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update

New Risk Retention Act gets Reagan's signature

WASHINGTON—President Reagan has signed legislation expanding the federal Risk Retention Act, which experts predict will lead to a surge in growth of domestically chartered group-owned captive insurance companies.

The president signed S. 2129 on Oct. 27, according to the White House clerk's office.

Under the new law, which was

Continued on next page

Market outperforms insurer stocks

By JUDY GREENWALD

Investors who bought property/casualty insurer stocks three months ago on the basis of analysts' recommendations may have been better off leaving their nest eggs in the bank.

In fact, the overall market has outperformed the property/casualty stocks touted by the analysts over the three-month period.

Despite the lackluster performance of the stocks recommended in late July by a group of industry stock analysts, these experts nevertheless generally are still bullish on the same companies—especially Chubb Corp. and General Re Corp.

To test the analysts' recommendations, *Business Insurance* in late July created a *BI* Model Portfolio, containing some of the property/casualty stocks touted by the analysts. On July 25, *BI* hypothetically "invested" $10,000 in the Model Portfolio, consisting of shares of Chubb, Gen Re, American International Group Inc., Fireman's Fund Corp., USF&G Corp., Ohio Casualty Corp., American General Corp. and CNA Financial Corp.

As of Oct. 23, the value of the shares in the *BI* Model Portfolio declined to $9,597.76 from their original value of $9,943.89, though when dividends as well as the interest on the money not invested from the original $10,000 stake is considered, it leaves a total of $9,697.76, or a 3% loss on the original $10,000 investment (see story, page 43).

In contrast, the Standard & Poor's 500 stock index for the same period declined only 0.39% to 239.28 from 240.22.

Security analysts say some of the reasons why their recommended property/casualty stocks did not fare better over the past three months were related to factors affecting the stock market in general.

The 86-point drop in the Dow Jones 30 industrials average in September frightened a lot of investors into taking whatever profits they had made up to that time, explained David Seifer, vp at the First Boston Corp. in New York.

"The interest-sensitive stocks as a whole have not done well over the past few months," added June I. Hoffer, an analyst with Pru-

Continued on page 43

Florida rating, tort law sent to state high court

By MICHAEL BRADFORD and CAROL CAIN

TALLAHASSEE, Fla.—Insurers and plaintiffs' attorneys are asking the Florida Supreme Court to hear an appeal of a Leon County Circuit Court decision that upholds most of the state's controversial tort reform and insurance rating regulation law.

In a series of quick maneuvers since Judge Charles E. Miner's ruling on Oct. 24, insurers and plaintiffs' attorneys petitioned the state's 1st District Court of Appeal three days later to pass the case directly to the Florida Supreme Court for its consideration.

The appellate court on Oct. 29 certified the case "as involving issues of great public importance requiring immediate attention by the Supreme Court."



'The courts have been mindful of the need for a quick resolution all along,' Mr. Gunter says.

The appellate court also ordered that temporary injunctions granted by the Circuit Court, which prevented the law from going into effect until its constitutionality was decided, would remain in effect until Nov. 7 or until otherwise ordered by the appellate court or the Supreme Court.

Judge Miner upheld most of the tort reforms and insurance rating regulations in the law, but he ruled that premium rebates ordered by the legislation could not apply to policies written before the measure went into effect July 1.

In upholding the freeze on rates required by the law, the judge referred in his written opinion to similar action taken by the Florida Legislature 16 years ago.

"Since a similar analogous 'rate freeze' device was previously imposed by the Legislature and upheld by the Florida Supreme Court in *Williams vs. Hartford Accident & Indemnity Co.* . .the court will not dwell on this point other than to find the 'rate freeze' to be constitutionally permissible," the judge said.

Concerning the premium rebate portion of the law, Judge Miner said the court was primarily concerned with its effect on policies written before the legislation was enacted.

The judge ruled that because the department already had the authority to disallow rates before the law went into effect, rates in use up to July 1 had, "if not the express approval of the (Insurance) Department, at least the Department's informal approval."

Therefore, the judge determined that the rebate can only apply to coverage written after the effective date of the law.

To apply the portion of the law that requires the refund to policies written before its passage is "constitutionally intolerable" and "impairs very substantially" those existing contracts, Judge Miner wrote.

Judge Miner also ruled sections of the law relating to changes in the state joint and several liability doctrine and a cap on non-economic damages should be upheld because they "do not offend the equal protection clauses of the state and federal constitutions."

The law also had granted Commissioner Bill Gunter authority to create a joint underwriting association (*BI*, Oct. 27), but one of the injunctions continued by

Continued on page 4

Texas Air picks Hall as aviation broker

By LINDA J. COLLINS and STACY SHAPIRO

BRIARCLIFF MANOR, N.Y.—Broker Frank B. Hall & Co. Inc. will land the aviation insurance business of what may soon be the nation's largest airline, dramatically increasing its share of the U.S. aviation insurance market.

Rapidly expanding Texas Air Corp. late last month appointed Hall and its London affiliate, Leslie & Godwin P.L.C., to broker its subsidiaries' aviation insurance.

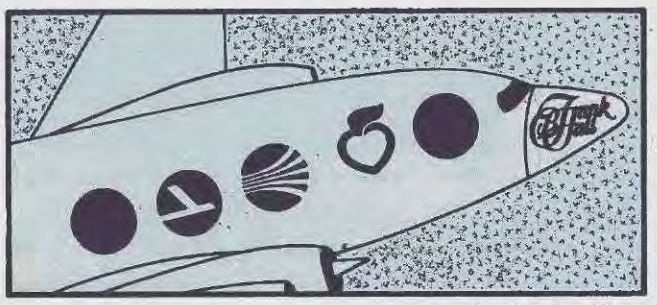
Houston-based Texas Air is currently the parent of New York Airlines Inc. and Continental Airlines Inc.

In addition, it is in the process of acquiring Miami-based Eastern Air Lines Inc. and People Express Airlines Inc. of Newark, N.J..

People Express, in turn, owns Frontier Airlines Inc., the Denver-based airline that stopped operating earlier this year when it filed for reorganization, and Britt Airways, a Tampa, Fla.-based regional carrier.

"On Oct. 22, Frank B. Hall/Leslie & Godwin were appointed brokers for Eastern Air Lines, Continental Airlines and New York Air for aviation placements, with the assumption that we would be aviation brokers for any additional airlines acquired," verified Peter T. Pruitt, Hall's president and chief operating officer.

The "additional airlines acquired" presumably include



Graphic: Amy Palmer

People Express and its subsidiaries.

Hall's aviation insurance clients currently include Pan American World Airways Inc., USAir Inc., Southwest Airlines Co., Pacific Southwest Airlines, United Parcel Service of America Inc., Emery Air Freight Corp., Air Canada and Japan Air Lines, Mr. Pruitt said.

In addition, Hall has been Eastern's broker "for at least four or five years for aviation placements," Mr. Pruitt said. Eastern is the largest of the airlines that Texas Air now owns or plans to acquire.

Mr. Pruitt would not provide further details about the Texas Air account, though he said that when all of the acquisitions are completed Texas Air "will represent roughly 22% of domestic air business."

The airlines now generate nearly $70 million in combined aviation premium volume, according to sources in the London insurance market.

Their combined fleet value has been estimated at close to $10 billion by sources in London.

When all the acquisitions are completed, Texas Air will operate about 580 aircraft.

The acquisitions likely will be finalized by the end of the year, according to Bob Joedicke, airline analyst and senior vp at Shearson Lehman Bros. in New York.

Mr. Joedicke confirmed Mr. Pruitt's estimate that "combined, you're talking over 20% of the airline traffic in the U.S."

That will make Texas Air the largest airline "based on revenues or traffic—whichever yardstick you want to use," Mr. Joedicke commented, pushing it past Chicago-based United Air Lines.

It's not yet clear whether the airlines, after they are acquired by Texas Air, will purchase their coverage through Hall separately or whether the carriers will be insured under the same policies.

Continued on page 37

Revco to file E-Ferol claims with state guaranty funds
Page 2

More insurers end litigation with Manville for $62.2 million
Page 3

Pan Atlantic, reinsurer reach settlement for $1.3 million
Page 3

NEWSPAPER

update

Risk Retention Act signed

Continued from page 1
approved overwhelmingly by the House and Senate, special multiple-owner captives—called risk retention groups—will be able to operate nationwide to provide all casualty coverages except workers compensation to member-owners (*BI*, Oct. 20).

The legislation also pre-empts state laws that prohibit employers from purchasing casualty insurance on a group basis.

Injunction against Dyna Span

OKLAHOMA CITY—An Oklahoma County District Court judge has issued a temporary injunction barring the sale of insurance coverage offered through Dyna Span Corp., which claims to operate under the federal Risk Retention Act of 1981 (*BI*, May 26; March 3).

The injunction, issued Oct. 24 at the request of the Oklahoma Insurance Department, enjoins the activities of Florida-based Dyna Span; New England International Surety Inc., a Panamanian insurer providing coverage to Dyna Span members; and Western Insurance Network, a brokerage based in Colorado Springs, Colo., said Ellen Caslavka, the department's assistant general counsel.

The Oklahoma department also has asked the court for a permanent injunction against the three defendants, according to Ms. Caslavka.

Aerojet wins contamination suit

SACRAMENTO, Calif.—Aerojet General Corp. was cleared of charges leveled by two families that alleged that chemicals leaking from the aerospace concern's facility in Rancho Cordova, Calif., contaminated their drinking water, injured their health and damaged their property.

A Sacramento County Superior Court jury found for Aerojet in all counts alleged in the civil suit seeking unspecified general and punitive damages. The plaintiffs lived in a mobile home park adjacent to Aerojet's 8,500-acre site.

Some 24 similar suits brought by other residents of the mobile home park are pending, according to a company spokesman.

In 1979, it was discovered that chemicals used to manufacture rocket motors had contaminated the groundwater under the property. Aerojet spokesmen said the company immediately began treating the groundwater and has spent $33 million on the cleanup.

The legal actions brought by the residents of the trailer park were filed shortly after the contamination was discovered.

Judge OKs adults' releases

CHICAGO—A Cook County Circuit Court judge late last month upheld the validity of settlement releases signed by more than 2,000 adult victims of salmonella-tainted milk produced and sold by American Stores Co.'s Jewel Food Stores unit.

On Oct. 14, Judge John M. Breen Jr. had voided a few thousand releases signed by parents or guardians in settlements made with Jewel on behalf of children under 18 years of age (*BI*, Oct. 27).

More than 16,000 cases of food poisoning were documented in the 1985 epidemic (*BI*, April 15, 1985).

Judge disqualifies Robins firm

RICHMOND, Va.—A bankruptcy court judge has disqualified the law firm representing A.H. Robins Co. Inc. in its bankruptcy proceedings because of the firm's representation of Aetna Life & Casualty Co., a Robins creditor.

In citing a potential conflict of interest, U.S. Bankruptcy Court Judge Blackwell N. Shelley disqualified the prominent New York-based law firm of Skadden, Arps, Slate, Meagher & Flom.

He said that while there was no actual conflict, there probably will come a time when Aetna's and Robins' interests will be directly at odds. The firm represents Aetna in some corporate matters.

Aetna has filed a claim against Robins for almost $60 million, ranking it as its second-largest creditor. Robins officials knowledgeable about the claim were not available for comment.

Aetna had been Robins liability insurer and paid substantial losses related to Robins' Dalkon Shield intrauterine device.

Kaiser employees strike

SAN FRANCISCO—About 9,000 union employees at Kaiser Permanente Medical Care Program in northern California went on strike Oct. 27 after contract negotiations broke down over Kaiser's demand for a lower wage scale for new employees.

The striking workers include nursing assistants, vocational nurses, X-ray technicians and housekeeping aides.

Kaiser is the largest not-for-profit health maintenance organization in the country.

Groups sue Federal Reserve

WASHINGTON—Five industry associations have filed suit against the Federal Reserve Board, challenging its interpretation of legislation regulating the types of insurance activities that are permissible for bank holding companies.

The Independent Insurance Agents of America Inc., the National Assn. of Casualty & Surety Agents and the National Assn. of Surety Bond Producers filed a joint suit in federal court in Washington and, in a separate action, the National Assn. of Professional Insurance Agents and the National Assn. of Life Underwriters also filed a suit against the Fed's ruling.

Instead of limiting the exception to BHCs whose principal place of banking business is located in a small town, which the producer associations maintain was congressional intent, the Fed's interpretation of the law allows any BHC or its subsidiary to engage in general insurance activities as long as it has an office in the town.

Revco to file E-Ferol claims with state guaranty funds

By MEG FLETCHER

TWINSBURG, Ohio—Revco D.S. Inc. expects to recover from state guaranty funds most of the costs it incurred in settling millions of dollars in claims filed on behalf of infants who died or were injured in 1983-84 by an intravenous vitamin E supplement manufactured by a Revco subsidiary.

Insurance coverage for Revco's product liability exposure from E-Ferol was written primarily on an admitted basis by two insurers—Transit Casualty Co. and Midland Insurance Co.—that since have been declared insolvent and currently are in liquidation, *Business Insurance* learned.

Transit Casualty is being liquidated in Missouri, while Midland is being liquidated in New York.

Revco says it has settled three-fourths of the E-Ferol claims and "anticipates that a substantial portion of the cost of the settlement is recoverable from state insurance guaranty funds and Revco's claim as a general creditor" against the two insurers, according to a company statement issued Oct. 22.

Revco could recover from the guaranty funds of various states, depending on several factors, according to Larry Bell, assistant vp-risk management.

Generally, guaranty funds cover claims filed by residents of their states (*BI*, June 16). Carter-Glogau Laboratories, the Revco subsidiary that manufactured E-Ferol, is based in Glendale, Ariz., and Revco is based in Twinsburg, Ohio. Arizona's guaranty fund covers claims to $100,000; Ohio's guaranty fund covers claims to $300,000.

A spokesman for Transit Casualty's liquidator confirmed the insurer has received claims involving Carter-Glogau, the Revco subsidiary that manufactured the E-Ferol. And, claims can be filed until April 30, 1987, she added.

A representative of the Ohio Insurance Guaranty Assn. said the Ohio fund is holding discussions with Revco. A representative of the Arizona Property/Casualty Insurance Guaranty Fund said she is now determining to what extent, if any, the Arizona fund could be involved in the Carter-Glogau claims.

"Any shortfall between the amount of funds recoverable under state insurance guaranty funds and other sources and the cost of the E-Ferol settlements will largely be provided for by a replacement policy purchased by Revco in December 1985," Revco said in its statement.

Mr. Bell said the replacement policy was purchased on a retroactive basis, similar to the coverage purchased by owners of the MGM Grand Hotel in Las Vegas, Nev. A 1980 fire in the hotel killed 84 people. Mr. Bell declined to provide additional details about the post-loss funding policy.

In its most recent 10-K report to the Securities and Exchange Commission, Revco said: "Final disposition of this and other litigation should not materially affect the consolidated financial position of the company." The report was for the year ending May 31, 1986.

Revco, which is currently a publicly traded company, is being purchased by its management, according to a securities analyst.

E-Ferol was manufactured by Carter-Glogau for pharmaceutical distributor O'Neal, Jones & Feldman of Maryland Heights, Mo. (*BI*, May 21, 1984).

OJ&F distributed the drug to health care institutions, where it was administered to premature infants to prevent blindness and anemia.

Continued on page 38

Two *BI* directories to list consultants

Two directories of consultants will be published in upcoming issues of *Business Insurance*.

The annual directory of employee benefit consultants will be published in the Dec. 22, 1986, issue, and completed questionnaires must be returned to *BI* by Nov. 17. The publication of the directory will coincide with a spotlight report on employee benefits.

The directory of risk management consultants will be published Jan. 12, 1987. Completed questionnaires for this directory also must be returned to *BI* by Nov. 17. This directory will be included with a special report on risk management services.

Those who wish to be included in either directory should take note of the deadlines, which are earlier than in previous years.

Listings in both directories are free; however, consultants must fill out and return a questionnaire provided by *BI* by the deadline to be included.

If your firm or company provides employee benefit or risk management consulting services and you have not yet received a questionnaire, you may request one by contacting Marilou Jones, Directory Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5279.

Railroad investigating second Ohio derailment

LORDSTOWN, Ohio—CSX Transportation Inc. still is investigating the reasons for a 43-car derailment here, the second one involving the railroad within the past four months.

A spokesman for CSX Transportation, which is based in Jacksonville, Fla., said no one was hurt in the derailment of the train, which was carrying cargo consisting primarily of automobiles and auto parts. He said he could not confirm published reports that the Oct. 26 derailment caused $3.5 million in property and cargo damage.

CSX Transportation owned the track, while a "variety" of companies, including CSX, owned the railroad cars, said the spokesman. He said Interstate Commerce Commission regulations forbid release of any information on the cargo owners.

CSX Transportation is a participant in The Railroad Assn. Insurance Ltd., a Bermuda-based insurer that writes excess liability insurance for railroads. RAIL provides participants with $50 million excess of $50 million of liability coverage for third-party liability, evacuation, sudden and accidental pollution and liability under the Federal Employers Liability Act (*BI*, Aug. 4).

A RAIL spokesman could not be reached for comment, and CSX would not offer additional information about its insurance, including if there is any underlying coverage.

A derailment July 8 in Miamisburg, Ohio, led to CSX Transportation and its parent company, CSX Corp., being named among defendants in lawsuits seeking more than $600 million in punitive and compensatory damages (*BI*, July 28). More than 30,000 people were evacuated as a result of the accident, which released a cloud of toxic white phosphorous gas.

The Federal Railroad Administration said it believed the July incident was caused by a "sun kink," which occurs when a rail is heated up by the sun and warps.

The CSX spokesman said that sun kinks are not believed to be the cause of the most recent derailment. ■

inside



✔ More than 500 delegates assessed the state of the workers compensation system during the 72nd annual meeting of the International Assn. of Industrial Accident Boards & Commissions held last month in Louisville, Ky. *BI*'s coverage of the event begins on: **PAGE 15**

✔ Yes, U.S. benefit managers can cope with all of the ramifications of Federal Accounting Standards Board No. 87 on foreign pension plans, advises Jerome Karter in this month's International Issues column. The key starting point is careful planning. **PAGE 25**

✔ In this month's "Ask a Casualty Actuary" column, Richard E. Sherman discusses the impact the Tax Reform Act of 1986 and the expansion of the Risk Retention Act will have on various risk retention alternatives. **PAGE 26**

departments

Ask an actuary	26
Classifieds	40
Comings & goings: Industry	34
Datebook	32
Info	33
Insurance services guide	42
International issues	25
Letters	8
Markets	23
Opinions	8
Perspectives	25
Ticker	43
Washington	22

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Insurers to pay Manville $62.2 million

By STEPHEN TARNOFF

DENVER—Underwriters at Lloyd's of London and almost three dozen other foreign insurers will pay Manville Corp. $62.2 million to settle longstanding insurance litigation involving massive asbestos claims.

The settlement brings to approximately $168 million the value of agreements that Manville has concluded in the past few weeks with its insurers and its longtime broker, Marsh & McLennan Inc. (*BI*, Oct. 13; Oct. 20).

The total figure also includes a settlement last week in which First State Insurance Co. agreed to pay Manville $1.4 million. This brings to a little more than $650 million the amount of settlements between Manville and its insurers, although the final amount is yet to be determined and will depend on various factors, a company spokesman said.

Manville, which filed for reorganization under Chapter 11 of Federal Bankruptcy Code in 1982, must have the settlements approved by the U.S. Bankruptcy Court. A Nov. 19 date has been set for a fairness hearing on the 22 separate settlement agreements it has reached.

The Lloyd's settlement involves 15 primary and excess umbrella policies covering Manville between July 1, 1978, and July 1, 1983.

In all, 20 Lloyd's syndicates and 34 separate insurers took part in the settlement, which has been under negotiation for nearly two years and was conceptually agreed upon last January.

Richard B. Von Wald, Manville corporate counsel, said the agreement, which was closed Oct. 24, "resolves any uncertainty regarding a significant block of the company's insurance coverage."

Among the main underwriters participating in the settlement are H.S. Weavers (Underwriting) Agencies Ltd., Merrett Syndicates Ltd. and Janson Green Ltd.

The insurers are located around the world, including Belgium, Bermuda, Britain, France, West Germany, Italy, Japan and Panama.

Manville originally sued 27 of its liability insurers going back a generation over the extent of coverage available for asbestos claims. The suits are part of massive insurance coverage litigation in state Superior Court in San Francisco in which four other asbestos producers besides Manville also are litigating with their insurers.

The settlements are a key facet of a proposed $2.5 billion reorganization trust fund that will pay asbestos health and property damage claims and allow Manville to emerge from Chapter 11.

As a result of all of the settlements, Manville now is litigating with only two of its insurers, Continental Casualty Co. and Columbia Casualty Co., both units of CNA Financial Corp.

The new settlement is the second reached between Manville and various underwriters at Lloyd's.

In 1984, Manville entered into a $314.4 million settlement with underwriters at Lloyd's, Travelers Indemnity Co. and Home Insurance Co. Only Lloyd's policies between 1951 and 1963 were included in that settlement (*BI*, June 4, 1984).

Under terms of the most recent settlement, payments to Manville will be made in three installments with the first $15.9 million payment due either July 1, 1987, or 90 days after consummation of the reorganization plan, whichever is later.

A second payment of $19.4 million is due one year later, and a final payment of $26.9 million is due on the second anniversary of the first payment.

Payment of the settlement amount is secured by a trust into which cash and funding contracts purchased by the insurers from Metropolitan Life Insurance Co. have been deposited, Manville said in a prepared statement.

On the date of each payment, Metropolitan will pay the appropriate amount into the trust, which will then transfer this same amount to the bankruptcy court for distribution in accordance with the reorganization plan.

"We're extremely satisfied," said Kent A. Wilson, who represented the Lloyd's syndicates and the other London carriers in the settlement. "We certainly think it is in our best interests."

Mr. Wilson, with the Chicago firm of Peterson, Ross, Schloerb & Seidel, said that the Lloyd's underwriters and other companies

Continued on page 39

Pan Atlantic reaches $1.3 million settlement

By DOUGLAS McLEOD

NEW YORK—Pan Atlantic Group Inc. and a West German reinsurer are expected to settle several legal disputes stemming from the reinsurer's participation in a pool managed by Pan Atlantic, lawyers involved in the case say.

Alte Leipziger Ruckversicherung AG has agreed not to fight a recent arbitration award requiring it to pay Pan Atlantic $1.3 million and post a $2.8 million letter of credit to cover future liabilities, lawyers say.

The arbitration began after the West German reinsurer last year stopped paying claims on the Pan Atlantic pool business, charging that Pan Atlantic had misrepresented the pool's loss experience to induce Alte Leipziger to join (*BI*, Oct. 6).

Fourteen other pool reinsurers later stopped paying claims, and Pan Atlantic faces the possibility of 14 separate arbitrations to recover funds from these reinsurers, court papers show.

Following the arbitration award against Alte Leipziger, Pan Atlantic filed a motion to have the award enforced by the U.S. District Court for the Southern District of New York.

Alte Leipziger filed a cross-motion to vacate the award, arguing —among other things—that the arbitrators did not render their decision in a timely fashion and that the weight of the evidence presented at the hearings did not support the award, lawyers say.

However, the two sides have agreed that Alte Leipziger will withdraw the cross-motion and forfeit its right to refile its objections to the award.

Meanwhile, Pan Atlantic will withdraw its motion to enforce the award but retain its right to refile if the award isn't satisfied, according to Gerald Greenberger, a lawyer with Miller, Singer & Raives in New York, representing Pan Atlantic.

In an Oct. 16 letter to Pan Atlantic President Lionel J. Goetz, Alte Leipziger officials also apologized for the accusations leveled against the pool manager.

"We are convinced that Pan Atlantic committed no wrongdoing

Continued on page 42

Cost no object

Big health care users don't shop around: Study

By JAMES M. BURCKE

Half of heavy users of health care services believe recent changes in their health care plans were necessary to control health costs, and 65% say the plan changes are at least somewhat acceptable, according to a new survey.

However, health care plan changes may not be having their desired effect.

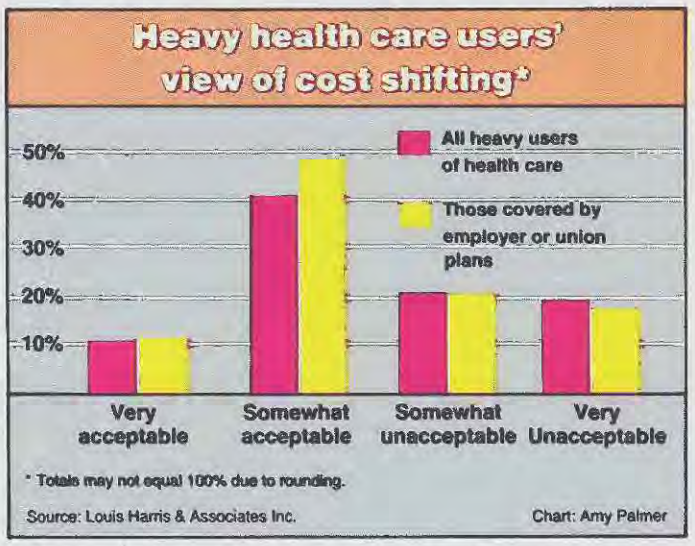
While employer cost-shifting is designed to make individuals better health care consumers, the vast majority of heavy users of health care services say the amount that doctors charge is not an important criterion when selecting a health care provider, the survey shows.

These are some of the findings in a just-released survey of heavy users of health care conducted by Louis Harris & Associates Inc. for Equicor, a joint venture formed by Equitable Life Assurance Society of the United States and Hospital Corp. of America to offer health and life insurance plans to employers (*BI*, Aug. 11).

"Higher levels of cost-sharing hasn't had an effect on changing consumer behavior," according to Humphrey Taylor, president of Louis Harris & Associates.

"Heavy users of health care are not shopping around, and they're not going to do it in my view," he observes.

The Harris/Equicor survey is based on 1,515 interviews with people that are "heavy users" of health care. These heavy users are defined as adults who have been hospitalized at least once over a 12-month period or those who have not been hospitalized but have visited a doctor at least 10 times in a year (see story, page 28).



Of these heavy health care users, some 69% said they are covered by health care plans sponsored by employers or labor unions; 40% said they were covered by individual or other types of group health plans; 25% were covered by the federal Medicare program; 7% were Medicaid recipients; and 5% had no health insurance.

(The total equals more than 100% because some survey respondents were covered by more than one plan.)

Continued on page 27

Kidde covered for $17.5 million award

By STEPHEN TARNOFF

FLINT, Mich.—Kidde Inc. has insurance to cover $17.5 million in damages and interest awarded to a Flint boy who was seriously injured when he was shot by a BB-gun made by Daisy Manufacturing Co., a former Kidde unit.

Kidde of Saddle Brook, N.J., had $200 million in limits in 1982, when the accident occurred, with no deductible or self-insured retention.

Kidde had a primary policy with National Union Fire Insurance Co. of Pittsburgh, Pa., an American International Group Inc. unit, for $2.5 million, according to sources. Northbrook Indemnity Co., a unit of Allstate, wrote a $5 million policy excess of the National Union policy, Northbrook confirmed last week.

Underwriters at Lloyd's of London wrote a $16 million layer excess of the Northbrook policy, sources said.

Prior to trial, settlements were reached with the family of the young boy who owned the gun and the owner of the home where the incident occurred. However, an attorney for the victim declined to reveal the amounts.

An attorney for Kidde and Daisy declined to comment last week except to say that post-trial motions are pending. Spokespersons for both companies also declined comment.

As of now, in addition to the $14 million award, Kidde owes $3.5 million in interest, plaintiffs' attorneys said.

Joshua cannot walk, talk or grow, although doctors say with proper care he should live a normal life span. 'The prognosis is that he will have the mentality of an 8-month-old forever,' Mr. Leyton says.

The suit was brought against Daisy, of Rogers, Ark., the manufacturer of the gun, which was a division of Kidde Recreation Products at the time the incident occurred. Kidde Recreation Products is a unit of Kidde.

According to plaintiffs' attorneys, Joshua Rewis was 3 years old in 1982 when he was shot by an 11-year-old playing with a BB gun. The 11-year-old testified that he looked in the gun's chamber and saw no BBs, and also heard no projectiles, said David S. Leyton, Joshua's court-appointed conservator.

The 11-year-old also pulled the gun's trigger three times but nothing came out. On the fourth pull, however, a BB was expelled from the gun and struck Joshua in the brain as he walked in front of the 11-year old, Mr. Leyton added.

Joshua can no longer walk or talk, is incontinent and cannot grow, although doctors say if he gets proper medical care, he should live a normal life span of 71 years.

"The prognosis is that he will have the mentality of an 8-month-old forever," said Mr. Leyton.

The only theory of liability alleged in the suit was Daisy's negligent design of the gun. It should have been designed so a person using it would know it was loaded, Mr. Leyton added.

Plaintiffs' attorney Howard Grossman said there were internal company memoranda acknowledging that users could not tell if the gun was loaded and that it was dangerous.

Kidde had an opportunity to settle the case for $2 million. A mediation panel of attorneys and a judge determined the case should be settled for $2 million, a figure agreed upon by the plaintiffs. However, the defendants refused. "No one can figure out why they went to trial," Mr. Grossman said.

According to Mr. Leyton, Kidde and Daisy contended all along that the 11-year-old shot Joshua intentionally and that there was nothing wrong with the gun's design. "They never made any type of meaningful settlement offer," he said.

Noting that an economist for the plaintiff valued the case at $14 million, Mr. Grossman said, "I think it was a fair verdict." He added, "It probably is the largest" such verdict in a gun case. "I've never heard of one larger."

"It's the largest verdict of a single accident in the state of Michigan," Mr. Leyton added.

He said that no matter how large the award, "It pales in significance," compared with what Joshua lost. ■

Florida ruling

Continued from page 1

the appellate court prevents him for the moment from establishing a JUA.

Another provision of the new law that remains in abeyance under the appellate court order is the requirement for insurers to reflect in their rate filings their anticipated savings because of tort law changes.

The law prompted many admitted insurers to stop writing new business in Florida, causing concern among many buyers about availability of liability insurance. With the status of the law still uncertain, no major insurers have yet reversed their decision to restrict writing.

Commissioner Gunter, trumpeting Judge Miner's ruling as a "tremendous victory," said late last week he is pleased the appellate court moved the case directly to the Supreme Court for consideration.

Mr. Gunter said the law serves as a 'lifeline' that policyholders need 'to pull themselves out of the national liability crisis. The Florida law was more comprehensive than that of any other state and stood the test of an all-out legal challenge.'

Mr. Gunter said the law serves as a "lifeline" that policyholders need "to pull themselves out of the national liability crisis. The Florida law was more comprehensive than that of any other state and stood the test of an all-out legal challenge."

"We knew all along that it would eventually be decided by the Florida Supreme Court, so this decision (of the appellate court) expedites the process," he said.

"The courts have been mindful of the need for a quick resolution all along, and that is very much appreciated by the people in this state needing relief from the commercial insurance crisis," the commissioner said.

Even though they are appealing the ruling, insurers praised the portion of the judge's decision that rebates will have to be made only on policies written or renewed after July 1. The law, signed by Gov. Bob Graham in June, originally called for insurers to give policyholders on Oct. 1 a 40% refund or 2credit on premiums due or paid on liability coverage for the remainder of the year.

The credit would have amounted to a premium rollback of around 10% on a 12-month policy.

The law also calls for a rollback of liability rates to 1984 levels and froze rates for most commercial property/casualty coverages to levels the insurer had in effect on May 1 (*BI*, June 16).

