

Business Insurance

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Repeal of Medicare expansion set for House vote this week

WASHINGTON—The House of Representatives this week is expected to vote on two amendments to kill or drastically cut back last year's expansion of the federal Medicare program.

Congressional approval of either amendment would significantly increase the amount of benefits paid by employer-provided retiree health care plans that are coordinated with Medicare.

In an unusual "King of the Hill" pro-
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House votes to eliminate Section 89

By JERRY GEISEL

WASHINGTON—Section 89 is on its way to the congressional scrapheap.

The House of Representatives last week approved an amendment by an overwhelming 390-36 margin to totally repeal Section 89 of the Internal Revenue Code, which sets non-discrimination rules for welfare plans.

House passage of the amendment—offered by Rep. Byron Dorgan, D-N.D., and attached to a budget reconciliation bill—came almost three years to the day that Congress rubber-stamped Section 89 as part of the 1986 tax reform law.

Legislators used the very public forum of debate on the House floor to reject the law they had so silently approved three years ago, apparently oblivious to the complications contained in the statute or the political firestorm it would ignite.

Section 89 was "unscientific, unprofessional backroom tinkering

that produced a legislative Frankenstein—complete with a bolt through the head—that threatened to rampage through America's hard-earned benefit plans," said Rep. Dorgan.

"Did Section 89 bring credit to this great institution? The answer is a resounding no. Section 89 is a national embarrassment," Rep. Dorgan said.

That "embarrassment" almost certainly appears to be almost over.

The House this week is expected to pass the budget reconciliation bill. And while the Senate earlier approved a proposal—attached to a child care bill—that would somewhat simplify Section 89, it is expected to follow the House's lead and approve a complete repeal of Section 89, benefit experts say.

"I don't think any senator is likely to want to martyr him or herself to try to save Section 89," said Henry Saveth, a principal with A. Foster Higgins & Co. Inc.

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Judge voids ruling barring multiple punitive awards

By STACY ADLER

NEWARK, N.J.—The U.S. Supreme Court or Congress should decide whether multiple punitive damage awards against one defendant for a single action are a violation of due process, said a federal judge in vacating his landmark ruling that such multiple awards are unconstitutional.

After reconsidering his decision, U.S. District Court Judge H. Lee Sarokin decided on Sept. 5 that he did not have the power to issue such a sweeping opinion.

Judge Sarokin said that only the Supreme Court and Congress have the power to determine whether manufacturers and distributors of harmful products can be hit with more than one punitive dam-

age award for a single act of misconduct.

"This court does not have the power or the authority to prohibit subsequent awards in other courts, notwithstanding its opinion that such subsequent awards violate the due process rights of the defendants against whom such verdicts are entered," Judge Sarokin explained.

"Until there is uniformity either through a Supreme Court decision or national legislation, this court is powerless to fashion a remedy which will protect the due process rights of this defendant or other defendants similarly situated," he said.

Attorney Victor Schwartz of Crowell & Moring in Washington,
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Hurricane Hugo damaged an estimated 300,000 buildings in Charleston, S.C., alone.

Hugo's toll

Worst storm ever to cost insurers at least \$4 billion

The flood of claims created by Hurricane Hugo, now acknowledged by the insurance industry as the costliest storm on record, will not be enough to immediately douse property/casualty insurance rate cutting, many industry observers contend.

The Property Claims Services division of American Insurance Services Group Inc. late last week estimated that Hugo caused \$3.984 billion of insured property damage in the United States, Puerto Rico and U.S. Virgin Islands, a record for a storm-related loss.

However, many observers predicted the full cost of the storm—especially business interruption claims from devastated Charleston, S.C.—will not be known for months.

"The sleeping dog in this whole thing will be business interruption losses," predicted Robert Hastings, a vp in the Charlotte, N.C., office of Johnson & Higgins.

"I'm sure we'll be tallying claims from this one a year or two from now. It's something that could take Charleston 10 years to clean up," said Lucy Allison, a claims manager in the Charleston office of Corroon & Black Corp.

An estimated 300,000 structures were damaged in the Charleston area alone, according to Emmett

Kennedy, assistant catastrophe manager in the Dallas office of GAB Business Services Inc. and head of GAB's South Carolina operations.

According to AISG's estimates, insured damage in South Carolina totals an estimated \$2.553 billion, including \$1.52 billion in the four coastal counties of Charleston, Horry, Georgetown and

Hugo is unlikely to trigger a major turnaround in the reinsurance marketplace, U.S. reinsurance executives say. See story, page 51.

Berkeley. North Carolina losses are estimated at \$275 million, while damage in Virginia and Georgia is set at \$5 million and \$1 million, respectively.

Meanwhile, insured property damage is estimated at \$700 million in Puerto Rico and \$450 million in the U.S. Virgin Islands, AISG announced.

These estimates do not include roughly \$500 million in flood losses covered by the National Flood Insurance Program and by private insurers participating in the federally-backed "write-your-own" flood insurance program.

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Update

Expanded Medicare repeal eyed

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cedure approved by the House Rules Committee, the full House will have separate votes on two Medicare measures that could be added to the budget reconciliation bill.

The first amendment, to be offered by Rep. Brian Donnelly, D-Mass., would repeal last year's Medicare expansion law. That law gives the elderly more protection from acute care catastrophic expenses but also imposes hefty new taxes on middle- and upper-income retirees to pay for the coverage.

The second amendment would eliminate most of the expanded Medicare Part A benefits, which cover hospital expenses, and Part B benefits, which cover physician expenses, and the so-called Medicare surtax, which now can be as much as \$800 for a retiree.

However, the second amendment, to be proposed by Rep. Fortney (Pete) Stark, D-Calif., would retain the new prescription drug benefit scheduled to go into effect in 1991. Under the Stark amendment, the prescription drug benefit would pay 50% of expenses after an \$800 deductible rather than the scheduled \$600 deductible.

Under the "King of the Hill" procedure, the last amendment accepted by the House will be the one that carries.

Non-economic award cap axed

OLYMPIA, Wash.—The Washington Supreme Court late last week upheld its landmark ruling that non-economic damage award caps are unconstitutional.

After reconsidering its April 27 decision that caps on damages for claims of pain and suffering violate a plaintiff's right to trial by jury (*BI*, May 8), the court left intact its decision. There can be no further appeals.

The case involved a 1986 Washington tort reform law—one of the most sweeping tort reforms in the nation (*BI*, Aug. 18, 1986)—that limited non-economic damages to between \$125,000 and \$600,000.

Besides capping non-economic damages, the law amended joint and several liability in all cases except those involving hazardous substances, tortious interference with contracts or business relations, or generic products. The tort reform law replaces traditional joint and several liability with a form of modified joint and several liability when the plaintiff is not at fault. And, if the plaintiff is somewhat at fault, defendants are liable only to the extent of their fault.

The court in April upheld the joint and several liability provisions in the law.

Upon reconsideration, the court clarified that asbestos is a hazardous substance and would fall under the joint and several liability exception. As a result, defendants can be held jointly and severally liable in all asbestos personal injury actions in Washington state.

Grand jury looks at USAir crash

NEW YORK—A New York grand jury is investigating the crash of USAir Flight 5050 at New York's La Guardia Airport.

Two people were killed when the Boeing 737-400 broke into three pieces in New York's East River on Sept. 20 after takeoff was aborted during rainy and foggy weather (*BI*, Sept. 25).

Queens, N.Y., District Attorney John J. Santucci requested the investigation to determine whether USAir Group or any of its employees violated any state laws, but the district attorney has not specifically targeted the airline or any particular employees, a spokesman said.

However, the Federal Aviation Administration has suspended the licenses of the two pilots involved in the crash because they were unavailable for questioning by FAA officials for more than 36 hours after they aborted takeoff. That absence has eliminated any chance of determining whether drugs or alcohol were factors in the crash, said FAA Administrator James A. Busey.

The pilots can appeal their suspensions to the National Transportation Safety Board.

Pollution ruling stands: Court

HARRISBURG, Pa.—A Pennsylvania state appellate court refused to reconsider its April 3 ruling that the pollution exclusion clause is not ambiguous and bars coverage for pollution that is not sudden and accidental (*BI*, April 17).

The Sept. 21 decision stems from a coverage dispute between USF&G Corp. of Baltimore and the Lower Paxton Township of Pennsylvania over a \$212,000 cleanup.

The appellate court ruling is expected to affect Philadelphia-based Westinghouse Electric Corp., which is suing more than 140 of its property and liability insurers for the cleanup of 80 hazardous waste sites nationwide, 17 of which are in Pennsylvania (*BI*, April 4, 1988).

Briefly noted

Jon Harkavy, director of governmental affairs and general counsel for the Risk & Insurance Management Society Inc., resigned last month to assume the dual roles of vp and general counsel with Vermont Insurance Management Inc., a Montpelier-based captive management company, and Miller Stewart Harkavy Associates Inc., a newly formed company in Wilmington, Del., that will specialize in the innovative use of universal life insurance. . . . A Sept. 12 wind and hail storm centered on Roswell, N.M., caused an estimated \$50 million of insured damage, according to the Property Claim Services division of the American Insurance Services Group Inc. The storm was assigned Catastrophe No. 17. . . . A National Transportation Safety Board report blames the crew of **Delta Air Lines Flight 1141** for the 1988 crash of the Boeing 727 jetliner at Dallas-Fort Worth International Airport, which killed 14 passengers and crew members. Delta earlier admitted that crew error caused the crash (*BI*, July 24). . . . A Louisiana state judge has ordered **New England International Surety of America Inc.** into liquidation and issued an arrest warrant for Hendrik Rienstra, the insurer's president. Mr. Rienstra—who is not a U.S. citizen—was found in contempt of court for failing to turn over millions of dollars of the insurer's assets (*BI*, Sept. 18).

Congress considers pension proposals

Firms to retain control of assets

By JERRY GEISEL

WASHINGTON—Employers will not have to share control of defined benefit and defined contribution pension plan assets with employees under an amendment approved last week by the House of Representatives.

By a 250-173 vote, the House embraced an amendment by Rep. Marge Roukema, R-N.J., to strip a provision from a pending budget reconciliation bill that required boards of employer and employee representatives to control pension assets.

The defeat of the "Visclosky amendment," named after sponsor Rep. Peter Visclosky, D-Ind., came amid a thundering congressional chorus of disapproval.

Legislators had warned that approval of the Visclosky amendment would have been a grievous blow to the nation's private pension system.

Employers would have terminated their pension plans if they had to share control of plan assets with their employees while still remaining fully liable to make up for any investment losses, legislators said.

"As long as employers make all the contributions, take all the risks. . . there is no reason for them to feel they should share the investment decisions with other representatives," said Rep. Bill Frenzel, R-Minn.

Adoption of the Visclosky amendment would have caused many plans to be terminated or not set up, Rep. Frenzel warned.

And, congressional leaders said a budget reconciliation bill—intended to meet a federal budget target through a combination of revenue increases and spending cuts—was no place to hide a proposal that would have such far-reaching consequences for em-

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Bill would tax some plan gains

By ADRIENNE C. LOCKE

WASHINGTON—Some employers will have to increase their contributions to defined benefit pension plans if Congress passes a Senate bill that would establish an excise tax on pension plans' short-term gains, experts say.

The legislation—which would apply to both defined benefit or defined contribution plans with \$1 million or more in assets—could be considered by Finance Committee Chairman Sen. Lloyd Bentsen, D-Texas, as a possible option to help raise revenues to meet budget reduction goals.

However, pension experts predict that any revenue generated from such a tax would be offset by an increase in tax-deductible employer contributions to pension plans.

Under S. 1654, the Excessive Churning and Speculation Act, gains on plan assets held for 30 days or less would be subject to a 10% tax, and assets held between 30 and 180 days would be subject to a 5% tax.

If the bill is enacted, the tax would become effective immediately for gains on assets acquired after the effective date.

Gains resulting from some forms of hedging—such as hedging to offset fluctuations in currencies or interest rates—would not be subject to the tax.

The bill, introduced last month by Republican Sens. Nancy Kassebaum and Robert Dole, both of Kansas, is an attempt to encourage pension plan managers to invest in more long-term instruments, explained Sen. Kassebaum when the bill was introduced.

But, the tax on short-term pension plan gains would create shortfalls in defined benefit plan assets and, as

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Directory to list loss control firms

The Nov. 20 issue of *Business Insurance* will contain the third annual directory of property loss control consultants, published in conjunction with a Spotlight Report on specialty risks.

Insurance companies, brokers and other firms that provide loss prevention inspections, building plan reviews, loss prevention research, training seminars and other loss control consulting services to companies, institutions and government entities are eligible to be listed as long as the service provided on a fee-for-service basis.

The directory is published as an editorial service; there is no charge to be included. However, loss control consultants must request, fill out and return a *Business Insurance* questionnaire by Oct. 16 to be listed.

If you provide property loss control consulting or engineering services and you have not yet received a questionnaire, you may request one by writing Sara Harty, Editorial Assistant, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590; or by calling 312-280-3195.

N.Y. regs to cover purchasing groups

By DOUGLAS McLEOD

NEW YORK—Group property/casualty insurance programs—including risk purchasing groups formed under the federal Risk Retention Act—will have to comply with form filing, rating and coverage requirements outlined in a New York Insurance Department regulation that takes effect Friday.

The new regulation—Regulation 135—also covers "quasi-groups" such as safety groups and mass-merchandising programs for commercial risks.

The new regulation is intended to provide uniform rules for various group and quasi-group insurance programs and to "minimize potential unfairness and uncertainty as variations of property/casualty groups, quasi-groups and federal purchasing groups emerge," the department announced.

A 1986 New York state law allowed group property/casualty policies for public entities and non-profit organizations, while the federal Risk Retention Act allowed purchasing groups to be formed to buy commercial liability coverages.

A New York federal judge ruled in 1987 that the

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✓ Employee can adopt several strategies to control retiree health care costs, according to speakers at a conference co-sponsored by Hewitt Associates and the Employers Council on Flexible Compensation. **PAGE 36**

✓ An environment in California that fosters below-average industry returns cannot be tolerated, says securities analyst Myron M. Piccoul. **PAGE 55**

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Slur triggers outrage

Industry official likens consumer activists to Hitler

By DOUGLAS McLEOD

NEW YORK—Insurance consumer activists are expressing outrage over a recent speech in which a National Assn. of Independent Insurers official compared consumer activists with Adolf Hitler.

Other industry trade groups, meanwhile, are trying to distance themselves from the remarks, which one trade group official labeled "unbelievably inappropriate."

The NAI itself last week issued a statement disavowing the remarks of its Senior Vp and General Counsel John B. Crosby.

Mr. Crosby delivered the speech Sept. 22 at the annual meeting of the National Assn. of Professional Surplus Lines Offices in New York.

In the speech, Mr. Crosby described what he called "some alarming parallels for how Hitler took over the world and what is happening at the behest of consumer activists to the insurance industry."

Among other things, Mr. Crosby charged consumer groups with adopting the Nazi propaganda device of the "Big Lie."

"The American public is being lied to about the insurance industry," he charged. "They're being told, for one, that they can vote themselves rate reductions without worrying about the underlying cost: 'Sure, you can go to a voting booth and say yes to Proposition 103 and rates will magically come down.'

"And Hitler said the same thing: The Sudetenland was absolutely the last territory in Europe that he needed to conquer."

Mr. Crosby also inveighed against what he called "appeasement" of consumer activists by insurance industry executives.

"It was the same in 1939," he said. "Many of the leaders of His Majesty's government thought that they could strike a deal with Hitler. If they only knew his price, all of this territorial expansion would go away."

"Unfortunately, the same is true for the

insurance industry today. Many of our leaders think that we can sit down with consumer activists. . . (like) the Harvey Rosenfields, the Ralph Naders and yes, sadly, the Bob Hunters. They think they can sit down, shake hands, strike a deal; that they'll take something less than Proposition 103 and this problem will go away.

"What we don't seem to understand in the industry is that in the Santa Monica bunker where Harvey Rosenfield hangs out, making war is a virtue," Mr. Crosby said.

"Like Hitler, there is no appeasement. They want it all," he said.

Mr. Rosenfield is chairman of Voters Revolt to Cut Insurance Rates, the Santa Monica, Calif.-based group that sponsored Proposition 103. J. Robert Hunter is president of the National Insurance Consumer Organization of Alexandria, Va.

Noting that the insurance industry has made efforts to be more responsive to consumers, Mr. Crosby complained that the in-

dustry is getting no credit from consumer activists.

"I believe our hand is out to Mr. Nader, to Mr. Rosenfield, to Mr. Hunter. . . and anybody else that will give us a fair hearing and cooperate with us and try to solve the insurance problems facing our country," he said.

"But if the hand that is held out is refused. . . then our opponents should prepare themselves for a decade of struggle, and another decade after that. Some may appease you, consumer activists, but we at the NAI, and I would hope you at NAPSLO, at our end of the trench, would not be dismayed by the prospect of 'blood, toil and tears and sweat,'" Mr. Crosby said.

Concluding his speech with another of Winston Churchill's World War II invocations to "never give in," Mr. Crosby received thunderous applause from an audience of more than 200.

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Employee suit claims ESOP mismanaged

By DOUGLAS McLEOD

NEW YORK—Sixteen employees of Thomson McKinnon Inc. are suing the stockbrokerage and several of its executives, charging that officials mishandled the assets of an employee stock ownership plan so badly that the ESOP may now be worthless.

In a class-action lawsuit filed in U.S. District Court in New York, the current and former employees allege that Thomson McKinnon officials conspired to convert the brokerage firm's assets to their personal use.

The complaint also alleges that Thomson McKinnon officials misrepresented the firm's financial condition and caused the ESOP to acquire Thomson McKinnon stock at inflated prices.

Shortly after Thomson McKinnon agreed in July to sell the brokerage business of its major subsidiary to Prudential-Bache

Securities Inc., the firm's employees were notified that Thomson McKinnon stock in the ESOP may have no value, the complaint says.

The suit also charges Coopers & Lybrand, Thomson McKinnon's auditor, with failing to uncover the alleged problems.

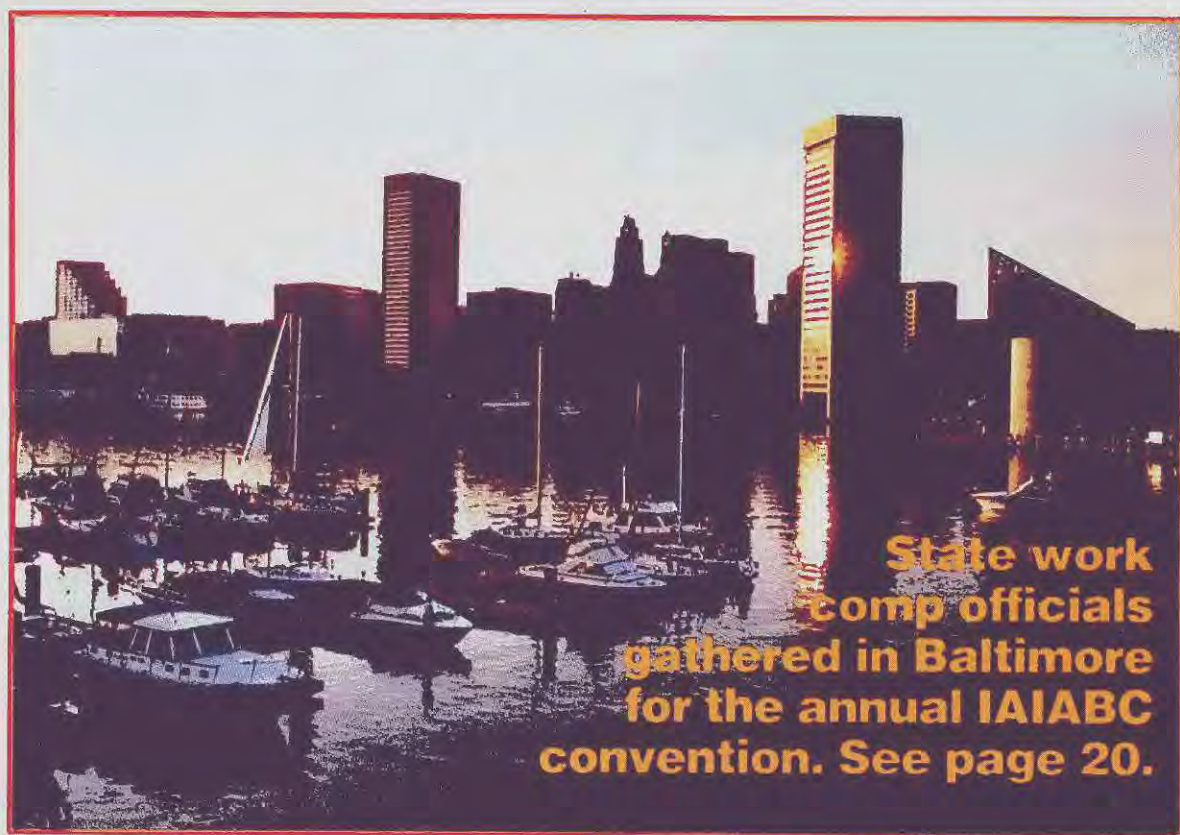
Donald G. McCabe, Thomson McKinnon's general counsel, described the complaint as "replete with inaccuracies" and said the firm will "vigorously defend" itself.

A Coopers & Lybrand spokesman said the firm's lawyers are studying the complaint.

The lawsuit was filed Sept. 21 by 16 current and former employees of New York-based Thomson McKinnon on behalf of all participants in the firm's ESOP.

In addition to Thomson McKinnon, the suit names John J. Maloney Jr., the firm's former chairman and chief executive, who resigned in December 1987; J.

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State work comp officials gathered in Baltimore for the annual IAIABC convention. See page 20.

Roger Miller

Plaintiffs seek full benefits for manic depression

By STACY ADLER

CHICAGO—A lawsuit filed in Illinois state court against two group health care insurers attacks insurers' practice of classifying manic depression as a psychological rather than a physical illness, resulting in reduced coverage for claimants.

The suit, which seeks class-action status, asks for unspecified compensatory damages from Travelers Insurance Co. of Illinois in Chicago, a unit of Travelers Corp., and New York-based Guardian Life Insurance Co. of America.

The suit seeks increased health insurance benefits for all of the two insurers' Illinois policyholders suffering from manic depression who have received reduced insurance benefits.

The lawsuit, filed Sept. 22 in Cook County Circuit Court, says the insurers should cover manic depression as a physical illness rather than a psychological illness.

However, the suit does not seek punitive damages.

The two insurers, like other group health insurers, provide less coverage for claims stemming from psychological disorders—including manic depression—than for claims stemming from physical disorders.

But, plaintiffs' attorney Robert Gittleman, a partner in the Chicago law firm of D'Ancona & Pflaum, who filed the lawsuit, asserted: "The insurance industry is far behind the medical profession

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Employers, insurers hail California comp reforms

By MEG FLETCHER

SACRAMENTO, Calif.—California employers, insurers and labor groups are applauding enactment of the first significant reform of the state's workers compensation system in decades.

A two-bill package, which was signed last week by Gov. George Deukmejian and will take effect Jan. 1, will lead to vast improvements in California's workers compensation system, which has been plagued for years by high costs and low benefit levels, employers, insurer and labor officials say.

The legislation will amend the state's existing work comp laws to provide at least \$1.4 billion in new indemnity benefits for injured workers over the next three years, while providing incentives for early rehabilitation.

It also is expected to reduce litigation by requiring an injured employee to file a claim with his or her employer before hiring a lawyer, limiting some stress claims and streamlining the process for resolving medical-legal disputes, including requiring an employee to choose a state-designated medical examiner to evaluate his or her condition in disputed cases.

In addition, cost control measures will limit the number of employer-paid medical evaluations an employee-claimant is permitted and cut by 10% the fees charged by medical-legal experts for evaluations of injured workers. Rehabilitation service provider fees also will be cut by 10%.

The bills, A.B. 276 and S.B. 47, also will improve the general administration of the state workers compensation system by allocating \$2.5 million for more than 120 additional staff members to reduce the backlog of disputed cases, to assist injured workers and to audit employer compliance and assess increased penalties for violations.

In addition, the legislation authorizes a study of a state law that establishes the minimum rate workers compensation insurers must charge.

The bulk of the cost of the reforms will be funded by employers and insurers, said Alan Tebb, general manager of the California Workers' Compensation Institute, the research arm for nearly all work comp insurers in the state.

It is estimated that employers will pay about 50% of the cost through higher premiums or state-mandated assessments, while insurers will pay about 33% of the cost through a three-year, progressive reduction in the expense component in rates that the state allows insurers to charge. Money saved through other system changes should fund the remaining 17%, he said.

While employers are bearing the brunt of the costs, business representatives say they are affordable, especially in light of the reforms' potential for slowing the future escalation of work comp costs.

Employers that purchase workers compensation insurance are expected to see premiums rise 1% in 1990, 2.5% in 1991 and 0.6% in 1992, Mr. Tebb said.

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Punitive damages

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D.C., a product liability scholar concurs with Judge Sarokin's decision.

"The judge clearly recognizes that the only way to correct the due process problems of punitive damage awards effectively is through Supreme Court action or national legislation. Individual courts—ever, federal courts—cannot do this," Mr. Schwartz said. "Judge Sarokin simply does not have the power to stop a court in Wyoming from awarding punitive damages."

In his decision, Judge Sarokin urged the U.S. Supreme Court or Congress to create a single, national policy regarding multiple punitive damage awards.

Attorneys predict that Congress will not likely tackle such a controversial issue in the near future.

However, they say the Supreme Court within the next two to three years is almost certain to address whether punitive damages violate the

due process clause (BI, July 3).

"There is no doubt that this issue will be addressed by the U.S. Supreme Court," said attorney Victor Levit of Barger & Wolen in San Francisco, predicting the court will rule that multiple or excessive punitive damages do violate the 14th Amendment's due process clause.

Although Judge Sarokin said he lacked the authority to enforce his March 9 ruling that multiple punitive damage awards are unconstitutional, he did not retract his opinion (BI, March 13).

"The court abides by its ruling that multiple awards of punitive damages for a single course of conduct violate the fundamental fairness requirement of the due process clause but concludes that equitable and practical concerns prevent it from fashioning a fair and effective remedy," Judge Sarokin said.

But, Judge Sarokin explained that he was concerned that juries that returned the first punitive damage awards against defendants did not

take into account the full scope of the defendants' misconduct.

"Given the diversity of treatment of punitive damages awards in the 50 states, it would be impossible for this court to ensure that the 'one and only' prior award contemplated the 'full' damage caused by a defendant's wrongful conduct," he said.

"Many states have caps or other limitations on awards of punitive damages which restrict a jury's ability to award what they might determine to be the 'correct' amount of punitive damages to fully punish the defendant for its wrongful conduct."

Mr. Levit praised Judge Sarokin for "realizing the question of retroactivity must be addressed," referring to concerns that a prior punitive damage award did not contemplate that it would be the only punitive damage award. In fact, judges more frequently are questioning whether their rulings can be effectively applied retroactively, he said.

Judge Sarokin also expressed concern about applying his decision to

future punitive damage awards, "absent uniformity either through legislation or a Supreme Court determination."

The judge said he "is powerless to limit other courts from considering identical punitive damage claims against the same defendants, making prospective implementation of this ruling impossible."

However, Judge Sarokin said that he possibly would rule in the future that a particular repetitive punitive damage award is a violation of a defendant's due process rights under the 14th Amendment, unless plaintiffs can provide evidence of additional wrongfulness that a judge or jury did not take into account in a previous punitive damage award.

Judge Sarokin detailed a four-pronged test to determine whether a subsequent punitive damage award would violate a defendant's 14th Amendment right to due process.

- A full and complete hearing must be held to investigate the scope and consequence of a manufacturer's

conduct.

- All those with claims against the defendant must be given adequate representation and be able to present evidence regarding the claim for punitive damages.

- The jury must be instructed that its award of punitive damages would be the only punitive damage award leveled against the defendant.

- Any other conditions necessary to assure a "full, fair and complete presentation of all the relevant evidence in support and in opposition to the claim" must be considered.

The case before Judge Sarokin stemmed from a claim by Stephen Juzwin, an asbestos industry worker who contracted asbestosis, and his wife against 15 asbestos manufacturers. In their complaint, the Juzwins sought \$2 million in compensatory and punitive damages.

The asbestos manufacturers filed a pretrial motion seeking a declaration that the Juzwins' claim for punitive damages violates, among other things, the 14th Amendment's due process clause.

It is on this motion that Judge Sarokin has issued his opinions.

The Juzwin case now will go to trial to determine how much, if any, compensatory and punitive damages should be awarded.

If the jury awards punitive damages, the asbestos manufacturers are expected to file another motion questioning their constitutionality.

The judge will then determine whether the previous punitive awards paid by the 15 asbestos manufacturers took into account the full scope of their alleged wrongdoing.

Stephen Juzwin and Mary Juzwin vs. Amtorg Trading Corp. et al., U.S. District Court for the District of New Jersey; No. 87-3876.

N.Y. regulations

Continued from page 2

state has authority to regulate rates and policy forms for purchasing group coverages (BI, Oct. 5, 1987).

The new regulation, issued last week, supersedes all earlier Insurance Department circular letters governing some quasi-group programs.

However, the regulation does not affect New York Regulation 134, which was adopted in February 1988 and requires purchasing groups to try to place coverage with authorized insurers before using surplus lines markets (BI, Feb. 29, 1988).

Among other things, the new Regulation 135:

- Requires prior approval of policy forms, rating classifications and territories used by licensed insurers that issue policies to purchasing groups or other groups or quasi-groups.

- Requires that rates and rating plans used by licensed insurers of groups comply with Article 23 of New York's insurance law, which sets various rating requirements—including prior approval, file and use and flex-rating—depending on the types of insurance written.

- Forbids aggregate liability limits on group policies, master policies or certificates. Likewise, group policies may not contain a shared group deductible or self-insured retention; instead, deductibles must apply strictly on an individual basis to members.

The regulation also makes group policies, master policies and certificates subject to applicable New York laws governing cancellation, non-renewal and conditional renewal.

- Requires that groups and quasi-groups—with the exception of purchasing groups—be formed for some purpose other than buying insurance and must consist of more than 10 members, unless each member generates annual revenues of at least \$5 million or annual premiums of \$500,000, in which case groups as small as five members are allowed.

True groups—as opposed to quasi-groups—must also be homogeneous in nature, based on Insurance Department standards, and members must be either public entities or non-profit organizations. ■

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Teacher pact pushes cost containment

By MICHAEL SCHACHNER

About 1,500 teachers in the Chicago suburb of Elgin will pay a hospitalization deductible for the first time as well as substantial penalties for failing to follow hospitalization cost-containment procedures under a contract that settled a 14-day strike last month.

Under the two-year contract, teachers in Elgin Area Unit District 46 agreed to pay a \$100 deductible for hospitalization under the district's self-insured indemnity plan, said Larry Drafall, second vp with the Elgin Teachers Assn., an affiliate of the National Education Assn.

Teachers also agreed to continue to pay a \$100 deductible for major medical coverage.

The district agreed to continue to

Benefit beat

pay all hospitalization and medical costs after teachers meet the deductibles.

Teachers' dependents will be required to pay 20% of first-dollar major medical and hospitalization expenses up to \$1,000 annually, according to Mr. Drafall.

He said the district had originally proposed combined major medical and hospitalization deductibles of \$200 for individuals and \$600 for families, after which expenses would have been paid in full.

But teachers and dependents will have to pay a penalty equal to 20% of incurred hospitalization expenses above the deductible if they

do not comply with cost-containment measures.

Those measures, which were required under the expired contract but carried no penalty, include pre-certification for hospital admissions, utilization review, second surgical opinions and concurrent medical review.

The new contract also calls for a six-person insurance committee to select companies to perform the district's cost-containment services and evaluate their performance.

The committee will consist of three teachers and three administrators. Although the committee was authorized by the 1987 contract, it never became functional,

Mr. Drafall said.

The district wanted to initiate lifetime caps of between \$25,000 and \$40,000 per person for mental health and substance abuse treatment but removed the demand from the bargaining table, said Mr. Drafall.

Elgin teachers also will receive a 14.75% pay increase over the next two years, Mr. Drafall said.

Health care costs

The cost to employers of providing health care benefits soared 71% to \$1,109 per covered life in 1988 from \$649 per covered life in 1983, according to a study conducted by Westport, Conn.-based Corporate Health Strategies.

The health care cost increases were fueled not only by skyrocketing increases in the costs of out-

patient and inpatient hospital services, but also by huge increases in the cost of mental health and substance abuse care at inpatient facilities, the study found.

CHS, a health care information and utilization review firm, looked at the health care costs of 21 employers with more than 200,000 employees under the age of 65. The study looked at the employers' health care costs during two periods: between May 1983 and April 1984 and between May 1988 and April 1989.

During the study periods, the cost of outpatient services per covered individual grew 142% to \$592 from \$245 per person. The study found that four services accounted for 60% of the increase in outpatient costs over the five years. Costs increased 255% for outpatient surgery; 244% for outpatient hospital services; 159% for diagnostic laboratory services; and 120% for diagnostic X-rays, according to the study.

Meanwhile, the cost for inpatient hospital services increased 70.5% between 1983 and 1988, pointed out David Rinaldo, director of CHS's employer health care data center.

However, medical/surgical hospital admissions per 1,000 covered individuals during the latter study period fell 25% from 1983.

The study reported that the decline in hospital admissions is mostly attributable to reduced utilization in three diagnostic categories: disorders of the musculoskeletal system; ear, nose and throat disorders; and skin, subcutaneous tissue and breast ailments.

In addition, the average length of stay for hospitalizations declined 0.5 days to 5.3 days from 5.8 days, the study found.

However, mental disorder admissions rose 37% between 1983 and 1988, the study reported. Substance abuse admissions increased 47%.

The study also found that treating adolescents for mental disorders and substance abuse is far more expensive than treating adults.

According to the study, the average cost in 1988 of inpatient treatment of an adolescent for a mental disorder was \$18,036, 91.3% greater than the average cost of \$9,430 to treat an adult.

The average cost in 1988 of treating an adolescent admitted for substance abuse was \$12,364, 51.5% greater than the average cost of \$8,160 to treat an adult.

And, the cost for substance abuse treatment in a specialized facility was \$8,834 for an adolescent, 38.2% greater than the average cost of \$6,394 to treat an adult.

The study also broke down the increases in the average cost per covered life of inpatient treatment for mental disorders and substance abuse.

The average cost per covered life of treating mental disorders increased 132% in 1988 to \$88 per person from \$38 in 1983.

The average cost per covered life of treating substance abuse increased 171% to \$19 per person in 1988 from \$7 in 1983, according to the study.

And, the average cost per covered life of treating substance abuse in a specialized facility increased 300% in 1988 to \$4 per covered person from \$1 in 1983.

"The evidence noted here suggests that the early 1990s will be characterized by a continuation, if not intensification, of these trends," Mr. Rinaldo said.

Copies of the report may be obtained free by writing: Employer Health Care Data Center, Corporate Health Strategies, 276 Post Road W., Westport, Conn. 06880. ■

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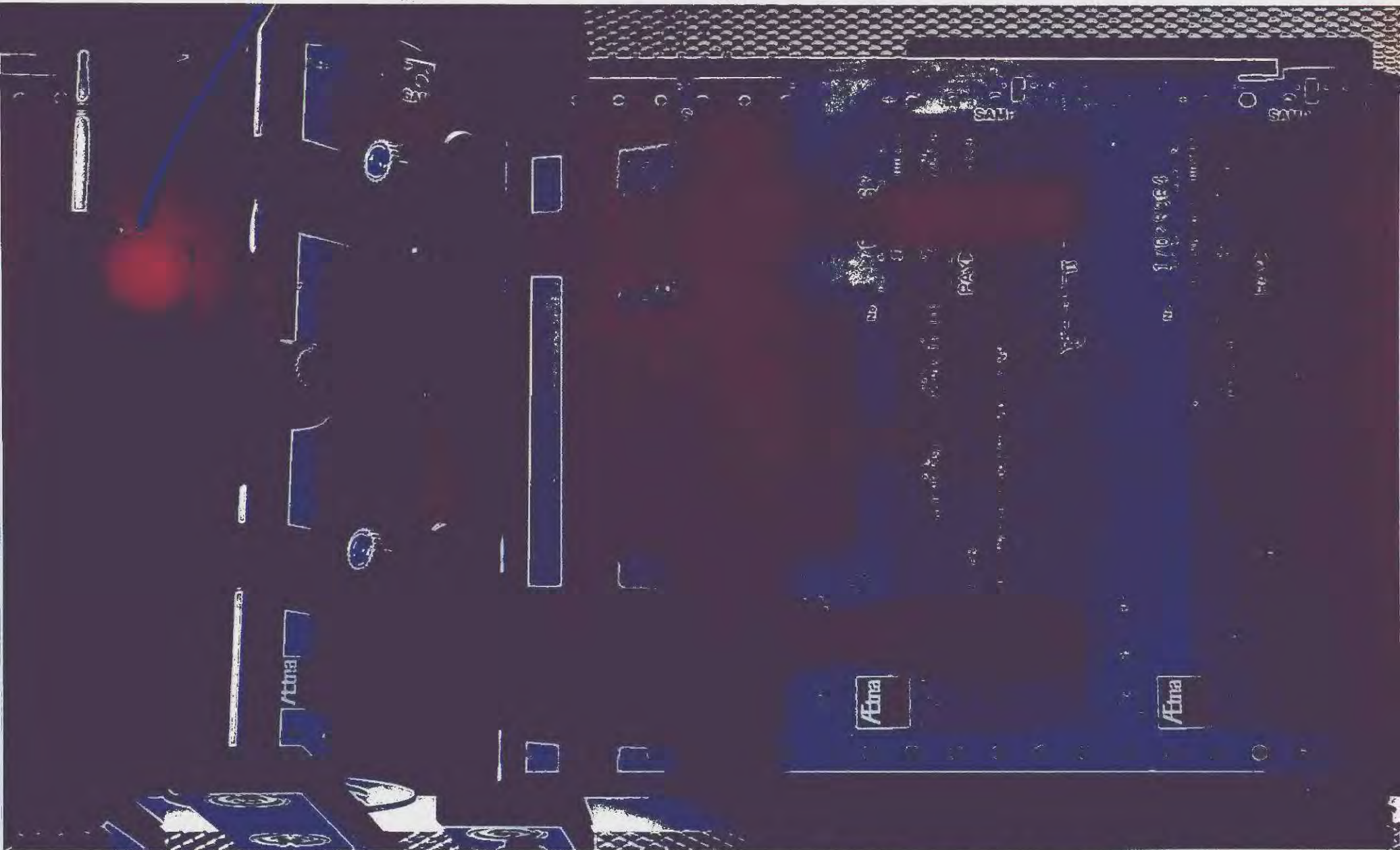
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Opinions

Dangers of debate

THE INSURANCE INDUSTRY is in danger of alienating its supporters and the fence-sitters in its debate with insurance industry reform advocates if it succumbs to the temptation to fight rhetoric with rhetoric.

Increasingly, we hear insurance industry representatives attempt to dismiss criticism of the insurance industry by discrediting its critics with such appellations as "irresponsible" or "dishonest."

True, some insurance industry critics do not refrain from using inflammatory descriptions of insurers like "fat cats" and "outlaws." And, they have at times distorted the facts with their opinions on insurance industry accounting and pricing practices.

But, we think insurers do themselves a disservice by responding in kind to such criticism with more name calling.

Indeed, insurers should respond to consumer advocates' criticism with clear and concise information when it is necessary to set the record straight and with improved products and services when consumers' criticisms are valid.

Unfortunately, a recent speech by the general counsel of the National Assn. of Independent Insurers did little to promote the insurance industry's cause and may have harmed it (see story, page 3).

The NAI's John Crosby compared the consumer activists' efforts to reform insurance industry regulation with Adolf Hitler and his henchmen. Specifically, he said, "When you look at what's happening in the insurance industry, there are some alarming parallels for how Hitler took over the world and what is happening at the behest of consumer activists to the insurance industry."

To equate the consumer attack on the insurance industry to the Nazi aggression preceding World War II is to trivialize the horrible deaths, human suffering and tragedy that Hitler inflicted on the world. It also equates Ralph Nader, Bob Hunter and Harvey Rosenfield with Hitler, an insult that no human being deserves.

To be fair to Mr. Crosby, who has distinguished himself as a knowledgeable and reasonable advocate for the insurance industry in other forums, we point out that he was trying to make the point that consumer activists are wrong when they tell voters that insurance rates can be rolled back by legislation or referendum without worrying about the underlying cost of losses and that it is wrong to promote repeal of the McCarran-Ferguson Act as the solution to insurance affordability problems. But, he went too far when he characterized these assertions as the "Big Lie" like Hitler's assertion that "the Sudetenland was absolutely the last territory in Europe that he needed to conquer."

