OCTOBER 30, 2000

Business Insurance®

Reporting Weekly on Corporate Risk, Employee Benefit and Managed Health Care News / $4

UPDATES

China to grant more licenses to European insurers

BRUSSELS, Belgium—The Chinese government late last week agreed to grant seven more licenses to European insurers, the European Commission announced.

The news came after a European Union-China summit in Beijing earlier in the week. China agreed to grant nine licenses in May, when the two sides forged a bilateral agreement on China's entry to the World Trade Organization, but China stalled over disagreements about the

See **Updates** *on next page*

Disability trumps seniority for jobs under ADA: Court

By JUDY GREENWALD

SAN FRANCISCO—A federal appeals court ruling that says accommodating a disability takes precedence over seniority in filling a job position may create complications for employers.

Many attorneys say the 9th U.S. Circuit Court of Appeals' 8-3 decision in *Robert Barnett vs. U.S. Air Inc.* also will require employers to give disabled workers preference in job placements over other groups that also are protected under federal law, including minorities.

Attorneys say the Oct. 4 decision also places a greater burden on employers, by requiring them to either take a more active role in finding reasonable accommodations under the ADA or risk losing the chance to win summary judgments in bias lawsuits brought by disabled workers, attorneys say.

"It's an appallingly bad decision," said employer attorney Jeffrey Tanenbaum of Littler Mendelson in San Francisco.

Plaintiff attorneys contend, however, that the decision provides guidance to employers and will not cause serious problems.

Some attorneys say the decision by the en banc panel of the 9th Circuit in San Francisco could be influential around the country. The 9th Circuit is "a leading jurisdiction in the entire U.S. in employment law, so I suspect it'll be looked at very soberly," said Brian T. Ashe, an attorney with Seyfarth Shaw in San Francisco.

The case involves Robert Barnett, a customer service agent for U.S. Air Inc. who injured his back in 1990. After his return to work, he found he could not perform all of the physical requirements of handling freight.

Although he worked in the mailroom for a period, he was placed on

See **ADA** *on page 33*

Pension veto likely

By JERRY GEISEL

WASHINGTON—Pension reform legislation that is broadly embraced by employers may die, dragged down to defeat by its attachment to a controversial tax bill.

In a situation that last week was changing almost hourly, President Clinton on Friday said he would veto a $240 billion tax bill, which included the pension provisions, because the bill's tax benefits were skewed in favor of higher-paid individuals. The bill passed the House last week and at deadline was awaiting Senate action.

House Republican leaders said there would not be enough time remaining in the waning days of the session to try to override a veto, though there could be a last-ditch effort to assemble a scaled-back tax bill on which the pension provisions could be attached. Alternatively, the pension provisions, which enjoy broad support in Congress, could be attached to a non-controversial bill.

The tax bill also contains a provision that calls for the Treasury Department to review the alleged

tax advantages enjoyed by Bermuda-domiciled insurance companies (see story, page 32).

Benefit lobbyists, while saying the pension provisions could survive in some form, were not sanguine.

"It is looking rather bleak. Still, we are not giving up hope," said James Delaplane, vp-retirement policy at the American Benefits Council in Washington.

Others remained optimistic. "Many of the provisions in the tax bill are non-controversial. Perhaps, those provisions can be pulled and packaged into another bill. There could be time to do that," said Janice Gregory, vp at the Washington-based ERISA Industry Committee.

The pension package would raise contributions employees could make to savings and pension plans, cut a lot of the red tape associated with administering plans and extend the life of a 1996 law that allows small employers to offer tax-favored medical savings accounts.

If the measure dies, it would be yet another example of how partisanship derailed benefits legislation during the 106th congressional session.

Indeed, Democrats and Republicans also failed to reach agreement on patient protection legislation this session and a lack of bipartisanship also killed legislation to add a prescription drug benefit to the Medicare, an expansion that could have significantly reduced costs for employers with retiree health care plans.

If the pension reform bill does not survive the 106th Congress, it

See **Pension** *on page 32*

Hewitt to boost U.K. presence

By JERRY GEISEL

LINCOLNSHIRE, Ill.—Hewitt Associates L.L.C.'s planned acquisition of the employee benefits practice of U.K. consultant Bacon & Woodrow will significantly enhance Hewitt's position in the highly competitive U.K. benefit consulting market.

The transaction, which both firms are describing as a merger, brings together Hewitt, the largest benefit consultant in the United States, and Bacon & Woodrow, the third-largest consultant in the United Kingdom, with about £75 million ($107.3 million) in benefit consulting revenues.

Combined, the two firms will have more than £100 million ($143.1 million) in U.K. consulting revenues, or nearly six times more than Hewitt now generates in the United Kingdom.

Peter Bennett, manager of Hewitt's U.K. operations in St. Albans, England, says the merger is a "marriage made in heaven" with corporate cultures that are very similar. "This is a very powerful combination," Mr. Bennett said.

But while the cultures of the two firms may be similar, their backgrounds and strengths differ. Lincolnshire, Ill.-based Hewitt came relatively late to the United Kingdom, opening an office in 1985 with a staff of only five. Its U.K. operation has since grown to nearly 500 employees.

See **Merger** *on page 34*

Election 2000

Shift in House expected

Races to steer issues

BY MARK A. HOFMANN

WASHINGTON—All politics may be local, but the outcome of a relative handful of congressional races is as likely to shape the fate of national issues that interest risk and benefit managers as the race for the White House.

Many of these races aren't receiving much attention beyond the borders of their districts. But, given that proposals for federal regulation of insurance, federal tort reforms, privacy issues and managed care regulation all seem likely to come before the next Congress, who controls that Congress will determine how—or if—those issues will be resolved.

There are 35 open seats in the House, but experts consider fewer than 20 to be in play. In addition, about 25 incumbents of both parties face serious challenges. In recent congressional elections, though, more than 90%—and, in some cases, more than 95%—of incumbents have been re-elected. That makes a major shift of seats in the House unlikely.

Given the Republicans' slim majority in the House, however, even a minor change in its membership could have major consequences.

"The Congress as a whole has taken a back seat to the overall national contest" between Texas Gov. George W. Bush and Vice President Al Gore, said David Farmer, senior vp-federal affairs for the Alliance of American Insurers in Washington.

There is a "significant chance," however, that the Republicans will lose their House majority by a very narrow margin, making the House "a fractious place," Mr. Farmer said.

"The speaker has done, in my judgment, a very good job in lowering the rhetoric and tone of the previous speaker. It is becoming increasingly clear that (former House Speaker) Newt Gingrich created a much more partisan environment than the current speaker," Mr. Farmer said, referring to Rep. Dennis Hastert, R-Ill.

"I think it's generally accepted

See **Congress** *on page 29*

ELECTION COVERAGE CONTINUES ON PAGE 30

To Subscribe Call
1-888-446-1422 in the U.S or
1-313-446-0450 outside the U.S. or
go online to www.businessinsurance.com

NEWSPAPER

UPDATES

China to grant more E.U. licenses

Continued from previous page
interpretation of several parts of the agreement.

Just two European insurers—Trieste, Italy-based Assicurazioni Generali S.p.A. and Amsterdam, Netherlands-based ING Groep N.V.—have so far been granted licenses in China.

The Chinese government said it would announce by Nov. 2 the seven insurers to be granted licenses.

Several European insurers have already applied for China licenses. The Hague, Netherlands-based Aegon N.V. has been instructed by Chinese officials to seek a joint-venture partner. London-based CGNU P.L.C.; Edinburgh, Scotland-based Standard Life Assurance Co.; Munich, Germany-based Allianz A.G. Holding; and Paris-based Caisse Nationale de Prevoyance have also applied for licenses.

"The fact that we have managed to solve the important issues that remained outstanding for the full implementation of our bilateral deal clinched last May is, in itself, another step on the way to China's accession to the WTO," said Pascal Lamy, the trade commissioner for the European Union.

Both the European Union and the United States had said that China would be unlikely to join the WTO by the end of the year if the disagreements over the accession deal were not swiftly ironed out. Mr. Lamy said "early next year" would now be the probable target for China's accession.

Reliance boosts reserves again

NEW YORK—Reliance Insurance Co. will increase its loss reserves by $332 million, the troubled insurer's parent company, Reliance Group Holdings Inc., announced last week.

The decision to increase reserves stems from an actuarial review by Tillinghast-Towers Perrin. The review identified adverse claims development from assumed reinsurance and commercial auto business, a Reliance statement said.

The announcement comes just two months after Reliance revealed that it would take a $444.2 million charge to boost loss reserves in its second-quarter results (*BI,* Aug. 21).

An announcement last year that Reliance was increasing its loss reserves by $227 million for the second quarter of 1999 triggered a series of problems for the insurer that eventually led to rating agency downgrades last June. Those downgrades virtually killed off the company's chance of surviving as a significant insurer in many markets.

Much of Reliance's business has been sold off, and the remaining units are not writing any new business, a spokesman said.

In August, the insurer agreed to a plan with regulators in Pennsylvania to submit any significant business transactions for regulatory approval.

Texas tire suit settled

CORPUS CHRISTI, Texas—The relatives of a Texas couple who died in a crash allegedly caused by a tire unraveling on their 1996 Ford Explorer have reached a settlement with tire manufacturer Bridgestone/Firestone Inc. in the first product liability lawsuit scheduled for trial since the company's August tire recall.

Details of the settlement were not disclosed by either side.

Ryan Anthony Guillen, 22, and his sister, Kimberly Guillen, 18, sued the tire manufacturer last November, after their mother and stepfather were killed in a May 30, 1999, accident near Brownsville, Texas.

Nidia and Patricio Leal died when their Explorer crashed into a utility pole. The Guillens charged that the accident occurred after the tread peeled away from one of the Explorer's ATX Firestone tires, causing the vehicle to go out of control, according to Robert Patterson, the siblings' attorney, who is based in Corpus Christi, Texas.

The case was filed in state district court in Rio Grande City, Texas, and trial was set to begin Nov. 13.

Mr. Patterson said he is handling half a dozen similar cases filed in Texas and one in Mexico involving the tire manufacturer.

Harvard Pilgrim progress seen

BOSTON—Four months after it was released from temporary receivership, Harvard Pilgrim Health Care is on track with its rehabilitation plan, according to Massachusetts Insurance Commissioner Linda Ruthardt and Attorney General Tom Reilly.

Harvard Pilgrim, the state's largest health maintenance organization, was put into receivership in January after the company estimated it faced up to $177 million in losses (*BI,* Jan. 10). It was removed from receivership after the Massachusetts Supreme Court approved a rehabilitation plan earlier this year (*BI,* May 29).

In the first of periodic public reports that were promised when the plan was approved, Ms. Ruthardt and Mr. Reilly said the HMO's progress has been good. "We are pleased to report that Harvard Pilgrim's operations through August are slightly better than projected in the 2000 business plan," says the report. "Higher-than-projected medical costs have been offset by increased per-member premium and a large reduction in Harvard Pilgrim's administrative expenses."

The report also says restoration of Harvard Pilgrim's National Committee for Quality Assurance "Excellent" rating, the highest available, for its Massachusetts commercial HMO and point-of-service products, along with its consistent operating results this year, "reflect its status as a reasonable HMO choice for Massachusetts health care consumers."

See **Updates** *on page 34*

Oregon asks high court to review RRG rulings

By JERRY GEISEL

WASHINGTON—The U.S. Supreme Court is being asked to review a federal appeals court decision that Oregon law discriminates against risk retention groups.

At the heart of the controversy is an Oregon law that effectively bars auto dealers and distributors from purchasing reimbursement policies from RRGs. Earlier this year, a three-judge panel of the 9th U.S. Circuit Court of Appeals in San Francisco unanimously ruled that Oregon's categorical exclusion of RRGs as a market option violates the federal Risk Retention Act, which limits state regulation of RRGs (*BI,* June 12). The full appeals court later declined to review the panel's ruling.

But the Oregon Department of Justice, which is representing the state Insurance Department in the matter, earlier this month filed a petition asking the Supreme Court to review the panel's decision.

In its petition, the Oregon Department of Justice said the panel's decision was "flawed." While the court ruled that the federal Risk Retention Act pre-empted an Oregon financial responsibility statute requiring auto dealers to purchase reimbursement coverage from "authorized" insurers, the court did so despite its "obvious inability to find any evidence of clear and manifest congressional intent to pre-empt state financial responsibility law," the state said in its petition.

An attorney for the risk retention group that challenged Oregon regulators said the group would oppose the petition for review. "We are preparing a response. The arguments they made (in the petition) are wrong in many cases and

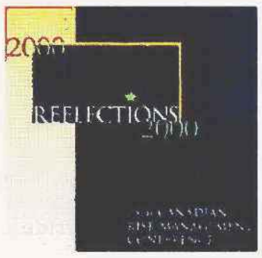
See **Oregon** *on page 34*

Managing risk adds value

Enterprise risk management approach pays off: Execs

By GAVIN SOUTER

EDMONTON, Alberta—Companies that instill a risk management culture throughout their organization can cut costs, attract better employees and prevent injuries, a corporate executive contends.



By encouraging all employees to think about risk management issues in all of their daily duties, companies can create an environment that is more sensitive to risks, and can better respond and control risks before a crisis occurs, he says.

And by building on an enterprisewide analysis of all risks, companies can create innovative insurance programs that cover a wider array of risks and, ultimately, help increase their profitability, another senior executive adds.

The two executives were speaking at the 25th Canadian Risk & Insurance Management Society conference, which was held in Edmonton, Alberta, earlier this month.

Syncrude Canada Ltd., an oil producer based in Fort McMurray, Alberta, adopted a broader approach to risk management in 1984 at the instigation of its new president, said Jim Carter, who is now president and chief operating officer.

The company had recently suffered a major coker fire, and its property insurance premiums had doubled to $7 million Canadian ($4.6 million). "And that rate was dictated to us, take it or leave it," he said.

In addition to responding to the loss, the president of company determined that it would make good business sense for the company to analyze all of its risks, Mr. Carter said.

The cost of extracting oil from the sand to which it

See **Risks** *on page 22*

Provider group exits Tufts plan

By MICHAEL PRINCE

BOSTON—Citing increasing losses, one of the leading provider organizations in Massachusetts has ended its relationship with Tufts Health Plan.

After months of negotiations, the provider group, Boston-based Partners HealthCare Systems Inc., said it won't renew its contract with Tufts and will end its relationship with the health maintenance organization on April 1, 2001. Partners said it has lost $42 million from the Tufts contract in the past two years and was pushing for rate increase to make up for this shortfall. In addition, Partners said it has not received a rate increase from Tufts for five years, a point with which a Tufts spokeswoman disagrees.

Founded in 1994, Partners is a non-profit organization that includes such well-known hospitals as Massachusetts General Hospital and Brigham & Women's Hospital, as well as numerous smaller facilities and doctor groups throughout the Boston area.

Tufts, based in Waltham, Mass., said that it simply could not afford to meet Partner's demands for a 27% rate increase. If it did, according to Tufts, the result would be higher premiums for employers.

"We offered them a fair and thoughtful arrangement that included a large increase in payments but could not agree to their demands for a huge one-year increase. Such an increase is unprecedented in size and overwhelming in terms of the premium increases it would bring about," Harris Berman, Tufts' chief executive officer, said in a written statement.

About 20% of Tufts members use one of Partners' physicians. Partners said it would continue to treat Tufts patients until April 1 and will continue treating those same people as long as they are covered by another insurance plan. Tufts members will have to find another physician after April 1. The move by Partners affects all of Tufts plans except for its Secure Horizons plan for seniors.

Tufts said its members can still access its 75 other hospitals and 5,000 primary care physicians that are not part of Partners. BI

INSIDE

- The U.S. Supreme Court should take the opportunity to clarify once and for all the relationship between the federal Risk Retention Act and state financial responsibility laws, this week's editorial says. **PAGE 8**

- The United Kingdom's Health and Safety Executive, in a bid to get companies to improve their safety records, is publicizing the names of companies convicted of health and safety offenses in the United Kingdom. **PAGE 27**

- According to a recent study by Swiss Reinsurance Co., European storm losses are underestimated by the insurance industry and storm coverage is underpriced by reinsurers. **PAGE 27**

Departments

Advertiser Index 28
Classifieds 30
For the Record 35
Global Briefs 27
Insurance Services Guide 28
International 27
Letters 8
Opinions 8
Ticker 35

Business Insurance (ISSN 0007-6864) Vol. 34, No. 44, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to *Business Insurance,* Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207. $4 a copy and $89 a year in U.S. $108 in Canada and Mexico (includes GST). All other countries $209 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A.

Health Net clients alarmed by move

By ROBERTO CENICEROS

SAN FRANCISCO—Several large employers will freeze employee enrollment in Health Net after the Woodland Hills, Calif.-based health plan postponed application for renewal of its accreditation by the National Committee for Quality Assurance.

"We consider this a serious issue and are freezing enrollment in Health Net," said Bruce Smith, health care team leader for Chevron Corp. "Our goal is to provide high-quality cost-effective health care for our employees, retirees and their families, and accreditation is one of the main standards we use to evaluate health plans."

Mr. Smith's statement is contained in a press release issued by Pacific Business Group on Health, a San Francisco-based purchasing coalition. The other PBGH members also freezing enrollment are Safeway Inc., Stanford University and APL Ltd.

PBGH said its members are taking other measures as well, such as notifying their employees of the situation and offering additional health plans that are accredited by the NCQA. Health Net is now the only major commercial health plan in California without NCQA accreditation, according to PBGH.

A spokeswoman for Health Net said PBGH's statement made it appear that the health plan was stepping back from providing quality services. That is not the case, the spokeswoman said, maintaining that the company is still paying attention to quality. She said that, after an earlier merger and management reorganization, Health Net realized it did not have the necessary data collected for a desirable accreditation, so it postponed going through the accreditation process until next June. In May, Health Net notified employers and others in the purchasing community of its plans, the spokeswoman said.

The California Public Employees' Retirement System also issued a statement in conjunction with PBGH. CalPERS said it is concerned about the matter and is notifying more than 235,000 employees, retirees and their families enrolled in Health Net of the postponement of its NCQA accreditation. CalPERS will monitor Health Net's quality of care to ensure that it is maintained while the health plan seeks to regain accreditation, the statement said.

Push to improve HMOs

Employer group promotes Six Sigma process

By MICHAEL PRINCE

What works for boosting the quality of lightbulbs might also work for improving health care.

With that thought in mind, a group of employers wants managed care organizations to improve their quality by adopting process-improvement ideas popular with many manufacturers. The group, known as The National Consortium for Healthcare Process Excellence, currently consists of 15 large employers and hopes to add many more to its ranks.

The consortium's goal is nothing less than making fundamental changes in how managed care organizations operate. The concept of process excellence has been adopted by many of the group's members through such quality improvement programs as "Six Sigma." Under this management philosophy, the root causes of defects are sought out and addressed in an effort to reduce errors to an extremely low level. General Electric Co. is perhaps the best-known advocate of the Six Sigma approach.

Because employees are not satisfied with the service they are receiving from managed care, employers are looking at ways to improve it, explained Arleane Soto Baltrusitis, vp of benefits at American Express Co. in New York and a participant in the group. The problem is not dissatisfaction with the idea of managed care but how it is implemented by managed care organizations, she explained. "Since managed care is a way of doing things that is not going away, let's at least deliver the service that employees can live with," she said.

Employers themselves help create some of the poor service problems, said Michael Thompson, a principal with the Unifi Network in Teaneck, N.J., who has acted as the group's coordinator. Unifi is the benefit consulting arm of PricewaterhouseCoopers L.L.P.

Currently, Mr. Thompson explained, each employer presents a list of priorities and desires to their managed care companies, creating a hodgepodge of demands the plans attempt to meet. By working together, employers can come to the managed care community with a collective voice and one set of expectations, he said.

"There is strength in numbers," agreed Natalie Morris, manager of executive compensation with United Technologies Corp. in Hartford, Conn., which is a member of the consortium.