In addition, the legislation gives the Florida Department of Insurance more authority to control rates through measures like requiring insurers to begin notifying the department of rate deviations such as discounts and surcharges.

Prior to the new law, the department could reject rates only if there was a lack of competition. Now, the department has additional grounds and can consider investment income in ratemaking.

Insurers began filing rates last week, according to a department spokeswoman, but because of the injunction, the deadline to file rates has been changed to coincide with the court-imposed expiration of the injunction.

The request that the case be moved to the Supreme Court was made in three separate petitions by attorneys representing the Academy of Florida Trial Lawyers, CIGNA Corp. and some 240 individual insurers and three property/casualty trade associations.

The Academy of Florida Trial Lawyers will fight the case on behalf of injured persons, said Stephen Masterson, executive director of the Tallahassee-based group. He said the law's $450,000 cap on awards for non-economic damages violates the rights of the handicapped.

Insurers, however, were pleased that the judge upheld the tort reform portions of the law, which include:

- The cap of $450,000 on awards for non-economic damages such as pain and suffering.
- Joint and several liability provisions remaining in effect for economic and non-economic damage awards less than $25,000. If an award is greater than $25,000, joint and several liability would apply only to economic damages and only to those damages in cases where the fault of the defendant is found to be equal to or greater than the fault of the plaintiff.
- A provision for reducing damage awards in the state by recoveries from other sources unless the defendant has subrogation rights.
- Imposing structured settlements if one party requests.
- Discouraging frivolous suits by requiring the losing party and attorney to pay attorneys' fees of the prevailing party.
- Limiting punitive damages in some cases to three times the amount of compensatory damages.

"Judge Miner's decision proves that such reforms, while minor at best, do not violate the rights of any citizen of that state to a fair trial and just compensation for injuries," Franklin Nutter, president of the Alliance of American Insurers, said in a statement last week.

"We are disappointed, however, that he was unable to rule decisively on those portions of the law that limit the competitiveness of members of the state's insurance industry by unfairly interfering with their abilities to control their own financial destinies," Mr. Nutter said.

"Specifically, the AAI objects to the legislation's mandated (rate) reductions and data reporting requirements that preclude the reform's effectiveness," said Mr. Nutter.

The Schaumburg, Ill.-based Alliance, the National Assn. of American Insurers in Des Plaines, Ill., and the American Insurance Assn. in New York all filed suit challenging the constitutionality of the law shortly after it was passed.

They were joined in the suit by insurers that included United States Fidelity & Guaranty Co., Aetna Life & Casualty Co., Chubb Group, Royal Group, Preferred Risk Mutual Insurance Co., State Automobile Mutual Insurance Co., Transamerica Insurance Co., Nationwide Insurance Cos., Wausau Insurance Cos. and State Farm Group.

In response to the law's passage, around a dozen insurers restricted their writings in Florida.

The other property/casualty trade associations echoed the AAI's concerns.

AIA President Robert E. Vagley said, "We are pleased and encouraged that Judge Miner agreed with our arguments and held the provision for the premium rebate to be unconstitutional and unfair to insurers and insurance customers."

In addition, Mr. Vagley said the group is pleased the Circuit Court upheld the tort reform measures, but called the provisions limited.

"The industry has strongly sup-

Continued on page 6

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"That's why we have our employee benefit coverages with Wausau," Mr. Muffi says. "That includes workers compensation, and group health and life insurance.

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Florida ruling

Continued from page 4

ported tort reform, but believes the Florida measures should have been much stronger to truly reform the liability system," Mr. Vagley said.

A spokesman for the NAII said that association is "obviously disappointed the judge did not declare the entire law. . .constitutionally invalid. That the judge found the special credit or rebate provision unconstitutional is encouraging and certainly not surprising."

As to insurers' restrictions on writing new business in Florida in the wake of the law, Commissioner Gunter said, "I truly hope the commercial insurance industry will take advantage of their opportunity to get back in the business of serving the people of Florida.

"Florida is one of the richest insurance marketplaces in the country, and those who neglect it for too long may lose their share of the market for good," Mr. Gunter warned.

Criticism that commercial insurers in the state are not losing as much money as they say is 'ludicrous,' says Knight-Ridder's James Matthews. 'They're losing their fannies in Florida, and they're leaving.'

But insurers that have restricted their business in the sixth-largest state were saying last week that they will not immediately change their business tactics in Florida.

A spokesman for CIGNA said, "It doesn't appear (the ruling) will cause us to change our business strategy in Florida." CIGNA was one of the first insurers to announce it would stop issuing new property and liability policies when the bill passed.

While the spokesman noted that the change in the rebate provision was "the one positive element" of Judge Miner's decision, he added that "we feel there are still parts of the bill that make it difficult to begin writing new business again in Florida."

Insurers are particularly concerned about the portion of the law that requires liability rates in 1987 be rolled back to 1984 levels.

W. Minor Carter, vp of government affairs for USF&G, said he feels the rollback provision should be reversed by a higher court. Mr. Carter said his company "firmly believes" the judge's decision should be appealed.

Robert B. Morgan, president of Cincinnati Insurance Co. in Springdale, Ohio, said his company has not filed 1987 rates in Florida. The insurer is awaiting a final determination on how filings must be made before reaching a decision on whether to resume writing commercial business in Florida.

Cincinnati Insurance is one of the companies that stopped writing new commercial coverages in the state soon after the bill's passage and Mr. Morgan said, "We are in the process of evaluating what to do in Florida. We're not going to pull out of Florida, but we will certainly look at our other options."

The insurer continues to write homeowners and personal automobile insurance in Florida, according to Mr. Morgan

Mr. Morgan said the judge's decision to apply the rebate provision only to policies written or renewed after July 1 will mean "a considerable savings" to the insurer.

But, upholding other portions of the law makes the ruling "almost a worst-case scenario," said Mr. Morgan.

USF&G's Mr. Carter said insurers won a victory when Judge Miner changed the original rebate provision.

"It was a case of winning the battle we had to win," he said. "If we had lost the rebate provision and won on everything else, we would have been very upset."

Florida risk managers, who have seen limited insurance capacity become even scarcer as insurers restricted their writings in the state, are sympathetic to the insurers' position.

James Matthews, director of risk management at Knight-Ridder Newspapers Inc. in Miami and vp of the South Florida Chapter of the Risk & Insurance Management Society, said risk managers throughout the state have overwhelmingly opposed the new law.

Under the current version of the law, insurers get very little in the way of tort reform in exchange for rate reductions, he said.

Mr. Matthews said criticism that insurers in the state are not losing as much money as they say is "ludicrous."

"They're losing their fannies in Florida," he said. "And they're leaving."

He said the state's commercial insurance buyers, for the most part, aren't going to benefit from the new law.

"If you think about how the aspects of the law affect commercial insurance buyers, it sounds good to the owner of the small hardware store on the corner because he sees that he is going to get a big rate decrease," Mr. Matthews said.

But the lack of available coverage will outweigh the promise of lower rates, he argued.

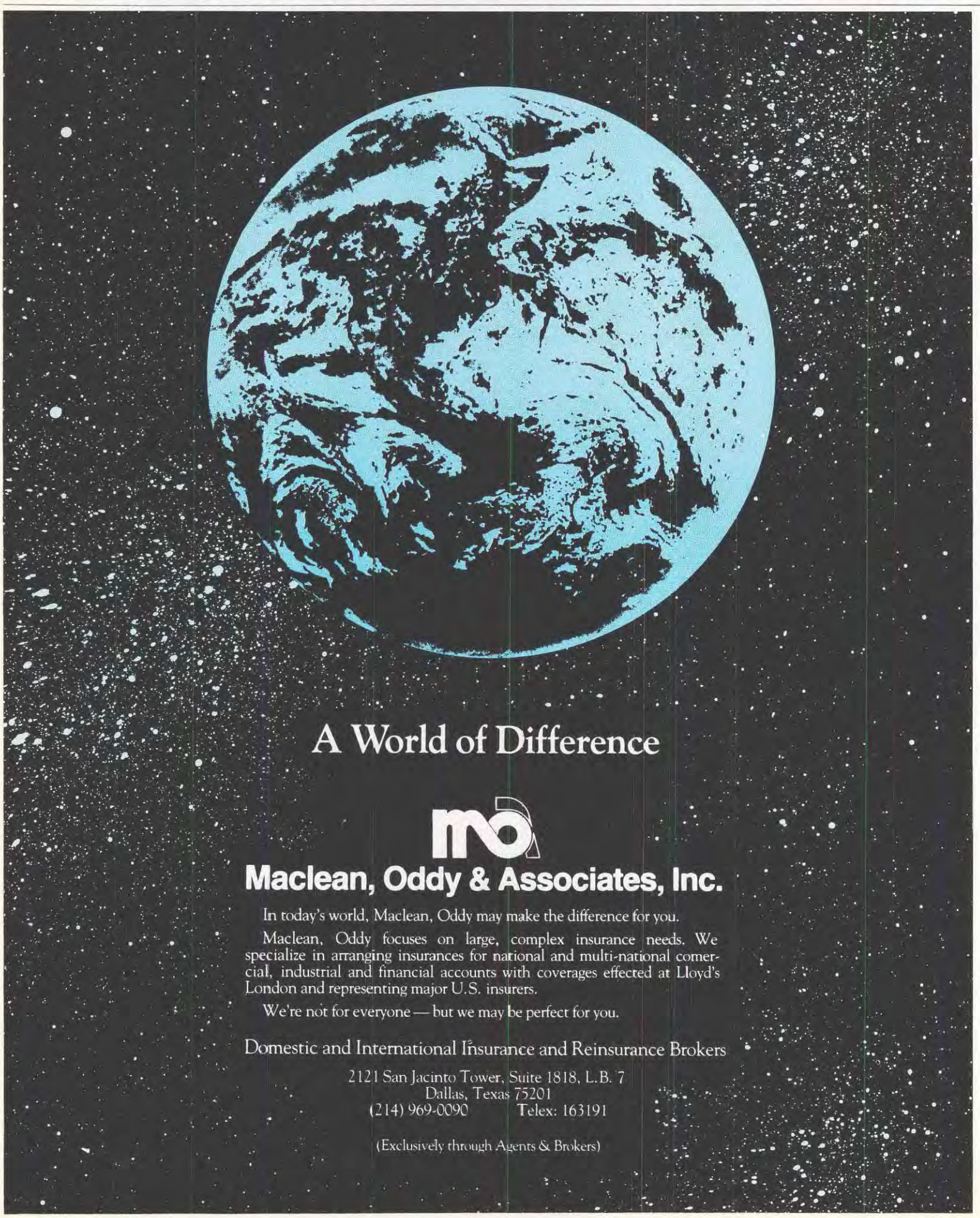
And Mr. Matthews said the new law's provisions to give the state's Insurance Department more regulatory authority could lead to chaos.

The department's regulation of the personal lines market has left it in "dismal shape," he said. "And now they are going to regulate the commercial market?"

Regarding its proposal for a JUA, a preliminary meeting between insurers and the Insurance Department to discuss its design was still slated to be held Oct. 31, a spokeswoman from the department said.

The department will continue with its internal process moving toward creation of the JUA, she added, but because of the injunction, insurers will not be individually assessed the $500 fee, to be used for initial administrative expenses of the JUA.

If the Supreme Court decides to take the case, the Insurance Department will argue against further continuation of the stay halting formation of the JUA, the department spokeswoman said. ■



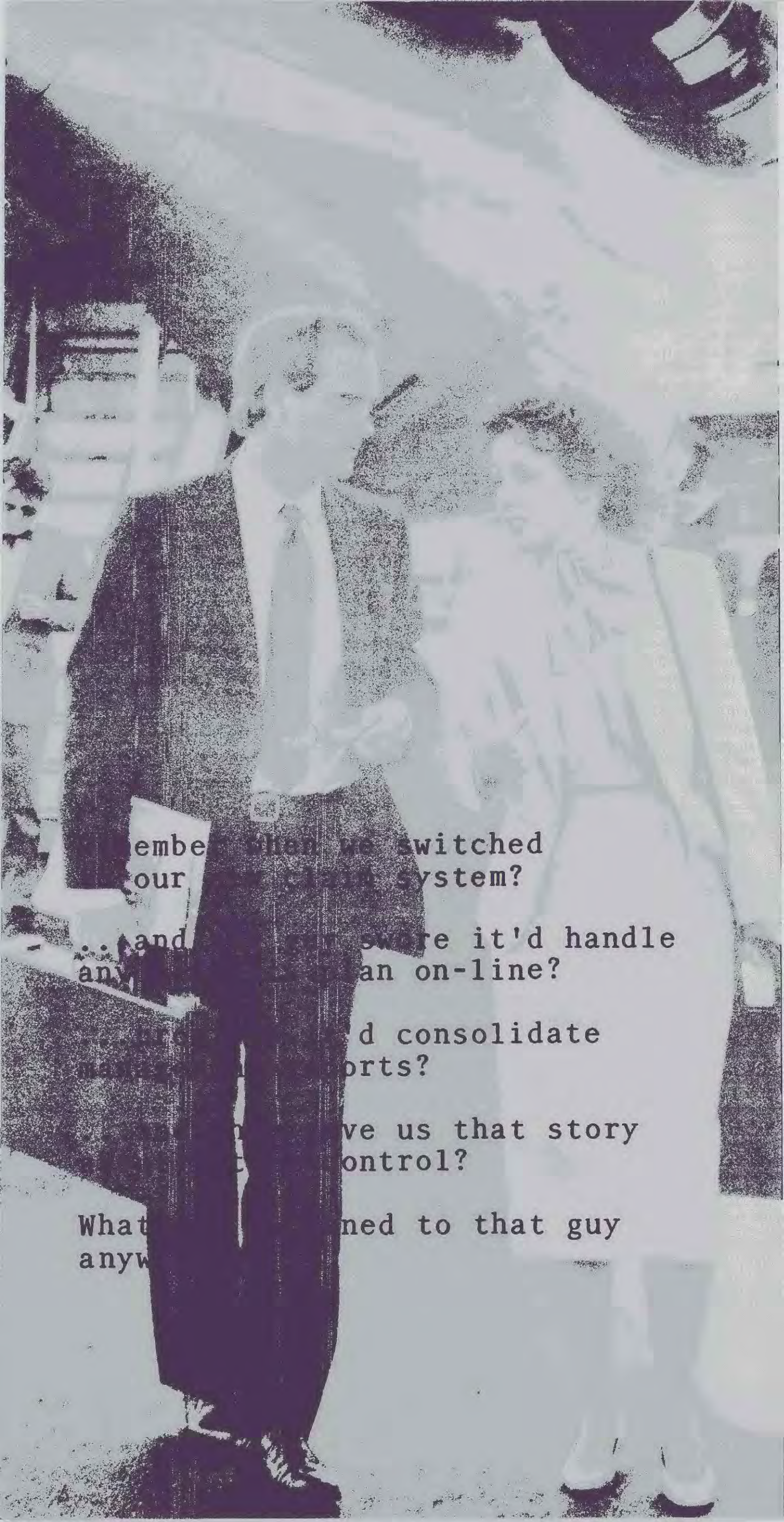
Hearing on OPIC slated for Nov. 13

WASHINGTON—The Overseas Private Investment Corp. will conduct a public hearing Nov. 13 on a wide range of issues.

OPIC is the federal agency that offers political risk insurance coverage to U.S. companies investing in less-developed countries.

The hearing will focus on whether OPIC is fulfilling its congressional mandate and whether the political risk insurance coverages it writes should be extended to additional projects.

The meeting will be at 1 p.m. EST in Hearing Room C, Interstate Commerce Commission, 12th Street and Constitution Avenue N.W. For additional information, call Robert C. O'Sullivan in OPIC's Office of General Counsel at 202-457-7029. ■



There seem to be an awful lot of benefit administration and reporting systems out there that have a sort of backwards way of looking at things. Fact is, when you have to make a benefit plan change of one kind or another, you have to go out of your way to "accommodate" the system.

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opinions

Don't pull the plug on pools

RISK MANAGERS, many of whom are scrambling to find alternatives to traditional forms of property/casualty insurance, have enough on their minds without having to worry about tax problems apparently created by one over-zealous Internal Revenue Service agent.

Buyers who help organize workers compensation self-insurance pools historically have not had to worry about the pools' liability for federal income taxes. Because the pools have paid any money remaining after claims and expenses as dividends to their members, the pools themselves have not been perceived to carry a tax liability. The IRS has even issued private letter rulings stating this.

Now, thanks to a Michigan IRS agent apparently acting on his own initiative, buyers participating in these work comp pools now have to be concerned that their pools will be taxed. If pools are taxed, the cost of participating in them will increase.

Last year, the agent began auditing many of Michigan's 37 self-insurance pools. While IRS actions against most of the pools have been dropped, the IRS has sent one Michigan pool, the Detroit Tooling Assn. Workers' Compensation Fund, a bill for $18 million in back taxes, penalties and interest. The pool, which has enlisted the help of other pools and nationwide groups, is now fighting the assessment (*BI*, Oct. 27).

As it has done in similar past situations, the IRS unfortunately is not now giving any guidance on whether pools can be taxed or not or whether it will target pools in other states for back taxes.

While the taxation of pools is a "gray area" not specifically addressed by the Internal Revenue Code, we believe the agency should make clear that the pools do not have a tax liability as long as they return to members as dividends all funds remaining after the payment of claims and expenses.

This is how the IRS has treated pools in the past and now is not the time to change the rule without a congressional mandate. Employers need all the breaks they can get right now on the cost of insurance. Indeed, Michigan's legislation permitting group self-insurance was passed to help employers save money and preserve jobs.

Thankfully, workers compensation pool participants can breathe easier for the next year due to the efforts of the Michigan congressional delegation, which succeeded in adding a provision in the new tax law that calls for a one-year moratorium on tax audits of self-insured workers compensation pools. We salute the Michigan legislators, and Rep. John D. Dingell in particular, for acting to protect their constituent's interests and in turn protecting the interests of all workers compensation pools.

But this provision in the tax law is only a temporary solution to the tax problem for workers compensation pools, which are allowed to operate in about 30 states and could number as many 220.

No matter whether the IRS' assault on the Michigan pools is an isolated incident or part of an agencywide effort that could affect pools around the nation, the issue now demands resolution.

We accept that an argument could be made that these pools could be operated as tax shelters. But, instead of slapping group workers compensation pools with taxes, the IRS should instead draft regulations governing the amount of loss reserves that can be maintained. And, the IRS should consult state insurance departments and workers compensation agencies to help determine what are reasonable loss reserves.

letters

Brokers find many clients don't want to assume risk

To the editor: Lawrence J. Bell's letter to the editor discussing H. Felix Kloman's Sept. 15 Perspective article, "Future Shock: Brokers Must Evolve to Continue Role In Insurance Industry," was interesting but somewhat naive (*BI*, Oct. 13).

It has been my experience that brokers in many instances expend an exorbitant amount of time and effort to develop and then offer to their clients alternative risk management approaches only to find that the majority of clients in the final analysis do not want to self-assume risk that they can transfer—even at sometimes exorbitant costs—to other parties.

The majority of insurance buyers do not want themselves to be held open to criticism from either their top management or their shareholders for uninsured self-assumed losses. Many brokers have continued to offer alternatives each year to their clients only to find that their efforts are in vain. This being the case, many brokers have found that the use of their risk management departments is lessened.

The analogy is: A great pitcher who sits idle in the dugout game after game and never throws the ball loses his effectiveness.

Gary W. Shertenlieb
Senior Vp
E.H. Crump Co. of Georgia Inc.
Atlanta

BI should investigate Section 125 abuse

To the editor: I would like to see an article appear in *Business Insurance* focusing on the abuse of Section 125 of the Internal Revenue Service Code as a marketing tool by many in the insurance industry.

(This section permits employees to choose between cash and non-taxable benefits, including flexible spending accounts.)

The theme might be "Abuse It and Lose It." There are thousands of honest insurance agents and brokers that do not know the difference between right and wrong. And, there's a heck of a bunch that do not care as long as they sell products.

Thanks for your fine magazine and "right-on" opinion regarding a super federal employee benefits agency (*BI*, Sept. 29).

Russell H. Bauman
President
Multi Comp Inc.
Chatsworth, Calif.

Licensing can't overcome poor philosophy

To the editor: I have read few articles with which I disagree more than James Robertson's Perspective article "Would Licensing Make Underwriters Any Wiser? (*BI*, Sept. 22).

The development of a wise underwriter begins with a person possessed of good decision-making skills and continues with years of experience. No amount of licensing can change an individual's basic abilities and no amount of sound (individual) underwriting can overcome a poor underwriting philosophy dictated by management.

A particularly silly comment was the suggestion that a licensed underwriter would refuse to implement poor management decisions: "However, mere unlicensed underwriters have to do whatever they are told to keep their jobs. . . ."

Mr. Roberston, are you joking?

To be brief, this is a ridiculous notion. Everyone must do as they are told to keep their jobs. Have you ever been an underwriter?

Deborah L. Brown
Rhulen Agency Inc.
Monticello, N.Y.

Private Medicare administration good idea

To the editor: Recently you published an article, "Employers Weigh Medicare Benefit Administration," concerning private employers administering Medicare benefits for their employees (*BI*, Sept. 29).

The "risk" contract described in the article is vague. An arrangement that allows the employer to pay all benefits and to bill Medicare for its portion would benefit all parties.

The retiree could file claims once, the employer would protect his budget and Medicare would profit from any cost containment that the private plan had developed.

Private third-party administrators of health care benefits will revolutionize this area of health care as they have the group insurance field. The private sector has a straightforward manner of dealing with inefficiency.

David J. Fasano
Vp-Employee Benefits
Maury, Donnelly & Parr Inc.
Baltimore

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Public entities behind in cost control: Study

By ALISON KITTRELL

Although they are continuing to take steps to control the rising cost of health care, public-sector employers "seem to be lagging" behind their private-sector counterparts, according to a recent survey.

The survey, "Health Care Cost Containment in the Public Sector —1986," was conducted by William M. Mercer-Meidinger Inc. in cooperation with the Public Risk & Insurance Management Assn. The survey polled 336 public employers nationwide to determine what they are doing, or what they plan to do, to control their medical costs.

A similar survey was done in 1985, and the 1986 survey found that public employers are continuing to institute many cost-containment options, including changes in plan design, wellness programs, better communication and other plan features to encourage employees to become more careful health care consumers.

However, the survey authors say that, "Public-sector employers. . .are not as aggressive as the private sector in incorporating medical intervention features into their plans, or in adopting programs to prevent disease and encourage healthy lifestyles. They do not take full advantage of sophisticated data techniques that can identify problems and thus lead to corrective measures."

The survey asked the public employers about their actions, or their plans, in nine areas. The areas, and the findings in each, were:

- Plan design or changes in the balance of cost sharing between employer and employee.

Public-sector employees are raising deductibles, copayments and employee contributions, extending the waiting period before an employee becomes eligible for coverage, and instituting medical reimbursement flexible spending accounts, the survey shows.

For example, 13% of the employers reported they had increased the deductible required of salaried employees in 1986, compared with 30% in 1985. And, an additional 16% said they were considering an increase in 1986, compared with 24% in 1985.

Eleven percent of the respondents reported they had increased the deductible for hourly workers in 1986, compared with 30% in 1985. And, 14% of those surveyed this year were considering a deductible increase for hourly workers, compared with 28% a year earlier.

But, deductibles are still less than $150 for 70% of the plans covering salaried employees in 1986, and for 68% of the plans covering hourly workers.

In 1986, 6% of the respondents increased the out-of-pocket limits for their salaried employees, compared with 17% in 1985. And, 9% were considering such an increase in 1986, compared with 13% in 1984.

Six percent of the respondents increased out-of-pocket limits for hourly workers in 1986, compared with 19% in 1985. And, 8% were considering such a move for hourly employees in 1986, compared with 17% a year earlier.

Some 9% of the respondents reported they increased the employee contribution for medical coverage for their salaried employees in 1986, compared with 14% in 1985. And, 14% were considering such a move in 1986, compared with 10% in 1985.

Eight percent said they increased the contribution required of their hourly employees in 1986, compared with 22% in 1985. And, 13% were considering an increase for their hourly employees in 1986, compared with 21% in 1985.

In 1986, 2% of the respondents increased the waiting period before their salaried employees would be eligible for coverage, compared with 3% in 1985. And, 5% were considering such a move in 1986, compared with 3% in 1985.

Two percent also increased the waiting period for hourly employees in 1986, compared with 9% in 1985. And, 4% were considering such action for hourly employees in 1986, compared with 8% in 1985.

Seven percent of the respondents implemented a medical reimbursement flexible spending account for salaried employees in 1986, the same as in 1985. But, 13% were considering adding such an FSA for salaried employees in 1986, up from 5% in 1985.

Six percent instituted a medical reimbursement FSA for hourly employees in 1986, compared with 19% a year earlier. And, 12% were considering such a move in 1986, down from 17% a year earlier.

- Medical intervention, or the implementation of plan features designed to make employees more cost-conscious consumers of health care.

According to the survey, in 1986 public-sector employers increased their use of virtually every such feature compared with 1985.

For example, 45% of the respondents reported that they had a preadmission review program for nonemergency hospital admissions in 1986, compared with 26% in 1985. And, 25% said they were considering implementing a pre-admission review program in 1986, compared with 31% in 1985.

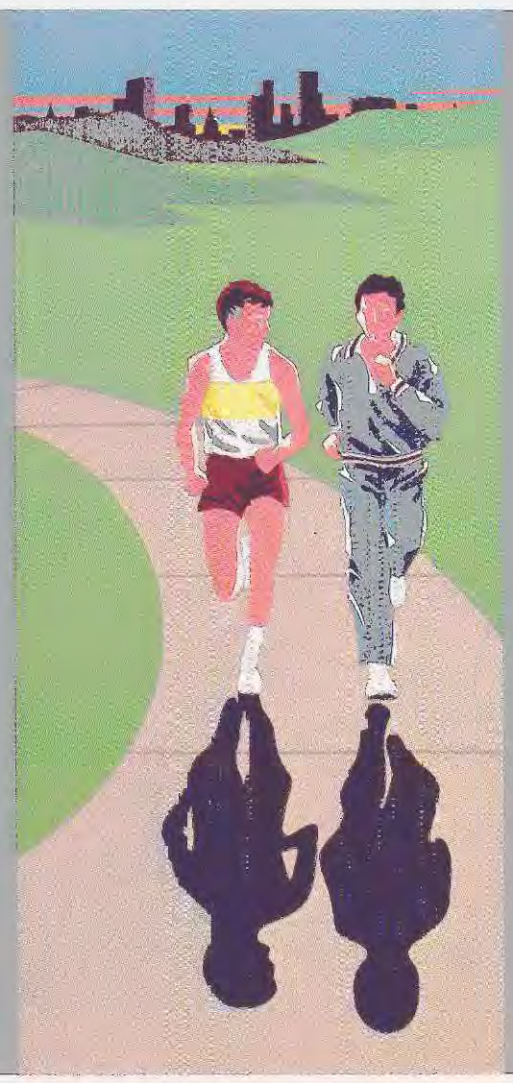
Some 44% of the respondents had a concurrent hospitalization review program in 1986, compared with 30% in 1985. And, 22% were

Continued on page 12

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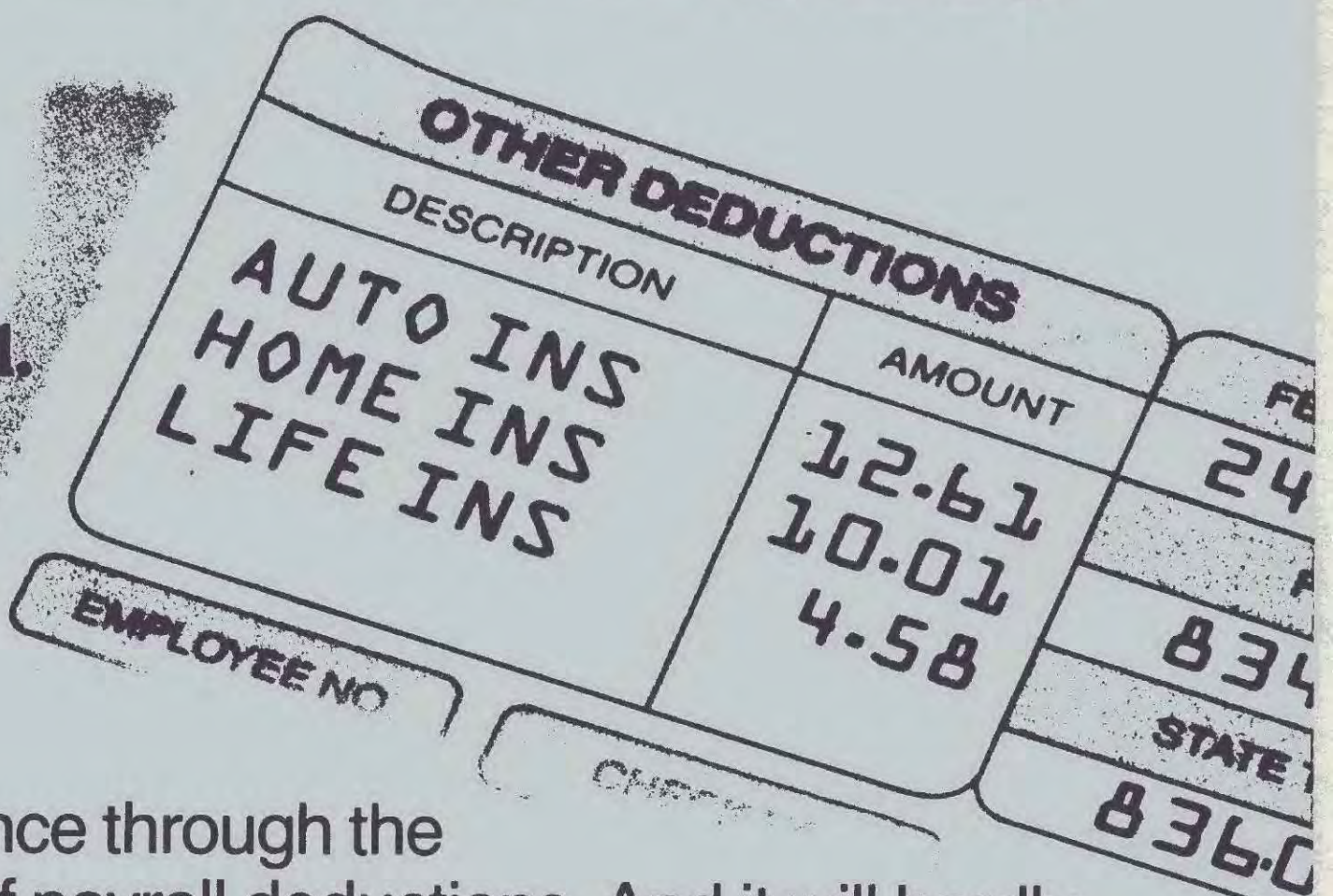
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Public sector

Continued from page 10

considering such a program in 1986, compared with 30% in 1985.

And, 47% of the respondents had a mandatory second surgical opinion program in 1986, compared with 27% in 1985. And, 22% were considering implementing such a program in 1986, compared with 28% in 1985.

In addition, 47% of the respondents had a voluntary second opinion program in 1986, compared with 32% in 1985.

Similarly, 27% of the respondents in 1986 had a mandatory outpatient surgery program, and 38% had a voluntary outpatient surgery program. In comparison, 16% had a mandatory outpatient program in 1985, and 29% had a voluntary program.

Finally, 47% of the respondents said they had a program for auditing medical claims in 1986, and an additional 24% were considering implementing such a program. This question was not asked on the 1985 survey.