Thankfully, the NAI itself has issued a statement disavowing Mr. Crosby's remarks. We hope this unfortunate event serves as a lesson to others in the insurance industry.

The misinformation and distortions of the facts

Letters

Oregon work comp changes save money

To the editor: The recommendations put forth by the National Council on Compensation Insurance's Workers Compensation Congress were right on target (BI, Sept. 18).

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill., 60611.

In fact, we have found several of these recommendations to result in immediate cost savings.

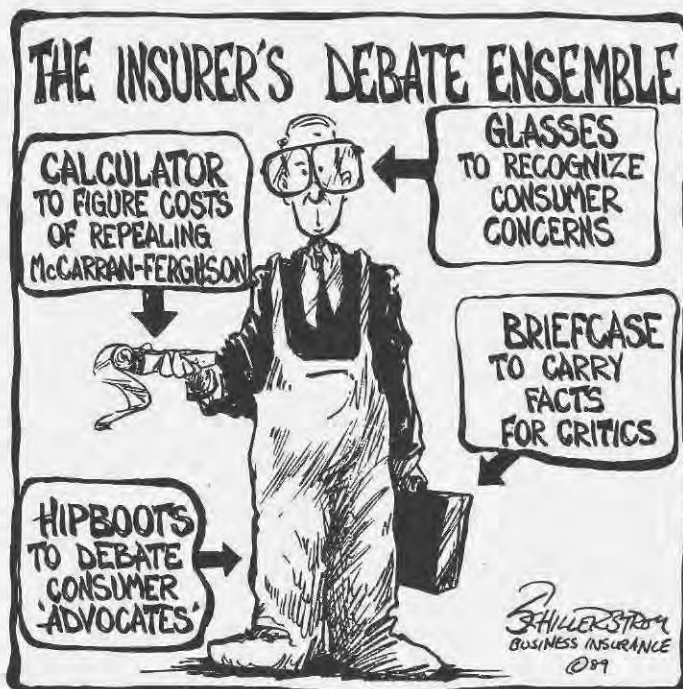
In Oregon, we are fortunate to have an established fee schedule for outpatient medical bills. In addition, a fee schedule for inpatient hospital bills is expected to be established within the next six months, and it is anticipated that a maximum allowance schedule for medical supplies and prescription drugs will be forthcoming in 1990.

With this legislative support, we have implemented comprehensive bill review and utilization review systems for the largest workers compensation insurer in the state.

As a testament to the results this type of program can have, this insurer was able to reduce medical claim costs by more than 15%, eliminate duplicate/excessive payments to providers and perform complete utilization/overutilization review on a case-by-case or individual provider basis. This has resulted in substantial savings... more than \$1 million during August alone.

Only by pursuing these techniques, without sacrificing quality of care, can we hope to contain the skyrocketing costs of health care.

Michael Graft
Softouch Software Inc.
Portland, Ore.



about insurance that some consumer activists present to the public must be refuted. But the insurance industry should stick to the facts, explained clearly and candidly, and not resort to such outrageous rhetoric and name calling.

Consumer movements are reactions to events, real or perceived, that tend to jeopardize the interests of consumers and to which no response has been made by either government or private enterprise. High taxes spurred Proposition 13 in California in 1979. High-priced and unavailable commercial insurance produced captive insurance companies, risk retention groups and risk purchasing groups. And, high auto insurance prices in Los Angeles led to Proposition 103.

Consumer movements, despite the firebrands who often appropriate their leadership through initiative and demagoguery, never start in a vacuum. If they did, they would not last through the afternoon of a short day.

Insurers have to admit that they can be more efficient, more creative and more responsive to the consumer. To do so, insurers must really listen to consumers' needs and criticisms and decide how to respond with new and better products and services. Other U.S. businesses know that.

But, the insurance industry tends to operate under a "we can't do that" mentality instead of a can-do philosophy. If the insurance industry would only listen, it would find that its customers and its critics can actually help it improve its products and services.

What sounds like name-calling and threats to insurers should instead set insurance company executives' minds spinning with creativity on how to solve the perceived problems. That could open up new horizons of business opportunities for insurers and create a community of satisfied customers, which is what insurers should want.

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At issue

Are COBRA's health care coverage provisions meeting their objectives?



James I. Metz
Coordinator-employee benefits
Broward Community College,
Fort Lauderdale, Fla.



Lawrence J. Bollinger
Director-employee benefits
Dow Chemical USA,
Midland, Mich.



Rich Maduzia
Manager-employee benefits
Budget Rent-a-Car Corp.,
Chicago



Julie Rose Hempel
Manager-benefits/payroll
American Capital Management & Research Inc.,
Houston

No; there are too many holes in the coverage the way it's currently structured. The cost of the plan is prohibitive for anyone who really needs the insurance. If an employee is ill or disabled and unemployed, he cannot afford the premium, especially if he or she has a family. I think COBRA should waive premium requirements during disability.

I believe so. However, the amount employers are allowed to charge does not cover the cost of COBRA to a company. Because of adverse selection, COBRA participants are mostly users of the benefit, so the employer doesn't get the advantage of a group spread. One way to handle that is to allow employers to charge a greater premium.

I don't believe it is. The number of people electing COBRA coverage is quite small, obviously because of the high premium cost. The result is that those who absolutely need the coverage because they're ill pay the premium. But, the people who should have protection—employees with young families—don't take it because the cost is prohibitive.

I definitely think it fills a gap. It meets the needs of those people who anticipate a long wait before another job is available or who have pre-existing medical conditions. Sometimes the cost may seem prohibitive to employees, but when they pay the full premium, they still benefit from the group rating structure. In many cases individual coverage would cost more.

Compiled by Christine Woolsey

Health care bill approved in California

By **DONNA DiBLASE**

SACRAMENTO, Calif.—A weakened package of legislation aimed at ensuring health care coverage for all employed Californians was signed late last month by Gov. George Deukmejian.

The "Tucker Health Insurance Act of 1989" calls for a study of ways to establish a statutory basic level of health care benefits to be provided by employers and establishes tax credits for employers that provide a basic health care plan.

However, the bill signed by the governor was not nearly as wide-reaching as a bill approved this summer by the California Assembly mandating that employers with more than five employees offer basic health insurance to all employees working at least 20 hours per week.

That legislation, A.B. 350, which was sponsored by Assembly Speaker Willie L. Brown Jr., D-Oakland, also would have required employers to pay 75% of the premium for the basic health coverage (BI, July 3).

But the benefit mandate portion of A.B. 350 was removed, pending the study.

The governor also signed S.B. 1207, which calls for the state to provide a tax incentive of \$25 per employee per month to employers that begin offering a health insurance plan equal to or exceeding the

'The government process works best when it is deliberative,' says Assemblyman Brown.

basic plan that was outlined in A.B. 350.

The definition of basic health benefits and the tax credits for providing them are scheduled to take effect on Jan. 1, 1992.

S.B. 1207 was sponsored by Sen. Majority Leader Barry Keene, D-Vallejo.

The task force set up by the amended A.B. 350, which must report its recommendations to the Legislature by March 1, also will study ways to make group health coverage available and affordable to small employers.

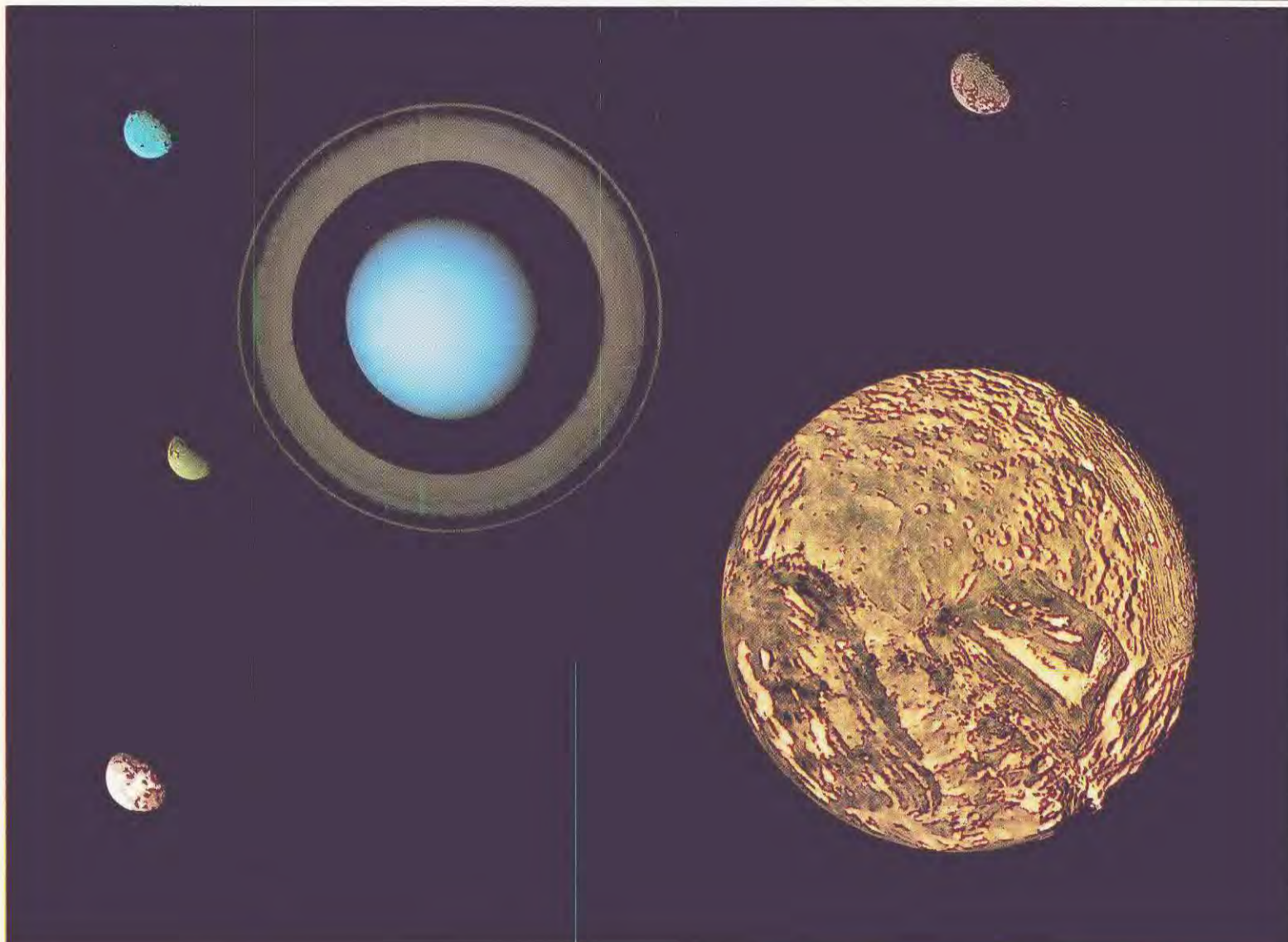
After the task force makes its recommendations, the Legislature will decide on further action regarding employer-provided health insurance.

Assemblyman Brown, who led the push in the Legislature for mandating employers to provide health insurance, said he expects some negative public reaction to the weakened legislation signed by the governor.

"There are critics of the Legislature and the governor who will attempt to place health insurance initiatives on the ballot next year because they feel the Legislature has not done enough," the Assembly speaker said.

However, "the government process works best when it is deliberative. Careful deliberation cannot always accommodate sweeping changes in as short a time frame as many of us would like," Assemblyman Brown said.

"Nonetheless, we have made significant progress and have established a time frame for our quick resolution of the remaining differences" over the issue of mandating employers to offer coverage, he noted.



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Crosby speech

Continued from page 3

Responding to requests for copies of the speech, Mr. Crosby later prepared a revised version attempting to qualify some of his remarks.

For example, the revised version noted that in the insurance crisis, "no one is in danger of losing their life... only their livelihood."

But, the revised version was the same as the original in most respects.

Mr. Crosby was one member of a NAPSLO panel addressing the question, "Where is the insurance consumer revolt going?" He was filling in as a speaker for California Insurance Commissioner Roxani Gillespie, who was unable to attend the conference.

Other panelists included NICO's Mr. Hunter and Esther Peterson, consumer affairs consultant for the National Assn. of Professional Insurance Agents in Washington, D.C.

Both Mr. Hunter and Ms. Peterson had delivered speeches calling on insurers to be more sensitive to the needs of consumers and to adopt a less combative attitude in dealing with demands for reform.

"We are not going to go away. We are growing as a consumer movement," Ms. Peterson said.

But, neither Mr. Hunter nor Ms. Peterson was present during Mr. Crosby's remarks, both having spoken earlier and departed to catch a train to Washington.

Mr. Hunter, who was reached in Alexandria for comment on Mr. Crosby's speech, said: "If anybody is akin to Hitler, it's more likely him."

"To call us Nazis is Neanderthal. It doesn't make sense," he added.

Mr. Hunter said that he does not believe Mr. Crosby's views are representative of other insurance industry trade groups' views.

"The NAII is to the insurance industry what Jesse Helms is to the U.S. Senate," Mr. Hunter quipped, referring to the conservative Republican senator from North Carolina.

Although Mr. Crosby specifically excluded Ms. Peterson from his attack, calling her a "kind and gentle" person, Ms. Peterson said last week, "I wish I had been there. I would

have loved to have taken him on.

"He had better come aboard or the wave is going to sweep over him," she said, referring to the insurance consumer movement.

Mr. Rosenfield also expressed anger at Mr. Crosby's remarks.

"Apart from the grossly inappropriate analogy between insurance reform and the work of Nazi Germany, I doubt anybody outside John Crosby's fevered mind believes that the industry is being unjustly persecuted," Mr. Rosenfield said.

"I would call on every chief executive officer in the industry to repudiate the remarks made by John Crosby as being both a horrifying insult to the victims of World War II and an offense to every consumer in this country," he said.

"Crosby's ravings indicate that the industry has still not understood the meaning of Proposition 103," Mr. Rosenfield said. "So long as the industry is governed by sentiments such as he expressed—sentiments of denial and hostility—and until the industry ac-

knowledges the inevitable reform that is going to occur, it will be its own worst enemy."

In a statement released late last week, NAII said it "disavows the remarks of John Crosby at the NAPSLO convention in New York on Friday, Sept. 22. His characterization of the difficulties in dealing with some industry critics was inappropriate and does not reflect the view of the association."

Officials of other insurance industry trade groups, meanwhile, also expressed dismay over the speech.

"The characterization of consumers or their tactics in that manner is unbelievably inappropriate and reflects a very counterproductive philosophy of achieving the industry's public policy goals," said Franklin W. Nutter, president of the Alliance of American Insurers in Schaumburg, Ill.

Mr. Nutter said Mr. Crosby's views were "the antithesis of the philosophy by which the Alliance operates."

A spokeswoman for the American Insurance Assn. also criticized Mr. Crosby's World War II allusions and the combative stance he advocated toward consumer groups.

"AIA has a long history of sitting down with (consumer representatives), and we think it's to our best interest and to theirs," the spokeswoman said. "Unless we sit down and talk, we are really going to be at loggerheads, and we can't afford to do that," she said.

"I suppose there are fringe groups that can never be pleased," she added. "It sounds like Mr. Crosby can never be pleased, either."

Kevin P. Brooks, president of General Star Management Co. of Stamford, Conn., and the newly elected president of NAPSLO, also expressed regret about Mr. Crosby's World War II references, but defended the speech's basic arguments.

"There is no one that warrants a realistic comparison to Adolf Hitler. It was foolish. I was very surprised it was used," Mr. Brooks said. "But

John's other comments were to the point. They were accurate.

"It was an unfortunate allusion, and it detracted from what otherwise may have been one of the very best speeches at the convention," he said.

Commenting on the audience's enthusiastic response to Mr. Crosby's speech, Mr. Brooks said, "I think the applause was in spite of the allusion, not because of it."

Mr. Brooks also acknowledged the need to keep open lines of communication with consumer interests.

"To say we are not going to sit down and talk with our consumers is dumb," he observed. "The question is, 'Is Harvey Rosenfield representing the consumer, or is there a popular movement that he has thrust himself in front of?'"

Arguing that consumers need to know more about how insurance companies operate, he added, "I think there needs to be a more sophisticated understanding of how the whole process works." ■

NAPSLO elects Brooks president

NEW YORK—The National Assn. of Professional Surplus Lines Offices Ltd. has elected four top officers to serve the organization in 1989-90.

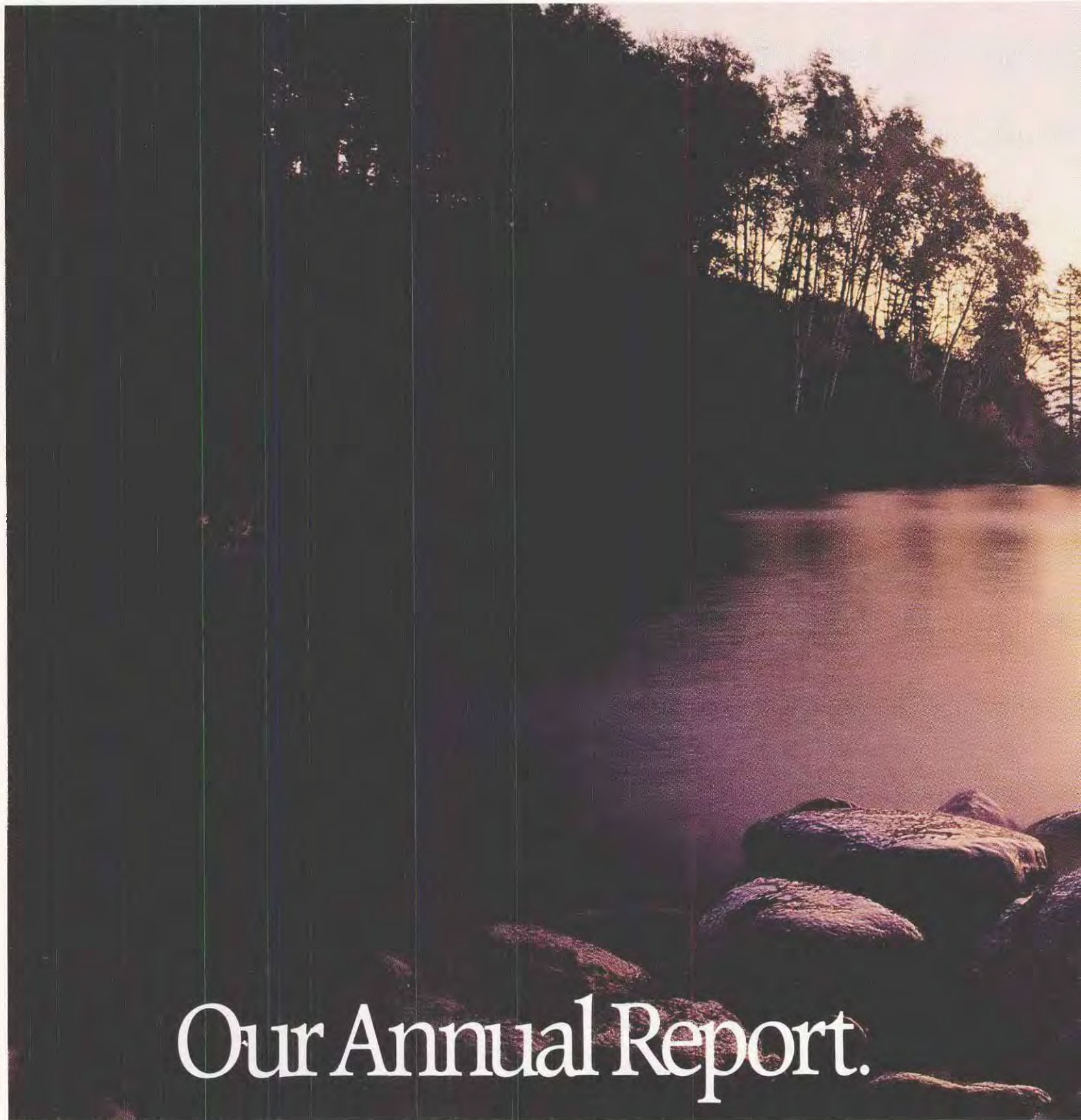
At its annual meeting in New York last month, NAPSLO members chose Kevin P. Brooks, president of General Star Management Co. of Stamford, Conn., as the association's new president.

In addition, Joseph D. Timmons, president of Agency Management Corp., was elected NAPSLO vp; Joseph M. Walsh, president of American Empire Surplus Lines Insurance Co., was elected secretary; and Kurt Bingeman, president of Russell Bond & Co., was elected treasurer.

The NAPSLO conference drew almost 2,000 registrants, including the spouses of NAPSLO members. Registrants attended panel discussions on what the 1990s will bring for surplus lines insurers and brokers and how surplus lines regulation may change.

Next year's NAPSLO meeting will be held in Dallas in September, with the exact location and dates to be announced.

For more information, contact Mark Graham, Communications Coordinator, NAPSLO, P.O. Box 28660, Kansas City, Mo. 64118; 816-455-3210.



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Wholesalers must cope with changes: Broker

By DOUGLAS McLEOD

NEW YORK—The surplus lines insurance marketplace is changing rapidly and wholesale brokers will have to surmount a variety of obstacles if they are to survive in the 1990s, a panel of experts says.

Several evolutionary trends in the surplus lines market are already visible, and brokers must be prepared to respond to them, observed Warren S. Stanley, president and chief executive officer of Swett & Crawford Group in Los Angeles, the nation's largest surplus lines insurance broker.

Addressing the annual convention of the National Assn. of Professional Surplus Lines Offices late last month in New York, Mr. Stanley noted the following forces are affecting the wholesale market:

- A "dissipation of defined boundaries" between the surplus lines marketplace and the admitted marketplace.

Changes in market cycles, for example, have shifted business back and forth between the surplus lines market and standard markets (see story, page 14).

"It is difficult to know today when retailing begins and when wholesaling begins," Mr. Stanley observed.

"I think that trend is going to continue into the 1990s," he said.

- Consolidation of retail insurance distribution systems, which may cut into the wholesale brokers' market.

The number of independent insurance agents in the United States has shrunk by more than one-third over the last several years, partly as a result of mergers and acquisitions of agencies, according to Mr. Stanley.

While this consolidation has caused the wholesalers' customer base to shrink, it has also left the remaining retailers stronger and more sophisticated, he said.

"To expect that we as wholesalers are not going to be impacted by that change in the retail system is foolhardy," Mr. Stanley warned.

- Increasing "vertical integration" of brokerage operations.

Large alphabet brokers have set up their own wholesale subsidiaries, while larger independent brokers have developed other arrangements, such as joint ventures with wholesalers, Mr. Stanley noted.



- Expansion of "business liabilities."

These include the costs of operating a wholesale brokerage, including liabilities related to errors and omissions, Mr. Stanley explained.

- Changes in the extent to which a hard market cycle will drive new business to the surplus lines market.

While the hard market of 1985 was a boon to wholesalers, the next hard cycle is likely to be blunted by several factors, including the fear of adverse consumer reaction and the growth of alternative policyholder-owned facilities, Mr. Stanley suggested.

"Those of us waiting for 1995 to reappear in 1993 are going to have a very, very long wait," Mr. Stanley said.

To cope with these and other

changes in the wholesale brokerage arena, Mr. Stanley also noted several steps brokers must take to ensure their survival.

For example, wholesalers in the 1990s will have to build and maintain a stronger financial base than they have in the past.

Retail brokers will be looking more than ever before for financial stability in their wholesale broker partners, Mr. Stanley observed, explaining that the retail brokers want to be certain that wholesalers have the resources to weather the financial squeeze of a soft market cycle, adapt to new computer hardware and software requirements and deal with mounting business liabilities.

"Historically, the buy-in for our industry has been relatively cheap," he said. "I don't think that can continue."

According to Mr. Stanley, wholesale brokers must also:

- Create markets by identifying previously unrecognized customer needs and developing products to fill them.

- Get closer to the insurance buyers, by increasing contacts with risk managers and industry trade associations.

- Build wholesaling organizations that react quickly to customer needs and changes in market conditions.

"Organizations that find themselves structured in concrete, that cannot adapt quickly, are going to have a very difficult time in the 1990s," Mr. Stanley predicted.

John F. O'Sullivan, a managing director with Marsh & McLennan Worldwide Services in New York, observed that today's increasingly specialized surplus lines brokers can make the process of obtaining insurance more efficient.

Among other things, wholesalers reduce distribution and service costs by producing business, screening submissions, providing uniform underwriting criteria, documenting coverage and processing claims, Mr. O'Sullivan said.

Wholesalers also bring the added advantages of specialized expertise, credibility in the marketplace for given classes of business and leverage in the marketplace based on the volume of specialized business they handle, he noted.

In addition to several of the trends also noted by Mr. Stanley, Mr. O'Sullivan pointed out specialization as a growing phenomenon in the surplus lines industry, noting that as risks become more complex, the need for knowledgeable specialists also increases.

Mr. O'Sullivan also called for a "two-tier" approach to regulating commercial insurance.

While close regulation makes sense in cases of "professional sellers" dealing with "non-professional" buyers, in instances where we are dealing with professional buyers and sellers... it seems to me there should be a reduced amount of regulatory intrusion," he explained.

James H. Bryson, president of Bryson & Associates Inc. of Jenkintown, Pa., also enumerated several challenges that surplus lines insurance brokers will face in the next decade.

"There are some real beauties out there on the horizon," Mr. Bryson said.

Among these, he noted, are the possibility of repeal of the McCarran-Ferguson Act's limited antitrust exemptions for insurers, California's Proposition 103 and other forms of consumer revolt; a shortage of underwriting talent; mergers and acquisitions among wholesalers; and insurer solvency questions.

Also speaking on the panel was Robert C. Quirk, secretary and treasurer of Quirk & Co. in San Antonio, Texas.

The panel was moderated by Kurt C. Bingeman, president of Russell Bond & Co. Inc. of Buffalo, N.Y.



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Creativity key to surplus lines: Insurer

By DOUGLAS McLEOD

NEW YORK—Surplus lines insurers must be more creative in developing new business opportunities if they hope to counter a growing threat from admitted market insurers, one surplus lines executive says.

Non-admitted markets have grown too conventional, with many surplus lines insurers apparently content to sit and wait for hard market cycles to drive standard market business their way, says Derek Hughes, president and chief executive officer of Western World Insurance Co. of Ramsey, N.J.

"We are getting as button-down, as risk-averse, as commodity-driven as mainstream insurers," Mr. Hughes said during a panel discussion at the annual

convention of the National Assn. of Professional Surplus Lines Offices in New York last month.

"If we continue to act in this passive, respectable way, we'll be in trouble," he warned.

Challenging surplus lines insurers to regain their creativity, he asked: "If we are losing that, what is our reason for being here?"

During a panel discussion on "The 1990s: How will surplus lines companies cope?" Mr. Hughes noted several issues that the surplus lines industry has failed to face "head-on." These include:

- The rise of consumerism.

California's Proposition 103 and similar consumer-protection legislation represent "the first shot in a consumer revolution" that will have a significant impact on the surplus lines marketplace, Mr.

Hughes warned.

• Increasing regulation, exemplified by the National Assn. of Insurance Commissioners' model bill regulating managing general agents adopted at the NAIC's



Northeast Zone meeting in Wilmington, Del. (BI, Sept. 25).

The MGA model bill was partly the result of consumers "banging on the table" for more regulation in the wake of massive insurer insolvencies and MGA frauds, Mr. Hughes said.

Meanwhile, heated debate continues over the possible repeal of the McCarran-Ferguson Act's lim-

ited antitrust exemptions for the insurance industry, he said, noting the impact such a repeal would have on insurance regulation.

• Competition from admitted market insurers.

Surplus lines insurers have allowed much of their business to move to the admitted market under the assumption that it will all return when the property/casualty market hardens and admitted insurers no longer want the business, he said.

Calling this assumption "complacent," Mr. Hughes described the admitted market as a "sleeping giant" that is beginning to wake up to consumer demands for stability and efficiency. If admitted insurers become more attuned to these demands, they may be less inclined to let business come and go with mar-

ket cycles, and this in turn could lead to an erosion of non-admitted market business, he suggested.

• Change in the impact of market cycles.

Surplus lines insurers have always prided themselves on being the "safety valve" that takes the pressure off the admitted market during a hard cycle, absorbing business the admitted market no longer wants, he observed.

Non-admitted insurers now seem to be counting on the next hard market to produce the kind of new-business bonanza that the hard market upheaval of 1985-86 produced, he said.

"For us as an industry to rely on this sort of complacent, passive waiting around for cycles is a great mistake," Mr. Hughes said.

The combination of consumerism and admitted-market competition will not allow a return to the surplus lines market's "rape and pillage" years of the mid-1980s, he said.

Along with these threats to surplus lines insurers, Mr. Hughes also noted that large alphabet and second-tier retail brokers are increasingly trying to dominate large commercial accounts, cutting wholesalers out of the picture.

"The cozy world of surplus lines as we have known it over the last 25 years is changing," he observed.

The current competitive property/casualty market might well continue indefinitely with only "modest corrections," predicted Patrick S. O'Flynn, president of Interstate Fire & Casualty Co. of

'If we continue to act in this passive, respectable way, we'll be in trouble,' Mr. Hughes warns.

Chicago, a surplus lines unit of Fireman's Fund Insurance Cos.

This, in turn, will lead to increased scrutiny of insurer expenses and will focus attention on developing new markets, new products and greater specialization, according to Mr. O'Flynn.

The need to control expenses may also create a bigger role for managing general agents, as insurers take a second look at their producer arrangements, he added.

D. Michael Polizzi, president of Investors Insurance Co. of America in Laurence Harbor, N.J., cited expense control as a key factor in maintaining a healthy surplus lines insurer.

Investors Insurance will always have a relatively small staff and only one office location, spending money instead on communications and computer equipment, Mr. Polizzi said.

Regarding the future of the surplus lines market, he said that "as long as we have plaintiffs' attorneys, we will always be in business."

To support this contention, Mr. Polizzi cited a \$520,000 award a softball manufacturer was ordered to pay a man injured after being hit by a ball. The plaintiff had charged that the softball in question was unreasonably dangerous and that the manufacturer "knew or should have known that the softball would be used in a softball game," Mr. Polizzi said.

Because of this loss, the manufacturer was forced to go to the surplus lines market for product liability coverage, he said.

The panel was moderated by Robert B. Angle, vp with wholesale broker Montgomery & Collins Inc. in East Hartford, Conn. ■

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Energy losses may drain capacity

By MICHAEL BRADFORD

HOUSTON—The huge energy-related losses in the past year could cause capacity problems for marine energy risks, according to the head of a Lloyd's of London underwriting agency.

The list of oil-related losses goes on "ad nauseam," said Chris Rome, president of C.W. Rome Underwriting Agency at Lloyd's of London.

On top of the losses, a depressed U.S. oil market and a resulting reduction in demand for energy coverage has strained energy underwriters' profits, Mr. Rome pointed out during the 24th Annual Marine Insurance Seminar held Sept. 17-19 in Houston.

Losses such as the the 11 million-gallon oil spill in Alaska's ecologically rich Prince William Sound (BI,

Well 'about to run dry:' Underwriter

April 3), the Piper Alpha oil platform in the North Sea (BI, July 11, 1988) and the Enchova oil platform off the coast of Brazil (BI, May 30, 1988) have strained the capacity of energy insurance underwriters, Mr. Rome noted.

Exxon Corp. has said it has \$400 million in coverage to respond to the Exxon Valdez oil spill in Alaska, the Piper Alpha loss is estimated at \$1.4 billion and the Enchova loss is estimated at \$330 million.

"You cannot go on drawing water from the well without, before long, the well running dry. The well, ladies and gentleman, I think is about to run dry," Mr. Rome said.

Energy insurance capacity also will

partly depend on the willingness of reinsurers to accept oil and gas business, Mr. Rome noted.

But, he predicted a "smaller and more expensive reinsurance market, leading, of course, to further pressure on the profit margins of the already beleaguered direct insurers. The only possible result of this will be a reduction in the size of the direct market."

Another factor influencing insurance capacity for energy risks is the

fluctuating rate of international currencies, according to Mr. Rome.

The oil industry is largely based on the U.S. dollar, while the main market for coverage is centered in London, he said, adding the U.S. dollar has strengthened recently in relation to the British pound.

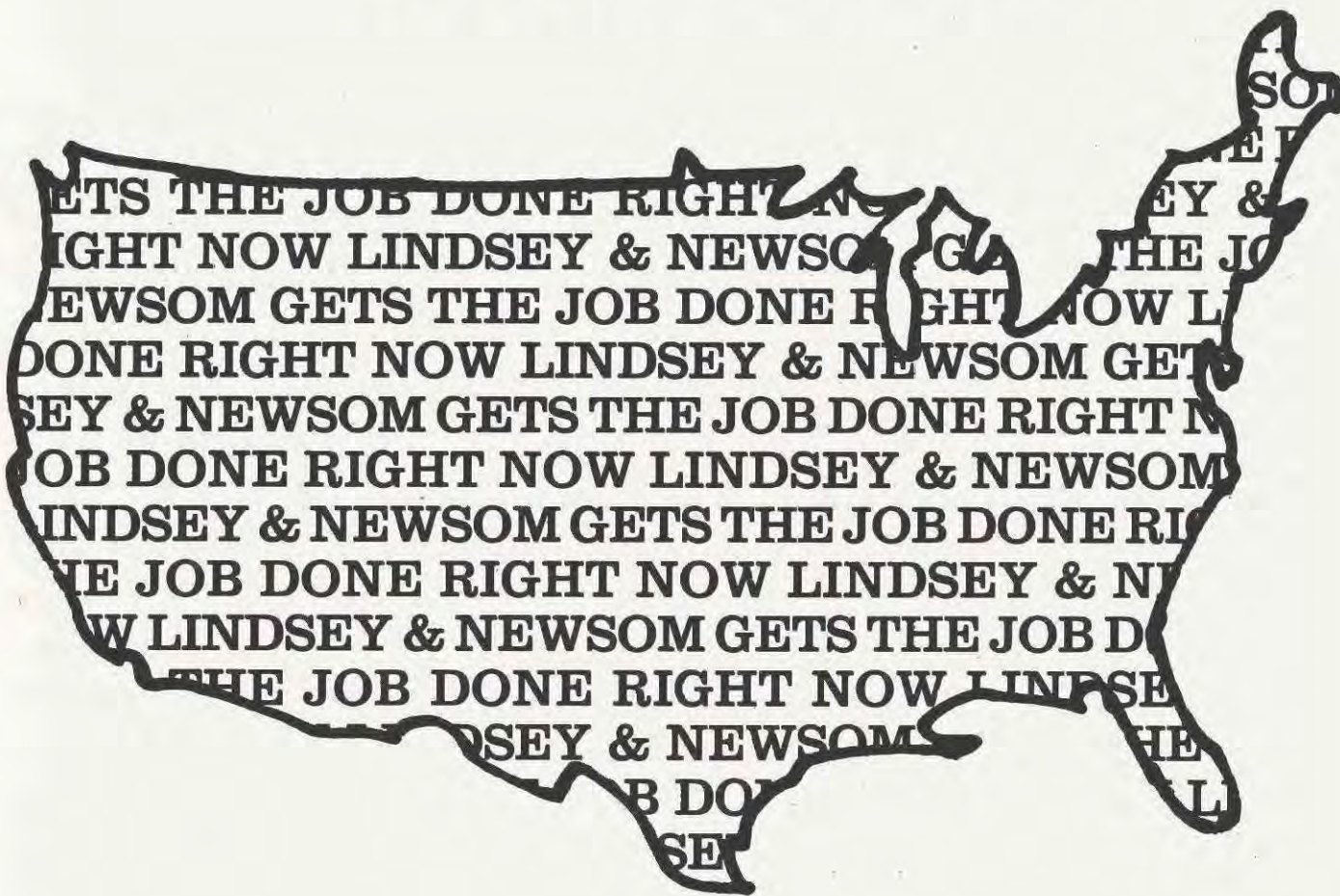
While this has meant a boost to underwriters' incomes, it also has increased the size of some losses, he explained.

Mr. Rome also noted that "it's not just the losses we suffered these last few years which have made our lives as underwriters so miserable. We've seen our client base suffering from the vagaries of a wildly fluctuating oil price."



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And, as oil and gas producers have suffered, so have underwriters, Mr. Rome explained.

"For the underwriting years of 1987 and 1988, there is virtually no chance of a profit on our oil and gas accounts, and with present rating levels and continuing losses, no hope of a satisfactory profit in 1989 either," he said.

Despite the gloomy current state of the oil industry, energy insurance "makes good business sense" for oil and gas risks, he said.

"Make no mistake, ladies and gentlemen: The oil industry does need the insurance industry," Mr. Rome asserted.

"Why does a company the size of Exxon need to bother to insure at all? Why do the other oil majors need to insure, when their own individual capital bases match those of the insurance industry there to protect them?" Mr. Rome asked.

Mr. Rome then explained that energy coverage "provides a leveling out of peaks and troughs of business. And, in an industry such as the petroleum industry, where there are so many difficult and unpredictable factors at play, it makes good sense to eliminate, wherever possible, the impact of such events."

Insurers "provide valuable financial support in times of natural or man-made disasters," Mr. Rome pointed out.

"It remains, therefore, as much in their interest as ours that there remain a strong and profitable and continuing insurance market," he said.

Mr. Rome also noted that "the overall capacity of the Lloyd's market is likely to remain static, or even decline in the next two or three years."

"We shall see some changes in our industry," he predicted.

"We shall see some failures in the reinsurance market" and challenges from the use of new technology in oil and gas exploration, he said.

But, Mr. Rome pledged that energy underwriters "will continue in the long tradition of Lloyd's and the insurance market in providing a good, secure service to the industry we serve." ■

Marine conference draws 1,000

HOUSTON—The Houston Marine Insurance Seminar continues to be a popular draw, with about 1,000 participants attending the 24th annual meeting Sept. 17-19 at the Adam's Mark Hotel.

The annual gathering of underwriters, brokers, risk managers, attorneys and other marine industry professionals heard a lineup of speakers from the United States and London share their knowledge of shipowner's liability, oil pollution and cleanup, the changing marine insurance industry and other related concerns.

Proceeds from the conference are donated to several organizations, including the Texas A&M University Maritime Academy and the Tulane University Law Review.

Information on the Houston Mariner's Club is available from Conference Chairman Stanley N. Bayless at Johnson & Higgins of Texas Inc. in Houston at 713-651-1900.

The 25th Annual Houston Marine Insurance Seminar is scheduled for Sept. 16-18, 1990, at the Adam's Mark Hotel.

Insurer advocates no-fault cleanup fund

By MICHAEL BRADFORD

HOUSTON—A no-fault hazardous waste cleanup trust fund financed by commercial insurance policyholders, self-insurers and insurance companies would be more effective than the Superfund Act in cleaning up the nation's hazardous waste sites, according to an insurer executive.

Superfund—the Comprehensive Environmental Response, Compensation and Liability Act of 1980—has been ineffective in cleaning up hazardous waste sites because it has spawned numerous lawsuits by the government, companies charged with polluting the environment and insurers, causing millions of dollars to be spent on legal fees, explained John J. Roberts, vice chairman of New York-based American International Group Inc.

As a result, very few hazardous waste sites have been cleaned up, Mr. Roberts said.

However, the National Environmental Trust Fund, first outlined by AIG Chairman and Chief Executive Officer Maurice R. Greenberg earlier this year (BI, March 6), would be a more efficient way to deal with hazardous waste cleanup, Mr. Roberts asserted at the 24th Annual Houston Marine Insurance Seminar sponsored last month by the Houston Mariners Club.

Mr. Roberts explained that the fund would be financed by imposing "a separate earmarked fee added to all commercial industrial property and casualty insurance premiums paid in the United States. In addition, a method of payment could be established for those corporations that are self-insured."

A premium fee of 2% imposed on all insurance buyers—including insurance companies—and an equivalent charge for self-insurers would generate \$3 billion annually—enough to clean up the 1,000 most hazardous waste sites identified by the U.S. Environmental Protection Agency, he said.

At least \$25 billion is required during the next decade to clean up around 1,000 sites already identified as needing "urgent action."

The plan also would generate enough money to clean up additional sites identified during the next decade, Mr. Roberts said.

Mr. Roberts referred to government studies that show as many as 425,000 potential hazardous waste sites may need to be investigated, although not all of those will have to be cleaned up.

He said estimates for cleaning up a site requiring immediate attention vary from a total of \$150 million to \$700 million.

