

Business Insurance

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

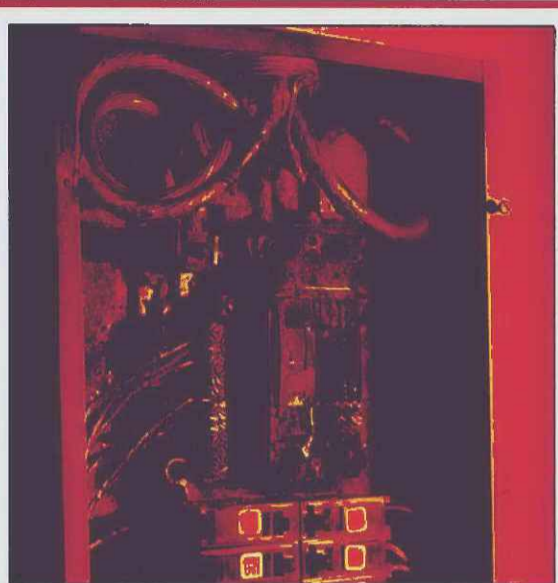
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American Re, affiliate sued over reinsurance contracts

LOS ANGELES—Superior National Insurance Group Inc. has filed a \$200 million fraud lawsuit against American Re-Insurance Co. and an affiliate over reinsurance contracts related to Superior's 1998 acquisition of Business Insurance Group Inc.

The Los Angeles-based workers compensation insurer charges in its suit that American Re and Bermuda-based Inter-Ocean Reinsurance Co. Ltd. have wrongly refused to honor a \$175 million reinsurance contract covering adverse loss development at BIG.

See Updates on next page



COURTESY HARTFORD STEAM BOILER INSPECTION & INSURANCE CO.

Electrical arcing severely damaged this electrical distribution panel and can crack or melt insulation over time.

Storm surges can plague unprepared

By JOANNE WOJCIK KOCHANIEC

As yet another hurricane season bears down on the nation's coasts, risk managers need to prepare for the threat such storms present to electrical systems and electronic equipment, loss control experts say.

"There is a significant risk of damage to equipment by power surges," said Matthew T. Glennon, assistant vp of electrical loss control at Hartford Steam Boiler Inspection & Insurance Co. in Hartford, Conn.

"Any amount of time without power can have a significant impact on HVAC (heating, ventilation and air conditioning) systems, alarms and life-safety equipment," said Ben McKee, vp of administrative services at Jefferson-Pilot Life Insurance Co. in Greensboro, N.C.

Besides power surges, electrical systems also can be damaged by moisture, loose connections and dirt. Electrical arcing, which occurs at levels well below what a fuse or circuit breaker is designed to detect, can generate enough heat over time to crack or melt insulation, creating a fire hazard, loss control experts warn.

But with proper precautionary measures, the risk of loss can be significantly reduced, Mr. Glennon says.

Approximately 80% of all HSB claims between 1990 and 1997 stemming from tropical storms and hurricanes were for damage to electrical equipment such as power distribution systems, transformers, electronic office equipment, air conditioning and refrigeration equipment, according to a company spokesman.

The average value of those claims was \$115,000. Since 1980, HSB has paid more than \$100 million in claims stemming from electrical system breakdowns.

In fact, electrical distribution system failures are among the most frequent types of losses reported to HSB today, representing the third-most-frequent type of claim after those for boilers and air

See Electric on page 27

GOP care bill touted despite liability provision

By MARK A. HOFMANN

WASHINGTON—It could be worse.

That was the message that supporters of the Health Care Quality Choice Act are sending employers, physicians and their own Republican colleagues on Capitol Hill. Although the measure would expose employers to expanded liability under some circumstances by amending the Employee Retirement Income Security Act, the bill's sponsors stress that their intent is not to provide a bonanza for the trial bar.

"We're not driving lawsuits with this; we're driving care," Rep. Tom Coburn, R-Okla., said at a Capitol Hill news conference last week. Rep. Coburn,

along with Rep. John Shadegg, R-Ariz., is the chief co-sponsor of the bill. He warned that if this bill does not pass the House, a more stringent measure, such as that introduced by Reps. Charles Norwood, R-Ga., and John Dingell, D-Mich., could win approval.

"I would remind you of one thing—this House is going to pass a managed care reform bill," Rep. Coburn said. Rep. Shadegg added that if the House leadership does not push forward with the bill, it will lose credibility in light of the promise made by House Speaker J. Dennis Hastert, R-Ill., to move a managed care bill to the House floor by the end of this month (BI, Aug. 9).

Speaker Hastert had not said by late

last week whether he will support the bill.

The Senate passed its own managed care reform bill in July, but the measure would not expand liability (BI, July 19).

Rep. Lindsey Graham, R-S.C., said during the news conference that the Senate bill "was simply not near enough," adding that the House will not send a bill back to the Senate without a liability provision. The Coburn-Shadegg bill, he said, "is the best product that's out there in either body."

Under the bill, a coverage dispute would have to be reviewed by both an internal and an external panel before a

See Care on page 6

IBM cites changing workforce in defending cash balance move

By JERRY GEISEL

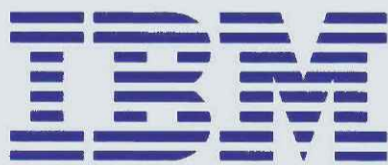
WASHINGTON—International Business Machines Corp., vilified by its veteran employees and some members of Congress for adopting a cash balance pension plan, is counterattacking.

At a hearing in Washington last week, IBM's benefits manager provided the most detailed defense and explanation yet of the company's decision to convert its traditional plan to a cash balance arrangement, a decision that has ignited a firestorm of criticism within its own employee ranks and on Capitol Hill.

A group of disgruntled IBM employees says it may sue the company. In Washington, Sen. James Jeffords, R-Vt., said it is "unfair and extremely unfortunate" that long-service IBM employees will face substantial losses in ben-

efits they expected to receive. Sen. Jeffords, chairman of the Health, Education and Labor and Pensions Committee, plans to hold a hearing on corporate cash balance plan conversions.