- Communication.

Some 28% of the respondents said they believe a good employee communication program can have a significant impact on holding down health costs, and an additional 56% believe it can have a moderate impact.

And, a majority of the respondents had mounted special communications efforts in various health care areas: 52% to introduce changes in benefit plans, 50% to increase general health awareness, 49% for specific health education programs, 35% to enhance employees' understanding of their role as health care purchasers and 31% to enlist employees' help in controlling medical costs.

- Retiree medical benefits.

Some 73% of the respondents provide medical care benefits for retirees, and 24% report that the employer pays the full cost of the retiree coverage. However, 63% of the respondents report that the retiree pays more than 75% of the cost of coverage.

In addition, 68% of the respondents provide medical benefits for dependents of retirees, and 14% of those absorb the full cost of the coverage. But, 71% report that the retiree pays more than 75% of the cost of the dependent coverage.

And, 78% of the respondents said that, in an effort to control rising costs, they plan to pass on future cost increases to the retirees.

- Preferred provider organizations.

Some 22% of the respondents reported that they offered a PPO option in 1986, up from 13% in 1985. And, more than half the respondents said they had been contacted by at least one group regarding a PPO in 1986, up from less than 20% in 1985.

The survey authors note, "The growth of PPOs in the last year seems to indicate that employers recognize the discounts available and that PPOs, in turn, have become more aggressive in their marketing of the public sector."

And, it appears that the growth of PPOs will continue: 27% of the respondents said they would offer a PPO from a quality organization, and an additional 49% said they might offer one.

The most serious criticism of PPOs was employee resistance to limited choice of provider, cited by 58% of the respondents. But, this is down from 68% in 1985, the authors say, "probably because the number of providers has increased."

- Health maintenance organizations.

Like PPOs, HMOs are growing among public-sector employers. Some 54% of the respondents offer an HMO option to their employees, and 61% of these offer more than one HMO.

In comparison, in 1985, 52% of the respondents offered an HMO option, and only 30% of these offered more than one HMO.

Those employers with an HMO report an enrollment rate of 27%.

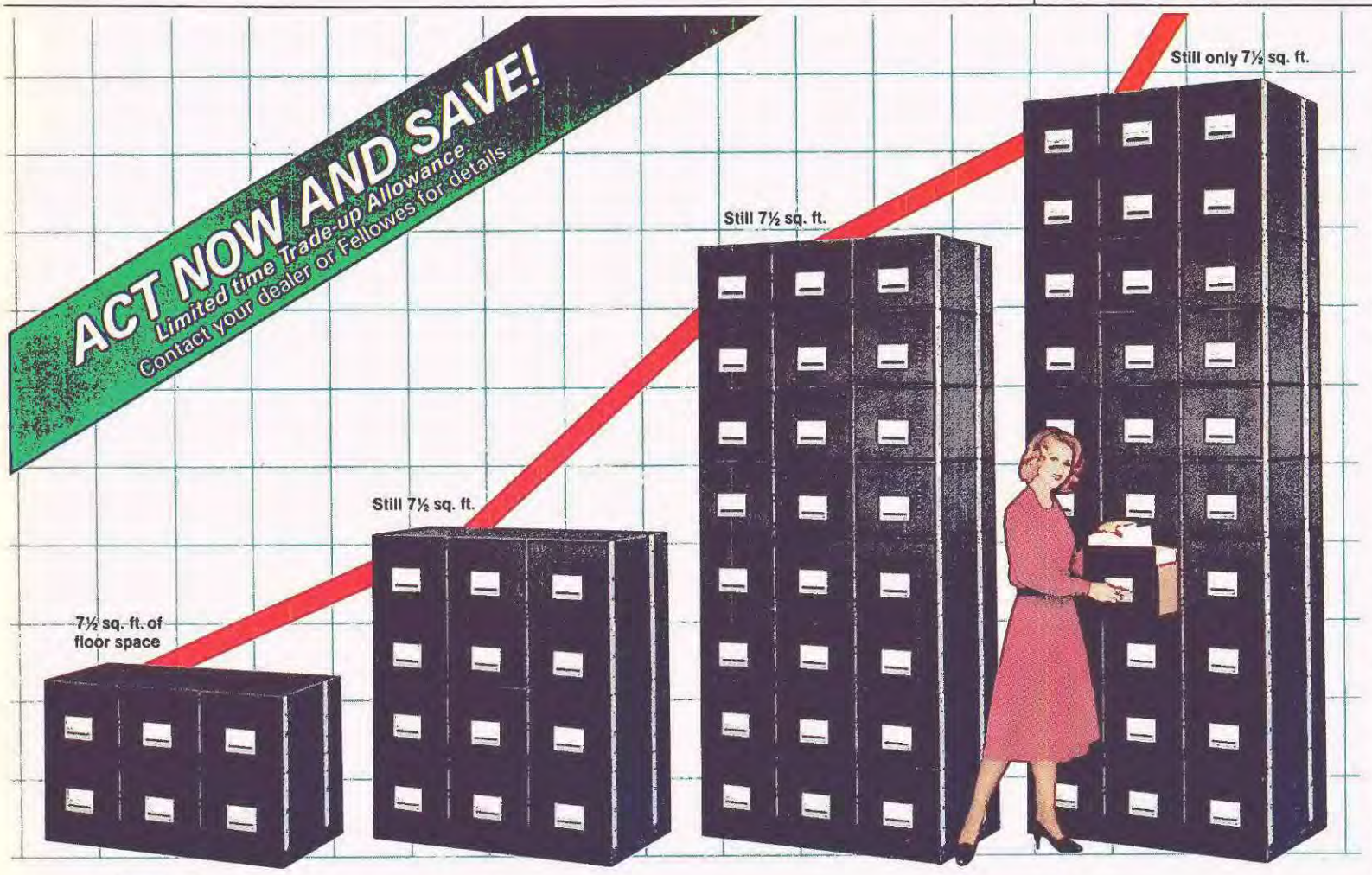
Forty percent of the survey respondents said they are interested in an HMO because of its ability to contain costs. But, 54% said they feared that HMOs might eventually lead to an increase in the costs of their traditional health care plan because HMOs would tend to attract younger, healthier employees.

- Utilization management.

More public sector employers are asking claims payers to provide information on the types and costs of claims. And, 58% of the respondents said the information provided by their claims payers was helpful in managing their benefit costs.

Only 45% of the respondents had made any changes in their plans

Continued on page 14



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BI-11

1986 RISK RETENTION ACT

New Opportunities and Challenges

THE RISK RETENTION ACT

Challenges and Opportunities

The Risk Retention Amendments of 1986 could dramatically effect the way many organizations insure their exposures to loss. We expect the 1986 Amendments to be signed into law by President Reagan before the November elections.

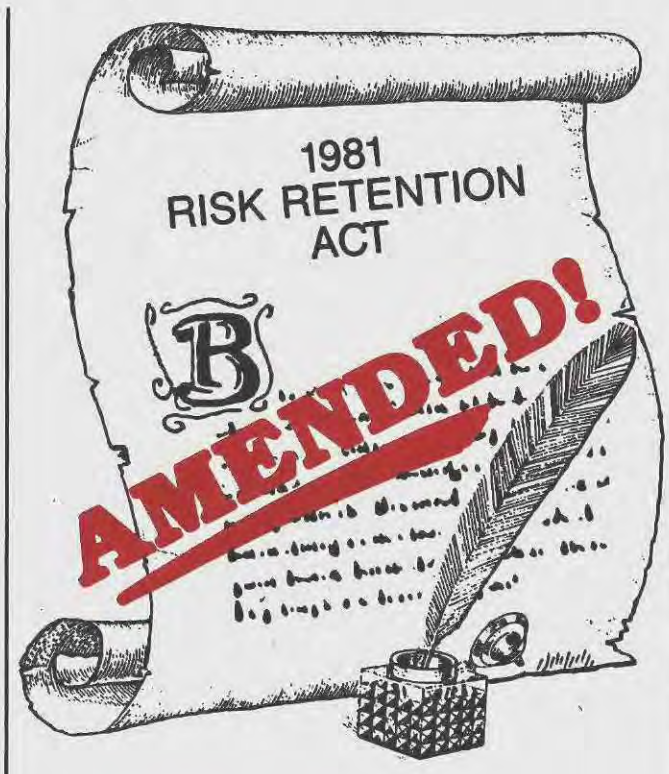
Tillinghast is sponsoring a series of briefings to inform you of the changes, opportunities and challenges resulting from this important legislation.

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ABOUT TILLINGHAST

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Tillinghast offers consulting services in risk management and life, health, and property/casualty insurance to organizations of all types.



THE PROGRAM

8:00- 8:30	Continental breakfast
8:30-10:00	The Risk Retention Act • Major changes • Coverages • Who benefits?
10:00-10:15	Coffee Break
10:15-11:30	Challenges and opportunities • Purchasing groups • Effect on existing captives • Key factors for success • Regulatory issues
11:30-12:00	Open discussion

THE SPEAKERS

The panel for each briefing will include consultants from the Risk Management and Casualty Division of Tillinghast/TPF&C and Michael J. Mullen, an attorney with Crowell & Moring, Washington, D.C. Mr. Mullen is recognized as an expert on the Risk Retention Amendments.

THE SCHEDULE

November	13	**NEW YORK** N.Y. Marriott Marquis 1535 Broadway New York, NY
	14	**STAMFORD** Westin Hotel 2701 Summer Street Stamford, CT
	17	**BOSTON** Westin Hotel Copley Place Boston, MA
	18	**ATLANTA** Westin Peachtree Plaza Peachtree at International Boulevard Atlanta, GA
	19	**CHICAGO** TPF&C 200 West Madison Street (33rd Fl.) Chicago, IL 60606
	20	**ST. LOUIS** Radisson Hotel St. Louis 9th Street at Convention Center St. Louis, MO
	21	**DALLAS** Sheraton Park Central 12720 Merit Drive Dallas, TX
	24	**PHILADELPHIA** The Barclay Hotel 237 South 18th Street Philadelphia, PA
December	1	**PITTSBURGH** Hyatt Pittsburgh at Chatham Center 112 Washington Place Pittsburgh, PA
	2	**LOS ANGELES** Westin Bonaventure 404 South Figueroa Street Los Angeles, CA
	3	**SAN FRANCISCO** Hyatt Regency San Francisco 5 Embarcadero Center San Francisco, CA
	4	**MINNEAPOLIS** IDS Center 50th Floor—Alumni Club Minneapolis, MN
	5	**WASHINGTON** Washington Hilton & Towers 1919 Connecticut Avenue, N.W. Washington, D.C.

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A TILLINGHAST BRIEFING

Health care survey

Continued from page 12

based on that information, but that was up from 35% in 1985. And 76% of the respondents said their claims reports are not compared with various norms.

- Claims administration. The health care plans are fully insured at 41% of the entities responding to the survey, 59% have some form of self-insurance.

In addition, 37% of the respondents use Blue Cross/Blue Shield coverage, 27% use commercial insurers, 24% use independent third-party administrators, and 4% are self-administered. And, 21% of the respondents said they have changed their administration arrangements during the past year.

Some 87% of the respondents have coordination of benefits provisions, 85% reimburse according to reasonable and customary limits, 38% conduct claims audits and 24% have fixed-dollar reimbursement schedules. And, 86% report that the insurer or claims administrator is responsible for verifying eligibility for claims payments.

- Lifestyle and wellness programs.

The most-popular wellness program offered by the public-sector employers was drug and alcohol treatment, offered by 52% of the employers in 1986, compared with 48% in 1985.

For example, 31% of the respondents offer a stress management program in 1986, up from 28% in 1985. And, 27% offered a physical fitness program in 1986, up from 21% in 1985. Some 48% of the respondents offered an employee assistance program in 1986, up from 41% in 1985. And 42% offered psychological counseling in 1986, up from 38% in 1985.

●

Copies of "Health Care Cost Containment in the Public Sector—1986," are available free of charge from Virginia Decker, Associate, William M. Mercer-Meidinger Inc., 1211 Ave. of the Americas, New York, N.Y. 10036-8855; 212-997-7171.

City in Texas sells bonds to finance self-insurance

By MICHAEL BRADFORD

ARLINGTON, Texas—Instead of paying higher premiums for liability insurance, the city of Arlington is funding a self-insurance program through the sale of taxable bonds.

Under the program, Arlington will raise $9 million through the sale of the bonds by the newly created Arlington Property Finance Authority Inc.

The authority began offering the five- and 10-year bonds last Tuesday—the shorter-term bonds at 7.45% and the longer-term at 7.9%.

The city's $6 million in first-dollar liability coverage written by The Hartford Insurance Group was slated to expire at the end of October, after the insurer granted a one-month extension to the policy.

That coverage cost $1.2 million, according to Lynn Hampton, Arlington's finance director.

The city had received a quote of $1.6 million for $3.5 million in 1987 coverage from London underwriters and insurers in the United States, according to Ms. Hampton. Arlington also would have had to accept a $500,000 deductible for the commercial coverage, she added.

So, the city turned to the self-insurance plan, with an estimated saving of more than $1 million in the first year alone.

The finance director said the Arlington plan differs from those in other cities, where self-insurance plans funded through bond sales operate on a pooled or shared risk basis with other cities.

However, at least one other city has used funds from a bond offering for similar purposes. Earlier this year, Compton, Calif., earmarked $5 million of an $11 million offering for its self-insurance liability fund (*BI*, July 7).

Arlington is funding for $1 million in per-occurrence coverage under the plan, with a $3 million aggregate limit.

Since 1979, Arlington has paid liability claims totaling around $2 million, according to Ms. Hampton. Last year, claims amounted to around $352,000, compared with $190,000 in 1984.

Ms. Hampton said the city is looking for excess coverage, but has not found an insurer willing to offer the insurance. "We will only buy what is reasonable, where the cost is equal to the risk," Ms. Hampton said. "When excess coverage becomes available, we will purchase it."

If claims in one year exceed the plan's $3 million aggregate before the city has excess coverage in place, officials will take advantage of a state law that allows municipalities to wait as long as five years before paying a claim, Ms. Hampton said.

The city's program is expected to take care of Arlington's liability coverage needs for the next 10 years, she explained. It will provide coverage for general liability exposures, automobile and public officials liability.

"We worked with The Wyatt Co. to analyze risk, the city's growth," and projected claims, she said, to determine how much coverage Arlington would need during the next decade.

A lien is attached to the assets of the fund to prevent it from being used for anything other than self-insured losses, she noted.

The bond sale should be helped by the Aa rating issued by Moody's Investor Service, said Ms. Hampton. The grading is a "high quality" ranking by the national rating service.

Ms. Hampton said the city decided to issue taxable bonds because of the long-term goals of the plan. Tax-exempt bonds carry the stipulation that 85% of the revenue earned from their sale has to be spent within three years, she said.

Arlington's property coverage is unaffected by the move to self-insure liability risks, said Ms. Hampton. The city currently has $117 million in property coverage underwritten by National Surety Corp. in Chicago. The coverage cost $42,520 and carries a $100,000 deductible, Ms. Hampton said. ■

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Q. **How can I measure the effectiveness of risk control?**

A. ...there should be specific criteria established to measure the degree of effectiveness...These criteria must be measurable, quantifiable and relative to an exposure base.

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U.S. work comp system is a success: Schilling

By CAROL CAIN

LOUISVILLE, Ky.—The time has come to recognize that the workers compensation system is a success, says Glenn L. Schilling, the immediate past president of the International Assn. of Industrial Accident Boards & Commissions.

"With all the problems that we know. . .where would we be without it?" he asked during the opening ceremony of the 72nd annual convention of the IAIABC held last month in Louisville.

The 75-year-old U.S. workers compensation system is being used as "a study guide" and a potential model for tort reform legislation, especially in the areas of product liability and medical malpractice, said Mr. Schilling, a Louisville attorney and a member of the Kentucky Workers' Compensation Board.

And despite criticism that injured workers are not efficiently compensated for their injuries, "it *is* possible to get workers compensation relief," he declared.

More than 500 delegates or representatives from 41 states, five Canadian provinces, Puerto Rico, New Zealand, Australia and South Africa attended the annual event to tackle such subjects as self-insurer bankruptcy, stress in the workplace and the impact of federal legislation and tort reform on state workers compensation systems.

"The challenge of workers compensation, the challenge that this organization can address—will address—is the improvement of administration," Mr. Schilling said, adding that such improvement is "doable and affordable."

The IAIABC tackles its work through seven standing committees: adjudication, administration and procedure, legislation, medical, rehabilitation, safety and statistics.

John A. Arcudi, the newly elected IAIABC president, intends to "keep accentuating the committee work," which he says has been accelerated in the past seven years.

The IAIABC's All-Committee Conference, held early each year, is where the bulk of the association's study is done, explained Mr. Arcudi, who is chairman of the Connecticut Workers' Compensation Commission.

Committees meet again during the annual convention to adopt reports and resolutions, but the convention also is a "homework session," Mr. Schilling said, "where we must go on and learn more."

Historically, the IAIABC has opposed federal intervention into state workers compensation systems and one of the resolutions adopted last month encourages the federal government to leave the administration of occupational disease claims in the hands of state workers compensation departments, and concentrate its efforts on scientific and medical research.

The resolution, which came out of the legislation committee, opposes legislation that would supplant state workers compensation agencies in the field of occupational disease or create a monitoring bureaucracy armed with power to interfere with state compensation administration.

Such a bill was pending in Congress during the past two years—H.R. 1309, the High Risk Occupational Disease Notification and Prevention Act—and it is expected to be reintroduced next year (*BI*, June 30, 1986; May 26, 1986; Sept. 30, 1985).

Although H.R. 1309 doesn't specifically mention state workers compensation systems, Robin W. Waller, chairman of the legislation committee, pointed out that if it is adopted it would have a tremendous impact on the states' systems.

The thrust of the measure is to identify and monitor those workers who are at a high risk of disease because of their jobs and the substances to which they are exposed. It also would cover persons exposed to these workers.

Mr. Waller, who also is a commissioner with the Connecticut Workers' Compensation Commission, said such a program as called for in H.R. 1309 would involve millions of workers. The next "obvious step," Mr. Waller said, would be for these workers to be advised of their risks, and the "next step"

Continued on next page

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System success

Continued from previous page

would be the filing of workers compensation claims.

Presently, it has been estimated that there are between 100,000 and 200,000 occupational disease claims being handled by the state workers compensation system, Mr. Waller said. If these "million" additional claims are filed, the state workers compensation system would not be able to handle them, he added. That's where Congress would step in with legislation calling for a federal workers compensation system, he said.

Such a bill has been introduced in the past several sessions, most recently H.R. 3090, the Occupational Disease Compensation Act.

The IAIABC resolution recognizes the need and obligation to respond to the plight of occupational disease victims and encourages all states to continue their efforts to adequately address these needs.

The federal bill, however, "contains a direct attack on the ability of state compensation agencies to adequately administer occupational disease claims," Mr. Waller said. He told delegates at the convention that the chances are good for introduction and passage of such a bill during the next two-year session of Congress.

Both federal bills had the support of organized labor.

Organized labor also is on the mind of Mr. Arcudi, who as new IAIABC president hopes to recruit more representatives from labor as associate members.

Currently, the association has 65 active members from workers compensation agencies all over the world, and 349 associate members, including: employers, both insured and self-insured; insurers; vocational physicians; rehabilitation experts; other workers compensation service agencies; and attorneys. No labor groups are active associate members.

In addition to its all-committee conference and annual meeting, the IAIABC also sponsors annually a workers compensation college, which offers an intensive week-long course of study in the field of workers compensation.

The next college, which is held in a different location each year, will be April 5-11 at Arizona State University in Tempe. Information about the college or about the IAIABC is available from Executive Director J.T. Noblin, P.O. Box 13449, Jackson, Miss. 39236. ■

Workers comp self-insurers to draft model regulations

By CAROL CAIN

LOUISVILLE, Ky.—Workers compensation self-insurers are going to draft model regulatory guidelines to stave off unfavorable legislation.

Meanwhile, state workers compensation administrators are reviewing the model rules and regulations its national association adopted in 1980.

Amendments to existing laws, which regulate self-insurers by setting financial and security requirements, are inevitable in light of recent employer bankruptcies, said Richard D. Schafstall, director of safety and environmental health for Cincinnati Gas & Electric Co.

And, self-insurers themselves want to make sure those amendments or new regulations are "workable," he added.

Mr. Schafstall also is president of the National Council of Self-Insurers, which last month authorized the formation of a committee to meet with state workers compensation administrators to study self-insurer bankruptcy and develop either model legislation or guidelines for legislation.

The NCSI took the action at its semiannual meeting held in Louisville in conjunction with the annual meeting of the International Assn. of Industrial Accident Boards & Commissions.

Alan H. Strohmaier, director of unemployment and workers compensation activity for General Motors Corp. in Detroit, is chairman of the NCSI committee.

Others on the committee are: Robert L. McCallister, corporate manager of workers compensation at James River Corp. in Richmond, Va.; Theresa Greer, director of workers compensation services at Carter Hawley Hale Stores Inc. in Los Angeles and president of the California Self-Insurers Assn.; Joseph E. Burns, manager of workers compensation at Aluminum Co. of America in Pittsburgh; and Allyn C. Tatum, commissioner of the Workers' Compensation Commission in Little Rock, Ark.

The IAIABC itself also is reviewing model regulations for self-insurers.

A subcommittee of the group's Administration and Procedure Committee is looking at the expanding area of risk management and regulation of third-party administrators and others who assist self-insurers.

The subcommittee also is studying exposure and experience information and security devices, including guaranty funds.

The Administration and Procedure Committee recommends that IAIABC members develop "much more expertise in the financial regulatory area and to recognize that this status of self-insurance is a privilege and should be continuously reviewed," said Marshall G. Bennett, chairman of the committee, as well as chairman of the Mississippi Workers' Compensation Commission.

He cited unpaid claims from self-insurer bankruptcies as one reason the IAIABC is reviewing self-insurance.

Although a recent NCSI study showed that only 0.2% of self-insurers filed for bankruptcy between 1980 and 1984 (*BI*, July 21), several experts expect the number of self-insurers to increase in the next decade, and so will the number of bankruptcies.

State workers compensation administrators and legislators have been aware of this possibility, and in recent years several have enacted laws increasing the financial requirements for employers to self-insure. In most cases that meant an increase in the security deposit.

However, some states, notably California and Illinois, also enacted legislation establishing a self-insurer guaranty fund—a mechanism to pay claims in the event of a bankruptcy.

"If you stop and think about it, legislators shouldn't care how you solve the problem, just as long as self-insurers that file for bankruptcy pay any outstanding workers compensation claims," Mr. Schafstall said.

So, guaranty funds and increased security requirements will be among agenda items for study by the NCSI committee, he said, indicating that the committee's first meeting is scheduled for Nov. 7.

Mr. Schafstall said it is hoped that the model legislation or guidelines will be ready for NCSI approval at its next semiannual meeting, May 3-6 in West Palm Beach, Fla. ■

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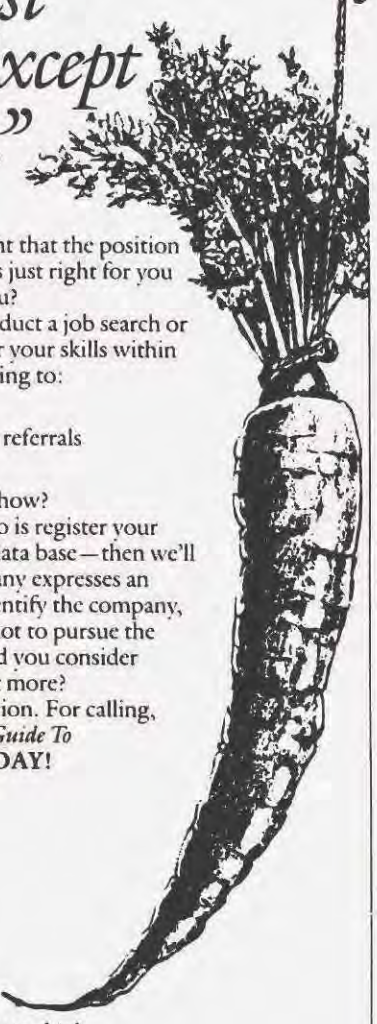
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Tort debate may affect work comp: Nutter

By CAROL CAIN

LOUISVILLE, Ky.—The "politically charged tort debate" of recent months has ramifications for the workers compensation system, says the president of the Alliance of American Insurers.

Franklin W. Nutter made his remarks during the annual meeting of the International Assn. of Industrial Accident Boards & Commissions, held last month in Louisville.

That debate, according to Mr. Nutter, has centered on two choices: tort reform or compensation reform.

"We in the property/casualty industry have taken the avenue of tort reform. But if tort reform does not work, or if tort reform does not stabilize the economic activity that is based upon it, then this industry and the business community will revisit the question of whether or not we are engaged in tort reform or compensation reform," he said.



Mr. Nutter

And, if the choice then becomes compensation reform, the workers compensation system will be looked at as a model, said the chief of the Alliance, based in Schaumburg, Ill.

Meanwhile, trends in the civil justice system may have implications for those in the workers compensation field, he said.

For instance, some have suggested that attorney involvement, which is so evident in the tort system, will continue to grow, even though the workers compensation system was initially conceived as a no-fault, no-attorney system, Mr. Nutter said.

He noted there are about 750,000 attorneys in the United States, about 450,000 of which are engaged in private practice.

The debate also raises the question of whether liability insurance reforms will increase the number of occupational disease claims filed within the workers compensation system.

"Probably not. They likely will stay in the tort liability system," according to Mr. Nutter. However, he cautioned work comp administrators to watch the movement of Congress on federal product liability legislation and federal occupational disease legislation.

The issue of capping awards is prevalent in tort reform discussion, and Mr. Nutter believes that it is inconceivable not to expect this debate to spill over to the workers compensation system.

"But I suggest that's nothing new. For the past 10 years the workers compensation system has been under stress as a result of the pull and tug between benefit levels and costs," he said.

Tort reform, in many instances, also calls for a cap on non-economic damages, which is likely to increase the emphasis on and demand for physical and vocational rehabilitation, he said.

Mr. Nutter also said that the current insurance crunch has brought the entire industry—including workers compensation insurance—under scrutiny of regulators.

In particular, both regulators and state legislators are looking at the way rates are developed, he said, noting that this study may ultimately affect workers compensation rating plans, too.

"What we in the (insurance) industry are faced with is a whole series of proposals, almost national in scope, for re-regulating rating systems," he said. "Today I would suggest no unusual spillover of these proposals into the workers compensation (system). Yet, to most state legislators, workers compensation is indistinguishable from other forms of insurance.

Some observers suggest attorney involvement, which is so evident in the tort system, will continue to grow, even though the workers compensation system was initially conceived as a no-fault, no-attorney system, Mr. Nutter says.

"And, for us in the property/casualty industry, it appears that sweeping changes across these various lines of insurance are very much real," Mr. Nutter said.

Other changes made recently in state tort laws also are expected to have an immediate impact on the workers compensation system, Mr. Nutter said.

He pointed out that changes in joint and several liability standards and in comparative negligence standards encourage "attacks on the exclusive remedy provision" of the workers compensation system.

And, changes in the collateral source rule also bring into play workers compensation benefits, which generally have been excluded as a collateral source, he said.

In some cases, workers compensation benefits will be pursued more aggressively prior to a finding in a tort liability case, Mr. Nutter said. ■

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Stress-related claims increasing: DeCarlo

By CAROL CAIN

LOUISVILLE, Ky.—Recent statistics show that about 15% of all occupational disease claims, excluding black lung, are for mental disorders related to stress.

And, these statistics confirm earlier studies that suggest stress claimants are younger and more likely to be female than occupational disease claimants are generally, said Donald DeCarlo, special counsel for the American Insurance Assn. in New York.

On average, a typical stress claim costs $8,159, compared with $4,245 for a typical traumatic injury claim, Mr. DeCarlo said in remarks during the annual convention of the International Assn. of Industrial Accident Boards & Commissions, held last month in Louisville.

The average age of stress claimants is 38, compared with 43 for all other occupational disease claimants, Mr. DeCarlo said.

And, 48% of all stress claimants are women, as opposed to only 29% of occupational disease claimants generally, he said.

The conclusions are based on 1983 statistics, Mr. DeCarlo said, adding that between 1980 and 1983, the percentage of stress claims doubled.



Mr. DeCarlo

Mr. DeCarlo previously studied stress claims and reported his findings in a 1985 monograph published by the National Council on Compensation Insurance. At the time, he was vp and general counsel of the NCCI (*BI*, Jan. 15, 1985).

In that earlier study, Mr. DeCarlo said that claims for mental disability were nearly unheard of 10 years ago, and non-existent in most states as recently as five years ago.

Statistics showed that between 1980-1982, 11% of all occupational disease claims reported in 13 states were for mental disorders related to stress.

One reason for the increase in claims—to 15% from 11%—may be the publicity surrounding such cases, according to Mr. DeCarlo. He believes that most workers can identify with an employee experiencing emotional stress from job pressures, such as a change in duties or a conflict with supervisors.

He pointed to another recent survey, this one conducted by the Canadian Mental Health Assn., in which about 60% of the respondents, with many of them being younger than 44, reported experiencing "negative stress" on the job.

The sources of stress for the respondents in the Canadian survey included workload and time pressures, quality of management, relationships with supervisors and co-workers, contact with the public or customers and potential layoff or bad times.

But whatever the cause for the increase in mental stress claims, Mr. DeCarlo says "there is no doubt in my mind" that the increase will continue.

One of the major reasons that will keep stress claims in the forefront is the increasing automation of offices, especially the increasing use of video display terminals.

The federal Office of Technology Assessment has stress claims in connection with VDTs "way up on their list for a high profile item that they want to police as to potential stress claims," Mr. DeCarlo said.

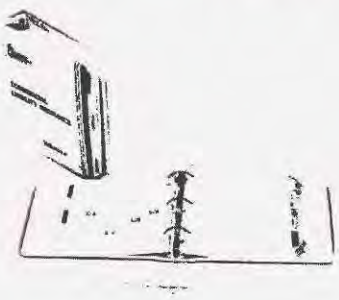
They indicate that one source of alleged mental stress stems from higher expectations as to speed and efficiency and electronic monitoring of work flow on VDTs, he said. And another source is the isolation associated with working on the terminals.

Stress-related claims also are a high priority item for the AFL-CIO's Legal Rights Foundation, Mr. DeCarlo said.

But, the most persuasive indicator that mental stress claims will be on the increase lies not in the demographic distinctions or increased automation, but from the size of the potential pool of claim-

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Continued from previous page
that might warrant federal regulation.

• The Florida Supreme Court's decision to invalidate that state's agent anti-rebating statutes.

Mr. Taylor and Mr. Dillon disagreed in their personal opinions of the Florida Supreme Court's June 3 decision that Florida's anti-rebating statute constituted "an invalid exercise of the state's police powers" (*A/BT*, Aug. 4).

While the IIAA opposed the court's decision, Mr. Taylor said that rebating "is happening all of the time anyway," even in his own agency. "We do it in our office all the time. We don't call it rebating, but we adjust our commissions with our companies to get a lower premium" for clients, he said.

Smaller agents will suffer the most from rebating, Mr. Taylor said.

"Larger agents have been doing this all along and it's not going to affect them that much," he commented, adding that he views rebating as just one of a number of changes that agents will face in the future," he said.

Mr. Dillon, however, sees danger in rebating. "Where do you draw the line on what an agent should do?" he asked. "I submit to you that there will be a lot of problems in Florida following the action of the Florida Supreme Court. . . . There will be some agents who will try to buy a large volume of business, and they will ultimately end up in trouble," Mr. Dillon said.