"These funds would be collected by insurance companies and remitted to a responsible agency with an advisory board of private citizens and public officials who would be responsible for administering the program," Mr. Roberts explained.

"The National Environmental Trust Fund would thus not require a new government agency or an expensive and complex collection system," he added.

Mr. Roberts said the trust fund should be used only for its "stated purpose: That is to finance the cleanup of the highest priority hazardous waste sites created by past polluters."

Mr. Roberts emphasized that the trust should deal only with "existing sites created by waste disposal occurring in the past. The fund would not apply to any environmental damage occurring henceforth."

In addition, the fund would not be used to clean up sites that were deliberately polluted "where it is

clear who is responsible," Mr. Roberts said.

Parties responsible for deliberate acts of pollution should be held strictly liable for the cost of cleaning up the polluted site, he maintained.

Mr. Roberts noted that while Superfund was enacted—and reauthorized in 1986—with the intention of starting cleanup of 375 of the 1,000 most hazardous waste sites, "to date, cleanup of only 27 has been completed."

He also cited a report by the General Accounting Office that casts doubts about whether "the Superfund program, as currently operating, will ever achieve the cleanup of all hazardous waste sites."

Several factors have eroded the effectiveness of the Superfund law

and the effort to clean up hazardous waste in the United States, Mr. Roberts noted.



Those factors are:

- The difficulty of collecting cleanup funds based on the principle of strict and retroactive liability.

"This means that companies are now being held responsible for environmental damage which occurred 20 or 30 years ago or even longer. This liability is imposed when those responsible did not violate any laws when disposing of their wastes," Mr. Roberts explained.

- The difficulty of determining

"who is responsible for pollution. In most cases, the damage occurred over several decades," he noted.

"Compounding the difficulty is the fact that many of the hazardous waste sites on the EPA's priority list are common dumping areas used by dozens or even hundreds of companies, individuals and municipalities," he said.

As a result, the costs associated with merely identifying polluters "are out of control," according to Mr. Roberts.

- The magnitude of costs involved in identifying and cleaning up sites.

And "with the price of cleaning up hazardous waste ranging from several million to several billion dollars, a simple fact emerges: No one party, either in the private or public sector, can be expected to

pay the entire brunt of the environmental cleanup job."

- Legal wranglings associated with cleanups.

"Government is suing business; business in turn is suing its insurers," Mr. Roberts observed.

"Against this backdrop, one thing is perfectly clear," Mr. Roberts observed. "Our response to the pollution crisis has been weak and ineffective," he said.

"Environmental damage that occurred in the past is a problem we all share. We need to put a stop to the endless debate and the expenditure of huge sums of money aimed at determining who is responsible for the old waste sites. Instead, we need to spend the money and effort on cleaning up the contamination," Mr. Roberts said.

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Maritime lawyer backs spill liability limits

By MICHAEL BRADFORD

HOUSTON—The spate of recent oil tanker spill disasters underscores the need for legislation defining—and limiting—the liability of shipowners in such catastrophes, according to an attorney who specializes in maritime law.

Each disaster seems to affect "larger and sometimes more diverse segments of the population. As the size of merchant vessels increases, so have the stakes involved in litigation surrounding maritime casualties," said attorney Richard W. Palmer of the Philadelphia firm Palmer, Biezup & Henderson.

Those stakes "are high not only in terms of dollar amounts but also in terms of risk of life and environmental damage resulting from oil pollution," he observed during the 24th Annual Houston Marine Insurance Seminar sponsored by the Houston Mariners Club.

Mr. Palmer said the 11 million-gallon Exxon Valdez oil spill in Alaska's pristine Prince William Sound in March (*BI*, April 3) and the three oil spills totaling about 1 million gallons that fouled the Delaware River; Narragansett Bay, R.I.; and Galveston Bay off the coast of Texas within 12 hours in June (*BI*, July 3) "are recent and startling reminders of the far-reaching impact which a major marine casualty can have on various segments of both industry and society."

Because of the number of oil spill incidents in U.S. waterways, "the United States must have equitable and predictable laws governing a shipowner's right to limit its liability," Mr. Palmer said.

"Whether or not the current law is either equitable or predictable is now the subject of much debate."

Mr. Palmer pointed out that a shipowner's liability in a pollution incident currently is determined under several federal and state laws, maritime statutes, international conventions and foreign law, depending on the location of the spill and whether the vessel is U.S.- or foreign-owned.

Such a "patchwork legal approach" has resulted in a confusing array of judicial decisions and unpredictability for shippers, insurers and attorneys, he remarked.

But, in the wake of the Alaska oil spill, a flurry of legislative activity in Congress produced three proposals for comprehensive oil pollution and liability schemes, Mr. Palmer pointed out.

A Senate bill and two separate House bills generally would limit a tanker owner's liability under a special type of no-fault compensation system (*BI*, Aug. 14).

The fund would pay not only the cost of cleanup and restoration, but also claims by private parties for property damage and economic loss.

However, the Senate bill would allow individual states to continue to impose unlimited liability on companies responsible for oil spills, while the House bills would pre-empt all state laws regarding oil spill liability.

Until a no-fault system is established, Mr. Palmer said, shipowners can expect courts to continue to base their decisions of shipowners liability for spills on at least one of three factors:

- Whether the vessel was properly operated or the crew had been properly trained when the incident occurred.

"Suffice it to say that cases involving inadequate training and

instruction have not only required that vessel operators maintain written operating instructions for the guidance of their masters and watch officers, but also have more recently required vessel owners and operators to have effective management systems in place to verify that the company's instructions are actually being carried out," Mr. Palmer said.

- Whether charts, navigation aids or guidance systems were inadequate or inaccurate when the incident occurred.

Courts have held management responsible for accidents that occurred because a vessel was not equipped with up-to-date charts, he noted.

"It goes without saying that a vessel without adequate charts is likely to be in trouble," Mr. Palmer

said.

- Whether ship machinery defects resulted from either inadequate maintenance systems or incomplete or irregular inspections

downs are merely the result of an inadequate management system for regular maintenance."

All new oil tankers, meanwhile, may have to be constructed with

Because of the number of oil spill incidents in U.S. waterways, 'the United States must have equitable and predictable laws governing a shipowner's right to limit its liability,' says maritime attorney Richard W. Palmer.

or repairs.

Defects in machinery may not be obvious and often can be detected only through careful inspection, Mr. Palmer said.

But, he noted, "some break-

double hulls, pointed out Ken Norris, director of the Environmental Law Section at the Houston law firm of Butler & Binion.

Mr. Norris said the U.S. Coast Guard favors requirements that

would call for new tankers to have double hulls.

He noted that U.S. Coast Guard Admiral Paul Yost stated that if the Exxon Valdez had had a double hull when it grounded in Alaska, almost 50% of the nearly 11-million-gallon oil spill could have been averted.

But, such a requirement could lead to changes in the hull insurance market that would create a hardship for some tanker owners, Mr. Norris asserted.

"I believe two tiers of pollution insurance may evolve," he said.

One tier of insurance would be written for new vessels, and "owners of older vessels without double bottoms or double hulls probably will be required to pay additional premiums, or be denied coverage altogether," he said. ■



In any event.

Brokers influence market cycles: Cox



Mr. Cox

By LINDA J. COLLINS

CHICAGO—Insurance brokers "do a great deal" to trigger change in commercial property/casualty insurance markets, according to an insurer executive.

At least 90% of the time, the commercial property/casualty insurance "market moves because the broker moves it," John R. Cox, chairman of Bermuda-based A.C.E. Ltd., told an audience primarily composed of brokers and insurers last month.

They were meeting as the Chicago Chapter of the Society of Chartered Property/Casualty Underwriters.

While the "underwriter's appetite for premium" plays a part in market shifts, "the broker's appetite for commission" also is a major

factor in driving rates down, Mr. Cox explained.

Unless an insurer provides "horrible" service to its clients, policyholders rarely move from one insurer to another except for lower premiums, he said.

And, in seeking lower premiums for their clients, brokers are the major contributors in forcing down property/casualty insurance rates, according to Mr. Cox.

In fact, "you can almost tell what's going on in the marketplace by watching a broker's activities," Mr. Cox said.

When the market turns soft, "there is an absolutely inordinate number of broker-of-record changes. You can expect pressure from the broker to try to improve coverage language, and you certainly can expect them to bring the

pressure on price," Mr. Cox pointed out.

He suggested that one way to moderate the peaks and valleys that characterize property/casualty insurance market cycles would be to develop a better form of broker compensation than the traditional structure, under which a broker receives a percentage of the premium as a commission.

This system of broker compensation often bears little or no relationship to the amount of work that a broker puts into placing an account, Mr. Cox said.

While a broker is "entitled to be paid for his services and to earn a fair return on his investment, the

method of getting a percentage of premium just does not accomplish this end," Mr. Cox explained.

In fact, he characterized the state of broker compensation as "the largest unsolved problem in the commercial property/casualty system today."

The incentive to maximize commissions sometimes "forces the broker to press for concessions that may not always be in the buyer's best interest and almost always forces the broker to think of himself first," he said.

Policyholders can compound this problem, and sometimes can drive up their premium costs, by "splitting their accounts among brokers, even to the degree of having multiple brokers on different layers of the same coverage," Mr. Cox noted.

He also pointed out that it is not uncommon for a risk manager to have several brokers compete against each other under a bid system. Under such an arrangement, the broker is only paid if he wins the account.

And, since this limits the insurers a particular broker can approach—because two brokers cannot approach the same insurance company on the same account—it is also quite possible that the risk manager will not end up with the best insurer/broker combination, he said.

As a suggested solution to the problem, Mr. Cox offered: "It would only be fair and equitable, if the (risk manager) is going to use several brokers on the account, that he pay them directly for their time and services and that the insurance company reward them extra if they wind up writing the account."

That is "one thought on how to overcome where we are today," he added.

He predicted that "if we can cure the method of compensation to the broker, we will make more progress toward the flattening of cycles than through any other single means."

However, Mr. Cox did not downplay the importance of the insurance broker as an intermediary between insurers and their policyholders.

"The most important contribution (the broker) brings to the table is his own independence. In most insurance transactions between buyers and underwriters, the buyer is too close to the issues and the underwriters are too far away for there to be any agreements which would be in the best interests of both parties," according to Mr. Cox.

"The broker has more knowledge than the underwriter about the buyer's business and more knowledge about the underwriters' business than the buyer and, as a result, he becomes very, very important in that equation," he said.

In addition to his or her ability to work as a liaison between the insurance company and the policyholder, the broker also brings creativity to the table, Mr. Cox noted.

This creativity has been responsible for bringing into existence such alternative risk financing tools as policyholder-owned facilities, like A.C.E., captive insurance companies, and paid-loss retroactively rated insurance programs, he pointed out.

A.C.E. Ltd. is the parent of excess liability and directors and officers liability insurer A.C.E. Insurance Co. Ltd., which is based in Bermuda.

Mr. Cox stepped down as chief executive officer of A.C.E. in September, although he will be retaining the title of chairman (BI, Sept. 25).



MERCANTILE & GENERAL

REINSURANCE

Vocational rehabilitation touted

By MEG FLETCHER

Programs can aid workers, employers

BALTIMORE—Vocational rehabilitation programs can benefit both employees and employers if planners can overcome some common hurdles to implementing the programs, experts say.

Employers that establish workable vocational rehabilitation programs are "on the right track" because they can reduce workers compensation benefit costs while helping injured employees both financially and psychologically, said

David Lewsley, manager of workers compensation for Chrysler Motors Corp. in Highland Park, Mich.

Mr. Lewsley spoke during a panel discussion at the 75th annual convention of the International Assn. of Industrial Accident Boards & Commissions, held Sept. 16-20 in Baltimore.

Vocational rehabilitation pro-

grams help injured employees financially by allowing them to return to work and, thus, collect full wages instead of lower work comp benefits.

The programs also help employees psychologically by making them feel that they are still valuable members of the workforce, which can prevent them from becoming depressed and confining

their activity to their homes, panelists said.

However, implementing vocational rehabilitation programs means successfully negotiating hurdles, including the reluctance of a plant manager to rely on a recovering worker who is functionally impaired and union resistance to changes in job assignments that are not seniority-based, experts

say.

Employer-sponsored vocational rehabilitation programs typically consist of modified work or light-duty jobs for employees at the same plant or job site where they suffered temporary disabilities stemming from a work-related injury.

But the concept can be expanded to also include "work hardening" therapy, which prepares a recovering worker to return to work. In addition, vocational rehabilitation also can include retraining permanently disabled workers for jobs in other fields.

Four large employers with operations in the Midwest have found that vocational rehabilitation programs can bring positive results, said Mr. Lewsley, who heads the Michigan Self-Insurers' Assn.

For example, Detroit-based General Motors Corp. calculates that its transitional workshop program produced \$1.7 million in net savings during its first 10 years of operation at a center in Flint, Mich.

The program consists of assigning physically capable employees to day shifts of up to 90 days at the transitional workshop, where they would primarily sort small automotive parts at their own pace for their regular hourly wage.

GM estimates that it saved \$4 million through a combination of salvaged parts and reduced work comp costs, which exceeded the program's \$2.3 million cost, Mr. Lewsley said during his slide presentation. The actual savings may be even greater because GM's calculations do

not take into account the workers comp benefits that it may have paid in the future if the employees remained outside the work-

force, he added.

In addition, GM has seen a significant decline in the number of employees on compensatory leave, he added.

Steelcase Inc., an office furniture manufacturer in Grand Rapids, Mich., operates a program that is designed to bring employees back to work as early as possible, because the company's theory is that the longer a recuperating employee stays at home, the more likely he or she is to remain there, Mr. Lewsley said.

Recuperating employees are brought back and assigned to work in a controlled environment designed to prevent reinjury and to allow more freedom to leave for medical treatment, he said.

Assignments vary, but typically consist of sorting and bundling towels and safety sleeves or stapling instructions to bags of screws.

Steelcase executives credit the program with showing employees that they care and with reducing workers comp claim-related litigation, Mr. Lewsley said.

The company estimates that the work done by the recuperating employees has saved it about \$150,000 in vendor costs.

Tacoma, Wash.-based Weyerhaeuser Co., which operates a facility in Marshall Field, Wis., also focuses on getting employees back to work early to existing jobs that don't pose a risk of reinjury.

In addition, the company has an accident investigation team that analyzes how an accident occurred and what should be done to prevent similar injuries in the future, Mr. Lewsley said.

The company began the program as part of a broad-based initiative to reorganize its workers comp

Continued on page 22

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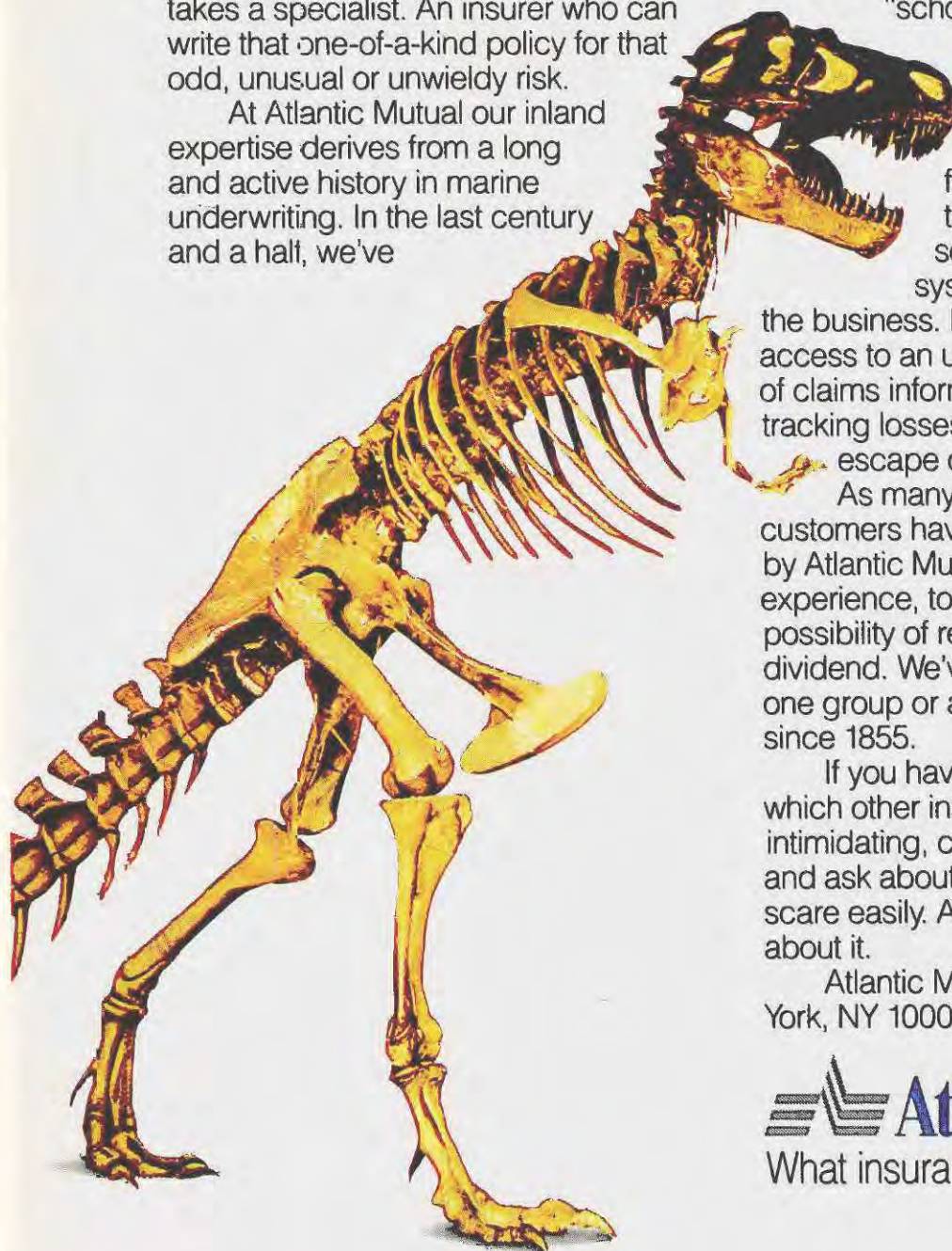
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Rehabilitation

Continued from page 20

claims handling operations, following complaints that fraud and abuse in the filing of workers compensation claims was hurting other workers' morale and motivation (*BI*, Sept. 12, 1988).

As a result, Weyerhaeuser has seen a decline in the number of employees reporting injuries. In addition, injured employees are returning to work with fewer lost work days. As a result, the company has saved millions of dollars in work comp costs, he said.

Chrysler Motors also has saved millions of dollars and helped employees restore their lives through a comprehensive return-to-work program started a few years ago, Mr. Lewsley said.

Chrysler uses full-time consultants from an outside rehabilitation firm to assess and coordinate the care of the 5% of all injured employees, who have been—or are expected to be—off the job for at least three months.

Employees who have been off an extended period of time may receive work hardening therapy, which is specifically tailored to the demands of their job, Mr. Lewsley said.

While rehabilitation programs can help smooth an injured worker's transition back into the workplace, there are some obstacles to implementation, especially when a worker cannot immediately function at full capacity, he admitted.

For example, local managers sometimes oppose bringing back recovering workers.

"We cannot ask plant managers to create make-work jobs," Mr. Lewsley said.

In addition, there is frequently friction when an employee loses a job to make way for a previously injured employee who is returning to the workplace, he added.

Employers of all sizes face similar hurdles, said panelist James Brakora, vp-workers compensation with Detroit-based Amerisure Insurance Cos., which includes Michigan Mutual Insurance Co.

Solving the problem of employee displacement may require changing union work rules that allow workers to bid for most jobs on the basis of seniority, said Martin Skane, manager of plant and personnel services for Valley Forge, Pa.-based Certain-Teed Inc., which employs 300 persons at a plant in Williamsport, Md., that manufactures vinyl siding and windows.

The union representing plant workers has agreed on a trial basis to cooperate with the company's vocational rehab program so that workers returning from job-related ailments can perform duties that will not reinjure them, he said.

However, that is only a small part of the company's wide-ranging loss control program, which it launched after 12 workers sustained repetitive motion ailments like carpal tunnel syndrome and tendonitis in 1988.

The program, which was developed with employee input, included having experts analyze the physical requirements of jobs in light of the increased pace of production. It ultimately led to redesigning a boxing table to reduce the physical stress on the operator.

While such solutions can be found in some companies, other employers will not make such accommodations because they can't afford to hold the job open or have eliminated the job due to automation, according to Mr. Brakora.

Also speaking on the panel was Alain Albert, programming director of Quebec's Rehabilitation and Compensation Commission, who discussed the province's 1985 law that gives injured employees a legal right to be re-employed at their original job site.

The panel was moderated by IAIABC President-elect Reginald J. Allen, chairman of the Nova Scotia Workers' Compensation Board. ■

Doctors told to back up comp opinions

By MEG FLETCHER

BALTIMORE—Medical professionals who treat workers compensation claimants or testify on their behalf should be required to prove that their conclusions are supported by facts and not mere opinions, medical experts say.

Both a physician and a chiropractor delivered that message in separate sessions during the annual convention last month of the International Assn. of Industrial Accident Boards & Commissions.

"We have to be particularly careful about attributing" worker illnesses and injuries to job-related exposures, said Dr. Ronald Gots, a physician and president of Bethesda, Md.-based utilization review firms National Medical Advisory Service and Medical Claims Review Services Inc.

Too often, so-called medical experts base their opinions on rash judgments rather than on statistically based measures and methodical analysis, added Dr. Gots.

For example, analysis of a case in which a worker alleges exposure to a toxin caused a worksite injury should follow these steps:

- From what illness or injury does the claimant suffer?

This includes exploring how the diagnosis was made, whether it was confirmed, the manifestations of the disease or ailments and the patient's complaints as well as his or her fears and risks.

- Could the alleged exposure have caused the problem?

Support for a medical expert's opinion on causation should come from scientifically valid studies of causes of human illness that were

performed with proper controls.

In cases involving toxic chemicals, it is important to remember that most physicians are not trained in toxicology, he said. Their opinions are often based only on their own reading and they are prone to the same biases as members of the general public.

- Is it more probable than not that the exposure caused the problem in this case?

Answering this question requires exploring such factors as other potential causes, disease latency periods, the extent of exposure and the claimant's symptoms.

For example, an allegation that a claimant suffered lung tissue damage due to exposure to a chemical could not be valid unless the employee first experienced burning eyes and nose, Dr. Gots said.

In chiropractic cases, workers

compensation claims payers should challenge chiropractors and "hold their feet to the fire" if their diagnoses are not substantiated by findings elsewhere in the patients' files, Charles Herring, a chiropractor and state legislator from Alexandria, La., said in a separate session.

For example, a diagnosis of neuritis, radiculitis or radiculoneuritis—neurological disorders of the lower body—all involve bodily changes that can be observed and should be described more fully in a chiropractor's examination notes, he said. If these observable symptoms aren't fully described, he suggests the employer or insurer refuse to pay the bill because the diagnosis could be faulty.

However, while Mr. Herring acknowledged that some chiropractors are "abusers," he said they are in the minority. ■



American Re's services are

Uniform comp data collection sought

By MEG FLETCHER

BALTIMORE—Workers comp administrators, having gained state insurance departments' cooperation in coordinating data collection, now are focusing their efforts on enlisting federal agencies' support as well.

"There is a real need for all of the agencies to get together" to decide what data employers must file after employees suffer work-related injuries and illnesses, said Edward Welch, director of the Michigan's Bureau of Workers' Disability Compensation. "The last thing that anybody wants is for an employer to have to file three different times for three different agencies."

In a recent step toward uniformity, the International Assn. of Industrial Accident Boards & Commissions, which represents administrators of

workers comp programs, and the National Assn. of Insurance Commissioners, which represents state insurance regulators, agreed last month to form a joint committee to coordinate data collection efforts.

State work comp administrators and insurance regulators hope that enhanced data collection will enable them—and state legislators—to make more informed decisions about workers compensation management.

While cooperation between the two groups won't be "a cure-all," it should help broaden officials' regulatory focus and improve the quality of data collected, said Allyn C. Tatum, a commissioner with the Arkansas Workers Compensation Commission.

For example, the IAIABC can provide data from self-insured employers that would not otherwise be available to insurance regulators.

Currently, state regulators rely on data insurers submit to the National Council on Compensation Insurance, a voluntary statistical and ratemaking organization. However, NCCI data represents the experience of insured employers only.

Mr. Tatum spearheaded the effort to form the committee, which will be co-chaired by Joseph Edwards, superintendent of the Maine Insurance Bureau, who represents the NAIC.

The IAIABC's Statistics Committee is particularly concerned about efforts by the federal Bureau of Labor Statistics to redesign injury and illness reporting forms required by the Occupational Safety and Health Administration by January 1992, explained Daniel Adelman, chairman of the IAIABC committee.

The bureau currently requires employers to use one form—OSHA

200—to log occupational diseases and injuries. In addition, an employer can provide supplemental information on a second OSHA form—OSHA 101—or on a state's first report of injury or illness form, he said.

The IAIABC last year recommended all jurisdictions adopt a standardized first report of injury or illness form that it developed with ACORD Corp. of White Plains, N.Y. (BI, Sept. 12, 1988).

The Statistics Committee now is concerned that OSHA may decide that a state's form no longer will be acceptable for providing supplemental information, Mr. Adelman said.

The Statistics Committee hopes that a ELS official will serve on its committee and cooperate in the data coordination efforts, said Mr. Adelman, administrator of the information management division of the Ore-

gon Department of Insurance and Finance.

"We want to minimize the paperwork and eliminate duplication in data collection," he said.

Other developments at the IAIABC's conference included:

- Some IAIABC members continue to be concerned about Amtrak's effort to seek congressional approval for a pilot program that would permit it to self-insure railroad employees' job-related injuries, though observers say the proposal appears to be dead for this congressional session.

Amtrak wants Congress to allow it to compensate injured employees under state workers compensation laws during a three-year test period (BI, Nov. 14, 1988). Railroad workers nationwide now are compensated for contested work-related injuries through tort-based lawsuits.

Although an amendment to Amtrak's reauthorization bill, S. 462, that would establish the pilot program failed to move out of a Senate committee on a 10-10 vote, supporters were encouraged by the interest it has garnered.

In addition, the amendment's sponsor, Sen. Robert W. Kasten, R-Wis., may reintroduce it when the Amtrak bill reaches the Senate floor, the spokesman said.

Should the proposal re-emerge, the IAIABC's Legislative Committee has suggested that a special ad hoc panel be appointed to consider it. Such a panel would include the chairmen of the group's Legislative, Self-insurance, Administration and Adjudicative committees, said John Arcudi, chairman of the Legislative Committee.

However, some state administrators are concerned the proposal gives Amtrak authority to self-insure without meeting states' financial responsibility requirements, which include posting security to ensure payment of claims. The program also could create an administrative burden for states that would have to oversee those claims, Mr. Arcudi said.

- OSHA plans to launch a nationwide program this fall to reduce cumulative trauma injuries in the meatpacking industry, announced Alan McMillan, acting assistant secretary for occupational safety and health with the U.S. Labor Department. He did not elaborate on details of the program.



1,000 attend IAIABC's convention

BALTIMORE—Thomas "Tommy" Gleason, executive director of the Workers Compensation Board in New York, was elected president of the International Assn. of Industrial Accident Boards & Commissions during the organization's 75th annual convention Sept. 16-20 in Baltimore.

More than 1,100 registrants and guests attended the meeting held during "National Occupational Safety Awareness Week," which the IAIABC Safety Committee had lobbied Congress to proclaim.

The IAIABC will hold its next annual convention Sept. 8-12 in New York City.

For more information, contact the International Assn. of Industrial Accident Boards and Commissions at P.O. Box 13449, Jackson, Miss. 39236; 601-366-4582.

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Review second injury funds: Actuary

By MEG FLETCHER

BALTIMORE—In light of mounting liabilities, workers compensation administrators should review the financial condition of second injury funds, which pay disability benefits to workers who have compounded existing impairments, an actuary warns.

And administrators should develop solutions for state legislators to consider if the funds require changes, said Jan Lommele, a property/casualty actuarial partner with Touche Ross & Co. in Hartford, Conn.

Industry and labor have "a vital interest" in seeing that second injury funds survive, he told attendees of the 75th annual convention of the International Assn. of Industrial Accident Boards & Commissions, held Sept. 16-20 in Baltimore.

Second injury funds were designed to encourage the hiring of workers who already have an impairment, such as the loss of an eye or hand. The funds, also called subsequent injury funds, have been established in all states and primarily are funded through assessments on workers comp insurers and self-insured employers.

In most states, the funds share responsibility with employers to pay benefits to impaired workers, who because of a new work-site injury or illness, develop a permanent total disability, according to Arthur Larson of Duke University in his treatise on workers compensation, "Larson's Workmen's Compensation."

Under most state laws, an employer is "ultimately liable only for the amount of disability attributable to the particular injury occurring in his employment, while the fund

pays the difference between that amount and the total amount to which the employee is entitled for the combined effects of his prior and present injury," according to Mr. Larson.

In a recent survey of almost two dozen states' second injury funds, Touche Ross' Mr. Lommele found that the funds paid out \$278 million in benefits in the most recent fiscal year—typically through June 30, 1988—leaving fund balances of about \$326 million.

While the remaining balances still exceed

this future liability, he did emphasize that state fund administrators need to determine their claims liabilities and future income needs.

However, "most states are not able to determine (claim) trends due to a lack of data," he notes in his survey report.

Fund administrators estimate, though, that the number of second injury claims appears to be increasing for most funds, he noted.

The states surveyed specifically reported increases in second injury claims for hyper-

the employer had prior knowledge of the pre-existing physical impairment," Mr. Lommele said in his survey analysis.

However, "a few funds narrowed benefits by increasing the percent of disability necessary to be eligible for second injury fund benefits and discontinuing advance payment of benefits," he said.

In light of these trends, Mr. Lommele recommends that fund administrators determine a fund's cash-flow needs, beginning with an assessment of the fund's benefit payouts.

To do this, he recommended collecting specific claimant data, including: type of injury; number and nature of claim; age; sex; accident date; and award data including date payment begins, amount of benefit and duration and frequency of payments.

In addition, administrative expenses and income sources must be calculated before an actuary can estimate a fund's unfunded liability, he noted.

Once a second injury fund's true financial picture is known, fund administrators should alert state legislators to the situation, he said.

Fund administrators also should propose and support recommendations for legislative changes, he said.

Among the changes that Mr. Lommele predicts will be made include the establishment of or change in minimum and maximum fund balance requirements; broadening or clarifying the use of the funds; and additional legislation to encourage hiring handicapped workers, which could increase the number of workers potentially eligible for second injury fund benefits. ■

Virtually all second injury funds continue to operate on a 'pay-as-you-go basis,' despite the declining fund balances and the fact that the majority of obligations they incur are long-tail liabilities, says Jan Lommele, a property/casualty actuarial partner with Touche Ross & Co. in Hartford, Conn.

payouts, the amount of benefits paid increased in each of the last three years reviewed, he said.

And virtually all funds continue to operate on a "pay-as-you-go basis," despite the declining fund balances and the fact that the majority of obligations they incur are long-tail liabilities, Mr. Lommele said.

A rough estimate of the funds' unfunded liabilities—future payments or current obligations minus the current fund balances—is probably in the range of \$3 billion to \$6 billion in the states reviewed, he added.

While Mr. Lommele did not recommend that the funds begin accruing money to fund

tension; prior mental condition; carpal tunnel syndrome; back injuries; asbestosis; and nuisance claims, which Mr. Lommele said appear to be designed to augment retirement income.

Although second injury fund benefit levels generally have not increased, some of the surveyed funds "pay increased benefits due to enriched vocational rehabilitation benefits, increased time allowed to make a claim, broadened court interpretations, less restrictive criteria for employer reimbursement, cost of living increases and elimination of a requirement that a carrier may be reimbursed for second injury payments only if

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Benefit managers urged to assess quality

By MARK A. HOFMANN

CHICAGO—Employee benefits managers must develop ways to measure the quality of health care if they are to meet the health care challenges of the 1990s, a panel of benefit managers says.

"Lacking any standard of care" makes a health care system inherently inflationary, said Dr. John M. Burns, a physician who serves as vp-health care management for Minneapolis-based Honeywell Corp.

Speaking at a national managed care conference in Chicago last month sponsored by the Blue Cross & Blue Shield Assn., Dr. Burns cited medical necessity and medical appropriateness as two standards against which benefit managers must measure health care

services.

Medical necessity means simply that intervention is required to maintain or improve health, he said. Without the standard of medical necessity, "we get into a phenomenon known as 'the cascade effect,'" Dr. Burns said.

Medical care providers start doing "things that don't need to be done" when they're caught up in the cascade effect, Dr. Burns explained.

As an illustration, he cited the case of a man who entered the hospital for routine hernia surgery. The patient was subjected to so many tests looking for unrelated ailments that he ended up in intensive care without having his hernia repaired. Dr. Burns said that the man had to return to the hospital some time later to undergo the sur-

gery.

The other standard, appropriate care, recognizes "the physician's medical judgment," Dr. Burns said. What is appropriate for an

'We have to put in financial participation to discourage abuse' of health care plans, says Dr. John Burns.

otherwise healthy 55-year-old man with rectal bleeding would not be appropriate for an 88-year-old woman who showed the same symptoms but who suffered from other medical problems, he ex-

plained.

Dr. Burns said his illustration showed the need for flexibility in setting standards of appropriateness.

Setting standards is only one facet of health care management cited by Dr. Burns.

To help control costs, cost sharing will have to become universal, he said. "We have to put in financial participation to discourage abuse," he said.

In addition, benefit managers, insurers and managed care vendors must identify both the direct and indirect costs of health care programs, he said, explaining that indirect costs would include such things as the value of time lost to sickness.

One of the challenges of the 1990s will be to devise strategies to

control these indirect costs, he said.

Patricia Nazematz, director of benefits for Stamford, Conn.-based Xerox Corp. and another member of the panel, cited three categories of costs that must be considered when discussing health care cost containment: the cost of conformance, the cost of non-conformance and the cost of lost opportunities.

Corporations "tend to spend most of our resources" on the costs of non-conformance rather than on conformance, she said. While non-conformance costs represent the price paid "when things go wrong," conformance costs include such items as the price of wellness programs and other preventive measures, she explained.

The third category, the cost of lost opportunities, includes such costs created by employee alienation and confusion over their benefits.

In addition, Ms. Nazematz outlined several factors that employers must consider to ensure that employees and dependents receive appropriate care.

The list included: establishment of clearly defined health care plan requirements for the company; the focused purchase of health-care plans that meet those requirements rather than taking a scatter-shot approach; continued movement toward managed care; and stressing total health management, including wellness and prevention programs.

Xerox has established a series of health care objectives as part of its effort to provide adequate, economically sound medical care for its employees, Ms. Nazematz said.

For instance, Xerox seeks long-term relationships with its insurers—including BC/BS plans—and managed care vendors, she said. It also tries to improve the health of its employees and dependents and to reduce environmental and health risks to them.

The corporation also seeks to assure access to appropriate health care services for its employees and their dependents and tries to manage costs more effectively by improving the quality of care provided.

But Xerox does not want to get into the business of delivering health care, Ms. Nazematz said.

For instance, Xerox takes on the responsibility of selecting insurers, managed care providers, etc.; approving local subsidiaries' benefit programs; and negotiating financial arrangements, she said.

Individual insurers and other vendors assist in clarifying the employer's requirements; establishing specifications for health care providers; developing standards and measurements for quality, cost-efficient care; monitoring providers' performance; and assisting in training, educating and communicating with Xerox employees, she said.

Local providers then actually deliver health care services.

Beach Hall, assistant director of benefits for Detroit-based General Motors Corp. and the third member of the panel, urged his audience, composed of BC/BS officials, to do a better job.

In too many cases, the BC/BS associations with which GM deals spend too much time competing with each other rather than worrying about providing health care, he said.

In addition, BC/BS plans are not doing enough to learn from other insurers, he said.

Richard Maturi, executive director of managed care programs in the BC/BS national marketing division in Chicago, moderated the meeting.

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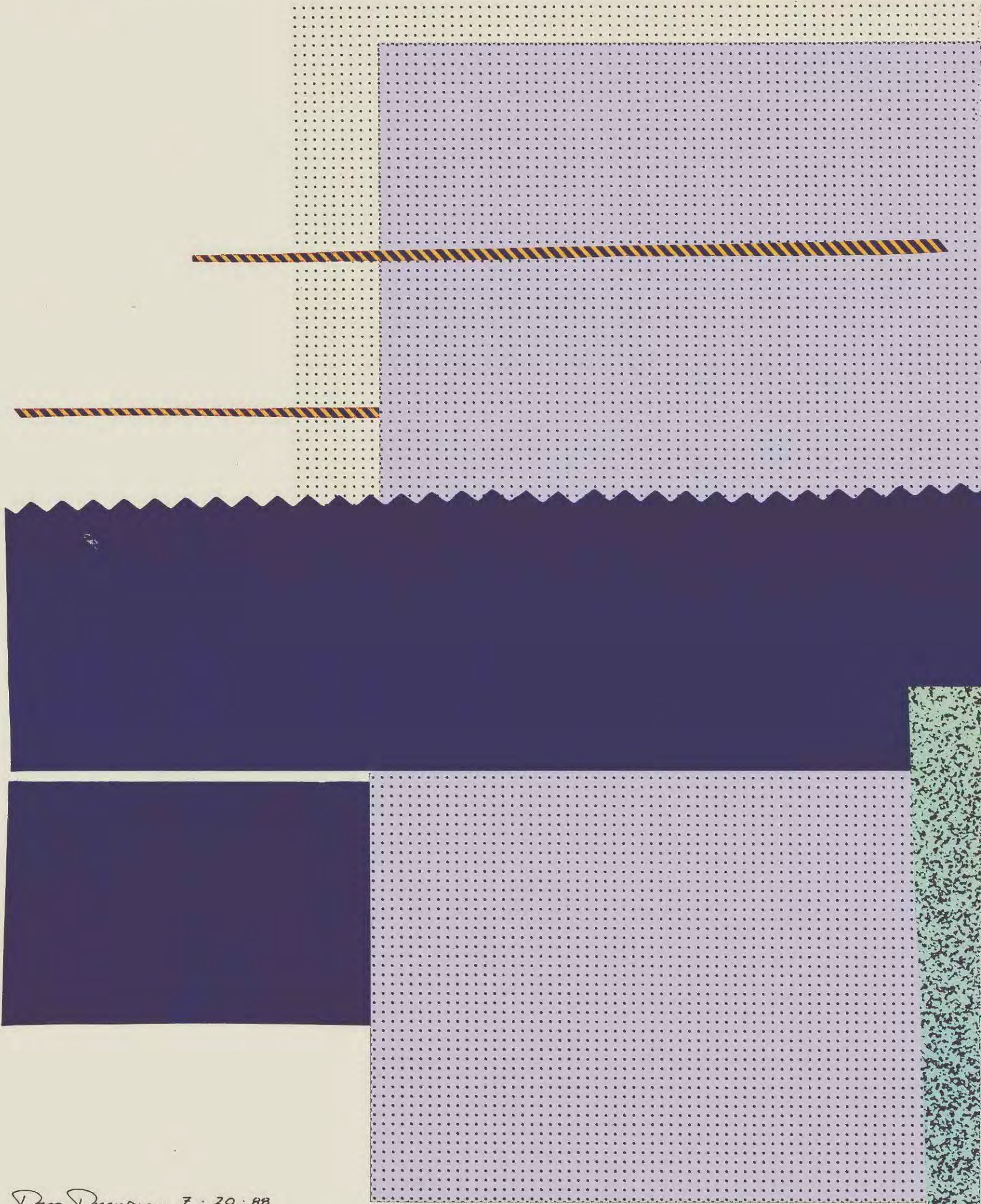
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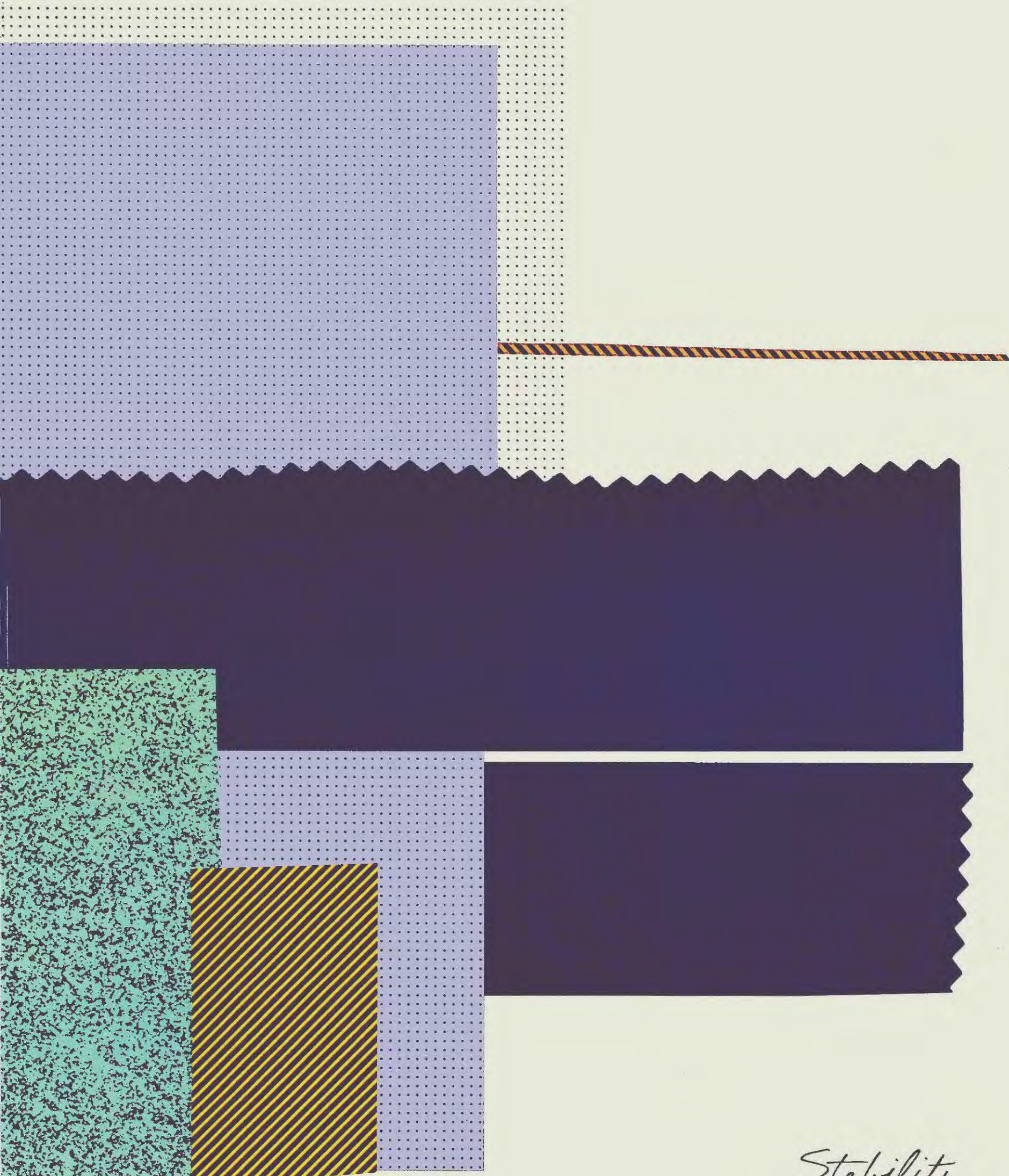
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Work comp reforms

Employers, insurers must work with legislators

By John R. Dunne

AT THE WORKERS Compensation Congress sponsored by the National Council on Compensation Insurance last month in Philadelphia (*BI*, Sept. 18), the call went out for a fresh assessment of where the workers compensation system is today and where it should be in the 1990s—an assessment that would demand a unified effort among all the players to achieve a “new consensus.”

