-5074 *www.regionalreporting.com*	$13,000,000	220	220	70	Martin Myers, CEO
4	Risk Consultants Inc. 6611 Watson St., Union City, Ga. 30291	770-964-1226 Fax: 770-969-7301 *www.riskcon.com*	$8,600,000	562	582	582	R. Michael Malone, president/CEO
5	Safety Management Group of Indiana Inc. 6500 Technology Center Drive, Suite 200, Indianapolis, Ind. 46278	317-873-5064 Fax: 317-873-5096 *www.smgindy.com*	$7,727,052	71	200	190	Kent Burget, president
6	F.A. Richard & Associates Inc. dba FARA 1625 W. Causeway Approach, Mandeville, La. 70471	800-259-8388 Fax: 985-624-8489 *www.fara.com*	$6,500,000	180	75	30	M. Todd Richard, president/CEO
7	North American Risk Co. 5161 Lake Osprey Drive, Sarasota, Fla. 34240	941-373-1545 Fax: 941-373-1401 *www.narco.biz*	$2,799,000	75	143	84	Bud Schade, president
8	Strategic Safety Associates P.O. Box 80161, Portland, Ore. 97280-1161	503-977-2094 Fax: 503-977-3175 *www.masteringsafety.com,* *www.movesmart.com*	$2,767,000	9	68	68	Robert Pater, managing director
9	National Safety Council 1121 Spring Lake Drive, Itasca, Ill. 60143	630-285-1121 Fax: 630-285-1315 *www.nsc.org*	$2,000,000	10	42	42	Alan McMillan, president/CEO
9	Topf Initiatives Executive Commons, 175 Strafford Ave., Suite One, Wayne, Pa. 19087	610-783-1776 Fax: 610-783-1775	$2,000,000	12	50	50	Michael D. Topf, president/CEO

*Includes companies not owned by brokers or insurers. **Reflects safety consulting revenues provided on a direct, unbundled basis. 1 Includes Clayton Group Services Inc. and NATLSCO Risk & Safety Services.
Source: *BI* survey

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Vendors: Claims management systems put to the performance test

CONTINUED FROM PAGE 16

Some vendors may claim their systems are easily configurable, but that may not be the case, Ms. Schoenfeld said.

Vendors with systems that need to be customized to perform certain functions might also boast that the work required on their part is minimal, when in fact it can be substantial, Ms. Schoenfeld added.

"You need to look very carefully because a lot of the vendors will say 'oh yes, we are highly configurable,' but you have to sit down with them and actually go through certain types of tests."

One test Tillinghast puts vendors through involves asking them to perform several functions to see how easy or difficult it is for their system to accomplish the tasks, Ms. Schoenfeld said.

Mr. Duden said he checks to see how well a system helps meet rating agency reporting requirements and state regulations for reportable accidents.

"It will help you meet the needs of regulators, but it also says to us that (the vendors) have considered all data types that need to be in the system to process claims," Mr. Duden said.

It remains difficult to measure how intuitive a system is to operate, Mr. Duden added. But one good question to consider is how steep the learning curve might be for staff members with 10 or 20 years of experience managing claims. The answer to that question often requires knowing the culture of the company and the demographics of the people who will use the system, he said.

While "fully functional" workers comp claims management applications are often purchased separately from risk management information systems that are used to manage several lines of insurance, some large, self-insured employers maintain "fully-functional" claims management systems that are a part of their larger RMIS systems, Ms. Schoenfeld said.

They are considered fully functional because they allow tasks such as claims data consolidation, data management and risk management analytics all within the RMIS system.

Some employers, however, chose to leave claims management functions to their insurers or TPA.

Downers Grove, Ill.-based The ServiceMaster Co., for example purchases a high-deductible workers comp program from Zurich Financial Services. The insurer also provides ServiceMaster with TPA services, said Greg Hoff, the residential homes services company's director of risk management.

But Mr. Hoff uses his risk management information system for a variety of workers compensation functions.

The employer, for example, downloads workers comp claims information provided daily by Zurich. That way the RMIS system, which also tracks other insurance coverages such as general liability, allows ServiceMaster to review claims activity and assure Zurich is adequately complying with the employer's return-to-work program.

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Careful approach needed to terminate injured employees

Policy must be applied consistently to avoid possibility of lawsuits

By DAVE LENCKUS

Despite the mounting nonworkers compensation expenses racked up by injured employees who cannot return to work quickly—if ever, many employers will not terminate those workers.

Other employers will evaluate each worker's case individually and then decide who to terminate.

Neither approach is sound, and both could end up costing employers large sums, according to experts.

Paternalistic organizations will needlessly incur group health care and retirement plan expenses for injured workers who the employers have had to replace with productive employees who also must be paid benefits.

But too many employers that attempt to keep their costs in check by terminating employees with long-term disabling injuries risk costly lawsuits because of their faulty termination practices, according to attorneys and an arbitrator. Often, workers with occupational injuries will file lawsuits alleging they were terminated in retaliation for filing workers comp claims.

The termination policy that best protects an employer is one that applies to workers with nonoccupational as well as occupational injuries, is applied consistently, gives injured workers adequate time to recover and save their jobs, and complies with federal medical leave and disability laws, the experts say.

No legitimate workers comp claimant who is terminated would be at risk of losing their workers comp benefits, experts said.

Still, the topic is so sensitive for some risk managers that they will not publicly discuss what they consider sound termination polices. For example, one risk manager who refused to discuss his organization's policy said he also doubted many of his peers would disclose their policies, because 'no one wants to have a target put on their back" for potential plaintiffs.

Their concerns may not be wholly unjustified, according to Merton E. Marks, a former employer attorney and now a Scottsdale, Ariz.-based arbitrator whose practice includes labor and employment cases.

For employers that question whether they can legally terminate an injured worker, "the short answer is, 'probably,'" Mr. Marks said.

Employer attorney Michael Rusin, of Rusin Maciorowski & Friedman Ltd. in Chicago, was more definitive. "There's no obligation to keep somebody employed just because they have a work-related injury. But, the law does vary from state to state," he said.

Even so, "can an employer place itself in jeopardy for doing so?" Mr. Marks said. "The answer is, 'probably.'"

Other experts agreed but said employers can significantly mitigate that risk.

Employee attorney Glen Wieland of Wieland & Hilado P.A. in Orlando, Fla., agrees that employers in most states may terminate injured employees. The problems they typically face in taking that step are created by themselves, he said.

Before terminating an injured worker, employers first must consider the employee's employment arrangement, experts said.

So-called "at will" employees, whose employment status before their injuries was solely at the discretion of their employers, pose the fewest termination hurdles, experts said. But provisions in collective bargaining agreements covering unionized employees and in employment contracts with executives might limit employers' opportunities to terminate those employees when they are injured, experts said.

Taking into account such restrictions as well as any state workers comp statutes governing termination, employers should develop written termination policies that apply to employees with nonoccupational as well as occupational injuries, experts said.

"I'm not aware of anything that prohibits an employer from having a rule that says anyone who is out for six or 12 months will be deemed to have abandoned their job," said employer attorney Bennett Pine, a partner with Anderson Kill & Olick P.C. in New York.

Mr. Pine recommended giving injured workers at least six months to recover and reclaim their jobs, but he said a 12-month recovery period would more easily thwart retaliation allegations from workers comp claimants.

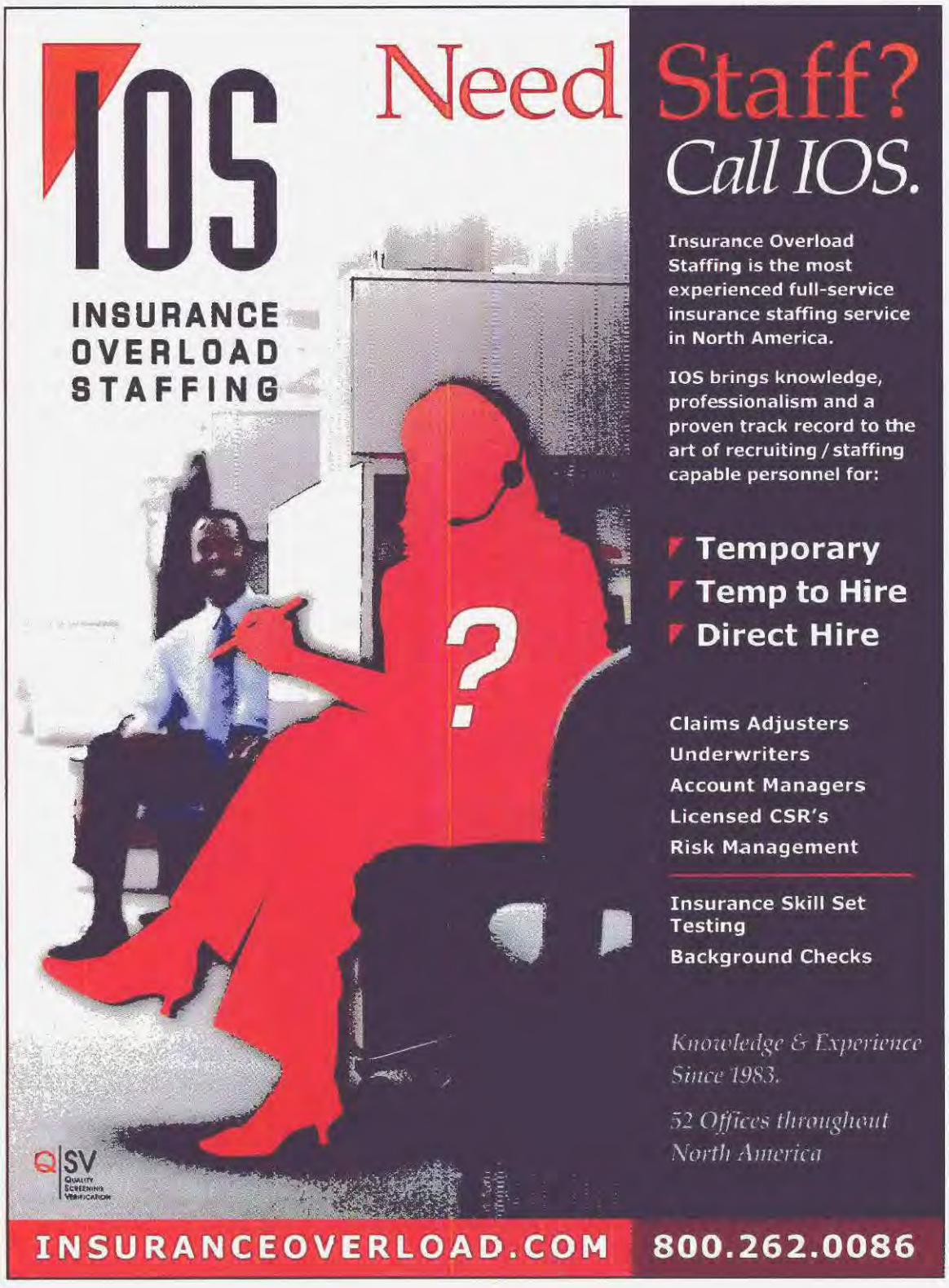
The problem with such policies is inconsistent application, Mr. Wieland said. "Risk managers sometimes get themselves in trouble because they don't use the same criteria case-to-case," he said.

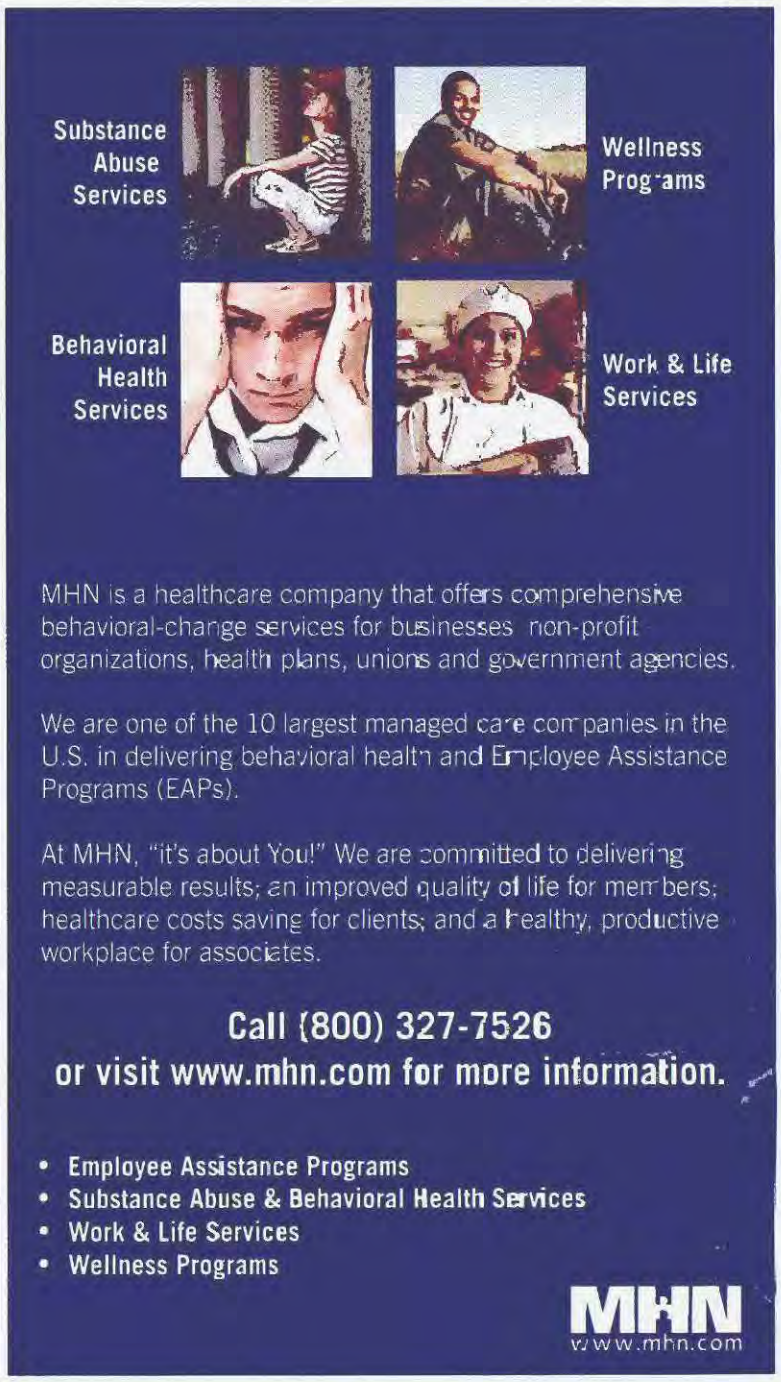
At Greenville, S.C., a city disability committee sometimes will extend by a week or two the 12-week recovery period that injured workers have to return to their jobs, said Gloria Moody, risk manager and a disability committee member. Those exceptions are permissible under Greenville's human resource policy, which also outlines the city's 12-week recovery period for workers who are injured on or off the job, Ms. Moody said.