But. Mr. Taylor pointed out that rebating may be only one of many changes facing the insurance industry because of the public focus on the civil justice crisis and insurance availability problems.

"As we get tort reform, we're going to get a lot of other changes," Mr. Taylor said. For instance, if the industry wins the tort reforms it desires, it probably will have to make certain concessions, such as the repeal of Florida's anti-rebating law, he said.

Despite the market's climate, 'good agents will probably have the best year they've ever had,' Mr. Taylor says.

"Companies and agents are going to get some residue of tort reform and I just hope we're all willing to pay the price of what we get," he warned.

Mr. Taylor added that if insurers obtain the tort reforms they have been crying for, "they have a responsibility to respond to the pressure" for additional coverage availability.

• The likelihood of a merger between the IIAA and the National Assn. of Professional Insurance Agents.

"I don't think a merger is going to occur in our lifetime," said Mr. Taylor, although he added: "I wish it would."

"I think it would be very beneficial if we could merge our efforts together. You talk about grass roots. . . "

Mr. Taylor added that while between 60% and 65% of the IIAA's members are also members of the PIA, a merger would still add significantly to the association's political clout.

• Company/agency relations.

Both Mr. Taylor and Mr. Dillon consider this an area of "high priority" for the IIAA during the coming year.

"We kid ourselves about being independent, but as you know, we are not independent," Mr. Dillon said. Insurers and agents "are dependent upon each other."

Agency/company relations is "one area I want to see us do better in. We all see it as an extremely important area of activity," Mr. Dillon added.

"Agents need to associate themselves with companies who support the American agency system. That would go a long way toward solving a lot of our problems," he said.

Mr. Dillon warned that "there are sharks out there—companies that come and go with the soft and hard markets. They'll give you a low price today and tomorrow there won't be any price."

• Changes in the current insurance cycle.

Both Mr. Dillon and Mr. Taylor see changes in the insurance cycle. They say that although insurers are selecting agents with a new set of criteria, many companies have begun to appoint new agents.

"Most companies are appointing new agents now and, in the same light, most companies have finished their mass cancellations of agents," Mr. Taylor said.

But he warned that insurers are more selective than they were in the past and he doubts that insurers will ever again reach the agency ranks they had in past years.

Mr. Dillon said that agents should not overlook regional insurers if they are searching for new companies to represent. "Many regionals will do things for agents that the larger companies will not do," he stressed.

Subtle changes in the marketplace are being felt in some lines of coverage, Mr. Taylor said. "I see a softening, particularly in property coverage, even within my own agency," he commented.

And, Mr. Taylor acknowledged that amid all the availability and affordability problems, "good agents will probably have the best year they've ever had."

While "poor agents will not do well, they don't do well in any cycle," he remarked.

"I don't think we have the responsibility to keep the poor agents in business," he added. ■



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Many agents struggling to survive: Yates

By LINDA J. COLLINS

TORONTO—The constriction of the commercial lines marketplace was "swift and brutal," forcing many independent agents to rely on their basic instincts to survive, said an agent association executive.

The Independent Insurance Agents of America Inc.—assisted by its state association affiliates—has done "everything it could to help its members adapt to rapid and profound changes" taking place in the insurance marketplace, said Jeffrey M. Yates, IIAA executive director.

Mr. Yates told agents attending the IIAA's national convention in Toronto that state and national IIAA efforts over the past year have included:

- Assisting member agents in locating markets for hard-to-place lines of business.
- Advocating market assistance plans—at the state level—and also directly administering several of those plans.
- Lobbying for and informing consumers about the need for civil justice reform to improve market availability and pricing.
- Visiting the chief executive officers of 35 major insurers represented by independent agents, as well as major reinsurers and insurer trade associations, to "urge moderation in their actions."
- Working with the National Assn. of Insurance Commissioners "to encourage regulatory responses that would curb abuses but not restrict the market further."
- Encouraging insurers to "consider innovative ways to provide at least some pollution coverage" to commercial clients.

In addition, the IIAA has "supplied independent agents with information, where we could, to alert them to market alternatives," Mr. Yates said.

For example, the IIAA lists markets needed by specific agents and the markets available for hard-to-place lines on the electronic bulletin board service of its EMIS automated information system.

And, in a special issue of the IIAA's monthly Independent Agent magazine, tips were offered on how to use excess/surplus markets effectively, Mr. Yates said.

Furthermore, the association's outgoing president, Richard G. Taylor, appointed a Markets Task Force to determine what measures the association could take to help improve market conditions.

"Growing out of the work of this task force and our other committees, we will sponsor a series of regional seminars to help agents access the excess and surplus lines markets more effectively," Mr. Yates said.

The IIAA also established a Strategic Issues Task Force, inviting insurance company senior planning and marketing officers to participate.

The task force will release a report later this fall identifying "several specific steps companies and independent agents can take to manage their ways through the inevitable ups and downs of the insurance cycle more effectively, and ways in which they can minimize the drastic swings to which our industry is prone," Mr. Yates said.

One of the conclusions of the task force was that agents should be "more cautious in taking on new companies for a momentary pricing advantage," said Mr. Yates. Instead, they should focus on "forming stronger relationships with carriers that have a track record for consistency and growth over the full insurance cycle."

In fact, one of the association's top priorities for the coming year will be to find a way to achieve agency/company relationships with more "stability and commitment," Mr. Yates said.

And, because farm and rural agents have been "hit particularly hard by the last cycle," the IIAA has addressed that area separately, he explained.

Not only has the association established a grass-roots network of farm and rural agents to keep in touch with the Insurance Services Office, individual insurers and the Federal Crop Insurance Corp., it also has launched a new Farm-Agri newsletter offered free to IIAA members upon request.

The association also is preparing its members for ISO's new commercial general liability forms, with special attention being paid to the claims-made form.

"IIAA has been centrally involved in every phase of this CGL program, from the earliest development stages to the agency education phase, because of its key importance to agents and their clients," Mr. Yates said.

Through the IIAA's efforts, "We were able to influence a number of changes in the forms to improve the coverage, and continue to work cooperatively with ISO toward this objective," he explained. Over the past year, the association has provided CGL educational materials to approximately 30,000 students.

The association also has designed programs to teach agents and their personnel ways to reduce their exposure to errors and omissions claims, according to Mr. Yates.

And, to improve agent credibility in the eyes of consumers, the "IIAA stepped up our general press activities and produced special insurance sections in Newsweek, Time and Inc. magazines, as well as several business specialty magazines, to support the perception of the independent agent as a trusted insurance adviser," Mr. Yates said.

Reporters are now actively contacting the IIAA and its agent sources for information on the industry, he explained.

More than a year ago, the IIAA began encouraging members to seek election as delegates to the White House Conference on Small Business. Response prompted representation by 36 agent delegates, who provided valuable input into the conference's recommendations concerning insurance and tort reform, according to Mr. Yates.

Besides participating in the Conference on Small Business, IIAA representatives over the past year have testified at 25 House and Senate hearings involving insurance, especially hearings on bank entry into the insurance industry and on the effects of the Tax Reform Act of 1986 on the insurance community, Mr. Yates added.

The executive urged agents to continue their support and participation in association efforts to improve market conditions. He added that while "the breadth and complexity of the problems facing you will continue to grow, so will the opportunities." ■

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Abuse of tort laws hurts society: Panel

By LINDA J. COLLINS

TORONTO—A country built on entrepreneurial spirit is now afraid to develop new products because of a judicial system gone awry, said several speakers on a panel at the Independent Insurance Agents of America's convention.

"When products are withdrawn from the market because of the potential product liability (exposure), in the long run society suffers harm," said Frederick J. Krebs, a U.S. Chamber of Commerce attorney who works with the organization's Civil Justice Action Group.

Not only has today's legal system prompted the withdrawal of some products from the marketplace, it also discourages companies from developing new products, added William M. McCormick, chairman and chief executive officer of Fireman's Fund Insurance Cos.

Tort law is a "balancing act and if laws are too lax. . .any kind of innovation is discouraged," said Mr. McCormick. "There's a risk of living that all of us should bear."

In addition, the current legal system has eroded the concepts of innocence and guilt, another panelist pointed out.

In many cases corporations are paying frivolous claims with no substance simply because "it's cheaper to make payoffs than to defend a case. That's wrong," said Victor E. Schwartz, a partner in the law firm of Crowell & Moring in Washington and counsel to the Product Liability Alliance, a coalition of major business associations pushing for enactment of federal product liability reforms.

While tort law has served U.S. citizens well for the past 200 years, "Now we've become its servants, and the deep pocket is our own pocket," Mr. Schwartz stressed.

But a trial lawyer disagreed with other panelists, saying that consumers often are confronted by "bottom-line morality" rather than "private morality" in their dealings with insurers.

Insurance company executives frequently have two sets of morals, the ones by which they conduct their private lives and the ones by which they run their businesses, said Bill Wagner, vp of the Assn. of Trial Lawyers of America in Washington and partner in the Tampa, Fla., firm of Wagner, Cunningham, Vaughan & McLaughlin P.A.

The court system monitors this behavior, Mr. Wagner said. "Our civil justice system is a defender of our rights" against big business, government, "our next door neighbor and our plumber," he added.

But the unpredictability of court awards in some lines of coverage has forced many insurers to withdraw from writing those lines in some or all states, rather than risking major losses, Mr. McCormick pointed out.

When significant tort reform laws are passed in the various states, insurers may begin to offer those coverages once more, he said.

"Fireman's Fund has said that where significant tort reform is passed, we will start to write municipality insurance" and other difficult lines of coverage, Mr. McCormick added. In states where the laws change and where joint and several liability is altered, "We put our pen where our mouth is."

But in the case of product liability reform, changes must take place on the federal level, Mr. Schwartz stressed.

"Through the actual practice of trying to get product liability reform at the state level, we found that the states just can't do it," Mr. Schwartz said. He explained that even in those states that have passed product liability reform measures, suits could still be filed over products made in those states, but shipped to other states.

Mr. Krebs agreed. While he cautioned that "when you go to the federal government, you go carefully," he added that because product liability involves interstate commerce, it is an area particularly suited for federal regulation.

But he acknowledged that there has been "substantial progress made at the state level, and except for a few areas such as product liability, most (tort reform) activity should take place at the state level."

Even Mr. Wagner said that he believes "there can be some changes in the tort system." For instance, he said that the trial lawyers' association would support a commission set up to examine attorney fees, which he acknowledged sometimes "are too large."

"Yes, we need some looking at the system," Mr. Wagner said; but, he added, "The reason lawyers like myself can make money is because, almost always, our clients have been shortchanged."

Mr. McCormick said that he believes punitive damage awards should be distributed to entities other than the injured parties, because they are compensated for their losses in other ways.

"Punitive damages ought to apply in a criminal case," but they should be distributed to the state or to victims of uncompensated crimes, rather than awarded to the claimant. And when awarding punitive damages, courts "should require proof beyond a reasonable doubt" that the defendant acted maliciously, Mr. McCormick said.

Mr. Wagner warned that it is dangerous to "just say punitive damages are wrong." Eliminating them could erode the "freedom and rights" afforded to citizens of this country, he said, so the public should "carefully look at those who make such broad proposals."

And, when fixing the system, it is important to be careful not to make it difficult for victims to receive compensation for legitimate claims, Mr. Krebs added.

"Remember as you're looking for deep pockets to protect the little boy who slips on the banker's sidewalk that it remains stretched," Mr. Krebs commented. "Our laws and principles have been stretched beyond where they should be" already, he said.

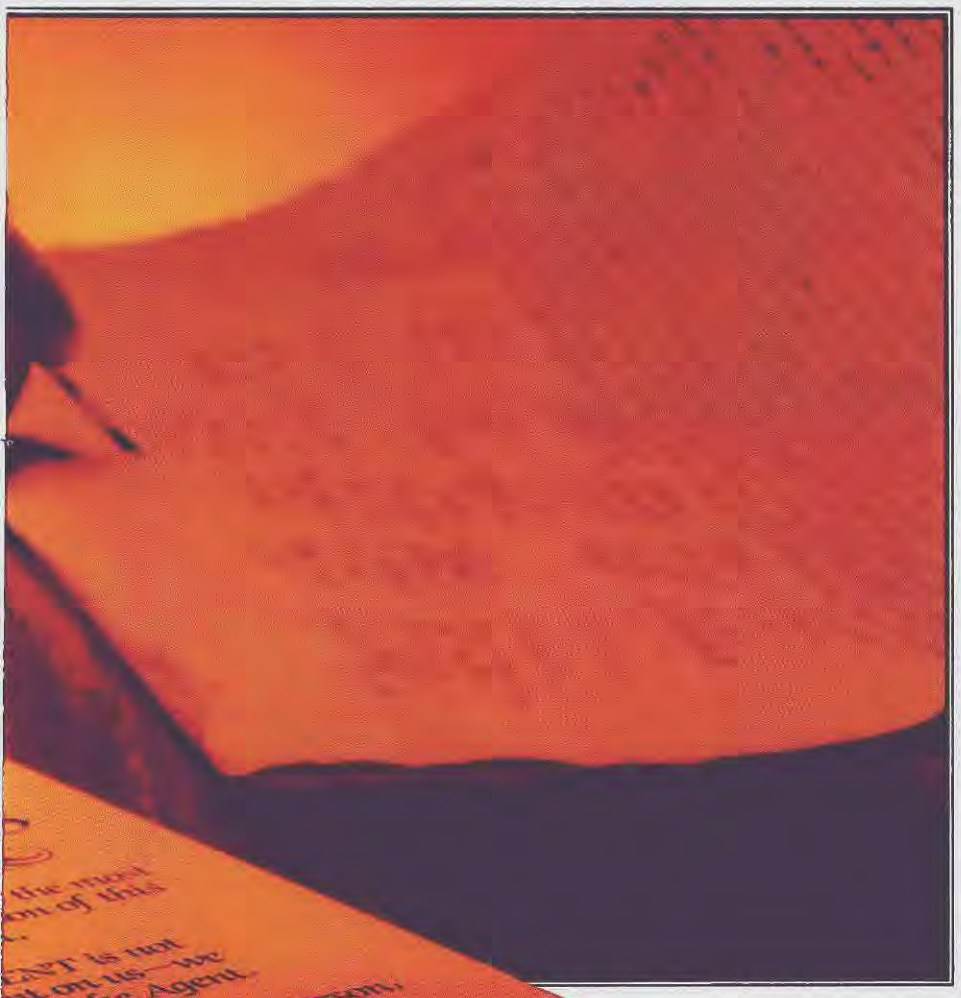
Mr. McCormick agreed. "The tort issue is not a direct debate between insurance companies and trial lawyers," he said. Problems have arisen because the tort system "has been totally recast in an attempt to always give money to someone who was injured."

"If the laws were tightly defined, a lot of our problems would go away," according to Mr. McCormick.

"Most people in this country don't feel you get justice in courts. They feel if you hire the slickest lawyer, then you can win," he said.

The panel was moderated by Mechlin D. Moore, president of the Insurance Information Institute in New York. ■

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Automation meetings can solve problems

By LINDA J. COLLINS

TORONTO—Too many agents attend automation seminars that give them "lots of ideas," but don't show how to make the ideas work when they get back to their offices, said an agent association executive.

However, a new industrywide effort may help solve that problem, said William T. Vericker, director of education for the Independent Insurance Agents of America.

The IIAA, four other producer trade associations and several insurers are working with IIR/ACORD, an industry-sponsored organization founded to improve agency/company automation efforts, to develop a one-day automation seminar that provides practical solutions to agency automation problems, he explained.

At a workshop held during the IIAA's 90th annual convention, Mr. Vericker and Shirley A. Lukens, IIAA's director of automation, discussed the seminar's development and then gave convention attendees an abbreviated version.

Mr. Vericker said the seminar should be available by next March. In addition to the IIAA, participants include the American Assn. of Managing General Agents, the National Assn. of Professional Insurance Agents, the National Assn. of Insurance Brokers and the National Assn. of Insurance Women.

The seminar is being developed with information gleaned from 4,000 responses to an automation needs survey distributed to 10,000 agents, Ms. Lukens explained.

Since 85% of the respondents already have automated their agencies, the seminar will focus on how agents can optimize the use of existing computer systems rather than on selecting suitable systems, Mr. Vericker added.

Lack of involvement by an agency principal was cited in the surveys as the main reason for dissatisfaction in automation efforts. Because of this, "the seminar has been designed for the agency principal," Ms. Lukens said.

Through the automation seminar, agency principals should gain practical tips on how to effect change in their offices, Mr. Vericker said, adding, "We're going to try to give you a real blueprint or tinplate to some of the activities you can employ yourselves" to streamline agency automation.

For example, the seminar will discuss how principals can set up internal staff meetings to encourage employee input and participation, Mr. Vericker said.

During the workshop, Mr. Vericker and Ms. Lukens conducted a a mock automation meeting to illustrate how such meetings can be used to solve automation problems.

According to Ms. Lukens, automated agencies that are not now conducting automation meetings on a regularly scheduled basis "should be. It's probably the single most important thing you can do to improve the utilization of your system," she said.

However, agency principals must familiarize employees with the agency's business plan so that everyone "understands the big picture." This is vital because it will prompt employees to begin thinking of ways the agency's computer system can be used to reach those objectives, according to Ms. Lukens.

Next, the agency should designate an automation manager, whose role "is to make sure that agency goals and objectives, as they relate to automation, are carried out," Ms. Lukens said.

Mr. Vericker said the best person for this job is usually a principal or key producer, because these people already are viewed as authority figures.

Ms. Lukens suggested that all agency employees, or at least a representative of each department, participate in automation meetings to give employees a chance to air concerns, clarify misconceptions and voice ideas about how procedures could be improved.

"Face-to-face communication is probably the most powerful tool to implement change," she added.

"There's nothing more disruptive than to spring a change unannounced. These meetings are an excellent way to let people know that there is going to be a change in the system" and make them part of the process, Ms. Lukens said.

She recommends agencies hold weekly automation meetings until they have ironed out problems and established procedures. After that, meetings can be held monthly to monitor progress.

Both Mr. Vericker and Ms. Lukens agreed that each meeting should focus on no more than one or two issues, and each meeting should last no longer than one hour to retain employee attention.

Automation meetings are most effective if they are conducted outside of normal working hours, Ms. Lukens added.

She recommends meetings be held early in the morning because employees will not be thinking about other activities that have occurred during the day. She added that the meetings are better received by employees if they are held in the middle of the week, rather than on Monday or Friday.

If the meeting is held one hour before the workday begins, the agency can even let employees off early on Friday to make up for the extra hour, Ms. Lukens added.

Meetings can be held anywhere, even in the agency, "as long as it's a quiet, undisturbed place," Ms. Lukens said.

She suggested that agents compile a "wish list" of all the things the agency wants to accomplish or change, then select the most urgent of those items to address during the first meeting.

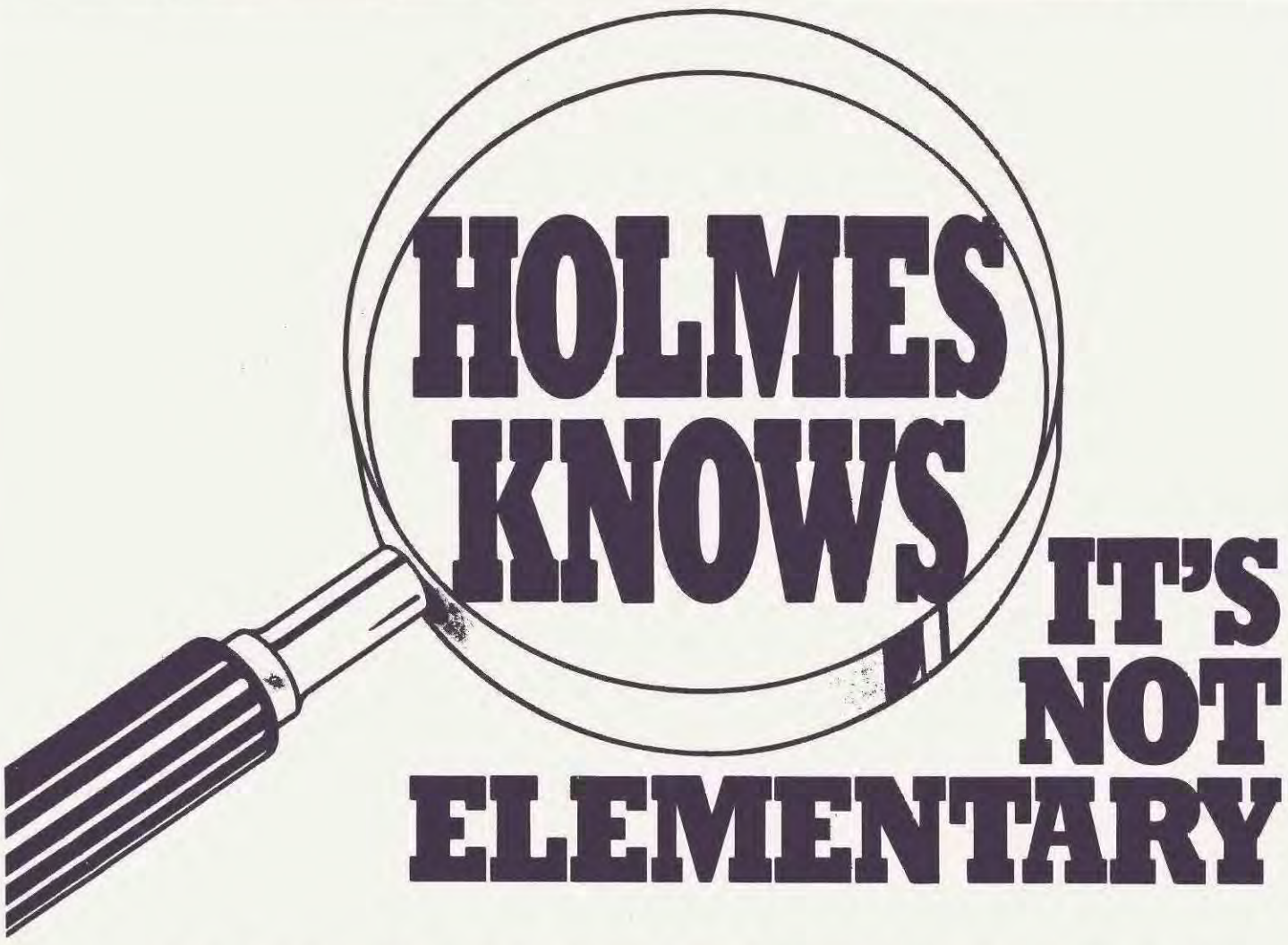
"Start out with a clear, measurable objective in mind," she said.

For example, "It is not enough to say the system doesn't work. How doesn't it work? What are the problems we're talking about here?" Mr. Vericker asked.

This is where input is most needed by employees, the very people performing the jobs that may require modification, he said.

After identifying the problem and deciding what procedures should be implemented, the automation manager should further involve employees in the problem-solving process, according to Ms. Lukens.

Employees should be assigned responsibilities for making the necessary changes, along with deadlines for completing those responsibilities, Mr. Vericker said. He added that the automation manager occasionally should monitor their progress. ■



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Industry must learn from mistakes: Panel

"Those who cannot remember the past are condemned to repeat it."

—George Santayana

TORONTO—Agents and insurers must apply the lessons taught by the recent insurance crisis to their future business plans, a panel of industry representatives warns.

"I would hope that maybe we've learned some things. Maybe we will develop a strategy (to bring about) some level of stability within our organizations," said Don D. Hutson, president and chief executive officer of Maryland Casualty Co. in Baltimore.

Mr. Hutson was a member of a panel discussing "Changing Markets, Winning Strategies" at the Independent Insurance Agents of America convention.

While it is simple for insurers and agents to put the blame for their current market problems on the lack of reinsurance and the civil justice system, insurers must acknowledge that they are equally responsible for the state of the industry, Mr. Hutson said.

"If we really stop, take stock and take a look in the mirror, the real culprit basically has been the property/casualty company management in not exercising balance sheet discipline," he said.

Independent agents also have contributed to the problem by being "order-takers" rather than salesmen, he added.

"Agents will have to do a better job of selling and we're going to have to exercise balance sheet discipline to ever get back to some degree of stability in this industry," Mr. Hutson said.

It is as difficult for insurers' chief executive officers to accurately predict market trends for agents, because insurers are reluctant to share information with each other, he admitted.

Panelist Dwight L. Dillon, the new president of the IIAA, conceded that "in many instances agents have contributed" to current market problems, but he also said that insurers need to "look at our side of the hedge."

For instance, many agents have lost long-standing accounts to other agents in the last few years because the new agent secured a substantially lower premium through another insurer, he said.

Then, upon further investigation, the agent who lost those accounts have found that the undercutting insurer was a company that his agency represented, Mr. Dillon stressed.

Because they have faced circumstances like this, agents often "have to do things that we think are necessary to survive that are not always compatible with the company's plan," he said.

Mr. Dillon urged agents to seek out and build relationships with insurers that have illustrated their support of the independent agency system through both sides of the insurance cycle, "not just large companies, but small regionals as well." The IIAA can provide interested agents with information it has compiled on insurers and what they offer agents, he pointed out.

But some agents simply do not exercise enough caution in establishing relationships with insurers, another panelist said.

"A lot of agents are very quick to take on naive capacity," said Peter B. Walker, director with consultant McKinsey & Co. Inc. in New York.

"The price they invariably pay is that the companies who reach the farthest beyond their scales are the ones who go down the farthest in weight," he said.

Mr. Walker said that anytime agents see that an individual insurer whose volume has grown within a 12-month period by more than 10%, it is a good indication "that company is buying business."

When insurers "buy business" by offering low premium rates to rapidly increase their market share, they face the risk of major losses when claims start rolling in, Mr. Walker said. To protect their clients, agents should be wary of doing business with insurers that fall into this category, he advised.

Agents should get to know the quality of insurance company

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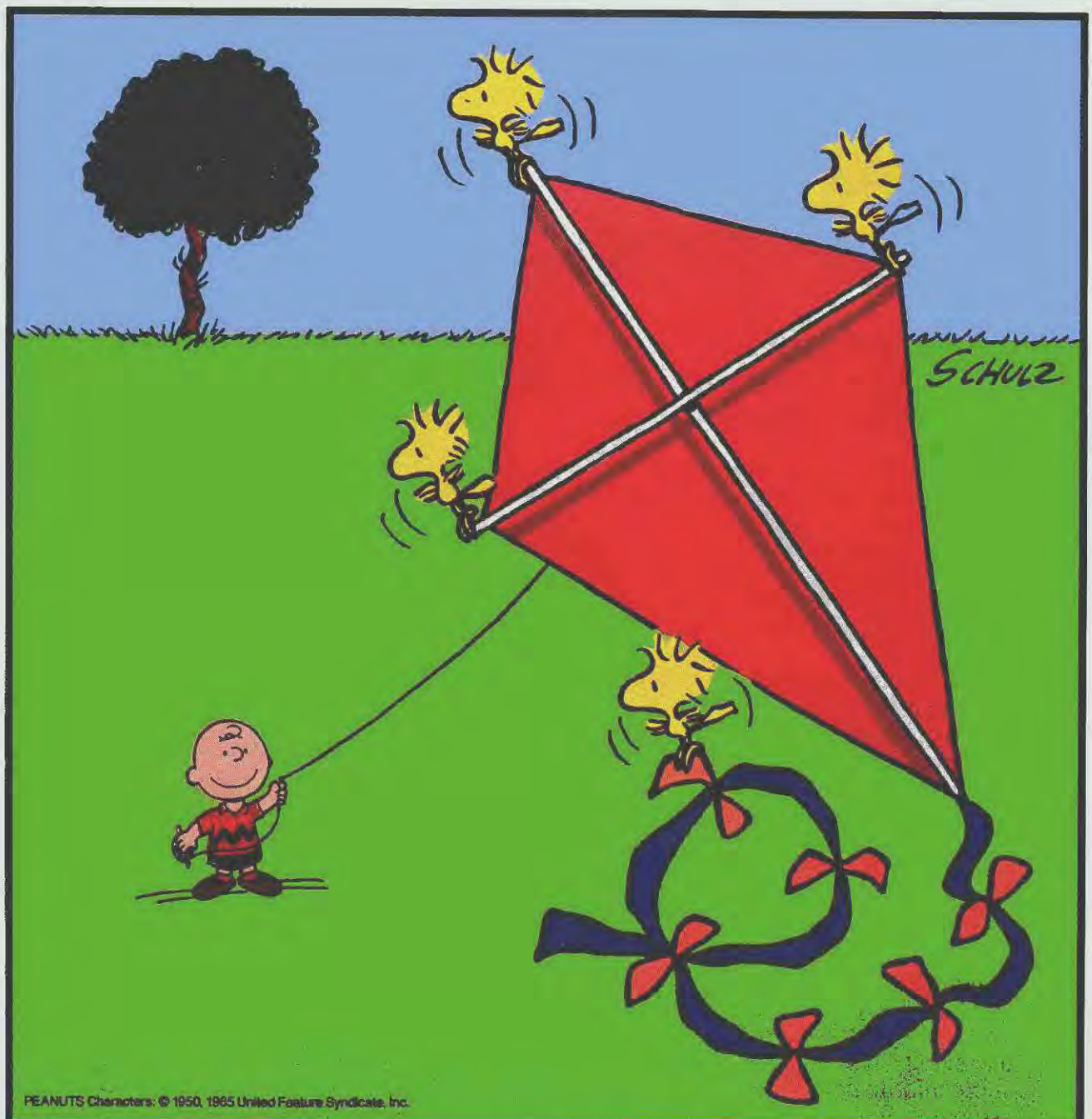
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Strategies

Continued from previous page

branch managers and regional underwriters, Mr. Walker suggested, because he said that the range of knowledge within an insurance company can vary widely from one geographic area to another.

And while certain individuals within the industry may have learned their lessons in the last few years, "there is a real difference between individuals learning lessons and institutions learning lessons," said Mr. Walker.

Another reason for the magnitude of the last soft market, according to one panelist, was that exceptionally high interest rates available to insurers caused them to write business at a loss, thinking they would make up for the losses on investment income.

"High interest rates served as a lubricant to competition and price cutting," said Tom N. Kellogg, senior vp of General Reinsurance Corp. in Stamford, Conn.

Without that lubricant, Mr. Kellogg hopes the environment will allow "for a structured dialogue and some more opportunities that are positive before we run down the scale in cutting prices."

Mr. Kellogg said he is encouraged by what he perceives as a "more key awareness about the exposure side" of the business by insurers. But reinsurers and insurers still lack sufficient data to calculate what the costs of their products should be, he said.

While today more capital exists in the market than last year, the insurance underwriting community still doesn't have enough knowledgeable people "to apply judgment in a vacuum of not being able to know their costs," Mr. Kellogg said.

The industry will be unstable until underwriters learn how to price their products right, he said. Meanwhile, insurers are losing substantial business to alternative markets, he added.

Mr. Hutson said that to recover sufficiently from the last soft market, insurance company underwriters need to maintain price stability "throughout this decade," especially on long-tail exposures.

And he said the industry also has to stop using reinsurance as an underwriting mechanism. "Reinsurance should only be used as a financing mechanism."

Mr. Walker cautioned that insurer loss reserves may not be as good as they look on the surface. The "sheer size" of loss reserves and the rapid changes in the marketplace permit insurers "an awful lot of latitude" in reporting results, he said.

"Human nature being what it is, most companies post the numbers they can live with until the numbers get paid," Mr. Walker explained.