If that consensus is to lead to needed reforms, it must have not only the support of employers, workers and insurers but also the serious attention of legislators and regulators who have searched, without success, for a key to finding a reformed and reinvigorated workers compensation system.

The workers compensation system in our nation is a solemn contract that American society has made with its workforce. And, like any contract, its terms should be defined in advance of performance; not by an uneven collection of judicial interpretations but, rather, as a result of vigorous public debate leading to balanced laws enacted in each state's legislature.

Unless we define those terms and conditions in advance, so that the key element of any insurance program—namely, “predictability”—can be assessed, we cannot expect the system to operate in a fashion that will assure performance of its obligations and deliver benefits that comport with society's concept of fairness.

Now, as we are about to enter the final decade of this century, we are still picking up the pieces of mistakes and miscues of the 1980s; still grappling with issues that date back to a crisis that made headlines five years ago. We are still looking at models and projections of market activity while glancing back over our shoulders in the hope that another crisis is not gaining on us. As a result, a defensive posture seems to rule the goals and objectives of strategies that are to carry this industry into the 1990s.

What is it that will give us a foundation for consensus and progress in the 1990s? If we are to be successful in utilizing the next decade to set the course for the 21st century—an era in which insurance will figure prominently as American industry tries to bring reality to its creative ideas and insurers try to provide protection for risks therefrom—we must resolve those critical matters that are currently before us. We can do this through education and re-education of a skeptical public—and their equally uninformed public officials—as to the role of insurance and the elements necessary for its success.

Rate regulation—simply decreasing the cost of insurance to policyholders—was popular with the consumer movement of the '80s, but ignored the fundamental components of the insurance puzzle: the cost of repairing bodies—both human and automotive—and the continued

willingness of our judicial system to accept the increasingly imaginative theories of liability advanced by the compensation trial bar—a trend that has been characterized as the “tortification” of business contract law.

But, meeting the challenge of the 1990s will not be the same for all insurers, particularly health insurers that are faced with a health care delivery system that has lost control over costs. Rising medical costs have resumed their relentless double-digit surge, posing a major roadblock to profitability.

Any discussion of rising health care costs and their impact in the workplace leads inevitably to workers comp insurance, because unbridled increases in health care expenditures over the last 10 years have wreaked havoc on a compensation system that now counts medical costs as almost 50% of all benefits disbursed.

The obstacles to reform are many and many of the largest state workers comp plans are “hemorrhaging money,” as the current crisis in Texas has been characterized. But the Lone Star state is not alone.

Florida, Oregon, Colorado, Louisiana and a number of other states have put workers comp reform at the top of their legislative agenda, far ahead of any other insurance issue. In Texas, insurers have requested a 35% increase in premium rates. Add to this an aggregate increase of 148% since 1983, and you have a bona fide public policy tempest.

Some legislative attempts at a solution have missed the mark. In 1985, Maine legislators moved to bite the bullet—but actually shot themselves in the foot—by instituting programs that turned out to be far more costly than envisioned.

Following an unsuccessful court challenge of that legislation, insurers were left with two options: either submit to confiscatory rates or simply go out of business. Pending the appeal from that ruling, however, the legislators enacted a comprehensive set of new compensation reforms, including a provision that allowed the industry to seek rate adjustments without limit. The appeal having become moot, the important issues raised at trial were left for resolution on another day—perhaps in the recently filed case by 10 American International Group Inc. subsidiaries that seeks \$50 million in damages that they claim resulted from “grossly inadequate” and unfair workers comp rates in Maine (*BI*, Sept. 4).

Despite the efforts of lawmakers in Maine and elsewhere, the problem continues to defy easy solution. To take the financial burden of workers comp off of business would spell almost certain disaster for insurers.

Already, workers comp accounts for more than 40% of the underwriting loss for all property/casualty lines, yet it represents only 13% of all property/casualty insurance premiums.

Speaking out

With combined ratios for workers comp insurers expected to be 117% or worse in 1989, just how much additional weight can the insurance industry shoulder?

Consider that the recently released performance report of the property/casualty insurance industry for the second quarter of 1989 reveals a steadily deteriorating picture. Just where are we headed when profitability is down by 30% from last year and the industry's combined ratio for the second quarter of 1989 was 107.8%, up three full points over 1988? How is the industry to attract capital when it had an annualized rate of return of 8.2%, barely one-half of the rate of return for the Fortune 500?

If the burden cannot be passed to business and the rising expenses of expanded benefit programs and delayed adjudication cannot be shouldered by insurers, the dilemma then falls squarely in the laps of state legislators and regulators.

Public policymakers admittedly are in an unenviable position. In developing a legislative response they must assure proper benefit levels and consider the increasing pressures to provide coverage for stress, occupational diseases and other “long-tail” occurrences that were never envisioned by those who designed the system back in 1911.

They must also take into account that the workers comp system has taken on new dimensions, representing for many workers a type of long-term, rather than temporary, disability coverage and retirement benefit. Where, then, are the lines to be drawn without having to exhaust all other possibilities?

New York presents an interesting study. Claims now take anywhere from two to five years to resolve and are handled by a bureaucracy of more than 1,300 employees. Virtually every claimant gets a hearing, regardless of the severity of the injury, amount of time lost or expenses incurred—a condition due primarily to the fact that New York does not have any statutory criteria for determining disability, although such standards are utilized in a variety of states.

The dangers are ominous. Just as our criminal justice system has failed to impose swift and certain punishment on the guilty, the workers comp system is drifting steadily away from its essential purpose to provide swift and fair compensation to the injured.

New York will spend a good part of the next decade protecting its system from potential disaster. Insurers and business can greatly contribute to those efforts. They must continue their enhancement of workplace safety with even more aggressive risk control programs. And they must provide ways to achieve greater coordination between an employer's workers comp insurer and its property and general liability insurer to foster an integrated system of cost

control and employee protection.

This will require a look beyond the strict parameters of the compensation system, to see where there is opportunity to consolidate benefit programs outside the system.

The compensation model was instituted at a time when other employer-sponsored group benefit plans, such as health and disability coverage, were not commonplace. The advancements in employee benefit programs over the past 70 years, however, make the time right for a more conscious effort to coordinate employee benefit programs and workers comp. Successful experimentation with workers comp alternatives may take pressure away from the existing system, which could then focus its attention and resources on those injured workers who have no private health care coverage, resulting in cost savings for employers.

In workers compensation, there probably will not be a Proposition 103, because the problem is not in the forefront of the public's mind and simply does not foster the same participatory politics as we find in grass roots issues like automobile insurance affordability or commercial liability insurance availability. Short of a wholesale decline in workers comp benefit levels, the public will not become “political” over this problem.

It is, therefore, up to employers, insurers and workers—as the public to be impacted—to start their own grass roots effort, such as forming local coalitions. But these best efforts will be lost unless they can be effectively communicated to public policymakers, something that can be achieved only through active engagement in the policymaking process, and that means being involved in the state legislative decision-making process that affects not only the workplace but our entire life.

The prognosis is that those systems that are facing critical re-evaluation are probably in better shape than those that are putting off the inevitable. Workable solutions—including alternatives to reliance upon the workers comp system and greater risk control efforts that could stem the flow of workers requiring benefits from the system—will allow America's contract with its workforce to meet the challenges of the 1990s without revisiting old problems bred in the 1980s.

John R. Dunne is a partner with the law firm Rivkin, Radler, Dunne & Bayh in Uniondale, N.Y. This perspective is based on a speech delivered last month by the former



New York state senator at the NCCI's Workers Compensation Congress in Philadelphia. Sen. Dunne was deputy majority leader of the New York State Senate.

ASK A BENEFITS ACTUARY

What Section 89 'repeal' will mean for employers

Q

What will the Section 89 non-discrimination rules be if Rep. Dan Rostenkowski's "repeal" is enacted?

A

House Ways and Means Committee Chairman Daniel Rostenkowski, D-Ill., announced Sept. 12 that he will support the "repeal" of Internal Revenue Code Section 89.

Section 89, enacted as part of the Tax Reform Act of 1986, established non-discrimination and qualification rules for health and welfare benefit plans in order for benefits to continue to be tax-free to highly compensated employees. While other members of Congress have supported repeal, Rep. Rostenkowski had been opposed. In light of Rep. Rostenkowski's change in position, a benefits manager has questioned what the non-discrimination rules will be if his repeal proposal is enacted.

Based on the Joint Committee on Taxation's description of Rep. Rostenkowski's proposal, repeal of Section 89 is an overstatement. Simplification of the non-discrimination rules in the current Section 89 is a more accurate description. The Rostenkowski proposal would not repeal the existing qualification requirements, which include the following:

- The plan must be in writing.
- Employees' rights under the plan must be legally enforceable.
- Employees must receive reasonable notification of existence of the plan.
- The plan must be maintained for the exclusive benefit of employees.
- The plan must be established with the intent to maintain it indefinitely.

The simplified non-discrimination rules under Rep. Rostenkowski's proposal are intended to preclude executive-only plans. Health care plans would have to be available on the same terms and conditions to a non-discriminatory group of employees (the "no executive-only plan" rule). This rule is intended to prevent inherently

discriminatory practices and is not intended to affect health plans offered to broad groups of employees.

A plan offered by a professional service organization must also meet an additional rule: The plan must not disproportionately benefit highly compensated employees based on actual participation. Under the proposal, a professional service organization is an organization providing professional services in the field of health, law, engineering, architecture, accounting, actuarial science, financial services, or consulting, or in such other fields as the secretary of the treasury may prescribe.

The proposal also contains safe harbors under which a plan will be deemed to meet the non-discrimination rules described above. For employers with 100 or fewer employees, a plan will be deemed to meet the non-discrimination rules if at least one half of the employees to which the plan is available are not highly compensated employees.

For any plan sponsored by a professional service organization (regardless of the number of employees) and for employers with more than 100 employees, a plan meets the non-discrimination rules if at least one half of the employees to whom the plan is available are non-highly compensated employees and either:

- The plan is available to 25% of the employer's non-highly compensated employees.
- The plan is made available to a "significant" portion of the employer's non-highly compensated employees.

Other key elements of the proposal include the following:

- Collectively bargained plans, including multiemployer plans, would not be subject to the no executive-only plan rule, unless more than a de minimis number of employees covered by the collectively bargained agreement perform professional services.
- Plans other than health care plans would not be subject to the non-discrimination rules described above. Group term-life plans would be subject to the non-discrimination rules in effect before the Tax Reform Act of 1986. Non-discrimination rules for self-insured medical reimbursement plans would also be reinstated; these rules were repealed by the Tax Reform Act of 1986.
- The non-discrimination rules would apply separately to former employees. The rules would not apply to former employees who separated from service before Jan. 1., 1990, and who were not

rehired on or after that date.

If this proposal were enacted, several effects would be likely:

- Non-discrimination testing would be greatly simplified when compared with the current Internal Revenue Code Section 89. The safe harbor tests in the proposal are certainly simpler than current Section 89 tests. In addition, the exclusion of many collectively bargained plans will also simplify testing.
- Executive-only plans will not receive tax preferences.
- Employers will still have to comply with the qualification rules. For some employers, this may still impose a significant burden, especially where plans have not been adequately documented.

Finally, one would hope that Congress and its staff have learned an important lesson. When significant changes are contemplated to employee benefits law, they are better off seeking the input from the employee benefits community before enacting the changes, rather than after the fact. Then the need for an embarrassing "repeal" might be avoided.

Would you like advice from an experienced colleague on a risk management, benefits 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 benefits management issues and actuarial problems.

This month's column on actuarial issues in the benefits field is written by William J. Miner, an actuary with The Wyatt Co. in Chicago. Richard E. Sherman, a principal with Coopers & Lybrand in San Francisco, answers actuarial questions in the casualty field. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., 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. Miner's and Mr. Sherman's columns appear alternately on the first Monday of each month. Mr. Duva's and Ms. Werner's columns appear alternately on the second Monday of each month. Mr. Miner's next column will appear in December.

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.



Mr. Miner

Self-inflicted eye-injury compensable: Court

A self-inflicted eye injury arose out of and in the course of employment for purposes of workers compensation benefits, a Missouri appeals court ruled.

Bobby Lee Davison, was employed by Florsheim Shoe Co. as a shank nailer. In August 1984, while returning to his work station after a break, Mr. Davison picked up an industrial rubber band from the floor. He continued walking to his station while holding the band and stretching it. The band broke and struck him in the eye causing industrial blindness for workers comp purposes. Mr. Davison applied for and was awarded benefits.

On appeal, the employer argued that Mr. Davison's "playing" constituted a voluntary act of self-amusement or horseplay and was non-compensable.

The court noted that picking up rubber bands was a common occurrence in the plant and violated no employer

rules. Thus, the court said this activity was one that the employer should have expected or reasonably anticipated. The court said there was no doubt that the injury occurred within the time and place of employment and that it was not necessary that the activity leading to the injury be a part of Mr. Davison's specific job description. *Davison vs. Florsheim Shoe Co.*, Missouri Court of Appeals, March 15, 1988; *motion for rehearing and/or transfer to Supreme Court denied* May 3, 1988 (BI/04/May—\$10).

Intangible damages

Intangible damages, such as diminution in value, do not constitute physical injury to or destruction of tangible property for purposes of a general liability insurance policy, an

Legal briefs

Iowa appellate court ruled.

Travelers Indemnity Co. insured the Kartridg Pak Co. under a general liability policy that included property damage caused by an occurrence. The policy defined "property damage" as physical injury to or destruction of tangible property. Iowa Meat Fabricators Inc. sued Kartridg in April 1984 alleging a breach of contract and breach of express warranty, implied warranty of merchantability and implied warranty of fitness for a particular purpose. Iowa Meat asserted a mechanical deboner it leased from Kartridg did not perform as promised, thereby causing the failure of its business. Kartridg asked Travelers to defend it. Travelers declined. Kartridg then sued seeking a declaration the

insurer had a duty to defend. The trial court ruled for Kartridg.

The appellate court reversed, stating that the requirement of physical injury to or destruction of intangible property clause was clear and unambiguous. Intangible damages, such as diminution of value, did not constitute physical injury to or destruction of tangible property, the court said. Thus, this case did not trigger coverage under the policy or Travelers' duty to defend. *Kartridg Pak Co. vs. Travelers Indemnity Co.*, Court of Appeals of Iowa, April 20, 1988 (BI/03/May—\$10).

These abstracts were prepared by Cases Unlimited Inc. Copies of these decisions are available by sending a \$10 check payable to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.

Eastern Bloc insurance

By Douglas N. Smith

AS THE SOCIALIST countries of Eastern Europe surface from the shadow of Soviet suzerainty, regional rivalries still shape dividing lines in local insurance practices.

A cursory glance shows some strong similarities among insurance systems in Eastern Bloc countries, despite differing ideologies. For example, automobile liability insurance is obligatory in each of these countries because local civil laws impute liability to the source of an increased hazard, in this case, an automobile.

On closer inspection, however, disparities in the separate systems become more apparent. Let's look briefly at the current property and casualty insurance scene in the German Democratic Republic, Poland and Yugoslavia.

• East Germany.

Domestic risks in the German Democratic Republic are insured through the state-owned monopoly, Staatliche Versicherung der DDR (National Insurance of the GDR).

Modeled after the Soviet insurer Gosstrakh, Staatliche Versicherung reports to the Ministry of Finance. It writes both life and non-life business, including compulsory and quasi-compulsory covers and supplemental social insurance benefits. Since all policies issued by Staatliche Versicherung are backed financially by the government, reinsurance is neither customary nor necessary.

A separate state-owned company, German Foreign Insurance and Reinsurance Joint Stock Co. (Deutsche Auslands- und Rückversicherungs A.G.) administers all direct and reinsurance activities involving foreign currency. DARAG also accepts reinsurance ceded by foreign reinsurers.

Besides export credit insurance, DARAG principally insures and reinsures:

- ✓ Construction and erection risks involving exported and imported facilities.
- ✓ Transportation of exports and imports.
- ✓ Marine and aviation hull insurance.
- ✓ Direct loss or damage to East German property abroad.

In East Germany, it is compulsory to insure the book value of fixed and operating assets against the property damage perils of fire, explosion, hail, flood and earthquake.

The policy will respond on a replacement cost basis if assets have not been depreciated by more than 60%, but the insured must prove that the funds will be used to replace the damaged property within two years of the date of loss. Otherwise, the policy will pay current value.

Consequential loss insurance is not available in East Germany.

Unlimited compulsory automobile liability insurance covers bodily injury or property damage to third-party persons or property. If negligence can be proved, the violator must pay up to 25% of the damages. Premium rates for automobiles are based on the vehicle's horsepower; trucks, buses and motorcycles are rated on the size of the motor.

Automobile physical damage, which is a quasi-compulsory or "voluntary" cover, can be purchased on a full basis or partial basis. Full coverage includes the perils of accident, vandalism, fire, explosion, acts of God and burglary, while partial coverage excludes the perils of accident and vandalism.

The typical quasi-compulsory general liability policy does not carry a limit; instead, it will indemnify sums that the policyholder is required to pay. Among the numerous policy exclusions are contractual liability, independent contractors', mismanagement, explosion, product liability and any type of professional liability. Policy rates are calculated on payroll.

Water damage and burglary coverage also is available, with policy limits negotiated on a first-loss basis.

• Poland.

In Poland, the self-governing State Insurance

Practices distinct among nations

International issues

Administration (Panstwowe Zaklad Ubezpieczeniowe) writes insurance on domestic risks. Unlike other East Bloc state insurers, PZU is a self-governing company with a president appointed by the Council of Ministers.

Warta Insurance & Reinsurance Co. Ltd. acts as a primary insurer for policies designated in foreign currencies, maritime and international transport policies issued domestically, and automobile third-party liability for Polish citizens traveling abroad or foreigners traveling in Poland.

In addition, an independent, self-governing Insurance Council (Rada Ubezpieczeniowa) determines PZU policy and approves rates and conditions for voluntary insurance contracts.

Compulsory traffic insurance includes automobile liability and accident coverage, as well as automobile physical damage. Automobile accident coverage provides scheduled benefits with a maximum limit. Third-party liability is unlimited and is subject to a franchise. Automobile physical damage rates are based on the size of the motor; the standard deductible may be doubled for poor loss experience.

Since 1986, operators of nuclear power plants in Poland have had to insure their legal liability exposure under a policy issued by PZU. Damages in excess of

Insurance coverages in the Eastern Bloc countries run the gamut from restrictive, as in the case of East Germany, to the more comprehensive policies found in Yugoslavia.

PZU's retention will be reimbursed by the state.

State enterprises are required to insure fixed assets—such as buildings, machinery and equipment—against the basic property perils of fire, flood and windstorm.

Private enterprises may insure property risks on a voluntary basis. For example, an office contents policy can be written to cover perils such as fire, explosion, water damage, windstorm, burglary and robbery and plate glass.

Voluntary general third-party liability insurance is available in Poland. For example, an office risk could be insured.

Owners of automobiles manufactured in Eastern Europe or Yugoslavia may purchase supplemental voluntary automobile physical damage insurance that will pay the difference between depreciated value loss recovery under a standard traffic policy and current replacement cost.

• Yugoslavia.

Since the early 1980s, each of Yugoslavia's six states and two autonomous provinces has had its own territorial insurer.

These mutual companies, which more closely resemble state monopolies, consist of organizational units known as "hazard communities" (zajednica risika).

For example, the insurer Croatia has separate hazard units for civil and industrial property, transport, automobile and personal insurance.

In addition, each of the state insurers—with the exception of three—have acquired separate reinsurance operations in compliance with a 1977 law that requires insurers and reinsurance to operate independently.

The basic industrial fire policy insures against the perils of fire, lightning, explosion, storm, hail and political demonstrations. Earthquake coverage also is available in some states. Additional perils, including

flood, water damage, avalanche and nuclear radiation, can be added by separate agreement.

The typical property policy carries a minimum limit—i.e., the book value of the assets adjusted by a price index—and a maximum limit, which increases the minimum limit by bringing artificially low book values to more current levels.

Policy rates are based on the building's construction and its protection features; policy premiums are adjustable at year-end.

Machinery breakdown coverage can be purchased to cover "damage caused by an industrial accident." The policy can be extended to cover the perils of explosion and defective construction; additional costs also can be insured.

Loss of profits insurance is available, but this line represents only 2% of Yugoslavia's industrial fire premiums. The typical policy must specify an indemnity period as well as a maximum limit.

Other obtainable property coverages include:

- ✓ Computer breakdown insurance.
- ✓ "All risk" construction and erection insurance for Yugoslavian projects abroad and, with less frequency, for projects within Yugoslavia.
- ✓ Refrigeration insurance to protect inventories against damage caused by breakdown of a cooling system.

Civil insurance categories include burglary and robbery, glass and general liability insurance. Rates for a comprehensive general liability policy are based on the insured's classification—that is, industrial, retail, agricultural, etc.

Automobile insurance must be purchased to cover third-party liability; physical damage and luggage insurance is voluntary. In fact, an automobile owner in Yugoslavia cannot obtain license plates without proof of third-party liability insurance. Automobile liability rates are based on the driver's loss record, the vehicle's make and capacity, and the zone in which the driver resides. The insurer may subrogate against the vehicle owner in cases where an award exceeds the policy limit. On the other hand, the territorial insurer is responsible for paying any claim caused by an uninsured driver.

Automobile physical damage coverage may be contracted on a "complete" basis, which includes the perils of traffic accidents, fire, lightning, explosion, storm, hail, avalanche, demonstrations and theft. Additional perils are available by endorsement.

Alternatively, a policyholder may opt for "partial" automobile physical damage coverage that is narrower in scope. About 50% of policyholders buy the more restrictive form of cover because it is less expensive.

Lastly, a wide range of transport policies are available in Yugoslavia. International hull and cargo policies parallel Lloyd's of London marine forms, while a general "all risk" policy is usually issued for domestic hull and cargo risks.

In summary, insurance coverages in these three countries run the gamut from restrictive, as in the case of East Germany, to the more comprehensive policies found in Yugoslavia. On the other hand, both DARAG in East Germany and Warta in Poland will denominate foreign asset policies in U.S. dollars, with claims paid in U.S. dollars.

The insurance systems in these countries bear watching as borders blur within Europe. In the meantime, U.S. multinationals can protect their direct investments in these countries through a local policy that is reinsured, through the appropriate government monopoly, to the policyholder's worldwide insurer. As usual, "sleep" insurance can be maintained on a non-admitted basis.



Douglas N. Smith is vp and manager of the International Department of Johnson & Higgins in New York. His column appears the first Monday of every month.

Retiree health care costs

By CHRISTINE WOOLSEY

Firms must take action quickly: Expert

CHICAGO—Employers have several options when attempting to control their retiree health care liabilities in the face of a proposed accounting standard requiring employers to recognize and report those liabilities on their financial statements, a benefit consultant says.

Because of the increasing number of retirement-age employees, employers must establish a philosophy of how to deal with retiree health care costs, said Ken E. James, a partner at Lincolnshire, Ill.-based employee benefit consultant Hewitt Associates.

In addition, "we have a group of very influential employees in the workforce who are in the 40-to-45-year-old age group," Mr. James said.

Retiree benefits are a "very big ticket item, and employees are concerned about what will be available to them when they retire," he said.

"If you think it is tough dealing with retiree medical decisions today, wait until that group starts focusing on their own retirement," Mr. James warned at the "Striking

a Delicate Balance" seminar co-sponsored by Hewitt and the Employers Council on Flexible Compensation on Sept. 12 in Rosemont, Ill.

"If you wait five, 10 or 15 years, it may be politically impossible to set that philosophy," he said.

Under a Financial Accounting Standards Board's final exposure draft issued in February, employers would have to switch to accrual from cash accounting for post-retirement welfare benefits, including health care benefits. Beginning in fiscal years after Dec. 15, 1991, employers would have to accrue as an expense against corporate earnings on income statements retiree health care liabilities from the date an employee is hired until the employee first becomes eligible for retirement benefits.

Also under the proposed standard, employers would have to begin recognizing on their balance sheets a minimum liability for retiree health care beginning in fiscal years after Dec. 15, 1996 (BI, Feb. 20).

The types of measures employers

can take to limit their retiree health care liabilities range from minor tinkering to major overhauls, and there are advantages and disadvantages to each, said Mr. James.

One measure that some employers are considering is increasing retiree contributions or deductibles under retiree health care plans, he said.



"Increasing retiree contributions is an obvious advantage in that it offsets employers' costs, but it could also discourage retirees from electing that coverage if they can get the same coverage cheaper through their spouses' plan," Mr. James explained.

If that happens to a large extent, then insurers may attempt to recoup lost revenue by increasing premiums for active employees, he warned.

"It's the classic little boy and dike syndrome: more holes than we have fingers to plug up," Mr. James quipped.

Mr. James explained that he favors increasing retiree premium contributions over increasing deductibles, because that would mean every retiree would be helping to reduce the employer's retiree health care liabilities.

Mr. James also pointed out that employers may consider increasing retirees' health care out-of-pocket maximums or introducing a lifetime maximum.

Employers also could significantly reduce their retiree health care liabilities by establishing retiree medical accounts, which would be used to purchase retiree health care coverage, reimburse retirees for out-of-pocket expenses and pay for Medicare Part B premiums.

The amount in each retiree's account would be based on the retiree's age and length of service at retirement.

The payout to retirees could be in the form of a lump sum or an annuity.

Mr. James estimated that retiree medical accounts could slash employers' retiree benefit liabilities by 10% to 20%, and their annual retiree health care expenses by 25% to 40%.

Flexible benefits for retirees is another non-traditional method to deal with rising retiree health care costs, according to Mr. James.

He explained that employers have avoided offering flex benefits to retirees because the plans are difficult to communicate to retirees who, until recently, may not have had flexible benefits while they were working.

But, "now employees are retiring having had some experience in flex and with having choices," he said. This degree of understanding will

help benefit managers feel they can communicate with retirees adequately, Mr. James said.

However, employers will have to be careful with how they price such plans. "Because of the implications of Medicare at age 65, this could result in significant disparity in terms of the pricing structure for people who retire before 65 as opposed to those who retire after 65," Mr. James explained.

Employers also should consider implementing retiree managed care programs, he said.

"Employers should look at utilization review like they do with their active employees," Mr. James said.

Wellness programs offered through health maintenance organizations may produce significant savings, particularly because retirees may place more importance on prevention than active employees do, Mr. James observed.

The status of the Social Security system will have a significant effect on which direction employers may take, according to Mr. James.

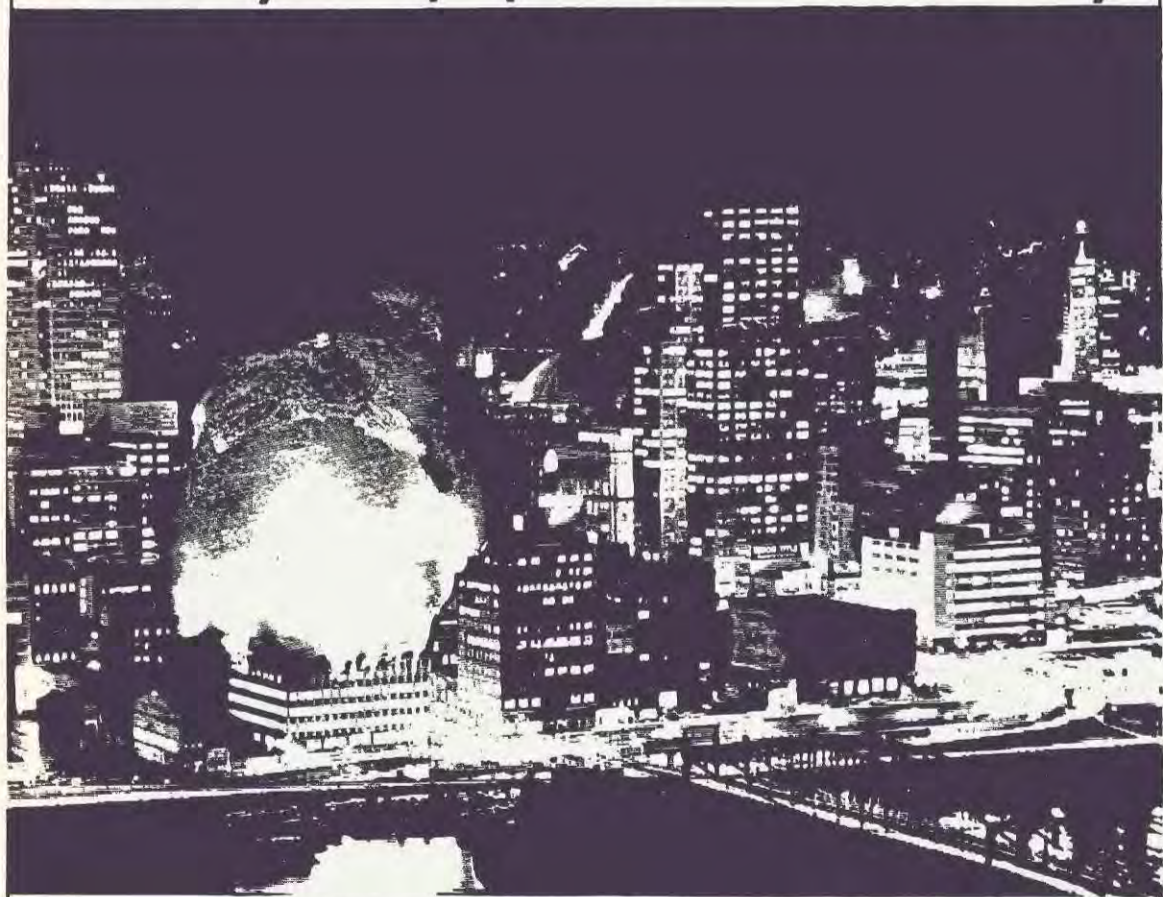
"We're sitting on a time bomb at the same time we're wrestling with the private sector, trying to pass some responsibility to our retirees."

But, employers have been slow to take any action, he pointed out.

"Most people have not been willing to deal with retiree benefits for existing retirees," Mr. James observed. Benefit managers' hesitancy is in part based on their knowledge of written plan language in force when retirees left their jobs and company attitudes toward aiding retirees, he said.

In addition, some are waiting to make changes because the proposed FASB standards on recognized retiree health care liabilities will not really hit them until 1992. ■

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Consultant urges communicating cost sharing data

CHICAGO—Benefit managers in the 1990s will have to effectively communicate to employees that benefit cost sharing is a reasonable price to pay for flexible benefit programs, according to a benefit consultant.

Several forces will prompt employers to alter their flexible benefit communication programs, including greater employee diversity, the demand for more family care benefits and the need for employers to shift the cost of benefits to employees, said Steven W. Peterson, a communications consultant with Hewitt Associates in Lincolnshire, Ill.

While employers in the 1980s focused on communicating that flexible benefits were good for employees, employers now should stress a partnership between employees and employers, or an attitude of "we're all in this together," Mr. Peterson said during the "Striking a Delicate Balance" conference co-sponsored by Hewitt and the Employers Council on Flexible Compensation Sept. 12 in Rosemont, Ill.

"If we're going to acknowledge benefit cost sharing, we better give employees the full story, using understandable statistics," he said. Employers also need to give employees a sense of what would happen if flex weren't offered: skyrocketing health care premium contributions or benefit cuts, he added.

And, if employers are claiming to

be partners in this battle against rising health care costs, top management has to get involved in the communication process, he said.

"Top management needs to get involved," especially if they claim that controlling rising benefit costs is really a matter of life and death to the company, Mr. Peterson asserted.

"Management has to be very clear in communicating why flexible benefits are the way to go," he said.

Other messages conveyed about flexible benefits during the 1980s also have to be modified in the approaching decade, Mr. Peterson said.

For example, "in the 1980s, we said flex was new; that was the appeal and we leaned on that hard," he observed.

However, flex programs are becoming commonplace. "There are about 1,000 flex programs in place, so the message may be, 'Of course, you get choices,'" he said.

And, the idea that flexible benefit programs involve benefit trade-offs for employees may become obsolete in the 1990s, Mr. Peterson said.

"Many benefits will be available that don't involve trade-offs," he said. "You either take it or you don't," he said.

But some messages should remain constant, according to Mr. Peterson.

For example, how flexible benefits can meet each employee's particular needs is an important concept in successfully communicating programs, he said.

—By Christine Woolsey

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Employers rely on high-tech communications

By CHRISTINE WOOLSEY

CHICAGO—Employee benefit managers will communicate flexible benefit information in the next decade through a hybrid system of technological "wizardry" and proven methods, benefit consultants say.

"We'll have a lot more high-tech wizardry at our disposal," said Steven W. Peterson, a communications consultant with Lincolnshire, Ill.-based Hewitt Associates.

"Over this next decade some leading companies are going to be using interactive (systems) as the key benefit delivery mechanism to their employees," said Michael Trahan, national practice leader for Hewitt's computer interactive communication activities.

The consultants spoke during the

Sept. 12 "Striking a Delicate Balance" conference co-sponsored by Hewitt and the Employers Council on Flexible Compensation in Rosemont, Ill.

An interactive systems allows an employee to use a computer terminal to both learn about a flex plan and to administer his or her benefit choices, Mr. Trahan explained.

Employers will increasingly turn to these systems because human resource departments will be smaller in the future and employees will be less inclined to devote the time necessary to read and interpret benefit materials, Mr. Peterson explained.

The consultants outlined advantages and disadvantages of the three most innovative communication systems that employers are expected to use increasingly over

the next decade:

- Telephone voice response systems.

With these systems, employees dial a toll-free number using a Touchtone phone for recorded information about the company's benefit program or to get specific personal information, such as their savings account balance.

Employees also can input information and make benefit selections using the phone keypad by following the instruction of the telephone system "operator."

Telephone systems "can definitely be used for full flex enrollment," Mr. Trahan said.

However, employers should "keep in mind that you're really

not helping the employee through the decision-making process; you're just helping them electronically record the enrollment," he pointed out.

He also noted that the telephone is a somewhat limited communications media and, therefore, employee understanding of a flexible benefit plan may be less than if they use a combination of audio and visual communications systems.

While the system is well-suited for transactions and to convey short, simple messages, "we tend to learn more visually than from auditory responses," Mr. Trahan explained.

Employers will not "convey a lot of conceptual and general understanding with an employee through the telephone," he said.

- Stand-alone personal computers.

The greatest strength of the stand-alone PC system is its modeling capabilities, according to Mr. Trahan.

For example, employees can enter various assumptions about their expected age at retirement to calculate their retiree benefits. Employees can gain a good understanding of how retirement benefits are calculated and also can predict whether the level of retiree benefits they receive will be adequate based on current employer and employee contributions.

This type of system provides great "communication value, modeling and understanding," Mr. Trahan said.

But, the stand-alone PC typically does not access a central database. Therefore, employees cannot use the system, for example, to enroll in a flexible benefits plan, he noted.

- Kiosk systems.

This is the most expensive of the three most innovative employee benefit communication systems, because it combines elements of the telephone and stand-alone PC systems, Mr. Trahan noted.

"The kiosk may involve extra media," particularly audio voice-overs or full motion sound and video, Mr. Trahan said. It also may include ease-of-use features like a touch screen.

"You get the modeling and the understanding, but because it's connected to a central data base the employee can do all the administrative recording," Mr. Trahan said.

The system consists of a PC that can draw information from a database of employee benefit-related information. It is usually located in a central area within the company so employees have unlimited access to it.

But, the catch is that kiosk systems are very expensive, he warned.

"Often, we find employers want to use the PC for modeling and use the voice response for the actual enrollment process," he pointed out.

Mr. Trahan also noted that many employers may use interactive systems to complement their traditional employee benefit communication methods.

"Although it's interesting to use this innovative medium, benefit managers should keep in mind that combining the new mechanisms with traditional methods can also be innovative," he said.

For example, "slide shows are being replaced by videos as the audio-visual medium of choice," Mr. Peterson said.

Also, videos for use at big employee meetings are being phased out.

"What may be in are videos you send home with the employee," Mr. Peterson predicted, adding that the cost to do so has decreased recently.

"Although everyone may not have a personal computer at home, most will have a Touchtone phone and a VCR, and flex will be communicated using this at-home hardware," he said.

For example, employees can learn about their flexible benefits through a step-by-step video they can watch with their families.

When they are finished viewing the video, they can go to the phone and punch in specific benefit choices.

Mr. Peterson noted that an airline recently sent home a videotape with each of its 60,000 employees. "In that quantity, the average cost of each videotape was under \$3 a copy," he said.

Employers may discontinue sending flex communications to employees at work.

"Companies are seeing great value in sending communication to the home," Mr. Peterson said. This also serves to get spouses more involved.

"We are finding the spouse can be a very effective way to get through to the employee—and at very low cost," he said.

Whatever communication method employers choose, employers no longer will rely on big, bulky booklets that describe everything about benefit choices as their main communications vehicle, he predicted.

However, "there will always be a need for a booklet or some place where all the information will be written down for employees to get at," he added.

And, Mr. Peterson stressed, while computers are effective in both the communication and administration of flexible benefits, "employees will want to get some information from real, live, old-fashioned flesh-and-blood folks like themselves." ■



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Future ECFC conferences

CHICAGO—The Employers Council on Flexible Compensation will hold six more regional meetings this fall to discuss trends and developments in flexible benefits.