One example of a managed care practice where the group believes its approach can make a difference is balance billing, Mr. Thompson said. This occurs when a patient receives a bill from a provider that should have been paid by the health plan.

"It's one of those things everyone will agree should not happen," Mr. Thompson said. Rather than just identifying this as a problem, the group wants to delve into the breakdowns in the processes that cause it to occur and then correct them. The overall idea of process improvement is to remove the root causes of errors, he explained.

See **Quality** *on page 34*

THE EIGHTH ANNUAL *Business Insurance* WORKERS COMPENSATION AND DISABILITY MANAGEMENT CONFERENCE

Productivity losses far more costly than benefits: IBI

By ROBERTO CENICEROS

MARINA DEL REY, Calif.—While employers traditionally focus on reducing the cost of employee benefits, evidence suggests it may be more important to understand how those benefits affect productivity, a speaker told the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference.

"You have to be smart about reducing medical costs. And it takes a new way of looking at non-occupational claims and the effect of medical treatment—not of itself but on return to work, on disability and on productivity," said William P. Molmen, general counsel for the San Francisco-based Integrated Benefits Institute.

Traditionally, corporate benefit managers and chief financial officers have placed great emphasis on controlling the cost of employee benefits, and it is easy to understand why, Mr. Molmen said. They understand how group health insurance plans work and that they can account for 84% of all benefit costs, making them a prime target for expense-reduction efforts, he explained.

But an understanding of the impact of employee benefits on productivity has been lacking and is just starting to emerge, Mr. Molmen said.

Two different IBI measures of employer absence-management data found that the cost of productivity losses are three times

See **Costs** *on page 18*

COVERAGE OF THE *BI* WORKERS COMP CONFERENCE CONTINUES ON PAGE 6

Shifts in workplace may boost liability

By MEG FLETCHER

MARINA DEL REY, Calif.—Employers need to be prepared to face new challenges and liabilities due to changing employment relationships and the emergence of an Internet generation of workers with non-traditional goals.

A traditional employment arrangement, in which a full-time worker is responsible to a single employer for the duration of his or her career, is increasingly being replaced by contingent employment arrangements. These include the use of independent contractors, leased employees and temporary employees, panelists said during the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference, held Oct. 16-18 in Marina del Rey, Calif.

"There is an evolution going on here," said Barry Thompson, the Hartford, Conn.-based national practice co-leader of Disability Management Services for Deloitte & Touche L.L.P. The trend is likely to continue, because "the war for talent is real" and employers are striving to employ and retain good workers, Mr. Thompson said.

As a result, risk and employee benefit managers need to educate themselves about these developments, so they are prepared to respond if their organizations decide to adopt such a contingent-employment approach. They also need to be aware of related concerns, including technological developments that allow for telecommuting, the impact of outsourcing, workers' desire to achieve work/life balance and challenges that insurers face in underwriting workers compensation coverage for contingent

See **Challenges** *on page 10*

Safety video helps Snap-on spread message

By JOANNE WOJCIK

MARINA DEL REY, Calif.—When Snap-on Inc.'s risk manager got a call to come talk to the company president, he immediately figured that he was in trouble.

Since he seldom had direct contact with the company's chief executive officer and the call came after 5 p.m. on a Friday, Dan Kugler, director of risk management for the Kenosha, Wis.-based tool manufacturer, expected the worst.

Instead, Robert Cornog, Snap-on's president, chairman and CEO, complimented the results of the injury reduction program at the company's manufacturing plant in Mount Carmel, Ill., which was developed by a cross-functional team from the risk management, manufacturing and distribution departments.

But the compliment came with a caveat: Mr. Cornog asked him to expand the program, which had targeted a single plant with just 350 workers, to all 120 of Snap-on's U.S. facilities, which collectively employ about 8,000 workers.

Mr. Cornog "said he wanted to get employees to live and breathe safety," as well as "to understand their rights and responsibilities under workers comp," Mr. Kugler recounted during the keynote presentation, "Security on the Road to Recovery," at the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference, held Oct. 16-18 in Marina del Rey, Calif.

Snap-on Tools

The Mount Carmel plant's experience was impressive, Mr. Kugler acknowledged. Between 1994 and 1999, the plant's claim frequency rate fell to 0.12 from 0.54, and injury costs per hour fell to 35 cents from $2.74. And today, less than 20% of comp claims are litigated, compared with 60% in 1994, according to Mr. Kugler.

Realizing it would be a tall order to attempt to duplicate this success companywide, Mr. Kugler sought advice from other large manufacturers in the Kenosha area.

He also tapped Mick McGavin, manager of workers compensation and safety at Johnson Controls in Milwaukee. Johnson Controls had developed a series of custom-made videotapes to communicate its safety effort to its employees companywide, Mr. Kugler explained.

But while Johnson Controls' communication series included three videotapes—one for employees at orientation, one for employees after an injury occurred, and one telling supervisors how to respond, Snap-on added a fourth version. In that tape, created for use by treating physicians, a Mount Carmel doctor unaffiliated with Snap-on shares his experiences dealing with the work comp system. That

See **Snap-on** *on next page*

Snap-on

Continued from previous page

tape is also used for independent medical exams.

The videotape series featured other testimonials as well, including several from injured workers and supervisors who related their experiences with the workers compensation system as well as Snap-on's temporary alternate duty program, which is used as a transitional step for injured employees returning to full employment.

"We asked supervisors to find success stories, but at least half of them said they didn't know if they had any. They also were concerned whether an employee would really talk about their experience," Mr. Kugler said.

Surprisingly, "we found that employees who had successful returns to work were more than willing to talk about it,' he said.

To reward those employees willing to talk on camera, Snap-on's safety team presented them with mini-Oscar statues.

'We found out that employees who had successful returns to work were more than willing to talk about it,' says Dan Kugler of Snap-On Inc.

Approximately 600 employees are injured on the job each year, costing the company $5.5 million a year, according to Mr. Kugler, who added that "Snap-on is self-insured in three states and large deduct plan in others, so we are essentially, in my mind, self-insured."

The videos stressed the importance of immediately reporting injuries, regardless of their severity.

"A lot of injuries may be near-misses, but they point out hazards," the narrator states.

The narrator also notes that sometimes employees' assistance in post-injury accident investigations can help Snap-on's engineers to redesign the equipment to be safer.

"The first priority is that we get you back to work," the narrator asserts. "Snap-on will be there to assist in your return to work; however you, the employee, are responsible for your return to work and for your recovery."

The videotape series also addressed fraud without straying from its positive message by explaining how "fraud can be as disturbing to workers as to management, costing the company in morale as well as financially," states the narrator. "It's considered by the company as theft of company assets and is prosecuted both criminally and civilly."

The objective of the videotape series was to use the experience of injured employees to communicate Snap-on's commitment to employee welfare and to establish an expectation of fair treatment in the event of a workers compensation injury, Mr. Kugler explained.

"We wanted to show that Snap-on's work comp program provides 'security on the road to recovery' with an emphasis on partnership between employees and the company," he said.

The three pillars of Snap-on's Workers Compensation Management System are:

- Establishing better corporate performance measurement standards that go beyond just claims reported to the Occupational Safety and Health Administration to include all claims that flow through the third-party administrator and establishing a cost per hour of each claim.
- Establishing claim/injury management standards including a written injury management manual and the communication program.
- Setting injury prevention standards by establishing behavioral safety programs developed and implemented locally by each facility that reward and recognize workers for safe performance.

Corporate risk management requires that the goals of each of these elements be in writing and be updated yearly, and that the BEST logo, which stands for "Building Employee Safety Together," be on everything distributed to employees and supervisors and any other participants in the workers compensation system.

"This conveys our safety first philosophy," Mr. Kugler said.

Corporate risk management also provides resources such as the services of safety consultants and loss control experts.

"They themselves design it, and the complaint that there's no money is eliminated," Mr. Kugler said.

This financial commitment from upper management, coupled with the videotape communication series, gives "a positive message to reduce the fear factor, while also providing information on the rights and responsibilities of each party, training supervisors and managers in their proper roles, explaining temporary alternate duty and giving the message we *need* you back," he said. BI


People@Work℠ When employees are out sick or injured, you can feel completely abandoned. That's why Wausau created People@Work℠. This comprehensive program helps you quickly and efficiently report and deal with work-related illnesses and injuries. Which reduces the costs of insurance, hiring and training. Not to mention litigation. It also helps reduce injury severity rates and diminishes the likelihood of fraud or abuse. So you save money. And your employees aren't left out in the cold.
Wausau Insurance Companies • 2000 Westwood Drive, Wausau, WI 54401 • www.wausau.com • A+ A.M. Best Rating
What can we do to help you?

Technology has shaped claims administration

By JOANNE WOJCIK

MARINA DEL REY, Calif.—Workers compensation claims administration has come a long way since the advent of the computer.

"When I first began in claims, there wasn't a computer in sight," recalled Rick Duggan, manager of workers compensation at Walt Disney Co.'s West Coast operations in Anaheim, Calif.

"If you wanted to research a claim, you went to a long file cabinet of cards, like in the library. You'd physically have to go to find the files, etc. There was no e-mail; letters and correspondence were received the old-fashioned way, via U.S. Mail. You could hear typewriters, and we stocked whiteout by the gallon," Mr. Duggan said.

"Then came the fax machine," he said, and today, "technology has a foothold in claims management. We have laptops, we have Palm Pilots, we have cell phones, we have (electronic data interchange), document imaging and the Web."

But whether all this technology will improve workers compensation claims administration "depends on how you use the tool—and technology is a tool," Mr. Duggan stressed during a session on technology at the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference, held Oct. 16-18 in Marina del Rey, Calif.

"There's still no substitute for having dedicated claims professionals. But if you layer technology on top of that, then you can have great results," he said.

"What does the employer want at the end of the day? To be able to get into the Internet and create its own reports on where injuries happened and why, establish benchmarks against its own experiences and spit it out with usable reports," said Bill Granahan, senior consultant and practice manager for Milliman & Robertson Inc. in Wakefield, Mass.

Unfortunately, the technology source that many employers had counted on to develop workers compensation disability management systems—the insurance industry—hasn't been in any shape to do it, so employers have turned to technology vendors, many of which know little about the insurance world, Mr. Granahan said.

Insurers and health maintenance organizations "have given up on developing managed work comp systems," Mr. Granahan said. "They're too concerned about profitability to develop new products. Also, their own claims systems are so antiquated that they need to spend money updating these."

Although dealing with non-industry vendors may be frustrating at first, employers should not give up on them just yet, said Cheryl Tuttle, account manager in the insurance and consulting group at Computer Sciences Corp. in Jackson, Miss.

Technology firms like CSC need feedback from end users to help them develop and improve their systems, Ms. Tuttle explained.

"When we talk to prospective clients, everybody knows the buzzword 'the Web,' but nobody knows what they want on the Web," she said. "And a lot of clients want to take their old system and put it into their new system. They think tech is going to take care of all their problems. But tech is only as good as the user."

"You really have to have your own house in order and examine what you do and why you do it before you seek a way to do it with technology," Mr. Duggan agreed.

For example, sometimes employers may find when they switch to a new system that they don't even need to perform certain functions they were required to do with their old systems, he explained. "Do you even need to do it in the first place?" he asked.

Ms. Tuttle advised users of new technology to "step back, use the system for six months, and see how you like it before we make it into your old system. Maybe a new way is a better way." BI

THE EIGHTH ANNUAL Business Insurance WORKERS COMPENSATION AND DISABILITY MANAGEMENT CONFERENCE

OPINIONS

Court should hear RRG appeal

The U.S. Supreme Court has an opportunity to clarify once and for all the relationship between the federal Risk Retention Act and state financial responsibility laws.

We hope, for the sake of insurance buyers nationwide who depend on these arrangements, that the court agrees to review the case. We expect that, upon examination of the law, the justices will affirm the intent of Congress in allowing businesses and professionals to band together to insure their risks free from state regulatory bias, such is at issue here.

In the case at hand, Oregon insurance regulators are asking the Supreme Court to review a federal appellate court ruling that the state was in violation of the federal Risk Retention Act. Oregon requires auto dealers in the state to buy reimbursement coverage for service contracts they offer customers from insurers "authorized" to do business in the state. To be considered authorized, an insurer, in addition to meeting other requirements, must participate in the state guaranty fund. The federal Risk Retention Act, however, bars the groups from participating in state guaranty funds, effectively barring risk retention groups from writing warranty coverage for dealers in the state.

Oregon, which maintains that the Risk Retention Act does not pre-empt state financial responsibility laws, argues that it is merely trying to protect consumers. There are, though, plenty of ways to do that without resorting to a yardstick that clearly discriminates against viable risk financing alternatives. We would have no problem, for example, if Oregon, in the name of consumer protection, required auto dealers to purchase reimbursement coverage from insurers with a certain amount of capital and surplus. But laws that automatically exclude risk retention groups from a market, as the Oregon law does, clearly violate the Risk Retention Act and do little to protect consumers. Under Oregon's law, a top-rated risk retention group could not write reimbursement coverage but a poorly rated "authorized" insurer could. That doesn't make much sense to us.

National Warranty Insurance Co. RRG, a Risk Retention Group, challenged the state's requirement, rightfully calling it discriminatory. The group won its argument at the trial court level and also when the 9th U.S. Circuit Court of Appeals upheld that decision.

This is an issue that has dogged risk retention groups for years. In 1995, for example, a similar case involving a Florida requirement imposed on risk retention groups worked its way through the federal court system. In that earlier case, the federal courts

upheld Florida's law. Unfortunately, the Supreme Court declined to review that appellate court ruling.

Now that another federal appeals court has issued a contrary opinion, we hope the Supreme Court takes this chance to set the record straight.

Otherwise, there will continue to be litigation over this issue. This will be true nationwide, as other states seek to impose regulations that violate the federal law, as well as in Oregon, which continues to apply its requirements to all but the risk retention group that successfully challenged its approach.

This legal uncertainty and expense only adds to the cost of risk for group members—buyers whom Congress sought to protect when it enacted the federal Risk Retention Act. State regulators' rigid insistence that such rules be applied to risk retention groups also seems to run contrary to the concepts—which have otherwise been widely embraced by regulators—of greater flexibility for sophisticated insureds. Surely, groups of buyers who band together to insure their own risks fall into this classification.

The Risk Retention Act had its origins in the last hard market, and as the current market again shows signs of firmer pricing, it will be needed more than ever.

Now is the time, therefore, for the Supreme Court to affirm the Risk Retention Act's pre-emption and ensure that the groups remain a viable risk-financing alternative to the traditional market.

LETTERS

Ergonomics rule a tax on business

To the editor: In his Oct. 23 Perspective, "Ergonomics Good For Business," OSHA Assistant Secretary of Labor Charles Jeffress stressed his agency's good intentions but avoided answering the substance of the business community's and their insurers' concerns with proposed new ergonomic regulations.

While we do not question the sincerity of all involved, there are a number of flaws in the agency's draft regulation, which would create substantial difficulties for companies and their insurers.

In direct violation of the OSHA act, the ergonomic regulations would pre-empt the states' role by creating a parallel and competing federal system of workers compensation.

The current draft regulation would impose new federal requirements on employers to pay workers with ergonomic injuries a larger benefit than is typically provided under state workers compensation (90% taxable vs. 66.6% non-taxable wage replacement).

OSHA's proposed regulations specify a different method of injury evaluation than that called for in state systems. Workers' ergonomic injuries would be evaluated solely by one health care provider chosen by the employee. Clearly, these rules could discourage return to work and end up costing employers millions more in compensation.

These regulations are, in essence, new taxes on businesses.

Regulatory taxes of this magnitude create enormous burdens on the employer community. The era of a "command and control" approach to regulation should end, replaced by cooperative models in which business, labor and government work together to reduce workplace injuries.

Furthermore, it is premature for OSHA to put into place such far-reaching regulations before the National Academy of Sciences has even had an opportunity to submit to Congress its conclusions on the core issue. In just a few months we should have the Academy's findings on whether scientific evidence supports a cause-and-effect relationship between repetitive tasks in the workplace and musculoskeletal disorders or repetitive stress injuries.

Lastly, we believe that because of the cost and administration required, the proposed regulation will not achieve its objective of reducing repetitive stress injuries.

David Farmer
Senior Vp of Federal Affairs
The Alliance of American Insurers
Washington, D.C.

Business Insurance®

Reporting weekly on corporate risk, employee benefit and managed health care news

Vice President/ Publisher/Editorial Director:	Kathryn J. McIntyre, ARM *(Chicago)*
Vice President/ Associate Publisher/Advertising Director:	Martin J. Ross III *(New York)*
Editor:	Paul D. Winston *(Chicago)*
Editor-at-Large:	Jerry Geisel *(Washington)*
Managing Editor:	Regis J. Coccia *(Chicago)*
Graphics Editor:	Kathy L. Barnes *(Chicago)*
Senior Editors:	Meg Fletcher, ARM *(Chicago)*
	Judy Greenwald *(San Jose)*
	Dave Lenckus *(Tucson)*
	Douglas McLeod *(New York)*
	Joanne Wojcik *(Denver)*
	Rodd Zolkos *(Chicago)*
Washington Editor:	Mark A. Hofmann *(Washington)*
Bureau Chiefs:	Roberto Ceniceros *(Los Angeles)*
	Gavin Souter *(New York)*
	Edwin Unsworth *(London)*
Associate Editors:	Michael Bradford *(New Orleans)*
	Michael Prince *(New York)*
	Sally Roberts *(Denver)*
	Sarah Veysey *(London)*
Staff Reporter:	Lee Fletcher *(Chicago)*
Directory Editor:	Kevin P. Edison *(Chicago)*
Assistant Directory Editor:	Michel Schwartz *(Chicago)*
Copy Editors:	Dermot Connolly *(Chicago)*
	Mary B. Nick *(Chicago)*
	Matt Scroggins *(Chicago)*
	Joe Walker *(Chicago)*
Assistant Graphics/Online Editor:	Amy R. Kepka *(Chicago)*
Editorial Assistant:	Shirley Henry *(Chicago)*
Assistant to the Publisher:	Karen Brown Tucker *(Chicago)*
Editorial Cartoonist:	Roger Schillerstrom *(Chicago)*
Midwest Advertising Manager:	Robert L. Niesse *(Chicago)*
Eastern Advertising Manager:	Blake Delany *(New York)*
District Managers:	Karen Cosco *(New York)*
	Robert B. Murray *(New York)*
	Deborah D. Neale *(Chicago)*
	Jennifer Powers *(Boston)*
	Allison Sidorsky *(New York)*
Classified Advertising Manager:	Irais Amleshi *(Chicago)*
Sales Assistant:	Lori Lieberman *(Los Angeles)*
Production Manager:	Cheryl Magiera *(Chicago)*
Director of Communications:	Ronnie I. Drachman *(New York)*
Promotion Manager	Elizabeth F. Ostow *(New York)*

EDITORIAL:	Chicago:	312-649-5398
	Denver:	303-698-7601
	London:	207-457-1400
	Los Angeles:	323-370-2455
	New Orleans:	504-364-1908
	New York:	212-210-0100
	San Jose:	408-774-1500
	Tucson:	520-579-1937
	Washington:	202-662-7200
ADVERTISING:	Chicago:	312-649-5276
	New York:	212-210-0228
	Los Angeles:	323-370-2456
COMMUNICATIONS:	New York:	212-210-0132
SUBSCRIPTIONS:	Detroit:	888-446-1422

Business Insurance is published by Crain Communications Inc.