IBM is just one of several hundred companies that have, in the past few years, converted traditional pension plans to cash balance plans. But perhaps no company has been criticized more than IBM.



That criticism may be partly because the IBM name has become synonymous with benefit generosity. But one IBM employee, Evelyn Adams, who has worked in various positions for IBM for 23 years, said the issue is one of fairness.

"You don't change the rules in the fourth quarter" and say a touchdown is now worth only three points, Ms.

See Pension on page 29

Judge calls captive's charge 'nonsense'

Hopewell protected from U.S. suits

By DOUGLAS McLEOD

NEW YORK—Captive reinsurer Hopewell International Insurance Co. Ltd. has won a court order protecting it from lawsuits by U.S. policyholders, including a threatened suit by a General Mills Inc. captive over a mammoth 1994 property loss.

A U.S. bankruptcy judge has issued a ruling enforcing the terms of a solvent scheme of arrangement under which Bermuda-based Hopewell has been running off its business

since 1995. The decision means the General Mills captive and others must settle disputes with Hopewell through Bermuda arbitration.

While the captive, Gold Medal Insurance Co., charged that Hopewell misled it about the scheme's terms, Chief U.S. Bankruptcy Judge Tina L. Brozman dismissed the charge as "nonsense," finding that Gold Medal never objected to the scheme and in fact voted for it along with other Hopewell creditors.

"This is not the proper forum for a belated and disguised appeal" of the scheme, the judge wrote in an often sharply worded opinion.

Gold Medal's real concern, Judge Brozman suggested, is a 1996 change in the law governing Bermuda arbitrations that may make it easier for Hopewell to challenge any settlement between General Mills and its captive over the \$230 million claim.

The change in the law "was not Hopewell's doing," though, and the reinsurer did not devise its

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Updates

Insurer sues American Re, affiliate

Continued from previous page
American Re is the largest minority shareholder of Inter-Ocean's holding company.

Superior National required BIG's former parent, Foundation Health Corp., to buy the reinsurance as a condition of the sale. The reinsurance, for which FHC paid Inter-Ocean \$28.5 million, was to cover adverse development in excess of BIG's year-end 1997 reserves of \$522 million. Inter-Ocean retroceded 100% of the risk to American Re.

Soon after the BIG acquisition closed last December, an actuarial report concluded that BIG's reserves should be increased by at least \$175 million, and Superior National in June demanded that Inter-Ocean and American Re post a security deposit of at least \$150 million. The reinsurers have refused, according to the complaint, filed in Los Angeles Superior Court.

The dispute is separately the subject of arbitration between Inter-Ocean and BIG that began in July.

The reinsurers have not yet answered the complaint, but an American Re spokesman dismissed the charges.

"We think the allegations are absurd, and we expect that the court will find no basis for them in fact or in law," the spokesman said.

"We continue to believe arbitration is the best way to resolve this dispute," he added. "The suit seems to us to be an attempt to skirt that arbitration proceeding by going after American Re."

Doctors group suing 8 HMOs

SAN DIEGO—The California Medical Assn. is suing eight health maintenance organizations that operate in the state to recover at least \$100 million for doctors whose bills were left unpaid by bankrupt medical groups.

The suit, filed in San Diego Superior Court last week, says the HMOs violated California Health & Safety Code Section 1371, which requires plans to reimburse physicians for uncontested claims within 45 days of receipt of claims.

But the California Assn. of Health Plans, the state's HMO trade group, says its members have lived up to their responsibility. "The problem is not with the health plans failing to pay. The problem is the inability of the physician group, with whom the physicians have contracted voluntarily, to pay," the organization said in a statement.

In particular, doctors under contract with FPA Medical Management, a San Diego medical group, have not been paid since the group filed for bankruptcy in July 1998.

But in its suit, the CMA contends that HMOs are responsible for ensuring physician payments.

Because, in part, of their "vast financial resources, legal and accounting expertise" and daily contact with FPA, the suit says, the HMOs knew or should have known that serious financial problems at the medical group resulted in FPA's inability to pay the doctors.

The California Medical Assn. quietly filed the lawsuit July 15 but served papers on the HMOs just last week as a 60-day deadline for such actions approached. Besides Aetna U.S. Healthcare, other companies named in the suit are: Blue Cross of California, Blue Shield of California, HealthNet, MaxiCare Health Plans Inc., PacificCare of California, Prudential Healthcare—which Aetna is acquiring—and United HealthCare of California. The eight health plans collectively cover about 9 million individuals, nearly half of all Californians enrolled in HMOs.

China to close Jardine office

BEIJING—The Chinese insurance authority has announced it will close Jardine Insurance Brokers Ltd.'s Beijing representative office, according to reports issued through the official Chinese news agency, Xinhua.

The agency reported that an official bulletin from the China Insurance Regulatory Commission stated that JIB, part of London-based broker Jardine Lloyd Thompson Group P.L.C., had engaged in "unauthorized brokerage business" in China and Hong Kong. JIB had also attempted to hide its unlicensed business and "refused to admit that it had violated the Chinese insurance laws and regulations," according to the CIRC statement.

In addition to closing the representative office, the CIRC will disqualify JIB's representative, Wang Jiacong, from involvement in insurance business in the future, according to Xinhua.

JLT in London issued a statement saying that it, along with many other international brokers, had been "in regular dialogue with the CIRC to ensure that our activities meet with the CIRC's approval. In June of this year, we made a full disclosure to the CIRC regarding all of our activities in China since 1998. We believe we have acted appropriately in these circumstances. We are naturally concerned to read unconfirmed reports in the Chinese media that the CIRC are suggesting otherwise. We hope to meet senior staff at CIRC to clarify the issue."

Earlier this year, Sedgwick Insurance & Risk Management Consultants (China) Ltd. was suspended from operating for a three-month period because of trading irregularities, including transacting unlicensed business, according to the CIRC.

First Union sued over 401(k) plan

RICHMOND, Va.—First Union Corp. says it will "vigorously defend" itself against a \$300 million suit charging that the bank illegally directed employee 401(k) plan assets exclusively to its own mutual funds in order to boost corporate profits.