An Oct. 5 conference to be held in Boston is co-sponsored by William M. Mercer Meidinger Hansen Inc.; an Oct. 10 conference to be held in Washington, D.C., is co-sponsored by TPF&C, a unit of Towers, Perrin, Forster & Crosby Inc.; an Oct. 12 conference in Los Angeles is co-sponsored by Hewitt Associates; an Oct. 24 meeting held in Seattle is co-sponsored by Mercer Meidinger Hansen; a Nov. 1 conference to be held in Houston is co-sponsored by Hewitt; and a Nov. 7 meeting planned for Whippany, N.J., is co-sponsored by A. Foster Higgins & Co.

The Chicago-area conference drew 125 registrants who attended sessions on topics like effective flexible benefit design and financing, retiree benefit trends, Section 89 compliance and imaginative benefit communication.

For additional information on the ECFC, contact the organization at 927 15th St. N.W., Suite 1000, Washington, D.C. 20005; 202-659-4300.

Flex plans meet most needs: Experts

By CHRISTINE WOOLSEY

CHICAGO—A flexible benefit plan is probably the best way for employers to balance varying employee needs with benefit cost constraints, benefit consultants say.

Faced with limited resources, benefit managers attempting to deal with employee requests for increased benefits should view themselves as "product designers" when they begin assembling next year's benefit offerings, advised Judy Whinfrey, a consultant with Lincolnshire, Ill.-based Hewitt Associates.

"You have to please three customers: employees, who are demanding affordable choices; shareholders, who are concerned about the bottom line; and federal, state and local governments," which are constantly changing benefit regulations, she said.

Ms. Whinfrey made these observations during the "Striking a Delicate Balance" conference co-sponsored by Hewitt and the Employers Council on Flexible Compensation, a Washington, D.C.-based lobbying organization. The conference was held Sept. 12 in Rosemont, Ill.

Employees today are asking for more personal choices and additional benefits, and flexibility can be one of the best ways to satisfy their needs while staying within cost constraints, Ms. Whinfrey said.

"You give the employee the opportunity to make a trade-off, trading one benefit for another and

advantages of including benefits like wellness programs, child care benefits and long-term care insurance as part of the flexible benefit programs.

Most consultants agree that wellness programs can lead to reduced health care costs, but measuring results can be difficult, Ms. Irwin said. Some employers may have to wait as long as 30 years to record any type of bottom-line results, and that could make upper management reluctant to even implement such programs, she observed.

Still, the popularity of wellness programs continues to grow, she said, citing the latest Health Research Institute biennial survey that reported an 85% increase in employer-sponsored wellness programs.

"In 1985, only 34% of employers offered such programs; but by 1987, 63% had some type of wellness program," Ms. Irwin explained.

Among the most common types of wellness programs offered are cardiopulmonary resuscitation training, smoking cessation, weight control, cholesterol screenings and stress management, she said.

Employee turnover and demographics have to be considered when deciding whether it would be cost effective to offer wellness benefits, Ms. Irwin said.

"While smoking, cholesterol and high blood pressure programs might be irrelevant to an organization with high turnover and a low

sults.

"The important thing is to communicate the message to employees and make them aware of the goal of improving their health," Ms. Irwin said.

Child care benefits will continue to be a hot topic in the 1990s as women comprise a growing percentage of the workforce, Ms. Irwin



predicted.

This year, nearly 59% of the workforce consists of women, according to U.S. Bureau of Labor Statistics, and many benefit managers are looking for ways to address the needs of this growing population, she said.

The child care benefit most often offered in flex plans is a flexible

spending account for daycare expenses funded through pretax salary reductions or flex credits, Ms. Irwin explained.

These spending accounts tend to offer the most flexibility in choice of child care provider, are often easy to implement and offer tax advantages to the employee, she said.

"In the 1990s, a consideration may be adding some matching employer contributions to the employees' own flexible spending accounts for day care," Ms. Irwin pointed out.

Setting up on-site daycare centers or subsidizing near-site centers are two alternative approaches employers also are investigating, she said.

Long-term care also is becoming a hot topic among employers and

employees, Ms. Irwin said, noting that a growing number of employers are considering offering group long-term care insurance programs.

In addition, the number of insurance companies offering long-term care coverage has increased to 105 from 16 over the last five years, according to a study by Hewitt.

And, during the last year, the number of people covered by such programs has increased to more than 1 million from 150,000, according to Ms. Irwin.

"However, only about 6% of those people are getting their long-term care insurance through employer-offered programs," Ms. Irwin pointed out. And of those employers, 85% are in the service industries. ■

'In the 1990s, a consideration may be adding some matching employer contributions to the employees' own flexible spending accounts for day care,' points out Barbara Jane Irwin, a consultant and account manager with Hewitt.

moving the employer's money around in a way that best serves employees' needs," she explained.

Ms. Whinfrey advised benefit managers designing a flex plan to first identify the areas in which they want to add benefits.

But, she pointed out that because every company has a different culture and history, introducing the concept of benefit choices can be difficult in certain corporate environments.

For example, "in a lot of companies, pension is a sacred cow and employers won't let employees trade it away" for some other benefit.

Traditionally, employers offer the greatest flexibility in employee health care plans, including choices in coverage levels and types of benefits.

Employers designing a flex plan also must determine whether they want to hold their own health care costs steady year to year or allow a certain annual increase, she said.

In addition, employers must decide whether they want to shift more health care costs to employees.

Benefit managers must understand that "choice isn't the most difficult aspect" when offering flexible benefits, Ms. Whinfrey explained.

Rather, "the trickiest design steps are in balancing new benefits with who will pay for them," she said.

"The ability to do the financial analysis of flex design is much easier today," Ms. Whinfrey observed.

Barbara Jane Irwin, a Hewitt consultant and account manager, told the audience that employers can no longer ignore the possible

average age, emphasis on prenatal care perhaps would make sense in order to reduce the high risk of premature birth and the extremely high medical bills that are associated with that," type of medical care, Ms. Irwin noted.

There are several innovative ways employers can include wellness programs in flexible benefit plans, according to Ms. Irwin.

For example, "some employers are offering extra credits for a good showing against standards for several risk factors," Ms. Irwin explained.

She noted that one employer, for instance, gives flexible benefit credits equal to about \$150 if an employee falls within a normal range of height and weight, blood pressure and cholesterol levels and does not smoke.

Providing an "extra credit" can be fairly controversial, though, Ms. Irwin said.

For example, "the extra credit idea won't appeal to upper management if you can't spend any more dollars on benefits," she said.

Upper management also might not agree that flex credits provide enough of an incentive for employees to change their lifestyles, she said.

Some employers, therefore, instead are requiring higher employee contributions toward the cost of certain benefits, such as group life insurance, if the employee smokes, she noted.

Also, credits based on health status may cause employees to worry about confidentiality, Ms. Irwin said.

One way to avoid this problem is to offer extra credits to employees who simply take the wellness tests, rather than base credit on test re-



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Retailer chooses vp-risk management

J. Lawrence Fiedler, 63, promoted to vp of risk management at Carter Hawley Hale Stores Inc. in Los Angeles. In this newly created position, he is responsible for the retailer's property/casualty insurance programs. He reports to Edwin J. Holman, senior vp of operations. Mr. Fiedler, who joined Carter Hawley Hale in 1976, most recently was director of risk management and insurance. He was corporate insurance manager of The May Department Stores Co. in St. Louis from 1969 to 1976. Mr. Fiedler received a bachelor of science degree in engineering from the U.S. Merchant Marine Academy in Kings Point, N.Y. He holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations and is a past president of the St. Louis and Tulsa, Okla., chapters of the Society of CPCU.

Robert D. Lembke, 38, promoted to director of risk management and insurance at Peter Kiewit Sons' Inc. in Omaha, Neb. In this newly created position, he oversees property/casualty insurance and risk management programs for the construction, mining and packaging company. He reports to Kenneth M. Bate, vp and treasurer. Mr. Lembke, who joined the company in 1982, most recently was manager-insurance. Previously he was a broker with Corroon & Black Corp. He holds a bachelor of

Comings & goings: buyers

science degree in business administration from Drake University in Des Moines, Iowa. He also holds the Associate in Risk Management and Chartered Property & Casualty Underwriter designations. Mr. Lembke is a member of the Society of CPCU and is a past president of the Great Plains chapter of the Risk & Insurance Management Society.

Janet Pinet named vp and risk manager of Amoskeag Bank Shares Inc. in Manchester, N.H. In this newly created position she is responsible for minimizing the bank's financial exposure in various operational activities. She reports to Carl M. Hanson, executive vp and chief financial officer. Previously, Ms. Pinet was assistant vp and risk manager of Indian Head Banks Inc. in Nashua, N.H. She received a bachelor of science degree in business management from the University of New Hampshire in Durham. She also holds the Certificate in General Insurance awarded by the Insurance



Ms. Pinet

Institute of America.

Scott Lowe, 25, named associate analyst in the corporate risk management and insurance department of Alcon Laboratories Inc. in Fort Worth, Texas. In this newly created

position he oversees administration of the risk management information system and assists in the management of the company's domestic property/casualty insurance and loss prevention programs. He reports to Larry B. Long, director of corporate risk management and insurance. Alcon manufactures pharmaceutical, surgical and ophthalmic goods. Mr. Lowe holds a bachelor of business

administration degree from the University of North Texas in Denton.

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Agent/Broker Topics

A monthly editorial section sent exclusively to agents and brokers

Agents hear call to battle

By LAURA MAZZUCA

But many prefer not to listen

LOS ANGELES—With disgruntled consumers, soft market conditions and increasing cries for regulation converging on the insurance industry like a three-headed dragon, industry officials are looking to the independent insurance agent as a 20th century St. George.

The independent agent, whose reputation with the public is flying high above an industry besmirched by past market problems, is in a unique position to use his or her good name to bolster the industry as a whole, said insurer executives, agent association officials and others at the 93rd annual convention of the Independent Insurance Agents of America.

The convention was held Sept. 10-14 at the Westin Bonaventure Hotel in Los Angeles.

But many independent agents say they are more interested in surviving the highly competitive property/casualty insurance market than acting as a knight in shining armor for the insurance industry.

In fact, some agents believe that too much honest communication with their clients could cost them accounts.

According to the speakers the agents heard from the convention's podium, independent agents are perceived by the public as one of the few positive links in the insurance chain.

"Our research before and after the California vote clearly substantiates the fact that the most effective spokesperson for insurance is you, the independent agent," said outgoing IIAA President Lawrence E. Hite, referring to California voters' approval of Proposition 103 in November 1988 (*BI*, Nov. 14, 1988).

As such, agents are virtually obligated to take the lead in communicating and educating the public about how the insurance industry works, said Jeffrey M. Yates, the IIAA's executive vp, in his annual report to the convention.

"It is no longer enough for us to be persuasive with just legislators

and regulators," noted Mr. Yates. "We need to participate actively in the public media and reach out to local, state and national community, business and consumer groups to build relations. We need to work together with them to develop strategies that really solve problems."

To do so, the IIAA has in essence "volunteered" its independent agent members to lead the drive to improve the insurance industry's tarnished image.

For instance, Mr. Hite pointed to steps the association took during his tenure toward involving the agent more in the communication process. These efforts included the establishment of an all-industry consumer hot line, to be launched in 1990 in conjunction with other industry associations, and the distribution of public relations kits for members to use to communicate the role of insurance to the consumer in general.

"While this task has not been thrust upon us by any massive industry mandate, still it is a natural function that should grow out of our unique position, and we should seek this leadership challenge eagerly," Southgate Jones Jr., the incoming IIAA president who is president of J. Southgate & Son Inc. agency in Durham, N.C., said in his inaugural address.

The IIAA was not alone in viewing the agent as a potential communications dynamo. A Lloyd's of London underwriter courted agents as a critical conduit in its new streamlining efforts (see story, page 40G); a pair of insurer executives noted the importance of the agent's good reputation to communication with the public (see story, page 40C); and an IIAA Future Care

survey indicated that even the dreaded direct writer defers to the independent agent's expertise in some areas (see story, page 40F).

But while most agents agree that close communication with clients should not be underestimated, the majority is more concerned with the immediate problems of low rates, hot competition, relations with insurers and specialized, regional issues than with the overall image of the insurance industry.

And, in spite of the high-flying rhetoric that is the traditional staple of national conventions, agents are divided on how honestly they can communicate with their clients while the market is still competitive enough for policyholders to shop their coverage to other agents, including direct writers.

"You hear a lot about ethics here, but in a lot of cases, high ethics become meaningless," said David J. Szczepanski, vp of Insurcenter in North St. Paul, Minn.

In fact, many independent agents say that they need to communicate with their clients to further their own business in a soft property/casualty market, but fear a great deal of elaboration.

Mr. Szczepanski suggested that agents should tell their clients in the soft market that "you're getting a good deal, remember that when things change."

Others even shy away from that type of communication.

"I learned my lesson last time," said Arch R. Keller, president of

Insurance Systems Inc., an agency in Ona, W.Va.

Right before the last hard market struck, Mr. Keller warned his long-haul trucking clients that their premiums would probably go up when the market hardened—and many of the grateful clients headed straight to other agencies to get quotes.

As a result, the agency lost some clients to its competition, he noted.

But other agents agreed that honesty is the best policy when communicating with their clients.

For instance, N. Stephen Ruchman, president of Ruchman Associates Inc. in Rockville Centre, N.Y., is solidifying the relationships between his clients and insurers, "marrying companies to clients," which in turn will tie both of them closer to the agency when the market tightens, he said.

"Right now we're just telling them they're getting the best price, but it might change" from month to month, said Robert W. Sams, president of Sams Insurance Agency in Somerset, Ky.

However, unlike Mr. Ruchman, Mr. Sams is more interested in trying the agency's clients, not to a specific insurer, "but to us."

Continued on next page



Agent/Broker Topics

Consumers

Continued from previous page

"We failed to understand that the voter had full comprehension of what was on the ballot in Proposition 103 and the other propositions," he said.

"And, we failed to adequately listen to the appeal that was being made persistently to us, that automobile insurance was simply too high, and going higher."

While the industry may have been guilty of underestimating the California voter, Proposition 103 also was propelled by canny activists with axes to grind, noted Atlantic Mutual's Mr. Trowbridge.

Consumer advocates Harvey Rosenfield, Ralph Nader and others used the problems of insurance policyholders to promote their own agenda, said Mr. Trowbridge. And, while the proposition's "vague and inconclusive" wording makes it clear

that its authors didn't understand how the insurance industry operates, their goal was to disrupt the industry—and they succeeded.

Voters "really don't want to hear too much about why the (personal lines auto) rates are so high," he said.

Nor does Proposition 103 offer any real solutions to keeping premiums under control, he added.

While no-fault systems in New York and Michigan have curbed auto insurance premiums in those states, special interest groups such as the Assn. of Trial Lawyers of America in Washington, D.C., have kept such reforms from spreading nationwide, Mr. Trowbridge said.

Much of the blame for this can be placed on the "inaction" of state legislators, who have buckled under this "activist" pressure, he added.

However, even though carefully constructed no-fault laws could conceivably hold down auto insurance

premiums, the industry must ensure the constitutionality of such systems by letting voters choose whether to adopt a no-fault system, said Mr.

take a more positive approach to publicly discussing tort reform, rather than launching defenses after consumer advocates have made their



The insurance industry should "always consider the end use of its product" by thoroughly explaining its products to its clients, and "what they are getting for their money."

—Southgate Jones
IIAA president

Smith.

To win public support for a no-fault system, insurers must "specify what the reduction in rates would be if an insured opted for a verbal threshold," he said.

In addition, the industry should

pitches, Mr. Smith added.

If communication between the industry and public is not addressed quickly and adequately, the panelists said they feared that federal intervention could ensue, resulting in confusing dual regulation.

"I despair of any kind of a federal solution to a problem that really isn't universal in 50 states," said Mr. Bolinder. Rather, the issue should be handled on a state-by-state basis, he added.

Public dissatisfaction with the insurance industry—and specifically high auto insurance rates—will also affect the outcome of efforts to repeal or modify the McCarran-Ferguson Act, the panelists noted.

"The entire discussion of McCarran is driven by that issue," said Mr. Smith. "I am loath to replace such a substantial body of law" based on a legislative process "that has accomplished nothing," he added.

While Atlantic Mutual's Mr. Trowbridge agreed that no one, least of all the public, would benefit from repeal of McCarran-Ferguson, public sentiment indicates that it is likely the act will at least be amended.

He recommended the insurance industry be prepared to make its views known during the amendment process, rather than simply closing its eyes or opposing any changes outright.

As an association, the IIAA contends that McCarran-Ferguson should not be tampered with, said Mr. Jones.

However, "state-by-state erosion" of the act, epitomized by Proposition 103 in California, must be addressed by strong state support from the national IIAA, he added. ■

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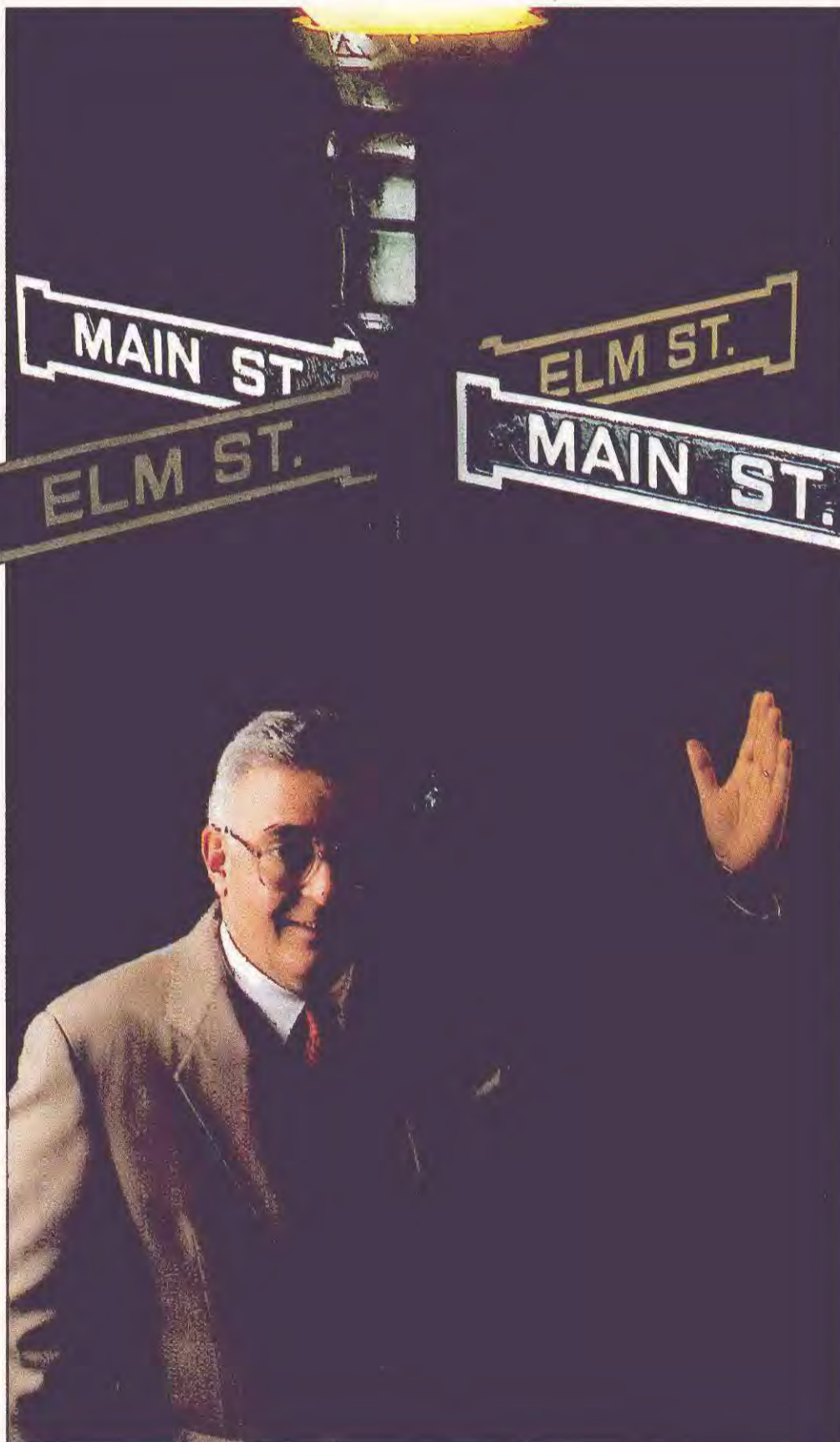
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IIAA hosts 3,200 agents at meeting

LOS ANGELES—Agents from across the country—and from as far away as Australia—converged on the Westin Bonaventure Hotel in Los Angeles Sept. 10-14 for the 93rd annual convention of the Independent Insurance Agents of America.

The convention's theme, "A Premiere Performance," was reflected in the opening gala party, held at Knott's Berry Farm amusement park. There, agents and their guests enjoyed Wild West-style entertainment, thrill rides and a special re-enactment of a Revolutionary War battle at the park's recreation of Independence Hall.

A variety of sessions were offered during the convention, with topics ranging from improving hiring and managing techniques, overlooked coverages and exclusions and agency automation.

In addition to workshops, approximately 150 exhibitors set up booths at the Bonaventure to display their wares, such as new insurance products and computer software systems.

Among the 3,200 agents that attended were several observers representing independent agents from "Down Under" in Australia.

However, an IIAA spokesman noted that attendance was down slightly from last year, possibly because the California state IIAA members met at the end of August, and Arizona members of the IIAA met the week before.

And, agents looking forward to seeing scheduled keynote speaker, former President Ronald Reagan, were disappointed when emergency brain surgery two days before the convention forced him to cancel the speaking engagement. Former Ambassador to the United Nations Jeane Kirkpatrick spoke in Mr. Reagan's place.

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Skills, methods of agents differ: Study

By LAURA MAZZUCA

Insurance agents are more confident, professional and knowledgeable about their own business and the in-

urance industry than are direct writers, clients believe. However, direct writers are per-

ceived as more aggressive salespeople, better prospectors and more enthusiastic about small commercial accounts than are independent agents.

These were the findings of a new study conducted by the Independent Insurance Agents of America's Future One coalition of insurers and agents, which was presented for the first time at the 93rd annual IIAA convention, held last month.

The study, "A Comparison of the Small Commercial Marketing Practices and Customers of Independent Agents and Direct Writers," culled the opinions of about 140 independent agents and direct writers and 180 of their clients, who met in focus groups during 1988 and 1989.

"Small" commercial business—defined by the study as property/casualty premium volume of \$10,000 or less—is a critical market segment for independent agents, and one in which they have been losing market share to direct writers, said Alice Abbott, manager of marketing research and planning for CNA Financial Corp. in Chicago. Ms. Abbott served as the chairman of the Future One subcommittee that designed the study and analyzed its results.

According to industry statistics, the direct writers' share of the commercial multiperil insurance market grew to 17.5% in 1988, from 4.5% in 1967, said Ms. Abbott. In fact, State Farm Insurance Cos., a direct writing insurer based in Bloomington, Ill., now ranks second among all insurers in terms of small commercial multiperil premium volume, she added.

CIGNA Corp. of Philadelphia was ranked No. 1, and Continental Corp. of New York was No. 3 in terms of small commercial multiperil premium volume.

Projections based on past growth statistics indicate that the direct writers could control as much as 27% of the commercial market by the year 2000 and as much as 35% by 2009, Ms. Abbott added.

If independent agents aren't careful, direct writers will usurp the small commercial lines market the way they did homeowners coverage, said Ms. Abbott. Twenty years ago, direct writers had only a 19.7% share

of the homeowners insurance market; today it stands at 52.3%.

To provide direction for independent agents competing against direct writers, Future One, a national working group of the IIAA and 30 participating insurers, commissioned the study.

The qualitative information in the survey was gleaned from a series of focus groups consisting of 10 to 12 participants including direct writers and their clients, and independent agents and their clients, said Ms. Abbott.

These focus groups were held in four locations in each phase of the study in the Northeast, South, Midwest and West.

According to input from agents and their customers, Future One determined that the most significant concerns of independent agents regarding small commercial accounts are:

- Profits. Independent agents are concerned about whether they can profit from smaller commercial business, the survey showed.

Although independent agents in the focus groups agreed that small commercial business is simple to write, generates customer loyalty and adds stability to a book of business, many cited low commissions as a negative aspect, especially those independents agents who are looking at larger accounts.

- Less enthusiasm. Independent agents are less enthusiastic about small business than their direct writer competitors.

Future One's findings indicated that direct writers not only were more aggressive in soliciting new small commercial business, but also were more likely to personally service the business after it was obtained.

Independent agents generally turn over the servicing duties of small commercial accounts to customer service representatives, the survey found.

Direct writers also maintained more contact with their small commercial clients than independents, calling on them throughout the year rather than just at renewal time, the survey indicated.

- Misconceptions about direct writers. Independent agents have many misconceptions about the marketing and servicing habits of direct writers.

Many independents believe that the direct writer is strictly a sales person whose prices are always lower—and neither belief is true, the survey showed.

Although most direct writers believe they could offer their small commercial clients lower-priced premiums, other direct writers know otherwise, but don't admit it to their clients.

Instead, these direct writers position themselves as being price-competitive, telling their small commercial clients that independent agents routinely place coverage where it will generate the most commission income for the agent.

However, while survey results indicated these and other major differences between direct and independent agents, the two groups do share many organizational traits, said Richard P. Carney, president of Carney Insurance Agency in Glendive, Mont., who also served on the Future One subcommittee.

Independent agents, especially smaller ones with annual premium volumes of \$2 million and less, share with direct writers such attributes as smaller staffs, storefront locations and a book of business balanced



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Continued from previous page
equally between personal and commercial lines.

There also are similarities in the way the two types of agents develop new business, said Mr. Carney. Both independent agents and direct writers agreed that referrals were the best source of leads, and both groups used cross-selling, expiration dating, cold calling and direct mail to drum up new business.

However, direct writers were more aggressive in their pursuit, and used more methods, Mr. Carney noted.

Independent agents, on the other hand, tended to rely on more "passive" methods of soliciting, relying predominantly on referrals and direct mail, he said.

Both types of agents were proud of the service they provided, such as responding quickly to claims and the ability to act as consultants on different types of coverage, he said.

But while independent agents believe they can offer more flexibility, service, knowledge and leverage with insurers than the direct writers, they view the direct writers as a serious threat to business retentions because they can offer lower premiums.

Because of this, independent agents are more likely to refrain from telling their clients that their premiums might go up because they are afraid the policyholder will shop the risk to a direct writer.

On the other hand, direct writers are intimidated by independent agents because they can offer small commercial clients more product flexibility and alternative markets, said Mr. Carney.

Clients of both independent agents and direct writers said they expected service, good prices and knowledge from the producers with whom they dealt. They also seemed content with their current agents. Clients agreed that service is the most important agent trait, although several admitted selecting an agent solely on price.

While the clients of both types of agents generally believed that their agents offer them the best service, knowledge and leverage with insurers, both types of clients actually thought that independent agents offered more security, product tailoring and flexibility, said Mr. Carney.

And, ironically, the clients of independent agents believed their producers got them the best premium price. Direct writer clients were split on the issue.

However, when things go wrong between agent and client, it most frequently arises from communication problems, which are cited by clients as the main reason for switching agents. Surprisingly, price was not mentioned as a compelling reason for switching agents.

However, the survey revealed that all clients like to shop their coverage, and direct writer clients are more active shoppers than independent agent clients, Mr. Carney said. Premium increases of between 15% and 20% seem to particularly prompt clients to shop for a new agent, he said.

Taking these opinions into consideration, the Future One survey offered independent agents some suggestions on how to successfully compete against direct writers.

First, independent agents should find ways to work with insurers to develop and service business.

Prospecting also is important, and independents need to formalize the agency's referral process by developing tools for cultivating referrals, making the process "agent-driven" rather than passively waiting for referrals, said Mr. Carney.

When servicing clients, agents have the right idea when delegating authority to their customer service representatives, he said. The skill and availability of CSRs should be promoted to clients as a value-added service, rather than a substitute for the attention of the agency principal. Internally, agents should set up specific guidelines for CSR-client in-

teraction to facilitate this process.

Finally, independent agents should take a tip from direct writers when processing their business. For example, increasing the use of direct billing and generally treating small commercial business like personal lines can cut down on overhead and time lags, said Mr. Carney.

In sales, independent agents should practice cross-selling, and consider requiring more discipline in the agency's sales process.

To develop new producers, the survey suggested independent agents develop an internship program, and/or recruit recent college graduates.

Future One also suggested that customer service representatives and personal lines salespersons—often overlooked when an agency principal is looking for a new producer—as potential sources for small commercial lines salespersons.

To become more competitive against direct writers, independent agents should prove to their small commercial clients that they are important by keeping in regular phone contact with them.

In addition, independent agents should use their superior knowledge of the insurance industry to position themselves as business consultants to their clients, Future One said.

The independent agents also need to counter the direct writers' claims that independents place business with high-commission insurers and instead stress the fact that they can offer a choice of insurers.

Finally, independent agents should emphasize that commercial buyers do not need to change agents when the account grows, Future One said.

The survey will be available after Oct. 15 from state IIAA affiliates. Cost has not yet been decided. ■

New trade partners won't hurt U.S.: Lloyd's underwriter

By LAURA MAZZUCA

LOS ANGELES—The relationship between Lloyd's of London and the U.S. property/casualty insurance market will not suffer when Lloyd's forges ties with smaller European markets after the removal of trade barriers, a Lloyd's underwriter assured a group of independent agents.

"While the very positive prospects of obtaining a better spread of risk is

exciting and one which will add stability to underwriters' accounts, it is you who are their (Lloyd's) largest source of premiums," said Lloyd's underwriter Bryan P.D. Kellett.

"We intend to build on the very solid foundation of our good relations with existing clients and producers here in the U.S.A.," added Mr. Kellett, who also is chairman of underwriting of Kellett Holdings

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Agent/Broker Topics

Lloyd's role

Continued from previous page
 Ltd. in London, the holding company for Lloyd's, the underwriting agency B.P.D. Kellett & Co. Ltd.
 Mr. Kellett is the first Lloyd's representative to address the Independent Insurance Agents of America convention in its 93-year history.
 Mr. Kellett, president-elect of the Insurance Institute of the IIAA, addressed members of the IIAA's National Board of State Directors at the association's 93rd annual convention in Los Angeles last month.
 In an interview with *Business Insurance*, Mr. Kellett elaborated on Lloyd's relationship with independent U.S. agents and pointed out that Lloyd's enhanced computer technology and its recent streamlining of operations will enable it to work more directly with the independent agent in the near future.

"Lloyd's recognizes that it's important to get closer to the policyholder if we're going to discover what people are looking for," he said.
 And, Lloyd's can keep a finger on the pulse of America's insurance needs by cultivating a closer working relationship with independent agents, Mr. Kellett said.
 The key to such close cooperation lies in both streamlining Lloyd's distribution process and coordinating existing technologies between Lloyd's and U.S. agencies to speed the processing of insurance, he said.
 Internal changes at Lloyd's were also addressed by Lloyd's Chairman Murray Lawrence at the National Assn. of Insurance Brokers convention in May. Mr. Lawrence told bro-

kers that competitive pressures in the industry will force a streamlining process within the 301-year-old marketplace (*BI*, June 12).
 Mr. Kellett reiterated that Lloyd's is studying its distribution process and how to achieve a "more direct" relationship between the front-end producer and the underwriter, such as direct submission of documents through the London Insurance Market Computer Network (*BI*, Aug. 28).
 In his address to the IIAA board, Mr. Kellett estimated that all Lloyd's syndicates should be connected to the

LIMNET network by 1991, and said that LIMNET's first major application will be in the receipt of claims information.
 The existence of such technology will eventually change the operations at Lloyd's and the relationship between the market and agents accessing it, predicted Mr. Kellett.
 When it is fully operational, LIMNET will enable claims to be processed from centralized offices, Mr. Kellett said.
 Also, these central claims offices will have authority, once the leading underwriter has agreed to settle a claim, to act on behalf of the other underwriters on the policy, which will further speed up the claims process, he added.

Besides its ability to reduce paperwork and information duplication, the LIMNET system could also lessen the importance of the Lloyd's broker, who traditionally has acted as an intermediary between the domestic agent and Lloyd's underwriters, Mr. Kellett said.
 While the Lloyd's broker would still serve to bring together the syndicate and the independent agent, chances are he would play a smaller role after initial contact is made, Mr. Kellett speculated.
 This streamlining effort will determine which "people involved in that chain make a contribution, and add some value to the transaction," so that middlemen do not "act just as a post office," he said.



Europe offers opportunity: Broker

By LINDA J. COLLINS
 CHICAGO—The relaxation of insurance trade barriers among European Community nations will create new marketing opportunities for U.S. insurers, intermediaries and consultants, according to a European brokerage executive.
 But, U.S.-based insurance services providers need to position themselves now to respond adequately to those opportunities, said Richard F. Crofts, director of Sedgwick Group P.L.C. and deputy chairman of Sedgwick

Europe Group Ltd.
 Regardless of which vendors decide to take advantage of the new opportunities in Europe, the relaxation of insurance trade barriers will be a boon to insurance buyers, he said.
 Speaking before a group of risk managers and corporate chief financial officers in Chicago in late August, Mr. Crofts explained that the insurance industry should be ready for changes coming before 1992, which is when most trade barriers will drop among the EC nations.
 Industrial companies with more

than 500 employees will be able to purchase insurance and related services from any of the European Economic Community countries beginning on July 1, 1990, without trade restrictions, Mr. Crofts noted.
 Thus, the time for U.S. brokers, insurers and consultants to position themselves to expand in the European Common Market is "here, and for many, many European industrial organizations, the next renewal date will be a liberal date," he said.
 In order to compete successfully in the unified European market, a

U.S. insurer, broker or consultant will need the right insurance and risk management products, a good grasp of various languages, dialects and customs, Mr. Crofts explained.
 He said that European industries are most in need of employee benefits and risk management services.
 "Throughout Europe, with the sole exception of the United Kingdom, the entire employee benefits industry has been neglected, and the development of sophisticated benefits for employees is a vast area that has to be addressed now by industry in Europe and also by American industry working in Europe," he stressed.
 Those insurers, brokers and/or consultants that can provide innovative and appropriate employee benefits products to European industries will have a distinct marketing advantage, Mr. Crofts said.
 And, European industrial concerns are also much more interested in acquiring good risk management consulting services, Mr. Crofts said.
 Overall, "there's no doubt that European industry is very much going toward fee-based services as opposed to traditional commission-based insurance products, he said.
 And while many European businesses have traditionally dealt directly with European insurers, they have shown a willingness to consider using insurance brokers "if they see a visible added value," Mr. Crofts said.
 He also predicted that the increased competition among insurers, brokers and consultants will benefit European insurance buyers.
 Mr. Crofts explained that Sedgwick has opened several offices in EC member nations to provide a local presence. And, the cultural diversity within a country sometimes demands that a broker have offices in more than one city, because different dialects or even different languages may divide regions of a country.
 While Mr. Crofts believes that English "will be a common second language throughout Europe in the future, and certainly the common second business language, what is absolutely clear is with the getting together of Europe as one unit—one mega-region—there's a lot of competition there," he said.
 Because of the intensity of this competition, "for people within Europe or people within the U.S. wanting to do business in Europe, the hard fact is that the person who can speak the language properly is going to have an ace of spades up his sleeve if his competitor doesn't," he said.
 In fact, Sedgwick will no longer employ managers in Europe who are not trilingual. "This is an absolutely vital ingredient for us," he said.

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<input type="checkbox"/> Government	<input type="checkbox"/> Actry/Consit	<input type="checkbox"/> Other
<input type="checkbox"/> Educational Inst	<input type="checkbox"/> Attorney	
- Number of employees:

<input type="checkbox"/> 150 or less	<input type="checkbox"/> 151 - 499	<input type="checkbox"/> 500 - 999
<input type="checkbox"/> 1,000 - 4,999	<input type="checkbox"/> 5,000 or more	<input type="checkbox"/> Unknown
- My title is best defined as:

<input type="checkbox"/> Administrative Mgt	<input type="checkbox"/> Benefits Mgt
<input type="checkbox"/> Financial Mgt	<input type="checkbox"/> Loss prevention Mgt
<input type="checkbox"/> Risk Mgt	<input type="checkbox"/> Other
- My purchasing involvement for the requested products is to:

<input type="checkbox"/> recommend only	<input type="checkbox"/> specify	<input type="checkbox"/> approve
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- Do you now receive a personally addressed copy of *Business Insurance*?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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Mr. Crofts

Info

• The problem of expensive dental claims being submitted as "medical" claims is examined in a paper, "Is it Medical or Dental?" by Dr. Donald Mayes, a dentist who is vp for dental affairs at U.S. Administrators Inc. The paper reviews why employers may be unknowingly paying for dental services under medical plans. Free copies are available from Dr. Mayes, Vp-Dental Affairs, U.S. Administrators Inc., 5016 N. Parkway Calabasas, Calabasas, Calif. 91302; 818-593-7189.

• "From the Gym to the Jury," a publication designed to educate insurance, sports and recreational personnel on legal trends and risk management in the sports and recreation industry, is available from The Center for Sports Law & Risk Management Inc. For a free copy, write Ronald L. Baron, The Center for Sports Law & Risk Management Inc., 8080 N. Central Expressway, Suite 400, Dallas, Texas 75206.

• A sample of "Corporate Stress Profile," a publication of Stresscare Systems Inc., identifies personal and on-the-job stress factors that are associated with health risk symptoms and organizational functions that are affected by stress-related absenteeism, morale and productivity. For a free copy, write Theodore Barash, Stresscare Systems Inc., 272-30 Grand Central Parkway, Floral Park, N.Y. 11005.

• An updated edition of "Insurance for Contractors" includes information for owners, architects, engineers, general contractors, construction managers, primary and subcontractors, their attorneys and insurance brokers on the changes in liability policy forms since 1981. Author Walter T. Derk, who recently retired as executive vp of James Group Service Inc., a subsidiary of Fred S. James & Co. Inc., also includes practical advice about claims-made vs. occurrence forms. Copies are available for \$11.50 postpaid through James offices or by writing Insurance for Contractors, P.O. Box 2165, Naperville, Ill. 60567-2165.

• "A Guide to Leveraged ESOPs for Human Resource Professionals" is available from employee benefit consultant Kwasha Lipton. The handbook is drawn from a Kwasha Lipton seminar earlier this year and outlines plan design and administrative issues managers need to consider when discussing setting up employee stock ownership plans. Free copies are available by writing Barbara Hubert, Kwasha Lipton, P.O. Box 1400, Fort Lee, N.J. 07024-1400.

• Analyses of property loss and personal injuries at places of worship are included in Atlantic Mutual Insurance Co.'s "Guarding the House of God." Atlantic Mutual statistics show that fires, including arson, caused the most property loss to U.S. churches, synagogues and other religious institutions from 1983 to 1988. Free copies are available by writing Corporate Communications, Atlantic Mutual Insurance Co., 430 Mountain Ave., Murray Hill, N.J. 07974.

• "Insurance Broker Service in the 1990's: Client Expectations" examines service in the areas of insurance, risk management and technical advice in a recent issue of Betterley Risk Management Commentary. It also includes a broker selection process methodology and a discussion of fees vs. commissions. The report is available for \$25 from Betterley

Risk Consultants Inc., Department 589, 446 Main St., Worcester Plaza, Worcester, Mass. 01608.

• A reprint available from Stone & Webster Management Consultants Inc. discusses the possible benefits of a risk management audit, including methods that can be used to locate a consultant to perform the audit. For a free copy, write Michael J. Natale, Stone & Webster Management Consultants Inc., 1 Penn Plaza, 250 W. 34th St., New York, N.Y. 10119.

• The American Institute for Property and Liability Underwriters and the Insurance Institute of America have released "CPCU/IIA Catalog" and "Key Information for Prospective Students." The catalog is intended for those who need a detailed description of the institutes, especially company education and training directors. Free copies of the catalog and information booklet are available from The Institutes, Field Services Department, 720 Providence Road, Malvern, Pa. 19355-0770; 215-644-2100, extension 7518.

• "A Comprehensive Analysis of Private Sector Rehabilitation Services and Outcomes for Workers' Compensation Claimants" reviewed data on 892 workers compensation claimants in 29 states who received vocational rehabilitation. When cases that could not be completed by the rehab provider were excluded, the study found that 60% of the claimants returned to work. Orders for publication TMF-I016-41, at \$35 each, are available from the Menninger Return to Work Center, 700 Jackson, Ninth Floor, Topeka, Kan. 66603; 913-233-2051.

• A pamphlet discussing the use of medical screening to place injured workers in appropriate jobs and comply with federal, state and local laws and regulations is available from Darrell Heppner Risk Management Services Inc. For a free copy, write Darrell Heppner, Darrell Heppner Risk Management Services Inc., P.O. Box 958, San Leandro, Calif. 94577-0105.