Keith E. Crain, **Chairman**
Rance Crain, **President**
Merrilee Crain, **Secretary**
Mary Kay Crain, **Treasurer**
William A. Morrow, **Executive Vice President/Operations**
Robert C. Adams, **Group Vice President/Technology, Circulation, Manufacturing**
Peter Johnson, **Vice President/Circulation**

G.D. Crain Jr., *Founder (1885-1973,*
Mrs. G.D. Crain Jr., *Chairman (1911-1996)*
S.R. Bernstein, *Chairman-executive committee (1907-1993)*

Published weekly at 740 N. Rush St., Chicago, Ill. 60611-2590, Fax 312-280-3174, E-mail: biweb@crain.com, Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax 212-210-0704, CRAIN COM NYK; 473 Fairfield Ave., Gretna, LA 70056, Fax 504-364-1337; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax 202-638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947, Fax 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax 408-774-1155; New Garden House, 78 Hatton Garden, London EC1N 8LD England, Fax 207-457-1440; 8157 N. Torrey Way, Tucson, Ariz. 85743, Fax 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214; Fax 303-733-2244. $4 a copy and $89 a year in U.S. $108 in Canada and Mexico (includes GST). All other countries $209 a year (includes expedited air delivery). DON MIERENDORF, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 888-446-1422 or 313-446-0450, Fax 313-446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-254-0890. For reprints or reprint permission contact: KAREN BROWN TUCKER, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312-280-3174.

www.businessinsurance.com

BPA ABM

TO SUBSCRIBE CALL 888-446-1422 • 313-446-0450 outside of the United States

Challenges

Continued from page 3
employees.

The number of employers involved in innovative, non-traditional employment relationships is growing, especially internationally, said Jeffrey W. Pettegrew, vp-insurance and risk management for Westaff in Walnut Creek, Calif., which primarily operates as a third party overseeing contracted temporary workers. He is responsible for the corporate self-insured workers compensation program, loss control, general liability, property, fidelity and employee benefit program for more than 300,000 employees in seven countries. The company's temporary employees are contractually assigned to more than 30,000 corporations and public entities.

Currently, about 12.5 million people in the United States are considered non-traditional workers, holding jobs that "range literally from ditch diggers to chief executive officers," said Mr. Pettegrew. They are categorized in a variety of ways, including independent contractors, leased employees or temporary workers.

Helping to oversee those workers are 7,000 temporary staffing companies in the United States and 2,000 leasing companies, he said. In addition, the outsourcing industry is growing at an average rate of 11% per year.

Using a contingent workforce offers employers several advantages, including reducing the amount of time and money spent handling employee recruitment and screening, employee benefits and other related paperwork, and relations with with labor unions, he said. In addition, employers are usually not required to have workers compensation or any federally mandated insurance coverages, because that is typically the responsibility of the third-party company overseeing the workers, Mr. Pettegrew said.

However, using contingent workers can be interpreted as a "co-employment" relationship that can be a potential "minefield," he said. Problems, especially for third-party companies, can stem from many sources, including litigation over the status of independent contractors and the need to comply with several state and federal statutes regulating wage and hour rules, workers comp and employers' practices.

Mr. Pettegrew also outlined several strategies that employers and third-party companies can use to avoid those minefields. They include requiring a written contract that spells out responsibilities and indemnity provisions, being named as additional insureds, defining the time and scope of outsourced assignments, outlining screening and training responsibilities, educating supervisors and closely supervising outsourced workers.

He also urged that employers ensure that they are properly classified for workers comp insurance purposes.

The growth of contingent employment arrangements has posed new problems for determining appropriate workers comp rates for the employers and third-party companies involved in such arrangements, said Jim Nau, general manager-workers compensation residual markets for the National Council on Compensation Insurance in Boca Raton, Fla.

The National Assn. of Insurance Commissioners tried to resolve the problem a decade ago for the voluntary market by letting insurers write coverage using one master policy and add endorsements containing clients' names.

Most states have adopted this "customer-friendly" approach, though it has created "a breakdown" in parts of the traditional workers compensation system. It makes it more difficult for groups such as the NCCI to track losses used in determining individual employers' experience ratings. It also makes it difficult for state workers comp agencies to ensure that employers have workers comp coverage, which is required in nearly every state.

Regulators, however, adopted a different approach for residual markets, which are markets of last resort for employers that cannot find coverage elsewhere. In that market, insurers are allowed to issue "multiple coordinated policies," which consist of an individual policy for the third-party employment company and one for each client—all typically sharing a common effective date.

The advantage of such a policy is that rating organizations and regulators can track an employer's specific loss experience for the purpose of determining its appropriate experience-rating modifier. However, it is "tremendously cumbersome," Mr. Nau said.

The NCCI, an information company that calculates experience modification factors, is especially concerned about the accurate reporting of losses.

"The challenge is to continue to move forward toward uniformity," Mr. Nau said.

David J. Thompson, work/life strategy manager at Microsoft Corp. in Redmond, Wash., said that employers must be prepared to move beyond traditional property/casualty and benefit concerns when they are dealing with the "Net generation"—his term for younger workers who significantly rely on the Internet as a mode of communication.

Currently, about 12.5 million people in the United States are considered 'non-traditional workers.'

Employers need to be aware that the elements important at worksites today are knowledge rather than capital, flexibility rather than power, retention rather than recruitment, and service rather than product, he said.

The "external business drivers" today are this emerging Net generation and customers' demand for added value and greater service, Microsoft's Mr. Thompson said.

For example, the Net generation's expectations are "very different," and a 401(k) benefit plan "means nothing," he said.

Surveys have shown that those employees are especially interested in the growing number of flexible work arrangements, which are especially popular in Europe, he said. To retain the loyalty of such employees, employers will need to significantly increase the flexibility of work arrangements, he said.

Microsoft's Mr. Thompson suggested that an employer ask an employee seeking added flexibility to write up a proposal that describes how his or her new program would work and fit in with company operations. In addition, he recommended that the employee be asked to explain how the outcomes of the program could be measured. BI

Privacy efforts may hinder workers comp system

By JOANNE WOJCIK

MARINA DEL REY, Calif.—Employers should be wary of proposed federal regulations and new state laws seeking to protect the privacy of medical records, workers compensation experts say.

"We have some major concerns about the unintended consequences of these laws and their additional costs," said Terrence Delehanty, general counsel for the National Council on Compensation Insurance Inc. in Boca Raton, Fla.

"It's important that the business community know about it and how it will impact you and your company," agreed Eric Oxfeld, president of the Washington-based UWC Inc., a national business association that lobbies on workers comp and unemployment issues.

"Employers have to know what's at stake and speak out. As my father used to say, 'You can open your mouth, or you can open your pocketbooks,' " Mr. Oxfeld said during a panel discussion at the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference, held Oct. 16-18 in Marina del Rey, Calif.

THE EIGHTH ANNUAL Business Insurance. WORKERS COMPENSATION AND DISABILITY MANAGEMENT CONFERENCE

Although most of these proposals don't explicitly address workers comp, they may indeed apply to such claims, Mr. Oxfeld said.

And even if they don't apply to workers comp insurers, adjusters and the like, the privacy protections do apply to medical providers, he pointed out.

The proposals also could hinder employers' attempts to integrate occupational and non-occupational disability management, pointed out William P. Molmen, general counsel for the Integrated Benefits Institute in San Francisco.

"Pay careful attention to what the Department of (Health and Human Services) publishes in the next few weeks," Mr. Oxfeld advised. "If the medical provider cannot give you timely, complete information, it doesn't matter whether you have to protect it if you can't get it in the first place."

The Health Insurance Portability and Accountability Act of 1996 stipulated that if Congress did not enact comprehensive national medical record privacy standards by Aug. 21, 1999, the Department of Health and Human Services would promulgate regulations by Feb. 21, 2000. It missed that deadline, however, and is expected to issue final regulations by the end of the year. So far, HHS has received more than 40,000 comments on its proposed regulations, which were released in October 1999.

In addition to the new HHS privacy regulations, 600 state medical privacy bills and 34 federal bills have been introduced, Mr. Delehanty pointed out.

The penalties for violating the various proposed laws would be onerous, he said, ranging anywhere from a $50,000 fine and one year in prison for wrongfully disclosing personal information for personal gain, to as high as a $250,000 fine and 10 years in prison in some cases.

Notwithstanding these penalties, the privacy laws would certainly lead to higher workers compensation costs, said Thomas A. Dare, general counsel for Kemper National Services Inc. in Plantation, Fla.

Under the proposed HHS regulations, "every time there's a handoff of information, you have to get a new authorization from the claimant," he said. "So you can see very quickly how some of these privacy laws will have a dramatic impact on the cost of filing claims" and on the amount of time it will take to resolve them.

While some of the proposals would allow workers comp claimants to sign releases waiving their privacy rights, "you still would have to have multiple authorizations from workers" to obtain medical information, Mr. Oxfeld said.

"The problem is, chasing after the worker to get a signed authorization is going to be a huge problem," he said.

'It doesn't matter whether you have to protect (information) if you can't get it in the first place,' says Eric Oxfeld of UWC.

It also will be difficult to determine the scope of the authorization, he said.

"If one of the uses is not covered, you're handing the worker and their attorney a barrel that they can hold you over to inflate the settlement value of the claim," Mr. Oxfeld asserted. "So this has a potential to be a real nightmare."

Some of the proposals also impose time limits on the authorizations, limiting them to, for example, 30 or 60 days, pointed out Mr. Dare.

Historically, there has been a distinction between how medical information is handled in workers compensation cases and how it is dealt with in non-occupational medicine. Employees who file workers compensation claims have, essentially, given up their right to privacy, because medical information must go to third parties—including the employer, insurers and adjusters—to expeditiously resolve the claim, Mr. Dare explained.

But this free flow of information may be interrupted if federal and state lawmakers apply privacy laws with a broad brush, Mr. Dare asserted.

As if recognizing this concern, lawmakers in Hawaii delayed for one year the effective date of the state's new medical privacy law, Mr. Delehanty pointed out.

That law, intended to protect an individual's right to privacy of personal health information—including health care and health status—was passed in 1999 and was supposed to take effect last month. But the law has been suspended until July 1, 2001, to give lawmakers time to resolve confusion it has raised among medical providers, hospitals and workers comp insurers.

"We need to maintain the distinction between exchanging information and the use of that information," Mr. Dare said. "Information only should be shared with those who have a need to know. The idea is not to post someone's injury out on the Internet."

Mr. Delehanty moderated the panel discussion. BI

Different degrees of fraud demand flexibility

By ROBERTO CENICEROS

MARINA DEL REY, Calif.—Understanding the difference between serious workers compensation fraud and simple abuse of the system is critical to waging an effective battle against claims fraud.

Risk managers shouldn't allow claims handlers and company production managers to assume that every claimant is guilty of fraud, several experts told attendees of the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference, held here Oct. 16-18.

Such an attitude can send employees to attorneys or result in additional, unnecessary medical care and time away from work, they said. It can also lead to a waste of time and money, with resources spent needlessly on investigations and employee surveillance.

To minimize wasted effort, it is crucial to educate claims handlers to instill in them an appropriate attitude about fraud and abuse, said Tim East, manager of risk management business process for The Walt Disney Co. in Burbank, Calif.

After years on the job, claims handlers often become increasingly skeptical and want to probe deeper into cases. "That is good," Mr. East said. "But you can't allow claims adjusters or claims administrators to develop the attitude that all claimants are frauds or to bring that suspicion to every claim," he said. If claims staff do develop such an attitude, injured workers "are going to pick up on that, and there is going to be a negative reaction."

At Kmart Corp., supervisors have different approaches in regard to investigating comp claims, said L.A. "Andy" Casto, director-workers compensation for Kmart in Troy, Mich. Some supervisors are reluctant to deal with workers comp claims, while others want to get involved in every case and too often believe that an injury is the employee's fault. The managers also are mindful of the company's policy of charging back claim costs to individual departments.

"It's very important that you spend time with your managers so they understand that, for one thing you are spending their money," Mr. Casto said. Managers also should understand "what they are looking for...and to not have a conspiracy-theorist attitude about every claim."

Anshell J. Boggs, corporate workers compensation and safety manager for Pep Boys in Philadelphia, said his department works to ensure that the company's operations managers understand that if employees suffer a legitimate injury at work, they have benefits to take care of them. Although Pep Boys does not tolerate fraud, it does not want to send injured employees a message that it does not trust them, Mr. Boggs said.

There often is a fine line between fraud and abuse, the experts said, and the understanding of what constitutes fraud may differ from one company or investigator to another. Consequently, it is important for a company's managers to understand its attitude and understanding of the matter.

At one end of the spectrum, there is "out-and-out fraud," Mr. East said. At the same time, there are social, cultural or workplace issues that may influence a worker into extending a period of disability, sometimes unconsciously, he said.

"So to a certain extent, we need to be sensitive, to be able to distinguish between a truly fraudulent claimant and those that are maybe extending disability, but it's not out-and-out fraud," he said.

As a result, an employer must develop clear and specific criteria that establish when additional investigation or surveillance is warranted, Mr. East said. If a claim does not appear to be genuine fraud, another approach, such as intervention by a case manager, may be appropriate, speakers noted.

"One of the most important things to educate claims adjusters about is that investigations should have a tangible and clear and precise objective," Mr. East said.

Mr. East said he looks for three things when trying to determine when a case requires further investigation. They are:

- Prolonged, passive treatment methods with no indication of improvement.
- Doctor visits that do not result in improvement.
- Repeated exacerbation of the injury. That is an indication the person's job is beyond their physical limitations or that he or she is engaged in social activities beyond those limitations. One employee called Mr. East about a knee injury and asked whether he could get a benefits extension because jet skiing added to his discomfort, Mr. East said.

Investigating every case is impractical and will produce few good results, said Timothy Fargo, president of Omega Insurance Services, a St. Petersburg, Fla.-based claims surveillance company. How much value is obtained from such tactics will depend on how well an employer knows the claim before deciding to investigate, he said.

One step an employer can take is to ensure that its third-party administrator or insurer has a specific person dedicated to referring fraud cases to prosecutors, Mr. Fargo said. Often, fraud cases do not get referred to prosecutors because no one has been assigned to track the case and see that it is handled properly. It also is important to make sure that cases are well documented, he said.

Because it can be costly to make mistakes when investigating fraud, Mr. Boggs has made it a priority to meet with the top managers of Pep Boys' TPAs to ensure that both parties have a common attitude toward the matter.

"The cost associated with (mistakes) you may not see today," he said. "But you will see it over time. Whether it's turnover, whether it's employees getting an attorney quicker—there are costs associated with mistakes."

Mr. Fargo served as moderator for the session. BI

Award-winning ergonomics programs share tips

By MEG FLETCHER

MARINA DEL REY, Calif.—One of the keys to developing a state-of-the-art ergonomics program is to focus on continuous and long-term improvement, say experts involved with crafting an employer's award-winning program.

Seattle City Lights, a public utility based in Seattle, recently won the Center for Office Technology's annual Outstanding Office Ergonomics Award for public entities (*BI*, Oct. 16). Prudential Insurance Co. of America won the COT's award to private-sector companies.

Achieving continuous improvement requires a change in approach for many companies, said Steve M. Davis, a consulting ergonomist with StewartPrezant Ergonomics Group in Seattle, who formerly worked for the utility.

Companies must move from a "reactive" mode, in which large numbers of ergonomics claims requiring medical intervention drive excessive costs, to a "proactive" mode, in which pre-claims management and workplace intervention reduces the severity of these claims and their costs, he said.

Ultimately, a company's long-term goal should be injury prevention through an integrated process that also strives to contain costs, he said.

To achieve that goal, a company must remember that the goal of any ergonomics program should be to "design work to fit the capabilities and limitations of workers," said Diane Lee, an ergonomist with the utility's Safety and Health Team.

THE EIGHTH ANNUAL
Business Insurance
WORKERS COMPENSATION AND DISABILITY MANAGEMENT CONFERENCE

When that is not done, workers may experience ergonomic-related injuries and illnesses, including disorders involving tendons and trapped nerves as well as sprains and strains, these and other panelists said during a presentation at the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference held Oct. 16-18 in Marina del Rey, Calif.

Developing a good ergonomics program requires planners "to do your homework and plan for success," Mr. Davis said.

That includes knowing what to measure so that cost/benefit analyses can be made, he said. Those factors should include tallying workers comp claims and associated costs; monitoring cumulative injuries separate from acute ones; and calculating the frequency and severity rates of injuries.

Other items that should be measured include surveying workers for symptoms; documenting findings and solutions; and performing follow-ups on programs to validate the use and effectiveness of ergonomic controls.

An action plan should include plans to benchmark results against other organizations; analyze injury trends and establish priorities; create awareness and support; identify roadblocks; establish early reporting procedures; provide for timely intervention of solutions; and being able to justify costs to validate solutions.

"Building in-house expertise" is a critical component of a successful program, said Pamela Faccone, an exercise physiologist with Prudential Insurance Co. of America in Parsippany, N.J.

After evaluating alliances and resources, managers of both award-winning ergonomics programs realized they had access to good expertise and could share resources through the formation of ergonomics teams. That allowed the programs to share costs, but created some concerns about determining accountability, she said.

'Start small and take small steps' when developing ergonomics programs, says Dolores Nizich.

In-house expertise also can be developed through training, especially when a previously injured worker takes on a "discipleship" role to help co-workers avoid injuries. In addition, the concept of "training the trainer" works in some places but not others, Ms. Faccone said.

Companies that are implementing ergonomics programs should consider a "hierarchy of approaches" beginning with engineering controls that reduce or eliminate hazards for workers, said Elizabeth A. Grosh, a loss control specialist with Prudential.

Such approaches can include corner workstations, elevated working tables or purchasing highly adjustable chairs, panelists said. Several said they preferred an easily adjustable chair, particularly one made by Steelcase Manufacturing Co. that includes a moveable seat. However, "there are plenty of good chairs out there," Mr. Davis said.

Some companies have been able to control workers' efforts to self-diagnose their ergonomic ailments by physically blocking their ability to order devices like wrist splints from a supply catalog used by the company, Ms. Faccone said.

For companies that wish to implement an effective ergonomics program on their own, panelists prepared a list of do's and don'ts.

The "do's" are: establish realistic goals; establish a road map; get management support; encourage employee responsibility; create flexible solutions; document and measure; develop alternative plans; and make allies, not enemies.

The "don'ts" are: move too quickly; be deterred by lack of management support; say it can't be done; be deterred by lack of money; make the process complicated; and ignore office internal politics.

"Start small and take small steps," urged Dolores Nizich, the utility's safety and health manager.

That approach can lead to big savings, which amounted to an estimated $827,000 savings in workers comp and return to work costs in 1999, she said.

Prudential's Ms. Grosh moderated the session. BI

Survey evaluates disability management systems

By JOANNE WOJCIK

MARINA DEL REY, Calif.—Reductions in overall claim costs and the effectiveness of disability management programs in returning workers to pre-injury functioning will be the focus of most workers compensation performance measures in the next few years, a new survey shows.

The survey also found that the five key stakeholder groups—employers, claims payers, health care providers, managed care providers and consultants—plan to measure the effectiveness of their disability management systems with regard to several factors. Those factors are: reducing the number of lost-work days; reducing the frequency of lost-time claims; increasing claimant satisfaction; increasing employer satisfaction; and complying with state and federal regulations.

These were the findings of the second annual survey by the Journal of Workers Compensation on "Measuring Managed Care Performance for Workers Compensation," which were distributed at the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference, held Oct. 16-18 in Marina del Rey, Calif.

THE EIGHTH ANNUAL
Business Insurance.
WORKERS COMPENSATION AND DISABILITY MANAGEMENT CONFERENCE

The Journal began the survey in 1999 to develop benchmarks for workers compensation managed care. This year's survey also asked respondents to list the measurement techniques they likely would use in their efforts.

The Journal received a total of 297 responses to the 2000 survey, which asked companies what factors they are currently measuring, as well as what they plan to begin measuring within the next three years. Of the respondents, 90 were from employers; 65, claims payers, including third-party administrators and insurers; 45, health care providers; 21, managed care providers, eight, brokers; 38, consultants; and 30, other, including regulators.