After 13 or 14 weeks, the injured worker must be able to handle at least a light-duty schedule and then must be able to return to full duty within another week or so, Ms. Moody said.

Mr. Wieland said employers that want to incorporate such flexibility into their policies should obtain

See FIRING page 24







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Illinois high court validates arbitration agreement as condition of employment

By DAVE LENCKUS

SPRINGFIELD, Ill.—Employers have won additional judicial support for requiring that binding arbitration resolve wrongful termination claims filed by injured workers who could not meet return-to-work deadlines.

Recognizing a split among federal courts the Illinois Supreme Court in March ruled that employers may require employees to agree as a condition of employment to submit any employment-related claims—including retaliatory termination charges by workers compensation claimants—to binding arbitration.

Employers often prefer to direct disputes to arbitration because the procedure is faster, less expensive, more private and less technical than a judicial proceeding.

In the Illinois case, *Melena vs. Anheuser-Busch Inc.*, Joann Melena sued the brewer for allegedly terminating her in retaliation for filing a workers comp claim. Ms. Melena had worked at a Mount Vernon, Ill., distribution facility owned by St. Louis-based Anheuser-Busch.

The company filed motions asking the court to dismiss the suit and submit the case to binding arbitration. In court papers, Anheuser-Busch documented that Ms Melena had signed a statement acknowledging she had received an employee handbook explaining that all employment-related disputes would be subject to arbitration. The company also had conducted employee-education campaigns about the procedure when it was introduced, according to court papers.

But a state trial court and an appellate court rejected the motion.

Noting that an arbitration agreement is enforceable only if an employee accepts it knowingly and voluntarily, the appellate court said it had "serious reservations" about whether such agreements could be voluntary when they are linked to conditions of employment. The court relied on a 9th U.S. Circuit Court of Appeals decision, even though the state appeals court recognized that several other federal appellate courts did not agree with the 9th Circuit.

In its 6-1 ruling, the Illinois Supreme Court rejected the state appellate court's and 9th Circuit's reasoning. Instead, the high court ruled that the enforceability of such agreements turn on contract law. Under contract law, the agreement is enforceable even if the signer did not understand its terms or was unaware the agreement included an arbitration requirement, the court noted.

In addition, citing U.S. Supreme Court precedent, the Illinois Supreme Court ruled that claimants do not sacrifice any of their "substantive rights" by submitting to arbitration. An arbitration requirement only moves claims to an "arbitral, rather than a judicial, forum," the court ruled.

Melena vs. Anheuser-Busch Inc., Illinois Supreme Court, March 23; No. 99421.



Firing: Care needed

CONTINUED FROM PAGE 22

"serious documentation" from the worker's physician before granting a recovery extension.

"The safest thing" employers could do in that situation is not to extend the recovery period but bring workers back on the job and pay them for that week or two they need to fully recover—even if they can only "sit in a chair or lie on a couch," Mr. Wieland said. That would be cheaper than defending a lawsuit alleging that the employer applied its policy inconsistently, he said.

Greenville's 12-week recovery period takes into account the unpaid leave that workers are guaranteed under the Family and Medical Leave Act.

Mr. Rusin said most employers do not have that aggressive of a termination policy. Instead, most employers establish a 26- or 52-week recovery period, because they do not want to terminate good employees who have a good chance of returning to their jobs after recovering, he said.

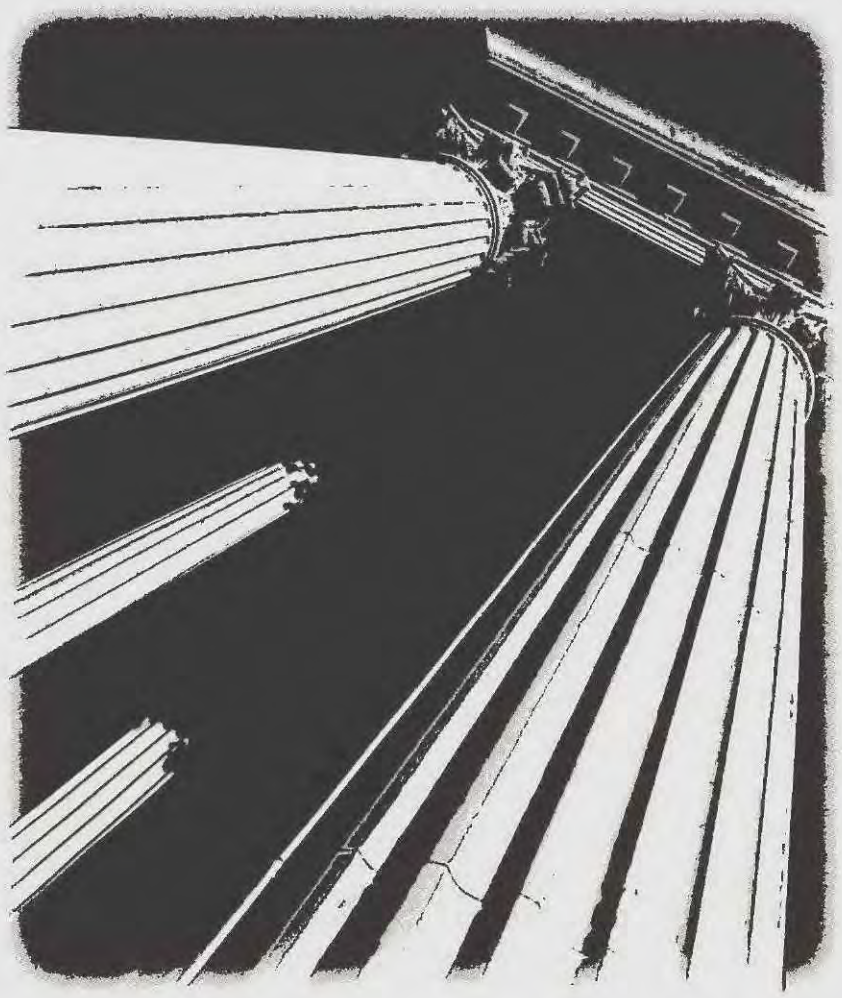
Other experts noted, however, that nothing prevents employers from later rehiring only some of the workers who were terminated because they could not return to their jobs within the recovery period.

Another federal law that employers must take into account is the Americans with Disabilities Act, the experts said. Under the ADA, employers must allow injured workers to return by the end of the organization's allowable recovery period if the workers can perform the essential functions of their jobs with reasonable accommodations by their employers.

If no reasonable accommodation is possible, however, the worker may be terminated, the experts said.

Employers can further shield themselves against lawsuits by terminated injured workers by documenting that the worker would have been fired for cause if he or she had not been injured, Mr. Marks said.

Mr. Marks said that "it's uncanny" how often poor workers are injured on the job shortly before they would have been terminated.



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Employers adapt safety programs to reflect graying workforce

Older employees suffer fewer injuries but recover slower

By JOANNE WOJCIK

Because baby boomers simply refuse to grow old gracefully, many occupational health experts believe the aging workforce will not have the negative impact on the workers compensation system that employers have long feared.

Even today's older workers—such as post-65 retirees who have come back to work part-time to supplement their retirement income—often are in better physical condition than the older workers of prior generations. In fact, statistics show a lower injury rate among workers over the age of 45 than among their younger counterparts.

But, when older workers do get injured, they are likely to be on the disabled list longer than younger workers because their bodies take longer to heal. And, depending on the nature of the injury, there may be some debate over whether an injury or disability is work-related, degenerative or both.

Regardless of the cause, loss control measures specifically designed to meet the needs of older workers can reduce both the frequency and severity of occupational injuries among this growing segment of the U.S. workforce.

Workforce gets older

According to the Bureau of Labor Statistics, the percentage of workers age 55 or older grew from 11.8% of workforce in 1992 to 14.3% in 2002 and is projected to balloon to 19.1% by 2012, representing more than 31 million workers.

As a result of their good health and desire to remain active or need to continue working for financial reasons, nearly 80% of these aging workers are expected to remain in the workforce beyond traditional retirement age, according to a 2003 survey by the American Assn. of Retired Persons. Moreover, because the labor pool following this generation is shrinking, companies are likely to keep them on the job as long as they are able or willing to work.

Unfortunately, older workers tend to experience loss in a variety of areas—strength, muscular flexibility, range of motion, postural steadiness, grip strength, nervous system responses, blood flow and tactile feedback, visual capacity—as well as slowing of mental processing. But even though they may be deteriorating physically, older workers have the lowest occupational injury rate of any age group, suggesting that along with age comes wisdom.

Bureau of Labor statistics data "does bear out the fact that older people are not necessarily getting injured more often, even with slower reflexes and loss of some physical and cognitive capacity," said Joel M. Haight, an engineering professor at Penn State University and member of the American Society of Safety Engineers. "Apparently, because they're more experienced, they've learned better, safer and more efficient ways to do their job," he theorized.

While older workers may get injured less often, those who are hurt tend to take longer to heal, and many do not recover at all. Workers older than 55 are 12% to 35% less likely to return to work after an injury compared with workers between the ages of 25 and 36, a 2005 study by the Workers Compensation Research Institute found. In addition, they are out of work 62% to 276% longer, according to the study, "Return-to-Work Outcomes of Injured Workers: Evidence from California, Massachusetts, Pennsylvania and Texas."

Teresa M. Dwyer, president of the Gold Coast Chapter of the American Society of Safety Engineers in Boca Raton, Fla., thinks these statistics will not reflect the experience of the generation of baby boomers.

"I think that some of the younger people are taking better care of themselves, employers are instituting wellness programs in their workplaces, some employers are instituting little stretch breaks that contribute to everybody's well-being. What you end up with is a workforce that, as it ages, is possibly in better shape than other generations. When they are injured, they may recover quicker," Ms. Dwyer said.

Just the fact that more people are continuing to work past retirement age "reflects the fact that people are more fit and healthier today than prior generations," acknowledged Harry Shuford, chief economist at the National Council of Compensation Insurance in Boca Raton, Fla., which has recently begun examining the impact of aging baby boomers on the workers comp system.

"The data in aggregate shows that older people tend to have a lower injury rate, but, when we get injured, it takes longer to recover," Mr. Shuford said. "Those are two offsetting things. The cost may be higher, but the frequency is lower, so it's a wash in terms of overall costs."

Sometimes older workers' injuries are exacerbated by pre-existing conditions, or "comorbidities," such as

See **AGING** page 28



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AMERICAN EXPRESS

Aging: Workforce safety programs evolve

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diabetes or heart disease, according to Christine Gerbasi, vp of claims at broker Keenan & Associates in Torrance, Calif.

For example, "diabetes can lead to neurological or neuropathy conditions that compound or complicate the industrial injury, or the degeneration in the musculoskeletal system could cause someone to be injured that in the same set of facts and circumstances a younger person wouldn't have been injured," she explained.

Such pre-existing factors often add complexity to resolving workers comp claims, Ms. Gerbasi added.

In California, for example, "the injury would still be compensable, but to what degree any permanent impairment would be paid by the employer would depend in part on that person's pre-existing injury, disability or pathology," she said. "It depends on the case and the facts."

While serving as the manager of occupational safety and health at Simplicity Manufacturing (now Briggs & Stratton) in Port Washington, Wis., where the average worker's age is 47, Jack Dobson said he was aware of a few claims where an injury that had been originally diagnosed as work-related was later attributed to a degenerative condition after being reviewed by an independent medical expert.

In those cases, the injured workers' lost time was treated as short-term disability and their health insurance covered their medical costs, said Mr. Dobson, who now is a senior account consultant at Keter Consultants in Chicago, a wholly owned subsidiary of Liberty Mutual Group.

Unfortunately, such situations often create friction between the employer and the injured worker, Mr. Dobson said.

"We've had a couple that have filed claims with the (Bureau of Workers' Compensation) to try to counter that. Most of them have not been terribly successful," he recalled.

To prevent future age-related injuries, many safety experts have recently begun tailoring their programs to the graying American workforce.

For example, since visual acuity decreases with age, they suggest employers increase lighting and provide computer screens that allow for larger type.

They recommend that employees with sedentary jobs have seats and workstations that adjust to their individual anthropometry and provide good lumbar and arm supports.

Since workers generally experience a gradual loss of hearing for the higher frequencies after the age of 50, employers should minimize machine, air conditioning and other sources of background noise and avoid work environments that cause echoes.

Falls most common

Because injuries related to falls are more common among older workers, employers should eliminate or avoid work at heights, particularly in windy conditions, on moist or slippery flooring or on moving equipment. And since most falls occur at the first or last two steps, employers should make sure stairs and uneven surfaces are clearly marked and lighted, use high-color contrast between risers and treads, and provide good hand rails.

The ASSE's Ms. Dwyer has found that training older workers to ide- tify and respect their physical l- tations can also prevent work-related illnesses and inj

"Anybody who's in th environment already—and had a long career and th changes over time—they n cognizant of what the ch and how it affects their job, - s said. "The people coming into the workforce at an older age, maybe they've retired and for financial and social reasons to go back into the workplace, I think they really need to educate themselves on the demands of the job they're looking at."