The suit was filed in federal district court in Richmond, Va., by 18 current and former First Union employees on behalf of 100,000 current and former 401(k) plan participants. In a statement, Charlotte, N.C.-based First Union said it manages the 401(k) for the benefit of the plan's participants and that the plan offers a broad and appropriate range of investment options.

The suit comes on the heels of a similar action filed earlier this year by
See Updates on page 3

Swissair case heating up

Plaintiffs, defendants dispute appropriate damages law

By DAVE LENCKUS

PHILADELPHIA—One of the few points of agreement among defense and plaintiffs attorneys embroiled in the Swissair Flight 111 damages litigation is that Swissair has not made a global settlement offer.

That means the plaintiffs' latest filing in U.S. District Court in Philadelphia did not reject any of-

fer, said the attorneys, criticizing how the press has characterized recent developments in the case.

All 215 passengers and 14 crew aboard the Geneva-bound Swissair flight were killed on Sept. 2, 1998, when the MD-11 crashed in the Atlantic Ocean off the coast of Nova Scotia shortly after takeoff from New York. The crash occurred during an attempted emergency landing after the flight

crew reported smoke in the cockpit.

The crash investigation continues, but it has raised questions about the roles that cockpit wiring, Mylar insulation and an onboard entertainment system may have played in starting or fueling a fire on the passenger jet.

In an effort to speed compensation to the plaintiffs, a group of
See Swissair on page 6

Ruling widens IPO liability

By ROBERTO CENICEROS

SAN FRANCISCO—A federal appeals court ruling could help shareholders who sue in the wake of initial public offerings by allowing them to target an entity rather than its directors and officers.

The distinction is important, legal experts said. Previously, directors and officers in those cases could use a due diligence defense, arguing that they acted reasonably in issuing U.S. Securities and Exchange Commission IPO registration documents.

But the 9th U.S. Circuit Court of Appeals' Aug. 27 decision in *Howard Hertzberg vs. Dignity*

Partners Inc. creates a new cause of action. Now companies can be held strictly liable for material misstatements in their IPO documents, several experts said. Plaintiffs do not have to establish that the entity intended to mislead them.

"To me, that is a powerful weapon in the plaintiffs' arsenal," said Steven M. Schatz, a partner in the Palo Alto, Calif., offices of Wilson Sonsini Goodrich & Rosati. Mr. Schatz did not participate in the Hertzberg case, but his firm is considered by D&O insurers as one of the most prominent defenders of companies targeted by shareholder lawsuits.

Underwriters do not foresee any

immediate impact on D&O premium rates, said Jason White, a D&O expert and senior vp for Swett & Crawford in Los Angeles. But whether claim severity eventually increases remains to be seen, Mr. White said.

While the appeals court ruling is advantageous for plaintiffs, it applies to only a limited number of cases in which the value of a stock tumbles immediately after the IPO, Mr. Schatz and other observers said.

But in those cases, the court's decision also expands the "zone of liability" for companies, said Kevin LaCroix, president of Genesis Professional Liability Under-

See IPO on page 10

Willis explores franchising

By RODD ZOLKOS

NASHVILLE, Tenn.—Willis Corroon Corp. is gauging insurance agents' interest in participating in a franchising arrangement with the broker.

With the help of an independent research and consulting firm, the Nashville-based broker and risk management consultant last month sent surveys to agents across the country, seeking opinions about a possible franchise arrangement, as well as

their interest in various product offerings and how they would like a franchise arrangement to be structured.

In addition, the survey seeks market information about agencies. And it asks whether agents would find it "desirable" to use a tagline such as "A Willis Partner Agent" or "A Member of the Willis Commercial Network" on letterhead and promotional materials.

"We're just exploring this to see whether there's
See Willis on page 29



U.S. business applauded on Y2K

By MARK A. HOFMANN

WASHINGTON—Panic, rather than system failure, may be the biggest threat posed by the Year 2000 computer problem.

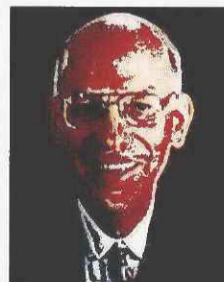
In fact, U.S. businesses are in far better shape than anyone imagined they would be even a year ago, both the chairman and vice chairman of the Senate Special Committee on the Year 2000 Technology Problem agreed during a joint appearance at the Na-

tional Press Club in Washington last week.

"We have accomplished far more than I would have predicted," said Sen. Robert Bennett, R-Utah, the committee's chairman.

Just over a year earlier, Sen. Bennett had stood at the same podium and warned that essential public and private systems in the United States could well be disrupted by the Y2K problem (*BI*, July 20, 1998). Now the country faces a far better situation because

See Y2K on page 31



Sen. Bennett



Sen. Dodd

Inside

• In the 25 years since it was enacted, the Employee Retirement Income Security Act has produced both good and bad outcomes, this week's editorial says. **PAGE 8**

• Direct reimbursement has slowly become the preferred form of dental coverage by employers. In a Perspective, Ronald S. Moen examines the advantages of direct reimbursement over managed dental care. **PAGE 19**

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Wildfires not causing major property losses

By MICHAEL BRADFORD



AP/WIDE WORLD PHOTOS

Firefighters work to put out embers after fires that were set deliberately to control massive wildfires in California's San Bernardino Mountains. The wildfires, however, are causing relatively little property damage.

Wildfires in California are scorching miles of forest and undeveloped land, but so far this year they have not caused catastrophic property losses.

Fires started by lightning, careless campers and other causes have burned more than 110,000 acres under the jurisdiction of the California Department of Forestry and Fire Protection, according to a spokeswoman for the agency. That's more than three times the 33,795 acres that were affected during the same period in 1998.

Fires also have burned thousands of acres of federal land. The U.S. Department of Forestry could not provide figures on how much federal land was affected.

Last week, several hard-to-contain fires that were started throughout the state by lightning Aug. 22 were being extinguished. Property losses stemming from those fires have been "extremely small," according to a spokeswoman for the California Department of Forestry.