In each of the categories except health care providers, at least 95% of respondents indicated that they are measuring or will measure overall claims costs. The figure was 76% among health care providers. While the favorite method for measuring these reductions was to look at claims frequency, the survey authors suggested that this is a flawed indicator.

"The frequency rate does have the virtue of being easy to understand and easy to determine. But the cost of claims is driven more by the severity—not the frequency—of claims," suggested the authors, Peter Rousmaniere, director of business development at Delphi Technology Inc. in Cambridge, Mass.; and Maddy Bowling, assistant vp for medical services operations at The Hartford Financial Services Group Inc. in Chicago.

Also, with health care providers again being the exception, at least 90% of respondents in each of the other groups said they are measuring or will begin measuring reductions in the number of lost-work days. Eighty-five percent of the health care providers said they planned to use such an approach to measure the effectiveness of programs.

With regard to measuring reductions in the frequency of lost-time injuries, 73% of health care providers said they were using or planned to adopt such an approach. For each of the other respondent groups, however, that figure was at least 85%.

The preferred approaches were to calculate the ratio of lost-time to total claims and to measure the utilization rate of modified duty.

"These responses suggest that stakeholders have come to recognize that modified duty must be implemented quickly to prevent an injury from becoming a lost-time injury," the survey's authors observed.

At least 85% of the respondents in each of the groups surveyed said they are measuring or will be measuring the effectiveness of their disability management programs in returning workers to pre-injury functioning.

But while the stakeholders agree that returning workers to pre-injury functioning is one of the chief goals of workers comp programs, there was no consensus as to how it should be measured. Respondents reported a relatively wide range of measurement techniques, including utilization of modified duty, duration of modified duty and physical-capacity testing.

"The wide range of techniques used may suggest the difficulty of reducing this measurement to numbers," the survey's authors said. "The goal of returning workers to pre-injury functioning is not easy to measure as few, if any, claims and medical case management systems specifically record information about the job to which the injured worker returns.

"Consequently, a true assessment of whether a worker has been restored to pre-injury functioning will be difficult to make without a more determined and coordinated effort to capture and report the needed information."

Consultants and managed care providers were much more likely to measure claimant satisfaction than were employers, claims payers and non-managed care health care providers. Eighty-four percent of consultants and 81% of managed care providers said they were using or would use this performance measure. By contrast, 74% of employers, 71% of health care providers and 65% of claims payers said they were using or would use this measurement.

Consultants and managed care providers also were more likely to say they would make measurement of employer satisfaction a priority in the next three years. Ninety-five percent of consultants and 90% of managed care providers said they were using or planned to use this measurement. By comparison, just 74% of claims payers and 84% of other, non-managed care providers said they would use this measurement. Employers were not asked to respond to this question.

With regard to measuring satisfaction, interviewing claimants while their claims were active and conducting annual surveys of employers were the preferred approaches.

At least 74% of respondents in each of the stakeholder groups said they are measuring or will be measuring compliance with state and federal regulations. The preferred measurement techniques included internal and external reviews of compliance.

The survey will be published in the Fall 2000 issue of the Journal of Workers Compensation. Those interested in participating in the next survey should contact Mr. Rousmaniere via e-mail at *pfr@rousmaniere.com* and ask to be included. BI

Let's face it, some insurance customers are more valuable than others.
Are you treating them all alike?

Introducing Relationship Technology™ Solutions from NCR, the power to know.

Relationship Technology Solutions. With them, you'll know on a day-to-day basis which customers are most valuable. So that with every transaction — every claim, renewal, maturity, change of address, valuation request and more — your distribution channel will be able to give those customers the attention they deserve. Which can help increase sales. That's the awesome power of a TERADATA™ Active Data Warehouse from NCR. The ability to identify your most profitable customers and then tailor your products to meet their needs and preferences. So you build trust and loyalty while you're building sales. It's time to let your most valuable customers know that you value their business. Visit www.teradata.com today and get your TERADATA Knowledge Pack. We give you the power to know.

DO YOU KNOW

DO YOU KNOW

DO YOU KNOW

NCR

Costs

Continued from page 3

greater than the cost of providing employees with group health, disability and workers compensation benefits, Mr. Molmen said. Productivity costs can include lost revenue and the cost to employers for maintaining redundant employees who would not be necessary if other employees did not miss work.

The IBI findings show that controlling medical costs per se is not as important as managing productivity losses, Mr. Molmen explained. Employers can manage medical costs, but they should do so with an eye toward how the management of disease will affect lost time and productivity.

Some employers already may be headed down that road. A first step lies in integrating benefits, with the goal of reducing productivity losses, said speakers who participated in a panel discussion on "Strategies for Reducing Health Care Costs" at the conference, held Oct. 16-18 in Marina del Rey, Calif. Employer concern about absence management and the cost of lost productivity are creating interest in the integration of occupational and non-occupational employee benefits, they said.

One IBI survey of 800 employers found that 45% now integrate benefits or are exploring the option of doing so. Nearly 30% of that 45% are actually integrating benefits. In addition, 80% of the largest employers in the survey said they are interested in the topic, and 28% of smaller employers—those with fewer than 100 employees—indicated that they are interested.

IBI findings also show that employers would like to integrate group health coverage among the other benefits that affect time away from work, Mr. Molmen said.

Currently, the most-common description of integrated benefits management includes the bundling of services for long-term disability, short-term disability and workers compensation programs, said Archie Simons Jr., president and chief executive officer of Synchrony, an integrated benefits company launched jointly by Metropolitan Life Insurance Co. of New York and Travelers Insurance Co. of Hartford, Conn.

Increasingly, there is more discussion among employers about absence management, Mr. Simons said. Among factors driving that discussion is the desire for greater employee retention and the high cost of replacement workers in a tight labor market.

Within the past 12 to 18 months, more employers have expressed a desire to bundle other absence management services. That includes the collection and management of data for employee lost time stemming from factors such as the Family and Medical Leave Act, he said.

The market, meanwhile, is reacting to the increased demand for integrated services, Mr. Simons said. More brokerage services are combining their risk management practices with their benefit consulting units.

"I think that is, in large measure, because they see customers moving in that direction," Mr. Simons said.

Another technique for reducing health care costs relies on reviewing benchmarks for claims outcomes and profiling the practices of medical providers, explained Frederick E. Scardellette, vp-disability management and marketing for Philadelphia-based Intracorp, a provider of disability and health care management services.

That includes reviewing the treatment provided to an employee population and how those treatments match injury diagnoses. Such information can provide a way to compare an individual physician to his or her peers. It can also identify inappropriate treatments and educate doctors about what they can do to lower costs, Mr. Scardellette said.

Intracorp begins the process by evaluating "diagnostic groups," such as musculoskeletal injuries, among employees. In that way, Intracorp can determine which diagnoses are driving frequency or cost.

"Once we have a good picture of that, we can drop down and look at individual providers and the types of cases they are treating," Mr. Scardellette said. "When we get to patient profiling...we look at age, gender, location and various things that contribute to severity or cost drivers."

Understanding individual costs within workers compensation programs, such as medical expenses, is a vital step toward benefits integration, the speakers said.

The University of California Office of the President has been attempting to gain a better understanding of its medical costs, said Barbara A. Pelletreau, manager of the university system's workers comp program, which is based in Oakland, Calif. The Office of the President is the equivalent of a corporate office, responsible for 10 campuses and five medical centers with more than 150,000 employees.

Currently, the organization's workers comp costs are about $126 million annually including claims reserves. To help reduce that amount, the university system found 32 events, or "sticking points," that drive up claim costs.

For six months, the university system tracked its claims looking for one of those 32 markers. Every time one of the markers appeared, the case was flagged for "front loading," or the early application of aggressive medical treatment, Ms. Pelletreau said.

In addition, a case management nurse was assigned to work by telephone with the doctor and the injured employee.

After six months, the university system found its efforts weren't producing measurable savings or a reduction in employee absence. So the university then narrowed to four the number of cost-driving events to which it applies its front-loading activities.

The four events are those that the university is certain will reduce costs if managed properly. They are: a diagnosis of carpal tunnel syndrome, new injuries, loss time of more than seven days, and more than 12 chiropractic or physical therapy visits. It will take a year or two to determine the level of savings produced by the program, Ms. Pelletreau said. BI

Legal pitfalls in workers comp medical care

Putting employee first is crucial: Experts

By ROBERTO CENICEROS

MARINA DEL REY, Calif.—While use of managed care can hold down workers comp costs, an employer should know that, in some cases, it could limit that employer's right to recover losses that stem from a provider's mistake, an attorney told the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference.

The attorney recounted the story of a manufacturing company with operations in Florida, where an older worker dropped a concrete block on his foot.

A nurse bandaged the injury, and, several days later, the worker poured beer on his foot, thinking the alcohol would disinfect the wound and help it heal. But the worker was a diabetic who had not been taking his medicine, which complicated the foot injury.

After the worker sought treatment at a hospital, the claim became a national news story, said Cheryl Wilke, a partner in the Fort Lauderdale, Fla., office of Hinshaw & Culbertson. That's because, Ms. Wilke said, a doctor working under the managed care program in which his employer was enrolled amputated the wrong foot of the employee.

Ms. Wilke was among several attorneys and a workers compensation consultant who addressed the *BI* conference about avoiding problems with claims.

"The employer did everything they were supposed to do," Ms. Wilke said. "They signed up for a managed care program through their carrier. Their goal was to limit their litigation and limit their exposure. And going through this terrible story...they discovered that not only did they have to amputate the other foot, which was the problem foot to begin with, but they had no right under their managed care arrangement to sue that doctor. Nor did the claimant."

So, for all of the potential benefits presented by managed care, "from a litigation standpoint, sometimes you have to be very careful what you wish for," Ms. Wilke said.

Other panelists told the conference to avoid problems by educating their workers comp doctors, submitting claims early for attorney review, and acting as advocates for injured employees.

"I find often that (employers) don't take the role of an advocate for their injured worker," said Mary Skelton, president and chief executive officer of WORKDOT-COMPDOTCOM Inc., workers compensation consulting company based in the San Francisco area. "When (a worker becomes) injured somehow, that injured employee gets relegated to a sidetrack. People don't communicate with them. They are not given a road map or the assistance to weed through what is, basically, a very complicated workers comp system," she said.

THE EIGHTH ANNUAL *Business Insurance* WORKERS COMPENSATION AND DISABILITY MANAGEMENT CONFERENCE

The results can be costly, Ms. Skelton said. She recounted a story about one injury that should have resulted in a workers comp loss of a few thousand dollars but instead turned into a $750,000 claim.

The injured employee was not well liked at work, and when he returned from an accident-related absence, he was shunned by coworkers and given a punitive job assignment, Ms. Skelton said.

"Shake your head, but it happens," Ms. Skelton told the audience. "The employee kept coming off of work because he didn't want to be in that climate."

The return-to-work efforts of the claims handlers hired by the employer were thwarted by the workplace reaction to the injured employee. The employee also faced severe personal problems and eventually began fantasizing about killing himself and people at work.

"So not only did it become an industrial injury, it became a workplace safety issue," Ms. Skelton said.

The loss evolved into a messy psychiatric claim, and restraining orders had to be obtained against the employee. Employers must play a vital role in creating an environment that welcomes injured workers back on the job, Ms. Skelton said.

"Don't abrogate that (role)," she said. "Don't delegate that. Be a person who works with the claims adjusting agency and make sure they are following up with the injured worker."

Think about the cost of litigation early on in the claims process, advised John T. West, a partner in the Florham Park, N.J., office of Hack, Pro, O'Day, Merklinger, Wallace & McKenna.

"I have so many cases in which I wish I was called early in the claims process, before the litigation takes place," Mr. West said. "Because I would have told them not to accept the claim. Or there are certain situations where a claim is denied—and it may be for a very minor reason—and it suddenly triggers litigation."

Early consideration of attorney advice is smart, agreed Paul F. Buckley, treasury director-risk management for Lucent Technologies Inc. Mr. Buckley, who moderated the panel, was named *Business Insurance*'s Risk Manager of the Year in May.

Mr. Buckley said that as soon as he finds himself questioning whether he should report a workers comp claim to an attorney, he resolves to report the claim.

"It does not mean you relinquish control," he said. "All you are doing at that point is seeking advice from counsel, and that should be able to be done very quick."

The response of doctors is important in determining whether an employee will recover and return to work quickly or become a habitual user of the system, said Patricia Jean Clisham, an attorney at Hall & Evans in Denver. An employer's first line of defense rests in educating physicians.

"You might say, 'Why do you need to educate physicians? Hopefully, they know their medical (business), and most of them know something about legal and medical in this day and age,' " Ms. Clisham said. "However, most physicians come through the ranks in the health care system and don't really know everything about the work comp system."

One of the most important things they may not know about workers compensation is the importance of helping injured employees return to work as soon as possible, she said.

Robert L. Gelb, president of Alexander Lindsay Group Inc. in Devon, Pa., served as moderator of the session. BI

New programs must have support of key people

By MEG FLETCHER

MARINA DEL REY, Calif.—Involving key people in the implementation of safety and loss prevention strategies is crucial to the success of the process, two loss control experts say.

That approach was fundamental to the establishment of the Maine Employers' Mutual Insurance Co. in 1993, which was mandated by the state's 1992 reform act, said John T. Leonard, who has been president and chief executive officer of the insurer since its inception.

The reform sought to re-establish a viable workers comp marketplace from the ruins of the previous system, which collapsed for a variety of reasons, including artificially suppressed rates and excessive costs.

"The thing that we needed to do was to get people back involved. We had to get people, both workers and employers, to pay attention to things that are really important—the welfare of one another," Mr. Leonard said at a session of the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference, held earlier this month in Marina del Rey, Calif.

THE EIGHTH ANNUAL **Business Insurance** WORKERS COMPENSATION AND DISABILITY MANAGEMENT CONFERENCE

When MEMIC was established, the Maine employers' injury rates and workers comp premiums were double the national average, he said. But a series of industry-specific loss control programs greatly reduced the frequency and severity of injuries, which significantly improved those statistics and the mutual insurer's financial picture.

Before implementing such programs, though, "you must understand the industry," Mr. Leonard emphasized.

The loss control program implemented for the logging industry consisted of several elements. For example, workers were required to attend a five-day training program which included instruction in the use of equipment and an emphasis on the need for aggressive loss control techniques.

A similar emphasis on loss control strategies also reduced losses in the construction industry, particularly on a large bridge construction project between Portland and South Portland, Mr. Leonard said.

During that project, Longmont, Colo.-based Flatiron Structures Co. L.L.C. was committed to "a 100% fall protection policy," according to information from MEMIC. Essentially, the company required bridge workers to use a horizontal lifeline system, and that system prevented serious injury to one worker who slipped from the bridge deck. He was briefly knocked unconscious, but his retractable lanyard stopped his fall just four feet beneath the structural girders.

Getting key people involved also helped prevent losses and improve safety procedures at a steel mill that had been experiencing 14 accidents per month, costing the company millions each year, said Robert S. Anderson, president of The Worksafe Group Inc., a risk management consulting firm in Laguna Hills, Calif.

One key step in the implementation of that program was getting line managers and union employees to work together to improve safety, he said. Other components of successful safety programs include focusing on and measuring results; developing user-friendly safety and loss control manuals; and training.

In general, individuals' unsafe actions cause 90% of all accidents, Mr. Anderson said. Therefore, it is important to assess behavior and try to educate employees about the proper way to work safely.

Unfortunately, employers often "won't invest in safety until they understand the bottom-line savings," he said. Those savings stem from fewer workers comp claims, more productive use of workers and facilities as well as savings on legal and inspection costs, he said.

"We've got to get their attention by focusing on bottom-line savings," he said. **BI**

More than 250 attend conference

MARINA DEL REY, Calif.—About 260 people attended the Eighth Annual *Business Insurance* Workers Compensation and Disability Management Conference, held Oct. 16-18.

Attendees also were able to attend a private, employer-only roundtable discussion and to participate in a pre-conference golf outing as part of the two-day conference at the Ritz-Carlton Hotel in Marina del Rey, Calif.

The conference, presented in conjunction with the International Business Forum of Rockville Centre, N.Y., considered several significant concerns, including strategies for reducing health care costs, the management of liabilities created by changing employment relationships, and proposed restrictions on an employer's access to a worker's health information.

In addition, attendees heard several workers comp attorneys discuss ways to avoid problems with claims, and winners of ergonomics awards explained how their programs reduced work-related musculoskeletal disorders. Other speakers and panelists discussed ways to combat fraud, to measure the performance of employers' workers comp programs and to implement innovative technologies that save money and empower workers.

The interactive format, which included presentations by individual experts and panels, allowed attendees to pursue answers to their specific questions.

Planning for next year's conference is still in the works. For more information, contact the International Business Forum at 516-594-3000.

I know how to keep the swelling down.

Holly Gustafson LIBERTY MUTUAL IDM TEAM MANAGER

AND START LIVING A SAFER, MORE SECURE LIFE.

BUSINESS AUTO HOME LIFE

" When an employee is disabled on or off the job, everyone suffers. But that doesn't mean your bottom line has to. With Liberty*One*℠, I keep disability costs from swelling. Fact is, direct and indirect disability costs can take up to 14% of a company's payroll. That's why we created Liberty*One*, an integrated disability management solution designed to save you money. By utilizing cross-trained specialists, consistent return-to-work practices and integrated outcomes reporting, Liberty*One* saves our customers an average of 15% on their disability costs. Why suffer over the swelling costs of disability insurance? Simply skip the aspirin and call me in the morning. "

INSURANCE *in* ACTION *Form a cross-functional task force to evaluate whether an IDM program is right for your company. Call our Integrated Disability Management Team at 888-322-4IDM.*

Liberty Mutual™

VISIT WWW.LIBERTYMUTUALGROUP.COM

Risks

Continued from page 2

is chemically bound has been and remains one of the main risks that Syncrude has to manage, he said.

"Cost remains one of our key challenges and risks—and especially so, since we exert no influence at all over the selling price of our product," he said.

Consequently, Syncrude's interest in risk management is to a large extent driven by cost, Mr. Carter said.

"It's not the only (factor), but it's a big one. We would not be a business success today—and we are a success—if we had not been able to continually drive our costs of production down," he said.

Syncrude broadly defines risk as "the chance of a loss occurring," Mr. Carter said. So, managers need to consider the odds of an unplanned loss happening and the company's tolerance for those losses, he said.

"When you look at it that way, risk management becomes a system for reducing risks to people, assets, profits and the environment—ultimately for the purpose of avoiding business loss," he said.

In large organizations, risk management must begin by continually examining day-to-day operations to see what risks are "lurking beneath the surface," he said.

To instill a sense of risk management, all employees at Syncrude are given a laminated card that lists five key questions: Why am I doing this task at all? What could go wrong? How could it affect others or me? How likely is it to happen? And what can I do about it?

When employees identify concerns, they have to be confident that senior managers will listen to their input and respond appropriately, Mr. Carter said.

Taking the risk assessment process to another level, the company also holds meetings of small groups of employees from a variety of positions to share information and identify risks, he said.

"These risks are then quantified to the extent possible, ranked, and action is taken within the group to mitigate risks of the job or the change in work," Mr. Carter said.

Any significant risks that are identified generate a broader, company-wide response, he said.

In addition to risk identification, the company has implemented a risk monitoring system that is designed to highlight any abnormalities in production, he said. For example, if production levels fall, that might indicate a problem with operating machinery that needs to be addressed to increase production and prevent an equipment failure, he said.

Once risks are assessed and monitored, the company strives to control them, Mr. Carter said.

"Risk controls may include safety barriers, spare parts, new designs, safety equipment, procedures and even additional training. The decision to outsource part of our business is, in effect, a risk control," he said.

Effective risk management is necessary to preserve lives, but it is also a way to reduce costs, Mr. Carter said.

For example, Syncrude's current workers compensation assessment is 40 cents for every hundred dollars of payroll; it was twice that 10 years ago, he said.