"Say they're working outdoors—we might focus on hazards such as heat stress. Anecdotally, I have

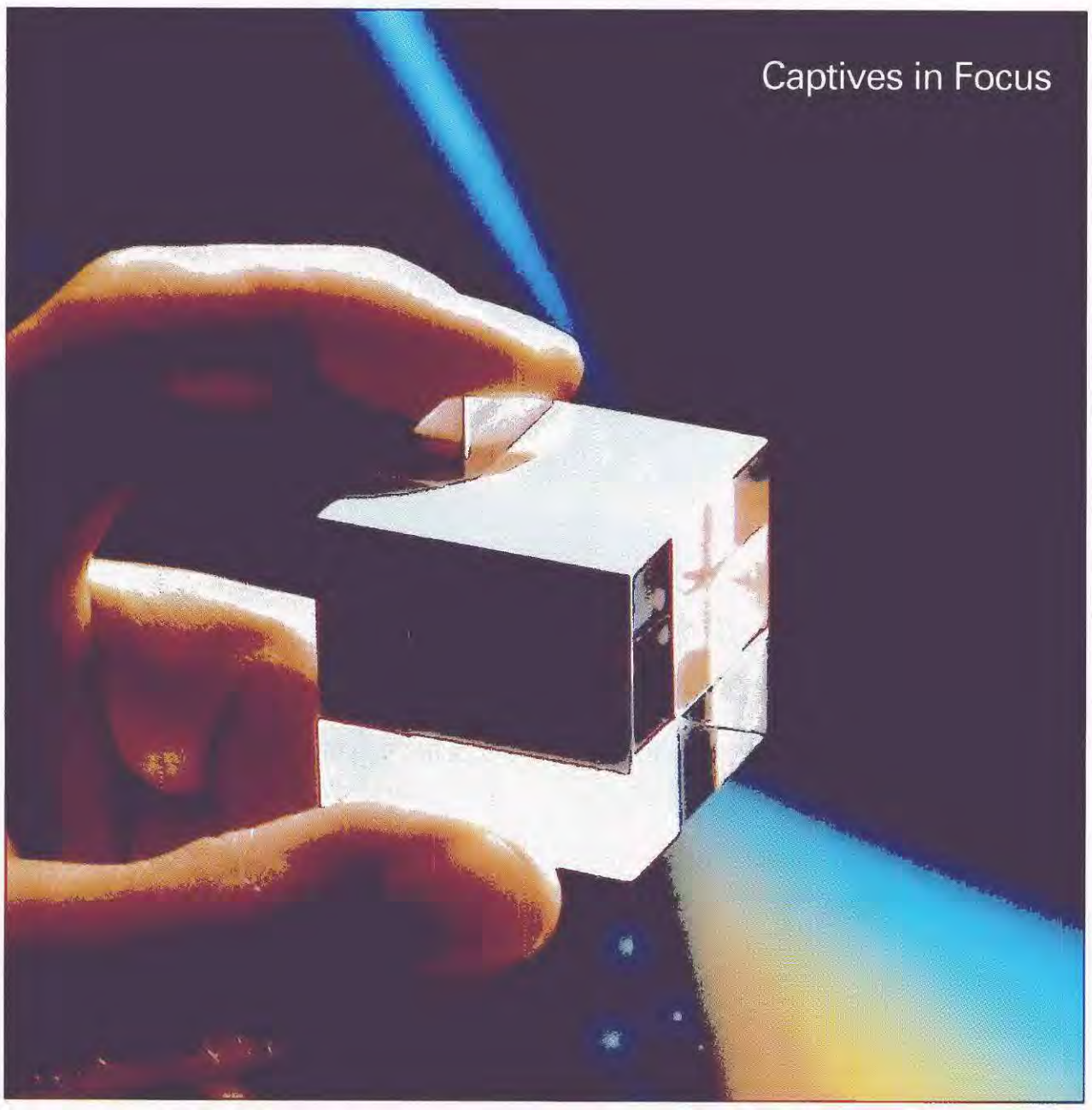
See AGING page 30

DISABILITY DURATION ADJUSTMENT FACTORS

Multipliers by age to determine typical days of work lost to various conditions

Condition	35-44	45-54	55-64	65-74
Lumbar disc displacement	1.07	1.10	1.35	1.64
Degeneration lumbar disc	1.10	1.00	1.34	0.89
Tendonitis	0.93	1.08	1.28	1.36
Carpal tunnel syndrome	1.08	1.15	1.10	NA

Source: Work Loss Data Institute "Official Disability Guidelines" 2004



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Aging: Injury avoidance gains ground

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heard of cases where older workers have come back to work and wanting to prove that they still have it, that they can still do it, were shy about saying 'This is a little too much,' or 'I need a rest break,' or 'It's really too hot out here and I need to get a drink of water' or 'I need to find some shade,'" Ms. Dwyer said.

Dennis Downing, president and chief executive officer of Future Industrial Technologies Inc., a workplace ergonomics consulting firm based in Santa Barbara, Calif., suggests that injury and illness prevention programs focus on behavior modification.

"No generation has ever been taught really how to protect itself, so now we've got people who are less conditioned. For example, most workers do not know how to properly lift, bend or pull," Mr. Downing said. "They also have not been taught proper posture, which makes them prone to musculoskeletal injuries as they get older."

"People walk with a little forward tilt as they age," he pointed out. "Anybody who's been at a computer for a long time, you'll see that their neck isn't (aligned) over their body anymore."

Fortunately, today's aging workforce isn't like the proverbial old dogs; they are willing to learn new tricks, particularly if it means they will have less discomfort, Mr. Downing said.

"We've got an aging workforce we can protect by teaching them—and they're very eager to know—how to stay out of pain, because they're still vital people," he said.

"Injuries immediately make you older. We are motivated not to get older, and that means not getting injured. Employees will buy into programs that will help them be healthier and fitter," Mr. Downing said.

Nanotechnology risks still largely a mystery

Awareness of exposure dangers varies from industry to industry

By GLORIA GONZALEZ

While nanotechnology is a developing science that has great potential to improve the health of patients suffering from cancer and kidney disease, its impact on the health of the workers who would produce such medicines is far from certain.

The rising use of nanotechnology in medical and other consumer products has led to growing awareness of the potential workplace safety risks involved in the creation of products that utilize nanomaterials. While there is much uncertainty about the potential health effects, risk managers should take basic precautions to mitigate the risk of harmful exposure to nanomaterials, some of which can be borrowed from conventional safety programs.

While current insurance policies would cover nanotechnology risks, carriers are still trying to develop a concrete response for handling the exposure, including possibly excluding the risk, implementing sublimits or developing stand-alone policies.

Nanotechnology involves the manipulation of matter at nanometer length—one billionth of a meter—to produce new materials, structures and devices, according to the National Institute for Occupational Health and Safety in Washington.

Nanomaterials are used in an increasing number of products in sectors such as life sciences, electronics and cosmetics.

"Nanotechnology has spread across all spectrums and it will be used in all industries," said Louise Vallee, loss control services research and development specialist for Chubb Commercial Insurance in Whitehouse Station, N.J. "Every week there's some new development."

Altair Nanotechnologies Inc., for example, has been working with nanomaterials since 1999, creating products such as ceramics and car batteries for all-electric sports utility vehicles, said Roy Graham, senior vp of commercial development for Reno, Nevada-based Altair. The company has also developed nanomaterials for medicinal uses as part of an enhanced treatment for end-stage renal disease that is currently being evaluated by the U.S. Food and Drug Administration.

While the nanotechnology industry is growing rapidly, the potential health effects of nanomaterials that can be inhaled, ingested or penetrate the skin remain unclear. Certain studies have shown that changes in the chemical composition, structure of the molecules or surface properties of certain nanomaterials can influence their potential toxicity, according to NIOSH.

In a report called "Approaches to Safe Nanotechnology," NIOSH identified several workplace tasks that may increase the risk of exposure to nanoparticles, including working with nanomaterials in liquid form without adequate protection and performing maintenance on equipment used to produce nanomaterials.

The incorporation of good risk management practices can help minimize worker exposure to nano-

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materials, the report stated. For example, the use of a well-designed exhaust ventilation system with a high-efficiency particulate air filter should effectively remove nanoparticles, the report said.

The list of guidelines provided by NIOSH, though, is incomplete as regulators are still working with private companies, trade associations and academics to develop a comprehensive set of best practices. Currently, there are no mandatory regulatory guidelines for the nanotechnology industry.

Altair has developed its own set of best practices for managing the nanotechnology exposure, including the use of personal protective



ISTOCKPHOTO

A tiny claw—one of many such tools used in nanotechnology applications—works within a single cell in this artist's rendering.

clothing, HEPA filters and constant employee training and safety reviews. The company has not had any incidents where any individual working with nanomaterials has been injured or sickened, Mr. Graham said.

Companies can incorporate key elements of a traditional safety program into a nanotechnology-specific safety program, risk control specialists say. For example, respiratory protection and fire protection programs can be incorporated into a well-conceived nanotechnology safety plan.

"We believe that a lot of the technology that already exists for the bigger particles can be used for nanoparticles," Ms. Vallee said. "They may simply need some modification."

The level of awareness of the potential nanotechnology exposures in the risk management community varies from company to company, insurers say.

Chubb believes about 75% of companies actively handling nanomaterials are very aware of the potential workplace safety risks and best practices to mitigate those risks, Ms. Vallee said. Other companies still in the research and development phase may not be following best practices because of their size and the expense involved, but they need to plan how they will implement them before they go to production, she said.

Companies using the materials are best served by being proactive in addressing those exposures and communicating with their insurers about what they are doing to manage the risk, observers say. Altair's insurers have been impressed with the safety and diligence that takes place on the company's manufacturing floor and the company's insurance rates are no different from other chemical companies, Mr. Graham said. "We're not seeing any high insurance rates because we're a nanotechnology company," he said.

Guy Carpenter & Co. became aware of the need to study the nanotechnology risk issue during its fall 2004 renewals when a reinsurer tried to put a broad nanotechnology exclusion into one of its client's policies, said Harrison Oellrich, a New York-based managing director and head of the company's worldwide cyber, technology and intellectual property practice.

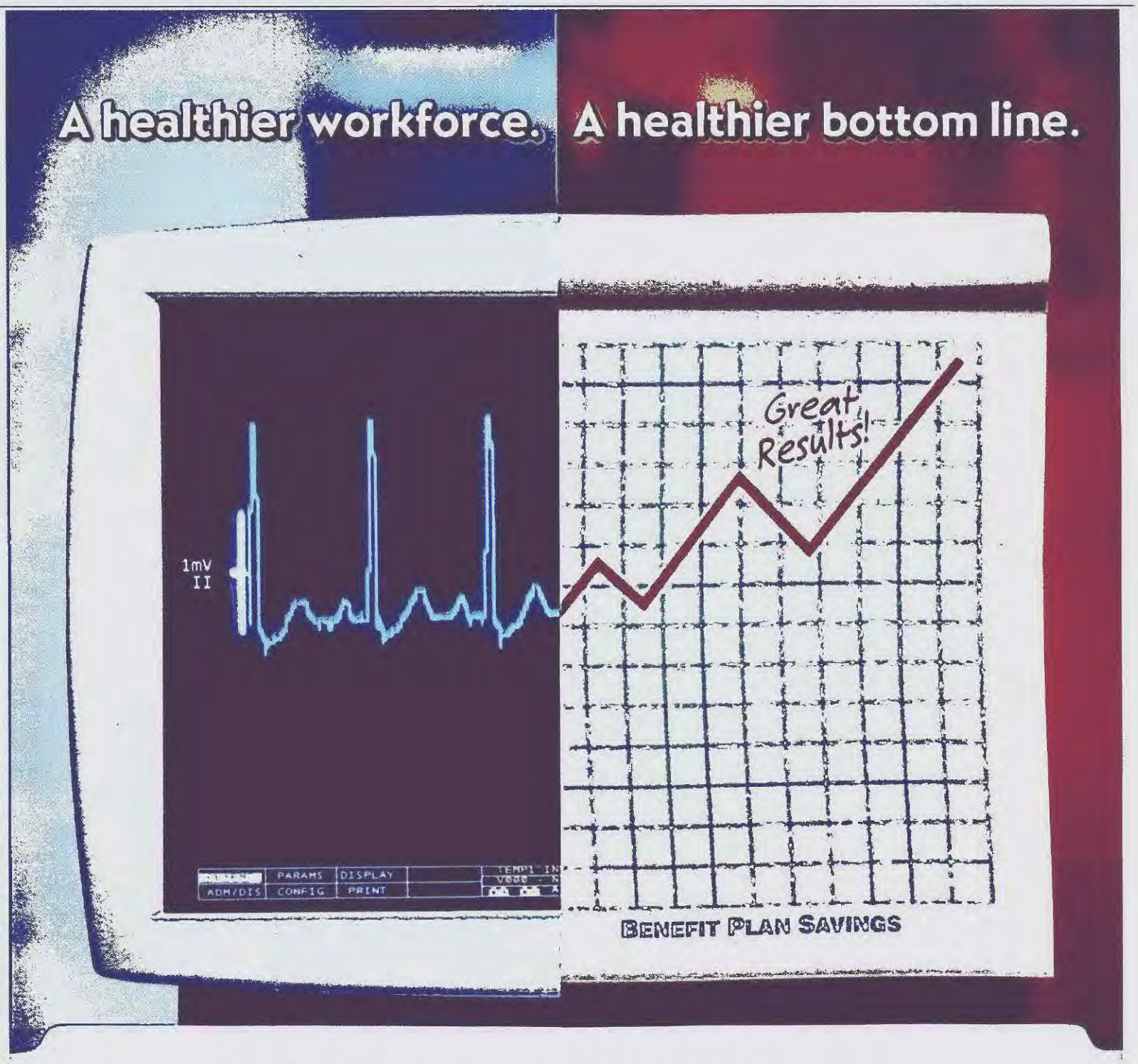
The company recently published a report titled "Nanotechnology: The Plastics of the 21st Century" that provided an overview on nanotechnology and the associated risks and implications for the insurance industry. The report predicted that insurance cover for nanotechnology would evolve in three stages, the first being an early study period, which is under way. The next phase will be a short "fear" phase frequently accentuated by unfounded but terrifying rumors about nanotechnology risks, the report predicted. In the last phase, coverage would be routinely provided either within conventional products or on a stand-alone basis.

Insurance policies do not contemplate nanotechnology risks, but they have not contemplated excluding them either, said Mr. Oellrich, one of the authors of the Guy Carpenter report. "By default, there is coverage," he said. "I think there's no question that there will be some (insurers) that will inevitably be fearful of this and (excluding the risk is) an approach they might want to take."