By examining the size of reserves, the "increasing float that's available. . .and the total lack of barriers to entry for new players, coupled with the relatively high rate of change in senior management and strategic directions," Mr. Walker concludes that the industry cycle will not disappear. Such cycles "are going to be with us for a long period of time."

However, Oregon Insurance Commissioner Josephine M. Driscoll said, "We ought to stop apologizing for the fact that we're in an industry that is cyclical. If we want competitive rating, we're going to have ups and downs in our business."

Ms. Driscoll, president of the National Assn. of Insurance Commissioners, said that what the industry needs more than anything else right now is just "good common sense."

"I keep telling companies that they're in the business of assuming risks and they should find ways" to do so, she said.

Ms. Driscoll cautioned that with the "kind of mentality" she has observed among some state legislators, insurers and agents had better pay close attention to legislative activities in the next sessions.

"If insurers don't want to stay in the business, banks are more than willing to do it for them," Ms. Driscoll added.

"They're just waiting to come in and be your insurers and your agents," she commented, adding that she is opposed to bank entry into the insurance industry.

Regulators need to play a more active role in monitoring company solvency, Ms. Driscoll said. Regulators need to ask more questions before approving insurer rate filings, and "we also need to look at company management more closely, an area we've never examined before."

But Mr. Walker feels that what the industry really needs to get back on its feet is simply a return to the basics. That requires a renewed focus on "high-quality agents and very high-quality underwriters."

"I would. . .increase the investment in the underwriting functions of the front line by a minimum of 50%—maybe by 100% if the industry has the capacity to absorb" the costs, Mr. Walker stressed.

"If one in every 10 commercial underwriters has what the consumer would consider an adequate understanding of the true exposures they're writing and how to price them, I'd be surprised," he commented.

"What I'm arguing for are very intelligent investments in the core skill functions," Mr. Walker explained, adding that while this investment might cost insurers upfront, in the long run they would benefit from their investment.

"You can look at companies over a long period of time that have outperformed the industry on an economic basis. I guarantee you that if you are to go to a large cross-section of the marketplace, those will be the companies viewed as having the best talent," Mr. Walker said.

But, "it takes an enormous amount of discipline on the part of top management" to build long-term people skills, Mr. Walker commented.

"You have to give people skills the No. 1 priority. . .consistently, year-in and year-out," agreed Mr. Hutson. "When you break the chain of people development one year, you lose three years in the process of bringing it back up to speed," he said.

Mr. Hutson said he hopes the industry as a whole is investing its profits in personnel. "We have, and continue to do so."

An association executive also feels agents need to make investments in personnel as well as in their internal operations.

"It's true that most agents have seen some improvement in their bottom line, perhaps not proportional to their revenues," said David Van Delinder, director of education for the Independent Insurance Agents of Texas in Austin.

However, agents have not been investing these profits in hiring, upgrading automation systems or revamping marketing programs "because we've had no time to do it," according to Mr. Van Delinder.

"We've had to scramble to restructure coverage for accounts and. . .we've had to deliver to our customers unprecedented premium increases, even while the companies threatened us with restricted markets because of regulatory or legislative problems," Mr. Van Delinder said.

"Independent agencies in many cases have stopped growing in real terms," he added.

—By Linda J. Collins

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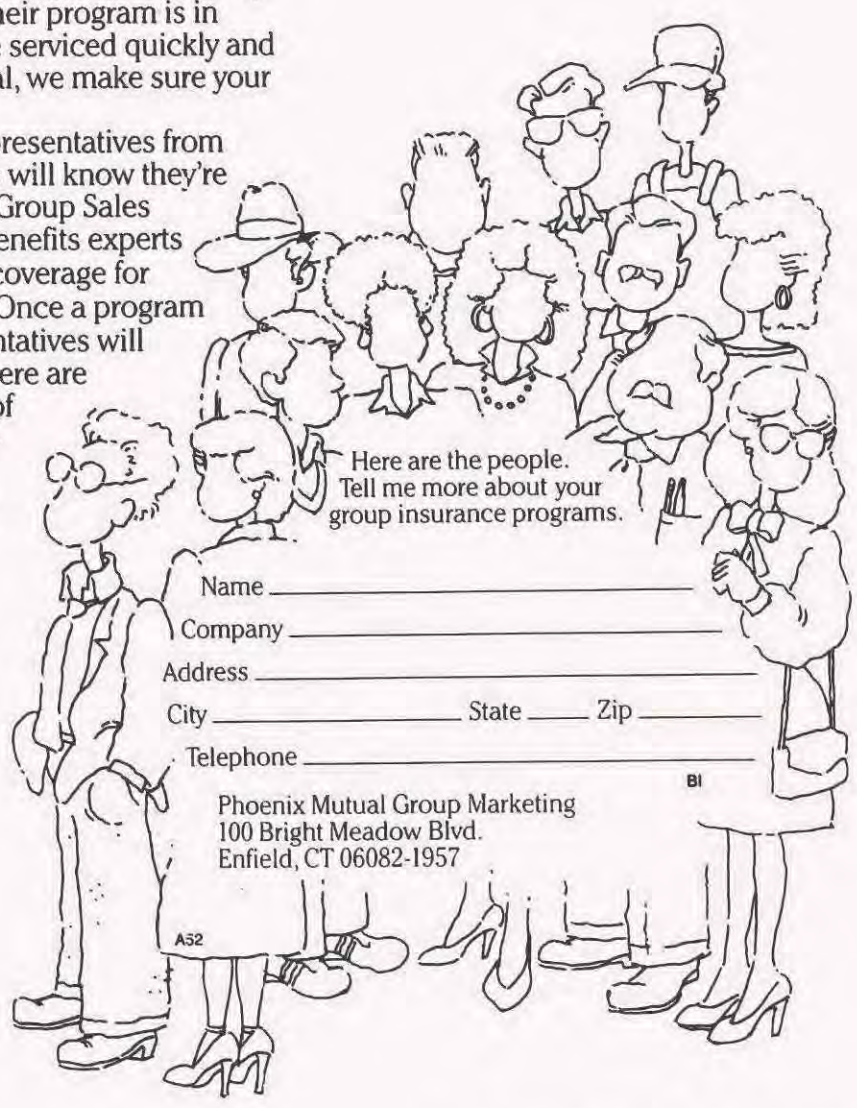
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Tort reform's effect on rates not immediate: Washburn

By LINDA J. COLLINS

Insurers probably will not reduce rates or increase writings significantly in Illinois, the panel says.

CHIGAGO—It will be impossible to judge the effectiveness of tort reform actions in Illinois and other states until the new laws are tested in court, according to Illinois' insurance regulator.

"The problem, of course, is: How good is the legislation, and how well is it going to be used?" observed Illinois Director of Insurance John E. Washburn.

Mr. Washburn, who participated in an Oct. 16 panel discussion held by the Independent Insurance Agents of Illinois in Oak Brook, said the long-term effectiveness of state tort reform measures is uncertain.

"One of the problems with tort reform is: How do you know how it's going to be used in the future?" the commissioner said.

Panelists discussed tort reform in Illinois and other states, public perceptions of the insurance industry and the civil justice system, and some of the reasons behind current availability problems.

Illinois' tort reform measures offer some immunity to both municipalities and directors and officers of non-profit organizations and allow bank directors and officers to self-insure, but the law did not go far enough, panelists agreed.

As a result, insurers probably will not reduce rates or increase writings significantly in Illinois, they said.

Publicly, legislators' expectations of insurers after passage of the bill will depend upon which side of the bill the legislators were on, but privately, legislators "realize that it wasn't a real sweeping reform. . .it will be difficult for anyone to scream that there ought to be some outpouring from insurance companies," Mr. Washburn commented.

Illinois business owners, who tracked the legislation closely, are not holding their breath in expectation of increased availability or affordability, according to panelist William S. Sirola, Chicago regional manager of the Insurance Information Institute.

"The business community knows absolutely and categorically what happened to this public policy issue once it hit the chambers of the state Legislature," Mr. Sirola said. "They know that they didn't come away with anything near what they needed."

For example, Mr. Sirola said the insurance industry always has pushed for a comparative negligence law. The new Illinois law states that if a claimant is found to be more than 50% negligent, he or she cannot collect a settlement.

The judge presiding in an insurance-related case must explain this comparative negligence law as part of the jury instructions.

However, Mr. Sirola contends that jurors will be hesitant to find someone 50% negligent for a loss if they know that by doing so, they will bar the claimant from collecting anything.

"That's not a tort reform. It's a paper tiger," Mr. Sirola asserted.

"There isn't anything in the substance of this law to belie the fears of underwriters," except for its municipal immunities, claimed panelist Paul H. Jacob, resident secretary/manager for the Chicago branch office of United States Fidelity & Guaranty Insurance Co.

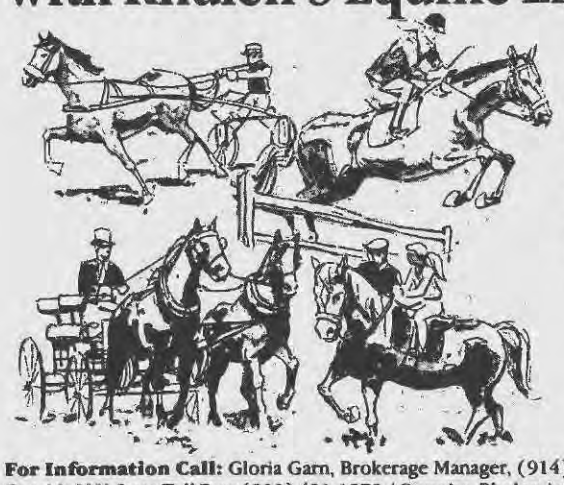
He added that because of potential ambiguities and loopholes in the law, Illinois' tort reform measures actually could "exacerbate the (availability) problem rather than help it."

Mr. Washburn pointed to some more substantial tort reforms enacted in other states, including:

- California's Proposition 51—passed by public referendum. In the case of non-economic damages, Proposition 51 eliminates joint and several liability. Through joint and

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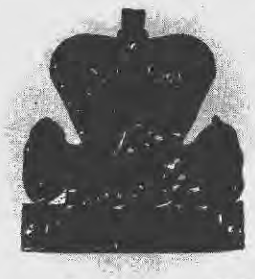


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Tort reform panel

Continued from previous page

several liability one party can be held responsible for paying the entire amount of a court award, even though it might have been only partially responsible for the loss, if other liable parties are unable to pay their share of the award (*BI*, June 9).

- Connecticut's limitations on joint and several liability, municipal liability and lawyers' contingent fees.
- Washington's elimination of joint and several liability except for specific instances and consideration of life expectancy and annual wages when awarding non-economic damages.
- New York's elimination of joint and several liability in cases when a defendant is found to be less than 50% negligent.
- Florida's cap of $450,000 on non-economic damages and modification of joint and several liability.
- Kansas' $250,000 cap—and Michigan's $225,000 cap—on non-economic damages for medical malpractice cases.
- Alaska's cap of $500,000 on non-economic damages, except for severe physical impairment or disfigurement, restrictions on punitive damages and limitations on joint and several liability (*BI*, Aug. 18).

But while some of these state tort reform measures are significant, they have yet to stand the test of court interpretation, the Illinois commissioner stressed.

"If the judge decides it's not a frivolous suit, it's not a frivolous suit, no matter what (the law) says," Mr. Washburn explained.

Other insurance industry problems will take a while to solve, the panelists said.

One of those problems is insurer surplus, which was badly depleted because of high company loss ratios over the past few years.

"While we've made some pretty good strides in increasing our surplus over the last nine months, we're still operating at better than a 3-1 premium-to-surplus ratio," Mr. Jacob noted. He said that insurance is "a crazy business. Anybody can get in it, and anybody can get out of it."

He predicted that if interest rates rise again "to between 15% and 20%, there will be a lot of investors who will want to get into the act. We have to hope that they won't do crazy things."

Insurance is a competitive industry, Mr. Sirola said, noting that if the public wants insurance to be a "public utility" with one set rate for all similar policyholders, it has the right to "go to the legislature and demand that.

Insurance cycles occur "for rather obvious reasons," and periodically the "weak sisters" are purged from the industry, Mr. Sirola said.

He added that beginning in the early 1960s, many major insurance companies were purchased by large conglomerates that "were not insurance companies and did not understand the business." As a result, those conglomerates "have gone through a tremendous educational process."

The disappearance of chief executive officers from several major insurers also has left its impact on the insurance industry, Mr. Washburn said.

In addition, this presents a question—as competition starts heating up—of whether more executives will leave the industry, Mr. Washburn continued, adding that this lack of continuity is causing problems in the industry as well.

State regulators also could do a better job of monitoring the financial conditions of troubled insurers if legislatures were more responsive to state regulators, Mr. Sirola claimed. Regulators "have to have greater budgets" than they are currently operating under, he said.

Psychologically, "it is impossible for (insurers) to ever become the good guys" in the eyes of the public, because the public deals with insurers when they have a loss or when they pay a premium," Mr. Jacob explained. "But that doesn't mean that we're not serving a good, purposeful function."

The irony of the situation is that "this is one of those rare instances in American history where the victims are also the beneficiaries," Mr. Sirola added.

"Even though we are all being victimized by the system, we're all still taking our benefits from it. That includes the legal fraternity, the court system, the policyholders, etc.," Mr. Sirola concluded.

The panel discussion was moderated by agent Richard B. Baker, president of Myers-Baker & Co. Inc. in Chicago. ■



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PIA planning all-industry sales school

ALEXANDRIA, Va.—The National Assn. of Professional Insurance Agents plans to develop a national all-industry education program by the fall of 1987.

The proposed National Sales School, which will be open to all independent agencies, will have three sections: sales training, sales management and marketing plan development.

Plans include training salespeople and managers together and establishing an ongoing monitoring system to track the sales of producers.

The sales training program will cover 19 areas, including: goal setting, needs profiling, time and self management, effective listening, prospecting, questioning skills and sales closings.

Supervisors who accompany the trainees to the sales training program also will be asked to attend a two-part school on sales management within a year to see that they are properly supervising the trainees.

More than 40 leading insurers and the Independent Insurance Agents of America have been invited by the PIA to assist in efforts to establish the school.

New designation

The Professional Insurance Agents of New York State Inc. is offering two professional designation programs for customer service representatives—one in personal lines and one in commercial lines. The designation is Certified Insurance Sales Representative (CISR).

The personal lines program is taught in four segments: personal auto coverage and rating; fire and homeowners coverages and rating; internal agency operations/claims handling; and telephone techniques/interpersonal communications.

The commercial lines rating program is taught in five segments: commercial auto/garage liability coverages and rating; commercial property coverages and rating; commercial casualty coverages and rating; advanced commercial lines rating; and marketing.

Designees must complete an annual continuing education requirement to maintain their designations.

For additional information, contact the PIANY Education Dept., P.O. Box 98, Glenmont, N.Y.; 800-742-6369. ■

Continued from previous page
ants, Mr. DeCarlo said.

Some reports contend that between 15%-30% of the overall population suffers impairments due to mental problems.

"A recent study by the National Institute of Mental Health concludes that about 19% of all adults, evenly distributed among men and women, have at least one psychiatric disorder during any six-month period," Mr. DeCarlo said.

And, the Canadian study suggests that the potential pool is even larger when workers evaluate their own perception of whether work produces stress, he added.

In that Canadian report, about 60% of the workers felt negative stress in the workplace, with more than 80% of this group responding that the stress affected either their job performance, psychological well-being or physical well-being, Mr. DeCarlo said.

And, the National Institute for Occupational Safety & Health has included psychological disorders on a recent list of the leading work-related illnesses and injuries, he said. NIOSH has targeted the reduction of stress in high technology office jobs as a primary objective for the years 1984-1989.

"It seems inevitable that an increasing percentage of the potential pool of claimants will indeed look to the workplace as a possible source of their psychological problems," Mr. DeCarlo said.

More stress claims undoubtedly will mean an increased role for members of the psychiatric community—the psychologists and psychiatrists who diagnose and testify in such cases.

Their role is a difficult one, Mr. DeCarlo said, explaining they already have trouble determining causation and the degree of disability—both essential elements in the workers compensation system.

Such questions of compensability also are being tackled by legislators and judges.

With few exceptions, Mr. DeCarlo said, the determination of stress-related occupational disease claims have come from case law, rather than statutes.

Within the past two years, however, more attention has been focused on these mental stress-related workplace injuries, and the result has been more legislative proposals to either explicitly recognize such injuries or to restrict recognition of them, he said.

One example is a Colorado law that took effect this summer that spells out a four-prong test for a compensable mental disability:

- The claim must be supported by the opinion of a certified physician or psychologist.
- The stress must result primarily from the worker's occupation.
- The source of stress must not be common to all employment.
- The mental disability must be severe enough to disable the worker or require medical attention.

Other states are expected to reassess their workers compensation laws next year with regard to the handling of stress-related claims, Mr. DeCarlo said.

Mr. DeCarlo says that between 1980 and 1983, the percentage of stress claims doubled.

In addition to his report on emotional stress in the workplace, Mr. DeCarlo previously has been involved in numerous research projects for the IAIABC.

For that work, Mr. DeCarlo received the President's Award, which is "in recognition of exemplary service in support of the association's commitment to the continued refinement of workers compensation laws and procedures throughout the world." ■

Lloyd's association to meet in Miami

MIAMI—The Assn. of Lloyd's Members is meeting Nov. 7 in Miami, followed by a reception.

The meeting will begin at 4 p.m. at the Miami Club, located at No. 1 S.E. Third Ave. in the Amerifirst Building. The reception follows the meeting.

The meeting is open to any Lloyd's member or those becoming Lloyd's members this year, their spouses and their financial advisers.

For further details concerning the meeting, contact Phil C. Gallagher, the regional representative of the Assn. of Lloyd's Members, at 4700 Biscayne Blvd., Miami, Fla. 33137; 305-576-4100. ■

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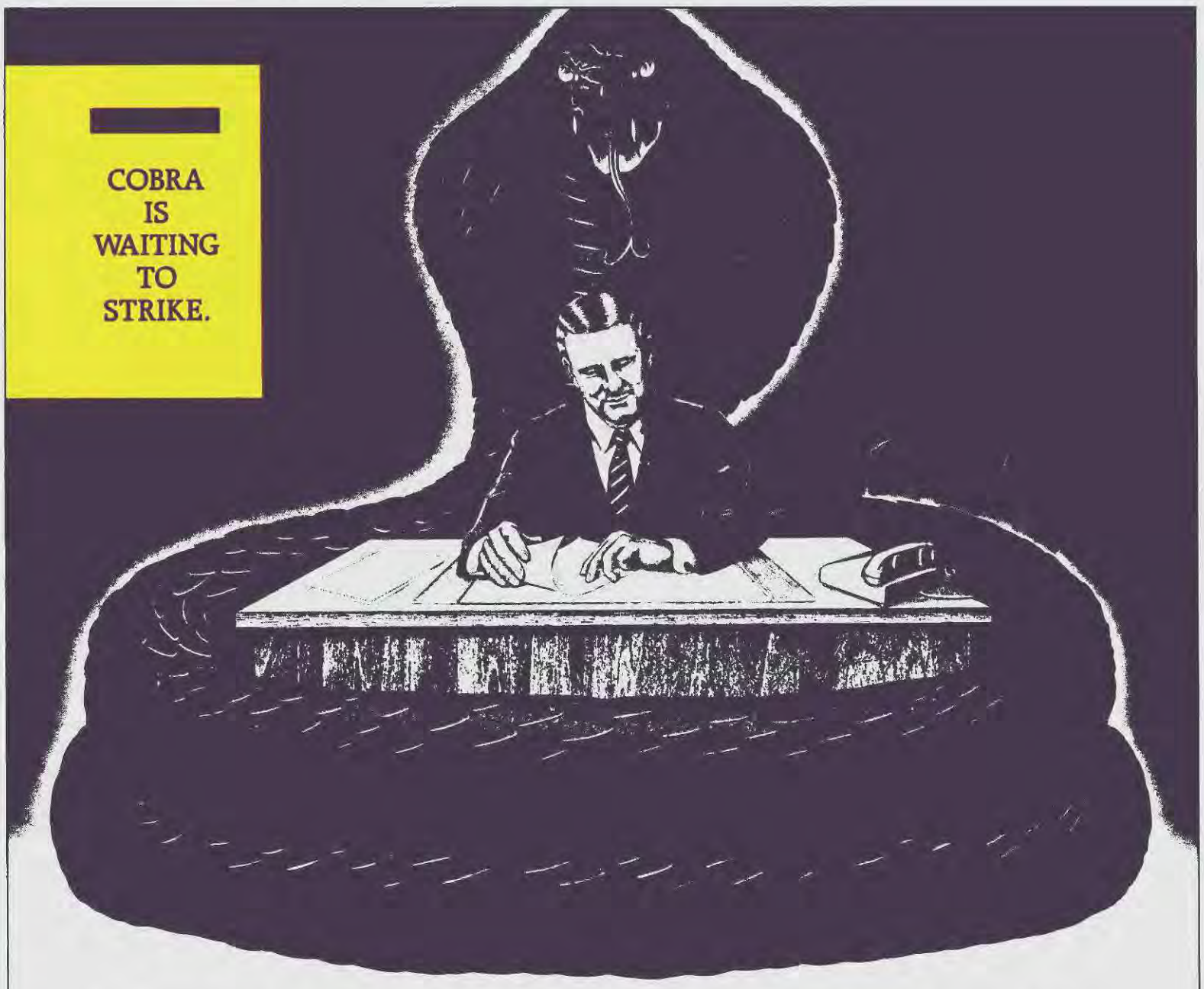
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Work comp pool regulation should stay in system: Panel

By CAROL CAIN

LOUISVILLE, Ky.—Workers compensation self-insurance pools should be regulated by administrators of state workers comp systems rather than by state insurance regulators, administrators say.

That opinion was expressed by a committee of the International Assn. of Industrial Accident Boards & Commissions last month at the IAIABC's annual meeting, held this year in Louisville.

The IAIABC's Administration & Procedure Committee spent the past year reviewing two separate model laws adopted in 1983 and 1984 by the National Assn. of Insurance Commissioners. One model dealt with the regulation of private self-insurance pools, and the other with public pools (*BI*, Dec. 12, 1983; June 18, 1984).

The IAIABC gave the NAIC models a "favorable" review, noting the provisions in the models were similar to an IAIABC model law adopted in 1980.

However, the "NAIC puts the insurance commissioner in charge of the group program. We do not adopt that position," states the Administration & Procedure Committee's report.

"The workers compensation agency and/or the authority in the state should be responsible for the approval of individual and group self-insurance. The workers compensation agency should be capable of regulating (pools). . .to maintain credibility and stability," the report reads.

Currently, about half the states permitting group self-insurance of workers compensation regulate the pools through the workers compensation agency while the other half regulate them through the insurance department. Some states provide for joint regulation by the two departments.

The report on regulation was accepted by the IAIABC, but no other action was taken. However, Marshall G. Bennett, chairman of the Administration & Procedure Committee, said that because the committee's views were accepted by the full IAIABC, he expects they will be relayed to the NAIC at some point. Mr. Bennett also is chairman of the Mississippi Workers' Compensation Commission.

Individual self-insurers should be regulated separately from self-insurance pools, according to the committee report.

And, other items it recommends to be considered in any model legislation include:

- A requirement that pools have an annual actuarial review of their losses and loss development.
- The expansion of investment opportunities for pools to include all full faith and credit obligations of the U.S. government.
- A $500,000 cap on investments in any single bank.
- A provision for the self-insurance of aggregate excess coverages.
- A requirement of a 12-month waiting period for dividends paid from premiums. ■

Workers comp data increasing

LOUISVILLE, Ky.—A central repository for workers compensation-related research reports and statistical studies, established in August 1984 by the International Assn. of Industrial Accident Boards & Commissions, is growing.

Since that initial call for submission of reports, more than 325 publications relating to 85 subject areas have been received from 14 states or Canadian provinces.

The research repository contains material that deals with workers compensation insurance, work injuries and illnesses, claims administration, controverted cases, rehabilitation, work injury and illness prevention and related topics.

Especially sought are reports that explore new approaches, relationships or analytical methods, as well as yearly data summaries, said Daniel A. Adelman, manager of the research and statistics section of the Oregon Workers' Compensation Department, which is coordinating the organization and indexing of the materials.

To submit materials to the repository or receive copies of the index, contact the IAIABC Executive Office, P.O. Box 79109, Jackson, Miss. 39236; 601-366-4582. ■

19 states use informal dispute resolution

LOUISVILLE, Ky.—At least 19 states use some type of informal dispute resolution in settling controverted workers compensation claims, according to a recent survey by the International Assn. of Industrial Accident Boards & Commissions.

However, other states that denied the existence of such alternative systems do use them, said Robert C. Landess, a commissioner with the Iowa Industrial Commission in Des Moines.

"They probably responded in the negative because such systems were not formally recognized by statute or rule and perhaps not uniformly exercised within the jurisdiction," said Mr. Landess, who is chairman of the IAIABC's adjudication committee, which conducted the survey.

The committee noted that many states were experiencing a rise in the number of contested cases, but at the same time, there were several instances of reduced resources to handle this caseload.

So last year the committee began an effort to determine methods used to expedite adjudication of contested work comp claims, Mr. Landess said.

Some 37 states responded to the survey, and initial results were reported during the IAIABC's annual meeting last month in Louisville. A more detailed report and analysis will be forthcoming.

From those initial responses, Mr. Landess noted that the prehearing conference was the most commonly used informal resolution procedure. About one-third of the states that have prehearing conference use them in all cases; one-third use them in less than half of the cases; and one-third use them in more than half of the cases.

Another procedure—issuing interim orders for payment of certain benefits—is used in seven of the 19 states. Other results from the survey show:

- Advisory opinions are issued in six of the responding states.
- Mediation conferences for settlement negotiations are used in seven states, but mostly on selected cases on a discretionary basis.
- Most of the temporary or interim orders may be avoided or delayed by an appeal.
- In most states in which informal procedures for dispute resolution are involved, there is a high degree of attorney involvement.

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Surveillance can aid claims validation

By CAROL CAIN

LOUISVILLE, Ky.—Video surveillance of injured workers is helping employers settle workers compensation claims at a savings, according to a detective.

One self-insurer, for example, had reserved $270,000 to pay permanent total benefits to an employee who sustained a back injury on the job based on based on testimony from a physician.

However, that case was settled for $27,000 when the physician changed his diagnosis after viewing a video film of the employee that first showed the employee in a painful posture leaving the physician's office, but also showed the employee five minutes later walking upright, without the use of a cane, in a shopping center.

Citing this case was Bill Kizorek, president of InPhoto, a 6-year-old surveillance firm in Naperville, Ill. He touted video surveillance to workers compensation state administrators and employers last month at the annual convention of the International Assn. of Industrial Accident Boards & Commissions in Louisville.

Mr. Kizorek, in his recently published book, "Disability or Deception," noted that while many bodily injury claims are legitimate, more than a few are exaggerated and "some are preposterous."


Mr. Kizorek

"I have seen numerous cases settled when a claimant sees the videos," he said.

But it wasn't until about five years ago that the use of video surveillance took off, Mr. Kizorek said. The main reason for that leap was the increased quality of equipment. "Now video cameras have better lenses and can make positive identifications," he said, adding, "This makes all the difference in the world when you, as an arbitrator, are trying to make a decision."

Many administrators and potential clients—either self-insurers or insurers—frequently are concerned about an invasion of privacy and entrapment laws when using video surveillance, Mr. Kizorek said.

But he pointed to a 1943 Pennsylvania Supreme Court ruling concerning two detectives who were caught in the act of filming an injured person, which allegedly caused that person additional trauma. In *Forster vs. Manchester*, the court ruled there was no invasion of privacy and noted: "It is in the best interest of society that valid claims be ascertained and fabricated claims be exposed."

And, concerning entrapment, Mr. Kizorek said that experienced surveillance agencies are well aware of what that means, not only to their clients but for themselves.

In the past, it apparently was a common practice for surveillance detectives to puncture tires on the cars of injured persons and then film those persons changing the tires.

Such practices are rare today, Mr. Kizorek said, noting: "We value our liability policies. We don't even want to give a hint of (entrapment)."

And, he added, video surveillance films sometimes work in favor of the injured person, giving extra weight to their claim. ■

Committee culls comp statistics

LOUISVILLE, Ky.—The annual convention of the International Assn. of Industrial Accident Boards & Commissions held here last month included the presentation of findings by the organization's statistics committee.

Among the findings, based on responses from jurisdictions in the United States and Canada:

- In 19 jurisdictions, 48.2% of the first indemnity payments were made within the first 14 days.
- In 14 jurisdictions, 35.6% of the first contested level cases had a decision rendered within 91 days.
- In nine jurisdictions, 22.8% of the review stage cases had a decision rendered within 91 days.
- In 17 jurisdictions, 11.3% of the cases submitted at the first contested level went to the review stage.
- In 20 jurisdictions, there were 3.5% more cases in some stage of controversy in the first contested level at the end of the year than at the beginning of the year.
- In 14 jurisdictions, all issues were carried to a final determination at the informal hearing stage or at the first contested level in 13.6% of the cases reported where indemnity was likely to be due or a controversy was expected.

The committee is chaired by Henry J. Gmeinder, director of the Compensation Performance Bureau of the Worker's Compensation Division of Wisconsin's Department of Industry, Labor & Human Relations in Madison.

Arcudi elected IAIABC president

LOUISVILLE, Ky.—John A. Arcudi, chairman of the Connecticut Workers' Compensation Commission, is the newly elected president of the International Assn. of Industrial Accident Boards & Commissions.

He was tabbed for the post during the 72nd annual convention of the IAIABC last month in Louisville.


Mr. Arcudi

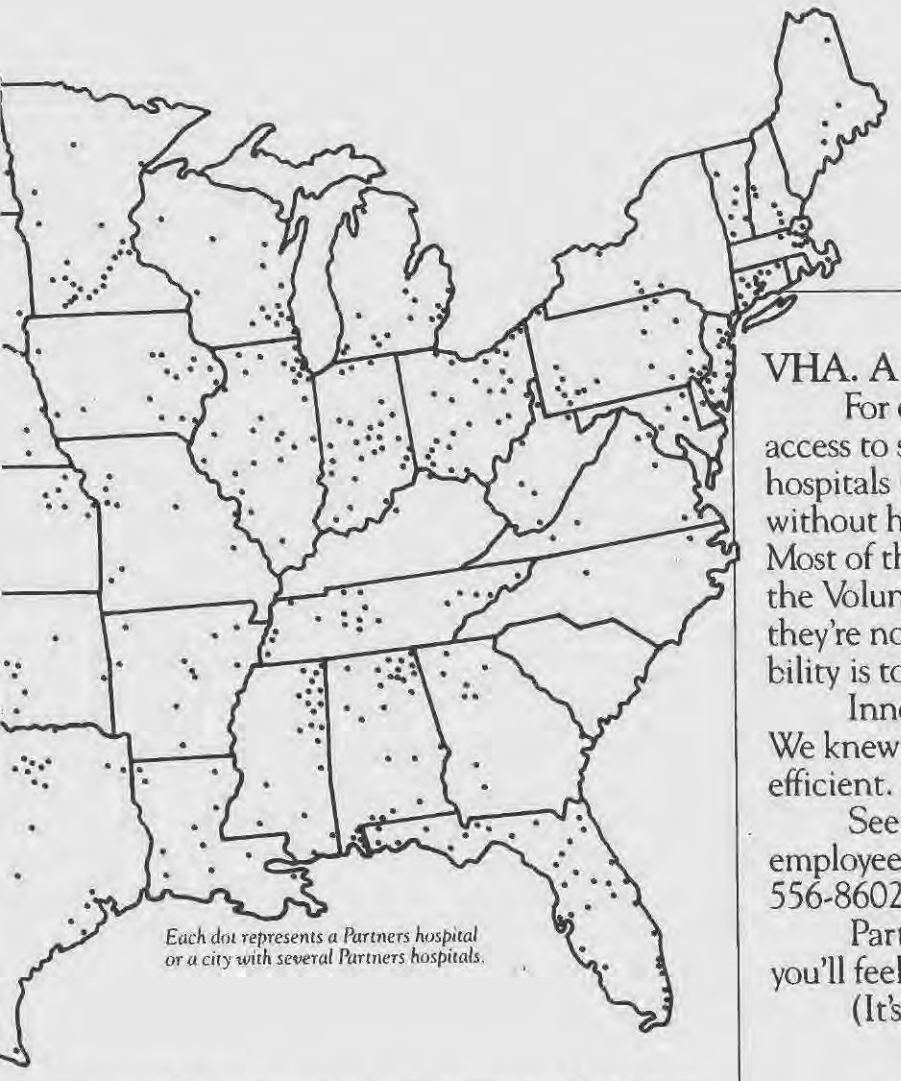
Mr. Arcudi, 65, has an undergraduate degree in economics from Yale University in New Haven, Conn., and a law degree from Yale Law School. He practiced law for almost 30 years, primarily representing injured employees in workers compensation cases.