And in a tight labor market, a low injury record makes a company a desirable place to work, Mr. Carter said.

"I don't think I can overrate the competitive edge this gives to us," he said.

Taking a broader view of risk management can also lead to reduced insurance costs while improving an organization's coverage, said Peter G.M. Cox, chief financial officer of United Grain Growers Ltd. in Winnipeg, Manitoba.

When UGG reviewed its main risks over a three-year period in the late 1990s, it concluded that it had good risk controls, good risk monitoring procedures, and sufficient traditional insurance coverage, he said.

By 1999, the company had a 30% five-year average loss ratio, and despite the fact that it had obtained 33% reduction in premiums over that period, it concluded that given the relatively few claims, it should review its insurance program to obtain more cost-effective coverage, he said.

"So we had a risk brainstorming session," Mr. Cox said.

It pulled about 20 people in various positions from across the company to consider anything thing that could lead to a severe loss to UGG, he said.

And the group concluded that the largest risk UGG faced was one it had no control over—the weather.

For example, following a 1985 drought, UGG's grain handling volume dropped 20%, and the company's profits dropped by $18 million. And in 1989, after another drought, grain handling dropped 18%, and profits fell by $16 million, Mr. Cox said.

'The decision to outsource part of our business is, in effect, a risk control,' says Jim Carter.

On average, the company suffered from a drought every 12 years, he said.

"The attitude in the industry had been that this is one of the risks that you have in the grain business and there's nothing you can do about it," Mr. Cox said.

But UGG presented its findings to its broker, Willis Group Ltd., which suggested that UGG buy an integrated enterprise risk program with coverage for weather-related losses, Mr. Cox said.

At the time, the company had in place a series of property and casualty policies, each with its own deductibles and loss experience, he said.

"We had several programs where we had zero losses, but we still had to pay the premium and we were not able to trade that good experience off on poorer experience on other programs," Mr. Cox said.

By integrating about 20 of the property/casualty policies, UGG was able to include some coverage for weather-related grain handling coverage in a three-year program for only a 5% premium increase, he said.

The company also raised its aggregate deductible level in return for a lower premium, Mr. Cox said.

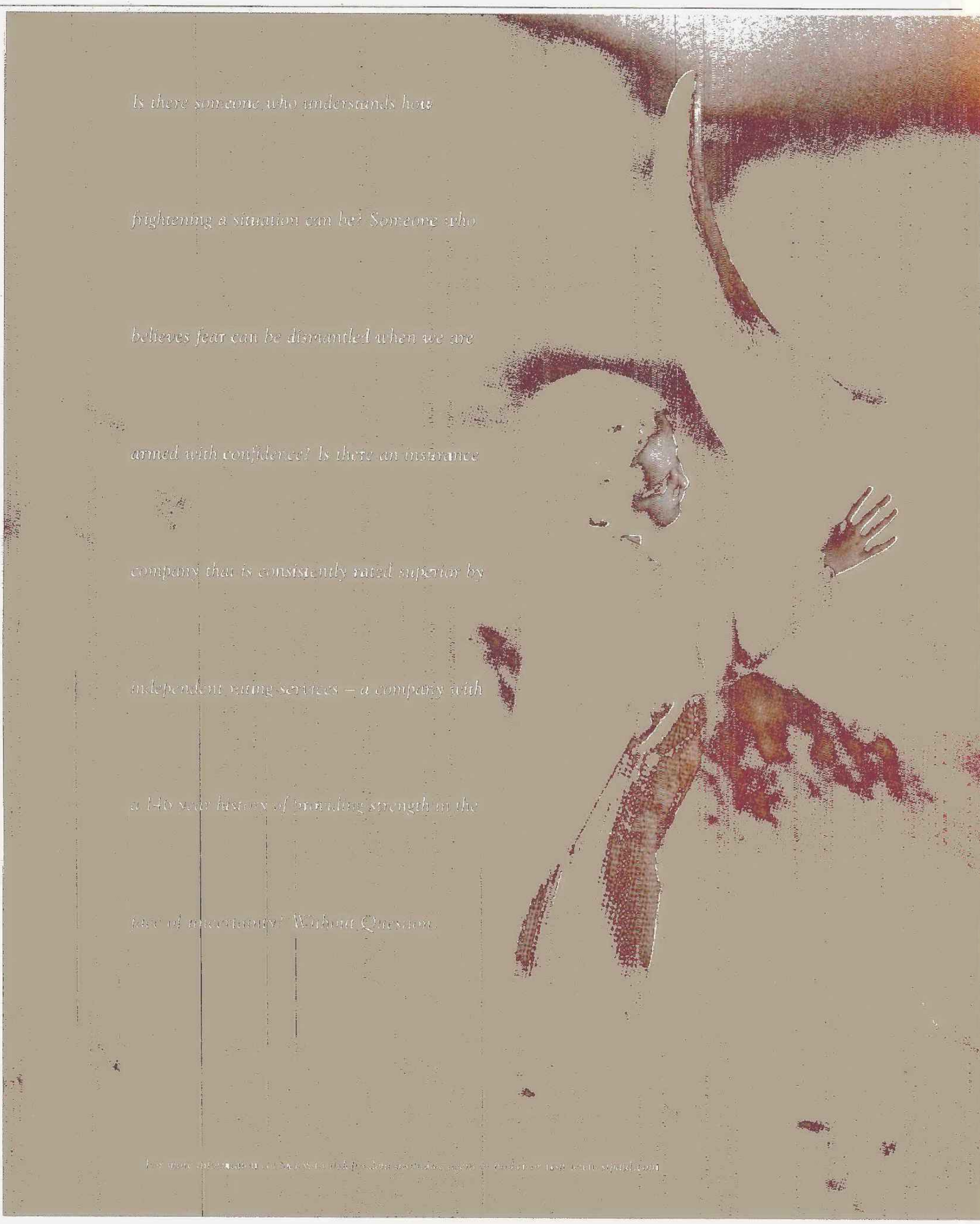
"If we had raised the deductibles on our traditional programs to the same level as the integrated program, we would not have seen a premium-costs benefit, because we were already hitting the minimums on premiums for each of the traditional programs," he said.

The end result was that UGG reduced its long-term cost of risk, including the risk for its biggest and previously uninsured risk, Mr. Cox said.

The program also reduced the company's earnings volatility, decreased the amount of capital it needed to guard against drought losses and increased the financial leverage of the company, he said.

"The combination of those factors all have potential to increase our share price," Mr. Cox said.

Peter Watson, an independent risk management consultant based in Edmonton, moderated the session. BI



Chief risk officer should be temporary role: Panel

By GAVIN SOUTER

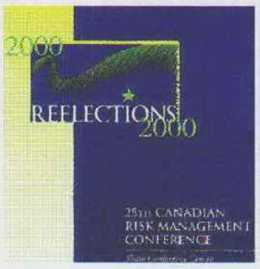
EDMONTON, Alberta—The position of chief risk officer in a corporation should be a temporary assignment if it is handled successfully, a panel of risk managers says.

If the role of a CRO is to inculcate risk management throughout an organization, then an executive who does that effectively should resume other duties once that task is completed, they say.

That was one of several topics discussed in a wide-ranging panel discussion at the Canadian Risk & Insurance Management Society's annual conference held in Edmonton, Alberta, earlier this month.

"Any CRO's major objective should be to put him- or herself out of business," said Craig Lowery, vp-finance at TD Canada Trust in Toronto.

If a CRO successfully creates a culture of risk management within an organization, then once that has task been achieved, there should be no need to have a CRO continually challenging the processes of an organization, Mr. Lowery said.



"It's a short-term job," agreed Peggy Stirrett, the former senior director for risk management at Petro-Canada in Calgary, Alberta.

The concept of a CRO developed first in financial institutions that faced large exposures with the potential for systemic failure, Ms. Stirrett noted. The executive assigned the position had the role of "cherry picking" the best practices of various parts of an organization and applying them in other areas, she said. But once that exercise has been successfully implemented, Ms. Stirrett said, the CRO's role is finished.

And the creation of a position in which a CRO looks at all the risks affecting an organization would be too demanding in many companies, Mr. Lowery said.

"The CRO job is a heroic figure that looks across all the risks, and that is a bit of a fallacy in the complex business that we are involved in," he said.

Regardless of who determines the risks companies will likely become more strategic in their insurance buying in the future, Ms. Stirrett said.

"Organizations will move more and more toward a recognition that, under certain sets of variables, a corporation can assume more risk and have a higher risk tolerance," she said.

In other cases, they will determine that they are paying small premiums for significant risks and it makes economic sense to buy the coverage, Ms. Stirrett said.

"Rather than ride cycles, companies will see that they need a strategy that is aligned with how they manage their business and enables them to understand that they don't need insurance," she said.

In certain cases, corporations may choose not to insure, agreed Mr. Lowery. For example, prior to its purchase by TD Bank Financial Group earlier this year, Canada Trust elected not to buy directors and officers liability insurance, he said. "We were carrying capital well in excess of what we needed," he said.

Under Canadian law, a company can indemnify its directors, Mr. Lowery noted. And Canada Trust did not want its directors to feel that any errors they made could be recouped through an insurance claim, he said.

In addition to considering whether to buy coverage or not, risk managers should take a diversified approach when deciding whether risk management decisions and actions can be centralized, Mr. Lowery said.

For example, in financial institutions, interest rate risks can be identified and hedged effectively in a centralized manner, he said. But other risks are more closely associated with individual areas of an organization and must be managed in a decentralized way, Mr. Lowery said.

Westcoast Energy Inc. in Vancouver also picks and chooses which risks it manages centrally and which it leaves to its individual units, said Richard J. Cutfield, manager, business risk.

Credit risks, for example, are managed centrally, but other risks of the individual units are managed locally, Mr. Cutfield said. And some risks that have been managed locally are now being looked at from a centralized point of view, he said.

"We had bad results on our weather derivatives, and that was because we did not have a portfolio approach, so we need to look at that," Mr. Cutfield said.

The session was moderated by William McGannon, an independent risk management consultant in Calgary. BI

CRIMS attendance tops 500

EDMONTON, Alberta—The Canadian Risk & Insurance Management Society's 25th conference drew 535 delegates to Edmonton, Alberta.

The conference, held Oct. 15-18, featured four plenary sessions that centered on the widening role of risk management within organizations, as well as a number of breakout sessions.

At the conference, Robert Wheeler, the retired risk manager for BC Rail Ltd. in Vancouver, was given the Donald M. Stuart Award, which recognizes outstanding contributions to risk management in Canada.

Richard W. Whitehouse, director, risk management and insurance division at the Alberta Treasury in Edmonton, chaired the conference.

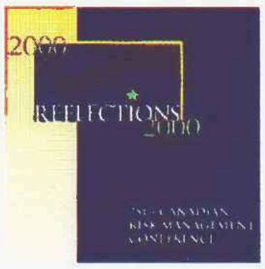
Next year's CRIMS conference will be held in Ottawa, Sept. 9-12.

For more information on the meeting contact: Paul Gray at MDS Nordion, 613-592-3400, extension 2483, *pgray@mds.nordion.com; or Karin Zabel at Defense Construction Canada, 613-998-1001, zabelka@dcc-cdc.gc.ca*

Employers urged to guard against abuse liability

By GAVIN SOUTER

EDMONTON, Alberta—Employers in Canada are facing an increased risk of being held liable for employees' abusive behavior, according to a panel of legal experts.



Recent cases decided by Canada's highest court have outlined the issues that courts must consider in determining liability. And to respond to those issues, employers must implement effective sexual abuse and harassment policies to protect their employees and the people in their care, and to shield themselves from lawsuits, panelists said.

The panelists were participating in a discussion at the 25th conference of the Canadian Risk & Insurance Management Society, held earlier this month in Edmonton, Alberta.

Recent court rulings in Canada, increased media attention, society's growing intolerance for abuse and discrimination, and a more litigious climate all have contributed to an increase in claims, said Ronald R. Nelson, a partner at the Edmonton, Alberta-based law firm Brownlee Fryett. "And there is less stigma associated with claims, so people are coming forward, and there is a backlog of old abuse cases coming to the forefront now," Mr. Nelson said.

Recent cases decided by the Supreme Court of Canada have helped establish the conditions under which an organization may be held liable for the actions of its employees, he said. Under the legal doctrine of vicarious liability, "organizations can be held liable but not necessarily," Mr. Nelson said.

In July 1999, Canada's highest court ruled in two abuse cases to determine whether the organizations involved could be held vicariously liable, he said.

The first case involved a nonprofit organization that operated two residential care facilities for emotionally troubled children. The workers had to carry out intimate duties, including helping to bathe the children and tucking them in at bedtime, and one of the organization's employees sexually abused some of the children.

In the second case, a boys' and girls' club employed a program director to supervise volunteer staff and organize recreational activities. The program director sexually abused some of the children outside of work hours.

Ruling in the two cases, the court said that courts hearing abuse cases should consider whether an employer's empowerment of an employee materially increases the risk of a sexual assault, Mr. Nelson said. It set forth certain factors that should be considered in making that determination, which were: opportunity; furtherance of an employer's aims; whether the act related to friction, confrontation or intimacy inherent in the enterprise; the extent of power in relation to the victim; and the vulnerability of the victim.

Weighing those factors, the court determined that, in the first case, the organization that ran the care facilities was vicariously liable, and, in the second case, that the boys and girls club was not, Mr. Nelson said.

Following the Supreme Court's decisions, several other organizations have been held vicariously liable in lower courts across Canada, particularly in British Columbia, he said.

In some cases, courts have awarded punitive damages of more than $100,000 Canadian ($66,070), Mr. Nelson said. And in another case in which he is involved, which is being settled, Mr. Nelson estimated that if the case had gone to trial, total damages might have reached $1 million Canadian ($660,700).

In managing the risk of sexual abuse, organizations should focus on two goals, said Colin R. Fetter, a senior associate at Brownlee Fryett.

"The first goal, obviously, is prevention. The second goal is to protect your organization from being held liable," he said. To do that, organizations should have steps in place to prevent abuse or harassment, so that if an incident does occur, the organization can show that it did all it could to prevent the abuse, Mr. Fetter said.

The first risk management tool that should be used is a sexual harassment and abuse policy, he said. "The fact that you have one is one of your first and one of your best defenses," he said. The policy should stress that harassment can be any form of sexual contact or action that is not consensual, Mr. Fetter said.

And each policy should give examples relevant to that organization's workplace, he said.

"It should be in writing, and it should be given to every employee, and it should be documented that you gave it to them," Mr. Fetter said.

Organizations should also have procedures in place to immediately respond to any complaints, he said. The accuser and accused should be separated, but employers should be careful to respect the rights of the accused. Otherwise, if the accusation is deemed unfounded, the accused may sue the employer, Mr. Fetter said.

"Conduct a balanced and confidential investigation, and then take action," he said.

Employers should also review their hiring and screening practices, Mr. Fetter said.

Before filling a position, an employer should check all references and conduct interviews with all applicants. And in cases in which an employee will be in a high-risk situation, such as working with children, an employer should check for a criminal record and consider conducting a personality check, he said.

Sexual abuse is a particularly difficult issue for nonprofit organizations to address, because they often rely on volunteer workers, said Michael J. Bruni, a lawyer based in Calgary and a board member of youth hockey association Hockey Alberta, which is part of the Canadian Hockey Assn.

Children's hockey organizations in Canada were subject to several sexual abuse claims in the 1990s and have had to respond to the issue, he said.

The Canadian Hockey Assn. is still trying to raise its level of risk management, Mr. Bruni said. So far, the association has expanded the scope of its risk management program to include game and conduct management principles and programs in addition to safety issues, he said.

"But you are only as good as the present volunteer that is there," he said.

Ian White, supervisor, risk management for the city of Edmonton, moderated the session. BI

Business Insurance
www.businessinsurance.com

THE FOLLOWING **PREVIEW** HAS BEEN APPROVED FOR ALL AUDIENCES.

COMING SOON IN *BUSINESS INSURANCE...*

Issue Date	Editorial Feature	Demographic Section	Ad Closing
Sep 11	Surplus Lines *Directory: Surplus Lines Insurers & Wholesalers* *Distribution: IUMI; NAIC; NAPSLO*		Aug 29
Sep 18	Reinsurance: Rendez-Vous Report *Directory: Benefit Networks* *Distribution: ISCEBS*	IT Fighting Fraud	Sep 6
Sep 25	*Distribution: HMIS*		Sep 13
Oct 2	Top 100 Women *Distribution: CIAB/CICE*	ABT Leaders in Productivity	Sep 20
Oct 9	Marine Market Report		Sep 27
Oct 16	Workers Compensation *Directory: Safety Consultants & Rehabilitaion Services* Information Resource: Workers Comp *Distribution: BI Workers Comp Conference; Canadian RIMS*	IT Reinsurance Strategies	Oct 4
Oct 23	Reinsurance: Trends & Issues *Directory: Reinsurance Brokers* *Distribution: Baden Baden; CPCU Society; NAII*		Oct 11
Oct 30	*Distribution: ASHRM; IIAA*		Oct 18
Nov 6	Professional & Employment Risks *Distribution: PLUS*	ABT E&O Loss Prevention	Oct 25
Nov 13	Bermuda Market *Directory: Policyholder-owned Facilities; International P/C Insurers* *Distribution: ARIMA; WCF*		Nov 1
Nov 20	Benefits: Effective Benefit Communication/EBC Awards	IT Loss Control/CPCU Report	Nov 8
Nov 27			Nov 14

"...the most valuable, most credible and most timely newsmagazine in the industry."

"★★★★★... A must-read ... Don't miss a single issue."

RESERVE YOUR AD SPACE TODAY.
CALL A SALES OFFICE NEAR YOU.

New York: 711 Third Ave., NY 10017-4036 ■ Tel: 212-210-0134 ■ Fax: 212-210-0704
Chicago: 740 N. Rush St., IL 60611-2590 ■ Tel: 312-649-5276 ■ Fax: 312-649-7937
Los Angeles: 6500 Wilshire Blvd., CA 90048-4947 ■ Tel: 323-370-2456 ■ Fax: 323-655-8157
Circulation: 965 E. Jefferson Ave., Detroit, MI 48207 ■ Tel: 888-446-1422 ■ Fax: 313-446-6777

HSE

Continued from previous page

want to be named in this way," he said. "Of course, I would much prefer health and safety failures not to occur in the first place—and much of what the HSE does is aimed at prevention. But when breaches do occur, I make no apologies for naming those responsible," he added.

The publication of the report and the launch of the database marked a move toward greater openness, he said.

The report and database list the names of companies prosecuted, the laws or regulations breached, the outcome of hearings they faced, and fines or other penalty imposed.

The HSE said it also hopes to begin publishing a list of local authorities found guilty of health and safety breaches next year.

The HSE said it prosecuted 1,133 cases of safety violations against private companies in the 12 months ending March 31, 2000. This figure was up 9% from the previous fiscal year. The 1,133 cases involved a total of 2,253 individual violations—a figure that is 28% higher than 1998/1999.

Mr. Walker pointed out that the prevention of workplace accidents is an important role for the HSE. During 1999/2000, the HSE issued 6,954 improvement notices to companies—up 9% from the previous year, which in turn, had been 44% higher than the year before that. These notices are warnings to companies failing to meet HSE safety standards. "We must not tolerate an attitude that assumes accidents are inevitable," he added.

Mr. Walker criticized the size of fines being handed down by the U.K. courts for health and safety offenses, including the ones brought by the agency.

"Health and safety crimes cause pain and distress to the victims and their families. In 1998, the Court of Appeal stated that fines for health and safety offenses were too low. I agree; yet since then there has been only limited progress—with the average fine under £7,000 ($10,150)," he said. "Society has a right to expect that, when a business or individual is found guilty, the penalty handed down by the courts reflects the seriousness of the offense. This is simply not happening enough," he said.