The so-called Willow fire in Southern California continued to burn last week and had destroyed about 50 structures. The Forestry

Department said that number includes outbuildings and other low-value property.

Wildfires erupted in other Northwestern states this year but did less damage than in California. Authorities in Oregon counted 829 fires that burned 4,560 acres of state-protected land. In Washington, 574 blazes burned 1,265 acres of land under the state's jurisdiction, and there were 415 Montana fires on state-protected land that burned about 37,000 acres. In Idaho, 171 fires burned 283 acres.

As the fire season winds down, See Fires on page 31

Keying in on computer problem

Training, proper equipment can cut injuries, boost morale: Broker

By ELIZABETH LINDSEY

Dealing with a cumbersome system is only the first computer problem among many that employers and employees may encounter.

Sore necks, tense shoulders, aching lower backs and even carpal tunnel syndrome can be traced to the careless operation of computers, experts say.

These problems can all be classified as repetitive stress injuries or musculoskeletal disorders, and RSIs and MSDs are expensive problems.

A spokeswoman for the federal Occupational and Safety Health Administration said that one-third of all lost-workday injuries are RSIs or MSDs, and they cost employers as much as \$20 billion a year in direct costs. Indirect costs—for such things as legal expenses and salaries for workers who replace those who

have been injured—add up to another \$30 billion to \$40 billion to that figure, she said.

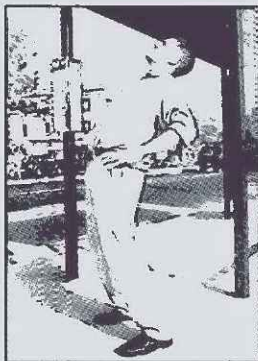
Computer use doesn't cause all RSIs or MSDs in the office workplace, but it can be a significant contributor.

Earnest J. Ray, an ergonomist at Santa Clara, Calif.-based Intel Corp., said the highest number of injuries in the computer chip giant's offices—as opposed to Intel's manufacturing sites—occurs due to improper computer use.

The toll taken by improper use of computers, though, isn't only monetary.

Pamela J. Simonian, an assistant vp at Marsh USA in Orange, Calif., said there are soft costs that ergonomics can mitigate as well. Absences can go down, and productivity and morale can go up, if workers are given the proper equipment and taught how to be com-

See RSIs on page 10



Exercises such as this may help reduce computer users' risk of injury.

Nurse shortage in specialty areas

Percentage of hospitals reporting increased difficulty in hiring and recruiting specialty RNs compared with six months earlier.



Nurse shortage creates issues for health care risk managers

By RODD ZOLKOS

A shortage of qualified nurses that is causing many hospitals to scramble to fill staff positions brings with it several significant risk management issues.

So far, though, while the issue is a cause for concern for health care risk managers, there's no sign that it has led to increased professional liability claims activity.

"Certainly, there are risk management implications anytime quality of care is threatened or potentially threatened, and certainly, a nursing shortage affects quality of care," said Grena Porto, director of clinical risk management at the hospital network VHA Inc. in Berwyn, Pa.

However, Ms. Porto said, "I can't say I've heard of anybody saying, 'We had a claim because of this.' But there would be a lag time."

"Anecdotally, there are probably stories people could talk about here where having more employees would be a good thing, but that's probably true in any work environment," said Mark L. Hubbard, vp-human resource management and risk management at

Loma Linda University Adventist Health Sciences Center in Loma Linda, Calif.

"But we haven't seen any statistical increase in any loss area," Mr. Hubbard said.

A 1998 study by the American Organization of Nurse Executives showed that nearly 50% of hospitals were experiencing increased difficulty recruiting critical-care nurses, and more than 40% were having difficulty finding qualified emergency services and medical-surgical care nurses.

The problem was particularly severe in the Western United States, where the surveyed hospitals reported typically needing 60 days to fill positions for experienced registered nurses.

"It's something that's happened before," Ms. Porto said. "It seems to be cyclical."

But the American Hospital Assn. suggests the problem may become even more severe in the future, due to changes in social, economic and demographic factors.

The organization notes that job-related stress for registered nurses is on the increase, while their salaries lag behind inflation. Accord-

See Nurses on next page

Panel of judges to select Risk Manager of the Year

The deadline is Nov. 19 to submit nominations for the 2000 *Business Insurance* Risk Manager of the Year and Risk Management Honor Roll.

The winners of this annual honor will be announced in April. Nominating forms and additional information can be obtained from *Business Insurance's* Chicago office.

The 2000 Risk Manager of the Year will be the 23rd individual to receive the award. The first competition was held in 1977 to commemorate the 10th anniversary of the magazine, and the first winner was

named in 1978.

The Risk Management Honor Roll was added in 1981 to acknowledge accomplishments of risk managers representing different segments of the field.

Ten independent professionals will judge this year's entries. Honorees are selected based on the judges' opinions of each nominee's program as it is detailed in the entry. The judging panel is made up of the 1999 Risk Manager of the Year, the three 1999 Risk Management Honor Roll members, two insurance

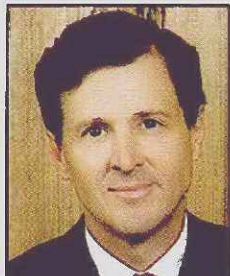
company executives, two insurance brokerage executives, a risk management consultant, and an insurance educator.

The judges for the 2000 awards are:

- John E. Cay III, chairman and chief executive officer of Palmer & Cay Inc. in Savannah, Ga. Mr. Cay is representing insurance brokers on the panel for a second consecutive year.

- Helen I. Doerpinghaus, associate professor of insurance at the

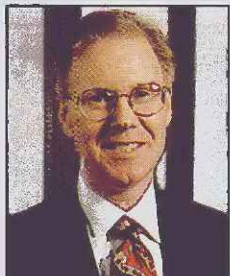
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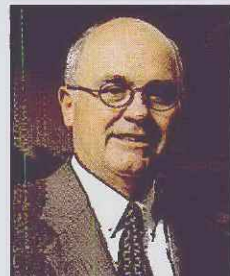
Mr. Cay



Ms. Doerpinghaus



Mr. Fabel



Mr. Holcombe



Mr. Leatherdale



Mr. Leigh



Ms. Pixler



Mr. Sinnott



Mr. Subramaniam



Mr. Tillmar

Nurses

Continued from previous page
ing to the U.S. Department of Health & Human Services, the average salary for a registered nurse rose from just under \$20,000 annually in 1980 to just over \$40,000 in 1996.