A measured approach in which insurers become familiar with the uses of nanotechnology and risk mitigation steps and then construct coverage that addresses the risk would be preferable than simply excluding the risks from insurance policies, Mr. Oellrich said.

The question of whether nanotechnology risks are covered is less relevant in the workers comp area because coverage is often prescribed by the states and the policies have little variation from insurer to insurer, said Toby Levy, director of standard lines products for Hartford Financial Services Group Inc.'s technology practice group in Hartford, Conn. "You either accept the risk or you don't accept the risk," he said. "It's not something we can say we want to exclude this risk from workers comp policies."

If the use of nanotechnology becomes as pervasive as some predict, insurers will need to develop a strategy for addressing the exposure because it will be difficult for them to exclude or isolate the risk in insurance policies, insurers say. "Risk avoidance from an insurance carriers' perspective is not a good long-term strategy," Mr. Levy said.



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Many hospitals install patient lifts in bid to curb comp costs

With training, equipment can reduce injuries to nursing staff

By LEIGH PAGE

Installing patient-lifting equipment can dramatically reduce staff injuries and workers compensation claims for nursing homes and hospitals, researchers and health care officials say.

However, hospital and risk management experts warn that—for such an investment to have a genuine payback—health care facilities must make certain that staff members are trained so they will actually use the patient-lifting equipment and that the equipment is properly maintained.

While most U.S. hospitals reportedly have purchased at least some lifting equipment, the industry in general has opposed state and federal mandates that would mandate its purchase and use.



KRT

A portable sling lift, demonstrated at a Barberton, Ohio, nursing home, allows nursing home and hospital patients to be moved more easily.

For example, the Washington State Hospital Assn. encourages use of lifting equipment as a way to reduce injuries and workers' compensation payments, but the problem is "getting staff to follow established policies and use the equipment," the group said in a recent issue brief. "Even when a hospital provides lifting equipment, staff (members) sometimes choose not to use it."

The brief, citing a 2005 member survey, says most Washington hospitals have installed mechanical lifts or use lifting teams, another way to reduce staff injuries, and have provided training on use of the equipment.

The Washington association says it opposed a state mandate requiring lifting equipment and trained lifting teams in hospitals because it "dictates the creation and membership of a patient-lifting committee, how the hospitals have to write a patient care activities program, initial training and an annual update and an annual performance evaluation."

Nonetheless, the Washington lifting equipment mandate was enacted in March. It is the first and, as yet, only such hospital mandate in the nation, but similar bills have been proposed in California, Florida, New Jersey and Rhode Island as well as in Congress, according to the American Nurses Assn.

California lawmakers approved such a bill again this year, but Gov. Arnold Schwarzenegger again vetoed it. The governor's latest veto, in September, stated most hospitals already have lifting equipment.

When Connecticut temporarily required Medicare-reimbursed nursing homes to buy patient lifting equipment in the mid-1990s, "it pretty much bombed," recalls Kymberlee Keefe leader of the Atlanta healthcare practice of Chicago-based Aon Corp. "The machines sat in the corner and built up dust and everybody hung stuff on them."

Meanwhile, Ohio is providing interest-free loans to nursing homes to buy lifting equipment and Texas requires health care facilities to adopt lifting policies. On the federal level, the Occupational Safety and Health Administration has a voluntary system that encourages buying lifting equipment.

While Aon's Ms. Keefe speaks against mandates, she agrees that savings from voluntary lifting programs, if done correctly, can be substantial.

For example, a 2004 study cited by the National Institute of Occupational Safety and Health found that it cost about $160,000 to install lifting equipment and train staff, but nursing homes recouped the costs in less than three years in the form of lower workers compensation payments.

The study, published in the journal Injury Prevention, examined six nursing homes that installed lifting

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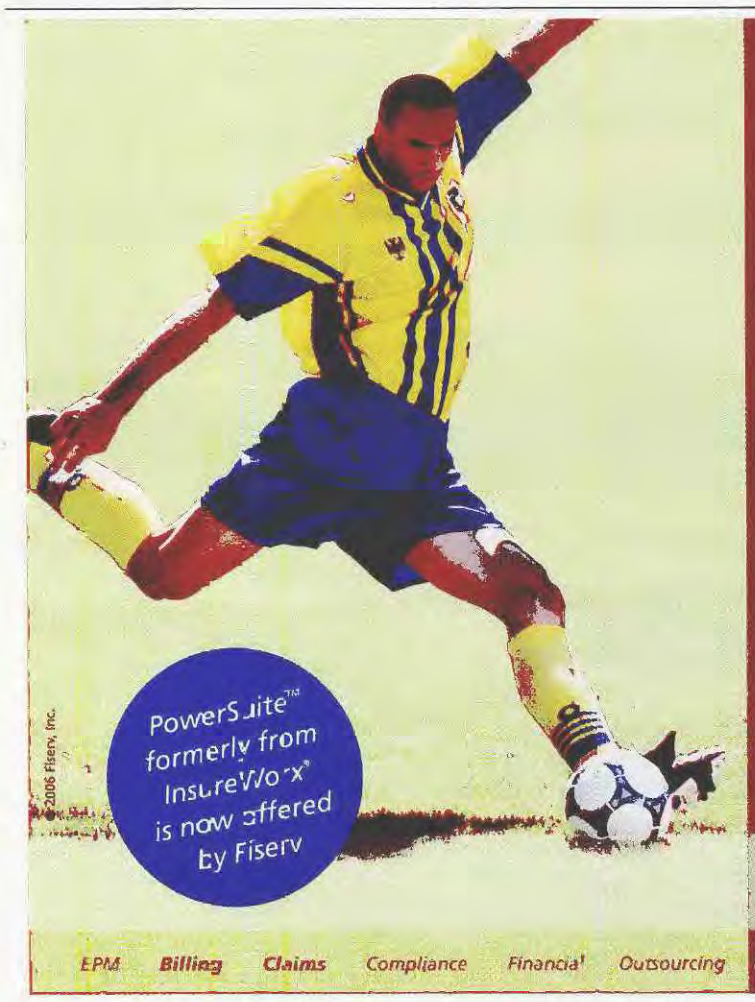
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equipment and followed results for six years. The nursing homes spent on average $143,556 each in 1997 to install equipment, such as full-body lifts that give total assistance and stand-up lifts, which give partial assistance. Each also spent about $15,000 on employee training.

Initial training involved 30-minute sessions showing use of the equipment, but the project later added a 45-minute testing session in which staffers had to identify what equipment they would use for a particular resident and demonstrate its use. Maintenance training also was provided.

The study noted that barriers to purchasing lifting equipment involved cost, concerns about patient comfort and the extra time needed to use the equipment. But it found that once patients became accustomed to the equipment, they reported a higher comfort level than with manual lifting.

The study found significant reductions in the number of repeat injuries and lost workdays related to patient lifting in the three years after installation. Meanwhile, workers comp expenses fell by an average of $164,609—more than the initial cost of the equipment plus staff training.

Workers comp savings are significant because musculoskeletal injuries from lifting patients are the No. 1 cause of workers comp claims in health care facilities, says Ann Abke, a loss prevention specialist at Catholic Healthcare West, a 41-hospital system based in San Francisco that has implemented a no-manual-lift policy.

She says some staff members—citing nursing school training—insist on manually lifting patients, but, in fact, standing beside a bed and trying to lift patients out of it is an invitation for a back injury, especially now that patients are heavier and nurses are getting older.

"Now we have patients who weigh 400 to 600 pounds," Ms. Abke says. "When you're dealing with that kind of weight, body mechanics are not enough."

GETTING A LIFT

Types of equipment to help health care professionals lift and move patients, and patients to move themselves

PORTABLE SLING-TYPE LIFT: Wheeled device, with or without motor, lifts patient using a sling

CEILING-MOUNTED LIFT: Motor-powered device on ceiling tracks lifts patient in a sling

SIT-TO-STAND DEVICE: Gently pulls patient up from sitting position

AMBULATION-ASSIST DEVICE: Patient props elbows on wheeled device and walks

BED CONVERTS INTO CHAIR: Eliminates need to lift patient in and out of wheelchairs

GAIT BELTS: Belts with handles to transfer from bed to chair, etc.



SLIDER BOARDS OR MATS: Patients can reposition themselves in a bed or other flat surface

TRANSFER BOARDS: Boards with moveable seats slide patient from wheelchair to toilet, etc.

GRAB BAR: Handle affixed to a bed, chair or wall

HEIGHT-ADJUSTABLE BATHTUB: Allows patients to climb in and out on their own

SHOWER GURNEY: Allows patient to shower in a horizontal position

Source: "Ergonomics: Guidelines for Nursing Homes," Occupational Safety & Health Administration

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Charity begins on the job in vacation donation program

Workers share unused time off to benefit disabled colleagues

By ROBERTO CENICEROS

AKRON, Ohio—Under an innovative program, employees at FirstEnergy Corp. can donate accumulated vacation time to co-workers who are facing disability-related absences or family medical emergencies necessitating time away from work.

First launched in April 2005, the program is unusual for a private sector company, said Barbara J. Marshall, manager for health and absence management at the Akron, Ohio-based energy company.

In conducting research to create the program, Ms. Marshall said she found mostly schools and universities that provide employees with a similar benefit.

Yet a vacation sharing program such as FirstEnergy's could help employees at other private sector companies as more employers cut back on their contributions for employee disability insurance, said Marcia Carruthers, chief operating officer for the San Diego, Calif.-based Disability Management Employer Coalition.

While more employers are cutting back on their disability insurance contributions, many continue to provide the coverage but now leave it up to employees to pay the cost or decline the coverage.

As of November 2004, about 39% of U.S. workers had access to short-term disability benefits while 30% had access to long-term disability benefits, according to the U.S. Bureau of Labor Statistics.

But with employees likely to forgo disability coverage if they have to pay for it themselves, a vacation sharing program could provide a backup plan for them, Ms. Carruthers said.

About 39% of U.S. workers had access to short-term disability benefits while 30% had access to long-term disability benefits.

Bureau of Labor Statistics, Nov. 2004

Vacation benefits at public entities traditionally have been more generous than at private sector companies, which could make such a program more practical, Ms. Carruthers acknowledged.

FirstEnergy's program works, in part, because employees have been allowed to accumulate unused vacation days from year to year. Some FirstEnergy workers with many years of service have banked months' worth of unused vacation time that they can donate to co-workers in need.

Named Catastrophic Assistance and Relief for Employees, FirstEnergy's CARE program offers employees who can demonstrate a need and meet certain qualifications up to 520 hours, or the equivalent of three months, away from work.

Under CARE, employees also can cash in unused vacation time for certain emergencies and the company is exploring providing interest-free loans as a way to maintain employee morale.

To qualify for vacation day donations, employees first must get approval from their supervisors to take the time off, Ms. Marshall said. Then a committee composed of representatives from accounting, human resources and treasury determine whether the applicant meets the program's hardship criteria.

Unforeseen events such as certain medical conditions qualify for the program that has helped employees and their immediate family members suffering from illness such as cancer or heart surgery.

But to receive donated vacation time, the worker first must exhaust his or her own vacation days and the donated time must be available. So far more than 270 employees have donated some 3,800 hours, Ms. Marshall said.

Workers often donate their time because they know someone is in need, Ms. Marshall said. Internal Revenue Service rules disallow a contribution to a specific person—it must go into a pool, but often donated time does flow to the co-worker who motivated the donor, she said.

There are other rules and regulations. For instance, the applicant and the recipient can request anonymity, donors can provide only up to half of their unused vacation so they don't encounter future problems and misuse is subject to disciplinary action including firing, Ms. Marshall said.

Since the program's inception, 26 employees have requested vacation donations and 23 have asked to cash out their own vacation time. At least two, however, have been turned down and others have withdrawn their requests because of changing circumstances.

Court lowers comp award by including time on strike

By ROBERTO CENICEROS

KNOXVILLE, Tenn.—The time an employee spends on strike is voluntary and must be considered in calculating workers compensation benefit awards, Tennessee's Supreme Court has ruled in a decision favorable for employers.

Last week's decision in *Philip Goodman Sr. vs. HED Industries Inc.* reduced the average weekly wage calculation applied to determine the benefit level awarded to Mr. Goodman from $388 per week to $149 per week.

Mr. Goodman was on strike for 28 weeks and had been back to work for less than a month when he injured his back, neck, left shoulder and left leg when a hose he was pulling got stuck and he was "jerked down and to the left real severely," court records state about the January 2002 accident.

In October 2005, a trial court had found that Mr. Goodman sustained a permanent partial disability to 66% of his body. The trial court awarded him a lump sum of $102,529, based on a rate of $388 per week that Mr. Goodman earned in the 52 weeks prior to his injury.

The trial court's average weekly wage earnings calculation excluded the 28 weeks Mr. Goodman spent on strike.

HED appealed, arguing the time Mr. Goodman spent on strike was voluntary and should be included in average the weekly wage calculation.

The Supreme Court agreed the trial court erred and reduced Mr. Goodman's weekly compensation rate to $149. With that rate for 264 weeks, Mr. Goodman's award was reduced to slightly more than $39,600 under the Tennessee high court's ruling.