Mr. Walker said that the HSE welcomes a proposal to create a new criminal offense of corporate killing, which would make it easier to win manslaughter convictions against companies where workers are killed due to safety problems.

"In addition to the courts exacting stiffer penalties under existing law, we need tougher new penalties and more widely available prison sentences," he said. "I am also hopeful that the government will proceed quickly to introduce the proposed manslaughter legislation, which will create a new offense of corporate killing."

'I am...disappointed that the improvements seen in the previous year have not been maintained,' says Bill Callaghan.

The launch of the HSE database and report coincided with the publication of the Health and Safety Commission's annual report and the HSE's accounts for 1999/2000. The HSC is an affiliated body that proposes safety laws and regulations to the government.

The HSC report predicted that the number of fatal injuries to workers was expected to fall in fiscal 2000/2001 —to 218 from 253 the previous year.

But the picture across industry sectors was varied, said Bill Callaghan, chairman of the HSC. "In construction, the fatal injury rate for workers has increased by 18% from 3.8 to 4.5 per 100,000 workers. I am, of course, disappointed that the improvements seen in the previous year have not been maintained," he said. "But in agriculture and manufacturing, the fatal injury rates have fallen by 19% and 38%, respectively. I hope this signals the beginning of a downwards trend in these industries."

Mr. Callaghan said that the HSC continues to work toward the targets set out in the government's "Revitalising Health and Safety Strategy Statement," published in June. These goals are to: reduce the number of working days lost per 100,000 workers from work-related injury and ill health by 30% by 2010; reduce the rate of fatal and major industry accidents by 10% by 2010; reduce the rate of cases of work-related ill health by 20% by 2010; and achieve half the improvement under each target by 2004. Mr. Callaghan said that, in the coming year, he would be asking stakeholders what they could do to help meet these targets. In January 2001, the HSC will hold its first-ever open meeting to invite comment from stakeholders, he announced.

Mr. Callaghan said that he wanted to "make sure that health and safety was not seen as a drain on industry."

He said the government would be working closely with industry, trade unions and other bodies to raise the profile of the importance of health and safety. "Events like railway accidents bring health and safety into focus," he said, alluding to the fatal Hatfield rail accident of Oct. 17. "But there are many other things that do not make the front pages," he said.

Mr. Callaghan said he felt it would be inappropriate to make any comment on the Hatfield disaster until a thorough investigation into the causes of the crash was complete. BI

Rail

Continued from previous page

sponsible for inspecting the track where the accident occurred. A memo from Railtrack to London-based Balfour Beatty leaked to the press last week revealed that, just weeks before the accident, Railtrack's northeast director had described Balfour Beatty's work at the Leeds, England, station as "shoddy" and said the company should be "read the riot act."

On Oct. 25, a train derailed at Virginia Water in Surrey, England. Three people were treated for minor injuries. On Oct. 17—the same day as the Hatfield crash—a train on the Virginia Water stretch of track collided with a bus. No injuries were reported. BI

Privacy

Continued from previous page

executive officers, said she broadly agreed with the proposed draft code.

The draft code was made public in the same week that the shadow home secretary, Ann Widdecome, demanded "zero tolerance" of the use of "soft drugs."

Ms. Widdecome, a Member of Parliament from the opposition Conservative Party, proposed automatic fines of £100 ($145) for anyone found to be using such substances.

In addition, the announcement of the draft code came the week after British Airways P.L.C. announced it would introduce compulsory alcohol and drug testing of its staff, following allegations of alcohol abuse among flight crews.

The allegations were made by the makers of a television documentary, Dispatches, who claimed to have footage of a British Airways pilot consuming alcohol before a flight.

The television program, which aired on Oct. 12, showed a pilot reporting for duty on a flight from Barcelona to London's Gatwick Airport after he had allegedly consumed 10 pints of beer and slept for only three hours.

Eleven pilots and three cabin crewmembers have been suspended by the Hounslow, England-based airline pending an internal investigation.

"British Airways takes any potential breach of security very seriously. We have launched a formal investigation and have notified the Civil Aviation Authority, the United Kingdom's civil aviation regulator, of the allegations and the actions we are taking," David Hyde, director of safety at British Airways, said in a statement.

British Airways also said it would talk to the main trade unions involved—the British Airline Pilots' Assn. and the Transport & General Workers' Union—about how the airline's plans for drug testing might be implemented and what appeals process would be put in place.

Under the Human Rights Act, an employer cannot force an employee to take a drug test unless the terms of the employment contract contain a drugs or alcohol clause that makes it clear that staff will be expected to comply with such tests where there is reasonable belief that health and safety regulations are being broken. BI

Storms

Continued from previous page

surers was not sufficient to absorb the losses arising from Lothar. Some French insurers ran into solvency problems due to this factor and their individual capitalization," the report noted.

Meanwhile, deterioration in the prices for non-proportional European storm coverages has been severe since 1994.

"Prices in the major earthquake and hurricane markets have halved since 1994, whereas in Europe (prices for catastrophe coverage) have plunged to virtually a third of their previous levels, leaving price structures at an entirely inadequate level from an underwriting perspective," the report states.

Zurich-based Swiss Re maintains that prices for European storm coverages "should clearly be at twice the current level." It also argues that insurers should impose greater deductibles on their policyholders for storm losses.

"Appropriate deductibles help to exclude minor damage and motivate the policyholder to prevent or mitigate losses. Today, however, most deductibles are far too low to bear any significant effect, averaging only some $100 in many European markets," according to the report, which noted that a deductible of about 1% of the sum insured would cut losses and claims filed by about 50%.

While the report acknowledges that "global warming is a fact," it adds that it is too early to tell whether an increase in Earth's temperature will result in more European storm losses. But it states that other effects, such as those from the El Nino, the periodic warming of the equatorial eastern Pacific, can be proved to have an effect on the climate.

The winter climate in Central Europe, especially in regard to temperatures and winds, is closely related to the air pressure conditions over the North Atlantic, the report explains.

Swiss Re and EQECat Inc., an Oakland, Calif.-based catastrophe management company, have developed a computer model, known as EuroWind, that is designed to assess the storm risk in Europe. EuroWind covers the United Kingdom, Ireland, France, Germany, Denmark, Sweden, Norway, Belgium, Luxembourg and the Netherlands.

The calculations are based on the reconstruction of about 180 historic winter storms that date back to 1947.

•

Copies of the report "Storm over Europe" are available from Swiss Reinsurance Co., Economic Research & Consulting, P.O. Box CH-8022, Zurich, Switzerland. A summary of the report can be downloaded from Swiss Re's Web site at www.swissre.com.

ADVERTISER INDEX

Issue of October 30

ADVERTISER	PAGE #
AIG Corporate	36
American Assoc of Orthodontia	28
American Assoc of Orthodontia	28
American Reinsurance	18,19
Benetech	28
Burnham Systems	28
Business Insurance	25
CLAIMPlace	7
Conning & Company	32
Group Health Inc.	25R
Insuretrade.com	12
Kemper Environmental	13
Liberty Mutual	21
Marketscout.com	4
Matrix Absence Solutions	29
NCR	17
Overseas Partners US Re	6
PMA Group Inc.	24
Private Health Care Systems	10,11
Pyramid Services Inc.	26
Sherwood Insurance Services	16
State Comp. Ins. Fund	25R
St. Paul Corporate	22,23
Travelers Property Casualty	14
Travis Software	32
Trumble Services, Llc	26
U.S Risk Insurance Group	20
Wausau Insurance Company	5
Winterthur Int'l Division	9
Zurich Reinsurance Int'l	15

Congress

Continued from page 1

that the congressional races are going to be tight, and no matter which party comes out ahead in both houses, the majority will be slim. That suggests that anything to be accomplished in the next Congress would have to be the result of bipartisanship. Conversely, the lack of bipartisanship will lead to gridlock," said Daniel Barry, director-government affairs for the Risk & Insurance Management Society Inc. in New York.

On issues the Alliance tracks, a possible return to partisan battles in the House "means a continuation of a lack of consensus on issues such as tort reform, and...the component of the patients' bill of rights that includes the ability to bring a private course of action" against a health maintenance organization, Mr. Farmer said.

Regarding proposals for the federal regulation of insurance, "I don't think it's an issue that's apt to garner much interest in at least the first session of the 107th Congress, although clearly there will be hearings on the topic," said Mr. Farmer.

If the Democrats regain a majority in the House, Rep. John D. Dingell, D-Mich., would likely reassume the chairmanship of the Commerce Committee, which he held for years before the Republicans won the House majority in the 1994 elections. As committee chairman, Rep. Dingell advocated some federal oversight of insurers, a position that earned him mixed reviews from the industry.

Rep. Dingell would be more likely to promote federal charters for insurers than was his GOP predecessor, and Republicans are "more likely to come around" to this issue because of the diversified financial companies that have become more common after the passage of financial services modernization legislation last year, predicted Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers in Washington. The CIAB favors a dual chartering option.

"It's not so sure that those forces that worship at the holy altar of state insurance regulation maintain the kind of grassroots strength they had 10 years ago," Mr. Wood said. He predicted that federal chartering proposals will appear in the next Congress.

The future of federal insurance oversight could also be affected by the outcome of a Senate race, he said. Possibly the most endangered GOP incumbent is Sen. Rod Grams, R-Minn. Mr. Wood pointed out that Sen. Grams was the author of the Senate legislation that "has been laying groundwork for a broader inquiry into the quality of state insurance regulation" he said. Sen. Grams was also author of the Gramm-Leach-Bliley Act's National Assn. of Registered Agents and Brokers provision, which would create a central clearinghouse for multistate producer licensing.

"It appears that, no matter who's in control of the House, several proposals will be introduced that move this idea of federal regulation of insurance down the road. That does concern us because, again, we haven't even celebrated the first anniversary of Gramm-Leach-Bliley going into law and already some people want to tear down the concept of functional regulation, which was critical to that bill. It concerns us that we're moving too quickly," said Robert Dibblee, senior vp-government relations for the National Assn. of Independent Insurers in Washington.

"There are a lot of races we're watching; we obviously feel that maintaining a pro-business majority in Congress is critical," said Leigh Ann Pusey, senior vp-federal affairs for the American Insurance Assn. in Washington.

"We anticipate our priority issues next year, regardless of who wins, will include the privacy issue, at both the state and federal level; regulatory reform—that could include a federal optional charter, although we still have expectations that we can achieve meaningful reform at the state level; legal reform, looking primarily for a class-action reform bill, which also could include comprehensive asbestos reform," Ms. Pusey said. She said that the AIA is also concerned about any managed care regulation that would affect workers compensation.

And managed care regulation, probably in the form of a so-called patients' bill of rights, appears likely to return as an issue, given the failure of House and Senate conferees to craft a compromise managed care regulation bill this year. Employers and insurers had grave reservations about the House bill—drafted by Reps. Dingell and Charles Norwood, R-Ga.—which would allow participants in managed care plans to sue the plans over coverage disputes in certain circumstances. Employers fear that they, too, would be subject to legal action in coverage disputes involving the plans they sponsor.

"The patients' bill of rights is still one of these issues—even though it hasn't scored as high as prescription drugs—that could make a difference in a couple of close races," said James Klein, president of the American Benefits Council, formerly known as the Assn. of Private Pension & Welfare Plans.

"There are a couple of races in particular, like (Republican) Reps. Ernie Fletcher and Anne Northrup in Kentucky—two members in very tight races—where health care has come up as an issue. You have to look at the House in general, but you don't have a lot of health care experts in Congress," said Brenda Becker, vp-congressional communications for the Blue Cross & Blue Shield Assn. in Washington. Ms. Becker said that both Kentucky representatives have that sort of expertise and that both support limiting the liability of health care plans in coverage disputes.

There will be "fierce momentum" toward creating some sort of patients' bill of rights regardless of who wins, said the CIAB's Mr. Wood.

A related issue—safeguarding the privacy of sensitive information—is also likely to confront the next Congress. "Privacy is one of those issues that, our fondest hopes not withstanding, will be there," primarily regarding medical records, said Mr. Wood.

"To the extent that the states adopt varying requirements for both medical and financial privacy, there will be a greater demand for some uniformity, which over time may create an impetus for a federal solution," said Mr. Farmer of the Alliance.

Tort reform is one issue where the outcome of the presidential race could have a significant impact on congressional action, said Mr. Wood "That is clearly an area where Gov. Bush has a deep, personal interest." With both houses in GOP hands and Gov. Bush in the White House, tort reform efforts could gain considerable momentum, he said. "Significant incremental reform" would probably be the result, he added.

Tort reform is a major issue for RIMS, Mr. Barry said.

Once again, a shift in control of the House could stymie such reform even if Gov. Bush wins. Rep. John Conyers, D-Mich., would probably move into the chairmanship of the Judiciary Committee, and Rep. Conyers has been no friend of tort reform during his long congressional career. BI

Court races, ballots watched by business

Voters in several states on Nov. 7 will cast their ballots for elected officials and a range of issues of importance to employers and insurers.

Citizens in several states will determine the political makeup of their highest courts, which will directly influence how those courts rule on a variety of business issues.

In some states, voters are being asked to decide workers compensation and health care-related measures. And in a handful of states, voters also will decide how their states' share of the landmark tobacco liability settlement is to be spent.

Judicial races

The outcome of judiciary elections in Alabama, Michigan, Mississippi and Ohio will shape the ideology of future court decisions in those states.

Employer and insurance industry groups in Ohio are working to defeat incumbent Supreme Court Justice Alice Robie Resnick, D-Toledo, whom they say is part of the court's anti-business majority.

Instead, those groups back Judge Terrence O'Donnell from Rocky River, a Republican and a member of the 8th District Court of Appeals who is described by the Ohio Chamber of Commerce as "an ardent advocate of judicial restraint." Several other business and insurance industry groups endorse Judge O'Donnell.

But Justice Resnick insisted in an interview that "the characterization that I am anti-business is untrue, unfounded and not supported by my record" during her two previous six-year terms. Her supporters include trial lawyers, labor unions, educators and law enforcement personnel.

Employer and insurance industry groups also support re-electing incumbent Justice Deborah Cook, R-Akron, to her second six-year term. Her opponent is Timothy Black, a Hamilton Country municipal court judge whose supporters include Democrats, trial attorneys and labor unions.

The Risk & Insurance Management Society Inc. is keeping an eye on the Ohio Supreme Court race, because "the court is closely divided, and two recent decisions have caused significant concern for the business community," said Daniel Barry, director-government affairs in New York. One Ohio decision overturned an extensive tort reform law, and the other held that an employee was covered under an employer's insurance policy even though the employee was involved in an auto accident outside of the scope of employment, Mr. Barry said.

In Michigan, voters will decide whether to maintain the 5-2 conservative majority on its high court.

Three Republican incumbent justices up for re-election—Stephen J. Markman, Clifford W. Taylor and Robert Young—have the support of the National Assn. of Independent Insurers. The NAII is concerned that tort reforms enacted in Michigan in past years could be in jeopardy if the court loses its Republican majority.

According to a spokeswoman for the American Insurance Assn. in Skokie, Ill., the current court promotes a healthy business environment.

"Rulings tend to support their ability to conduct business with limited government intervention. All three incumbents are endorsed by the Michigan business community," the spokeswoman said.

A Republican majority on the high court also is being challenged in Alabama, where five of nine Supreme Court justices are up for re-election. That court's recent decisions to reduce several large jury awards have helped to change the state's previous reputation as a venue for large jury awards. Currently, the court has five Republican justices and four Democrats.

In Mississippi, the business community is closely following four races for seats on the state Supreme Court and one state appeals court race.

Business groups, who say that Mississippi is starting to get a reputation as a plaintiff-oriented state, maintain that the election of the candidates they support could make the difference in having a balanced judiciary.

"These are very important races," said Ron Aldridge, state director of the National Federation of Independent Business in Jackson.

Pro-business candidates for the four

Mississippi Supreme Court seats that are being contested include: Lenore Prather, the current chief justice and the state's first woman Supreme Court justice; Kay Cobb, an incumbent Supreme Court justice and a former state senator; Jim Smith, an incumbent Supreme Court justice; and Circuit Judge Keith Starrett, who is opposing Oliver Diaz, an incumbent Supreme Court justice and former state representative.

Mississippi's appellate court race pits the incumbent, D. Rock Moore III, against David (Tony) Chandler, a plaintiffs' attorney and former public school teacher and counselor.

Workers comp ballots

A workers compensation-related issue is on the ballot in Montana. The Legislature is asking voters for the second time to allow the state's Board of Investments to invest assets of the Montana State Fund—the state's competitive workers compensation insurance fund—in private corporate capital stock.

Voters rejected the Legislature's first attempt to give the board this investment option in 1996. Unlike that earlier effort, the current measure, S.B. No. 23, would limit stock investments to 25% of the book value of the fund's total invested assets. The fund's invested assets currently total about $558 million, according to a fund spokesman. If approved, the measure would become effective Jan. 1, 2001.

The Montana fund provides workers comp coverage to about 23,000, or 76.7%, of the state's 30,000 businesses.

In North Carolina, an issue that will have a direct impact on workers compensation—whether to institute a statewide ergonomics standard—divides candidates for the position of state commissioner of labor.

Democrat Doug Berger, deputy commissioner of the state's Industrial Commission, favors establishing a limited ergonomics standard. But his GOP opponent, state Rep. Cherie Berry, argues that imposing even a limited standard would discourage economic growth in the state.

Health care ballot

Health care reform is on the ballot in Massachusetts, where voters will be asked to decide whether to establish a statewide universal health plan. If ballot initiative No. 5 is passed, it also would prohibit non-profit health organizations from converting to for-profit plans.

The initiative also proposes that, beginning Jan. 1, 2001, health insurers guarantee certain rights to patients and providers. Among those rights would be allowing health care professionals to make medical decisions in consultation with their patients, allowing patients medically necessary referrals to specialists, and limiting and mandating disclosure of contracts between insurers and providers that create financial incentives to delay or limit care.

Miscellaneous ballots

Allocation of one of the biggest legal settlements ever—the $206 billion settlement between tobacco companies and 46 state attorneys general—will be decided in voting booths this year, as states consider how to distribute their windfall.

Voters in six states—Arizona, Arkansas, Montana, Oklahoma, Oregon and Utah—will decide how to use their share of the tobacco money.

Most states would use part of the proceeds to finance health care programs and a variety of wellness initiatives. These states differ, though, in the degree to which their funds are earmarked exclusively for these purposes or are available to meet other state spending needs.

In West Virginia, a ballot initiative is being considered that could have repercussions that are felt by insurance executives worldwide.

Voters in Greenbrier County, W.Va., will decide whether to allow gambling in a giant bunker under The Greenbrier Resort of White Sulphur Springs. The resort is the site of the annual Insurance Leadership Forum, jointly sponsored by the Council of Insurance Agents & Brokers and the Council of Insurance Company Executives.

The bunker, whose construction was authorized by President Dwight Eisenhower in the 1950s, was intended to shelter members of the legislative branch of the federal government in the event of a nuclear attack. Its location was a secret until 1992.

•

Lee Fletcher, Meg Fletcher, Jerry Geisel, Judy Greenwald, Mark Hofmann, Dave Lenckus, Gavin Souter and Joanne Wojcik contributed to this report.

Six races for state insurance commissioners

Achieving the appropriate regulatory balance between protecting consumers and regulating insurer practices is a major campaign theme among the candidates in six states who are seeking the post of top insurance regulator.

On Nov. 7, voters will elect top insurance regulators to four-year terms in Delaware, Montana, North Carolina, North Dakota and Washington. Meanwhile, Florida voters will elect a commissioner to fill the two years remaining in Bill Nelson's unexpired term before the state restructures its commissioner post, which is then expected to become an appointed position.

This year's field of candidates includes more new faces than usual; incumbent insurance commissioners are running only in Delaware and North Carolina. Incumbents in Florida, Montana and North Dakota are seeking other state or congressional posts, while the Washington commissioner lost a primary bid to run for the U.S. Senate.