Meanwhile, increased financial pressures on hospitals, prompted by managed care and decreased Medicare reimbursements, are making it even more difficult for many hospitals to use higher salaries to attract and retain nurses.

And the aging of the baby boomers is having an impact as well, as the average age of nurses increases and the number of nurses retiring annually is expected to grow over the next few years, according to the AHA. The DHHS projects that, by next year, the av-

erage age of a registered nurse will be between 45 and 49.

Robin Maley, a New York-based independent health care industry consultant who works with Willis Corroon Corp., said the shortage of qualified nurses increases pressure on already-overburdened nursing staffs.

That overburdening stems, in part, from increased patient acuity and the complexity of the care required.

"I think nurse-patient ratios have been stretched to extraordinary lengths," Ms. Maley said. "The typical nurse-patient ratio has doubled."

Susan Huntington, director of health care risk management at Chubb Executive Risk in Simsbury, Conn., said that, in evaluating a hospital's nurse staffing levels from an underwriting perspective, it's necessary to distinguish between a facility that can't fill

positions because of an inadequate number of qualified nurses and a facility that is short-staffed because of a reluctance to pay attractive salaries.

"We would assume—and the insured would have to prove otherwise to us—that they were understaffed because they were under-

The nursing staff is one factor considered in evaluating a hospital's medical malpractice exposure, says Matthew Dolan.

resourced," Ms. Huntington said.

A lack of resources that produces a shortage of nurses would likely manifest itself in other areas of the facility as well, she said,

prompting further underwriting concerns.

The number and quality of nurses is one of several factors considered in evaluating a hospital's medical malpractice exposure, said Matthew Dolan, national product manager in the medical malpractice area at Chubb Executive Risk.

"A shortage of available staffing definitely has implications," Mr. Dolan said. "In and of itself, it wouldn't be a disqualifier. But, considered in the totality of other factors, it would be one factor—and a major one."

"While this is one factor that we look at in the underwriting process, that one factor wouldn't cause us to bind or not bind a policy," Ms. Huntington said.

There appear to be no definitive guidelines on what constitutes adequate nurse staffing from a risk management perspective.

"What's lacking in our analysis is any empirical evidence that hospitals with staffing above 'X' are better and hospitals with staffing below 'X' are poorer," Mr. Dolan said.

But Ms. Huntington said, "It's the nurses who really represent the hospital." That, from a liability perspective, adds to the significance of nursing care, she said.

"The nurses are what I would call the 'ambassador of the hospital,' so any decrease in the number or quality of those front-line ambassadors would have an impact on the reputation and the exposure to liability of a hospital," she said.

And, Ms. Huntington noted, "There are sometimes opinions that those nurses have to be R.N.s." But, she said, many hospitals do a good job of "managed staffing," employing registered nurses for tasks that require their skill level and using licensed practical nurses or nurses' aides to perform other tasks.

"It doesn't take an R.N. to deliver a lunch tray," Ms. Huntington said.

Another way many hospitals address nursing shortages is by recruiting outside the country.

"That, too, presents some problems in terms of cultural differences and even language problems," Ms. Porto said.

In facing attempts to address a shortage of nurses, health care risk managers must make sure nurse staffing levels don't fall to problem levels, Ms. Porto said, and they must also monitor efforts to recruit from outside the country to prevent problems on that front.

Additionally, Ms. Maley said that risk managers must emphasize checking credentials and must prevent any tendency at their facilities to push people beyond the scope of their qualifications.

The credentialing issue is taking on added significance as many hospitals turn to temporary nurse staffing agencies to fill positions, Ms. Maley said.

"You really need to check the contract with the agency that is providing the nurses to make sure that the hospital is not assuming the risk," she said.

Proper documentation also is essential, according to the consultant. "Documentation of the patient care, documentation of the nurse's credentials, documentation of the orientation" are needed, she said.

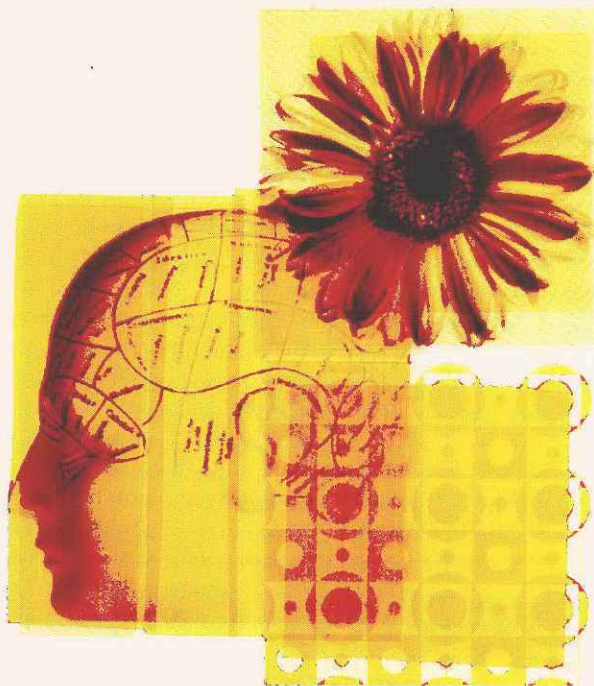
While professional liability exposures might be an obvious concern in a nursing shortage, Loma Linda's Mr. Hubbard said he sees what may be a greater exposure on the workers compensation front.

Most health care facilities have a number of "checks and balances" in place to prevent professional liability problems associated with nurses, he said. But, as the nursing shortage results in nurses working more overtime, the workers comp exposure can be expected to grow, Mr. Hubbard said.

"I'm quite certain that, because of the nurse shortage, you've got a lot more overtime hours being worked, and how does that have an impact on workers comp costs?" he asked. "The workers comp, to be frank, from a financial perspective, is probably a bigger deal than the professional liability exposure."