• The Actuarial, Benefits & Compensation Consulting Services of Coopers & Lybrand have published "1989 Guide to ERISA Reporting and Disclosure Requirements." The guide is for plan sponsors, administrators, trustees and attorneys to help them comply with the Employee Retirement Income Security Act of 1974. The publication lists forms to be filed and distributed annually, identifies special reporting and disclosure requirements for plan installation and termination and tips on recent changes in reporting and disclosure requirements. Free single copies are available from Coopers & Lybrand, National ABC, 1800 M St., Washington, D.C. 20036; 212-536-1652.

• "AIDS: Two—AIDS in the Workplace" is the latest soft-bound volume in a series examining the dilemma employers face when an employee contracts acquired immune deficiency syndrome. The book discusses AIDS testing, employer liability for unauthorized disclosure of test results and the benefits issues involved. The guide includes law review articles, position papers, industry and government reports. Copies are available for \$35 each from NILS Publishing Co., P.O. Box 2507, Chatsworth, Calif. 91311; 800-423-5910.

• A monograph, "Reinsurance: Fundamentals and New Chal-

enges," outlines the role of reinsurance and how it affects primary insurance. In addition, the publication provides an overview of reinsurance marketing, the claims and reserving practices of reinsurers and a glossary. Essays by experts examine the issues confronting the reinsurance industry. Copies are \$15 for Insurance Information Institute members and \$25 for non-members through the III, Publications Service Center, 110 William St., New York, N.Y. 10038; 800-221-4954.

• An article offered by Buck Consultants Inc. discusses the Internal Revenue Services' private

letter ruling that allows 401(h) contributions under fully funded pension plans to finance retiree health care benefits. For a free copy of the article, write Carolee P. Martin, Buck Consultants Inc., 500 Plaza Drive, Secaucus, N.J. 07096-1533.

• A guide to help employee benefit executives manage health care costs for dependents is available through Northwestern National Life Insurance Co. "Dependent Health Care: Seven Steps to Reduce Costs" discusses plan design changes, case management, flexible benefits, wellness programs, employee assistance programs and

other methods that can reduce employers' health care bills. Free copies are available from NWNL Group, Box 20, Route 6525, Minneapolis, Minn. 55440; 612-342-7137.

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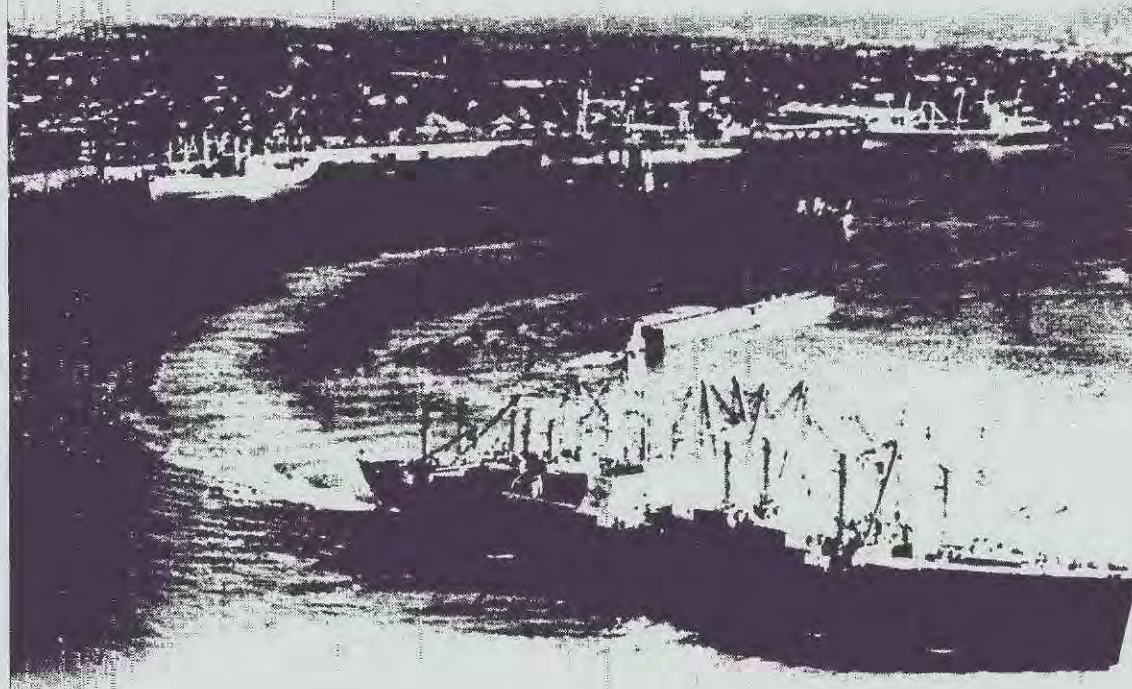
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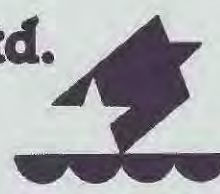


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ESOP lawsuit

Continued from page 3

Ronald Morgan, current chairman and chief executive; and seven other top Thomson McKinnon officers.

All of the individual defendants also were trustees of the ESOP.

The complaint notes that 70% of the firm's 4,100 employees—or about 2,870 employees—participated in the plan, which held roughly 76% of Thomson McKinnon's total outstanding shares.

At the end of 1987, ESOP assets totaled \$124.7 million.

The ESOP was funded solely through employer contributions, said Fred Taylor Isquith, a lawyer with Wolf Haldenstein Adler Freeman & Herz in New York, which represents several of the plaintiffs.

The complaint charges that the Thomson McKinnon officers conspired to convert the firm's assets to their personal use through excessive salaries and bonuses, long-term employment contracts and other

means.

This, in turn, affected the value of Thomson McKinnon stock and injured ESOP participants, the complaint says.

Among other things, the complaint alleges that:

- Some of the individual defendants used the proceeds of interest-free loans from Thomson McKinnon to make outside investments.

- Mr. Maloney caused the firm to pay the school tuition and expenses of his 13 children.

- Thomson McKinnon bought a \$1.3 million yacht that was supposedly to be used for business entertainment, but that actually was used almost exclusively for personal entertainment by Mr. Maloney and other defendants.

- Thomson McKinnon maintained "lavish apartments" in Puerto Rico and Manhattan for the personal use of the defendants.

In addition to "looting the assets of Thomson McKinnon for their own financial profit," the individual defendants also breached their fiduciary duties in managing the brokerage firm and its ESOP, the complaint charges.

For example, the suit alleges that after the October 1987 stock market crash, the defendants committed Thomson McKinnon to move its Manhattan headquarters to a new location at four times the rent it previously paid. The company also failed to sublease its old office space and continued to pay millions of dollars in rent under the prior lease, the suit says.

The lawsuit charges that the move was not motivated by "prudent business judgment," but instead by Mr. Maloney's desire to benefit "close personal friends" who were brokering the lease on the new office space.

Mr. Maloney could not be reached for comment.

On June 13, Thomson McKinnon and Prudential-Bache announced an agreement under which Prudential-Bache would buy the outstanding stock of Thomson McKinnon for \$60 million.

In the process of a due diligence review, however, Prudential-Bache concluded that Thomson McKinnon had overvalued its capital by \$80 million to \$95 million and backed out of the original deal, the suit says.

Prudential-Bache later agreed to buy only the 158-branch stock brokerage network of Thomson McKinnon Securities Inc., Thomson McKinnon's retail brokerage unit.

Shortly after the revised agreement was announced, Mr. Morgan sent a letter to Thomson McKinnon ESOP participants announcing that the original deal had been canceled and that under the new agreement, "the ultimate value of your ESOP stock may be substantially less than the net book value as of Dec. 31, 1988. Indeed, it is possible it will have no value whatsoever."

The complaint charges that the Thomson McKinnon officers conspired to understate the extent of the firm's non-performing assets and to overstate Thomson McKinnon's earnings, assets and net worth.

As a result of the alleged false portrayal of the firm's financial condition, Thomson McKinnon employees were given a falsely inflated perception of the firm's profitability and the value of their ESOP accounts, the lawsuit charges.

The complaint charges all the defendants, including Coopers & Lybrand, with violating provisions of the Employee Retirement Income and Security Act.

The suit also charges all the defendants except Coopers & Lybrand with breach of fiduciary duties, negligent misrepresentation and violations of the federal Exchange Act and Securities and Exchange Commission rules.

Coopers & Lybrand is accused of failing to follow proper audit procedures in its reviews of Thomson McKinnon and the ESOP. ■

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Business Insurance
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California comp

Continued from page 3

In addition, all employers, including those that self-insure their work comp risks, face minuscule assessments by the state to pay for system costs that exceed the state's general appropriation, he added.

The increases employers face are "quite modest," said Alister McAlister, special counsel for social insurance and labor law for the California Chamber of Commerce.

"It's a very important piece of legislation," said Wayne Wilson, vp for the American Insurance Assn.'s Western region.

"I think it is an enormous reform, in comparison to what we have seen in the past," said Joseph Markey, executive director of the Californians for Compensation Reform, the tripartisan coalition that supported the legislation, sponsored primarily by Assemblyman Burt Margolin, D-Los Angeles.

The coalition included 93 employer trade associations, more than 2,000 individual employers, insurers and labor groups, Mr. Markey said.

While the coalition has urged even greater reforms since it was formed in 1984-85, strong opposition from claimants' attorneys and others defeated those efforts.

Mr. Tebb explained that reforms were hard to pass because of the "Byzantine" nature of California work comp politics, in which any change disrupts the environment in which several distinct interest groups operate: employers, unions representing public and private sector employees, attorneys representing claimants, physicians who specialize in testifying in cases and rehabilitation providers.

Reform efforts were stalemated because "no one group was powerful enough to pass anything, and each was powerful enough to stop anything," Mr. Tebb explained.

Meanwhile, although written premiums for work comp insurance in California almost doubled to \$7.4 billion in 1988 from \$3.9 billion in 1984, benefit levels remained low. Maximum weekly temporary total and permanent total disability benefits levels were last increased in 1982 to \$224 per week, which placed California 47th in the nation, according to a state legislative analysis.

Under the new law, California will rank 30th in terms of work comp benefit levels.

"This year we were able to work out an acceptable economic balance between benefit changes and system reform," Mr. Markey said. "Everybody gave a little and got a little."

However, employers that self-insure workers compensation risks did not actively support the final version of the legislation because they had hoped that benefit increases primarily would be funneled to temporary total disability claimants rather than to the broader group of claimants, said Mr. Markey, who also is the legislative advocate for the California Self-Insurers Assn.

Insurers, though, endorsed the new law as a step forward.

"This is the first substantive improvement in California work comp law since 1971," said CWCI's Mr. Tebb.

"The new reform package is a good beginning for improving the system," said Edward Levy, senior vp and director of legislative affairs for the Assn. of California Insurance Companies, in a written statement.

It's "distinctly possible" that litigation will be reduced once the system is modified, said Ron Feenberg, president elect of the California Applicants' Attorneys Assn., which represents about 450 claimants' attorneys, plus other related professionals. However, his organization was disappointed that workers' benefits were not increased more, he said.

The reforms should have a "positive" impact on the vocational rehabilitation process because it emphasizes early intervention, codifies utilization guidelines and takes a step

toward integrating indemnity and vocational rehab benefits so employees have an incentive to obtain rehabilitation services promptly, said Robert Hall, legislative chairman of the California Chapter of the National Assn. of Rehabilitation Professionals in the Private Sector.

Richard Holobar, assistant political director for the California Labor Federation-AFL/CIO, called the legislation a "major breakthrough."

"It provides a 50% increase by the second year in maximum benefits for workers who went seven years without any increase," he said.

Although most employers and insurers would like to see more structural changes in the California work comp system, none are anticipated for the next few years, apart from technical corrections to the bills that will be introduced when the Legislature returns in January.

Specifically, the legislation:

- Increases maximum benefit levels for temporary total and permanent total disabilities to \$266 per

week as of Jan. 1, 1990 and \$336 per week as of Jan. 1, 1991, from the current \$224 per week.

Permanent partial benefits for some claimants also will increase through increasing some maximums and expanding the number of weeks a worker can receive benefits.

In addition, death and funeral expense benefits will grow.

- Limiting stress claims by requiring that an employee demonstrate that actual events of employment were responsible for at least 10% of the cause of the injury.

Existing law does not place limits on the compensability of claims resulting from psychiatric injuries, which employers and insurers say have increased significantly.

In addition, the new law eliminates the use of "ghostwriting" practices by requiring evaluators of psychiatric injuries to personally take the patient's history and to identify others taking part in the evaluation.

- Enhancing early vocational rehabilitation by requiring that a qual-

ified rehabilitation representative meet with the injured worker after at least 90 days of aggregate disability to explain the worker's rights and obligations. The law also requires a worker qualified for rehabilitation to accept or decline the rehabilitation services within 90 days of determination of eligibility.

- Reducing insurer expense components progressively for the next three years from 35% of the premium dollar to 34% on Jan. 1, 1990, to 33% on Jan. 1, 1991, and to 32.8% on Jan. 1, 1992. Following that, the insurance commissioner will resume determination of the expense component.

- Reducing potential litigation through a variety of measures.

For example, an injured worker will now have to file an employer-provided claim form before the worker can hire an attorney to handle his or her claim, which was not required previously.

Employers hope prompt claims handling and payment of benefits to bona fide claimants will reduce a

claimant's need or desire to seek legal counsel.

In addition, employers will face new penalties for late payments.

- Reduces medical-legal expenses through creation of an Industrial Medical Council that will appoint physicians as qualified medical examiners to evaluate worker injuries in disputed cases.

A claimant disputing a claim who is not represented by legal counsel will choose a QME from a randomly selected panel of three QMEs. If the worker wants to rebut that QME's findings, he may select one QME per appropriate specialty as deemed reasonably necessary.

In disputed cases in which a claimant is represented by an attorney and the parties cannot agree on a medical evaluator, each party may select one QME per specialty.

Existing law does not require the employee to use any particular physician to perform the evaluation, nor does it contain any specific limit on the number of evaluations. ■

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Pension vote

Continued from page 2

ployer-provided pension programs.

"The big question I have is why is this in the budget reconciliation bill? . . . We have not had significant consideration" of the Visclosky proposal, complained Rep. Doug Barnard, D-Ga.

The Visclosky amendment was proposed "without hearings, without cause . . . without good sense . . . It does not belong here," said Rep. Frenzel.

The defeat of the Visclosky amendment is the second major employee benefit victory in the House for employers in a day. The vote on the pension proposals was taken just one hour after the House voted to repeal the Section 89 non-discrimination rules for welfare benefit plans (see story, page 1).

Employers had mounted a furious lobbying effort to defeat the Visclosky amendment after the House Education and Labor Committee in

July sneaked the proposal into the budget reconciliation bill (BI, July 24).

Clearly, that lobbying effort paid off, benefit experts said.

"This really got the attention of top management. It became a priority item for many corporations that this amendment had to be defeated," said Frank McArdle, a consultant in the Washington, D.C., office of Hewitt Associates.

"Employers sent thousands of telegrams to members of Congress. This shows that if employers make their views known, they can influence congressional decision-making and have an impact on the outcome," said Mark Ugoretz, executive director of the ERISA Industry Committee in Washington, D.C.

And, benefit lobbyists were exuberant over the performance of Rep. Roukema, who shows signs of inheriting the long-vacant congressional leadership position on employee benefit issues.

"Rep. Roukema did a masterful job

in educating her colleagues about the dangers of the Visclosky amendment," said James Klein, deputy executive director of the Assn. of Private Pension & Welfare Plans in Washington, D.C.

However, amid their exuberance at defeating the Visclosky amendment, employers face the sobering reality that the budget reconciliation bill still includes several other pension provisions that companies also find highly objectionable.

Those provisions, which are likely to remain in the budget reconciliation bill, H.R. 3299, when the House votes on the entire measure this week, include:

- Barring employers from recovering excess assets after they terminate overfunded pension plans.

- Charging employers unprecedented fees—ranging up to \$500 per form—for filing federally required pension and welfare benefit plan forms.

This proposal, if enacted, would cost employers hundreds of millions

of dollars each year (BI, Aug. 7).

- Slapping employers terminating fully or overfunded pension plans with a \$200 per-participant fee.

In fact, Rep. Roukema referred to the Visclosky amendment as the leader of the "gang of three" pension provisions she sought to have deleted from the budget reconciliation bill. She failed in earlier negotiations with congressional leaders to get separate House votes on provisions to bar employers from recapturing surplus assets when they terminate overfunded pension plans and the pension filing fee proposal.

"It is one down and several more to go," said Edward J. Davey, a principal with A. Foster Higgins & Co. Inc. in New York.

"While we are thrilled with the defeat of the Visclosky amendment, highly objectionable pension provisions still remain in the budget reconciliation bill," said Ed Gilroy, associate director of employee benefits and compensation at the National Assn. of Manufacturers in Washing-

ton, D.C.

And, while the House delivered a negative verdict on the Visclosky amendment, it remains to be seen if moves will be made in the Senate to resurrect the proposal.

While the Visclosky amendment was defeated by a nearly 80-vote margin, its defeat came only after a passionate debate on the House floor.

Rep. Roukema described the Visclosky amendment, which called for the boards controlling pension plan assets to include equal numbers of employee and employer representatives, as "unworkable, untenable and unbelievable."

The amendment only reached the House floor through a circumvention of the normal legislative process, she said.

"To say that this amendment is misguided is an understatement. No wonder it was rammed into reconciliation without notice or even a single hour of hearings," Rep. Roukema said.

"These (pension) plans are voluntary plans. No one is required to set them up. If you think it through there never will be any more of them set up" if the Visclosky amendment is passed, said Rep. Sam Gibbons, D-Fla.

Some House members likened the Visclosky amendment to Section 89 in terms of the political fallout that would result if it were passed.

"In short, if you liked Section 89 . . . you'll love the fallout from Visclosky," Rep. Roukema said.

Supporters of the Visclosky amendment were equally passionate in their defense of the proposal.

While workers will guard their investments carefully, "others just do not want to see blue collars or coveralls in the board rooms . . . to that elitist and reactionary position, I can only say step aside," said Rep. Richard Durbin, D-Ill.

"Don't tell American workers that they are too stupid or too shortsighted or too naive to share in the decision making about their own economic futures," said Rep. George Miller, D-Calif.

Rep. Visclosky said the issue is one of fairness for workers who have deferred their compensation. ■



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Manic depression

Continued from page 3
in its thinking about manic depression."

The National Depressive & Manic Depressive Assn. in Chicago, a national non-profit organization that represents those suffering from the illness, joined the lawsuit.

"Because (manic depression) is caused by chemical imbalances in the brain, it is no different than hypertension or liver disease," said Susan Meenan, acting executive director of the NDMDA.

There are millions of dollars at stake in the lawsuit, according to Mr. Gettleman.

The lawsuit estimates that there are at least 500 people in Illinois who are members of the unidentified class. In addition, 1% to 2% of the population suffers from manic depression, according to the lawsuit.

Furthermore, treatment for manic depression can be "very expensive," Mr. Gettleman said.

The lawsuit was filed on behalf of two unnamed plaintiffs who suffer from manic depression as examples of claimants in the class. The names of the plaintiffs are being kept confidential due to the sensitive nature of their illness.

Under the Travelers policy at issue in the lawsuit, the insurer pays for only 50% of the cost of covered mental health care claims, including claims related to manic depression, Mr. Gettleman explained. The insurer also caps lifetime mental health care benefits at \$50,000.

However, under the policy, Travelers pays 80% to 90% of health care claims for physical ailments, Mr. Gettleman said. In addition, Travelers does not place a lifetime cap on the amount of coverage for physical ailments, he said.

The Guardian policy at issue in the lawsuit provides \$1,000 in annual coverage for outpatient mental health care or the cost of 60 days of inpatient care annually, according to Mr. Gettleman. However, the Guardian policy provides "unlimited" coverage for physical ailments, he said.

The lawsuit contends that there is widespread support in the medical community that manic depression is a physical illness.

"Clear modern medical opinion regards bipolar affective disorder (manic depressive disease) as a physical or biological illness." By denying claims or offering less coverage for claims for manic depression than for physical care coverage, Travelers and Guardian are guilty of breach of contract, the lawsuit alleges.

In addition, because the insurers "intentionally concealed that they followed a practice of limiting or refusing to pay claims for the costs of covered medical and hospital care and other treatment for bipolar affective disorder or manic depressive disease," they are guilty of violating the Illinois Consumer Fraud and Deceptive Business Practices Act, the lawsuit alleges.

Attorney William G. Clark of Chicago, who filed the lawsuit, noted that insurers did not specifically state that manic depression is classified as a mental illness.

"The insurance contracts should have clearly stated this," he said. "The insurance industry unilaterally decided to classify manic depression as a mental illness" but failed to state this in its policies.

But Travelers argues that there is no consensus in the medical community about whether manic depression is a psychological or a physical disorder.

"There is considerable debate in the medical community over the classification of manic depressive disorders," a Travelers spokesman said.

He explained that the American Psychiatric Assn. recognizes manic

depression as a mental illness. "Travelers uses that definition as its basis for paying claims submitted for manic depression," the spokesman explained.

However, a spokesman from the American Psychiatric Assn. says the group has not taken a position on the classification of manic depression.

Officials at Guardian Life Insurance Co. of America could not be reached for comment.

Mr. Gettleman pointed out that plaintiffs won a lawsuit very similar to the Illinois action in an Arkansas state appellate court in 1987.

These lawsuits "help individual policyholders, many of whom are badly disabled, defend their rights," he said.

John Doe vs. Guardian Life Insurance Co. of America and The Travelers Insurance Co. of Illinois, Circuit Court of Cook County; No. 8900 00295.

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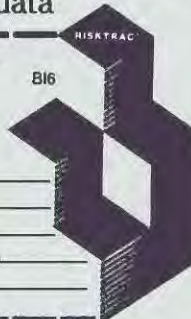
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Illinois now allows captives to reinsure work comp risks

SPRINGFIELD, Ill.—Captive insurance companies in Illinois can reinsure workers compensation risks under amendments to Illinois' captive law recently signed by Gov. James Thompson.

The law, which went into effect last month, also allows full financing of captives' required capital and surplus through subordinated debt.

The amendments will make it easier to form captives before the property/casualty insurance market hardens, said Tomas M. Russell, an attorney with the Chicago law firm of Hopkins & Sutter and author of the captive law and its amendments.

Mr. Russell predicted that allow-

Around the states

ing captives to reinsure workers comp risks will encourage some offshore captives that reinsure their parent companies' workers compensation risks to redomicile in Illinois.

Mr. Russell said this amendment—which he considers the most significant of those signed into law—had been considered since Illinois' captive law took effect in 1987.

Another amendment allows those forming an Illinois captive—with the permission of the state Insurance Department—to borrow at the prime interest rate plus 3% the \$2 million of capital and surplus required to begin operations in the state.

In addition, Illinois captives now can use letters of credit issued by the U.S. branches of foreign banks to meet capital and surplus requirements.

Mr. Russell said these amendments are significant because they eliminate the need to raise the \$2 million in capital and surplus before policies can be issued.

Another amendment liberalizes conditions pertaining to when directors of a captive can make decisions without holding formal meetings.

"These helpful amendments demonstrate the commitment of our governor, the Legislature and the Insurance Department to make Illinois the national domicile of choice for the formation and operation of group and pure captive insurance companies," Mr. Russell said.

—By Mark A. Hofmann

Vermont health care

MONTPELIER, Vt.—The Vermont General Assembly adopted only part of a proposed four-year plan to create a health insurance program to cover the state's 31,000 uninsureds.

The plan adopted by the General Assembly and signed into law this summer provides health care coverage for one year to uninsured pregnant women whose income is up to 200% above the poverty line. This program also provides health care coverage for one year to uninsured children under age 6 whose parents' income is up to 225% above the poverty line. The budget for the one-year program, which became effective June 14, is estimated at \$1.4 million.

Under the entire proposal, prepared by a state-appointed panel, the state would phase in health care coverage over a four-year period for all uninsured residents of Vermont.

Legislators were hesitant to take on a commitment the state might not be able to afford, said Paul Wallace-Brodeur, executive director of the state's Health Policy Council and chairman of the panel that drafted the proposal.

Vermont is in an economic slump, and Gov. Madeleine M. Kunin has requested and received a 2% budget cut from most state programs, Mr. Wallace-Brodeur said.

The proposal was requested in the fall of 1987 by the General Assembly to examine the lack of access to adequate health care in the state.

The panel's findings and recommendations were delivered to legislators in January 1989.

Under the panel's original proposal, the state in the first year of the plan would establish a cost-sharing program for employers

with fewer than 25 employees that had not provided health insurance to workers within the past 18 months. The state would provide these employers with a declining three-year subsidy starting at 30% of the cost of insurance and gradually decreasing to 10% in the final year.

In addition, in the first year of the plan, the state would begin a two-year health insurance technical assistance program to provide employers with information or assistance in evaluating insurance options, as well as help develop the administrative procedures.

The General Assembly will reconsider the proposed cost-sharing program and the panel's other recommendations in January 1990.

—By Adrienne C. Locke

Flex rating changes

NEW YORK—The New York Insurance Department is imposing new restrictions on the way insurance companies may modify base rates under the state's flex rating system.

The department explained that it adopted an amendment Sept. 13 outlining the restrictions because some insurers were improperly using rating plans—which traditionally are used to adjust base rates and determine premiums—to circumvent the state's flex rating system.

Flex rating allows insurers to adjust base rates filed with the department by 15% up or down without the insurance superintendent's approval.

Since flex rating was implemented in 1986, some insurers have managed to manipulate base rates through a combination of rating plans.

An Insurance Department spokesman said the new rating plan restrictions are designed to prevent insurers from reducing premiums too far during soft market periods, or from raising premiums too high during hard markets.

The amendment calls for:

- Adjustments made under schedule rating or individual risk premium modification plans to be limited to plus or minus 15%, down from the plus or minus 25% previously allowed.

Schedule rating and IRPM plans permit insurers to modify base rates based on established observable rating characteristics—usually safety measures such as fire extinguishers, sprinklers or an employee sweeping all floors at the end of a work shift.

- A maximum allowable credit in expense reduction plans of plus or minus 15%. An expense reduction plan allows a rate to be reduced due to a decrease in expenses associated with the insured risk.

- Adjustments made under all rating plans combined—schedule, IRPM and expense reduction—to be capped at plus or minus 25%. There was no previous limitation on the combined effect of these rate plans.

This cap can be exceeded only under experience rating plans, which adjust a rate based on the policyholder's actual loss history.

- Audits to determine final premium for policies for which the initial premium was based on an estimate of the policyholder's exposure base must be conducted within 180 days of the policy's expiration date.

—By Michael Schachner

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UNUM offers worker-funded AD&D cover

An employee-funded accidental death and dismemberment group insurance plan is now available from UNUM Life Insurance Co. of America.

The Lifestyle Protection AD&D plan targets small to mid-sized companies—those with 50 to 5,000 employees—but will cover groups with as few as 10 participants, said Bill Krum, director of group product development at Portland, Maine-based UNUM.

The AD&D coverage is available to employees as well as their spouses and dependent children. Coverage for family members can be purchased even if the employee does not elect coverage under the plan, Mr. Krum said.

Under the Lifestyle Protection AD&D, which can be purchased alone or with Lifestyle Protection Term Life Insurance, employees can select coverage levels of up to 10 times their annual salaries—or a maximum of \$300,000—in \$10,000 increments. A spouse may purchase coverage up to \$150,000 in \$5,000 increments, while dependent children are eligible for up to \$20,000 in coverage in \$2,000 increments.

Employees who opt for both the AD&D and term life insurance become eligible for up to \$600,000 worth of AD&D coverage. Similarly, spouses can select coverage levels up to \$300,000 and dependent children up to \$40,000 if they purchase both policies.

Coverage levels under the term life are up to five times (four times in Texas) the employees' salary to a maximum of \$300,000. Spouses can purchase up to 50% of the employee's coverage in \$5,000 increments, while a maximum of \$10,000 (\$4,000 in New York) in coverage for children can be purchased in \$2,000 increments.

Lifestyle Protection AD&D features:

- A no-charge built-in education benefit that pays up to \$20,000 when a covered employee with a child attending college or soon to enroll dies from an accident. The employee, spouse and dependent child must be covered under the AD&D plan to benefit from this feature.

- An optional permanent disability benefit—available to employees only—that pays a benefit equal to the full benefit amount (less any benefits already paid for an injury from the same accident) if a policyholder becomes permanently disabled after one year of continuous total disability.

- A survivor benefit option that allows surviving family members of a deceased employee to continue coverage for up to five years.

Premiums for the Lifestyle Protection plan are based on the type of risks to which employees are exposed. The term life plan, which covers death or disability from any cause, is rated according to age, sex, industry and smokers vs. non-smokers.

For more information contact Bill Krum, UNUM Life Insurance Co. of America, 2211 Congress St., Portland, Maine 04122; 207-770-6361.

Defense cost cover

A new insurance program that indemnifies employers for legal defense costs resulting from inadvertent employment of unauthorized aliens is now available from Complete Equity Markets Inc. of Wheeling, Ill.

The employers immigration defense policy is "designed to protect the assets of business owners that may otherwise be at risk," said Norman D. Gothier, CEM's program director.

"Employers may ask for all the

Product & services

right papers and follow the right procedures such as conducting a neighborhood check," but there are many ways to erroneously breach the Immigration Control and Reform Act of 1986, explained Mr. Gothier.

The policy, which has limits of up to \$1 million, will cover the legal defense costs for violations, which are subject to "fines of up to \$2,000 for first offenders and up to \$10,000 and/or six months imprisonment for recurring offenses," said Mr. Gothier.

The policy carries a \$250 per claim deductible; premiums start at \$500.

Excluded from the employers immigration defense coverage are any acts occurring prior to the effective date of policy, any act deemed uninsurable by state laws and knowingly hiring an unauthorized alien.

The coverage is underwritten on the Illinois Insurance Exchange by Comprehensive Ensurers Market Syndicate.

For more information on the policy, contact Norman D. Gothier, Program Director, Complete Equity Markets Inc., 1098 South Milwaukee Ave., Suite 200, Wheeling, Ill. 60090-6398; 312-541-0900.

Hospital audits

Garner Consulting has introduced an employee benefit communications package designed to encourage employee audits of hospital bills.

The Pasadena, Calif.-based benefit consultant developed the program in response to a survey that found fewer than half of the employers that encourage employees to check hospital bills actually had an education program in place.

The survey, conducted by Garner, included responses from 70 employers, each with an average of 9,850 employees.

Garner's communication program, dubbed "Double-Check," teaches employees how to keep track of hospital services, report incorrect charges and request a corrected bill, according to John C. Garner, the consultant's president.

The standard package includes:

- A sample announcement letter.
- Employee brochures.
- Logs for tracking hospital services and reviewing bills.
- A sample newsletter article.
- A poster.
- Claim forms.
- A series of three payroll stuffers.
- A sample press release.

The program focuses on "small bills," or those less than \$10,000, Mr. Garner said, explaining that these are not cost-effective for professional auditing services to pursue.

While employers have the option of choosing what percentage of savings they will share with employees, the Double-Check program suggests a 50-50 split up to a maximum of \$1,000.

The cost of the package, which contains sufficient material for 100 employees, is \$995 plus applicable sales tax and shipping charges.

For an additional charge, employers can customize this basic package to include "additional copies of the program materials, special training, and other consulting services," said Mr. Garner.

For more information contact John C. Garner, President, Garner Consulting Inc., 510 S. Marengo Ave., Pasadena, Calif. 91101; 818-440-0969.

Small exporter cover

An exporter insurance program offering small to medium-sized companies customized coverage is now available from American International Underwriters, a unit of American International Group Inc.

Currency fluctuations have "prompted more Main Street companies to enter the booming export market," said Sharon Schwamberger, AIU's director of international packages, pointing to the program's timeliness.

WISE, for Worldwide Insurance Services for Exporters, offers companies with up to \$25 million in annual export sales "the same insurance protection as (that underwritten for) large multinational companies," she said.

WISE eliminates "most coverage gaps" in domestic policies, she explained, by offering foreign commercial general/automobile liability coverage; foreign voluntary workers compensation coverage; foreign commercial property coverage; ocean marine cargo coverage; foreign corporate kidnap and ransom coverage; political risk coverages; accident and health coverage; and comprehensive dishonesty, disappearance and destruction coverages.

For example, "small companies often assume that the worldwide occurrence clauses in their domestic policies fully protect them," Ms. Schwamberger said.

However, this is not always the case. "Many times these clauses only cover suits brought in U.S. courts and provide no protection for losses incurred in foreign courts," she said.

Meanwhile, the policy's broad array of coverages, allowing exporters to customize coverage according to their particular needs, offers policyholders ample protection. Policyholders must, however, purchase at least two coverages, one of which must be property, casualty or marine.

Policyholders also have a choice of limits. The general liability coverage, for instance, offers options

of \$500,000 and \$1 million, with higher limits available on request.

Minimum premium for any coverage combination is \$1,000.

While the property coverage carries a \$1,000 "standard deductible," changes can be made to accommodate the needs of insureds, said Marketing Manager Steve Porcelli. Exclusions are "minimal," he said.

For more information contact Steve Porcelli, Marketing Manager, American International Group Inc., 70 Pine St., New York, N.Y. 10270; 212-770-6440.

Earthquake cover

Investors Insurance Group has introduced a new earthquake insurance program in California.

Through its Chesapeake Casualty Co. subsidiary, the surplus lines carrier is offering the program for frame structures only in certain ZIP code areas.

The policy can also be tailored to cover apartment buildings up to three stories, single commercial buildings and L-shaped shopping centers, said Jim Wright, IIG vp.

Policies are limited up to \$2.5 million per risk, while premiums start at \$1,500.

Exclusions are "built in," explained Mr. Wright, since the policy is written on a difference in conditions form.

For more information, contact Jim Wright, Vp, Investors Insurance Group, Metro Park South, CN007, Laurence Harbor, N.J. 08878; 201-566-1800.

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Fenchurch management to buy broker

By **STACY SHAPIRO**
and **CAROLYN ALDRED**

London

LONDON—The management of London-based brokerage Fenchurch Insurance Group Ltd. is buying the company from parent GPG P.L.C. for £0.5 million to 33.2 million pounds (\$49.3 million to \$53.7 million).

The proposed sale, along with the sale of two other non-insurance companies by GPG, was approved by more than 71% of the proxies held by GPG's shareholders at an extraordinary general meeting held last week.

However, a small group of shareholders at the meeting remained opposed to the sale, claiming the price was too low, among other things, a source at the meeting confirmed.

Under the Fenchurch management's buyout proposal, Teamring Ltd.—a company formed by certain members of Fenchurch management including Managing Director Roger Earl—will acquire the brokerage for an initial consideration of 30.5 million pounds.

Of that amount, 30 million pounds (\$48.5 million) will be payable in cash and the other 500,000 pounds (\$808,000) will be in the form of an interest-free unsecured loan not payable before Oct. 1, 1993.

In addition, another 2.7 million pounds may become payable to GPG on or after Oct. 1, 1993, "dependent on the outcome of certain litigation which arose prior to the buyout proposal," stated GPG, although company officials would not elaborate on details of this litigation.

Fenchurch's management also will be obliged to make payments to GPG "representing a proportion of gains made on certain sales, issues or transfers of shares in Teamring or Fenchurch for a period of 18 months from completion," GPG added.

Fenchurch, one of the largest brokerages in London, reported profits of 5.2 million pounds (\$9.4 million at applicable exchange rates) for the year ending Sept. 30, 1988.

Revenues totaled 23.1 million pounds (\$37.3 million).

Meanwhile, GPG also is selling New York-based investment manager Forstmann-Leff Associates, Inc. and real estate investment group GM Capital Corp. to their individual managements. However, GPG will retain MCG, a life insurance brokerage and executive employee benefit consultant based in

Portland, Ore.

In addition, Fenchurch has launched a new directors and officers liability insurance line slip in the London market that offers \$20 million of coverage limits, according to Simon Cassey, managing director of Fenchurch's casualty division.

The coverage is available to directors and officers worldwide and can be used on a primary or excess basis, he said.

The new D&O line slip is led by Lloyd's non-marine underwriter John Wetherall and supported by Lloyd's non-marine underwriter Richard Lawrence.

Lloyd's elections

Five working members are competing for three vacancies on the Council of Lloyd's of London.

The candidates for the seats that will be open Dec. 31 are:

- Michael Cockell, senior partner for underwriting agency M.H. Cockell & Partners.
- Henry Dobinson, director of underwriting agency Wren Underwriting Agencies Ltd.
- Michael Jenner, chairman of Lloyd's broker Jenner Fenton Slade Ltd.
- Bryan Kellett, chairman of underwriting agency Kellett (Holdings) Ltd. and past chairman of Lloyd's Non-Marine Underwriters Assn.

Robert Keville, chairman of Lloyd's broker Willis Faber & Dumas Ltd. and chairman of Lloyd's Insurance Brokers Committee.

The three council members who will retire at year-end are former Lloyd's Chairman Peter Miller, Dick Hazell and Gordon Hutton.

Meanwhile, six non-working members of Lloyd's are vying for two spots on the Lloyd's Council. They are:

- U.S. broker Phillip C. Gallagher, president of Gallagher-Cole Associates in Miami.
- Stewart Cohen, chairman and chief executive of Mercantile Assurance Services Ltd. in London who formerly worked for Skandia International Insurance Group.
- Norman Dunlop, retired chief financial officer of British Airways P.L.C. and chairman of Floyd Energy P.L.C.
- Lady Rona Delves Broughton, director of Lawford Investment Co. in London.
- Nicholas Pawson, a computer and financial consultant.
- Valerie Robinson, committee member of the Assn. of Lloyd's

Members.

Ballots are being sent to Lloyd's members on Oct. 13. The results of the election will be announced Nov. 15.

BPR offer

An offer of more than 14 million pounds (\$22.6 million) in restitution to Lloyd's of London members on syndicates formerly managed by Bellew Parry & Raven (Holdings) Ltd. has been declared unconditional, the administrator of the syndicates announced.

Late last month, Oxford Members' Agency Ltd. declared the restitution offer by four former Lloyd's market executives and BPR unconditional after more than 90% of the 1,500 members agreed to the restitution.

However, the offer remains open for the rest of the members who have not yet accepted, said an Oxford spokesman.

The BPR agency, now part of Oxford, which in turn is owned by Sturge Holdings P.L.C., informed syndicate members about the proposed settlement last December after four BPR executives were disciplined by Lloyd's (BI, Dec. 12, 1988; Oct. 5, 1987).

The formal offer was sent to members on July 6 (BI, July 3, 1989).

John Parry, Arthur Henry Grattan-Bellew, Frederick Charles Raven and Edward Nelson were found guilty by a Lloyd's disciplinary panel on charges relating to placing the reinsurance of BPR syndicates with offshore companies the BPR executives owned or controlled.

Mr. Parry and Mr. Raven were expelled by Lloyd's, while Mr. Grattan-Bellew and Mr. Nelson received suspensions.

All four men also were fined by Lloyd's.

Fraser purchase

Dewey Warren Holdings P.L.C. is re-entering the insurance brokerage business with the 17.6 million pound (\$28.4 million) purchase of banking and brokerage units of Robert Fraser Group.

However, Robert Fraser will continue to own the 29.9% stake in Dewey Warren that it bought from Australian entrepreneur Alan Bond last year and will keep at least two seats on Dewey Warren's board of directors.

Dewey Warren left the brokerage business earlier this year when it sold its brokerage unit, Dewey Warren Co. Ltd., to Lloyd's of London broker D.G. Durham. The brokerage, which had a large book of North American business, "was

a loss-maker and not well-managed," said David Hart, finance director of Dewey Warren Holdings.

"But Robert Fraser Insurance Broking is a profit-making concern," said Mr. Hart. "It is not heavily into North America... and it is well-managed. We are glad to be going back into the broking field."

Last year, Robert Fraser's banking/brokerage pretax profits totaled 5.78 million pounds (\$10.5 million).

Robert Fraser will hold an extraordinary general meeting of shareholders on Oct. 13 to approve the sale, according to Mr. Hart.

He said that of the 17.6 million pound value of the transaction, 2.5 million pounds (\$4 million) represents Robert Fraser's investments and 15.1 million pounds (\$24.4 million) represents the value of the operating companies.

The first 1.2 million pounds (\$1.9 million) will be paid to Robert Fraser shareholders in cash. The remainder will be paid by Dewey Warren in convertible stock.

A&A unit in Dublin

A new Alexander & Alexander Services Inc. subsidiary will provide captive management services in Dublin, Ireland.