Business Insurance has highlighted the 14 main candidates seeking the post of top insurance regulator in those six states:

DELAWARE

Republican incumbent Donna Lee Williams is seeking her third term as Delaware insurance commissioner. Running against her is Democrat Karen Weldin Stewart, who, as a certified insurance receiver, has liquidated bankrupt insurance companies for the past 12 years.

Ms. Williams has served as insurance commissioner for the past eight years. Among the accomplishments she points to are increasing options for Medicare Supplement Insurance, strengthening licensing requirements for insurance agents, establishing standards for prompt payments of insurance claims and reducing insurance fraud.


Ms. Williams Ms. Stewart

Ms. Williams said that, if re-elected, she plans to work to protect consumers in light of the 1999 federal legislation that permits consolidation of the insurance, finance and banking fields. In particular, Ms. Williams said, she wants to push for legislation that would safeguard the privacy of consumer information. Ms. Williams emphasizes her expertise in these pursuits, pointing to her experience as commissioner and the work she has performed for the National Assn. of Insurance Commissioners on the privacy issue.

Ms. Williams said she also wants to work on the further regulation of the managed care industry and the provision of prescription drug coverage to seniors.

Ms. Stewart is seeking her first elected office, although she has served three terms as president of the International Assn. of Insurance Receivers.

If elected, Ms. Stewart said her top priority would be to reduce auto insurance rates, ensure better enforcement of laws that protect consumers and provide payment to health care providers. Ms. Stewart said that health care providers, such as hospitals and physicians, have cash-flow problems because health insurers do not pay claims on time, a situation she says the insurance commissioner can correct.

FLORIDA

In what must seem like a case of déjà vu, Tom Gallagher is hoping to fill an unexpired term as Florida's treasurer and insurance commissioner.

Mr. Gallagher, a Republican, held the post from 1989 until 1995, after winning the election to finish Bill Gunter's term and winning re-election to a subsequent four-year term. Mr. Gunter left the position to run for a U.S. Senate seat.

In the current race, Mr. Gallagher hopes to fill the two-year unexpired term of Bill Nelson, who gave up the office to pursue his own bid for a U.S. Senate seat in this year's election. Democratic challenger John Cosgrove seeks to derail Mr. Gallagher's attempt to regain the office.


Mr. Gallagher Mr. Cosgrove

Both candidates are using their experiences with Hurricane Andrew in 1992 to woo voters.

Mr. Cosgrove recounts his experience as a homeowner whose insurer withdrew from the Florida market after paying claims related to the storm. His renewal premium with another underwriter cost three times the previous amount.

Armed with that experience, Mr. Cosgrove steered a bill through the state Legislature in 1993 that temporarily halted insurers from leaving the state during hurricane season. The bill also created a state-run catastrophe fund, funded by insurers, to help pay for hurricane repairs.

Mr. Gallagher touts his actions following the storm, including imposing a freeze on homeowners coverage rates and on the cancellation or non-renewal of coverage due to hurricane exposures. The commissioner also established a mediation program to resolve claims and created the Joint Underwriting Assn. as a homeowners insurer of last resort.

Mr. Gallagher is seeking his old job after serving as Florida's commissioner of education, a post he was elected to in 1998. He took that job after a four-year hiatus from politics, which followed a failed bid for the Florida governor's office after his last term as insurance commissioner.

Mr. Cosgrove was first elected to the House in 1980 and served until 1984. He was again elected to the House in 1986 and has served since.

The current insurance commissioner election will likely be the state's last.

The treasurer's office will be restructured in 2002 and will no longer include the office of insurance commissioner. The Legislature is expected to make the commissioner's job an appointed post.

MONTANA

The three candidates for Montana insurance commissioner are skirmishing over how fervently the regulator should represent consumers.

Republican Joyce Schmidt, a Bozeman resident, and Natural Law candidate Rebecca Scott of Great Falls contend they would balance their insurance regulation and consumer protection duties.


Ms. Scott Mr. Morrison

Both camps charge that consumer advocate John Morrison, the Democratic candidate from Helena, would focus too heavily on consumer protection.

Mr. Morrison said he is committed to making the office "work for the industry" while still protecting consumers.

The candidates are running for state auditor, Montana's top insurance and securities regulatory post. Democratic incumbent Mark O'Keefe, barred by state term limits from seeking a third term, is running for governor.

Ms. Schmidt, an accountant by training, declined to discuss her platform. She currently is in her second term as Gallatin County auditor. Gallatin ranks fifth in population among Montana's 56 counties.

Ms. Scott, who has neither government nor insurance industry experience, said she entered the race initially only to secure enough votes so that her party can remain active in Montana. Now a committed candidate, Ms. Scott said the state auditor should focus on "enforcing existing laws in the insurance and securities area." Ms. Scott, who runs an interior design firm, also would like to see health insurers cover more injury- and illness-prevention services.

Mr. Morrison, a plaintiffs attorney, has litigated numerous cases that promoted safer workplaces, fair insurance claims handling, quality medical care and open government. He also has written articles and taught law school classes and seminars on insurance and securities issues, he said.

Mr. Morrison said his focus on protecting consumers would benefit insurers that deal honestly with policyholders, because unscrupulous insurers hold an unfair competitive advantage over honest insurers.

He said he also would work to eliminate meaningless "bureaucratic obstacles." Specifically, he wants to work to revise the state's privacy law so that insurers would have to keep policyholders' medical records confidential without a waiver but would be able to pass along other policyholder information. For example, under the current law, an insurer must obtain a privacy waiver before arranging for a glass contractor to replace a policyholder's broken window, Mr. Morrison points out.

Mr. Morrison also wants Montana to become a captive domicile.

NORTH CAROLINA

For the third time in as many general elections, incumbent Democratic Insurance Commissioner James Long faces a challenge from Republican Mike Causey.


Mr. Long Mr. Causey

Commercial insurance issues have not been prominent in a campaign that has been, in general, low key. Mr. Causey supports rate regulation reform and has criticized Mr. Long for the way claims from 1999's Hurricane Floyd were handled.

In a statement sent to *Business Insurance*, Mr. Long said that he will continue to work with the NAIC "to reach a global solution" to regulatory reform. "As commissioner, I am aware of the needs of the marketplace to have uniform products covering multistate exposures," Mr. Long said in the statement.

Mr. Long, who first won election as Insurance Commissioner in 1984, is a former president of the NAIC. Before his first election as North Carolina commissioner, he served as its first deputy commissioner and represented Alamance County in the General Assembly.

Mr. Causey is an independent business consultant from Greensboro. He is a former insurance agent and schoolteacher.

NORTH DAKOTA

While Democrat Gorman King Jr. hopes to assume the commissioner post left vacant in North Dakota by fellow Democrat Glenn Pomeroy, the latest polls show Republican Jim Poolman to be the more popular candidate.

Mr. Pomeroy, a former chairman of the NAIC, is running for state attorney general after two terms as North Dakota's chief insurance regulator. But it's questionable whether Mr. Pomeroy, whose brother Earl preceded him as North Dakota's Insurance Commissioner, will be able to pass on the mantle to yet another Democrat. Mr. Poolman, a two-term state representative from Grand Forks, is at least six points ahead of Mr. King in the polls.


Mr. Poolman Mr. King

And even though Mr. Poolman describes himself as a consumer advocate, he has the backing of the National Assn. of Independent Insurers.

"He sees companies wanting to do business in North Dakota as being good for consumers," explained Laura Kotelman, associate counsel for the NAII in Chicago.

While both candidates pledge to improve the accessibility of insurance for small business and working families, Mr. King already has put forth a plan on how to do this. He wants to extend the state Public Employee Retirement System's health plan, a group-purchasing cooperative for government workers, to small businesses and farm families.

Mr. King also wants to institute a group-purchasing system to lower prescription drug costs. He also favors the provision of tax credits for individuals who purchase long-term care insurance, a measure Mr. Poolman has voted against as a legislator.

Mr. King is publisher of the Hillsboro Banner, North Dakota's oldest weekly newspaper, and president of ProviDent, a prepaid dental benefit plan.

WASHINGTON

Candidates seeking to become Washington state Insurance Commissioner call themselves consumer advocates, but their supporters say they will move away from the standard set by their predecessor.

Insurance Commissioner Deborah Senn is not seeking re-election. She pursued a U.S. Senate seat but lost in a primary attempt.

As commissioner, Ms. Senn is widely regarded as having pushed consumer rights to the point of alienating insurers.

Bill Daley, campaign manager for Democratic contender Mike Kreidler, said his candidate is a consumer advocate but that "his style will be different (from Senn's) in that regard."


Mr. Davidson Mr. Kreidler

Mike Pickrell, campaign manager for Republican Don Davidson, said Mr. Davidson plans to address the availability crisis in the state's individual health care market by focusing on traditional commissioner practices, such as solvency regulation, and by creating a friendlier environment for insurers.

Mr. Kreidler is an optometrist who has served as a state legislator and a U.S. congressman. If elected, he proposes creating a pharmaceutical benefit management entity to provide prescription drugs at reduced rates to the state's uninsured.

Mr. Davidson is a dentist, a past president of the Seattle-King County Dental Assn., and a former mayor of the city of Bellevue. He pledges to support employer-provided health coverage through defined contribution plans. Such plans would give consumers greater choice in health coverage, said Mr. Pickrell.

Both candidates want to restore the Department of Insurance's accreditation by the NAIC (*BI*, Dec. 13, 1999).

A third candidate, Mike Hihn, is running as a Libertarian. Mr. Hihn has said that he would eliminate the provision of employer-sponsored health care.

Insurer and employer representatives say that business interests have not weighed in with strong support for any of the candidates. They note, though, that Gov. Gary Locke, a Democrat seeking re-election, is popular among business interests. That could help Mr. Kreidler, they say.

Additionally, Mr. Kreidler's campaign may be helped by what Mr. Davidson's camp calls Mr. Kreidler's considerable political ties; Mr. Davidson's campaign noted that these ties have enabled Mr. Kreidler to outspend Mr. Davidson 2-1.

•

Michael Bradford, Roberto Ceniceros, Meg Fletcher, Mark Hofmann, Dave Lenckus, Michael Prince and Joanne Wojcik contributed to this story.

Oregon

Continued from page 2

mischaracterize the 9th Circuit Court ruling," said Hannah Leavitt, a partner with Buchanan & Ingersoll P.C. in Harrisburg, Pa.

This is the second time the Supreme Court is being asked to review the relationship of state financial responsibility laws and the pre-emption provisions of the Risk Retention Act. In 1995, the high court was asked by a Maryland-domiciled RRG to review an 11th U.S. Circuit Court of Appeals decision that upheld a 1992 Florida law requiring taxi and other passenger transportation firms to buy the first $30,000 of liability coverage from insurers that belong to the Florida Insurance Guaranty Assn. (*BI*, Nov. 8, 1994). Under federal law, RRGs cannot belong to state guaranty funds or associations. The Supreme Court declined to review that ruling.

RRG advocates hope the Supreme Court takes up the Oregon case and in so doing resolve the split between the appeals courts.

"We would like to have this resolved once and for all with a ruling that would apply nationwide," said Jon Harkavy, a member of the government affairs committee of the National Risk Retention Assn. and vp and general counsel in the Arlington, Va., office of Risk Services L.L.C., a captive and RRG manager.

The ramifications of the case before the Supreme Court extend to several dozen of the roughly 65 risk retention groups operating in the United States.

At issue is the relationship of the sections of the Risk Retention Act that pre-empt state laws discriminating against risk retention groups and other sections that protect from pre-emption state financial responsibility laws requiring companies in certain industries to buy insurance.

Financial responsibility laws, like the Oregon statute, typically require companies or professionals to prove they carry a certain amount of insurance, often from insurers admitted or authorized in the state. Such laws are driven by a basic policy concern: making sure that organizations that deal with the public have adequate insurance.

Risk retention group advocates say that Congress did not—to a point—want to interfere with state financial responsibility laws when it passed the Risk Retention Act, the federal law that allows employers to band together and form their own insurance company for policyholder-owners and operate nationwide after meeting the licensing and capitalization requirements of one state.

They say financial responsibility requirements are exempt from the Risk Retention Act's pre-emption provisions as long as the requirements don't discriminate against RRGs.

Examples of non-discriminatory financial responsibility laws, risk retention group supporters say, would be those that require all insurers—including RRGs—to meet capitalization requirements or use certain policy forms.

Under Oregon law, though, automobile dealers must be registered with the state to sell vehicle service contracts. To register, a dealer must meet mandated "financial stability" requirements. The dealer can meet the requirement by showing that it has a net worth of at least $100 million or by purchasing a reimbursement policy from an authorized insurer. Under another Oregon law, an authorized insurer, among other things, must be a member of the state guaranty association. Thus, RRGs effectively cannot sell reimbursement coverage to automobile dealers.

Oregon's requirements were challenged in federal court by National Warranty Insurance Co. RRG, a Risk Retention Group, which said the Risk Retention Act pre-empts such requirements.

The 9th Circuit agreed in its ruling. While states may set financial responsibility requirements, those requirements cannot automatically exclude RRGs as a class, the court said.

While the most "reasonable reading of the Risk Retention Act is that states can exclude a particular RRG from doing business if it is financially unstable, laws such as Oregon's that categorically exclude RRGs from writing coverage in certain lines of business are pre-empted," the court said.

But in its petition to the high court, the Oregon Department of Justice said the Risk Retention Act left it up to the states to permit RRGs "to sell proof of financial responsibility insurance or it may not." Only if the state allows RRGs to sell coverage satisfying such a requirement, then it may "not do so on terms worse than applied to other insurance companies selling the same coverage."

The petition also noted that in the area of financial responsibility, Congress did not want federal preemption of state law to be as extensive in other areas.

"It is one thing for like-minded commercial entities to band together and self-insure to protect themselves from losses; it is another when a state decides they must carry minimum liability insurance to prove their financial responsibility for the protection of consumers," the petition said.

While the Risk Retention Act preempts "most state regulatory authority concerning the former," another section of the federal act "allows states greater freedom of regulatory authority concerning the latter," the petition added. BI

Merger

Continued from page 1

Like many benefit consultants, Hewitt's business in the United Kingdom was at first largely pension-related. Today, though, pension consulting work accounts for only about 25% of revenues, with about half of revenues generated by benefits outsourcing and administration and the remainder from human resource and compensation consulting-related services.

By contrast, Bacon & Woodrow, which last year celebrated its 75th anniversary, still derives most of its business from pension and investment consulting. "They (Bacon & Woodrow) bring a marketplace presence in pension work," Hewitt's Mr. Bennett said. Correspondingly, through the merger, Hewitt will significantly enhance its pension consulting resources and client base in the United Kingdom.

For London-based Bacon & Woodrow, linking up with Hewitt, the world's second-largest consultant with $1.3 billion in gross revenues, will give it a global reach.

Hewitt has 80 offices in 37 countries and 12,000 employees. Bacon & Woodrow, which has 1,100 employees, operates primarily in the United Kingdom.

Just as significantly, Hewitt's outsourcing capabilities, especially for larger employers, are considered more advanced than Bacon & Woodrow.

The diverse strengths, say executives of the two firms, will benefit U.K. clients.

"We are one of the leading actuarial consulting firms in the U.K. with an award-winning investment consultancy, while Hewitt has witnessed rapidly expanding growth for its innovative U.K. benefits design and administration services. We complement each other very well," said Richard Moore, head of Bacon & Woodrow in a statement.

While the transaction will enable Hewitt to catapult up the ranks—as measured by size—to become the third-largest benefit consultant in the United Kingdom, it still will be significantly smaller than William M. Mercer Inc., which with nearly $370 million in consulting revenues last year is the largest benefit consultant in the United Kingdom and the world. Watson Wyatt Worldwide is widely thought to be the second-largest benefit consultant in the United Kingdom, though it does not disclose its U.K. revenues.

The combined firms, after an interim period, intend to operate under the Hewitt name. Simultaneously, Deloitte & Touche will acquire Bacon & Woodrow's insurance consulting business. BI

UPDATES

New reinsurer in Bermuda

HAMILTON, Bermuda—A new finite risk reinsurer with initial capital of $200 million has been established in Bermuda.

Imagine Reinsurance Holdings Ltd., which opened for business last week, will provide finite risk coverage for both property and casualty insurance and life insurance, a company statement said.

The reinsurer is owned by Trilon Financial Corp., a financial services company based in Toronto, and Imagine's management.

The co-chief executive officers of Imagine are Brad S. Huntington and Thomas Gleeson.

The company plans to raise its capital to more than $1 billion over the next two years, the statement said.

"Plans and discussions for the secondary infusion of our equity capital are positively advancing and will allow us to build, within a short time frame, a world-class capital platform without historic business or organizational constraints," Mr. Huntington said in a statement.

Imagine has also opened an office in Barbados and plans to open a third office in Ireland.

OSHA fines two Texas employers

WASHINGTON—Federal workplace safety authorities have fined two Texas employers a total of nearly $3 million for scores of alleged willful safety and injury-reporting violations.

The Occupational Safety and Health Administration fined the Hearne, Texas, facility of residential door manufacturer Lifetime Doors Inc. more than $1.1 million for 37 alleged safety and health violations. Lifetime employs 81 workers at its Hearne facility.

OSHA hit Lifetime with 17 willful violations for allegedly failing to train employees in locking out machinery. The machinery amputated the fingers of two employees in separate incidents in April and crushed both hands of another employee in an incident in June.

OSHA also cited Lifetime for three alleged willful violations of machine guarding requirements and failing to implement a lockout/tagout program. Lifetime also faces 15 citations for alleged serious violations of numerous other safety and health standards and two citations for other-than-serious violations of recordkeeping requirements.

Lifetime plans to appeal, said James Mitchell, vp-administration at the company's headquarters in Farmington Hills, Mich.

In Baytown, Texas, Jindal United Steel Corp. faces $1.7 million in fines for 186 alleged violations—122 of them willful violations for failing to record employee injuries and illnesses from 1998 through part of 2000.

OSHA also cited the company, which employs about 343 workers at the facility, for four alleged willful violations of failing to correct crane hazards. The company faces 56 additional citations for alleged serious violations of other safety and health standards.

Jindal, also known as U.S. Denro Steel Inc., plans to appeal the fines, said Business Manager B.K. Rahlom.

OSHA defines a willful violation as one committed with intentional disregard of or plain indifference to OSHA requirements.

Briefly noted

In one of the largest-ever Superfund settlements, Aventis CropSciences USA Inc., formerly known as Rhone Poulenc Inc., has agreed to fund the **cleanup of the Iron Mountain Mine** site near Redding, Calif. Cleanup costs could total $1 billion....**Ed Woodward**, president of the Oakland-based California Workers' Compensation Institute, died Oct. 13. Mr. Woodward was 58; he was considered a nationally recognized leader and innovator in the development of workers compensation data, according to a CWCI statement....Reinsurer **Everest Re Group Ltd.**'s profits for the first nine months of 2000 were $135.0 million, a 13.9% increase over the comparable period in 1999. Gross revenues rose 9.8%, to $1.06 billion....Profits at **Renaissance Re Holdings Ltd.** grew 14.6%, to $89.4 million, for the nine-month period. Gross revenues increased 21.2%, to $244.8 million....Benefit consultant **Watson Wyatt Worldwide** has moved its corporate offices to Washington, D.C., from Bethesda, Md.

Quality

Continued from page 3

Although it is not asking managed care companies to strictly adopt Six Sigma, the consortium wants "to transfer that skill set from manufacturing to health care," said Joe Checkley, director of employee benefits at American Standard Cos. in Piscataway, N.J., and a consortium member.

In the past, efforts to boost customer satisfaction largely focused on improving performance in specific areas, such as having claims processed within a certain number of days or having customer service representatives answer the phone within a set number of rings, noted Ms. Baltrusitis. But that has proved unsatisfactory, as it measured quantity, not quality, she said.