"I think the issue there is what is the fatigue factor toward the end of a long shift," said VHA's Ms. Porto. "Overtime, people are tired. Could that result in some work-related injury? Certainly it could."

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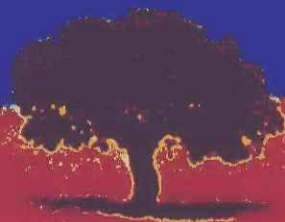
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Care

Continued from page 1

participant or beneficiary could sue. Suits alleging death or injury due to a plan's actions would have to be filed in federal court.

Simply providing health care would not open an employer to liability, Rep. Shadegg said. Only employers that made final decisions internally—in effect, acting as their own HMOs, he said—would be subject to liability.

Under the bill, an employer would not be considered to directly participate in a plan's final decision if it is:

- Selecting a group health plan, insurer or third-party administrator.
- Conducting a cost/benefit analysis in connection with the selection or continuation of a plan or coverage.
- Deciding to add or cut benefits affecting all participants or beneficiaries made in the initial purchase or regular renewal of coverage.

• Making decisions either to authorize coverage for or to determine whether to intercede on behalf of any specific participant or beneficiary.

• Making any other decision that does not involve direct participation in the final decision of the plan. This includes general plan administration and the monitoring of plan quality.

The bill would allow unlimited economic damages. Non-economic damages, such as pain and suffering, however, would be limited to the greater of \$250,000 or twice economic damages. Punitive damages would be permitted only when a plan was determined to have acted with a conscious, flagrant indifference to the rights and safety of others in not following the external appeals entity. Even under those circumstances, punitive damages would be capped at the greater of \$250,000 or twice economic damages. Punitive damages levied against individuals with a net worth of \$500,000 or less and public and private entities

with fewer than 25 employees could not exceed \$250,000.

The bill also would require easier access to certain types of specialized care, such as pediatrics and emergency care, as well as broader disclosure of a plan's business operations and procedures. The bill would prohibit "improper financial incentives arrangements" by plans that would encourage providers to withhold appropriate care. Additionally, the measure would allow states to adopt more stringent guidelines for insured plans.

Health care experts say the bill, though milder than the Norwood-Dingell proposal, will prove costly.

"This is still a lightning rod for lawsuits, but the language is a little better" than that in the Norwood/Dingell bill, said Frank McArdle, a consultant in the Washington office of Hewitt Associates L.L.C.

"But there's still going to be a lot of lawsuits. Federal courts are already clogged with ERISA claims. Whether

or not they're liable, employers will still be named in the lawsuits. So even though the language is better than Norwood-Dingell, it's still a major change, and it exposes a lot of employers to lawsuits whether they're liable or not," Mr. McArdle said.

He also questioned whether the caps on punitive and non-economic damages could survive. Earlier attempts to cap medical malpractice punitive damages have run into fierce opposition from Democratic lawmakers and the Clinton administration.

"The question will become, what does direct participation really mean in triggering the employer liability?" said Henry Saveth, an attorney with William M. Mercer Inc. in New York. He pointed out that the answer will be provided in the courts.

"And there's also political uncertainty. Regardless of what the speaker does, the question is, is this enough to head off defections of Republicans to the Norwood/Dingell bill? On the

other hand, is it going to alienate the Republicans' traditional allies—the business community?"

Employer and health plan groups have weighed in against the bill.

"Make no mistake—the chief beneficiaries of this legislation would be trial lawyers, not to mention politicians on both sides of the aisle grandstanding for their own short-term benefit," said Charles Kahn, president of the Health Insurance Assn. of America, in a written statement before the news conference ended.

The HIAA was to release an analysis today of the effects of the bill's expanded liability.

"While the Coburn-Shadegg bill makes great effort to shield many employers from expanded liability, employers with self-administered and self-insured health plans—which save costly administrative expenses—would clearly still be held directly liable for their actions," a U.S. Chamber of Commerce statement said. **BI**

Swissair

Continued from page 2

defendants last month accepted legal liability for the accident, without admitting fault, and agreed to share the payment of full compensatory damages to the victims, explained Swissair attorney Desmond Barry of Condon & Forsyth L.L.P. in New York. Those defendants are Swissair and parent company SAirGroup; Delta Air Lines Inc., which had an airline alliance with Swissair; and Boeing Co., whose McDonnell-Douglas Corp. subsidiary built the MD-11. They would subrogate later against other defendants in the case.

The defendants' action was a "statement," not an offer, and did not impose any conditions on the plaintiffs, Mr. Barry said. It means the plaintiffs do not have to prove liability in the case, he said.

Swissair is a signatory to the International Air Transport Assn. agreement that established strict liability limits of 100,000 Special Drawing Rights (\$137,510) per passenger for airlines operating international flights. But the IATA agreement exposes an airline to additional unlimited liability if the airline cannot show it was free of fault in an accident.

"The offer not to contest liability is little more than what Swissair is obligated to do under the IATA accord," said Marc S. Moller, one plaintiffs attorney involved in the case. Boeing's involvement in the action, however, "is an advance," said Mr. Moller, a partner with Kreindler & Kreindler in New York.

In their filing in district court last week, the plaintiffs did not reject any offer. They objected to the defendants' motion that the court limit damages in the case to those recoverable under the 1920 Death on the High Seas Act. DOHSA precludes recovery of punitive damages and non-economic damages.

While international conventions shield the airlines from punitive damages, "Boeing and McDonnell-Douglas don't have that argument," said plaintiffs attorney Frank Granito of Speiser, Krause, Nolan & Granito in New York. The plaintiffs should be able to seek punitive damages "if the facts warrant it."

Mr. Barry disagreed. Plaintiffs attorneys "have the obligation to get compensation into the hands of their clients as quickly as possible. Their job is not to go and find out what caused the accident."

The plaintiffs also objected to a defense argument that the families of more than 100 foreign nationals killed in the crash should seek recovery through their local courts, because liability is not an issue. **BI**

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Opinions

ERISA: 25 years of benefits

WITH THE 25TH ANNIVERSARY of the Employee Retirement Income Security Act this month, it is perhaps an appropriate time to reflect on ERISA's successes and failures.