Appointed as a workers compensation commissioner in 1975, Mr. Arcudi became chairman of the commission two years later.

Other IAIABC officers elected last month are:

- President-elect Phillip T. Bork, a member of the Washington State Board of Industrial Insurance Appeals.
- Vp Charles J. Krysiak, chairman of the Maryland Workmen's Compensation Commission.
- Secretary John N. Shanks, chairman of the Indiana Industrial Board. ■

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Social Security wage base to rise in 1987

By JERRY GEISEL

washington

WASHINGTON—Employers will pay additional Social Security taxes next year for their highly paid employees.

While the FICA tax rate for both employers and employees will remain at the current 7.15% in 1987, the first $43,800 of an employee's wages will be subject to the FICA tax, the Social Security Administration announced late last month.

In 1986, only the first $42,000 of an employees' salary was subject to the FICA tax.

The increase in the Social Security wage base will mean that the maximum amount of tax to be paid by employers will rise to $3,131.70 per worker in 1987, compared with $3,003 per worker in 1986.

Other Social Security changes that will take place starting in 1987 include:

- The maximum amount of FICA tax that a self-employed worker must pay will rise to $5,387.40 in 1987 from $5,166. The tax rate for the self-employed will remain at 12.3%.
- The maximum job-related income a retired worker under 65 can earn without a reduction in Social Security benefits will be $6,000 in 1987, up from $5,760 this year.
- Workers between ages 65 and 69 can receive $8,160 in job-related pay in 1987 before Social Security benefits are reduced, up from $7,800 this year. There is no limit on earnings over age 69.

While the amount of FICA tax that employers and some employees pay will increase next year, Social Security beneficiaries will receive a 1.3% cost-of-living increase beginning in checks dated Jan. 2.

The average Social Security benefit paid to retired workers will rise to $488 from $482.

Tax reform's result

The reduction in tax breaks for benefit-related programs that are mandated by the newly enacted Tax Reform Act of 1986 will boost federal revenues by $44 billion over the next five years, a research group estimates.

More than half—or $23 billion—of that $44 billion revenue increase comes from the elimination of tax deductions for contributions to Individual Retirement Accounts for many middle- and upper-income taxpayers, according to the Employee Benefit Research Institute.

In addition, the repeal of the rule that had allowed retirees to receive their aftertax contributions to contributory pension plans before their taxable benefits will boost revenues by $8.9 billion over the next five years.

Various changes to 401(k) salary reduction plans, and similar plans now used by public and tax-exempt employers, will increase revenues by $3.4 billion over the five-year period.

But EBRI notes that faster pension plan vesting schedules mandated by the new tax law will allow millions of workers to become vested.

In addition, the amount of pension benefits to which retirees are entitled will increase because of a provision that prevents companies from drastically reducing pension benefits by the amount of Social Security benefits retirees receive.

Legislative trend

Does Congress pass benefit legislation as separate bills anymore?

Judging by the recently concluded congressional session, the answer is increasingly "no."

Instead, benefit issues more often are being attached to so-called budget reconciliation measures, which implement spending targets contained in the annual budget resolutions.

For example, the 1985 budget reconciliation bill, the Consolidated Omnibus Budget Reconciliation Act, which wasn't passed until early 1986, boosted premiums employers pay the Pension Benefit Guaranty Corp., made other changes to the PBGC program and required companies to extend group health care programs to former employees and employees' divorced and widowed spouses.

The 1986 budget reconciliation bill, passed during the final days of the 99th session of Congress last month, contained such benefit provisions as requiring companies to recognize post-65 employment for pension accrual purposes, giving retirees who worked for a company that later filed for reorganization under Chapter 11 of the Federal Bankruptcy Act the right to buy post-retirement health care coverage at a low group rate and assuring that Social Security benefits will increase even if the rate of inflation is very low.

In addition, at the very last moment, a provision requiring states to set up employer-subsidized health care pools for uninsured individuals, the so-called "Son of COBRA" legislation, was stripped from the 1986 budget reconciliation bill.

The message to employers, according to Washington benefits lobbyists: Keep your eyes glued to those annual budget reconciliation bills. They are a magnet for employee benefit proposals.

Unfair legislation

Legislation that would require companies to give unpaid leave to employees who need to take time off because of an addition to the family is unfair to employers, a business group argues.

The Parental and Medical Leave Act would require that employers with at least 15 employees provide up to 18 weeks of parental leave to employees—both male or female—upon the birth or adoption of a child.

The legislation, which died in the 1986 congressional session but is certain to be reintroduced next year, would require employers to reinstate employees in the same or similar jobs when they return to work.

But the National Assn. of Wholesaler-Distributors says the federal government should not tell businesses what kind of benefits they should offer.

"This legislation usurps the rights of employers to offer benefits best-suited to their workforce," says Mary Tavenner, associate director of government relations at the NAW.

"Moreover, enactment of this bill would open the floodgates to an entire agenda of mandated benefit legislation," Ms. Tavenner pointed out. ■



Ranger Insurance sells for $27 million

Houston-based Ranger Insurance Co. is being sold by parent Anderson, Clayton & Co. to Chase Enterprises, a privately held investment group in Hartford, Conn., for $27 million.

The sale, which is subject to regulatory approvals, is expected to be finalized later this year.

The transaction will make Ranger and its subsidiaries operating units of American Ranger Inc., a Delaware holding company recently formed by Chase.

The subsidiaries to be sold along with Ranger include Ranger County Mutual Insurance Co. and Ranger Lloyd's.

The three companies share offices in Houston.

Ranger Insurance Co. reported 1985 gross written premiums of $298.4 million and net written premiums of $142.4 million. The company posted a 162% combined ratio.

Year-end 1985 policyholder surplus totaled $43.2 million. The company writes most types of commercial property/casualty coverage and specializes in oil- and gas-related insurance.

Chase intends to continue Ranger's property/casualty operations and retain the insurer's current management, says David Chase, a principal in the investment group.

Ranger currently employs about 400 people.

Chase, which is not affiliated with either Chase Manhattan Bank or Chase Econometrics, has diversified holdings in the banking, broadcasting and hotel businesses, among other industries.

The Ranger acquisition, announced last month, expands Chase's insurance holdings, which already include investment in Acceleration National Insurance Co., an insurer of automobile service warranties in Dublin, Ohio, among others, Mr. Chase says.

Anderson Clayton had reclassified Ranger as a discontinued operation and reported a $24.4 million aftertax write-down from Ranger in the fourth quarter of fiscal year 1986, which ended June 30, according to Anderson Clayton.

Anderson Clayton announced earlier this year it would sell its property/casualty operations as part of a corporate restructuring. The company, which is being acquired by Quaker Oats Co. of Chicago, has shed other operations to concentrate on the food business.

markets

Partnership ends

Lincoln National Life Insurance Co., a unit of Lincoln National Corp., is buying out U.S. Healthcare's interest in their joint venture, HealthWin, for $100 million, said a company spokesman.

HealthWin offers a "triple option" program under which employees can participate in either a health maintenance organization, a preferred provider organization or a traditional indemnity health care plan.

The company now provides benefits for more than 500,000 people in Chicago, Florida, Dallas/Fort Worth and Houston, and is expanding into Washington, D.C., and Baltimore this month. It generates revenues and equivalent premiums of more than $350 million.

The Lincoln National spokesman said that the joint venture between Lincoln National and U.S. Healthcare, which was consummated last October, from the start had been considered only a "trial marriage."

A spokesman for U.S. Healthcare, an operator of health maintenance organizations, said his company decided to sell its share in the joint venture because "we found that working in a partnership tended to distract us from our main corporate purpose" of offering managed health care.

With the joint venture, he said, U.S. Healthcare became involved in traditional health insurance plans, which do not present "the opportunities" managed health care does and was therefore a "step backwards" for the firm.

The Lincoln spokesman said the closing, which is expected to be completed by Dec. 31, is subject to board and regulatory approvals. Details of how the $100 million will be paid to U.S. Healthcare are still being determined, he said, but the "best guess" is it will be paid in cash and notes over a period of time.

Industrial hygiene

The FPE Group, which specializes in fire protection engineering and safety and health management consulting, is now offering industrial hygiene services through the acquisition of the business of Thomas J. Walker Inc.

TJWI, formerly based in Oakland, Calif., specializes in occupational and environmental health consulting in such areas as asbestos abatement, occupational disease, indoor air quality and environmental risk assessments. The company generates annual revenues of about $500,000 from clients including universities, public utilities, government entities and Fortune 500 companies.

Thomas J. Walker, former president of TJWI, also has joined FPE as a vp.

In addition, three other industrial hygienists will join FPE.

"This new business enables us to provide FPE clients with expertise in an important facet of loss control," said FPE President Kenneth E. Berg.

The FPE Group is located at 3687 Mount Diablo Blvd., Lafayette, Calif. 94549; 415-283-8860.

New offices

Sandler Occupational Medicine Associates, an occupational health consulting firm, has moved to 200 Broadhollow Road, Suite 207, Melville, N.Y. 11747; 516-385-1910.

Coopers & Lybrand, which provides both risk management and employee benefit consulting services, is moving its Philadelphia office to 2400 Eleven Penn Center, 19th and Market Streets, Philadelphia, Pa. 19103; 215-963-8200.

Levine Insurance Agency Inc., parent company of **DKM Special risks,** an excess/surplus lines broker, and **CLAIMCO,** which provides services to self-funded clients, has relocated to 404 Oak St., Syracuse, N.Y. 13203; 315-475-5135. ■

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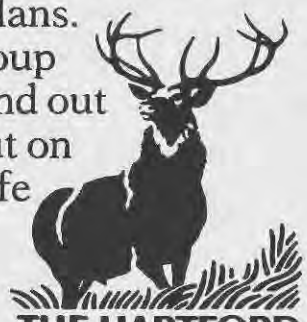
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BITING THE BULLET

Benefit managers can cope with FASB No. 87 ramifications

By Jerome Karter

MANY BELEAGUERED U.S. multinationals, burdened by continuous legislative changes, are biting the bullet early and bounding onto the bandwagon of Financial Accounting Standards Board Regulation No. 87.

Under FASB No. 87—which is designed to help U.S. multinationals report consistent, comparable pension costs on their financial statements—foreign pension plans will be subject to the following new reporting principles:

- A uniform actuarial cost method.
- A uniform amortization period for prior service costs.
- Balance sheet liabilities and assets.
- Current discount rate assumptions.
- Expanded disclosure requirements.

Critics of FASB No. 87 assert that the accounting process may now drive pension planning rather than report it neutrally. But large U.S. multinationals that applied FASB No. 87 methodology for fiscal year 1985 generally have reported significantly boosted income in their corporate financial statements.

For example, a major international bank reported a $19.9 million increase and a large chemical/mining company's 1985 income rose by $16 million through early implementation of FASB methodology.

In many cases, the sheer size of overfunded foreign pension plans allowed large U.S. multinationals to react early to the positive reporting benefits of FASB No. 87.

However, some U.S. benefit managers will opt to delay compliance with all foreign employee plan provisions of FASB No. 87 until Dec. 15, 1988.

Factors that influence an early or late implementation date will include:

- The size of a multinational's pension commitment.
- Industry practice.
- The demographic characteristics of the multinational's foreign employee base.
- Corporate acquisitions and divestitures.

Over the long term, the cost of a pension plan is the same, regardless of the accounting methods employed. So, in one sense, pension accounting is just a method of allocating pension costs over a specific period of time.

However, accounting methods can have a substantial impact on pension plan funding over both the short and the medium term. For example, when FASB No. 87 methodology is employed on overfunded foreign plans, corporate earnings will rise by that portion of the overfunding that is brought back as income under the U.S. financial statement.

FASB No. 87 rules also can have an impact on a U.S. multinational's capital structure when the shareholders equity is reduced by required balance sheet entries.

Prior FASB accounting rules did not affect the balance sheet, except for the difference between contributions and expenses. Now, however, grossly underfunded foreign plans may have to show a liability on the corporation's books.

A foreign subsidiary—or the U.S. multinational parent—that has changed its capital structure may find itself contravening certain covenants in its debt agreements. Even worse, the subsidiary or corporation's borrowing ability may become impaired by an unusually large debt-to-equity ratio.



Jerome Karter is vp and manager of the New York International Department of Johnson & Higgins. His column appears the first Monday of every month.

international issues

Yet a different set of problems emerges from the recent trend in mergers and acquisitions, as well as from "down-sizing," all of which have led to termination or curtailment of pension benefit promises. FASB No. 88, which also covers international pension accounting, prescribes the accounting treatment for curtailment and settlement. In general, gains or losses due to curtailment must be recognized immediately as income.

As an example, the West German subsidiary of a U.S. multinational decides to terminate its pension plan for non-vested employees and provides instead group permanent coverage. Under FASB No. 87/88, the curtailment/settlement will boost the subsidiary's income by $693,560, but under prior rules, the gain would have amounted to only $198,160.

FASB No. 87 allows foreign plans to be ignored when they are considered immaterial to the financial reporting exercise. This provision is allowing many U.S. multinationals to argue that the cost of small foreign pension plans is minuscule in relation to the corporation's consolidated income statement.

For the time being, major attention is being focused on large foreign pension plans, but it is expected that even the smaller plans will be reviewed as local managers begin to understand the intricacies of FASB No. 87.

Notwithstanding the question of materiality, which is the handling of amounts that are insignificant in relation to the whole, U.S. corporations may face numerous problems when applying FASB No. 87 to their foreign pension plans.

To begin with, the nature of pension plans varies from country to country and across continents.

Secondly, the pension plans of most foreign industrial nations provide retirement benefits as well as pre-retirement death and disability benefits. (Exceptions occur in most Asian countries, where lump-sum retirement benefits prevail over pension funds.) Termination indemnity agreements, usually dictated by law, are common in Latin America.

Another problem involves the technical requirements of FASB No. 87. In the past, a U.S. multinational was allowed great flexibility in determining pension accounting entries through a wide range of choices in setting actuarial methods and assumptions. It was not uncommon for a U.S. multinational to use the same method and assumption when determining pension expense and contribution. The task was simple and, in most cases, not too costly.

But FASB No. 87 has become more prescriptive. It requires the use of one actuarial method, as well as explicit actuarial assumptions, faster amortization of liabilities and a reconciliation of the funded status.

The need to understand these U.S. requirements on the local level is fairly obvious. This means that local actuaries, accountants and internal financial accounting managers will have to become familiar with all of the provisions of FASB No. 87.

It is expected that the educational process may be complicated in a number of countries by the development of local pension accounting standards.

For example, Canada has issued its own pension accounting standard that is quite similar to FASB No. 87 in all aspects, including implementation dates. A major difference in the Canadian plan, however, can be found in the flexibility allowed in setting interest rate assumptions and in the allocation of both gains and losses in future years.

Across the Atlantic, in the United Kingdom, an exposure draft was issued in May 1986 that outlines a pension accounting standard. The proposed standard is very similar to Accounting Principles Board No. 8, the former flexible U.S. standard that is being replaced by FASB No. 87.

Other European Community countries are expected to follow the United Kingdom by adopting their own pension accounting standard.

Technical accounting aspects, however, are not the only problematic area. Benefit managers also must investigate specific country situations.

For example, most pension plans in Belgium and the Netherlands are insured through group deferred annuities. At first glance it would appear that the accounting treatment for this exposure is quite simple—the pension expense will be equal to the premium paid. However, pension plans in Belgium and the Netherlands are usually final-pay plans, so the entire obligation is not insured. This means that FASB No. 87 will have to be applied.

Termination laws in countries like Venezuela, Italy and Japan prescribe retirement benefits that are subject to FASB No. 87 standards. Since these "unfunded" plans are generally book-reserved, the expenses reported in the income statement are not determined through an actuarial basis.

In these countries, managers will have to be educated in the actuarial science of expense reporting for unfunded plans, especially in the area of setting discount rate assumptions.

But, you ask, "How does one set interest assumptions in hyper-inflation countries?" or "How does one set interest assumptions in countries where there are no active annuity markets or high-quality bonds?"

The answer is simple: through a local actuary.

Yes, U.S. benefit managers can cope with all of the ramifications of FASB No. 87 on foreign pension plans. The key starting point is careful planning.

Given the amount of lead time that exists until December 1988, U.S. benefit managers can begin by reviewing their current foreign benefit programs. In addition to information-gathering for FASB No. 87 purposes, an overall review will help identify any potential coverage gaps and help U.S. benefit managers confirm particulars such as the best method of financing, etc.

U.S. benefit managers should use the materiality criterion during the review process to help to quantify the number of foreign pension plans that qualify for FASB No. 87 treatment.

But beware! The qualification process may not fall completely on corporate benefit managers. Some auditors believe that pension plan costing under FASB No. 87 may differ substantially from the results determined by existing methodology. When this result occurs, U.S. benefit managers may have to demonstrate evidence of both calculations.

The next step involves the services of an actuary and an accountant during the planning stage to:

- Assess actuarial assumptions, especially the discount rate (the interest rate used to compute pension cost and obligations).
- Set policy regarding asset valuation and amortization periods for prior service cost.
- Monitor financial coverage results.
- Clearly specify all data requirements.

A forecast also may prove helpful in analyzing the effect of pension expense on net income over the next few years, especially since FASB No. 87 is likely to produce pension expense results that are inherently volatile.

In the meantime, don't despair. When planned properly, managing FASB No. 87 in connection with foreign plans may yet prove surmountable! ■

ASK A CASUALTY ACTUARY

Tax reform law affects risk retention options

Q **What impact will the Tax Reform Act of 1986 and the expansion of the Risk Retention Act have on the relative attractiveness of different risk retention alternatives?**

A The Tax Reform Act and the new Risk Retention Act will have a major impact on the relative advantages and disadvantages of various risk retention alternatives: paid-loss retrospectively rated insurance programs, self-insurance, domestic captive insurance companies and offshore captives. The most important effects include:

- Until now offshore association captives with all owners having less than a 10% share of equity were frequently considered the most favorable alternative to traditional coverage. However, the new tax law has created a relatively level playing field among each of these alternatives, placing each on a fairly equal footing from a cost comparison standpoint. Whatever cost differences remain are relatively small compared with those that existed previously (see Table 1).
- The availability of risk retention groups for all types of liability risks, except workers compensation, should go far in eliminating availability problems for liability insurance. By permitting such groups to operate nationwide with relatively little state regulation and to operate as a domestic captive, self-insurance program or a group insurance purchasing vehicle, the range of options has been greatly broadened.

This is especially true for groups of smaller entities. As long as the solvency of such groups can be effectively regulated, the best interests of all should be served.

- From a cost comparison basis, it would appear that the group purchase of paid-loss retro plans by purchasing groups formed under the Risk Retention Act could be a competitive alternative that could be offered by commercial insurers—if settlement provisions are favorable enough and there is sufficent risk transfer to deduct the full estimated premium upfront. IRS Private Letter Ruling 8637003 (September 1986) covers a situation where there was insufficient risk shifting.
- By significantly increasing the amount of income tax that will be paid by property/casualty insurers, the tax law will probably force up premium rates for standard commercial insurance coverages. This should also be true for domestic as well as offshore captives, which are also affected by provisions of the new tax law. Thus, the traditional advantages of insurance over self-insurance have been noticeably weakened.

In making the cost comparisons in Table 1, numerous assumptions had to be made. In nearly all instances, we assumed that the structure and activities of the risk retention vehicles would be designed and managed in such a way that taxes would be reasonably minimized and avoided.

We have, however, assumed that tax law will effectively end the favorable tax status of offshore captives.

No risk retention alternative presented inherently qualifies for favorable tax treatment. Each situation must be evaluated on its own circumstances. What is presented here is only a quick and general assessment.

Depending upon the alternative selected, there are three possible ways in which tax deductions for losses can be recognized: When incurred, at ultimate value (paid losses plus non-discounted reserves); when incurred, at present value (paid losses plus discounted reserves); and when paid.

To understand the extent of the differences, let's look at the impact of each method assuming a typical payout of general liability losses (10% the first year, 10% in the second, 12% in the third, 14% in the fourth, 14% in the fifth, 15% in the sixth and 25% during the seventh and subsequent years). This payout was based on nationwide insurance company data and, thus, represents a composite of experience for owners, landlords and tenants, manufacturers and contractors and product liability losses.

We will also assume a rate of return of 7.5% per year and will compare the present value of loss deductions (for $100 of losses) for each method:

- $100.
- $91.81, based on Table 2.
- $73.20, based on standard discounting calculations.

Clearly, the earlier the deductions can be taken, the more valuable they are. Assuming a 34% tax rate, the tax savings under each method are:

- $34.
- $31.22.
- $24.89.

We have assumed that losses under a paid-loss retro plan qualify for deduction when incurred, presumably because the policy provides sufficient risk transfer. This assumption was also made for offshore captives for 1986 and prior years.

For 1987 and beyond, domestic and offshore captives will be required to discount reserves for tax purposes. For self-insurance programs, losses are deductible when paid.

Different investment yields have been assumed for the various alternatives based on estimated aftertax yields, likely restrictions on investments and alternative uses of capital.

The assumed yield for paid-loss retros are 12% on a pretax basis; 6% aftertax in 1986 and prior years and 8% aftertax in 1987 and succeeding years. The assumed yield for self-insurance plans were 12%, 6% and 8%; for domestic captives, 9%, 5% and 6%; and for offshore captives, 9%, 9% and 6%.

Since expenses can vary widely depending on a wide range of circumstances, typical ranges have been presented, though they are by no means meant to be inclusive of all reasonable situations.

Table 1: Comparison of net aftertax cost of $100 of ultimate liability losses

1987 and subsequent years

	Paid-loss retros	Self-insurance	Domestic captive	Offshore captive
Deductions:				
Expenses	$23-34	$12-20	$17-27	$19-26
Present value of loss deductions	100	71	93	93
Total deductions	124-134	83-91	110-120	112-119
Reductions in taxes[1]	(42)-(46)	(28)-(31)	(37)-(41)	(38)-(40)
Present value of loss payout	71-76	71	78	78
Expenses	24-34	12-20	12-27	19-26
Present value of net aftertax cost	53-64	55-60	58-64	59-64

1986 and prior years

Deductions:				
Expenses	$24-34	$12-20	$20-30	$20-30
Present value of loss deductions	100	78	100	100
Total deductions	124-134	90-98	120-130	120-130
Reductions in taxes[1]	(57)-(62)	(41)-(45)	(55)-(60)	(55)-(60)
Present value of loss payout	78-83	78	82	68
Expenses	24-34	12-20	20-30	20-30
Present value of net aftertax cost	45-55	49-53	47-52	33-38

[1] Total deductions multiplied by tax rate.

Chart: Amy Palmer

Table 2: Effect of reserve discounting on present value of loss deductions

Year	Discounted loss reserve	Deductions for loss reserves	Deductions for paid losses	Total loss deductions	Discount factor (7.5% yield)	Present value of loss deductions
1	$68.31	$68.31	$10.00	$78.31	0.964	$75.49
2	63.07	(5.24)	10.00	4.76	0.897	4.27
3	55.37	(7.70)	12.00	4.30	0.835	3.59
4	45.00	(10.37)	14.00	3.63	0.776	2.82
5	33.87	(11.13)	14.00	2.87	0.722	2.07
6	20.06	(13.01)	15.00	1.99	0.672	1.34
7+	0.00	(20.86)	25.00	4.14	0.541	2.23
			100.00	100.00		91.81

Chart: Amy Palmer

Would you like advice from an experienced colleague on a risk management, benefit management or actuarial problem? Four features in the Perspective section of Business Insurance can give you some answers.

Ask A Casualty Actuary, Ask A Benefit Actuary, Ask A Benefit Manager and Ask A Risk Manager answer written questions from readers on risk and benefit management issues and actuarial problems.



Mr. Sherman

This month's column, on actuarial issues in the casualty field, is written by Richard E. Sherman, a principal with Coopers & Lybrand in San Francisco. William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions in the benefits field. Ralph F. Perry Jr., vp and director of risk management at Amfac Inc. in San Francisco answers risk management questions. And, Joseph W. Duva, director of employee benefits at Allied-Signal Inc. in Morristown, N.J., answers benefits management questions.

Mr. Sherman's and Mr. Miner's columns appear alternately on the first Monday of each month. Mr. Duva's and Mr. Perry's columns appear alternately on the second Monday of each month. Mr. Sherman's next column will appear in January.

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

Health survey

Continued from page 3

Harris said it focused the survey on these heavy health care users because "these are the people who use most of the available services and who incur most of the costs. They are, presumably, the people who know the most about health care services and health insurance.

"Any policy which seeks to change the behavior of health care consumers must change the behavior of the heavy users," the survey's authors point out.

"This survey tells us a great deal about what is happening in the American health care system and the consequences of steps taken so far to contain health care costs," said Gilbert M. Reich, chairman and chief executive officer of Equicor.

"It strongly suggests steps which we need to take if we are to be successful in containing the growth of health care costs in the future without seriously reducing access to care," he added.

So far, attempts to change health care plans are generally accepted by heavy users of health care, according to the survey.

Fifty percent of the heavy users surveyed said they believe changes in their plans over the past three years were necessary to control health care costs. Thirty-six percent said the changes were not necessary, while 9% were not sure and the question did not apply to 4%.

Forty-nine percent of the respondents say the portion of the health costs they pay has increased.

Forty-nine percent of the respondents say the portion of the health costs they pay has increased, while 33% say they now pay about the proportion of health costs as they did three years ago. Nine percent say the portion of health costs they pay has decreased during the period.

The majority of the heavy health care users whose plans have been changed in the past three years say the changes have been at least somewhat acceptable, though they are not as enamored with provisions that shift health costs to individuals.

Twenty-five percent of all respondents say overall health plan changes have been very acceptable, 40% said they were somewhat acceptable, 21% said they were not very acceptable and 11% said they were not at all acceptable.

Among those covered by employer or union plans, 29% said the overall health plan changes were acceptable, 40% said they were somewhat acceptable, 20% said they were not very acceptable and 10% said they were not acceptable at all.

However, fewer respondents say cost-shifting is acceptable.

Only 11% of all heavy users surveyed said an increase in out-of-pocket costs as a result of plan changes is very acceptable, 44% said it was somewhat acceptable, 21% said it was somewhat unacceptable and 20% said cost-shifting was very unacceptable.

Again, those covered under employer- or union-sponsored plans found cost-shifting slightly more acceptable than other respondents. Twelve percent of those covered under employer or union plans said cost-shifting was very acceptable, 49% said it was somewhat acceptable, 21% said it was somewhat unacceptable and 18% said cost-shifting was very unacceptable.

Predictably, those with higher incomes found cost-shifting more acceptable. For example, of all those answering the question, only 36% of those with household incomes of $15,000 or less found cost-shifting at least somewhat acceptable, compared with 57% of those with incomes between $25,000 and $35,000 and 65% of those with incomes exceeding $50,000.

Selecting doctors on basis of fees*

	Age					
	Total	18-29	30-39	40-49	50-64	65+
Fees considered	10%	13%	12%	11%	8%	4%
Fees not considered	89	87	87	88	91	93
Not sure	1	1	1	—	1	3

* Totals may not equal 100% due to rounding.

Source: Louis Harris & Associates Inc.

Chart: Amy Palmer

Although the majority of heavy health care users whose plans have been changed recently say cost-shifting strategies are at least somewhat satisfactory, individual cost-shifting strategies were labeled as "not acceptable" by a majority of all of the heavy users responding to the survey.

For instance, when the surveyed individuals were asked whether increasing employee premium contributions was an acceptable cost-containment strategy, only 28% said it was acceptable, while 62% said it was not.

In addition, only 25% said increasing health plan deductibles was acceptable, while 62% said it was not. And only 11% believed that increasing existing copayment levels was acceptable, while 62% did not.

According to the survey, cost-shifting—both by employers and government programs—is having some effect on on health care consumer behavior, though relatively few heavy users of health care select providers according to price.

Forty-nine percent of all heavy users who say they are now paying a larger proportion of their health costs say cost-shifting has caused them to change the way the use health care services at least somewhat, though 20% say cost-shifting has had not much of an effect on the way the use health care services and 31% say cost-shifting has had no effect.

Among those covered by employer or union plans, cost-shifting has had less of an effect. Only 46% say they have changed they way they use health care services at

Continued on next page



Many express interest in HMOs, PPOs

By JAMES M. BURCKE

More than one-third of heavy users of health care services are not familiar with health maintenance organizations, a new survey shows.

However, some 35% of the surveyed heavy users of health care that are not already HMO members say they are at least somewhat interested in joining an HMO.

In addition, the same percentage of the heavy health care users say they would also be interested in obtaining care through a preferred provider association, according to the survey conducted by Louis Harris & Associates Inc. for Equicor, a joint venture between Equitable Life Assurance Society of the United States and Hospital Corp. of America that operates group health plans, including HMOs and PPOs.

The findings 'demonstrate forcefully the tremendous potential for enrolling heavy users of health care services in individual practice associations and other HMOs which offer the use of many doctors and popular hospitals,' the survey's authors say.

Harris surveyed 1,515 "heavy users" of health care, which are defined as adults that have been hospitalized at least once over a 12-month period or those who have not been hospitalized but have visited a doctor at least 10 times during the period.

Harris notes this group of people include those "who use most of the available services and who incur most" of the nation's health care costs.

Sixty-nine percent of those who were surveyed were covered by employer or union-sponsored health care plans.

Nine percent of the surveyed heavy health care users said they belonged to an HMO, while 89% said they did not and 2% were not sure.

Of those covered by employer-sponsored or union-sponsored health plans, 10% said they were HMO members, 87% were not and 2% were not sure.

(The survey totals often do not equal 100% because of rounding.)

HMO membership is most widespread in the West, where 14% of the heavy health care users said they were members.

Eleven percent of those in the Midwest were members, while 6% of the heavy health care users in both the East and the South were members.

While a large number of respondents said they were acquainted with the concept of HMOs, more than one-third said they were not familiar with this health care alternative.

Twenty-two percent of heavy health care users said they were very familiar with HMOs, 25% said they were somewhat familiar, 17% said they were not too familiar and 36% said they were not at all familiar with HMOs.

Interestingly, those covered by employer or union plans were not very much more familiar with HMOs than all of the survey respondents.

Twenty-six percent of those covered by employer or union plans were very familiar with HMOs, 28% were somewhat familiar, 16% were not too familiar and 30% were not at all familiar with HMOs.