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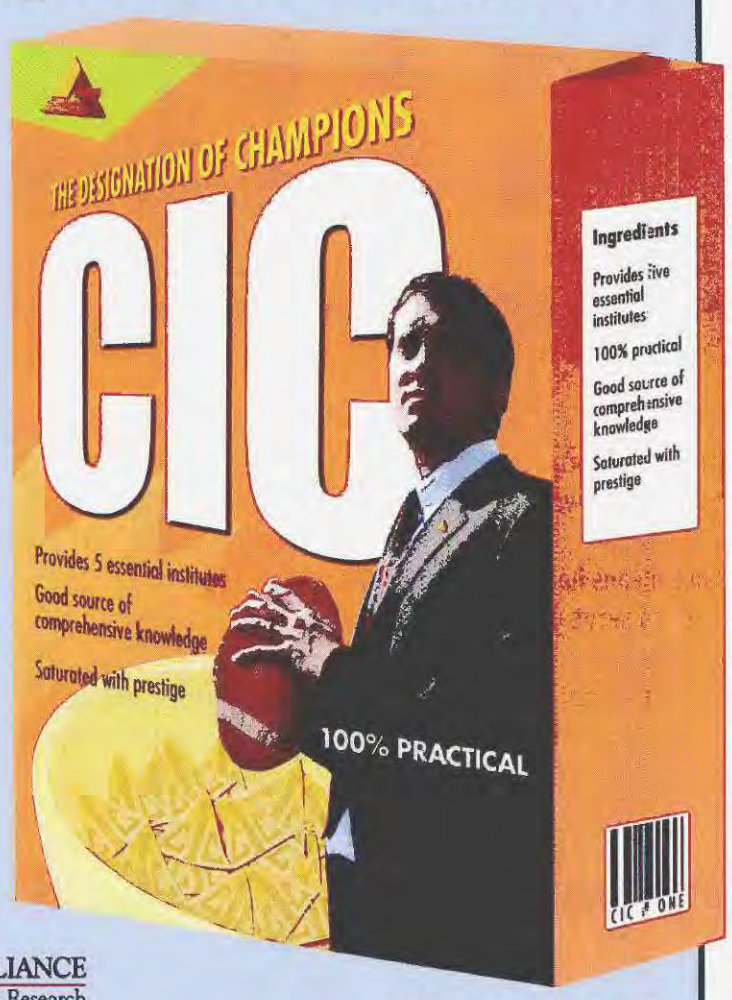
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Comings & Goings

BROKERS:

The Graham Co. has named **Robert J. Scullin** sales manager for the property and casualty division in Philadelphia. Previously, he was a vp and producer. He retains the vp title.

New York-based Krauter & Co. has made several senior level appointments:

- **Ben C. Schull** has been named executive vp in the Chicago office. He previously was a managing director at Equity Risk Partners.
- **Linda Kahlor Wright** has joined Krauter & Co.'s San Francisco office as senior vp. Previously she was a vp in Aon Corp.'s construction services group.
- **John Lafakis** has been named a managing director and producer for large account property and private equity firms in New York. Previously, he was a senior vp for Marsh & McLennan Cos. Inc.
- **Stephanie Needham** has been named senior vp. Before joining Krauter, she co-managed the executive liability department at Arthur J. Gallagher & Co.

Frank D'Ambrosio and **Jack Camillo** have been named executive vps of Willis Group Holdings Ltd.'s energy practice in New York. Mr. D'Ambrosio formerly was senior vp and offshore property manager for Marsh. Mr. Camillo was the manager of Marsh's marine and energy casualty department.

Chicago-based Aon Corp. has announced several senior-level staff changes at its Agency Specialty Product Network Inc. subsidiary. **Patrick Rastiello**, senior reinsurance broker at Aon Re, will become president and chief executive officer of ASPN effective Jan. 1, 2007. And two regional vps, **Bill Hildebrand** and **Mark McCrary**, both have been promoted to senior vp/regional manager.


Mr. Rossano

Lyn Rossano has joined the Columbia, Md., office of William Gallagher Associates as senior vp in the property/casualty area. She previously led the national life science practice for Willis Group Holdings Inc.

INSURERS:

Fort Lauderdale, Fla.-based SunCoast Holdings Inc. has promoted **Timothy Ermatinger** to executive vp and chief operating officer. Most recently, he was senior vp of strategic planning.

ACE Ltd. has appointed **Jorge Luis Cazar** as president and CEO of ACE Latin America in Miami. Mr. Cazar, who will begin his new assignment in the first quarter of 2007, is currently senior vp of accident and health for ACE Asia Pacific in Singapore.

Reno, Nev.-based Employers Insurance Group Inc. has named **Teresa Shappell** as senior vp and chief strategy officer. Previously, she was chairman of Shappell Inc.


Ms. Shappell

REINSURANCE:

Arthur J. Gallagher Ltd.'s Gallagher Re has named **Steven Fallon** as chief actuary for its U.S. operations in New York. Before joining Gallagher Re, he was a principal at Mercer Oliver Wyman.

Also at Gallagher Re, **Geraldine Del Prete** has been named senior executive vp to lead the firm's U.S.-based property and casualty treaty capabilities in New York. She previously was executive vp with Willis Re.

MANAGED CARE:

Denver-based Anthem Blue Cross & Blue Shield of Colorado has named **John Martie** as president and general manager. Previously, he was regional vp for Anthem's southern Ohio sales unit.

OTHER PROVIDERS:

Aon Consulting has appointed **Edouard Merette** as CEO of Aon Consulting Asia Pacific in Singapore. Previously, he was president, Asia Pacific, for Mercer Human Resource Consulting.

Ann Barr has joined Buck Consultants L.L.C.'s Berwyn, Pa., office as director in the retirement practice. Before joining Buck, she was implementation manager with Mercer Human Resource Consulting.


Mr. Keogh

Newark, Calif.-based Risk Management Solutions Inc. has named **Bill Keogh** to the position of group executive, global client development. Previously, he was senior vp of RMS America's client sales and service region.


Mr. Grant

Also at RMS, **Matthew Grant** has been named chief markets officer. Before his promotion, he was responsible for RMS clients outside the United States and Bermuda.

TO SUBMIT ITEMS

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news of recently promoted, hired or appointed senior-level executives to: Joe Walker, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; jwalker@businessinsurance. com. Photos should be sent to: Kathy Barnes 360 N. Michigan Ave., Chicago, Ill. 60601-3806; kbarnes@businessinsurance.com.



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Notice is hereby given that an application was on 20 October 2006 made in the High Court of Justice by the above named CX RE and CICL for an order under section 111(1) of the Financial Services and Markets Act 2000 (the "**Act**") sanctioning a scheme (the "**Scheme**") providing for the transfer to CICL of the rights and obligations attaching to personal accident and health reinsurance contracts underwritten in the UK on behalf of CX RE (when known as CNA Reinsurance Company Limited) by IGI Underwriting Agencies Limited.

A copy of a report on the terms of the Scheme prepared by an independent expert in accordance with Section 109 of the Act and a statement setting out the terms of the Scheme and containing a summary of that report may be obtained free of charge from the offices of CX RE at The London Underwriting Centre, 3 Minster Court, Mincing Lane, London EC3R 7DD or at the offices of CICL at 77 Gracechurch Street, London EC3V 0DL, or by emailing igi@cxre.com

The application is directed to be heard before the Applications Judge at the Royal Courts of Justice, Strand, London EC2A 2LL, England on 18 December 2006. Any person (including any employee of CX RE or CICL) who alleges that he or she would be adversely affected by the carrying out of the Scheme may appear at the time of the hearing in person or by Counsel. Any person who intends so to appear and any policyholder of CX RE or CICL who dissents from the Scheme but does not intend so to appear are requested to give written notice, not less than two clear days prior to the date of the hearing, of such intention to dissent to one of the solicitors named below.

Dated this 20th of October 2006.

LeBoeuf, Lamb, Greene & MacRae
No. 1 Minster Court
Mincing Lane
London EC3R 7YL
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International NEWS

Prescription drug plan would ban bulk exports

Proposed regulation in Canada responds to recent U.S. law

By GLORIA GONZALEZ

OTTAWA—Canadian health officials would have the power to ban bulk exports of prescription drugs from Canada under a recently proposed amendment to Canada's Food and Drugs Act.

The proposal is a direct response to a recently passed U.S. law that essentially prohibits federal officials from preventing U.S. citizens from importing prescription drugs from Canada for their personal use, Canadian officials say.

Bill C-378, proposed in the House of Commons of Canada on Oct. 31, would amend the Food and Drugs Act to give the minister of health the authority to ban bulk exports of prescription drugs and would establish penalties for individuals who violate the ban. The bill would also amend food and drug regulations to specify that prescription drugs can be exported only under certain conditions and by certain parties, such as the manufacturer of the drug.

"Canada needs to protect itself from dramatic expansion of importation by the U.S. of drugs intended for our patients," said Dr. Carolyn Bennett, a member of the Canadian Parliament who proposed the bill. "The prospect of the U.S. legalizing large-scale purchases from our domestic supplies is real."

Introducing the bill became more urgent after President George Bush on Oct. 4 signed a Department of Homeland Security funding law that essentially bars federal customs and border officials from interfering with the reimportation of most prescription drugs by prohibiting federal funds from being used for such purposes, Dr. Bennett said. A provision of the law—known as H.R. 5441—applies to reimportation by individuals transporting a 90-day or less supply of prescription drugs for their personal use and includes all approved prescription drugs except for controlled substances or biological products. Canadian officials say this law is the first step toward the full legalization of drug imports from Canada, which they believe could be enacted by a newly elected U.S. Congress.

While the Canadian Pharmacists Assn. praised C-378 as a critical step forward, the Ottawa-based organization said the legislation also should ban personal drug exports due to concerns about the U.S. law.

Under the U.S. Food, Drug and Cosmetic Act, it is illegal for anyone other than the original manufacturer to reimport prescription drugs into the United States. But several state and local governments have defied the law by creating programs or Web sites to facilitate the reimportation of drugs from Canada and other countries. In the past, U.S. customs officials instituted a lax enforcement policy that allowed individuals to reimport prescription drugs for personal use, but they began enforcing the ban at U.S. borders in the last year by intercepting drug shipments.

Payment scheduling rules provide pension funding relief in Canada

Federally regulated industries affected by temporary changes

By GLORIA GONZALEZ

OTTAWA—The adoption of regulations to provide temporary funding relief for defined benefit plans in federally regulated industries in Canada creates more options for employers, but there are barriers to the widespread utilization of these options.

The new rules set out a range of options to help sponsors fund pension deficits caused by declining interest rates and changes to actuarial standards for the 10% of Canadian pension plans that fall under federal jurisdiction—primarily in industries such as transportation, telecommunications and banking.

Under the new rules, sponsors will be allowed to extend the schedule for funding deficits from five years to 10 years if no more than one-third of current plan members or retirees object to the change. In addition, sponsors can extend the funding period to 10 years if the difference between the five- and 10-year payments is secured by a letter of credit. They also will be able to consolidate previous funding schedules and repay the entire deficit over a new five-year period.

"These are temporary relief measures, albeit a step in the right direction," Canadian National Railway Co., a federally regulated Montreal-based employer with a contributory defined benefit plan, said in a statement.

The regulations promulgated by the Department of Finance Canada expire in 2019.

Pension funding rules often require significant contributions from sponsors with plans that have a deficit, so a 10-year funding schedule potentially could reduce a sponsor's yearly contribution by 30% to 40%, said Jerry Loterman, senior retirement consultant for Hewitt Associates Inc. based in Toronto. "These rules certainly provide a good deal of relief to many companies having cash flow problems."

The regulations strike a "fair and appropriate balance" between providing some funding relief for employers while protecting the pension benefits of their employees, said Paul Litner, chair of the funding issues task force of the Toronto-based Assn. of Canadian Pension Management, which represents plan sponsors in Canada. Some sponsors would have preferred a blanket 10-year funding schedule without conditions, he said.

While plan sponsors can benefit from consolidating payment schedules, the other options include conditions that few employers will be able to meet, consultants say. Using a letter of credit to secure the difference in payment levels, for example, can help certain companies, but organizations with significant profitability issues may have trouble securing an affordable letter of credit. "It's really great that they're providing this flexibility, but will it actually be used?" asked Randy Bauslaugh, a partner in the pensions and benefits practice of Toronto-based Blake, Cassels & Graydon L.L.P.

Earlier this year, Quebec enacted similar rules. "Our experience is not that many plan sponsors are willing to take advantage of those measures," said Michel St-Germain, an actuary with Mercer Human Resource Consulting in Montreal.

Other provinces have not taken steps to implement funding relief, although Alberta is considering similar measures. The absence of funding relief options in Ontario is particularly notable because the majority of employers and pension plans are based in the province. "They're just reluctant to make changes, especially one that may be controversial," Mr. Loterman said.

The federal government has not yet addressed one of the most controversial issues arising from a pension consultation conducted last year: the possible creation of a federal pension guaranty fund. The absence of a guaranty fund in the new rules, though, reflects the fact that creation of a fund would require legislative rather than regulatory changes, pension experts say.

Quebec considered and ultimately rejected the idea of such a fund, leaving Ontario as the only Canadian jurisdiction with a guaranty fund. Ontario officials announced last week that they will conduct a comprehensive review of the pension system, including an analysis of its guaranty fund.

LIST OF NEW RULES

Federally regulated employers with defined benefit plans in deficit positions can seek temporary relief from funding obligations via the following options:

CONSOLIDATE previous funding schedules and repay the entire deficit over a new five-year period

EXTEND THE SCHEDULE for funding deficits from five years to 10 years on the condition that no more than one-third of current plan members or retirees object

EXTEND THE FUNDING period to 10 years if the difference between the five-year and 10-year payments is secured by a letter of credit

Source: Department of Finance Canada

Airbus, Air France found liable in deadly 1992 crash in France



REUTERS/LANDOV

A French court exonerated five former aviation officials and a former Airbus executive in a criminal case over a 1992 Air Inter crash in which 87 people were killed. Civil liability was upheld, however, for Airbus and Air France. From left: Daniel Cauvin, technical chief of Air Inter, a defunct unit of Air France; Jacques Rantet, former Air Inter operation director; Claude Frantzen, retired technical controller of civil aviation; Eric Lammari, air traffic controller; and Bernard Ziegler, an Airbus A320 designer. The sixth defendant is not pictured.

Criminal court, however, acquits aviation officials and Airbus executive

By RICK MITCHELL

COLMAR, France—A French criminal court last week found Airbus and Air France civilly liable for an airplane crash that killed 87 near Strasbourg in 1992, but it acquitted five former aviation officials and a former Airbus executive on all charges in the case.

The court ordered the companies to pay compensation to victims' families for their pain and suffering, a total amount of about €500,000 ($639,830) to be divided among the 350 members of Entraide de la Catastrophe des Hauteurs du Sainte-Odile, the association representing families in the case.

On Jan. 20, 1992, an Air Inter Airbus A320 carrying 96 passengers and crew from Lyon to Strasbourg slammed into a ridge near Mont Saint-Odile close to the German border, on its twilight landing approach in cloudy conditions. Air Inter, now defunct, was a subsidiary of Air France.