Unquestionably, ERISA's biggest success has been the restoration of public confidence in the employer-based pension plan system.

By 1974, that confidence had been badly eroded by what can only be described as legalized scandal. Companies could and did promise benefits to employees, but they didn't have to fund those promises.

Perhaps the most infamous example involved Studebaker Corp., the now-defunct South Bend, Ind.-based automobile manufacturer. Studebaker promised its union employees generous pension benefits, but it didn't fully fund the benefits. That was perfectly legal before the advent of ERISA. When the company failed in the early 1960s, pension plan participants got roughly 10% of the benefits to which they were entitled.

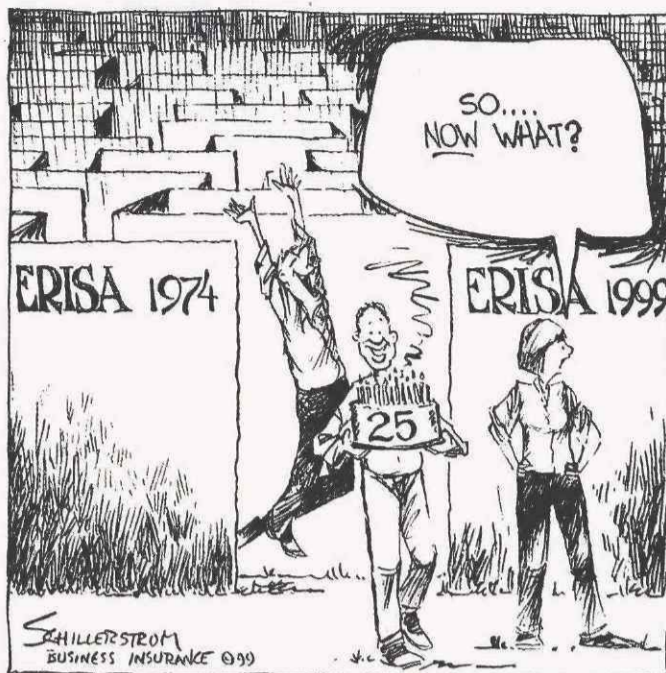
Today, thanks to ERISA, the failure of a company and its pension plan no longer is a disaster to participants. That is because ERISA created the Pension Benefit Guaranty Corp., the federal agency that guarantees participants' basic benefits. In all, the PBGC, funded by premiums paid by employers, has paid out \$8 billion to several hundred thousand participants in failed plans. Imagine the uproar and cries for government intervention if all those individuals had been left high and dry, as Studebaker's employees were.

Prior to ERISA, public confidence also had been eroded by outrageous vesting requirements. An employee could spend much of his or her career at one company and then lose the right to a pension because of a short break in service.

ERISA ended that outrage with a basic requirement that, after the passage of so many years of participation in a pension plan—initially 10 years, later shortened to five—an employee had a right to a benefit. In short, participation in a plan meant that a worker who stayed a reasonable number of years really would receive a benefit.

Many employers, especially smaller ones, were not pleased that their plans had to meet vesting and other requirements. In the wake of ERISA's enactment, they terminated their plans by the thousands. But given that those plans were not designed to pay benefits to most employees, there was little loss to the nation's pension system.

Today, thanks to ERISA reforms, pension plans are in better financial shape than ever, while the security of workers' benefits and the likelihood they will receive ben-



efits has never been greater. Those are no small achievements.

But there have been ERISA-related failures as well. The enactment of ERISA was only the start, not the end, of pension legislation. And much of that subsequent legislation—such as cutbacks in benefits that can be funded through plans and overly complex rules, just to give a couple of examples—has been harmful. Indeed, it is just about impossible to find an employer that is setting up a new defined benefit plan. While burdensome laws and rules aren't the only reason for the dropping number of defined benefit plans, they certainly are important factors.

At ERISA's 25th anniversary, the nation's pension system clearly is at a crossroads. Legislators can choose to revitalize a stagnant system, such as by raising the amounts that employers and employees can contribute to their plans and by cutting government red tape. Alternatively, they can go down the failed road of overzealous legislation, with the result that, one day, there will be no defined benefit plans left.

In fact, one especially misguided piece of legislation being pushed by a group of congressmen would lock an employer into its current plan design for decades. If the goal of that piece of legislation is to kill off employer interest in defined benefit plans, then that expectation certainly will be met.

We hope Congress chooses the path to revitalization.

Letters

Outsourcing adjusting offers benefits

To the editor: Overall, John Ward's comments in the Aug. 23 article "Insurers Outsource More Functions" were informative and probably useful for many insurance companies.

However, at GAB Robins, we take exception with Mr. Ward's claim that "in the area of property/casualty claims adjusting, the data that we've analyzed indicates that, where the geographic concentration of a company's business warrants, companies that use staff adjusters to adjust their own claims tend to achieve better results than those that rely heavily on independents."

He adds that "the staff adjusters have a more vested interest in adjusting the claim according to company policy."

We disagree with this statement and think your readers may be interested in hearing from a company that has been providing independent adjusting services since 1885, serving thousands of clients and saving them millions of dollars. Our clients have come to rely on our indepen-

dent adjusting services for these reasons:

- Independent claims adjusters frequently deliver specialty services, such as complex business interruption claims, that a single insurer may not be able to justify or cultivate. Independents can do this in strategic areas because they have several sources for a particular type of claim.

- Sometimes insurers will staff in certain areas striving for a level of control. Using independents can help control the spikes in claims volume, turnover of staff

adjusters and overflow.

- An independent adjuster has an interest in obtaining future business from the customer, so it has just as much, if not more, "vested interest" as a staff adjuster.

GAB Robins believes the benefits of outsourcing far outweigh the concerns raised by Mr. Ward, and we think your readers will agree.

Clint Penner
Vp-Insurance Company Services
GAB Robins North America Inc.
Chicago

Ex-RIMS executive recovering

To the editor: I'm writing to let people know that Ron Judd, RIMS executive director from 1967-1991, has been battling lymphoma since February.