Yet despite the lack of familiarity, 9% of all heavy health care users surveyed who are not already HMO members said they are very interested in joining an HMO.

An additional 26% said they were somewhat interested in joining an HMO, 13% were hardly interested and 46% said they were not at all interested in joining an HMO. Five percent said they were not sure whether they were interested.

Again, those with employer- or union-sponsored health plans were not much more interested in HMOs than all respondents. Only 8% of those covered by employer or union plans said they were very interested in joining an HMO, while 28% said they were somewhat interested.

However, interest in HMOs rises if heavy health care users are guaranteed that they would be able to use their current doctors or hospitals.

For instance, while 9% of all respondents said they were very interested in joining an HMO, 20% said they would be very interested if the HMO was linked to a particular hospital and 34% would be very interested if they could continue to use the services of their current doctor.

Likewise, while 26% of the surveyed heavy health care users said they would be somewhat interested in joining an HMO, 37% would be somewhat interested if the HMO was linked to a particular hospital and 39% would be somewhat interested if they could continue to use their current doctor.

The findings "demonstrate forcefully the tremendous potential for enrolling heavy users of health care services in individual practice associations and other HMOs which offer the use of many doctors and popular hospitals," the survey's authors say.

"Health providers should not underestimate the premium that heavy users place on a hospital's reputation for providing quality care and a convenient location," they noted.

However, other findings in the survey reveal that many heavy health care users do not place a premium on seeing a particular doctor.

Twenty-four percent said they did not mind seeing another doctor if the doctor or doctors they know are not available.

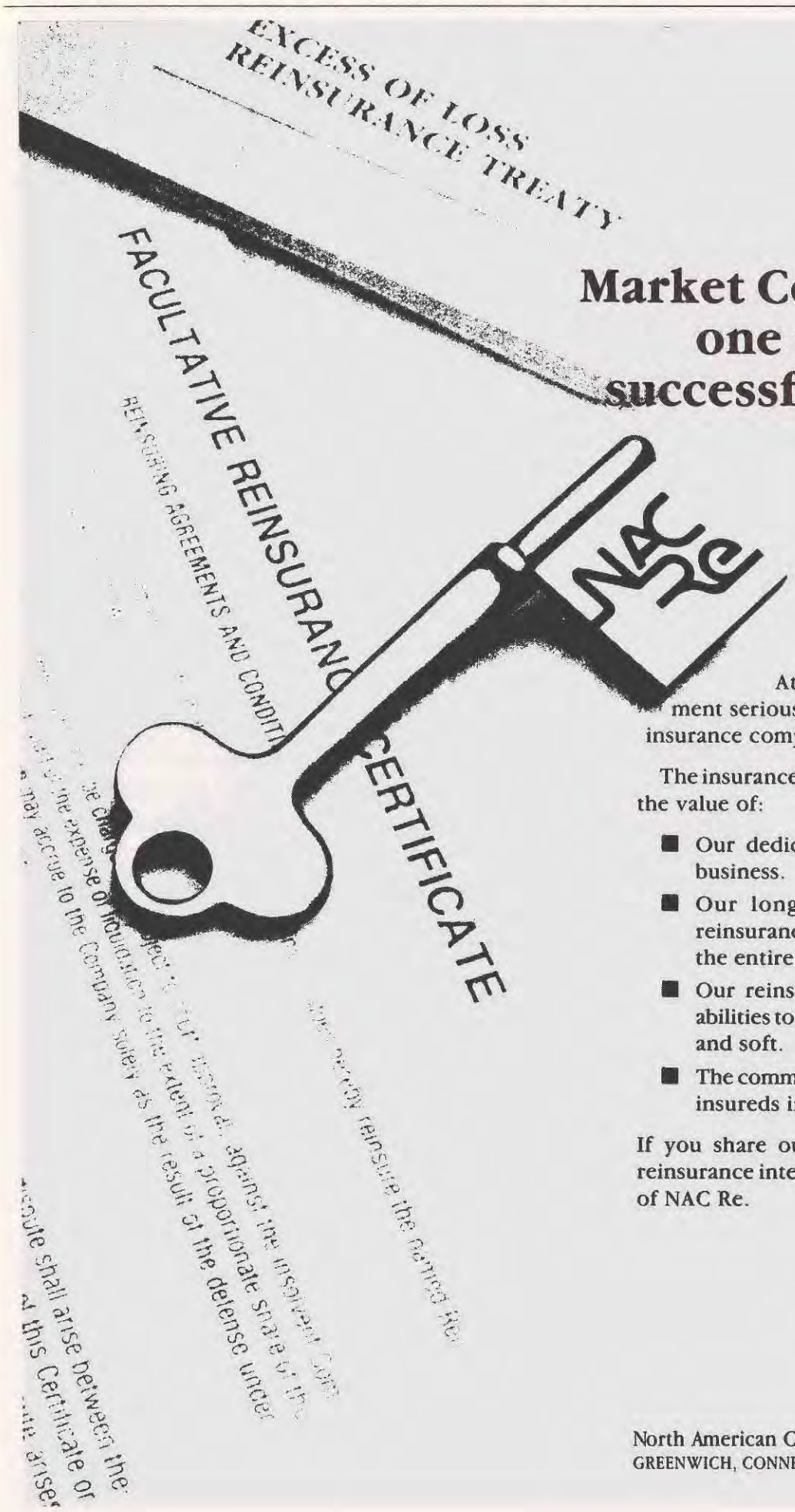
Thirty-seven percent said they did not mind too much seeing another doctor, while 36% said that seeing the same doctor meant a great deal to them.

"The inability of patients to see 'their own doctor' has often been given as a criticism of HMOs with their own facilities," the survey's authors say.

"This important finding shows that for the majority of Americans, this is not particularly important," they say.

Interest among heavy users of health care in preferred provider organizations is almost as great as interest in HMOs, the survey shows.

Continued on next page



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Continued from previous page

Five percent of all respondents surveyed said they currently belong to a PPO, 92% said they did not belong to a PPO, and 2% said they were not sure.

The percentage of those respondents covered by employer health plans that belonged to PPOs was not broken out.

In addition, 7% of those surveyed who did not belong to a PPO said they were very interesting in joining a PPO.

Some 28% said they were somewhat interested, 17% were hardly interested, 44% were not interested at all in joining a PPO and 5% were not sure.

Roughly the same percentage of those covered by employer and union health plans expressed interest in PPOs.

Six percent said they were very interested, 30% said they were somewhat interested, 19% said they were hardly interested, 42% were not at all interested and 3% were not sure.

And, again, interest in PPOs increases if the individuals are allowed to continue to use the services of their current doctors and hospitals.

While 7% of all respondents said they were very interested in PPOs, 24% of the respondents said they were very interested if they are allowed to use their current doctor and hospital.

In addition, 35% of the respondents said they were somewhat interested in PPOs if they could use their current doctor and hospital, compared with the 28% that are somewhat interested in PPOs in general.

"When one compares the responses to questions about PPOs with those about HMOs, it is clear that the restriction that both place on patients' choices are not fundamental barriers to very rapid growth in membership," the survey's authors point out.

"However, it should be remembered that the growth of HMOs has been fueled not only by employee and public support.

"Growth has also come from an increased understanding among employers that a capitation-based payment system fundamentally changes the motivation of health care providers. Discounted fee-for-service methods such as PPOs do not do so," according to the survey authors.

"Only time will tell if this new form of managed care, when linked with rigorous pre-admission and utilization review, will be as effective in containing health care costs as HMOs have proven to be," the survey's authors say.

While a good portion of those surveyed said they were at least somewhat interested in HMOs and PPOs, the survey finding that few are currently enrolled in these alternative health care delivery mechanisms is not good news for employers, said Humphrey Taylor, president of Louis Harris & Associates.

"Until we the get bulk of this population—heavy users of health care—into HMOs and PPOs, we aren't going to get health care costs under control," Mr. Taylor commented.

"I see health care costs out of control for another five years at least," he said.

However, Mr. Taylor noted that the survey also shows there is "enormous potential to get these people into a managed care environment, which can be a very effective cost-containment mechanism because it alters the behavior of providers."

Gilbert M. Reich, president and chief executive officer of Equicor, agreed with Mr. Taylor's assessment.

"So long as most people are covered by indemnity insurance, which pays providers through an unmanaged, fee-for-service reimbursement system, I do not believe we can do a reasonable job of containing health costs," Mr. Reich said.

'Fortunately, the opportunity for continued growth of managed care is great,' Mr. Reich says.

"Fortunately, the opportunity for continued growth of managed care is great," Mr. Reich commented.

"Our survey shows that substantial numbers of those surveyed said that they are interested in joining HMOs and PPOs. Among those surveyed interest is particularly strong in joining groups which allow them to continue to use their own doctors or the hospitals of their choice," he concluded. ■

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NOV. 9-11. Casualty Actuarial Society Annual Meeting in Nashville, Tenn.; $225. Edith Moribito, Casualty Actuarial Society, 1 Penn Plaza, 250 W. 34th St., New York, N.Y. 10119; 212-560-1018.

NOV. 9-13. National Assn. of Independent Insurers' 41st Annual Meeting in Atlanta; $250 for members; $350 for non-members and subscribers; $100 for spouses. National Assn. of Independent Insurers Convention Office, 333 N. Michigan Ave., Suite 1632, Chicago, Ill. 60601

NOV. 10. Insurance Representation, Specifications and Negotiations seminar in Dallas, sponsored by the International Risk Management Institute Inc.; $235. International Risk Management Institute Inc., 10300 N. Central Expressway, Building III, Suite 208, Dallas, Texas 75231-3390; 214-363-9596.

NOV. 10-11. Ergonomics Building Efficiency and Safety in the Workplace course in Los Angeles, sponsored by the Institute of Safety and Systems Management, University of Southern California; $375. University of Southern California, Institute of Safety and Systems Management, Office of Extensions and In-service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

NOV. 10-13. Sixth Annual Construction Insurance Conference in Dallas, sponsored by the International Risk Management Institute Inc.; $595; $485 for Tuesday through Thursday only; $235 for Monday only. International Risk Management Institute Inc., 10300 N. Central Expressway, Building III, Suite 208, Dallas, Texas 75231-3390; 214-363-9596.

NOV. 10-14. Assets Protection Course I—Concepts and Methods course in Dallas, sponsored by the American Society for Industrial Security; $690 for ASIS members; $750 for non-members. American Society for Industrial Security, 1655 N. Fort Meyer Drive, Suite 1200, Arlington, Va. 22209; 703-522-5800.

NOV. 10-14. Modern Safety Management course in Atlanta, sponsored by the International Loss Control Institute; $695. International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 800-554-6001; 404-466-2208.

NOV. 10-14. Health Care Cost Containment Workshops in New York, sponsored by Health Research Institute; $495 for advanced health care cost containment sessions; $250 for health improvement/wellness sessions. **Also Nov. 17-19** in Dallas and **Dec. 8-12** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

NOV. 11. Managing Retiree Health Benefits conference in Northbrook, Ill., sponsored by the Midwest Business Group on Health; $145 for MBGH member; $120 for additional MBGH member from the same organization; $190 for non-member; $165 for additional non-member from the same organization. Midwest Business Group on Health, 8303 W. Higgins Road, Suite 200, Chicago, Ill. 60631; 312-380-9090.

NOV. 11. Automating Risk Management for Profit and Survival seminar in Cincinnati, sponsored by SOFTEC Inc.; free. **Also Nov. 13** in Cleveland; **Nov. 18** in Los Angeles; and **Nov. 20** in San Francisco. Jack Bergers, SOFTEC Inc., 33063 Schoolcraft Road, Livonia, Mich. 48150; 313-261-4440.

NOV. 11. Important New Employee Benefit Laws: The Latest Developments in Columbus, Ohio, sponsored by the Ohio Manufacturers' Assn.; $95 for OMA members; $120 for non-members. Ohio Manufacturers' Assn. 100 E. Broad St., Columbus, Ohio 43215.

NOV. 12-14. Back Injury Prevention course in Los Angeles, sponsored by the Institute of Safety and Systems Management, University of Southern California; $275. USC, Institute of Safety and Systems Management, Office of Extensions and In-service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

NOV. 12-14. Society of Insurance Research Annual Conference and Business Meeting: Insurance—Keystone of the Future in Cambridge, Mass.; $275 for SIR members; $375 for non-members. Society of Insurance Research, P.O. Box 933, Appleton, Wis. 54912.

NOV. 13. Self-Insurance and Other Risk Financing Techniques workshop in Tampa, Fla., sponsored by the Public Risk & Insurance Management Assn.; $110 for PRIMA members; $180 for non-members. **Also Dec. 12** in Dallas. Public Risk & Insurance Management Assn., 1120 G St. N.W., Suite 400, Washington, D.C. 20005; 202-626-4650.

NOV. 13. ISO Commercial General Liability Rating workshop in Philadelphia, sponsored by the Insurance Society of Philadelphia; $65 for ISP members; $75 for non-members. Insurance Society of Philadelphia, Public Ledger Building. Philadelphia, Pa. 19106.

NOV. 13. Workers Compensation in Illinois conference in Springfield, Ill., sponsored by the Illinois State Chamber of Commerce Center for Business Management; $90 for members; $135 for non-members. **Also Nov. 20** in Chicago. Center for Business Management, 20 N. Wacker Drive, Chicago, Ill. 60606; 312-372-7373.

NOV. 13-14. Waste Industry Insurance Forum: Alternate Approaches for Liability Insurance in Hamilton, Bermuda, sponsored by Ardell Insurance Co. Ltd.; $525; $450 for each additional registrant from the same organization. Ardell Insurance Co. Ltd., P.O. Box 507, Buffalo, N.Y. 14205-0507.

NOV. 13-14. How to Audit and Check Insurance Policy Costs and Coverage course in Dallas, sponsored by the American Management Assn.; $675 for members; $775 for non-members. **Also Nov. 17-18** in Bloomington, Minn.; **Nov. 20-21** in Boston; **Nov. 24-25** in Parsippany, N.J. American Management Assn., P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

NOV. 13-14. Sixth Annual Occupational Health Nursing Principles and Certification Review course in Orlando, Fla., sponsored by the Occupational Health Consulting division of Fireman's Fund Risk Management Services Inc.; $275. **Also Dec. 4-5** in San Rafael, Calif.; **Jan.9-10** in Newark, N.J.; **Feb. 19-20** in Schaumburg, Ill.; **March 5-6** in Dallas; **March 19-20** in Philadelphia; **April 2-3** in Torrance, Calif. Annette B. Haag, Occupational Health Consulting, Fireman's Fund Risk Management Services Inc., P.O. Box 3890, San Rafael, Calif. 94911; 415-492-6646.

NOV. 14. Loss Control & Safety workshop in Tampa, Fla., sponsored by the Public Risk & Insurance Management Assn.; $110 for members; $180 for non-members. Public Risk & Insurance Management Assn., 1120 G St. N.W., Suite 400, Washington, D.C. 20005; 202-626-4650.

NOV. 14. 1986 Chartered Property & Casualty Underwriters Seminar and Conferment in Chicago, sponsored by the Chicago chapter of CPCU; $35. Tim Saunders 312-443-4000.

NOV. 14. 31st Annual All Industry Day and Chartered Property & Casualty Underwriter Conferment Luncheon in Denver, sponsored by the Colorado chapter of CPCU; $35. Mary Roth, State Farm Fire & Casualty Co., 3001 Eighth Ave., Greeley, Colo. 80631; 303-351-5836.

NOV. 14-19. Thirty-second Annual Employee Benefits Conference in Las Vegas, Nev., sponsored by the International Foundation of Employee Benefit Plans; $450; $150 for pre-conference institutes. Members only. International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

NOV. 17. The Risk-Bearing Phenomenon—Alternatives to Traditional Insurance workshop in Washington, sponsored by the Society of Chartered Property Casualty Underwriters; $125 for CPCU members; $140 for non-members. **Also Nov. 19** in Los Angeles; **Nov. 21** in Seattle. Mari Jennings, Society of CPCU, Kahler Hall, 720 Providence Road, CB #9, Malvern, Pa. 19355; 215-251-2741.

NOV. 17-18. Making the PPO Choice: A Purchaser's Guide to Assessing and Implementing the PPO Product conference in San Diego, sponsored by the American Assn. of Preferred Provider Organizations; $550 for general registration; $500 each for multiple registrants from same organization; American Assn. of Preferred Provider Organizations, 101½ S. Union St., Alexandria, Va. 22314; 703-683-4918.

NOV. 18-19. Second Annual Conference and Technical Briefing on Captives and International Insurance Programmes in London, sponsored by the Risk & Insurance Research Group Ltd.; £295 (approx. $424). Risk & Insurance Research Group Ltd., 4 Henrietta St., Covent Garden, London WC2E 8PS.

NOV. 18-20. Training Methods and Techniques in Occupational Safety and Health course in Los Angeles, sponsored by the Institute of Safety and Systems Management, University of Southern California; $420. University of Southern California, Institute of Safety and Systems Management, Office of Extensions and In-service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

NOV. 19. Chicago Chapter of Women in Employee Benefits Breakfast in Chicago; $15 for WEB members; $20 for non-members. Sophia Chrusciel, McDermott, Will & Emery, 111 W. Monroe St., Chicago, Ill. 60603.

NOV. 19. The HMO/PPO Shoot Out seminar in Chicago, sponsored by the Chicago Chapter of the International Society of Certified Employee Benefit Specialists; $75 for members of the Chicago ISCEBS chapter and members of the Midwest Business Group on Health; $95 for all others. Ted Carlson, Chicago Chapter, International Society of Certified Employee Benefit Specialists, P.O. Box 600, Chicago, Ill. 60690; 312-938-7162.

NOV. 19-20. Pensions, Tax Reform and You, the Provider seminar in Hartford, Conn., sponsored by Life Office Management Assn.; $295 for LOMA members; $445 for non-members. Anne Heape, LOMA, 5770 Powers Ferry Road, Atlanta, Ga. 30327; 404-951-1770.

NOV. 19-22. Southern Pension Conference's Seventeenth Annual Educational Conference in Sea Island, Ga.; $250 for members; $350 for non-members. Southern Pension Conference, P.O. Box 47309, Atlanta, Ga. 30362; 404-458-

NOV. 20-21. Damages, New Settlement Techniques and Tax Consequences conference in New York, sponsored by the American Bar Assn. Division for Professional Education, Section of Litigation; $375 for ABA members; $350 for ABA Litigation Section members; $250 for members of government; $400 for non-members. **Also Dec. 4-5** in San Francisco. American Bar Assn., Division for Professional Education, Dept. 441/442, 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-988-6200.

NOV. 20-21. Letters of Credit in Reinsurance seminar in New York, sponsored by Executive Enterprises Inc.; $795; $695 for additional registrants from the same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-223-0787; 800-831-8333 in New York.

NOV. 21. Sixth Annual Economic Issues in Workers Compensation in Philadelphia, sponsored by the National Council on Compensation Insurance; $60 for NCCI members; $85 for non-members. Michelle Smith, National Council on Compensation Insurance, 1 Penn Plaza, New York, N.Y. 10119; 212-560-1026.

NOV. 21. Workers Compensation: Your Safety and Health Balance Sheet course in Los Angeles, sponsored by the Institute of Safety and Systems Management, University of Southern California; $150. **Also Nov. 22.** USC, Institute of Safety and Systems Management, Office of Extensions and In-service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

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Texas Air cover

Continued from page 1

Currently, "each airline takes care of its own insurance" program, a Texas Air spokeswoman said.

However, London sources anticipate that all policies will be consolidated so they renew on the same date.

According to these sources, Eastern's aviation coverage is the first to come up for renewal—on Dec. 1.

The London observers say that Texas Air likely will act quickly if it decides to consolidate coverage, so it could be possible that all of the airlines will participate in the Dec. 1 renewal.

Frank Shine, assistant treasurer and risk manager at Continental Airlines, said it "is a possibility" that all renewal dates will be consolidated, but "we simply do not know at this point" because the Eastern and People Express acquisitions have not been finalized.

Mr. Shine, who also is responsible for New York Air's insurance, added that the individual airlines "are not at liberty to discuss the situation until everything is finalized."

Eastern's director of insurance, Oren H. Tomlinson, was out of the country last week and could not be reached for comment. A pilot who is responsible for People Express' aviation coverage was in flight and also could not be reached.

Calls to Frontier's Denver offices were not answered.

Eastern Airlines most recently renewed its aviation coverage through Frank B. Hall and Leslie & Godwin on Sept. 1, 1985, for a 15-month policy period, according to London sources. Eastern paid about $27 million in premium for its hull and liability coverage for that period, the sources estimated.

The coverage is said to include liability limits of $600 million, while the hull portion of the coverage covers a fleet of aircraft whose value is estimated at more than $5.2 billion.

Coverage of Texas Air's two existing airline subsidiaries, Continental and New York Air, was previously brokered by New York-based Johnson & Higgins in the United States and Crawley Warren & Co. Ltd. in the London market, according to London sources.

A J&H official last week would not comment on the loss of the Texas Air account.

Texas Air most recently renewed its hull and liability insurance on March 1 for a 15-month period for an estimated premium of $20.7 million, the London sources say.

Texas Air's hull fleet value at the renewal was estimated at $3.1 billion. The airline was charged a hull coverage rate of 33 cents per $100 of insured value with a maximum hull value per aircraft of $62 million, the sources say.

The liability portion of the coverage, with limits of $500 million per occurrence, was issued at a rate of 50 cents per 1,000 revenue passenger miles flown, according to the sources.

About 25% of the Texas Air coverage was placed in the London market, according to the sources, with The Orion Insurance Co. P.L.C. acting as the lead underwriter.

Aviation coverage for People Express, Frontier and Britt was formerly brokered by New York-based Alexander & Alexander Services Inc. in the United States and its Alexander Stenhouse Ltd. affiliate in London.

Robert J. Tirone, vp of A&A's aviation and aerospace division in New York, said Hall may have received all of Texas Air's aviation insurance business because it was the broker for Eastern, the largest of the carriers Texas Air hopes to acquire.

"I believe it is Texas Air's intention that the entire placement be rolled into one as quickly as possible," Mr. Tirone added. "How soon they will be able to accomplish that is not entirely under their control."

The airlines now generate nearly $70 million in combined aviation premium volume, sources say.

People Express, Frontier and Britt's coverage was most recently renewed on April 1 for an estimated premium of $22 million, according to the London sources. The hull insurance covers a fleet whose value is estimated at $1.58 million at a rate of 51 cents per $100. The maximum insured hull value is $45 million, the sources say.

Continued on next page

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At Industrial Risk Insurers we feel our OVERVIEW management program for loss prevention and control can be used to minimize damage caused by a natural disaster. OVERVIEW may not be able to control the emergency itself (how can you really control a hurricane or tornado?), but the **before** and **after** situations can be anticipated, prepared for, and implemented as appropriate. For example:

Arctic Freeze. Each winter we expect cold weather, but arctic freeze is something else. This phenomenon occurs when the jet stream that circles the earth at high altitudes shifts course and carries an unusual mass of bitterly cold arctic air deep into warmer climates, sustaining subnormal, freezing temperatures for periods of nearly a week. Every state, including Florida and Hawaii, has felt the effects of arctic freeze at one time or another. This winter we suggest you closely monitor weather reports, since a few days warning should be enough time to actuate your pre-emergency plan.

Snow Overload. When a snow or ice storm is on the way, the facility's emergency coordinator should begin monitoring storm advisories, decide when to activate the Emergency Control Center, and assign the tasks of plowing, shoveling, and installing snow fences and markers at hydrants and fire protection control valves. **During** and **after** a storm the coordinator should make sure that snow is continually removed from roofs and that ice is dislodged from roof drains. Otherwise, the roof might collapse.

Spring Floods. Although some of the most disastrous floods have occurred in July and August due to heavy rains or hurricanes, many people associate flooding with springtime. And for good reason, because thawing temperatures in the snow fields and April showers result in abnormal runoff. Rampaging waters are only part of the threat, however, since floods can spread flammable liquids, isolate facilities and disrupt fire protection measures. All too often, what floods leave behind is consumed by fire. Be sure to review the potential flood threat to properties located near bodies of water and plan ahead.

Each of the above situations is discussed in OVERVIEW, IRI's total management program for loss prevention and control. For assistance, contact your servicing IRI loss prevention consultant, or ask Mrs. P.A. Sasso for a complimentary copy of the OVERVIEW brochure: IRI, 85 Woodland Street, Hartford, CT 06102, area code (203) 520-7412.

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Revco coverage

Continued from page 2

The U.S. Food and Drug Administration ordered E-Ferol recalled in August 1984, after it was linked to more than 30 infant deaths and an unknown number of disabling injuries, an FDA spokeswoman said.

The health problems the infants experienced included abnormal accumulations of fluid in the abdomen, enlarged livers and spleens, kidney damage and low blood platelet counts, according to Dr. William Martone, chief of epidemiology in the hospital infections program of the federal Centers for Disease Control in Atlanta.

Plaintiff's attorney L. Richard Fried Jr. in Honolulu said settlements of the five E-Ferol lawsuits that he handled personally ranged from $40,000 to $2 million on a structured basis.

Mr. Fried, of the firm Cronin, Fried, Sekiya, Kekina & Fairbanks, estimated the total number of E-Ferol lawsuits at 100 or fewer.

The E-Ferol-related deaths and injuries prompted the FDA to revise its regulation of some drugs.

The lawsuits were handled individually rather than in class-action litigation, Mr. Fried said.

Mr. Fried added that the liability exposure faced by OJ&F, the product distributor, may be greater than Revco's.

Legal documents show that OJ&G's primary insurer was National Union Fire Insurance Co. of Pittsburgh, Pa., he said.

Officials at American International Group Inc., which owns National Union, could not be reached for comment by press time.

OJ&F no longer is operating as an independent corporate entity, according to OJ&F's attorney Charles McCaghey with the New York City law firm of Olwine, Connelly & Case.

A federal grand jury met in St. Louis last fall to investigate the manufacture, distribution and regulation of E-Ferol, according to Revco's 10-K report.

Steve Holtshouser, an assistant U.S. attorney in St. Louis, said that no indictments have been issued.

The investigation is continuing, according to Martin Zeiger, Revco's general counsel.

Officials of the U.S. Justice Department in Washington declined to comment on the status of the investigation or on anything else related to the case.

The premature infants' deaths and injuries that were related to the use of E-Ferol prompted the FDA to make "significant" revisions in its regulation of some types of drugs, according to the drug agency.

E-Ferol was one of more than 5,000 drugs that were allowed to be distributed for use before clearing the FDA's usual drug testing procedures because of an FDA policy that allowed the sale of drugs that were similar to drugs marketed before 1962.

But, since September 1984, the FDA's policy is to require full testing before distribution of any product that is not identical to a product that was allowed before 1962.

In addition, the FDA established regulations requiring that adverse reactions must be reported to the agency for such identical drugs that had not yet been specifically approved. ■

Texas Air cover

Continued from previous page

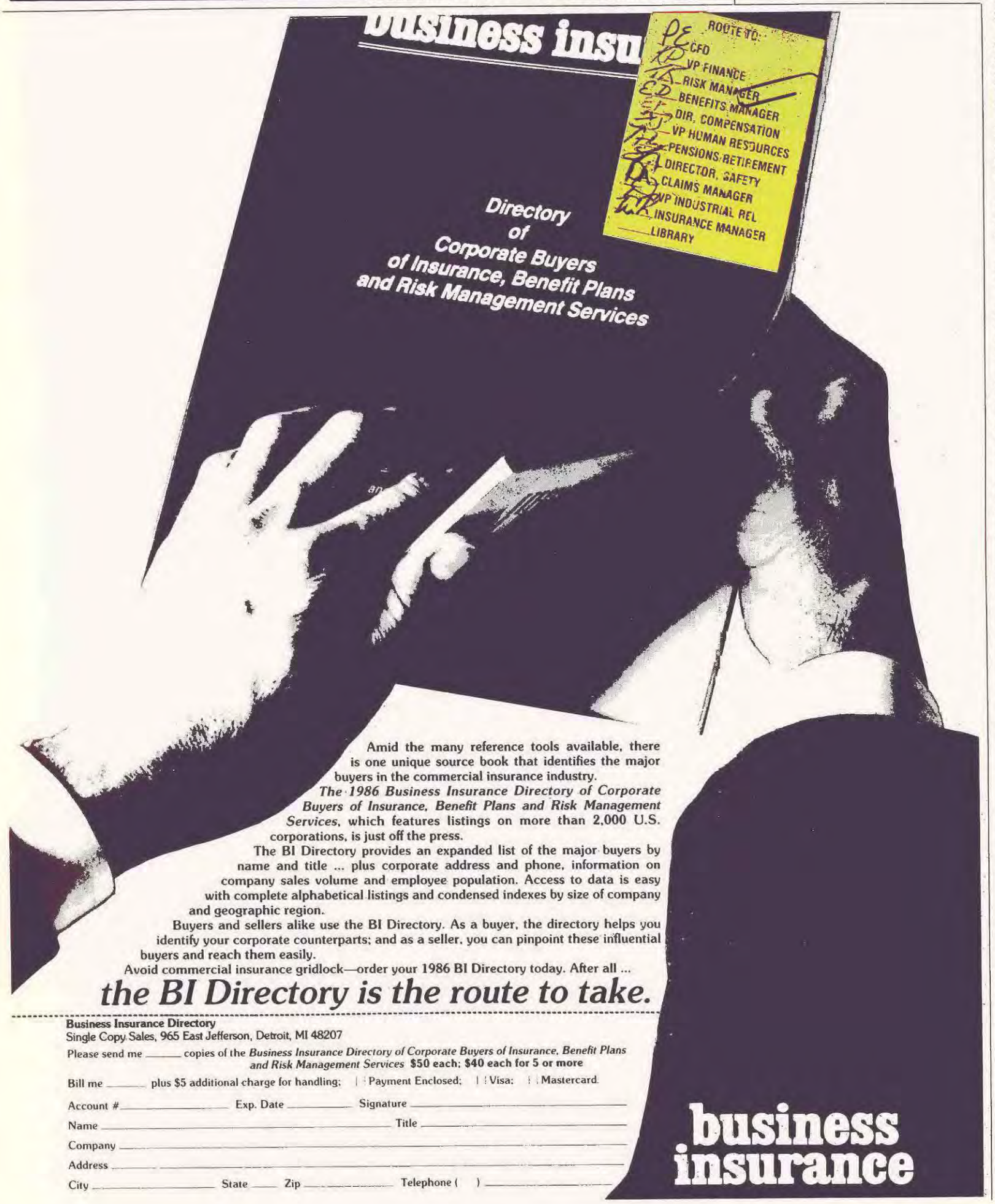
The three airlines' liability limit is $500 million per occurrence at a rate of 72 cents per 1,000 revenue passenger miles.

London sources explained that People Express historically has paid a higher liability rate than the other airlines because it has been viewed as a higher risk.

Orion is also the London lead for the People Express/Britt/Frontier coverage, the sources say, adding that about 30% of the coverage is written in the London market.

Prior to the April merger of People Express and Frontier, Frontier had most recently renewed its liability insurance on Oct. 15, 1985, through New York-based broker Fred S. James & Co. Inc. in the United States and C.E. Heath P.L.C. in London, the London sources say.

The Ariel syndicate at Lloyd's of London was the lead London underwriter. ■



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business insurance

Big verdicts cut sharply: ATLA study

WASHINGTON—Jury verdicts of $1 million or more in 1984 and 1985 often were greatly reduced when paid, according to a survey conducted for the Assn. of Trial Lawyers of America.