The new company, Alexander Insurance Managers (Dublin) Ltd., will be located temporarily in the Dublin offices of Alexander Stenhouse Ltd., another Alexander & Alexander subsidiary.

The new company was formed following its recent approval as a captive manager by the Industrial Development Authority of Ireland for Dublin's International Financial Services Center.

"A&A clients who want to establish captive insurance companies in Dublin will benefit from Ireland's low tax rate and its membership in the European Community," stated Charles M. Patrick Jr., Alexander Insurance Managers' chief executive officer.

Claims services survey

None of the insurance companies in Britain offers "outstanding claims service," even though it is regarded as the second most important factor in selecting an insurer behind the scope of coverage offered, a survey of 50 British insurance brokers concludes.

Insurance companies must improve their claims handling service in order to compete more effectively, according to the survey conducted for the accounting and consulting firm of Ernst & Young.

Continued on next page

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Continued from previous page
 "Fast and efficient claims handling (is) a key factor in differentiating insurance companies and in gaining a competitive advantage," Ernst & Young concluded.

However, "the brokers did not think any of the insurance companies offered an outstanding claims service, even though it (is) the second most important factor in the advice they give to clients over the choice of company, after breadth of policy coverage," the Ernst & Young survey said.

More than 50 brokers answered questions in a telephone survey that was conducted for Ernst & Young by HRH Consensus International.

"We believe more and more people will have to compete on services as well as price," said Mr. Wein.

"But we have found that while price is most important in choosing an insurer, beyond that (survey respondents) are concerned about the service they get and no one thinks that the service they are getting at the moment is great," Mr. Wein added.

Details of the survey are available free of charge from Ernst & Young, Becket House, 1 Lambeth Palace Road, London SE1 7EU, England; 01-928-2000.

Willis Faber results

London-based brokerage Willis Faber P.L.C. first-half pretax profits fell 3.8% to 43.5 million pounds (\$78.7 million) from 45.2 million pounds (\$85 million) in the first half of 1988.

However, the brokerage's profits for the six months ended June 30, 1988, benefited from 2.6 million pounds (\$4.9 million) in a final profit commission payment from Lloyd's underwriting agencies it sold off in 1985 to comply with Lloyd's rules, according to Willis Faber.

Had the profit commissions not been included in the 1988 first-half results, pretax profits would have increased 2% in the first half of 1989, Willis Faber said.

Gross revenues, excluding interest payable, increased slightly to 140.1 million pounds (\$253.6 million) in the first half from 138.6 million pounds (\$262 million) in the first half of 1988.

"Our immediate strategy is to continue the process of consolidation, both of our relationships with our trading partners and of our internal structures and controls," stated Willis Faber Chairman Roger Elliott.

Meanwhile, Willis Faber, which has reduced its headquarters and management services personnel by 10% over the last 12 months, is moving out of the rented offices that once housed Stewart Wrightson Holdings P.L.C., which had been purchased by Willis Faber in 1987.

Underwriter bought

Lloyd's of London underwriting agency Devonshire Underwriting Agencies Ltd. is buying another Lloyd's agency, George Miller Underwriting Agencies Ltd., for an undisclosed sum.

The offer has been accepted in principle by George Miller Underwriting Agencies and must be approved by Lloyd's.

George Miller, 54, will continue as underwriter for non-marine syndicate 598, which is managed by George Miller Underwriting Agencies.

He also will have a seat on the Devonshire board.

Len Taylor will continue as underwriter of marine syndicate 527, which also is managed by the Miller agency, until he retires in May of next year.

However, upon Mr. Taylor's retirement, underwriter Chris Bohling, who currently writes for syn-

dicade 59 managed by Devonshire, will take over the underwriting of syndicate 527.

Meanwhile, Devonshire will amalgamate the members' agencies of the two companies.

Lloyd Thompson results

London broker Lloyd Thompson Group P.L.C. boosted brokerage revenues by 28.2% to 15 million pounds (\$27.2 million) for the year ended June 30, from 11.7 million pounds (\$22 million) the previous year.

Pretax profits rose by 23.1% to 5.4 million pounds (\$11.6 million) from 5.2 million pounds (\$9.8 million) in fiscal 1988.

Meanwhile, trading expenses increased to 11.8 million pounds (\$21.4 million) from 8.7 million pounds (\$16.4 million), though other income, such as investment income, increased to 3.2 million pounds (\$5.8 million) from 2.1 million pounds (\$3.9 million).

Brokerage revenues in all the broker's areas of business increased despite the continued soft property/casualty insurance market, said Chief Executive Ken Carter.

In particular:

- Wholesale marine brokerage revenues increased to 8.5 million pounds (\$15.4 million) in fiscal 1989, from 7.8 million pounds (\$14.7 million) in 1988.

- Wholesale non-marine brokerage revenues increased to 2 million pounds (\$3.6 million) from 1.1 million pounds (\$2 million).

- And, reinsurance and political risk brokerage revenues increased to 4.5 million pounds (\$8.1 million) from 2.8 million pounds (\$5.3 million).

Rates in all classes of business, except for marine excess-of-loss reinsurance, continued to fall last year, said Mr. Carter, who did not predict an upturn in the market until late 1990.

However, despite the soft market

Lloyd Thompson reported a "high retention of accounts and attracted new clients," Mr. Carter pointed out.

Meanwhile, Lloyd Thompson's "development strategy continues to be to enter new classes of business by recruitment of leading professionals," according to a statement by brokerage Chairman Peter Lloyd.

For example, Steve McGill, former deputy managing director of Willis Faber P.L.C.'s international division, will join Lloyd Thompson next month to build its international team.

Until now, most of Lloyd Thompson's business has been marine coverage or North American property/casualty-based risks, said Mr. Carter.

By providing non-U.S. non-marine brokerage services, the company will be better able to service its existing multinational clients as well as to develop more business from outside the United States,

particularly in continental Europe, Mr. Carter said.

The company, which now employs 220 people, is looking for new offices to house its growing staff, he said.

Comings & goings

David J. Roe has been appointed managing director of Liberty Mutual Insurance Co. (Massachusetts) Ltd., but will continue as head of the company's underwriting activities in London.

Tony Money has been appointed to the new post of managing director at London broker C.E. Heath (Insurance) Broking Ltd.

In addition, following the restructuring of the company's reinsurance broking operations, Heath's related technical and administrative services have been consolidated into a new company headed by Mr. Money called Heath Fielding Reinsurance Services Ltd.

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Damage was minimal. Some wiring, piping and a few struts on the steel roof trusses had to be replaced. About 15,000 gallons of quench oil were contaminated and a 40 x 100 foot section of roof deck had to be cleaned. Impaired fire protection was restored following RSVP procedures, which are found in Section 1 of IRI's OVERVIEW Manual. Production resumed within hours.

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Coalition focuses on auto safety issues

By ADRIENNE C. LOCKE

WASHINGTON—A new highway and auto safety coalition consisting of insurers, consumer groups and safety organizations will seek long-term solutions to expensive auto insurance by focusing on auto safety issues.

The coalition, Advocates for Highway & Auto Safety, plans to find ways to reduce losses and injuries sustained in automobile crashes, which it hopes will lead to reduced insurance premiums.

However, the coalition will not attempt to develop immediate solutions to expensive auto insurance premiums.

"We have set those issues aside to focus on a very detailed health and safety agenda," explained AFHAS board member Joan Claybrook, president of Public Citizen, a non-profit consumer research, lobbying and litigation group connected with consumer advocate Ralph Nader.

Board member Gerald L. Maatman, president of Kemper Group's national property/casualty companies in Long Grove, Ill., concurred.

"We have purposely defined" immediate solutions to high auto insurance premiums "as being outside" of the group's focus, he said.

Insurers recognize that expensive premiums are a "heavy burden" on auto policyholders, but "the solution to the high cost of

insurance must include, in part, an assault on the loss and injuries caused by auto accidents across the country," he said.

The coalition denied at a press conference last week announcing the group's formation that the coalition is an outgrowth of last year's passage of Proposition 103 in California.

Mr. Maatman advocated forming a bipartisan coalition last year (BI, Oct. 10, 1988).

However, Mr. Maatman acknowledged that Proposition 103 was a contributing factor in Kemper's search for better ways to resolve auto insurance problems.

The advocacy group says its goal is to advance passage on the federal, state and local levels of legislation and regulations that will help prevent or reduce the loss of life and property as a result of automobile accidents.

The group's agenda on the federal level includes:

- Extending all federal auto safety standards to cover light trucks and multipurpose vehicles.
- Upgrading side impact protection standards for automobiles.
- Adopting laws requiring anti-lock braking systems on commercial and private passenger trucks and autos.
- Adopting occupant head protection standards for commercial and private passenger vehicles.
- Upgrading to 5 mph from 2½ mph the

minimum impact a bumper on commercial and private passenger vehicles can withstand before sustaining damage. It also proposes requiring manufacturers to label bumpers with impact information.

• Encouraging manufacturers to install air bags in all automobiles. The group also plans to strongly urge the U.S. National Highway and Traffic Safety Administration to finance information programs to encourage the public to request air bags.

The group wants all states to, among other things:

- Pass and enforce laws mandating that safety belts be worn.
 - Enforce child safety seat laws.
 - Enforce speed limits and reduce the maximum speed limit on all roads to 55 mph.
 - Pass laws mandating motorcyclists and their passengers wear helmets.
 - Enforce laws against driving while under the influence of drugs or alcohol.
 - Discourage auto theft by, among other things, passing laws that lengthen jail terms for auto theft.
- On the local level, the coalition is exploring, among other things:
- Employer-sponsored anti-drunk driving programs.
 - The use of photo radar for speed limit enforcement.
 - Automobile anti-theft programs.
- The group consists of 18 board members,

nine of whom are representatives of insurers or insurer trade groups.

The insurer members represent Aetna Life & Casualty Co., the Alliance of American Insurers, Allstate Personal Property & Casualty Co., the American Insurance Assn., Hartford Insurance Group, Kemper, Liberty Mutual Insurance Co., Nationwide Insurance Cos. and State Farm Mutual Automobile Insurance Co.

Doctors and representatives of auto and traffic safety organizations and national consumer groups comprise the rest of the board.

Those members represent the Center for Auto Safety; the Consumer Federation of America; The Johns Hopkins School of Public Hygiene and Public Health; the Ohio Department of Transportation; the Police Foundation, a research and technical assistance group on police department policies and procedures; Public Citizen; the Trauma Foundation at the San Francisco General Hospital; and the University of Virginia School of Medicine.

Each organization must pay \$100,000 to join the board, explained Judith Lee Stone, the executive director of the advocacy group. Ms. Stone most recently was director of federal affairs for the National Safety Council.

The coalition has raised about \$1 million of its annual target budget of \$1.5 million, according to Ms. Stone. ■

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Largest U.S. reinsurers' first-half 1989 results

Ranked by net reinsurance premium written. All amounts in thousands of dollars.

Reinsurers	Policyholders' surplus (reinsurers only)	Net reinsurance premiums written 1989	Net reinsurance premiums written 1988	Net reinsurance premiums earned	Losses & loss adjustment expenses	Loss ratio	Underwriting expenses	Expense ratio	Combined ratio 1989	Combined ratio 1988
General Re	\$2,537,670	\$851,310	\$971,173	\$890,893	\$622,091	69.8%	\$248,405	29.2%	99.0%	99.0%
Employers Re	1,165,517	548,749	563,798	553,338	447,295	80.8	135,620	24.7	105.6	101.4
American Re	614,321	430,325	481,340	430,471	318,543	74.0	116,869	27.2	101.2	101.0
North American/Swiss Re	592,694	308,168	310,498	289,915	203,102	70.1	114,100	37.0	107.1	102.7
Munich Re	547,412	298,947	310,272	302,054	206,189	68.3	99,670	33.3	101.6	102.6
F&G Re (USF&G)	N/A	298,643	307,700	258,169	161,751	62.7	103,074	34.5	97.2	97.8
Prudential Re	439,542	253,280	282,513	262,751	196,725	74.9	87,268	34.5	109.3	103.4
St. Paul Re	N/A	197,776	107,421	183,987	136,291	74.1	69,006	34.9	109.0	100.4
Continental Casualty	N/A	182,785	163,760	153,927	113,015	73.4	62,976	34.4	107.8	104.9
Transatlantic Re	193,492	165,578	153,438	167,147	133,870	80.1	42,861	25.9	106.0	105.3
Kemper Re	391,936	158,144	146,939	149,795	113,487	75.8	40,493	25.6	101.4	102.1
CIGNA Re	188,433	136,426	132,280	129,436	99,260	76.7	37,541	27.5	104.2	99.8
Skandia America Group	331,784	128,897	109,884	133,883	93,538	69.9	47,758	37.1	106.9	104.5
Transamerica Re	157,225	127,204	107,316	126,392	94,036	74.4	38,334	30.1	104.5	100.2
National Re	220,315	121,293	129,934	125,760	99,731	79.3	29,569	24.4	103.7	101.6
Constitution Re	184,381	115,883	124,848	117,436	88,504	75.4	31,277	27.0	102.4	100.4
NAC Re	180,750	93,841	83,115	90,175	66,440	73.7	30,801	32.8	106.5	106.3
US Int'l Re	122,403	91,095	90,718	91,075	61,939	68.0	34,130	37.5	105.5	101.8
Continental Re	103,195	90,386	128,785	100,526	79,131	78.7	26,500	29.3	108.0	108.4
Putnam Re	108,738	75,504	55,233	76,059	58,194	76.5	20,046	26.5	103.1	103.0
Totals for top 20	8,079,808	4,674,234	4,760,965	4,633,189	3,393,132	73.2	1,416,298	30.3	103.5	101.4
Total for all companies	11,088,249	5,053,624	5,252,954	5,085,405	3,755,409	73.8	1,521,845	30.1	104.0	101.9

Source: Reinsurance Assn. of America and Business Insurance

Sheltered from storm

Hugo won't trigger pricing turnaround: Reinsurers

By JUDY GREENWALD

Hurricane Hugo is unlikely to trigger a major turnaround in the reinsurance marketplace, U.S. reinsurance executives said last week based on initial assessments of the storm.

While reinsurers made it clear they could not make definitive predictions of Hugo's impact on the market until they know more about the extent of damage in South Carolina and elsewhere, many said they did not believe that Hugo was the cataclysm that insurers and reinsurers had feared.

"My gut feeling is there will probably be some rate increases" because of Hurricane Hugo, says George Roberts, president of Reliance Reinsurance Management Inc. in Philadelphia.

However, he added, "I don't expect them to be necessarily widespread, just because the storm itself is so localized as compared to what it might have been. I don't presently see any major rate increases because of it."

"The consensus I've been hearing is it's not going to have a major impact on pricing going forward," said Angus Robinson, president and chief executive officer of Minneapolis-based Chartwell Reinsurance Co., which has just changed its name from NWNL Reinsurance Co.

"It's not really a big enough event to cause pricing changes" in the domestic reinsurance market, he said.

In addition to downplaying Hugo's effect on the market, U.S. reinsurers also report that competition among reinsurers has not slackened, though the competition still has not reached the cutthroat levels found in the primary insurance marketplace.

"I see it as really no change from the path that the reinsurance market has been on for the past few months, which is a gradually softening path," said Mark Mosca, vp and manager of the treaty department at NAC Re Corp. in Greenwich, Conn. He predicted that the reinsurance market will remain soft through the January renewals.

This competition is reflected in the first-half results of 67 U.S. reinsurance companies released belatedly by the Washington, D.C.-based Reinsurance Assn. of America (BI, Sept. 25). The RAA had delayed issuing the results while it analyzed the California attorney general's draft insurance antitrust guidelines (BI, July 31).

U.S. reinsurers posted a 104% combined ratio for the first half of 1989, compared with a 101.9% ratio for the comparable period a year ago.

The 20 largest reinsurers in terms of premium volume reported a 103.5% combined ratio in the first six months of 1989, compared with a 101.4% combined ratio a year earlier.

Net written premium volume for all reinsurers surveyed fell 3.8% to \$5.1 billion in the first half of 1989 from \$5.3 billion a year earlier. For the Top 20 reinsurers, first-half written premiums fell 1.8% to \$4.7 billion in 1989 from \$4.8 billion in 1988.

In calculating the results of the 20 largest U.S. reinsurers, Business Insurance included the reinsurance results of F&G Re, a unit of USF&G Corp.; Continental Casualty Co., a unit of CNA Financial Corp.; and St. Paul Reinsurance Management Corp., a unit of The St. Paul Cos. Inc. While these three divisions have traditionally been included in the RAA survey, the organization now is including only "professional reinsurance companies" in its results (BI, Sept. 25).

Reinsurance company officials pointed out last week that it was still too early to develop any firm estimates of the impact

of Hurricane Hugo on the reinsurance industry.

"I think it's all just speculation at this point," commented A. Edward Gschwind, president and chief executive officer of American Royal Reinsurance Co. of New York.

"I don't think anyone has the remotest idea as to what the number is yet," agreed Michael Fitt, chairman and chief executive officer of Employers Reinsurance Corp. of Kansas City, Mo. "Nobody knows to what extent we're going to get hit and by whom.

"A lot of people are expressing opinions," he added. "I think they're worth what they cost you, and that's about nothing."

Willem K. Dikland, president and chief executive officer of Philadelphia Reinsurance Co., remarked that his company was surprised to receive its first claim stemming from the hurricane as late as Wednesday afternoon.

Usually claims start arriving the day after a catastrophe, said Mr. Dikland, speculating the delay was caused by a breakdown of communications in the Carolinas.

While Mr. Dikland said that it was "too early to say" what Hugo's ultimate cost will be, "it will have an effect on catastrophe cover rates in general." It also may prompt many ceding insurers to reconsider their retention levels, he said.

'My guess is it will have little or no effect on the reinsurance market,' says NAC Re's Mr. Mosca. 'I don't think the catastrophe of the proportions we seem to be looking at is enough to turn it.'

Reinsurers will not know what their losses are until primary insurers total their claims and "it's going to be some time before they know what their losses are," commented Edmond Rondepierre, senior vp and general counsel for the General Re Corp.

However, he added that "as losses go, this will be one of the bigger ones."

Norman Wayne, president of CIGNA Corp.'s reinsurance division, noted that the reinsurance industry still does not even have a total loss figure for 1983's Hurricane Alicia because of the amount of time it takes for losses to "spiral" through the London excess-of-loss reinsurance market before ultimately finding a home.

"It's a long process before who knows what," he said. But, referring to Hugo, Mr. Wayne said that "it'll start to have an impact in January, but I don't think a heavy one."

"It'll probably put an end for requests for premium reductions this year" on catastrophe business, predicted Jeremy R. Wallis, president and chief executive officer of New Zealand Reinsurance Co. of America in Morristown, N.J. However, he also pointed out that "we have no clue at this point how much it's going to cost."

Hurricane Hugo could add 1½ percentage points to the reinsurance industry's 1989 combined ratio, said Bard E. Bunaes, chairman and chief executive officer of New York-based Constitution Reinsurance Corp., though he added that he does not know the impact of the storm on the marketplace's future.

"I don't think we can say anything yet. We don't know how big or how small the loss is," Mr. Bunaes said, adding that if the storm damage totals \$2 billion, its impact will extend beyond this year. However, if the damage is much less, its impact could be confined to this year, said Mr. Bunaes.

While noting that the "normal adjusting process hasn't even commenced," Steven H. Newman, chairman, president and chief executive officer of Underwriters Reinsurance Co. of Woodland Hills, Calif., predicted that Hugo is "not going to turn the big market around," though "it could cause a hardening of property rates" simply because of the proximity of its timing to January renewals.

Most catastrophe business is renewed Jan. 1, explained Mr. Newman, "so this will be on everybody's mind."

However, the hurricane is unlikely to affect the overall marketplace, including liability business, unless it is "truly catastrophic, and I don't think this is."

If the storm is severe enough, it should have an effect at least on the property reinsurance market for January, April or June renewals, said Charles E. Erickson, executive vp at the Signet Reinsurance Co. of Morristown, N.J.

He noted that the impact of Hurricane Alicia, which battered the Texas coast in August 1983, began to be felt in January 1984 and continued into 1985.

"There are so many variables involved that here, not even a week later, it's too early to come to any kind of conclusion," Mr. Erickson said.

"I don't see the hurricane as causing any meaningful impact on reinsurance results," said Paul Ingrey, president of F&G Re.

"All in all, I see reinsurers getting off fairly light," he said.

"I think it's going to hit the London reinsurance market harder than here," Mr. Robinson added. "They ran away from this really hard stuff called casualty business" and focused instead on property business, including catastrophe business, said Mr. Robinson, who predicts the London excess-of-loss reinsurance market will be hit particularly hard.

"I don't see reinsurers getting banged up too bad from this," said Robert M. Huggins, chairman, president and chief executive officer of Belvedere American Reinsurance Co. in New York.

Among the reasons, he said, is that "I don't think South Carolina is that important a state" to major insurers, and there is a lot of government property, including military installations, in the state that are not insured commercially.

"My guess is it will have little or no effect on the reinsurance market," said NAC Re's Mr. Mosca. "I don't think the catastrophe of the proportions we seem to be looking at is enough to turn it."

It would take either a significantly larger catastrophe, or a second catastrophe similar to Hugo "before we're likely to see any kind of effect on reinsurance pricing or terms. There's too much capacity," he said.

Meanwhile, reinsurers note that competition in the reinsurance market continues unabated and, in fact, may be heating up slightly.

The U.S. reinsurance market is not as competitive as the primary market, "but it's competitive enough," said Employers Re's Mr. Fitt.

In addition, reinsurers are impacted by the lower premiums being charged by ceding insurers, said Mr. Fitt.

However, competition in the reinsurance market still can-

Continued on next page

Reinsurer results

Continued from previous page
 not been described as cutthroat, he said. There have been only a "couple of isolated areas" where "really irresponsible players" have appeared, he said.

However, reinsurance market competition "is becoming more intense," said CIGNA's Mr. Wayne. "We expect difficult January renewals."

There has been no major change in terms of competition over the past quarter, said Constitution Re's Mr. Bunaes. However, he added, "Certainly the competition is not lessening. If anything, the competition is increasing."

"It's starting to increase," said Underwriters Re's Mr. Newman, discussing competition. "I think the fact that there has been less and less business coming into the reinsurance market during the past two years is finally beginning to take its toll."

Reinsurers are making deals they would not have some time ago, said Mr. Newman.

Still, Mr. Newman added that he would not characterize the market as "excessively competitive."

"There's been a mild increase in competition over the first quarter, but it's healthy competition," commented Chartwell's Mr. Robinson.

Some reinsurers believe competition is beginning to level off at least in some areas, however.

Steven Bensinger, senior vp and chief financial officer of Skandia America Reinsurance Corp. in New York, said said that both property and casualty treaty rates "seem to have bottomed out."

The July 1 renewals were "pretty much flat" in terms of pricing, while there was "very little change" in terms and conditions, he said. "We seem to have hit the trough."

And, while the facultative reinsurance market is not hardening, rates are not falling as rapidly as they had been, said Mr. Bensinger. "The reinsurers don't seem to be giving the store away," he said.

"Competition basically seems to have leveled off," agreed F&G Re's Mr. Ingrey.

Datebook

OCT. 9-13. Reinsurance Practice conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 775 pounds (\$1,256). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 10. Employers Council on Flexible Compensation Conference in Washington, D.C.; \$185 for ECFC members; \$195 for non-members. Also Oct. 12 in Los Angeles; Oct. 24 in Seattle; Nov. 1 in Houston; and Nov. 7 in Whippany, N.J. ECFC, 927 15th St. N.W., Suite 1000, Washington, D.C. 20005; 202-659-4300.

OCT. 10-13. Ninth Annual National Educational Conference and Expo in San Diego, sponsored by the Self-Insurance Institute of America Inc.; \$595 for members; \$795 for non-members; \$100 additional for on-site registration. Conference Registrar, SIIA P.O. Box 15466, Santa Ana, Calif. 92705; 714-261-2553.

OCT. 11. 10th Annual Compensation Conference in Minneapolis, sponsored by The Hay Group; \$375; \$275 for each additional attendee from the same organization. Also Oct. 12 in Kansas City, Mo.; and Oct. 13 in Pittsburgh. The Hay Seminar Center, 215-875-2338.

OCT. 11. Inland Marine Underwriters Assn.'s Annual Fall Meeting in New York City; \$40. Also Oct. 18 in Worcester, Mass. Tracey O'Donnell, IMUA, 14 Wall St., New York, N.Y. 10005; 212-233-7958.

OCT. 11. Insurance Claims Dispute Resolution seminar in St. Paul, Minn., sponsored by the American Arbitration Assn.; \$150 for AAA members; \$180 for non-members. Also Oct. 30 in Cleveland; and Nov. 16 in Long Island, N.Y. Allen Silberman, Director of Education and Training, AAA, 140 W. 51st St., New York, N.Y. 10020; 212-484-3233.

OCT. 11-12. Managing Risk Communications seminar in New York City, sponsored by E.I. du Pont de Nemours & Co.; \$925; \$795 for two or more attendees from the same organization attending the same session. Also Nov. 8-9 in Dallas. Du Pont, Suite A, Attn. CAK, 1300 First State Blvd., Wilmington, Del. 19804; 800-248-7020.

OCT. 11-13. 18th Annual AMA Compensation and Benefits Update: Issues in Employee Benefits conference in Chicago, sponsored by the American Management Assn.; \$725 for AMA members; \$835 for non-members. AMA, P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

OCT. 11-13. Managing Health Care Costs seminar in New York City, sponsored by the American Management Assn.; \$795 for AMA members; \$915 for non-members; \$675 each for groups of three or more members from the same organization; \$780 each for groups of non-members. Also Dec. 11-13 in San Francisco. AMA, P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

OCT. 11-13. 43rd Annual Council on Employee Benefits Fall Conference in St. Louis; \$325 for each registrant from CEB member company; \$375 for non-member company registrants. C.S. Lazaroff, Secretary-Treasurer, c/o Goodyear Relief Assn., 1144 E. Market St., Akron, Ohio 44316; 216-796-4008.

OCT. 12. Third Professional Indemnity Con-

ference—The Expanding Market in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 240 pounds (\$389). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 12-13. How to Audit Your Insurance Program: Getting Your Money's Worth course in Chicago, sponsored by the American Management Assn.; \$750 for AMA members; \$850 for non-members. Also Oct. 16-17 in East Hanover, N.J., Oct. 23-24 in Boston and Oct. 30-31 in Atlanta. AMA, P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

OCT. 14-22. American Assn. of Managing General Agents Foreign Seminar in Vancouver, British Columbia, and Banff, Alberta; seminar fee: \$175 for AAMGA members; \$125 for spouses and guests; tour fee (includes accommodations, air fare from Vancouver to Calgary, guided tours): \$969 double occupancy, \$1,319 single occupancy. American Assn. of Managing General Agents, 9140 Ward Parkway, Kansas City, Mo. 64114.

OCT. 15. The Society of Chartered Property & Casualty Underwriters 1989 Annual Meeting and Seminars: Managing Now for the '90s in Anaheim, Calif.; \$295 for Society of CPCU members; \$395 after Sept. 15. Society of CPCU, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19355-0709; 215-251-2728.

OCT. 15-17. Assn. of Lloyd's Members North American Conference in Chicago; \$275 for ALM members; \$350 for non-members; \$125 for spouses/guests. Assn. of Lloyd's Members, 1510 11th St., Santa Monica, Calif. 90401; 800-421-6607; 213-458-3222 within California.

OCT. 15-17. 1989 Professional Insurance Agents of New York convention in Hershey, Pa., sponsored by PIANY; \$75 for PIANY members; \$140 for non-members. Dianne F. Kattrein, PIANY, Old Route 9W, P.O. Box 997, Glenmont, N.Y. 12077-0997; 518-434-3111.

OCT. 15-18. 1989 Risk Management Forum in Monte Carlo, co-sponsored by the European Risk Management Assn. and the Risk & Insurance Management Society Inc.; 4,900 French francs (\$764 at current exchange rate) for risk managers; 2,500 French francs (\$390) for academicians and students; 6,900 French francs (\$1,076) for all others. Payment must be in French francs. Sally Greene, RIMS/Monte Carlo Conference, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

OCT. 15-18. Annual Society of Chartered Property & Casualty Underwriters Seminar: Developing the Agent/Broker Niche in Soft Markets in Anaheim, Calif.; \$395. The Society of CPCU, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19355-0709; 215-251-2728.

OCT. 16-17. Environmental Insurance Law Institute in Chicago, sponsored by Executive Enterprises Inc.; \$990. Also Nov. 9-10 in New York City and Dec. 11-12 in San Francisco. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 16-17. The Fundamentals of Statutory Insurance Accounting course in Chicago, sponsored by Executive Enterprises Inc.; \$990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 16-17. Litigating the Complex Motor Vehicle "Crashworthiness" Test seminar in San Francisco, sponsored by the Practising Law Institute; \$390. Also Nov. 16-17 in New York City. PLI, Department EWA9, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

OCT. 16-18. 1989 Benefit Communication Institute in Boston, sponsored by the International Foundation of Employee Benefit Plans; \$570 for IFEBP members; \$645 for non-members. Registration Dept., IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

OCT. 17. Mergers and Acquisitions of Insurance Organizations in Europe conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 240 pounds (\$389).



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Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 17. ABCs of 401(k)s workshop in Los Angeles, sponsored by the National Institute of Pension Administrators; \$97 for NIPA members; \$130 for non-members. Also Oct. 31 in Phoenix, Ariz., and Nov. 7 in San Francisco. NIPA, 714-731-3524.

OCT. 17-18. Health Care Cost Containment Workshop in San Francisco, sponsored by Health Research Institute; \$495. Also Nov. 7-8 in Summit, N.J., and Dec. 5-6 in Chicago. HRI, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

OCT. 17-19. 1989 Risk Sciences Group Users' Conference in Oakland, Calif.; \$475; \$425 for each additional attendee from the same organization. Conference Coordinator, Risk Sciences Group, 5620 Glenridge Drive, Atlanta, Ga. 30342; 404-847-4512.

OCT. 18-19. Quantitative Techniques for Risk Management seminar in Philadelphia, sponsored by the Tillinghast division of Towers, Perrin, Forster & Crosby Inc.; \$750. Eileen B. Callahan, Conference Director, Tillinghast, 695 E. Main St., Suite 600, Stamford, Conn. 06901; 203-326-5400.

OCT. 18-19. Understanding Property and Casualty Reinsurance conference in New York City, sponsored by Executive Enterprises Inc.; \$990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 18-20. Property/Casualty Statutory Financial Statements course in Chicago, sponsored by Executive Enterprises Inc.; \$895 plus \$95 non-refundable registration fee per organization. Also Nov. 13-15 in New York City, Nov. 29-Dec. 1 in Los Angeles and Dec. 11-13 in Orlando, Fla. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 212-645-8689; 800-831-8333.

OCT. 19. Advanced Cost Containment Workshop in San Francisco, sponsored by Health Research Institute; \$250. Also Nov. 9 in Summit, N.J., and Dec. 7 in Chicago. HRI, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

OCT. 19-20. Employee Welfare Benefit seminar in San Francisco, sponsored by the Practising Law Institute; \$475. Ann Tracy, PLI, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, Ext. 232.

OCT. 19-20. Managed Health Care seminar in Washington, D.C., sponsored by the Practising Law Institute; \$495. Also Nov. 16-17 in San Francisco. PLI, Department 8A-105, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, Ext. 271.

OCT. 20. Assessing Vendors Workshop in San Francisco, sponsored by Health Research Institute; \$250. Also Nov. 10 in Summit, N.J., and Dec. 7 in Chicago. HRI, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

OCT. 20. Retiree/Catastrophic Workshop in San Francisco, sponsored by Health Research Institute; \$250. Also Nov. 10 in Summit, N.J., and Dec. 8 in Chicago. HRI, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

OCT. 22-25. Annual Society of Actuaries Meeting and Exhibit in New York City; \$325 for TSA members; \$350 for members of other actuarial associations; \$400 for non-members. The Society of Actuaries, 312-706-3500.

OCT. 23-24. Understanding Life Insurance conference in New York City, sponsored by Executive Enterprises Inc.; \$990. Also Nov. 8-9 in Boston. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 23-24. Handling Occupational Injury and Illness: OSHA Recordkeeping and Workers' Compensation Claims Management workshop in Atlanta, sponsored by the Georgia Institute of Technology; \$125 per day; \$200 both days. Education Extension-R, Georgia Institute of Technology, Atlanta, Ga. 31332-0385; 404-894-2400; 800-325-5007.

OCT. 23-24. Annual National Disability Management Conference and Trade Show in Miami, co-sponsored by the Washington Business Group on Health-Institute For Rehabilitation and Disability Management and Thomas L. Jacobs & Associates; \$300 for WBGH members; \$375 for non-members. Sheri Farris, WBGH, 229 Pennsylvania Ave. S.E., Washington, D.C. 20003; 202-547-6644.

OCT. 23-24. Designing and Marketing Long-Term Care Insurance conference in San Francisco, sponsored by Executive Enterprises Inc.; \$990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 23-27. Advanced Reinsurance Practice conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 775 pounds (\$1,256). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 24. Risk Management-The Cutting Edge workshop in Irvine, Calif., sponsored by the California chapter of the Public Risk Management Assn.; \$30 for PRIMA members; \$40 for non-members or at the door. Jeff Stevens, Risk Manager, City of Santa Ana, Calif., 714-647-5476.

OCT. 24. Park & Recreation Risk Manage-

ment & Safety Seminar in Oxnard, Calif., sponsored by Risk Management Seminars Inc.; \$165; \$150 each for two or more registrants from same company. Also Nov. 9 in Sacramento, Calif. Risk Management Seminars Inc., P.O. Box 1601, Sonoma, Calif. 95476-1601; 415-943-1556.

OCT. 24-25. Reinsurance Systems course in Chicago, sponsored by The College of Insurance; \$595 for College sponsors; \$695 for non-sponsors. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111, ext. 201.

OCT. 24-25. Crisis Communication Management seminar in Washington, D.C., sponsored by E.I. du Pont de Nemours & Co. Management Services; \$1,045 including seminar materials, luncheon and refreshments. Also Nov. 14-15 in Atlanta. Du Pont, Attn. CAK, 1300 First State Blvd., Suite A, Wilmington, Del. 19804; 800-248-7020.

OCT. 25. Superfund Amendments and Reauthorization Act Title III Workshop in Atlanta, sponsored by the Georgia Institute of Technology; \$125. Education Extension-R, Georgia Institute of Technology, Atlanta, Ga. 31332-0385; 404-894-2400; 800-325-5007.

OCT. 25. 14th Annual Insurance Information Institute Research Seminar in New York City, sponsored by IIR; \$145. Carlet Incentro, Insurance Information Institute, 110 William St., New York, N.Y. 100038; 212-669-9200.

OCT. 25-26. Managing the Cost of Health Care and Employee Benefits conference in Madison, Wis., sponsored by Wisconsin Manufacturers & Commerce; \$150. Wisconsin Manufacturers & Commerce, Box 352, Madison, Wis. 53701.

OCT. 26-27. Quality Assurance in the '90s conference in Winston-Salem, N.C., co-sponsored by the National Assn. of Employers on Health Care Action and the American College of Physician Executives; \$395 for NAEHCA and ACEPE members; \$345 for additional members from the same organization; \$495 for non-members; \$445 for additional non-members from the same organization. National Assn. of Employers on Health Care Action, 304 Key Executive Building, 104 Crandon Blvd., Key Biscayne, Fla. 33149.

OCT. 26-27. Public Agency Risk Pooling Seminar in San Antonio, Texas, sponsored by the Public Risk Management Assn.; \$225 for PRIMA members; \$350 for non-members. Lynne Armstrong, Public Risk Management Assn., 1117 N. 19th St., Suite 900, Arlington, Va. 22209; 703-528-7701.

OCT. 26-27. Toxic Tort Seminar in New Orleans, sponsored by the Law & Science Institute; \$550 before Sept. 22. Haskell Shelton, Law and Science Institute, 215 E. Buttles, Midland, Mich. 48640; 517-835-6198.

OCT. 26-27. Eighth Annual National Institute on Litigation in Aviation seminar in Washington, D.C., sponsored by the American Bar Assn.'s Section of Tort & Insurance Practice and Division for Professional Education; \$390 for TIPS members; \$350 for members of the ABA Young Lawyers Division, \$425 for other ABA members; \$450 for non-members; \$200 for government lawyers; \$75 for law students. ABA Division for Professional Education, 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-988-6200.

OCT. 29-31. Medical Professional Liability Captives in the 1990s seminar in Lake Buena Vista, Fla., sponsored by the Tillinghast division of Towers, Perrin, Forster & Crosby Inc.; \$550. Conference Director, Tillinghast, 695 E. Main St., Stamford, Conn. 06901-2138; 203-326-5400.

OCT. 30-31. Annual Statistical/Data Quality Conference in New York City, sponsored by the Insurance Services Office Inc.; \$400 for attendees from ISO-affiliated companies; \$550 for attendees from non-affiliated companies. Maureen Karon, Assistant Manager-Meetings, Insurance Services Office Inc., 160 Water St., 12th Floor, New York, N.Y. 10038; 212-487-4722.

OCT. 30-31. Emerging Opportunities in Reinsurance Commutations conference in New York City, sponsored by Executive Enterprises Inc.; \$990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 30-31. Advanced Trucking Industry Seminar in Orlando, Fla., sponsored by the American Assn. of Managing General Agents; \$275; \$300 after Oct. 16. AAMGA Headquarters, 9140 Ward Parkway, Kansas City, Mo. 64114; 816-444-3500.

NOV. 1-4. Reinsurance Accounting & Auditing Course in San Francisco, sponsored by The College of Insurance; \$795 for College sponsors; \$895 for non-sponsors. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111, ext. 201.

NOV. 1-4. 11th Annual Meeting and Educational Conference in Orlando, Fla., sponsored by the American Society for Healthcare Risk Management and the American Hospital Assn.; \$450 for ASHRM/AHA members; \$520 for non-members. American Hospital Assn., P.O. Box 825, Deerfield, Ill. 60015; 312-940-2138.

The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the price, if any, of the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

THE IRISH HIGH COURT

In the Matter of

United Reinsurance Company of Ireland Limited
 (In Voluntary Liquidation)

Admission of the claims of all Brokers or Intermediaries

The joint liquidators have applied for and been granted an Order by the Irish High court to enable them to estimate, on an actuarial basis, the value of contingent or otherwise unascertained liabilities to United Re's cedants. The joint liquidators have, in accordance with the above mentioned order, issued a letter to all known brokers or intermediaries on 21st August 1989. The purpose of that letter was: to notify all brokers or intermediaries of United Re of the making of the order; to request that they file their claims (other than claims as a cedant or retrocessionaire of United Re under a reinsurance contract) with the joint liquidators by 20th October 1989; and, to inform brokers or intermediaries of the manner in which the various types of claims, which they may have, should be filed. Any broker or intermediary of United Re who has not received the above mentioned letter should immediately contact the joint liquidators in writing at the following address:

United Reinsurance Company of Ireland Limited
 (In Voluntary Liquidation),
 14th Floor, Fitzwilliam House,
 Wilton Place, Dublin 2.

Please note that cedants, retrocessionaires or other creditors are NOT yet required to file any claims which they may have in the liquidation. The joint liquidators will be writing separately to all known cedants, retrocessionaires and other creditors within the next three months. A further advertisement to this effect will be published in this publication at that time.

N.L. Fox
 J. McStay
 JOINT LIQUIDATORS

20th September 1989.

Hurricane Hugo

Continued from page 1

The estimates also do not include losses involving marine and harbor facilities, aircraft, utility equipment or public property like roads and bridges.

In all, Hurricane Hugo is expected to produce more than 360,000 claims, AISG said.

The storm was assigned catastrophe No. 18 by AISG.

Hugo already has made 1989 the worst year on record for catastrophe losses: Losses in the first nine months of the year total \$5.636 billion, far surpassing the previous full-year catastrophe record of \$2.82 billion set in 1985.

Total losses for Hugo will top the \$4 billion in damages caused in 1979 in the Caribbean and the United States by Hurricane David, which Munich Reinsurance Co. classified as the costliest storm ever.

Hugo also is the single costliest U.S. storm by a huge margin, according to AISG, topping Hurricane Frederic, which caused \$752.5 million of insured property damage when it hit the Gulf Coast in September 1979.

Yet, despite the massive losses created by Hugo, many say the catastrophe is not large enough to harden the commercial property/casualty insurance market immediately.

"There will be a substantial amount of commercial and residential damage, but we don't believe Hugo will cause any material changes in current market conditions," said Charles L. Ruoff, senior vp and director of strategic planning for Fred S. James & Co. Inc. in New York.