In the trial, which began in May in the city of Colmar, the court considered arguments that the plane or its navigation and computer systems were flawed, that the pilots had inadequate experience flying the A320 and that air traffic control was negligent. Pilot error, at fault in two previous A320 crashes, was also cited in the Mont Sainte-Odile crash, which killed both pilots.

The six defendants—Airbus' former technical director, Bernard Ziegler, two former civil aviation officials, two Air Inter officials, and an air-traffic controller—had faced prison sentences of up to two years on charges of involuntary manslaughter.

ECHO has two civil cases pending in European and French courts, in which it is demanding €14 million ($17.9 million) in compensation for what it calls excessive delays in the criminal case.

Pandemic: Hospitals urged to prepare contingency plans for flu crisis

CONTINUED FROM PAGE 4

limited human-to-human transmission of the illness. Still, at that level, the world is closer to an influenza pandemic than at any time since 1968, the WHO says.

Ms. Berrett said that once the alert reaches level four, health conditions worldwide will deteriorate within months and bring the alert level to its highest stage—level six, when there is sustained human-to-human transmission of the illness.

In preparation for a pandemic, hospitals should consider how they will function with a fraction of their resources, the panelists said.

Otherwise, the combination of huge patient volumes and high staff absenteeism likely will create a toxic climate of medical error, Mr. Becker warned.

Ms. Berrett encouraged hospital risk managers to prepare their facilities to respond to a pandemic by using a guideline prepared by the U.S. Department of Health and Human Services' Centers for Disease Control and Prevention.

The value of preparedness is most evident once the crisis has passed, said Dr. James O. Reynolds, a Denver-based principal with Mercer. Dr. Reynolds noted that a hospital in Singapore that was not prepared to handle SARS-infected patients was forced to close after SARS was contained, because many of the hospital's patients who had been admitted for other reasons contracted SARS during their stay.

Among other things, the CDC recommends:

- Developing a checklist of hospital representatives and their responsibilities during a pandemic. Plans should indicate the conditions that will activate them, and should be coordinated with local, regional and state health departments' pandemic plans as well as with national plans, Ms. Berrett said.
- Develop training and education not only for in-house staff but also for agency staff who will have to fill in for workers who likely will not show up for work during a pandemic.

Ms. Berrett said the CDC offers a calculator for estimating how resources, such as staffing levels, would be affected during a pandemic.

But Dr. Reynolds said that hospitals should plan on operating without at least 40% of their staff. While some will be struck with illness, others will stay home to care for sick family members or to supervise their children, who will be home because schools will be closed, Dr. Reynolds said.

He recommended that risk managers conduct a skill inventory of staff and arrange for cross-training so that facilities will have some staff to perform all necessary functions.

Risk managers also should arrange for a contingent workforce in other areas, such as housecleaning and food preparation, Dr. Reynolds said.

- Develop triage and admission practices that separate patients with avian flu from those with a non-avian flu.

During a pandemic, cases will outstrip beds by 400%, so triage will be tremendously important, Dr. Reynolds said.

If a hospital organization has more than one facility in a geographical area, it should consider designating one as a non-flu hospital to reduce the risk of infecting patients who have been admitted for other reasons, he suggested. He also recommended that hospitals:

- Develop a plan to ensure the hospital has adequate supplies of all kinds, including medication and surgical gases.
- Conduct drills to discover plan deficiencies.

Dr. Reynolds related that one company prepared for a potential catastrophe by arranging for employees to telecommute. When a disaster did occur, the plan failed because 70% of the telecommuters had not been trained how to get past the company's computer system firewall. If the company had conducted a drill, it would have discovered the problem, he said.

To maintain employee morale and allegiance during a crisis, risk managers should inform them that the facility has a plan to continue operating during a pandemic, Dr. Reynolds advised. That communication should include the assurance that employees will be compensated with "combat pay" for their efforts during the crisis, he said.

Controlling Prescription Drug Benefit Costs

A Business Insurance Online Executive Forum



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- ***Rhonda Grabow,*** VP Strategic Planning, Innoviant, Wausau, WI
- ***Michael Jacobs,*** Principal, Buck Consultants L.L.C., An ACS Company, Atlanta
- ***Lisa Zeitel,*** Principal, Health & Benefits Consulting Practice Leader, Mercer Health & Benefits L.L.C., Norwalk

QUESTIONS TO BE ADDRESSED:

- What makes prescription drugs so costly?
- What strategies for drug benefits should employers consider now for active employees and retirees?
- How can employers design their benefit plans to provide access to appropriate drugs in an affordable way?
- What should employers be doing to educate members about drug cost and utilization?

SAVE THE DATE:

Tuesday, December 12, 2006

TIME:

11:00 EST / 10:00 CST / 8:00 PST

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ASHRM event draws 2,000

SAN DIEGO—About 2,000 paid attendees participated in 52 educational sessions and visited more than 150 exhibitors during the American Society of Healthcare Risk Management's annual conference and exhibition in San Diego Oct. 29-Nov. 1.

Educational sessions covered, among other things, patient safety, how to prepare for a pandemic, enterprise risk management, conflict management, and developments in case law for physicians, nurses, hospitals and long-term care facilities.

ASHRM's 2007 conference is scheduled Oct. 10-13 at the Hyatt Regency in Chicago. Additional information about ASHRM and its conference can be obtained by contacting the organization at 312-422-3980 or *ashrm@aha.org*.

—By Dave Lenckus

Support from right execs needed for successful ERM program

Risk managers should keep focus on when to take risks

By DAVE LENCKUS

SAN DIEGO—Risk managers can easily and successfully move into enterprise risk management if they do not lose sight of a few important landmarks found in productive ERM efforts, according to several risk managers and a consultant.

Among the key factors are building early support for the effort from the right executives, tailoring the effort to the organization, keeping it simple and showing some immediate success, according to the experts.

'ERM necessarily takes us out of insurance and into the operations of the company.'

John R. Phelps,
Blue Cross Blue Shield of Florida

Three risk managers, all involved in ERM efforts, and a consultant offered their advice to hospital risk managers during an educational session at the American Society for Healthcare Risk Management's 2006 conference and exhibition Oct. 29-Nov. 1 in San Diego.

An early requirement for launching a successful ERM program is the risk manager's willingness to view risk management differently, said John R. Phelps, director of risk management at Blue Cross Blue Shield of Florida in Jacksonville.

"Enterprise risk management as a concept is really sweeping through business," Mr. Phelps said. "ERM necessarily takes us out of insurance and into the operations of the company."

But "so many people in my discipline struggle with it" because it is "a different lens to look through" when managing risk, he said.

"ERM is about helping something to happen," because it is "a window into the strategy of the organization," he said. ERM focuses on how and when an organization should take risk to succeed, while traditional risk management "is about stopping things from happening."

As the ERM program is developed, a risk manager must have backing from an executive who can create support for it throughout the organization, the panel agreed.

While the chief executive officer's stamp of approval is best, the backing of other officials also would suffice, the risk managers said.

Mr. Phelps, for example, noted that when he started his ERM program seven years ago, he enlisted the support of the organization's general counsel. The Blues plan's top legal officer approved the ERM effort when he realized that he would have to answer for some potential problems that ERM would address.

But whoever heads the ERM effort should have access to an executive who is "no more that two levels from the top," or the program will suffer from a lack of organizational support, said consultant Michael J. Chagares, a Washington-based director with Mercer Oliver Wyman, a unit of Marsh & McLennan Cos. Inc.

In developing an ERM program, there are many models to follow and some relatively successful programs already are in place, but those should not limit a risk manager's approach, the panelists agreed.

"There's no really right way or wrong way to go about implementing enterprise risk management," said Mitch H. Melfi, a senior vp and the chief risk officer at Catholic Health Initiatives of Erlanger, Ky.

At CHI, which adopted the CRO concept during the 1990s, the ERM program is not a process for addressing every risk, Mr. Melfi said. Instead, it is designed to aid management with the key business risks it has identified through risk mapping, which management should re-evaluate yearly, he said.

Mr. Melfi noted that his risk mapping also depicts—albeit subjectively—the organization's current ability to handle each key risk. That helps management determine whether to devote any additional resources to key risks, he said.

An important way ERM assists management is by facilitating communication among organizational silos that typically "aren't talking to each other," Mr. Melfi said. In hospitals, those silos would include those departments or individuals who oversee clinical practices, mergers and workers compensation, he said.

Cynthia Magners, director of risk management at Children's Healthcare of Atlanta, advised risk managers that they can "jump into ERM in a slow, step-by-step way."

Ms. Magners recalled that in 2002 she pulled in her broker for support when she went "tapping on administration's door to say we want to get into your business."

Ms. Magners started with mapping risks in several key areas of the organization. She met with the senior vps of several departments—including finance and operations—as well as the general counsel to

See **ERM** next page



Commentary

Cutting trans fat won't make fast food healthy



SALLY ROBERTS

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There's been a lot of talk lately about trans fat, the chemically altered oil that makes such tempting treats as cookies, crackers, doughnuts and deep-fried foods like french fries taste so good.

Trans fatty acids have been shown to raise bad cholesterol and lower good cholesterol and therefore increase the risk of coronary heart disease, even more so than artery-clogging saturated fat, some say.

Trans fat is so bad for you that New York City is considering requiring its restaurants to stop using cooking oils, shortening and margarine that result in anything greater than 0.5 grams of trans fat per serving.

While I absolutely agree that trans fat should be avoided for health's sake and that everyone can play a part, Louisville, Ky.-based KFC Corp.'s recent decision to convert its partially hydrogenated soybean oil in all of its 5,500 restaurants in the United States to trans fat-free soybean oil worries me some.

It worries me not because Colonel Sanders' original recipe of 11 herbs and spices might taste different fried in a new oil, but because people might actually believe KFC is now a healthy food option.

KFC said that when health authorities identified trans fat as being of particular concern, customers told the company they wished there was a way to take the trans fat out of the fried chicken they loved so much.

"Today's announcement is a breakthrough because consumers are oftentimes asked to compromise by choosing between eliminating trans fat, and better taste," Gregg Dedrick, KFC's president, said in its announcement. "We think Colonel Sanders would be proud that we found a solution that keeps all the delicious taste of KFC's Original Recipe chicken, while making the majority of our menu zero trans fat."

At the same time, leading health officials were quick to praise KFC for its switch, saying the move "is an important step toward improving the health of consumers." By eliminating trans fat from its food, "KFC is making significant changes to help Americans make healthier choices."

Referring to KFC in the same sentence as "healthy" seems to me to be the ultimate oxymoron.

While KFC's fried chicken indeed may technically be "healthier" in that it will now contain no trans fat, that in no way should be interpreted to mean that its fried chicken is now healthy. The last I heard, KFC was not removing the skin from its chicken and baking it in an oven. Trans fat or not, it's still being fried in a deep fat fryer.

No more than 30% of our total caloric intake should come from fat, and most of that allotment should be unsaturated fats and fish oils, health officials recommend. This means that for a 2,000 calorie diet, the upper limit of fat consumption is 600 calories or about 65 grams per day. For those looking to lose weight, it's recommended limiting your dietary fat intake to 30 to 35 grams per day.

Referring to KFC in the same sentence as "healthy" seems to me to be the ultimate oxymoron.

Currently, one extra crispy chicken breast from KFC has 460 calories, 28 grams of fat, 8 grams of saturated fat, 4.5 grams of trans fat, 135 milligrams of cholesterol and 1,230 milligrams of sodium, according to KFC's Web site.

And that's just one piece of chicken, no sides.

We have a serious weight problem in the United States, with about two-thirds of our adult population either overweight or obese.

There is little doubt that fast food plays a role in this phenomenon and, yes, everyone can play a part, but I don't know if frying fast food in healthier oil is going to make a difference. I seriously doubt that those consumers who frequent KFC for lunch and dinner are so health conscious that they care what type of oil their chicken is fried in. They just want it to taste good.

The only way individuals are going to lose weight and live a healthier lifestyle is when they become better educated about their food choices and they decide they want to eat better. And when that happens, they most likely will avoid KFC altogether.

ERM: Use simple approach to get backing

CONTINUED FROM PREVIOUS PAGE

discuss their significant risk exposures and how ERM could address them.

The executives allowed Ms. Magners to implement her plan, and "they realized some success" within the next year, she said.

Those successes encouraged management to hire a consultant to conduct an enterprisewide risk assessment. The consultant met individually with leaders throughout the organization to discuss the controls they had in play and which issues still "kept them up at night," Ms. Magners said.

A written questionnaire supplemented those interviews, she said.

In 2004, the company created oversight committees for the top risks and established risk audits. In addition, the company developed an annual risk assessment survey for its executives.

The organization's ERM program has been "home grown," but next year the organization plans to begin looking to the standards developed by the Committee of Sponsoring Organizations, the voluntary group of accountants, auditors and financial executives that wants to improve financial reporting through business ethics, internal controls and corporate governance.

Whatever approach a risk manager chooses, "keep it simple and easy to understand," Mr. Phelps advised. "Some consultants will make it very difficult. Be aware of that."

Dental: Health insurers enhance coverage

CONTINUED FROM PAGE 3

Bowes' wellness program, it is beginning to alter dental plan designs.

Two dental plan providers—Kansas City, Mo.-based Assurant Employee Benefits and Aetna Dental, a unit of Hartford, Conn.-based Aetna Inc.—last month announced they were enhancing dental coverage to pay for additional periodontal care for pregnant women and plan members with heart disease and/or diabetes.

In January, Philadelphia-based CIGNA Corp. announced it was beefing up its dental plan benefits to provide additional periodontal care for pregnant women.

CIGNA's decision came in response to research that showed scaling and root planing—two components of periodontal disease care—resulted in an 87% reduction in low-birth-weight babies, said Rebekah Whitehouse, chief marketing officer for CIGNA Dental & Vision, Life, Accident and Disability.

"We offer that as a standard benefit for our medical and dental customers because a considerable number of stop-loss policies are triggered by premature births," she said.

In July, CIGNA enhanced periodontal benefits for plan participants with heart disease and/or diabetes after conducting an internal claims study that found a 5.8% decrease in medical costs for members with cardiovascular disease or diabetes when they are treated for periodontal disease vs. a 9.7% increase for those who were not.