The study, "An Analysis of Million Dollar Verdicts," was prepared for ATLA by Ivy Broder, a professor of economics at American University in Washington, and based on a study of 198 million-dollar verdicts out of a sample of 472 verdicts for $1 million or more. The other 274 cases were on appeal or unusable in the study, according to Ms. Broder.

The reductions in the verdicts were based on several factors: reduction on appeal, uncollectability, application of comparative fault, caps set by state law, settlement negotiations to preclude an appeal, or a judge's action.

The survey findings include:

○ The original verdicts totaled $790.6 million, but the amount actually received in the settlement totaled $339.2 million, or 57% less.

○ Settlement on a $1 million verdict was reduced an average of 21%.

But, the larger the verdict, the larger the percentage of reduction. For example, $10 million verdicts were reduced an average of almost 59%.

○ The most severely injured plaintiffs received the highest verdicts, which were cut the least in settlement. Conversely, the least severely injured plaintiffs received the smallest verdicts, which were reduced the most when paid.

○ In settlement, the large variances in awards were reduced, "suggesting that the settlement process mitigates some of the unusually high verdicts and provides a more consistent pattern of final awards," according to Ms. Broder.

Ms. Broder concludes that, "Focusing on verdicts is quite misleading. Settlements differ significantly from verdicts. A full picture of the way our judicial system actually compensates victims must include the actual settlement process as well as the results of jury deliberations."

ATLA President Robert L. Habush said the survey findings "prove the importance of examining what actually happens to plaintiffs in the civil justice system.

"Unfortunately, the media tend to focus on the initial award and rarely report the final settlement," he said.

"This leaves the impression that awards to plaintiffs are much higher than they really are."

Mr. Habush said the study rebuts insurers' statements that they have been forced to raise rates and cancel coverage due to high jury verdicts.

"They fail to tell us the amount they are really paying out," he said.

Mr. Habush added that the civil justice system "has safeguards built into it to ensure against unfair or excessive jury verdicts."

Manville settlement

Continued from page 3

ended up paying in current dollars about 48 cents on the dollar.

Moreover, during the time it takes for Manville's reorganization plan to be consummated, the funding contracts will accrue interest for Lloyd's and other companies and reduce the amount the companies have to pay, Mr. Wilson explained.

He added that the settlement had been agreed to conceptually in January 1986, but because of the numerous parties and the complexities involved it took more than six months to draft the documents.

"We're very satisfied," said Robin Neuman, Manville outside counsel. "We think it's a very favorable settlement."

Ms. Neuman, of the San Francisco firm of Heller, Ehrman, White & McAuliffe, said that Manville had to take various factors into consideration in agreeing to the settlement, including the amount of coverage that was usable to pay asbestos claims.

For example, the post-1978 coverage required that asbestos bodily injury must be diagnosed by a member of the medical profession before coverage would be triggered and also that certain policies would pay only for property damage rather than bodily injury cases.

Another factor in the settlement was the "serious logistical problems" created by the numerous parties, she added, noting that the insurers are located overseas and that the policies, individually, often were for relatively small amounts. To pursue litigation would have meant very significant transaction costs for Manville in addition to difficulty in collecting from the companies.

Manville is not currently meeting with Continental and Columbia, the two insurers with which it still is litigating, Ms. Neuman said. "We are not meeting with them. We are exploring all our litigation options."

CNA attorney Robert Muhlbach, with the Los Angeles firm of Kirtland & Packard, said Manville has made a settlement demand and that it is being considered by the insurer.

The parties involved in the latest settlement are to immediately dismiss without prejudice claims and defenses pending between them in the San Francisco litigation, pending approval of the settlement by the bankruptcy court.

The payment of the settlement amount is in full satisfaction of all of Manville's claims against the insurers relating to the settled policies. Entry of a final order approving a Manville reorganization plan is also a prerequisite for the settlement becoming effective. ■



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Commercial Consumers

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CEO's Presidents and Owners..2,803
Vice-presidents, General Managers and Other Administrative Personnel 2,601

Financial:

Chief Financial Officers and Vice-presidents of Finance 1,890
Secretaries, Treasurers, controllers and other Financial Personnel..6,127

Risk/Employee Benefits:

Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations....7,471

Sub-total 20,892

Associations 477
Government, Unions and Educational Institutions 1,357

Commercial Consumers

Sub-total 22,726

Insurance Agents and Brokers 10,795
Insurance Companies 7,168
Financial Institutions 897
Actuaries, Attorneys, Adjusters, Appraisers and Consultants 4,536
Others Allied to the Field 1,505
TOTAL 47,627

* Source Business/Occupational breakdown of qualified circulation, May 26, 1986 issue, as submitted to BPA for June 1986 BPA Publisher's Statement.

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Pan Atlantic settlement

Continued from page 3

whatsoever in its dealings with Alte Leipziger and that Alte Leipziger committed an unfortunate error when it accused Pan Atlantic of misconduct.

In the letter, Alte Leipziger acknowledges the correctness and validity of the arbitration award rendered against it.

"Alte Leipziger hopes other companies which have made similar accusations against Pan Atlantic will now withdraw such allegations and resume honoring their contracts with Pan Atlantic," the letter concludes.

Anthony Lanzone, an attorney for Herold Ruckversicherung AG of West Germany—the only other pool member so far to have reached the stage of selecting arbitrators—said the reinsurer will continue its arbitration with Pan Atlantic.

In addition to resolving disputes over the arbitration award, Alte Leipziger and Pan Atlantic have also agreed to settle other litigation related to the pool business, lawyers say.

"The parties have resolved all of their differences and have resumed a normal business relationship," Mr. Greenberger said.

Included in this agreement is the settlement of a defamation lawsuit filed against Alte Leipziger by Pan Atlantic and Mr. Goetz, according to Sol Kroll, a lawyer with Kroll, Tract, Harnett, Pomerantz & Cameron in New York, representing Alte Leipziger.

The lawsuit had charged that Alte Leipziger engaged in a "concerted effort" to defame the pool manager and Mr. Goetz in communications with other pool members by accusing them of incompetence and dishonesty in handling the pool's affairs.

As part of the settlement agreement, Alte Leipziger also will withdraw from a class-action lawsuit filed by several pool reinsurers against Republic Insurance Co. and Employers Casualty Co., two Dallas-based insurers that provided fronting services for the pool, according to Mr. Kroll.

In that lawsuit, the reinsurers—charging that the pool's financial and loss development data were misleading—seek to have their reinsurance agreements canceled from inception.

Lawyers for both sides declined to discuss the terms of the settlement, which they described as confidential. In addition, Mr. Greenberger said that—as of last week—court papers reflecting the agreement had not yet been filed in the two lawsuits involving Alte Leipziger.

Mr. Kroll noted that the agreement between Alte Leipziger and Pan Atlantic does not affect arbitrations and several other legal actions involving other pool reinsurers. ■

Study finds savings in post-65 accruals

The cost to employers of allowing pension accruals for employees who work past age 65 will not be great, according to a recent study.

In fact, if more people decide to stay on the job past 65 as a result of the pension accruals, companies could end up saving money because the cost of the post-65 accruals will be less than the cost of the pension benefits that employers would have had to pay, according to the study.

In the final days of its session, the 99th Congress passed legislation requiring companies to recognize years of service past 65 for pension accrual purposes (*BI*, Oct. 27).

And, even before the passage of that bill, a study by William M. Mercer-Meidinger Inc. done for the American Assn. of Retired Persons looked at the cost of such accruals.

The study determined that there currently are about 640,000 employees age 65 to 69 working for companies covered by the Age Discrimination in Employment Act of 1967, which, prior to the passage of the new bill last month, allowed employers to discontinue pension contributions and crediting for employees over age 65.

The study used computer data to analyze the cost under two separate scenarios: that there is no increase in employment among workers age 65 to 69, and that the continuation of pension accruals results in an increase in older workers.

The study found:

- If there is no increase in the total number of employees over age 65, employers' pretax cost of continuing pension accruals in the first year would be $51.5 million, or 0.08% of the total pension cost.

The cost would increase somewhat but the ultimate cost—reached after 20 years—still would be only 0.52% of the total pension costs if additional service only is credited, and 0.91% if service and final pay are credited.

If more employees work past age 65, the savings to the Social Security system also would be substantial.

- If there is an increase in employment among people over age 65, employers' pension costs will increase even less or actually will decline, because the savings realized from a shorter duration of pension payments will be greater than the cost of the additional pension credits.

For example, if post-65 employment increases 10%, the employer cost in the first year is $56.6 million, or 0.09% of the total pension costs.

By the 20th year, employer costs would be 0.2% of the total if service only is credited, and 0.72% if service and final pay are credited.

But, if post-65 employment increases 25%, employers would save $173.5 million by the 20th year on a pretax basis, or 0.27% of the total pension costs, if service only is credited. If service and final pay are credited, employer costs would be $282.3 million, or 0.44% of the total.

And, if post-65 employment rises 50%, employers would save $682.2 million pretax by year 20, or 1.05% of the total, if additional service only is credited. And, they would save $24.7 million, or 0.04% of the total, if service and final pay are credited.

- If more employees work past age 65, the savings to the Social Security system also would be substantial.

For example, the study conservatively estimates that if employment among workers age 65 to 69 increased 10%, $295 million a year in Social Security Benefits would not be paid.

If employment increased 25%, the annual savings to the Social Security system would be $739 million.

And, with a 50% boost in employment, the annual savings would be $1.5 billion in benefits not paid. ■

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Insurer stocks

Continued from page 1

dential/Bache Securities Inc. in New York. She attributes this to investors' belief that interest rates will not decline further and the economy will get a lot stronger.

As a result, investors have shifted from interest-sensitive stocks, including insurer stocks, to economically sensitive stocks, like manufacturing issues.

However, issues affecting only the property/casualty industry also had an impact on the stocks' performance, Ms. Hoffer and Mr. Seifer agreed.

"We have suffered for the Florida legislation," said Mr. Seifer, referring to legislation enacted in that state that would roll back 1987 property/casualty premium rates to 1984 levels (see story, page 1).

In addition, he said, investors have changed from having a confident attitude toward property/casualty stocks early in the year to the attitude that "things are going to go wrong and we'd better get out of the group."

Mr. Seifer said he believes, however, the industry's cycle has a "long way to go on the upside." Underwriting margins will widen and earnings will improve through 1990-91, he predicted.

In addition, some investors believe that because of the influx of capital into the industry, a return to price competition is "just around the corner," said Ms. Hoffer, stressing this is not a belief shared by Prudential/Bache.

"I think we'll have another improving run in the stocks in 1987, so we're telling people to stay with them," said Mr. Seifer.

First Boston's top three recommendations are AIG, Gen Re and American General Corp. stock warrants.

Noting that AIG has announced its stock will split in November, Mr. Seifer said AIG and Gen Re are expected to report 1990 earnings of $10 a share. "These are stocks that can certainly sell on anywhere from a 10 to 15 multiple so we just think there's a tremendous upside."

American's General earnings are expected to exceed $5.50 per share in 1988 and, as a result, its less-expensive stock warrants should increase even more in value, Mr. Seifer added. American General had fully diluted earnings per share of $3.40 in 1985.

American General's earnings will be enhanced in the near term by the consolidation of prior acquisitions, said Gloria Vogel, vp at Legg Mason Wood Walker Inc. in New York, who also includes American General among her stock recommendations. In addition, its consumer and finance and variable annuity subsidiaries "should be doing very well," she said.

Ms. Vogel said Chubb and USF&G are also among her favorite stocks. Noting she is very "price conscious" in her stock selections, Ms. Vogel said Chubb's earnings "are still coming through very nicely," the company has lots of leverage and it is cheap on a multiple basis given its earnings potential.

Ms. Vogel added that if competition increases, it will not hit the specialty lines, in which Chubb focuses, until after it affects the "more standard" lines, so Chubb is "likely to see competitive pressures later rather than sooner."

Ms. Vogel also touts USF&G because of the stock's 6.1% yield.

She does not see the stock's price falling because its 58-cent quarterly dividend provides it with "downside support." On the other hand, improved underwriting results could enhance USF&G's bottom line, she said, noting the insurer still has tax loss carryforwards to use.

At the same time, USF&G's difficulties associated with its aggressive investment posture—which resulted in restated earnings for 1983, 1984 and part of 1985—"have largely been taken care of," she said. "I no longer see that as a problem for them."

Ms. Hoffer said her stock selections remain AIG, Gen Re and Chubb because the reinsurance and the liability sectors of the market remain the tightest and these companies have the best underwriting results, as well as the largest exposures, in those areas.

Gen Re is "the premier company among pure players in the reinsurance area," AIG should do well because of its emphasis on long-term liability and excess and surplus lines and Chubb has an "excellent underwriting record," she said.

Chubb and Gen Re are also the picks of Samuel J. Weinhoff, first vp at Shearson Lehman Bros. in New York. In addition to strong financial results so far this year, Chubb is still getting rate increases in its commercial business, he said.

"I think as time goes on, investors will appreciate this more and more," and accord it the multiples of earnings granted AIG, Gen Re and Government Employees Insurance Co., said Mr. Weinhoff.

Chubb is also in lines of business, such as directors and officers liability insurance, where it has little competition in the U.S. market and where rates have risen substantially, said Mr. Weinhoff.

Gen Re, he said, is highly leveraged, which he explained means when the industry does well, it will do that much better.

Mr. Weinhoff added Gen Re also has "the best reputation in the United States and the best market share. I see that only getting better." ■

Stock analysts' advice still proves beneficial

While an investor who buys property/casualty stocks based on analysts' recommendations may not have made money in the past three months, using the experts' advice is proving to be more profitable than randomly buying insurer stocks.

In late July, *Business Insurance* invested a hypothetical $10,000 in the *BI* Model Portfolio based upon "buy" recommendations from a group of stock analysts. At the same time, *BI* also formed another hypothetical portfolio, the *BI* Random Portfolio, by picking names out of a hat.

As of Oct. 23, the $10,000 invested in the Model Portfolio on July 25 had decreased about 3% to $9,697.76, including dividends and interest on the cash left over after the stocks were purchased.

However, performance of stocks in the Random Portfolio was even worse. The $10,000 invested in the Random Portfolio in late July dwindled 6% to $9,401.35 by Oct. 23. The value of the stocks in the Model Portfolio declined to $9,597.76 in late October from $9,943.89.

However, the stocks in the model portfolio generated $43.03 in dividends during the period, while the $56.11 in cash left over after the stocks—which was deposited in an imaginary money market fund—generated 86 cents in income, based on a 5.75% interest rate. Thus, the portfolio contained exactly $100 in cash as of Oct. 23.

Stocks in the Model Portfolio performed as follows:

- 37 shares of Chubb Corp.—bought at $72.125 a share for an investment of $2,668.63—decreased to $69.625 a share or $2,576.13. The stock earned $14.43 in dividends, or 39 cents per share.
- 33 shares of General Reinsurance Corp.—bought at $61.875 for an investment of $2,041.88—declined to $57.75 a share or $1,905.75. This stock earned $7.26 in dividends, or 22 cents per share.
- 15 shares of American International Group Inc.—bought at $134.25 a share for an investment of $2,013.75—declined to $128.25 a share or $1,923.75. This stock earned dividends of $1.65, or 11 cents per share.
- 28 shares of Fireman's Fund Corp.—bought at $38.125 a share for an investment of $1,067.50—increased to $38.25 a share or $1,071. This stock earned dividends of $2.10, or 7.5 cents per share.
- 15 shares of USF&G Corp.—bought at $40 a share for an investment of $600—declined to $38.375 a share or $575.63. This stock earned dividends of $8.70, or 58 cents per share.
- Seven shares of Ohio Casualty Corp.—bought at $81 a share for a $567 investment—increased to $84.50 a share or $591.50. This stock earned dividends of $5.25, or 75 cents per share.
- 13 shares of American General Corp.—bought at $41.625 a share for a $541.13 investment—declined to $39 a share or $507. This stock earned dividends of $3.64, or 28 cents per share.
- Eight shares of CNA Financial Corp. stock—bought at $55.50 a share for a $444 investment—increased to $58.875 a share or $471. CNA stock does not carry a dividend.

For the Random Portfolio, the value of the stock purchased declined to $8,973.75 on Oct. 23 from $9,652.50 on July 25. However, the stock generated dividends of $75.10 during the quarter, and the cash left over after the stock was purchased in July earned $5 in interest. Thus, the Random Portfolio included $427.60 as of Oct. 23.

Stocks in the Random Portfolio performed as follows:

- 40 shares of CIGNA Corp. stock—bought at $62.50 per share for a $2,500 investment—declined to $54.625 a share or $2,185. This stock earned dividends of $26, or 65 cents per share.
- 40 shares of CNA stock—bought at $55.50 a share for a $2,220 investment—increased to $55.87 a share or $2,235. This stock carries no dividend.
- 35 shares of Aetna Life & Casualty Co.—bought at $60.50 a share of a $2,117.50 investment, declined to $56.25 a share or $1,968.75. This stock earned $23.10 in dividends, or 66 cents per share.
- 40 shares of Continental Corp.—bought at $46.625 a share for a $1,865 investment—declined to $45.375 a share or $1,815. This stock earned dividends of $26, or 65 cents per share.
- 40 shares of The Home Group Inc.—bought at $23.75 a share or a $950 investment—declined to $19.25 a share or $770. The Home does not issue dividends.

Business Insurance does not recommend the stocks in either portfolio. *BI* reporters and editors do not invest in insurance industry stocks. Readers should contact a licensed stockbroker or investment adviser before making any investment.

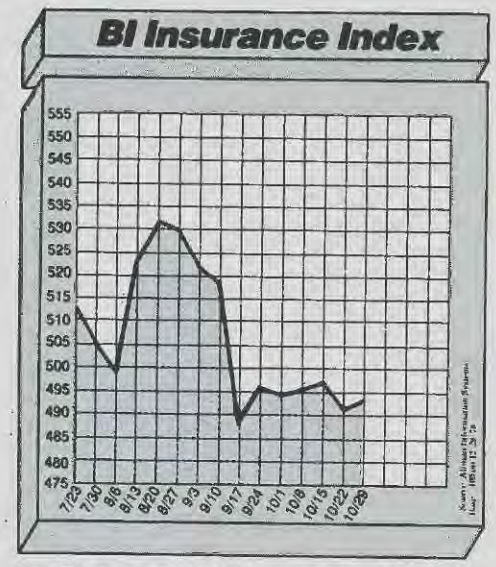
BI Industry Stock Report

October 29, 1986 — 10/23/86 thru 10/29/86

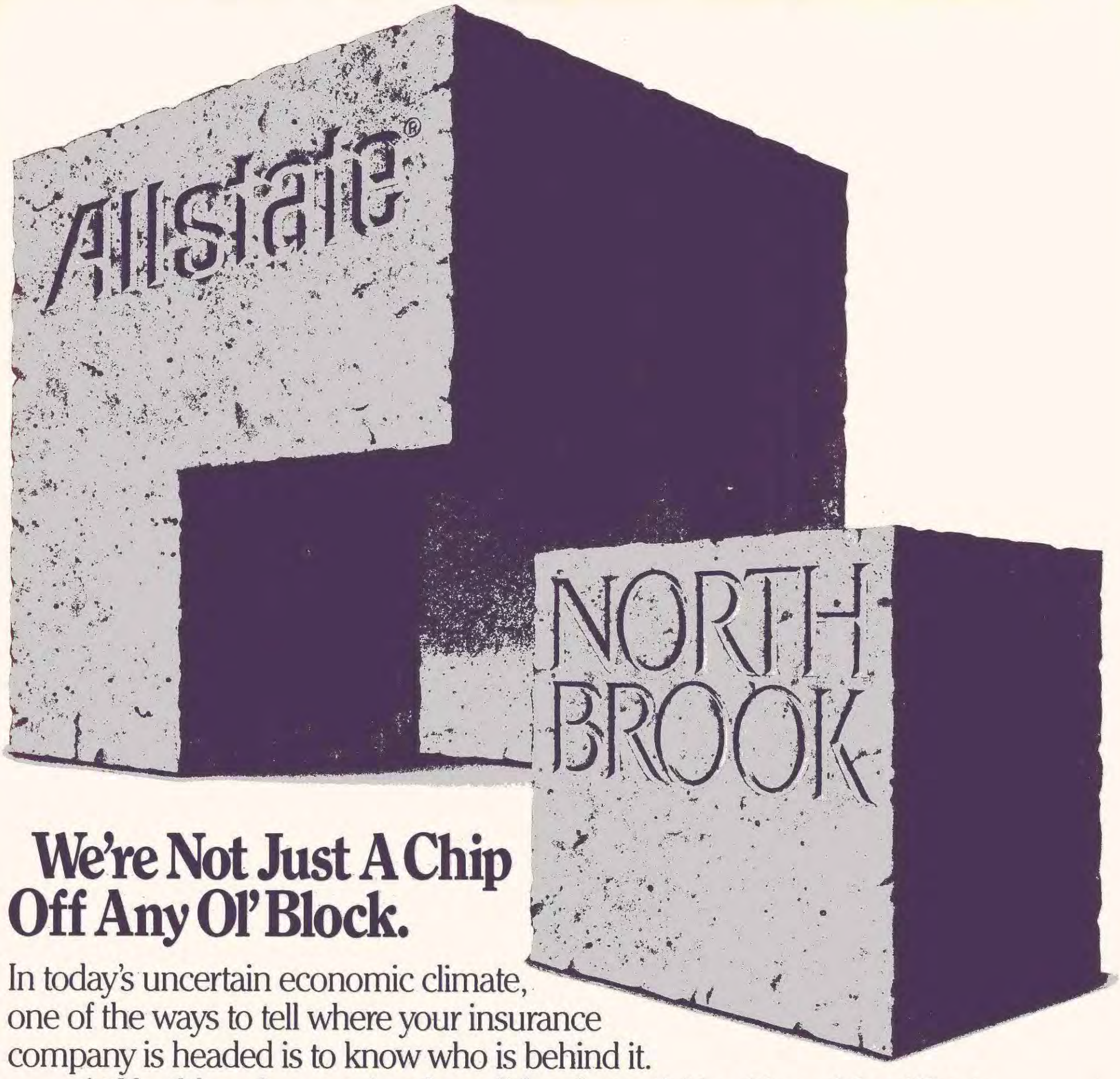
		Price	% Chg.	P/E	$ Div.	% Yld.	High	Low	Vol.(000)
Brokers									
Alexander & Alexander Svcs	NYSE	35.88	0.3	239.2	1.00	2.8	36.00	35.63	586.8
Baldwin & Lyons Inc	OTC	24.00	0.0	19.5	0.16	0.7	32.00	24.00	1.9
Corroon & Black Corp	NYSE	37.25	2.8	18.7	0.65	1.7	37.25	35.13	207.1
Crump E H Cos Inc	OTC	32.75	0.0	31.5	0.25	0.8	32.88*	32.75	21.6
Gallagher Arthur J & Co	OTC	29.88	-0.4	21.8	0.20	0.7	30.25	29.88	100.1
Hall Frank B & Co Inc	NYSE	18.63	-3.2	0.0	0.00	0.0	19.38	18.63	120.2
Marsh & Mclennan Cos Inc	NYSE	68.00	-0.4	21.7	1.90	2.8	69.38	67.50	526.9
Poe & Assoc Inc	OTC	12.50	-2.0	15.8	0.32	2.6	12.75	12.50	11.2
AGENTS/BROKERS	AVERAGE			-86.5		1.7			
Conglomerates & Holding Cos.									
American Express(Fireman's Fd)	NYSE	57.63	0.7	10.5	1.36	2.4	58.75	56.88	2,268.6
Anderson Clayton(Ranger/PanAm)	NYSE	65.63	0.0	47.9	0.00	0.0	0.00	0.00	0.0
Armco Inc	NYSE	6.38	0.0	0.0	0.00	0.0	6.38	6.13	340.0
Berkley W R Corp	OTC	27.75	-2.6	21.0	0.24	0.9	28.50	27.75	223.0
Berkshire Hathaway Inc Del	OTC	2790.00	-1.8	678.8	0.00	0.0	2810.00	2760.00	0.9
CIGNA Corp	NYSE	54.25	-0.2	0.0	2.60	4.8	54.63	54.13	793.5
CNA Finl Corp (CNA)	NYSE	55.13	0.5	15.3	0.00	0.0	55.88	54.13	121.8
General Re Corp	NYSE	57.38	0.2	24.9	0.88	1.5	57.75	56.75	949.4
ITT (Hartford Group)	NYSE	52.13	0.0	24.7	1.00	1.9	0.00	0.00	0.0
Sears Roebuck & Co. (Allstate)	NYSE	44.00	3.5	12.0	1.76	4.0	44.00	42.38	3,069.3
Teledyne Inc (Argonaut)	NYSE	326.00	5.6	13.2	0.00	0.0	326.00	310.75	182.0
Transamerica Corp (Occidental)	NYSE	35.50	1.4	10.2	1.76	5.0	35.50	35.25	284.5
CONGLOMERATES/HOLDING COS.	AVERAGE			103.2		0.3			
Insurers									
Aetna Life &	NYSE	56.50	1.8	11.3	2.64	4.7	57.00	56.25	1,116.0
American General Corp	NYSE	39.13	1.6	11.6	1.12	2.9	39.25	39.00	1,284.9
Amern Heritage Life Invt Co	NYSE	39.25	-0.3	14.1	1.32	3.4	39.50	39.25	8.1
American Indty Finl Corp	OTC	17.75	0.0	0.0	1.12	6.3	18.00	17.75	12.4
American Intl Group Inc	NYSE	127.25	0.9	20.8	0.50	0.4	128.25	124.75	509.7
Aneco Reins Ltd	OTC	2.13	6.3	0.0	0.00	0.0	2.13	2.00	9.0
Avemco Corp	NYSE	28.38	1.3	13.9	0.50	1.8	28.75	28.25	37.2
Business Mens Assurn Co Amer	OTC	26.00	-3.7	21.3	1.10	4.2	26.88	25.75	124.8
Chubb Corp	NYSE	70.00	1.3	28.1	1.56	2.2	70.00	68.75	494.5
Combined Intl Corp	NYSE	55.75	0.2	10.8	2.24	4.0	57.00	55.75	62.8
Continental Corp	NYSE	45.88	2.5	0.0	2.60	5.7	45.88	45.00	279.6
Crown Life Ins Co	OTC	355.00	0.0	12.3	6.40	1.8	0.00	0.00	0.0
Durham Corp	OTC	43.50	-1.1	12.2	1.36	3.1	44.00	43.50	7.6
Farmers Group Inc	OTC	41.50	-0.6	14.4	1.00	2.4	42.00	41.50	638.0
Fairmont Finl Inc	AMEX	17.38	3.7	17.9	0.00	0.0	17.38	16.75	45.8
Fireman Fd Corp	NYSE	38.00	1.3	0.0	0.30	0.8	38.25	37.25	817.8
Fremont Gen Corp	OTC	17.75	-7.8	0.0	0.48	2.7	19.00	17.63*	385.3
Great West Life Assurn Co	OTC	730.00	0.0	15.0	18.00	2.5	0.00	0.00	0.0
Home Group Inc	AMEX	19.75	1.3	31.9	0.00	0.0	19.75	19.13	567.2
Hanover Ins Co	OTC	66.00	1.1	19.0	0.56	0.8	66.25	65.50	201.6
Hartford Steam Boiler Inspctn	OTC	44.00	8.6	11.2	1.20	2.7	44.50	41.00	110.2
Kans City Life Ins	OTC	28.50	-0.9	11.2	0.87	3.0	28.50	28.25	11.1
Kemper Corp	OTC	26.50	-1.9	12.0	0.60	2.3	26.75	26.00	1,011.1
Liberty Corp S C	NYSE	39.00	-1.3	14.4	0.72	1.8	40.00	39.00	11.9
Lincoln Natl Corp Ind	NYSE	52.63	0.7	11.4	2.00	3.8	53.50	52.63	361.0
Mission Ins Group Inc	PAC	2.88	0.0	0.0	0.00	0.0	4.38	1.75	22.1
Monumental Corp	OTC	55.63	0.0	18.8	0.00	0.0	0.00	0.00	0.0
Nac Re Corp	OTC	28.00	-3.9	0.0	0.00	0.0	29.25	28.00*	122.6
Nobel Ins Ltd	OTC	16.00	6.7	15.4	0.37	2.3	16.00	15.00	66.6
Northwestern Natl Life Ins	OTC	28.38	1.3	10.5	0.86	3.0	28.38	27.63	559.3
Ohio Cas Corp	OTC	82.00	-1.2	15.4	3.00	3.7	84.50	81.50	96.1
Old Rep Intl Corp	OTC	33.25	-0.7	11.1	0.78	2.3	33.75	33.00	315.0
Orion Cap Corp	NYSE	31.00	4.6	0.0	0.76	2.5	31.00	29.25	56.0
Protective Corp	OTC	21.50	0.0	11.6	0.62	2.9	0.00	0.00	0.0
Provident Life & Acc Ins Co	OTC	25.88	-2.8	9.5	0.84	3.2	26.50	25.88	158.2
St Paul Cos Inc	OTC	39.00	0.6	23.2	1.50	3.8	39.50	38.75	673.3
SAFECO Corp	OTC	57.00	-0.4	12.5	1.68	2.9	58.25	56.75	406.1
Seibels Bruce Group Inc	OTC	15.25	0.0	0.0	0.80	5.2	15.63	15.13	147.2
Selective Ins Group Inc	OTC	21.50	4.9	0.0	0.92	4.3	21.50	20.25	99.2
Statesman Group Inc	OTC	5.00	-2.4	55.6	0.05	1.0	5.25	5.00	27.9
Tokio Marine & Fire Ins Co	OTC	457.00	7.5	51.5	1.66	0.4	457.00	404.50	10.8
Torchmark Corp	NYSE	29.75	3.9	11.4	0.80	2.7	29.75	28.75	482.4
Travelers Corp	NYSE	44.25	-1.7	11.0	2.16	4.9	45.00	43.88	4,002.2
Trenwick Group Inc	OTC	17.50	0.0	0.0	0.00	0.0	17.75	17.25	213.1
United Fire & Cas Co	OTC	27.50	-2.7	14.4	0.80	2.9	29.25	27.50	30.2
United States Fid & Gty Co	NYSE	39.25	0.0	0.0	2.32	5.9	0.00	0.00	0.0
Uslife Corp	NYSE	45.88	-0.5	11.9	1.20	2.6	46.00	45.38	144.9
Washington Natl Corp	NYSE	32.00	0.0	14.4	1.08	3.4	32.75	32.00	42.3
Zenith Natl Ins Corp	OTC	24.50	3.2	42.2	0.80	3.3	24.50	23.50	103.6
INSURANCE COMPANIES	AVERAGE			20.5		2.2			

System design: Altman Information Systems

BI Insurance Index



The *Business Insurance* insurance stock index climbed during the most-recent trading period, closing at 493.6 points on Oct. 29, up 2.5 points from 491.1 points on Oct. 22. A total of 27 stocks rose, 23 fell, and 11 were unchanged. The biggest gains were by Hartford Steam Boiler Inspection & Insurance Co., up 8.6%; Tokio Marine & Fire Insurance Ltd., up 7.5%; Nobel Insurance Ltd., up 6.7%; Aneco Reinsurance Co. Ltd., up 6.3%; and Selective Insurance Group Inc., up 4.9%. The biggest losses were by Fremont General Corp., down 7.8%; National Reinsurance Corp., down 3.9%; Business Men's Assurance Co. of America, down 3.7%; Frank B. Hall & Co. Inc., down 3.2%; and Provident Life & Accident Insurance Co., down 2.8%. The *BI* index rose 0.5% during the period.



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