"There will be some obvious effect on earnings for the industry. But, in the spring, we had losses from some storms in the \$1.2 billion range and we haven't seen any real effect on the market from those," he explained.

"Unfortunately, Hugo is not substantial enough to cause a change in pricing by insurers," he said.

Others agreed that Hugo will not have an immediate effect on the market, though it could move up a market turnaround slightly.

"I suspect it won't have a profound effect on pricing immediately," said Herbert Goodfriend, a stock analyst with Prudential-Bache Securities in New York.

"I think it's big, but it's not big

mary and reinsurance rates, he said.

"Unless there are additional meaningful catastrophe losses over the near term, I think" any effect on the market "will be only temporary," he said.

However, some observers do expect Hugo to have at least some immediate impact on rates and capacity.

"We think very definitely it will have a salutary effect in terms of dampening competition," said Gerald L. Maatman, president of Kemper Group's national property/casualty insurance companies in Long Grove, Ill.

"I think (Kemper is) going to be a little more careful and a little less liberal" on a risk-by-risk basis, he said. But, he added, that strategy would be a continuation of an approach that Kemper has recently been following.

Gordon Luce, an assistant manager with stockbroker Brown Bros. Harriman & Co. in New York, said he is beginning to believe that the hurricane will provide a "fairly decent chance" of turning prices around.

"I would think it would at least reduce the appetite of the London market for U.S. property business," he said.

Mr. Luce said Hugo makes him a "lot more confident" the market will turn in the first or second quarter of 1990 "than I may have felt a few months ago."

Gloria Vogel, associate director at Bear Stearns & Co. in New York, said the Hugo "certainly has to help" speed a turn in the market.

It should also "awaken" those companies that have "forgotten" about losses to stop being as aggressive as they have been in their pricing, she said.

David Robertson, deputy chairman of Lloyd's Non-Marine Underwriters' Assn., said that he "would hope that, at worst, it will mean that rate levels will be held at this year-end," instead of falling.

Observers expect that, like the damage caused by Hugo in the Caribbean (BI, Sept. 25), the bulk of the losses on the U.S. mainland will be personal lines losses.

"We are seeing tremendous residential and personal lines losses from Charleston up to Charlotte, N.C. From the numbers standpoint, we have received 350 personal lines claims," said Arnold Kessler, a claims manager in the Charlotte,

N.C., office of Marsh & McLennan Cos. Inc.

"From the commercial end, it's hard to tell at this point. We have some customers who are reporting everything they can, but so far I have not seen a claim that is earth-shattering," Mr. Kessler said.

"I anticipate that the biggest losses and claims will be in the business interruption area. But, it will probably be two or three weeks from now before we will be talking about business interruption losses with our customers," he said.

Corroon & Black's Ms. Allison also predicted that "we'll get stung when people realize the business interruption losses in a couple of weeks."

"Business interruption losses will take a bit of time to tally. But, I think insurers will be better able to assess these losses once they assess property losses," noted James' Mr. Ruoff.

Several insurers announced last week they would suffer huge

losses:

• State Farm Mutual Automobile Insurance Co. and its affiliates will pay about \$415 million in property insurance claims and \$60 million in automobile claims as a result of hurricane damage.

Bloomington, Ill.-based State Farm, which stopped purchasing catastrophe reinsurance earlier this year, will pay the claims from its catastrophic reserve fund and surplus, a spokesman said. State Farm units reported an aggregate surplus of \$15.9 billion at year-end 1988.

The claims represent mostly personal lines business in South Carolina, North Carolina and Virginia, the spokesman said. "We're primarily a personal lines insurer so the vast majority are homeowners' claims."

• CIGNA Corp. reported that it expects to take a \$90 million after-tax charge on account of Hugo-related claims in Puerto Rico, the U.S. Virgin Islands and the Southeastern United States.

"This amount includes estimated reinsurance reinstatement charges," a CIGNA spokesman said.

Hugo will probably represent the largest catastrophe in CIGNA's history, the spokesman noted.

Observers point out that insurers that sustained large losses in both the Caribbean and the U.S. mainland may face larger-than-expected losses since many reinsurance contracts include a "72-hour clause," which defines a loss as an event that occurs over not more than a 72-hour period.

Since it took Hugo about 96 hours to travel from Puerto Rico to South Carolina, Hugo is likely to be considered two occurrences, meaning that ceding companies will have to satisfy two retentions.

• Nationwide Mutual Insurance Co. and affiliates may pay more than 40,000 property claims totaling \$150 million in North Carolina and South Carolina, mostly for damage to personal property, said a spokesman for the Columbus, Ohio-based company.

Nationwide retains the first \$30 million of a catastrophic loss and 5% of the next \$160 million in claims, he said.

• Continental Corp. announced last week that it expects to include a \$50 million pretax charge against its third-quarter earnings, reflecting its net hurricane-related losses after reinsurance recoveries.

A Continental spokeswoman said she does not yet have an estimate of the insurer's gross losses.

Puerto Rican-American Insurance Co., one of the largest insurers in Puerto Rico, is a Continental unit.

"Continental has a substantial, and historically quite profitable, presence in Puerto Rico and the Virgin Islands as well as an important distributor relationship in South Carolina, so Hugo will be particularly costly to us," said Continental Chairman John P. Mascotte in a statement.

• The St. Paul Cos. Inc. said last week that it does not yet know what its hurricane-related liabilities will be but that its pretax losses after reinsurance recoveries will not exceed \$50 million.

• American International Group Inc. reported that Hugo will produce \$35 million to \$45 million in pretax losses, net of reinsurance recoveries. The losses occurred in both Puerto Rico and the eastern Caribbean islands as well as the Carolinas.

An AIG spokesman declined to comment on the company's gross losses.

The spokesman also said he did not know whether the Dupont Plaza Hotel in San Juan, Puerto Rico, was damaged in the storm. However, he added, "I would assume it has damage."

AIG acquired the hotel as part of an insurance settlement following

the 1986 fire that killed 97 people (BI, May 15).

The spokesman said AIG's interest in the hotel is insured by an unaffiliated insurer, which he would not name.

• Kemper Group's gross losses may total \$25 million to \$30 million based on a "very, very rough estimate," said Mr. Maatman.

Mr. Maatman added that since reinsurers appear to be considering Hugo's assault on the Caribbean and the U.S. mainland as two separate occurrences, "basically we do not see a lot of relief" from Kemper's catastrophe reinsurance.

• Hartford Insurance Group estimates after-tax losses created by Hugo at between \$20 million and \$30 million, said a spokeswoman for the Hartford, Conn.-based insurer.

• Integon Corp., a regional insurer based in Winston-Salem, N.C., estimates its Hugo-related losses at \$7 million to \$8 million, virtually all in personal lines, a spokesman said.

'I anticipate that the biggest losses and claims will be in the business interruption area. But, it will probably be two or three weeks from now before we will be talking about' those losses with customers, says M&M's Arnold Kessler.

• Transamerica Insurance Group in Woodland Hills, Calif., estimates its gross losses will be in the range of \$5 million to \$8 million. Most of its losses are related to lender security insurance for homes and automobiles, which is written through subsidiary Transamerica Premier Insurance Co., a Transamerica spokesman said.

Most of Transamerica's losses are reinsured through contracts specifically covering this business written by Transamerica Premier, he said.

Other U.S. insurers—including Travelers Corp., USF&G Corp., SAFECO Corp., Allendale Mutual Insurance Co. and Arkwright Mutual Insurance Co.—said last week that they still could not estimate their losses from Hugo.

For instance, Richard J. Roth, senior vp-marketing for Arkwright in Waltham, Mass., said that although he had "no idea" what losses Arkwright would ultimately sustain as a result of Hugo, its losses would probably not exceed its \$25 million net retention.

"As far as we're concerned, we've come through this in very good shape," in large part because Arkwright's customers had built their facilities up to Arkwright's highly protected risk standards, Mr. Roth said.

Likewise, Mr. Maatman credits loss control techniques for reducing some claims costs.

Kemper underwriters, marketing staff and claims staff had enough warning of the storm to contact all of its HPR policyholders in North and South Carolina to give them loss-control advice, he said.

While Mr. Maatman said that he could not put a dollar figure on the savings from this strategy, he was sure that it had helped reduce losses to Kemper policyholders.

Insurers and adjusters noted that tallying the damage is a monumental chore, which has been hampered by communications and other problems.

The AIG spokesman pointed out that insurance adjusters had trouble getting into storm-damaged areas to assess losses immediately following the hurricane.

Local law enforcement agencies were "very nervous" about looting and barred adjusters from damaged areas even after the adjusters had identified themselves, the spokesman said. "It certainly did hold up the process in the early going."

Reinsurers also are expecting an onslaught of claims from Hugo, though some reinsurers said last week that they were surprised at the few claims they had received.

"We've analyzed 75% of the insurance market in South Carolina, and if the (U.S.) loss is \$3 billion, then two thirds of it will be reinsured," said one Lloyd's non-marine underwriter.

In addition, about 80% of the losses from the Caribbean will be reinsured, he said.

Nick Daniels, managing director of the property division of Lloyd's of London brokerage Price Forbes Ltd., said that his company as of midweek had received notification of only two claims caused by Hugo.

Both claims were considered substantial, but loss figures were not presented yet, Mr. Daniels said. One claim was from a U.S. corporation with a subsidiary in Puerto Rico; the other was from a U.S. corporation in South Carolina.

"I am surprised that we have

only heard of two claims so far," Mr. Daniels said. "But it is still early."

While many property owners were still tallying damage last week, some operations in the Caribbean damaged by the storm were already restored to normal by last week.

A Phillips Petroleum Co. facility in Guyana, Puerto Rico, was fully operational by the middle of last week, after sustaining some damage in the storm.

Although there was no firm estimate on the damage to the facility, a spokesman at the company's headquarters in Bartlesville, Okla., said it will be "substantially less than \$1 million."

Phillips retains a \$1 million property insurance deductible. Losses above that amount are paid by the company's captive, Sooner Insurance Co. in Vermont.

A spokesman for the Federal Aviation Administration's office in Atlanta said airports on St. Croix and St. Thomas were replacing damaged air traffic control towers.

"The tower on St. Croix was destroyed and the tower on St. Thomas was heavily damaged," he said. The Air Force flew in temporary towers, but it would be several months before permanent structures could be built and occupied, the spokesman said.

Although he had no estimates of the amount of damages to airports on the islands, the spokesman said "it was substantial."

A spokesman for Miami-based Burger King Corp. said an undetermined number of Burger King restaurants in Puerto Rico, the U.S. Virgin Islands and South Carolina sustained damage from Hurricane Hugo. He could not estimate the amount of damage.

The spokesman said restaurants owned by Burger King Corp. are covered for windstorm damage under a corporate policy but franchise owners are responsible for purchasing their own coverage. Both corporate-owned and franchised restaurants were damaged, he noted.

This story is based on reports by Michael Bradford in Dallas; Mark A. Hofmann in Chicago; Donna DiBlase in Los Angeles; Douglas McLeod, Judy Greenwald and Michael Schachner in New York; and Stacy Shapiro and Carolyn Aldred in London. It was written by Managing Editor James M. Burcke.

'It's still my gut feeling that the losses are not significant enough to bring about any lasting change in the pricing mechanism,' says Michael A. Lewis of Dean Witter Reynolds. However, losses 'may forestall' a further softening in rates.

enough to make a change in the market today," agreed Udayan Ghose, an analyst with Shearson Lehman Hutton in New York.

Mr. Ghose said he had predicted that the market will turn near the tail end of 1990. This hurricane will move up the timetable "maybe a quarter or so," he said.

"There's too much excess capital," Mr. Ghose pointed out, explaining that the property/casualty insurance industry has an estimated \$15 billion to \$20 billion in excess capital.

Hugo "soaks up some of it, but doesn't really soak up all of it," he said. He added that the hurricane will "help a little" in turning the market but "not right away."

"It's still my gut feeling that the losses are not significant enough to bring about any lasting change in the pricing mechanism," agreed Michael A. Lewis, first vp at Dean Witter Reynolds in New York. However, hurricane losses "may forestall on a near-term basis any further softening" in property pri-

Section 89

Continued from page 1 in New York.

"Section 89 repeal is a steamroller that would crush anyone that gets in the way," added Frank McArdle, a consultant in the Washington, D.C., office of Hewitt Associates.

"The Senate knows there is no political gain to be reaped by saving Section 89," said James Klein, deputy executive director of the Assn. of Private Pension & Welfare Plans in Washington, D.C.

The Senate Finance Committee this week likely will unveil its version of budget reconciliation legislation with a Section 89 repeal provision tucked in.

Even though Section 89 is dying, employers still may have to comply with some type of non-discrimination rules for employee health care plans.

For example, in repealing Section 89, the Dorgan amendment would restore a fairly obscure non-discrimination part of the Internal Revenue Code—known as Section 105(h)—that had been in effect several years prior to enactment of Section 89.

There was good reason little attention was paid to Section 105(h), which set non-discrimination rules for self-insured health care plans: The non-discrimination standard promulgated by Section 105(h) was so general—the law basically said

that a self-insured health care plan would have to cover a non-discriminatory classification of employees—that compliance never was considered a problem for typical group health care plans, benefit consultants said.

The only plans with the potential to have had difficulty with Section 105(h) were executive-only plans.

And, if commercial insurers underwrote an executive-only medical plan, Section 105(h) did not apply.

In the wake of the anticipated repeal of Section 89 and the restoration of Section 105(h), some consultants say it is possible that the Internal Revenue Service may attempt to put more teeth into 105(h).

They say the IRS might attempt to extend to health plans a new "non-discriminatory classification" test, which the IRS proposed in May as part of new Section 410(b) minimum coverage tests for many pension plans.

This proposed test involves comparing—based on tables established by the IRS—the percentage of non-highly compensated employees with the percentage of highly compensated employees covered by a pension plan.

In addition, the percentage of non-highly compensated employees in an employer's total workforce is considered in running the tests.

Consultants say the non-discrim-

inatory classification part of the test is sufficiently liberal that many pension plans should pass.

For example, assume that 90% of a company's employees are not highly compensated. If a pension plan covers 50% of highly compensated employees, it also would have to cover—based on the IRS table—13.75% of non-highly compensated employees to be considered non-discriminatory.

No one knows for sure if the IRS—in the wake of a Section 89 repeal—would attempt to expand the proposed pension non-discrimination classification test so that it would replace the vague non-discrimination standard in 105(h).

But benefit experts note that the IRS has been campaigning for years to have objective, mechanical tests to replace vague facts and circumstances tests, like the standard in 105(h).

In fact, the preamble to the 410(b) pension regulations suggests the new non-discriminatory classification test should replace a general facts and circumstances test that now covers flexible benefit and dependent care programs.

While the extension of the 410(b) non-discrimination test to Section 105(h) is, at this point, only a theoretical possibility, it may never even get past the informal discussion stage.

Business lobbyists say that as Section 89 repeal moves through Congress, a move may be made to make sure that the current non-discrimination mandate in Section 105(h) is not restored to the tax code. Or lawmakers may bar the IRS from applying the pension plan non-discrimination rules to welfare plans.

"We will work with members to make sure that 105(h) is not restored or that 410(b) is not extended," said Mr. Klein of the APPWP.

No one doubts, though, that a new non-discrimination statute will rise from the charred embers of Section 89.

In fact, House Ways and Means Committee Chairman Daniel Rostenkowski, D-Ill., said on the House floor last week that the issue of non-discrimination rules for health care plans will not go away.

The advocates of Section 89 repeal "have this House in full retreat. Section 89 may go away, but the issue of fundamental health care protection for rank-and-file Americans will not. We'll be back to fight another day," Rep. Rostenkowski said.

"It is unrealistic to think that there will not be non-discrimination rules in the future. Discriminatory benefits are not politically acceptable," said Lance Tane,

chairman of the group health and flexible benefits practice at The Wyatt Co. in New York.

While a new non-discrimination statute may be on the far horizon, benefit experts doubt that it would even remotely resemble Section 89.

No one argued with the basic intent of Section 89—assuring that companies offer health care coverage to a broad cross-section of employees and not just high-paid executives.

However, the manner in which that worthy intent was carried out became an abomination.

Under Section 89, it wasn't enough, for example, to prove that coverage was made available to rank-and-file employees; it also was necessary, under one test, to prove whether a sufficient percentage of non-highly compensated employees actually accepted coverage.

In all, there were four major tests, including one requiring employers to make difficult calculations comparing the value of health care coverage provided to highly and non-highly compensated employees.

And, there were other problems. Under Section 89, each health care coverage option offered by an employer—such as individual and family coverages and health maintenance organization options—was considered a separate plan for non-discrimination testing purposes. As a result, Section 89 would have required some companies to run tests separately on hundreds of plan options.

These rules made collecting plan information and analyzing the data an enormously expensive task.

For example, Marriott Corp. in Washington, D.C., estimates that it spent \$120,000 on Section 89 compliance, while benefit consultants said some companies spent three times as much.

Nationally, the compliance costs were staggering. No one will ever know for sure how much Section 89 compliance cost American business, but experts say hundreds of millions of dollars would be a very conservative estimate.

Despite this enormous cost, no objective, systematic research was conducted and no hearings were held before Section 89 became law.

"There was no attempt to determine what problem, if any, really existed. There was no attempt to fashion a solution to any specifics. Section 89 was just added to the tax code," said Rep. Silvio Conte, R-Mass.

But businesses slowly discovered the problems that Section 89 would create and this year began to lobby for repeal.

The loudest complaints came from small businesses. Their pro-

tests may have been the most vehement because they, unlike big business, often could not afford the fees charged by consultants who had to be brought in to run Section 89 tests.

"Section 89 was something that touched a raw nerve of the small business community," said Dirk Van Dongen, president of the National Assn. of Wholesaler Distributors in Washington, D.C.

The small business lobby found an ally in House Small Business Committee Chairman John LaFalce, D-N.Y., who introduced legislation earlier this year to repeal Section 89 (BI, Feb. 20).

Eventually, more than 300 members of the House signed on as co-sponsors of the LaFalce bill.

That show of support eventually persuaded Rep. Rostenkowski, once a bedrock supporter of Section 89, to direct his staff to draft a Section 89 reform proposal. Reform proposals also were put together by the Senate Finance Committee staff.

But the first two Rostenkowski proposals, while improvements over Section 89, still were very complicated and did not attract any meaningful support. One of the proposals, in fact, would have had a disastrous impact on flexible benefit plans.

And, while the Senate moved quickly to pass a Section 89 reform bill, Rep. Rostenkowski seemed in no rush to move his package.

Some observers believed Rep. Rostenkowski made a fatal political mistake by attaching his Section 89 reform proposals to a slow-moving budget reconciliation bill, rather than coming out with a true Section 89 simplification bill.

By the time Rep. Rostenkowski this month proposed legislation that would have virtually repealed Section 89 with a new non-discrimination statute (BI, Sept. 18), it was too late. By that point, congressmen, barraged with complaints from businesses during the August recess, only were interested in total repeal.

"If the last Rostenkowski proposal had been his first and had the Ways and Means Committee acted quickly, things might have very well been different," said Hewitt Associates' Mr. McArdle.

While new non-discrimination rules, as Rep. Rostenkowski promises, might be drafted, "Employers' three-year Section 89 nightmare is about over," said Edward J. Davey, a principal with Foster Higgins in New York.

The effective date of Section 89, originally Jan. 1, 1989, has been delayed the Treasury Department several times this year. Until repeal, the law's effective date is Dec. 1.

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Continued from page 2

a result, employers would have to increase their contributions to the plans, asserted David Hunt, an actuary in the Rowayton, Conn., office of Hewitt Associates.

"Actuaries have to make their best estimate on the future return of a pension plan. If the government taxes some of those returns, the actuary has to lower the future return assumption. The company has to make up the shortfall, and contributions go up," he said.

Carol Proffer, managing director for William M. Mercer Meidinger Hansen Inc.'s Southwest region in Dallas, agrees.

"An actuary looking at the assumption for a plan would have to take into account the taxes arising from the turnover of the portfolio and adjust the assumption down. In reducing the assumption, the pension benefit value increases, so more (funds) have to come from other sources," she said.

"It is hard to say how many plans would be affected, but contributions overall would go up,"

she predicted.

For defined contribution plans, "the tax would reduce the accumulation of the funds that would be available in the future to provide benefits," said Ms. Proffer.

Plan members would realize a reduced rate of return on their accounts because the tax has automatically made any short-term gains 5% to 10% less profitable, she said.

Mr. Hunt pointed out the legislation probably would not generate much additional revenue. "On one end, the government is taking in revenues as a result of this tax, but the government would be losing on the other end because of an increase in tax-deductible employer contributions."

Because this proposal seeks to encourage pension plans to make more long-term investments, plans would have to withstand a greater degree of stock market turbulence, said Philip Schneider, a consultant with The Wyatt Co. in Chicago.

"If you take a long-term prospective, you have to be willing to

ride out the fluctuations," Mr. Schneider said.

And, the proposal would ultimately affect the way employers choose their pension managers, according to Mercer's Ms. Proffer.

Portfolio turnover has not been a key element in the decision to select pension managers, but now it would become a major consideration, she said.

"Employers would have to look for pension managers who have demonstrated success at implementation of a specific investment process," she said.

Pension experts also have questions regarding the "moral" dilemma pension managers might face when deciding investment actions for the plan. A prudent exchange of short-term assets might be delayed by a manager because of the threat of the tax, said Mr. Schneider of Wyatt.

But Ms. Proffer believes employers will just alter their investment strategy: "Pension plans will restrict their short-term trading to resist the tax."

Capping return on equity encourages flight of capital

By **MYRON M. PICOULT**
Special to Business Insurance

WE RECENTLY RETURNED from California where we were both an observer and a participant in the hearings dealing with the rate rollbacks a la Proposition 103 and the California Insurance Department's attempts to determine what is a "fair and reasonable return" for property/casualty insurance companies.

The first company to face the process was Allstate Insurance Co. In essence, the first two days of hearings were a circus without a ringmaster.

Initially, the hearings pointed up the infighting among the parties in favor of the rollbacks. Numerous dangling participles prevailed and are not likely to be solved soon.

The second company to go through the process was SAFECO Corp. The SAFECO sessions were held in a much more civilized environment and handled in a more pragmatic manner by the administrative law judge.

It is our perspective that the parties seeking to roll back California property/casualty insurance rates are trying to accomplish their goal through gerrymandered methodology.

In essence, the California Insurance Department is seeking to increase the industry's premium-to-surplus ratio to approximately 2.65-to-1, while at the same time placing a cap on the return on equity that an insurance company can earn without providing any downside protection.

This is totally inconsistent. Higher leverage is an indication of higher

Myron M. Picoult is senior vp and senior insurance analyst with Oppenheimer & Co. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts.

risk. The increased risk, in turn, requires a higher return on equity.

Furthermore, there is no differentiation apparently being permitted between well-run, efficient companies and less-efficiently managed insurers. This methodology further undermines the financial integrity of the property/casualty insurance business, which already has enough problems.

With respect to the cap on returns on equity, the following should be noted. For the 15-year period from 1973 to 1987, the property/casualty insurance industry's aggregate return on equity, as measured by data compiled by the Insurance Services Office Inc., averaged 10.2%.

If the California Insurance Department's 11.2% cap on return on equity had been in

Higher leverage is an indication of higher risk. The increased risk, in turn, requires a higher return on equity.

place, the average return would have declined to 8.6%.

Neither ROE is sufficient, and the 8.6% return is totally deficient and would, we believe, encourage a withdrawal of capital from the property/casualty insurance business.

Contrary to the belief held in some circles, the property/casualty insurance business is not an eleemosynary institution. As noted earlier, capping return on equity would encourage a flight of capital from the property/casualty insurance industry.

This should be recognized within the context that we suspect that the industry has a further problem in attracting capital because of sub-par returns on equity over the past 15 years, the fact that ROEs in 1988 fell below investor expectations (relative to the prior 1978-79 peak figures) a weakened capital base, and an inability to accrete capital today because of the impact of the Tax Reform Act of 1986 and

prospective writeoffs of reinsurance recoverables.

We have been somewhat surprised by the relatively recent strength of those insurers with substantive premium exposure to property/casualty lines of business in California affected by Proposition 103. It appears that some investors found some comfort after the California Insurance Department specified the rollbacks to be sought from various insurers.

We find that perplexing. The property/casualty insurance environment in California remains very tenuous. The sought-after rollback figures do not really clarify the situation. They will not be the final guideline but only an initial step in that, if approved, the rollbacks represent that which will be both currently and prospectively lost by the insurers.

Furthermore, the rollbacks are a dangerous precedent.

The entire process is proving to be more unwieldy than expected. There is just no way the Insurance Department can complete its work properly by early November. The called-for "generic" hearings to be held in a few weeks underscore the circus atmosphere. The various parties cannot make it through hearings on one company in an allotted time frame, no less 270 companies in one place at one time.

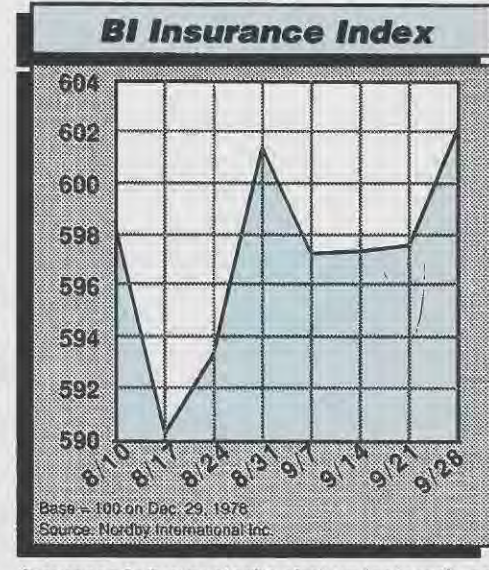
Notwithstanding the time and effort involved to date, it seems that the whole ball of wax will end up back in the courts no matter who wins this round. This looks like a three- to five-year battle that will ultimately have to be settled by the state Legislature, where it should have been settled initially.

Return on equity is a measurement of the efficiency with which a company employs its stockholders' funds. It is a benchmark that determines the willingness of investors to commit new capital to a company or an industry.

Hence, an environment in California that fosters below-average industry returns cannot be tolerated.

For insurers with relatively small premium exposures, the decision seems to be fairly easy. Entities with a major chunk of their business in California have a more difficult decision.

Notwithstanding, this is clearly Custer's Last Stand for the property/casualty insurance industry.



Insurance industry stocks shot up last week, as the **Business Insurance Index** rose 4.6 points to 602.2 on Sept. 29, from 597.6 on Sept. 21. Advancing issues were led by NAC Re Corp., up 8.4%; Tokio Marine & Fire Insurance Co. Ltd., up 7.5%; and FHP International, up 6.9%. Decliners followed Frank B. Hall & Co. Inc., down 8.3%; Protective Life Corp., down 5.8%; and Nobel Insurance Ltd., down 5.6%. The most active issue was Sears, Roebuck & Co. (Allstate), 3.5 million shares traded. The **BI Index** gained 0.77% for the period; the Standard & Poor's 500 Index, gained 0.84%; the New York Stock Exchange Composite, grew 0.72%; and the Dow Jones 30 Industrials, was up 0.55%.

Sept. 29 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High-Low pence	
					High	Low
Commi Union	450	18.8	29.3	6.5	451	442
Genl Accident	1106	11.0	68.0	6.1	1105	1085
Gdn Royal Exch	227	14.5	15.7	6.9	225	224
Royal	455	13.9	34.0	7.5	457	454
Sun Alliance	315	9.2	17.0	5.4	318	314

Company	Price	P/E	Div.	Yield	High-Low
Bradstock	197	13.5	10.0	5.1	203-197
CE Health	465	13.3	34.5	7.4	468-465
Hogg Robinson	147	10.1	9.3	6.6	147-142
Lloyd Thompson	229	15.3	9.3	4.1	229-225
PWS Holdings	53	13.3	3.3	6.3	53-53
Sedgwick Grp	259	18.2	16.7	6.4	260-255
Steel Bri Jones	234	14.6	15.3	6.6	234-234
Willis Faber	237	16.7	15.3	6.5	238-232

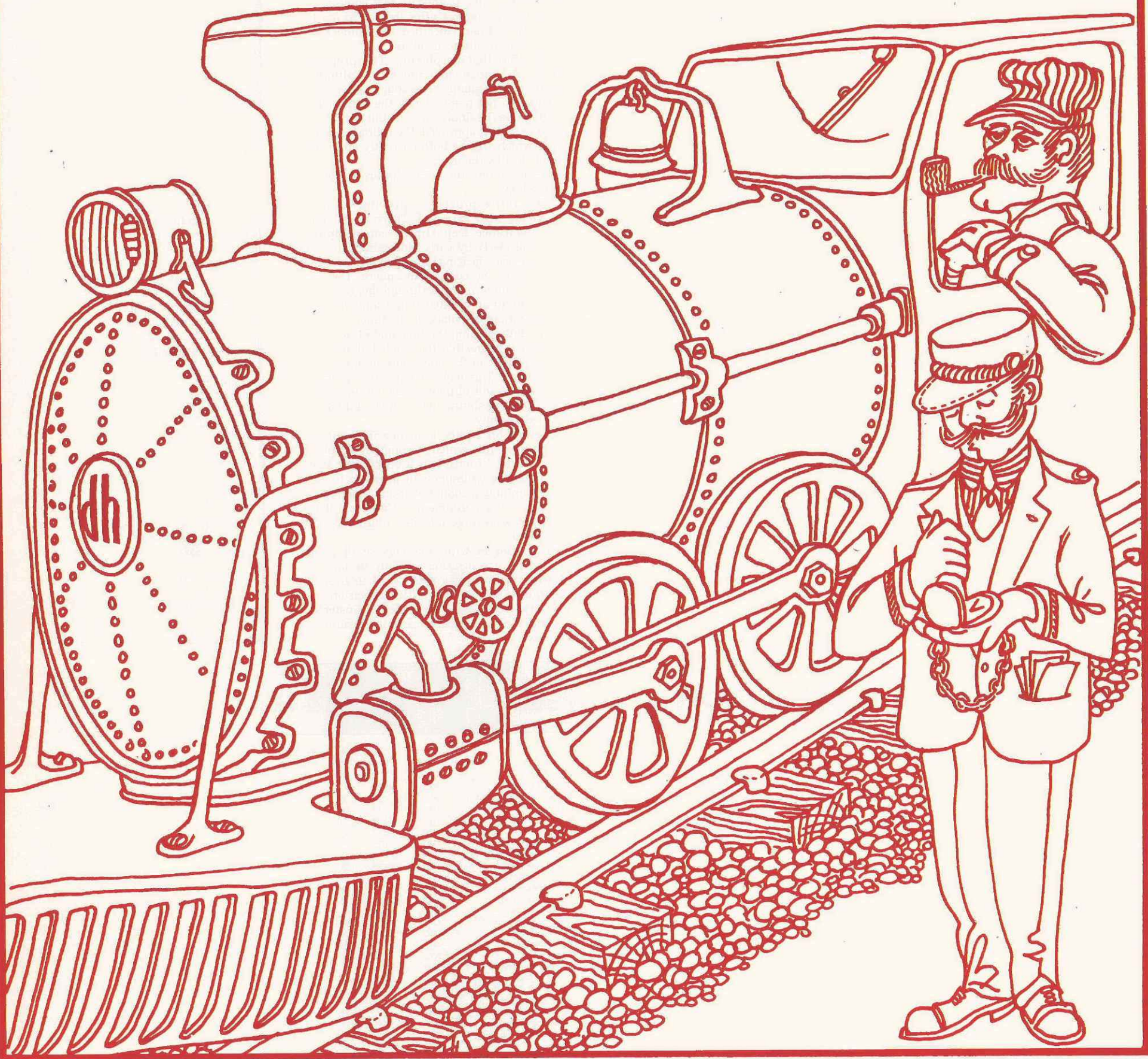
Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kiteat & Aitken Stockbrokers, London

BI Industry Stock Report SEPT. 29, 1989 9/22/89 THROUGH 9/29/89

	Price	Weekly % change	Year to Date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value	Price	Weekly % change	Year to Date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value			
				High	Low										High	Low									
BROKERS																									
Alexander & Alexander	NYS	29.00	4.50	24.73	29.75	22.63	247	1.00	3.45	17	2.90	10.00	45.88	0.27	95.21	47.25	22.75	261	0.84	1.83	8	28.91	1.59		
Coroon & Black	NYS	35.13	-1.42	10.63	37.38	29.13	152	1.24	3.53	15	7.62	4.61	7.25	-3.33	-9.38	11.25	6.53	4	0.24	3.31	16	3.19	2.27		
Gallagher Arthur J. & Co.	NYS	22.00	0.00	29.41	24.75	15.88	10	0.52	2.36	15	5.33	4.13	37.50	1.00	3.09	40.50	32.50	14	0.80	2.13	21	21.17	1.77		
Frank B. Hall	NYS	2.75	-8.33	-8.33	4.63	2.50	100	0.00	0.00	-1	N/A	N/A	54.50	-1.59	26.01	56.88	42.75	91	2.48	4.55	14	39.21	1.39		
Hib, Rogal & Hamilton	OTC	20.25	0.00	46.08	21.00	10.25	50	0.20	0.99	18	4.60	4.40	35.50	8.40	71.79	35.75	19.50	252	0.20	0.56	16	22.81	1.56		
Marsh & McLennan	NYS	71.50	4.00	28.83	72.13	55.00	566	2.50	3.50	17	6.48	11.03	27.25	-1.80	32.93	27.75	18.25	7	0.00	0.00	10	15.22	1.79		
Poe & Associates	OTC	8.75	5.06	0.00	9.75	8.00	1	0.40	4.57	10	1.43	6.12	2.13	-5.56	-54.05	6.50	1.50	41	0.37	17.41	-2	7.76	0.27		
AVERAGE			0.7	18.8									36.25	-1.04	17.89	40.63	26.88	486	1.20	3.31	12	37.50	0.97		
CONGLOMERATES & HOLDING COMPANIES																									
Berkley W.R. Corp.	OTC	40.25	3.21	35.86	40.75	27.38	290	0.40	0.99	8	21.28	1.89	47.00	-1.05	31.47	50.75	33.25	101	2.08	4.43	7	33.30	1.41		
Berkshire Hathaway Inc.	NYS	8675.0	2.18	86.56	8725.00	4600.00	1	0.00	0.00	131	2468.63	3.51	27.75	2.29	22.05	28.50	22.63	72	0.74	2.67	13	26.60	1.04		
ITT (Harford Group)	NYS	60.00	0.42	19.70	64.50	47.75	1705	1.48	2.47	10	56.33	1.07	27.00	-1.82	68.75	28.25	13.88	181	0.84	3.11	7	12.93	2.09		
Sears (Allstate)	NYS	42.13	-2.60	4.33	48.13	37.25	3466	2.00	4.75	14	36.09	1.17	10.25	-1.25	5.13	11.00	8.75	56	0.00	0.00	6	12.99	0.79		
AVERAGE			0.8	36.6									14.25	-5.82	7.55	16.25	12.88	66	0.70	4.91	36	14.54	0.98		
INSURERS/REINSURERS																									
Aetna Life & Casualty	NYS	56.88	0.66	21.33	60.13	46.00	1454	2.76	4.85	8	58.11	0.98	26.75	0.00	38.06	28.75	17.75	267	0.68	2.54	9	12.60	2.12		
Ambase Corp.	NYS	15.63	-0.03	40.45	16.38	10.50	378	0.20	1.28	5	18.66	0.84	12.13	2.06	31.08	12.88	7.88	3	0.00	0.00	11	10.71	1.13		
American General	NYS	36.00	0.33	20.00	38.50	29.50	812	1.50	4.17	9	28.04	1.28	8.50	0.00	11.48	9.38	7.13	20	0.40	4.71	8	23.24	0.37		
American Heritage	NYS	27.63	1.38	8.33	28.50	25.00	3	1.20	4.34	10	22.47	1.23	57.50	-2.13	33.72	60.25	40.50	709	2.20	3.83	7	32.00	1.80		
American Indemnity/Finl	OTC	9.75	-2.50	-7.14	13.00	9.50	8	0.56	5.74	-12	17.38	0.56	32.88	-1.51	40.64	34.75	23.13	849	1.20	3.65	8	24.88	1.32		
American International	NYS	100.00	5.95	50.09	99.25	61.75	1321	0.48	0.48	12	33.55	2.98	11.75	0.00	36.23	12.13	6.88	34	0.20	1.70	9	19.35	1.14		
Aon Corp.	NYS	33.88	-4.58	22.62	38.00	26.00	653	1.40	4.13	11	16.67	2.03	10.75	-1.19	-4.44	13.63	10.25	215	0.80	7.44	12	13.42	0.80		
Argonaut Group	OTC	66.50	1.92	52.87	66.75	41.75	21	1.00	1.50	9	36.83	1.81	18.00	-2.07	-21.74	18.75	14.50	33	0.96	5.33	6	22.33	0.81		
AVEMCO Corp.	NYS	26.00	0.97	1.46	27.50	22.63	4	0.40	1.54	14	9.20	2.83	2.75	4.51	-4.35	4.00	2.38	45	0.05	1.82	28	3.48	0.79		
Baldwin & Lyons Inc.	OTC	20.50	1.84	41.38	20.50	14.38	33	0.20	0.98	7	17.57	1.17	75.25	7.50	-17.98	98.00	66.00	23	0.23	0.31	46	N/A	N/A		
Belvedere Corp.	ASE	4.50	0.00	0.00	6.50	4.25	3	0.04	0.89	7	8.43	0.53	45.38	2.82	48.77	49.00	29.38	207	1.40	3.09	13	12.24	3.71		
Chandler Insurance	OTC	11.63	-0.04	55.00	12.25	5.75	45	0.00	0.00	7	9.53	1.22	46.88	3.29	40.45	45.75	30.38	1005	1.92	4.10	10	30.70	1.53		
Chubb Corp.	NYS	78.50	0.47	35.93	79.38	53.75	425	2.32	2.96	9	53.50	1.47	17.75	0.00	24.56	19.50	13.13	19	0.36	2.03	9	16.91	1.05		
CIGNA Corp.	NYS	61.50	1.23	32.97	63.88	45.75	470	2.96	4.81	10	53.08	1.16	34.50	2.22	13.11	34.50	26.63	5	1.20	3.48	7	22.56	1.53		
CNA Financial Corp.	NYS	87.88	2.92	49.57	88.50	56.00	165	0.00	0.00	10	54.52	1.61	30.00	-2.44	3.45	34.00	26.50	1212	2.80	9.33	16	22.57	1.33		
Continental Corp.	NYS	34.88	-1.06	8.98	45.00	31.50	697	2.80	7.46	-73	42.10	0.83	41.00	1.54	53.27	40.75	24.63	470	0.60	1.46	12	30.64	1.34		
Durham Corp.	OTC	31.75	0.00	-0.78	33.00	31.75	7	0.92	2.90	28	26.32	1.21	45.00	-2.17	30.91	48.13	32.88	408	1.40	3.11	10	54.27	0.83		
Fireman's Fund	NYS	37.38	-2.62	28.33	39.25	28.38	408	0.60	1.61	10	32.74	1.14	26.00	0.00	-2.35	29.13	24.00	9	1.08	4.15	-25	32.33	0.80		
Fremont General Corp.	OTC	15.75	-2.36	26.00	18.25	10.63	90	0.80	5.08	10	7.53	2.82	19.25	0.63	9.22	21.50	15.00	8	0.84	4.36	9	13.61	1.41		
Frontier Insurance Group	NYS	19.75	-0.65	77.37	21.75	9.50	14	0.00	0.00	10	7.53	2.82	INTELLIGENCE ORGANIZATIONS												
General RE Corp.	NYS	81.13	5.36	47.50	80.50	53.13	871	1.36	1.68	13	29.04	2.79	FHP International	OTC	46.50	6.80	286.74	45.25	10.88	244	0.00	0.00	22	3.54	13.14
Hanover Insurance Co.	OTC	29.63	1.70	11.79	30.25	25.50	101	0.44	1.49	7	31.47	0.94	HMO America Inc.	OTC	9.00	1.35	859.49	10.63	0.81	335	0.00	0.00	-16	1.12	8.04
Harleysville Group	OTC	22.75	-1.09	28.17	24.13	14.88	44	0.60	2.64	8	18.94	1.20	Pacificare Health Sys.	OTC	22.75	-4.21	82.00	26.25	5.63	90	0.00	0.00	27	6.35	3.58
Harford Steam Boiler	OTC	53.75	1.90	45.27	55.75	30.50	83	1.60	2.98	14	13.04	4.12	Safeguard Health Enter.												

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