Aetna's decision to enhance its dental benefits also followed an internal claims analysis that found plan members with cardiovascular disease and diabetes had reduced medical costs and improved health risk appraisal scores when they had regular periodontal treatment, said Dr. Mary Lee Conicella, Aetna Dental's national director of clinical operations based in Pittsburgh.

"Because of the research we did...we feel employers can save money down the line if patients have regular dental care and periodontal care if they need it. And if we encourage them to have this care," she said, "we can improve their overall health and then the employers get to reap the benefits of those cost savings."

Also in acknowledgement of the link between oral health and systemic health, Assurant's enhanced dental program, called "Lifetime of Smiles," will provide four cleanings per year in addition to several other services.

"It goes back to the fact if they have a healthier group of employees from an oral health perspective, then they are going to have healthier employees overall," explained Dr. Jim Gimarelli, vp of dental at Assurant.

'The dollars associated with all of these medical conditions are in the millions.'

Dr. Jim Gimarelli, Assurant Employee Benefits

Washington Dental Service, a member of the Delta Dental Plans Assn. located in Seattle, is developing a plan design that will be tailored to participants' individual needs, said Ron Inge, dental director and vp.

Under that plan design, a dentist will perform an initial risk assessment, and patients at high risk for certain conditions will be covered for the treatment of those conditions, said Dr. Inge.

Washington Dental Services' new offering is currently being tested in a pilot involving two self-insured employers—the insurer itself and another area employer that Dr. Inge declined to identify.

The cost of most of these dental coverage enhancements is being borne by the insurers themselves with two exceptions: Assurant's enhancements are available at no additional charge for new business, but renewing business will see a slight premium increase. Aetna's enhanced maternity dental benefits will be available at no additional cost to employers; however, there will be an additional charge for participants with heart disease and diabetes.

Assurant is offering the enhanced benefits at no additional charge because it stands to benefit in its role as a disability and life insurance provider, Dr. Gimarelli explained.

"There will be less work time missed for the significant health conditions like diabetes, preemie babies, heart attacks and strokes. The research has shown very clearly that about 80% of adults have some sort of periodontal disease. And, if they are more healthy from a periodontal perspective, then they are going to be in better shape to overcome other serious medical conditions. The dollars associated with all of these medical conditions are in the millions," according to Dr. Gimarelli.

CIGNA is so confident that enhancing dental benefits will lower medical costs that it is giving employers a 1% rebate on health care premiums if they also sign up for CIGNA Dental, according to Ms. Whitehouse. The insurer is also offering an incentive program, called "Wellness Plus," that increases the maximum annual coverage limits for employees who receive regular preventive dental care services.

"We call it evidence in action," Ms. Whitehouse said.

While employers with self-insured dental plans will shoulder the additional cost of providing these enhanced services, they will also benefit from any resulting savings on health care costs, dental plan executives point out.

"There will be an initial increase in utilization because of the assessment, but the downstream savings should offset that cost," said Dr. Inge.

"Certainly the employer has a lot at stake if they have a healthier employee population that has better oral health. That is going to lead to better experience on their medical," echoed Dr. Gimarelli.

Indeed, many employers are interested in expanding dental plan coverage in recognition of the link between oral and overall health, said Cathye Smithwick, a principal at Mercer Health & Benefits in San Jose, Calif.

"As employers get ready to look at benefits, what is coming up more and more in that discussion is 'let's have a detailed discussion about plan design' and whether it's competitive, and the clinical aspects of the plan and whether they support wellness and medical management on the medical side," she said. "The generic term of it is medical-dental integration."

Integration doesn't mean consolidating providers, but rather recognizes that "oral health, especially periodontal health," is linked to overall health, Ms. Smithwick said. "After all, the mouth is a part of the body."

Consolidate: Health plan, hospital chain settle bout

CONTINUED FROM PAGE 3

to switch health plans, said Chris Watts, a senior consultant with Mercer Health & Benefits in Denver.

In Florida, Miami-Dade County Public Schools did not consider switching insurers even though its employees are enrolled in three UnitedHealth plans, said Scott Clark, risk and benefits officer for the Miami-based organization. Although several HCA hospitals are in the vicinity, most school employees receive services at a larger hospital system in the area, he noted. "For us to move 40,000 employees to another platform would have been impossible," Mr. Clark said.

Employers did have to step up their communication efforts to inform employees of how the dropping of HCA facilities from UnitedHealth's provider network would impact them. "It had a big impact on employers because they were dealing with their employees and there were a lot of dissatisfied employees who were planning to use (HCA's) facilities," Mr. Watts said.

UnitedHealth took some steps to alleviate the burden of the dispute on its members and employees, including providing a 7.5% rate credit to fully insured employers in Colorado.

A key factor in this dispute and other provider-insurer contract negotiations relates to market share. In Colorado, HCA is the largest hospital system while UnitedHealthcare is one of the top insurers, particularly since the merger with PacifiCare Health Systems Inc., which has a large presence in Colorado, Mr. Watts said. "Neither one could afford to simply walk away."

What happened in Colorado is a classic example of an insurer's strong market position, created in many instances by consolidation, leading to health care pricing issues, Dr. Langston said. "Now we're seeing the fallout of their market dominance," he said.

Health insurance market consolidation is a concern shared by employers. There are only about five or six insurers now large enough to handle the Miami-Dade school system's fully insured $250 million a year contract, Mr. Clark said. "I am concerned that further consolidation could limit the competition."

During a U.S. Senate committee hearing on competition in group health care in September, Stephanie Kanwit, special counsel for the Washington-based America's Health Insurance Plans, countered the AMA's claim that the recent health insurer consolidation has led to higher premiums. She noted that there are multiple competing health plans in every U.S. metropolitan area, including 20 health maintenance organizations in Miami and 16 in Los Angeles.

While there may be multiple insurers in a given market, though, if one insurer has a dominant position, it limits the choices for consumers and employers, Dr. Langston said. An April study by the AMA found that a single insurer had a 30% or greater market share in 95% of surveyed markets.

The negotiating power of both insurers and hospital networks, though, is very strong as consolidation among hospitals, including HCA, has allowed them to achieve more leverage and charge higher rates to payers, analysts say. "I would say at this stage, they're pretty much at equilibrium," said Joseph Marinucci, credit analyst with New York-based Standard & Poor's Corp.

The consolidation in the health insurance industry, though, has created barriers in the relationship between insurers and providers, Dr. Langston said. "It's acrimonious," he said. "It's take it or leave it."

While noting that the negotiations with HCA were tough, the UnitedHealth spokesman said nothing needs to be done to repair the relationship. "I would characterize our relationship as good," the spokesman said. "There are no hard feelings."

Insurers want to maintain a strong network of providers and outpatient facilities so they "don't want providers to go out of business," said Bradley Ellis, director at Fitch Ratings in Chicago.

In some respects, hospitals and insurers are beginning to see a degree of collaboration to achieve outcomes that work for both parties "because I think they both realize the issue of medical inflation is a major one and they can be part of a solution and not framed as a guilty party," Mr. Marinucci said.

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Fraud: Reinsurer's assets draw questions

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a company he founded that provides administrative and regulatory compliance services to mutual funds. He is also the principal of several other North Carolina corporations involved in real estate and other businesses, state corporation records show.

He previously had a run-in with regulators: In 1997, the Securities and Exchange Commission charged that he improperly diverted money from funds managed by Nottingham and altered accounting records related to the transfers. Mr. Meadows and Nottingham paid fines of $35,000 and $15,000, respectively, SEC records show.

Mr. Meadows and his lawyer in the Hatteras matter could not be reached.

About three months after licensing Hatteras, the Bermuda Monetary Authority granted the reinsurer's request to reduce its statutory solvency margin to $120,000 from the minimum $1 million required under the island's insurance law, according to an affidavit filed in the liquidation by Jeremy Cox, Bermuda's supervisor of insurance. In granting the request, the BMA ordered Hatteras not to write any business that was not fully secured by collateral.

In June 2005, though, the company's Bermuda manager, Independent Management Ltd., told regulators that Hatteras had written risk-bearing business, violating the order. Regulators then required Hatteras to submit a revised business plan and raise new capital.

The reinsurer subsequently reported it had issued $30 million in preferred stock to NB&TC Holding L.L.C.—a North Carolina company controlled by Mr. Meadows—in exchange for rights to a stake in Pamlico Enhanced Cash Trust. Pamlico was a Delaware trust, funded by Pamlico Asset Management Ltd. of the Cayman Islands and for which Mr. Meadows acted as the individual trustee, state records show.

See **FRAUD** next page

Creditors of failed reinsurer

Workers comp policyholders that are creditors in the Hatteras Re liquidation include:

- Aramark, which placed its direct workers comp coverage with U.S. units of ACE Ltd. and retained part of the program through Cayman-based Actis Assurance Segregated Portfolio Co. Ltd. Hatteras provided coverage in two ways: as a reinsurer of Actis and a loss portfolio reinsurer of a block of Aramark workers comp business that had been written by the now-insolvent Reliance Insurance Co.

Hatteras set up two U.S. premium trust accounts for Aramark and two others for the benefit of ACE for the 2004 and 2005 policy years, court filings show. In July, the liquidators agreed to lift the bankruptcy court's restraining order to let Aramark and ACE draw on the trusts to cover claims.

An ACE spokesman declined to comment.

- Gevity, which placed direct workers comp coverage with units of American International Group Inc. and retained a $500,000 per occurrence deductible in its Bermuda captive, Concorda Insurance Co. Ltd. Hatteras reinsured $1.5 million excess of Gevity's deductible, court filings show.

Working through reinsurance broker Guy Carpenter & Co., Gevity paid a $5.2 million premium for the Hatteras coverage in February 2006. In September, Hatteras liquidators reached a settlement with Gevity, paying the staff leasing company $3 million in cash and allowing it a $2.2 million unsecured claim against the Hatteras estate. The claim represents part of the $6 million Gevity had to pay for replacement reinsurance, court filing say.

The settlement agreement specifically preserves potential Gevity claims against other parties in the workers comp placement, including Mr. Meadows and Guy Carpenter.

A Carpenter spokesman declined to comment, and Gevity representatives could not be reached.

- Electronic Data Systems, which ceded business to Hatteras through its Bermuda captive, High Tech Services Insurance Ltd.; and InterContinental Hotels, which ceded to Hatteras through its Vermont-based captive, SCH Insurance Co. Both captives have reached agreements with the liquidators allowing them to draw on Hatteras premium trust accounts set up for their benefit.

—By Douglas McLeod and Roberto Ceniceros

OCIL: Mutual gets rating downgrade

CONTINUED FROM PAGE 4

written confirmation from two of the top three global brokerage firms that OCIL still meets their requirements and is expecting to receive confirmation from the third, though he declined to elaborate.

Hamilton, Bermuda-based OCIL is one of three mutual insurance firms—along with Oil Insurance Ltd. and sEnergy Insurance Ltd.—that are collectively known as the OIL Group of Cos. OCIL was founded in 1986 to provide excess liability insurance to energy companies and reinsurance to energy captives. As of Nov. 1, the company had 76 shareholder members.

While many companies traditionally see a departure of clients upon losing their A level rating, OCIL will be helped by its status as a mutual, with support from its shareholder members, brokers say. But, ultimately, members may start exploring their options.

Mark Oakley, a managing director at Aon Corp.'s natural resources group in Houston, said he does not anticipate "any major shift in how our clients view OCIL."

"We're still going to continue to use them, and any of the contact I've had with our clients (regarding OCIL's downgrade) has been pretty positive," said Mr. Oakley. "BBB+ still meets our financial guide and that of Aon clients."

"OCIL is, for all intents and purposes, not a major carrier...they are a niche player," said Michael D. Fisher, managing principal and office leader of Integro Ltd.'s Hamilton, Bermuda-based operations. "I don't think you're going to see a run on the bank with people looking to replace OCIL."

"There are going to be certain members or mutual policyholders that have an allegiance to OCIL or any of the member-owned companies (of the OIL Group) that would help them get around any rating issues," said John A. Rathmell Jr., president of Lockton Marine & Energy in Houston. "Compared to just a stock, publicly traded company...they are going to benefit from allegiance, but I can't tell you how far that's going to go," he said.

"OCIL definitely does have a loyalty base that a lot of the other companies don't have; however, risk managers do have to answer to other people, and the loyalty may no longer be there," said a Bermuda-based broker who did not want to be identified.

"Downgrades are serious; whether or not it's a mutual company is not completely irrelevant, but somewhat irrelevant," the source said. "I don't think people would look to immediately replace them, but I think they would look to replace them at the next renewal."

"There are options out there" for companies that are looking, Mr. Rathmell said. "Unfortunately for OCIL, which is a proud organization and has done a good job, the competitive forces could be a problem."

"For the vast majority of people, there is enough capacity out there that if they wanted to, they can find a replacement," said Integro's Mr. Fisher. "What some of them may do is to reduce OCIL's participation somewhat; for instance, if people were buying $100 million, they may buy $50 million," or possibly move OCIL "to a higher attachment point" within their insurance program.

News In Brief

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several prior years, resulting in a cumulative decrease in shareholders' equity of $261.7 million as of Dec. 31, 2005. The restatement, which Fairfax said was necessitated by an accounts review related to the planned commutation of a $1 billion reinsurance contract with Swiss Reinsurance Co. and other accounting issues, had the net effect of: decreasing Fairfax's net loss for 2005 by $51.3 million, to a $446.6 million loss; reducing its 2004 net loss by $72.9 million, leading to a $53.1 million profit; and boosting 2003 net earnings by $18.6 million, to a $288.6 million profit among other changes.

Pa. governor signs comp reform measure

Pennsylvania Gov. Edward G. Rendell has signed legislation amending the Pennsylvania Workers' Compensation Act of 1915 by creating an uninsured employers guaranty fund. The new law also requires workers compensation judges to include mandatory mediation conferences as part of any trial schedule and limits attorneys' fees from exceeding 20% of the amount awarded by a judge or agreed to in a settlement. The law stems from House Bill 2738, sponsored by Bob L. Allen, R-Berks. Among other things, the new law increases the minimum compensation for total disability or death to $100 per week.

MMC vice chairman Sinnott to retire

Marsh & McLennan Cos. Inc.'s vice chairman, John T. Sinnott, will retire effective Dec. 31, MMC said. Mr. Sinnott, a former chairman and chief executive officer of the Marsh Inc. brokerage unit, originally retired in July 2003, but returned to the company in 2005 following various management disruptions stemming from brokerage industry investigations prompted by New York Attorney General Eliot Spitzer.