"It's quality that truly has to be measured," she said.

Prior efforts to improve managed care quality often corrected only little problems, agreed Mr. Checkley. But that improvement usually came from people performing better or devoting extra attention to a targeted area and isn't sustainable over a long period. He said a large-scale effort is needed to get at the root causes of the problems.

"You need to eliminate the defects from the systemic processes from managed care," Mr. Checkley said. "Unless we take a very systemic approach to getting our arms around the processes of managed care we just will not fix this thing."

Since its first meeting in March, the consortium has agreed to focus on five areas where it says the largest gaps exist between service expectations and delivery. These include:

- Claims administration.
- Member services.
- Member communication.
- Network management/provider relations.
- Care management.

To date, the group has met with representatives from three large health plans—Aetna U.S. Healthcare, CIGNA Corp. and UnitedHealthcare—and representatives of the American Assn. of Health Plans.

The consortium's first goal is to improve administrative processes, Mr. Checkley said. The ultimate goal is to address clinical quality, but that can't improve, he said, unless the administrative issues are resolved.

"We address the first one and position ourselves for the second one," Mr. Checkley said.

The group's goals, he admits, are lofty. "But I see no alternative by employers other than engage the system and make it work," he said.

Many of the member employers don't see their group as an opponent of managed care organizations. They see it giving customer feedback that managed care organizations can embrace.

"If we can agree on a set of standards it will make life simpler for the managed care organizations across the board," said Donna Ball, senior vp, benefits at Bank of America in Charlotte, N.C., and a consortium member.

Despite some reservations, managed care organizations feel "this is an area of enough potential that it warrants moving forward," Mr. Checkley said.

The managed care industry is open to the consortium's aims while retaining a degree of wariness, agreed Dr. Charles Cutler, chief medical officer at the American Assn. of Health Plans in Washington, who has met with consortium leaders.

"To the degree that they can identify key customer needs and desires it's very valuable," he said.

While applauding employers for moving toward a more widely adopted multi-employer set of priorities, Dr. Cutler is concerned the consortium's priorities could add to the already complicated set of demands placed on managed care plans. Ideally, the consortium will instead help streamline and coordinate the demands of various groups that managed care organizations must satisfy, he said.

Another concern, Dr. Cutler said, is that many employers don't pay attention to how well managed care plans comply with current quality measurements—such as those created by the National Committee for Quality Assurance and the Joint Commission on Accreditation of Healthcare Organizations—and instead still choose health plans based on cost.

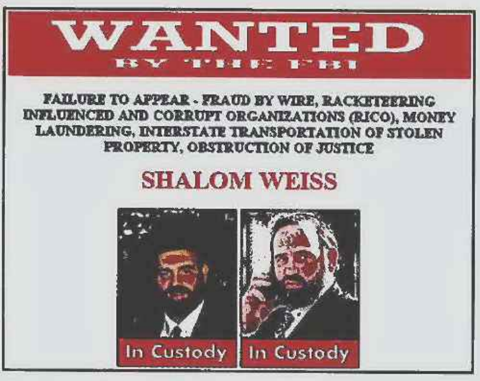
"There is a degree of skepticism within the managed care community about what these measures mean," he said. "The proof to me and the health care plans is whether they actually use these measures to make purchasing decisions."

Ms. Morris of United Technologies said that by adopting the group's proposals for achieving process excellence, managed care plans would increase quality and lower their costs. That alone will help the plans, she said. BI

FOR THE RECORD

Excerpts from *BI*'s Daily Online Updates, Oct. 23 - Oct. 27, 2000

PACIFICARE CEO RESIGNS PacifiCare Health Systems Inc.'s president and chief executive officer, Robert W. O'Leary, resigned last week—three months after his appointment to the post—saying that the managed care company's priorities had changed and that he is no longer suited to lead the company. In a statement, Mr. O'Leary said, "I believe that the shareholders deserve, and the management team needs, a leader well-grounded in the fundamentals of managed care to lead the company through the time immediately ahead, in order to position the company to unlock its real value and future potential." Chief Financial Officer Howard G. Phanstiel has been named interim president and CEO.



A wanted poster for Mr. Weiss posted on the FBI's Tampa bureau Web site.

FUGITIVE ARRESTED Sholam Weiss, a fugitive businessman convicted of looting the now-defunct National Heritage Life Insurance Co., was arrested in Vienna, Austria last week after nearly a year on the run. Mr. Weiss, sentenced in absentia to 845 years in prison, jumped bail and disappeared after his November 1999 conviction on racketeering, fraud and other charges connected to the 1994 collapse of Delaware-domiciled National Heritage. A federal jury found that Mr. Weiss—also known as Shalom Weiss and Sheldon Weiss—and three other defendants engineered a series of complex schemes to divert more than $100 million of the insurer's cash, open phony credit lines and sell fraudulent mortgage-backed securities. The U.S. Department of Justice has begun proceedings to extradite Mr. Weiss from Austria, an effort authorities expect him to fight. National Heritage was ordered liquidated after regulators discovered that a large part of the insurer's assets were missing.

OSHA PRACTICE CURBED The Occupational Safety and Health Administration's ability to access information collected by federally funded safety consultants for enforcement purposes will be sharply limited under a final rule published in the Oct. 26 Federal Register. The rule, which takes effect Dec. 26, deals with state-administered onsite consultation programs funded by OSHA, which pay for independent safety consultants to visit facilities. Under the new rule, OSHA can obtain a safety consultant's report only if OSHA independently finds that the employer has failed to address serious hazards identified in the report; has made false statements regarding participation in the popular consultation program; or has allowed the same hazardous situation to arise again. The new rule also says that employees must be informed of the results of a consultant's visit and, in fact, be allowed to participate in the visit. The rule holds that consultation results, however, will not be disseminated to the general public.

NEW S&P RATINGS Rating agency Standard & Poor's Corp. has established a "financial enhancement rating" system to help investors evaluate insurers' willingness and capacity to make timely payments on insured securities. According to S&P Director Donald S. Watson, insurers "have a long tradition of validating claims, reviewing the claims and paying those claims over time." While that lengthy process is an accepted insurance industry practice, it "is not an effective mechanism in the capital markets," he said. There, investors are typically third-party beneficiaries of insurance who make their investments based on the insurer's credit rating and expect that if there is a problem with the underlying issue, the insurer will simply and promptly "step in to guarantee payment." The financial enhancement ratings stand in contrast to S&P's financial strength ratings, which focus on insurers' capacity to pay claims, Mr. Watson said. "The concern is that investors will make decisions based on the financial strength of an insurance company and not on its willingness to pay and those could be very distinct, based on the insurers' commitment to the business. S&P's initial list of insurers who qualify for its Financial Enhancement Rating is available on the rating agency's Web site, *www.standardandpoors.com/ratings*. Mr. Watson said he does not expect more than 30 to 40 insurers to qualify for the rating.

P/C OUTLOOK The U.S. property/casualty insurance industry's net written premiums should grow at a faster clip and the combined ratio should improve next year, according to a panel of Wall Street analysts. According to the Insurance Information Institute's annual "Earlybird Forecast," which was released last week, the average projection by the analysts polled holds that net written premiums should grow at a rate of about 7% in 2001, up from a projected 5.2% for this year. That would give the industry its highest growth rate since 1987. In addition, analysts estimate the average projected combined ratio for the industry at 108.7% next year, an improvement from this year's estimated 109.7%. That projection assumes normal levels of catastrophe activity.

POSTINGS SUIT SETTLED Enhance Financial Services Group Inc. says it will make no payments under a settlement agreement reached with Creditrust Corp. of a lawsuit in which Creditrust charged that statements anonymously posted online by an Enhance official had led to a decrease in its capitalization. Baltimore-based Creditrust filed for bankruptcy in June, and the agreement must still be approved by the bankruptcy court. In the lawsuit—filed in April in federal district court in Baltimore against Enhance, its Asset Guaranty Insurance Co. subsidiary and former EFS Senior Vp Charles Henneman—Creditrust charged that Mr. Henneman anonymously posted "maliciously false and disparaging statements" against Creditrust on a Yahoo! message board. Creditrust said the postings were timed to coincide with its February 1999 secondary stock offering (*BI*, April 10). New York-based Enhance denied responsibility for Creditrust's financial problems, saying that it had no knowledge of the posting activities described in the complaint "and that any such activity would have been unauthorized and against company policy." Mr. Henneman was terminated the week before the suit was filed.

BRIEFLY NOTED Chief Deputy Louisiana Insurance Commissioner **J. Robert Wooley** will take over day-to-day operations at the state Insurance Department following Commissioner James Brown's recent conviction on charges of lying to federal officials investigating the collapse of Cascade Insurance Co. Mr. Brown, who said he will appeal, faces a maximum of five years in prison on each of the counts against him....**Peter L. Sparta** has been named president of **Morse, Payson & Noyes Insurance**, an insurance agency based in South Portland, Maine. Mr. Sparta, who formerly served as regional vp for Maine, replaces John R. Curran, who served as president since 1996 and is retiring from the company. A wholly owned subsidiary of Peoples Heritage Bank, Morse, Payson & Noyes Insurance has offices throughout Maine, New Hampshire, Massachusetts and soon Connecticut. BI

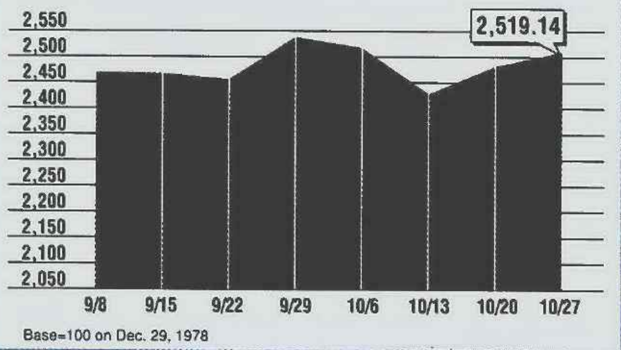
To get breaking news as it occurs, visit Business Insurance's free online Updates at www.businessinsurance.com. All of the material in the For The Record column, as well as other content in this week's issue, is generated from daily news postings that appeared on the Web site in the previous week.

Find daily coverage on Corporate Risk, Employee Benefit and Managed Health Care News at www.businessinsurance.com

BI Industry Stock Report OCT. 23, 2000, THROUGH OCT. 27, 2000

		Price	Weekly % change	Year to date % change	Year to date High	Low	Vol.(000)
BROKERS							
Aon Corp.	NYS	39.94	6.15	-0.16	42.75	20.69	5727
Brown & Brown	NYS	31.00	-1.39	61.83	34.81	15.38	75
Clark Bardes Holdings	NDQ	10.25	-4.65	-28.70	20.63	8.50	47
E.W. Blanch Holdings Inc.	NYS	18.63	-0.67	-69.59	65.00	16.56	403
Gallagher Arthur J. & Co.	NYS	59.56	9.04	83.98	60.50	23.06	834
Hilb, Rogal & Hamilton	NYS	38.25	-0.97	35.40	42.13	24.25	149
Kaye Group Inc.	NDQ	8.19	24.76	-2.24	11.88	5.00	18
Marsh & McLennan	NYS	126.75	2.68	32.46	135.69	64.38	5065
BROKERS	AVERAGE		5.58	23.64			
INSURERS/REINSURERS							
ACE Ltd.	NYS	39.25	3.46	135.21	40.19	14.06	5685
Accel International Corp.	NDQ	0.44	0.00	-56.30	1.19	0.44	2
Acceptance Insurance Cos.	NYS	5.63	-1.10	-2.17	15.13	2.75	62
AEGON N.V.	NYS	39.81	5.81	-16.62	49.13	31.50	615
Aetna Life & Casualty	NYS	56.81	-5.21	1.79	73.69	38.50	5311
AFLAC Inc.	NYS	68.00	6.77	44.11	68.19	33.56	6133
Allmerica Financial Corp.	NYS	61.81	-0.20	11.12	67.19	35.06	1561
Allstate Corp.	NYS	37.25	7.97	54.81	37.56	17.19	15144
Ambac Financial Group	NYS	76.94	4.15	47.43	77.50	38.88	1831
American Financial Group	NYS	20.38	1.24	-22.75	30.25	18.38	384
American General	NYS	79.25	3.09	4.45	82.19	45.63	5266
American Intl Group	NYS	94.69	-0.39	31.36	99.94	52.38	23298
American Safety Insurance	NYS	4.38	11.11	-32.69	7.44	3.25	65
Argonaut Group	NDQ	17.38	-11.61	-12.58	26.00	14.44	250
AXA-UAP Group	NYS	62.50	-1.77	-11.97	81.50	58.25	3379
Baldwin & Lyons Inc.	NDQ	19.00	0.66	-14.12	23.94	15.25	34
Berkley W.R. Corp.	NDQ	34.25	1.48	64.07	35.23	14.00	725
Berkshire Hathaway Inc.	NYS	60875.00	2.48	8.51	66900.00	40800.00	2
Capitol Transamerica Corp.	NAS	10.88	2.35	8.07	14.00	9.38	20
Chubb Corp.	NYS	81.25	3.59	44.28	83.94	43.25	5535
CIGNA Corp.	NYS	114.66	0.67	42.32	116.25	60.75	3410
Cincinnati Financial Corp.	NYS	36.75	5.19	15.29	43.31	26.19	1488
Citigroup	NYS	50.25	-1.35	20.01	59.13	31.55	57498
CNA Financial Corp.	NYS	36.00	4.73	-7.54	42.13	24.56	1056
CNA Surety	NYS	11.81	0.51	-9.15	14.94	9.75	67
EMC Insurance Group Inc.	NDQ	9.75	0.65	6.85	11.38	6.81	15
ESG Re Limited	NDQ	3.06	2.08	-55.86	9.38	2.50	75
Enhance Financial Services	NYS	11.75	-2.08	-27.69	19.31	8.63	729
Everest Reinsurance	NYS	54.38	12.69	143.70	55.56	20.50	3092
Fremont General Corp.	NYS	3.31	-1.85	-55.08	9.63	2.69	587
Frontier Insurance Group	NYS	0.34	0.00	-90.00	9.13	0.19	1002
Gainsco Inc.	NYS	4.00	4.92	-25.58	6.50	3.50	129
Harleysville Group	NDQ	22.88	10.24	60.53	22.94	11.63	196
HSB Group Inc.	NYS	39.56	-0.95	17.00	40.63	21.50	1022
HCC Insurance Holdings	NYS	18.63	-0.64	41.27	22.94	8.00	347
ING Groep N.V.	NYS	65.50	2.14	7.38	69.94	46.81	1147
IPC Holdings Ltd.	NDQ	20.44	4.14	37.39	20.75	9.75	235
Hartford Financial Services	NYS	74.38	3.76	57.00	77.81	29.38	4998
John Hancock Financial Services	NYS	29.56	7.01	73.90	29.56	13.44	5334
LaSalle Re Holdings Ltd.	NYS	18.88	0.00	14.39	19.38	10.88	0
Lincoln National	NYS	46.44	4.35	16.09	56.38	22.63	5170
MAIC Holdings Inc.	NYS	13.25	1.44	-37.46	23.80	10.00	55
Markel Corp.	NYS	141.00	0.80	-9.03	182.06	111.50	71
MBIA Insurance Group	NYS	70.00	2.75	32.54	73.44	36.31	1091
Meadowbrook Insur. Group	NYS	4.25	1.49	-35.24	12.06	3.94	24
MetLife	NYS	24.81	2.85	74.12	27.63	14.25	7465
Mutual Risk Mgmt. Ltd.	NYS	17.88	8.33	6.32	23.75	9.81	1049
Navigators Group	NDQ	13.88	23.33	42.31	14.13	8.63	13
NYMagic Inc.	NYS	16.25	4.84	23.22	16.25	12.25	15
Ohio Casualty Corp.	NDQ	8.44	8.87	-47.47	17.88	6.13	1521
Old Republic Int'l	NYS	26.56	14.86	94.95	27.06	10.63	3268
Partner Re Ltd.	NYS	54.13	8.25	66.86	55.19	28.38	1232
Penn-America Group Inc.	NYS	8.13	-7.80	4.84	9.75	6.63	21
PMA Capital Corporation	NDQ	16.25	-2.99	-18.24	20.50	15.38	91
Philadelphia Cons. Holding	NDQ	21.13	1.20	45.69	22.63	13.13	313
PXRE Corp.	NYS	14.44	1.32	11.06	17.56	9.94	104
Reliance Group Holdings	NYS	0.09	-25.00	-98.58	7.75	0.09	4128
ReliaStar Financial Corp.	NYS	53.94	0.00	37.64	53.94	23.75	0
RenaissanceRe Holdings Ltd.	NYS	73.88	12.04	80.73	77.75	33.19	1010
RLI Corp.	NYS	39.19	1.95	15.26	39.63	26.25	30
St. Paul Cos.	NYS	49.25	4.37	46.20	51.31	21.31	3748
SCOR	NYS	45.13	2.57	1.99	53.63	38.38	21
SAFECO Corp.	NDQ	23.44	-1.06	-5.78	30.69	18.00	3178
SCPIE Holdings Inc.	NYS	18.63	-3.53	-42.01	36.94	18.63	NA
Seibels Bruce Group	NDQ	0.88	16.67	-50.00	3.88	0.53	57
Selective Ins. Group	NDQ	17.00	3.82	-1.09	20.38	14.63	263
Tokio Marine & Fire	NDQ	55.00	-0.23	-6.98	67.00	45.00	63
Torchmark Corp.	NYS	31.50	8.39	8.39	36.00	18.75	2206
Transatlantic Holdings	NYS	94.94	5.56	21.62	95.63	68.75	51
Trenwick Group Inc.	NYS	18.69	20.08	10.33	21.25	12.00	726
Unico American Corp	NDQ	7.63	7.02	8.93	8.63	4.50	42
United Fire & Casualty	NDQ	16.94	0.00	-25.14	23.38	15.50	58
Unitrin	NDQ	30.75	-2.57	-18.27	39.75	27.19	232
UNUM Corp.	NYS	27.19	0.69	-15.20	36.19	11.94	3288
Vesta Insurance Co.	NYS	4.63	1.37	19.35	7.88	3.44	124
XL Capital Ltd.	NYS	76.75	6.78	47.95	80.00	39.00	2507
Zenith National Ins.	NYS	21.50	3.30	4.24	24.94	18.75	23
INSURERS/REINSURERS	AVERAGE		2.97	10.84			
HEALTH MAINTENANCE ORGANIZATIONS							
Foundation Health Systems Inc.	NYS	18.25	10.61	83.65	18.63	6.25	3623
Humana Inc.	NYS	11.31	7.71	38.14	12.38	4.75	4195
Oxford Health Plans	NDQ	35.13	21.91	176.85	35.13	9.75	15020
Pacificare Health Sys.	NDQ	10.50	-12.04	-80.19	72.31	10.00	4905
Sierra Health Services	NYS	5.06	6.53	-24.34	10.00	2.44	803
United HealthGroup	NYS	109.69	4.15	106.47	112.00	39.38	7339
Wellpoint Health Networks	NYS	114.00	13.36	72.89	114.00	48.25	3819
HMOs	AVERAGE		7.46	53.35			
ALL COMPANIES			5.33	29.28			

BI Insurance Index



Base=100 on Dec. 29, 1978

Top advancing issues: Kaye Group Inc., Navigators Group, Oxford Health Plans. Leading decliners: Reliance Group Holdings, Pacificare Health Sys., Argonaut Group. Most active issue: Citigroup. The *BI* Index rose 1.5%; the Dow Jones 30 Industrials increased 3.6%; the S&P 500 dropped 1.2%, and the NYSE Composite went down 0.2%. Average P/E: Brokers, 22.0; Insurers/reinsurers, 24.9; and HMOs, 15.4.

Source: *CNET Investor* (investor.cnet.com) Boulder, Colo.