401(k) plans dominate at 25th anniversary

As their 25th anniversary nears, 401(k) plans have emerged as the dominant employer-sponsored retirement savings plan, according to a new study. Last year, 401(k) plans had 47 million active participants, up from 40 million in 2000 and 28 million in 1995, according to the study by the Washington-based Investment Co. Institute, which represents mutual funds. Employer sponsorship of 401(k) plans has soared, while employers have steadily moved away from defined benefit plans. Last year, U.S. employers sponsored 417,000 401(k) plans, up from 348,000 in 2000 and 201,000 in 1995. By contrast, employers offered just 41,000 defined benefit plans last year, down from 49,000 in 2000 and 69,000 in 1995.

IRS raises HSA limits

The Internal Revenue Service announced last week that in 2007, the maximum contribution that can be made to health savings accounts for employees with single coverage will increase to $2,850, up from $2,700, while the cap for those with family coverage will rise to $5,650, up from $5,540 this year. Additionally, the maximum out-of-pocket expense—including deductibles—that employees with single coverage can be required to pay will rise to $5,500 from $5,250, and to $11,000 from $10,500 for those with family coverage. The minimum deductible of the high-deductible health insurance plan to which HSAs must be linked will increase to $1,100 from $1,050 for employees with single coverage and to $2,200 from $2,100 for family coverage.

City benefit mandate faces legal challenge

The Golden Gate Restaurant Assn. is challenging a health benefit mandate passed by San Francisco last summer. In a motion filed in U.S. District Court in San Francisco, the organization charged that the city's Health Access Program violates the Employee Retirement Income Security Act. The ordinance, which is slated to take effect July 1, 2007, requires employers with 50 or more employees to pay a fee for each hour an employee works into a fund that would be used to pay for their health care. By 2008, smaller firms with between 20 and 49 workers also would be required to make the contributions. Employers already offering health care coverage but not spending at the minimum level would be required to contribute the difference to the new city program.

Benefits: Several measures backed by GOP likely dead

CONTINUED FROM PAGE 1

plans—health reimbursement arrangements—to HSAs.

The measure, though, was strongly opposed by both Rep. Charles Rangel, D-N.Y.—who will succeed HSA supporter Rep. Bill Thomas, R-Calif., as Ways and Means Committee chairman—and Rep. Pete Stark, D-Calif., who will become chairman of the panel's health subcommittee. Rep. Stark described the bill as a billion-dollar tax break for the wealthy, arguing that the money instead should be used to support public health care programs.

With HSA opponents soon to be in leadership positions, benefit experts rate the bill's chances of passage at near-zero in both the short and long term.

"It has gone from unlikely to highly unlikely," said Lew Freeman, president of the Employers Council on Flexible Compensation in Washington.

"What incentives do Democrats have to let the HSA legislation through this year knowing that

See **BENEFITS** next page

Reinsurer: Doubts over validity of documents

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Meanwhile, Hatteras was to submit its first financial statement to regulators by the end of April 2005 but was allowed to change its fiscal year end to Sept. 30. This pushed the deadline for its first statement to January 2006, according to Mr. Cox's affidavit. In January, Hatteras got a three-month extension, but as of April 30 still had failed to file a financial report.

The reinsurer's auditor, Arthur Morris & Co., had been unable to complete its work, regulators learned, because of "doubts regarding the validity" of documents related to the Pamlico investment, Mr. Cox's affidavit says. One was an audit opinion on Pamlico, purportedly issued by Deloitte & Touche in the Cayman Islands; Deloitte told Arthur Morris in May, though, that it had never issued the opinion and had not done audit work for Pamlico.

The BMA obtained a liquidation order on June 7 and the next day won a temporary restraining order from the New York bankruptcy court freezing the reinsurer's U.S. assets.

Liquidators have since found documents indicating the Delaware Pamlico trust—renamed the Pamlico Short Term Income Fund—was terminated as of March 17, 2006. A Delaware corporate filing canceling the trust was signed by Frank P. Meadows Jr., a Rocky Mount lawyer who is Mr. Meadows' father, court records show.

Mr. Meadows Jr. could not be reached, and lawyers for the Hatteras liquidators would not comment on the status of the Pamlico asset.

In an interview, Mr. Cox declined to answer questions about Hatteras specifically, including its reasons for seeking a reduction of its solvency margin in 2004. Generally, though, the BMA would not grant such a request to a company assuming risk and would only allow it for rent-a-captive or segregated portfolio companies whose business is fully secured, he said.

Mr. Cox added that regulators would not extend reporting deadlines without preliminary financial data showing no problems and "solid reasons" for the extension. "The BMA followed its processes as it should" and moved quickly once it saw there was a problem with Hatteras, he said.

Several workers comp policyholders are among the largest creditors in the Hatteras liquidation (see story, page 41).

The liquidators, meanwhile, are pursuing other potential assets of the Hatteras estate. Before Hatteras' collapse, for example, Mr. Meadows used $5 million of the reinsurer's funds to buy a Beechcraft twin-engine jet, transferring ownership to Air Roxanne L.L.C., a North Carolina corporation he controls, liquidators charge in a court filing. Air Roxanne sought to sell the jet in July, and liquidators and Mr. Meadows have agreed that the proceeds will be held in trust until the bankruptcy court rules on their disposition.

Stock Index

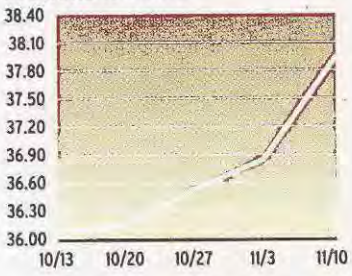
[11/6 - 11/10]

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

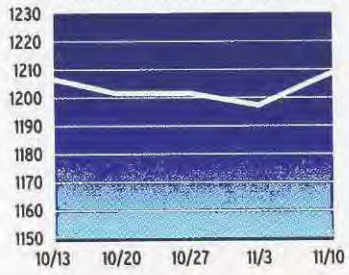
BI STOCK INDEX



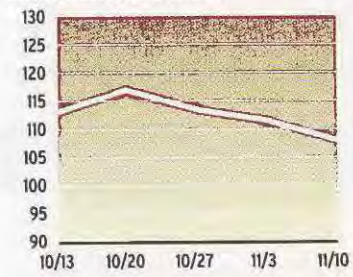
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI *Stock Index vs. key indicators*

BI STOCK INDEX	▲
3174.97	1.48
DOW JONES	▲
12108.43	1.02
S&P 500	▲
1380.90	1.22

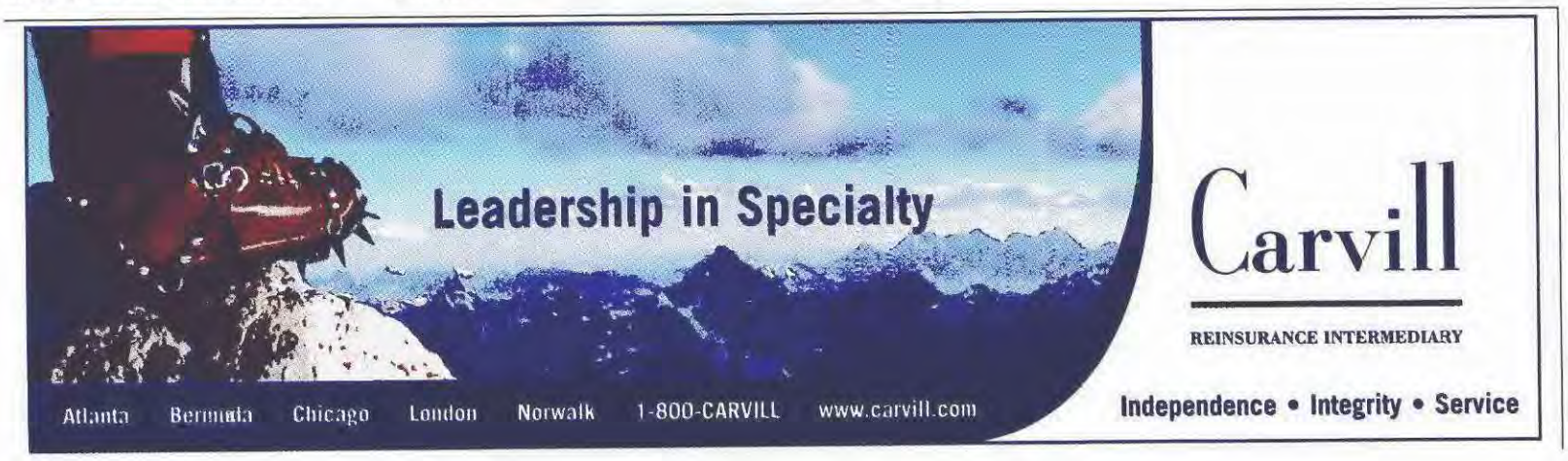
LARGEST GAINS

SCOR S.A.	8.20%
UNICO American Corp.	7.38%
Philadelphia Consolidated	6.91%
Markel Corp.	6.81%
ProAssurance Corp.	6.24%

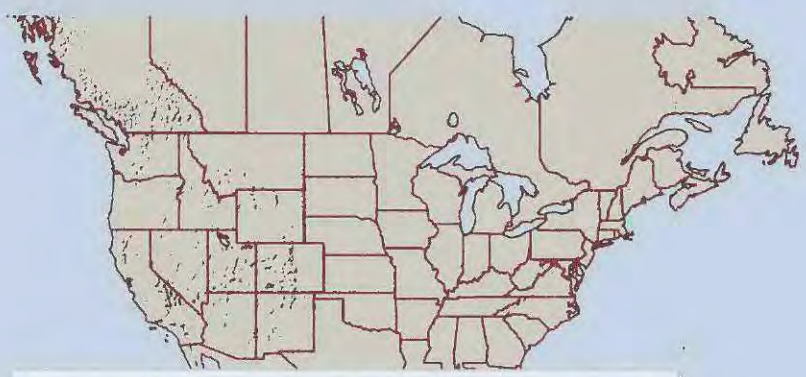
LARGEST LOSSES

Humana Inc.	-8.43%
UnitedHealth Group Inc.	-3.60%
Sierra Health Services	-1.80%
USI Holdings Corp.	-1.74%
SCPIE Holdings Inc.	-1.69%

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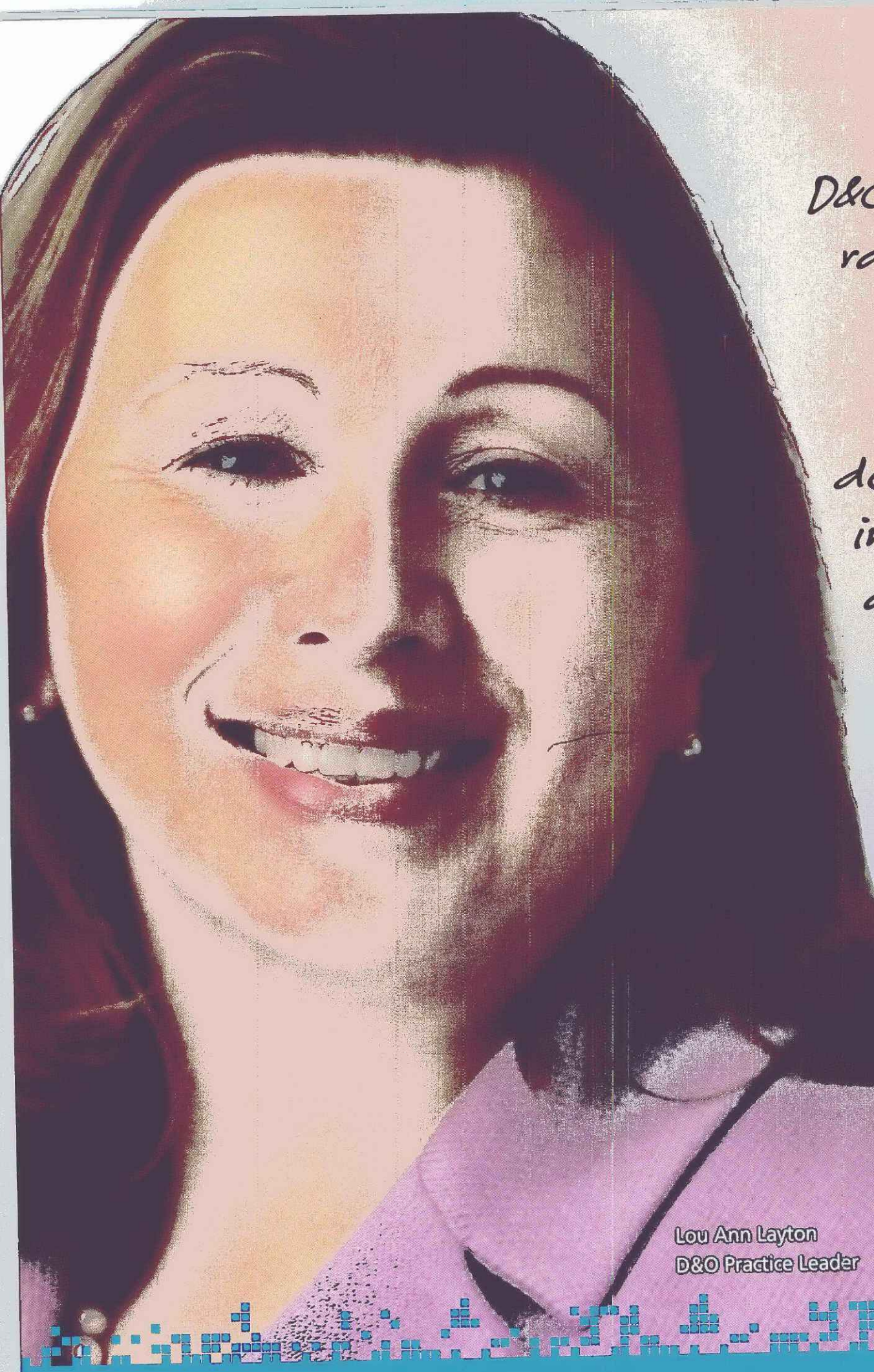
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