He is now on the road to recovery and would very much like to hear from his many friends in the industry.

I urge you to drop him a note and let

him know that you're thinking of him.

Ron Judd's home address is 25 Park Place, Sea Cliff, N.Y. 11579. Or you can e-mail him at granvillen@worldnet.att.net.

Cheri J. Hawkins
RIMS President (1990-1991)
Auburn, Wash.

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IPO

Continued from page 2
writers in Beachwood, Ohio.

The appeals court found in favor of allowing plaintiffs to file a lawsuit claiming the company omitted critical information in its registration documents, even though the plaintiffs had not purchased the company's stock within 25 days of the IPO.

The lawsuit was filed against San Francisco-based Dignity Partners, which dealt in viatical settlements

and has since changed its name to Point West Capital Corp. In viatical settlements, a settlement company pays a terminally ill person a portion of his or her expected life insurance proceeds in advance. In exchange, the policyholder signs the policy over to the settlement company.

The plaintiffs in the case purchased Dignity stock at \$12 a share. It later tumbled to \$2 a share, and the plaintiffs filed their class-action lawsuit. They claimed Dignity posted huge losses as a result of people with AIDS living longer than expected because of new treatments.

The plaintiffs said Dignity knew of the longer life expectancy but failed to disclose it in a February 1996 IPO registration statement, according to the court records. They claimed Dignity violated Section 11

Most companies still will have coverage under their D&O policies regardless of whether the entity is targeted.

of the Securities Act of 1933.

A federal judge in San Francisco dismissed the Section 11 cause of action because the plaintiffs had not purchased the stock in the IPO or within 25 days of it, according to court documents.

The 9th Circuit reversed the

judge's decision and remanded the case back to district court, but the parties settled out of court before the appellate ruling.

There has long been a debate about whether shareholders actually have to purchase stock in an IPO to bring a Section 11 lawsuit or whether they merely must show that their purchase was linked to the IPO, experts said.

Under the latter condition, plaintiffs would have to show only that no other shares entered the market after the IPO.

Lower courts have taken different positions on the issue when plaintiffs have argued their cases fit under Section 11, Mr. Schatz said.

In its decision, the 9th Circuit found that, to bring a Section 11 suit, it is sufficient to trace shares to the IPO, even if the shares were purchased after the IPO, explained Mr. Schatz.

The court's action is not likely to

lead to an increase in the number of lawsuits, Mr. Schatz said, because companies whose stocks plummet in IPOs already are likely to face lawsuits. In the past, however, those companies were sued under a different legal section that limits plaintiffs to targeting a company's directors and officers.

In most cases, companies still will have coverage under their D&O policies regardless of whether the entity or its directors and officers are targeted. Since about 1995, most D&O standard forms provide entity coverage as well as coverage for directors and officers, Mr. LaCroix said.

Efforts to reach attorneys representing the plaintiffs and defendants were not successful.

Howard Hertzberg vs. Dignity Partners Inc.; 9th U.S. Circuit Court of Appeals, No. 98-16394, Decided Aug. 27, 1999.

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WHEN NO ONE ELSE CAN DO

RSIs

Continued from page 3
fortable, she said.

Experts generally agree that proper equipment includes chairs with adjustable seats and backs; monitors that can be raised, lowered and tilted; and desks that are the proper height for their users are all important.

Diana J. Rich, director of risk management and benefits administration at Sunstone Hotel Properties Inc. of San Clemente, Calif., said, "Equipment design is only going to get you so far."

Employee behavior also is a big factor in workplace ergonomics, she said.

"A lot of it is just properly utilizing the things you have," said Mr. Ray.

Some companies, such as Intel, have ergonomics training programs. New hires are taught to get up and move around periodically; they also learn about proper placement of their monitors, how high their chairs should be, and the importance of

speaking up should they experience minor problems.

Mr. Ray said, "Early intervention leads to quicker healing and also safer and easier types of corrective measures."

He noted injuries seemed to go up for the first few years of Intel's program as people were more aware of their problems and more likely to report them. But, overall, MSDs within the company have fallen 92.3% since 1992, when the program began.

Although ergonomic office equipment costs two to three times more

'Early intervention leads to quicker healing and also safer and easier types of corrective measures,' says Ernest Ray.

than standard equipment, Mr. Ray said it is worth the expense because companies typically see decreases in workers comp claims, reductions in injuries, and increases in productivity. Rather than seeing ergonomic equipment and training as an expense, Mr. Ray said he views them as an investment.

While not all companies have ergonomics training programs in place, there are resources for employees who want to train themselves or for employers that are interested in starting training programs.

Two physical therapists, Perry Bonomo and Daniel Seidler, recently released a book and video to help train employees to use their computers without pain. Both the book, "ErgAerobics: Why Does Working @ My Computer Hurt So Much?" and the video, "ErgErcise," show ways to work at a computer terminal more comfortably.

Mr. Seidler, co-author of the book and video and co-owner of ErgAerobics Inc. of New York, said, "I think computer use can be really dangerous."

The book and video detail the best posture and desk setup for a computer user. According to the book, many people sit with their shoulders rolled forward and their necks extended. Sustaining this position puts undue pressure on the spine. Instead, users should sit with their heads in line with their shoulders, their shoulders above their hips, their hips slightly higher than their knees, and their feet flat on the floor.

But even perfect posture won't keep pain at bay if one position is maintained for too long. According to the book, computer users should use one minute of every hour they spend in front of a monitor stretching. The book and video demonstrate stretches

computer users can perform at their desks, including arm, wrist, neck and back stretches that can, for the most part, be done while sitting.

Good equipment and training are important, but employers should not make changes that are too sweeping.

Ms. Simonian said, "I would never recommend that a company go out and buy all-new equipment." Instead, she said, employers should assess individual needs and realize that some people are comfortable and satisfied and will not want to change their equipment or their behavior.

Companies seem to be making headway in avoiding ergonomics-related injuries, said Sherry J. Saunders, director of communication at the Center for Office Technology, an organization in Alexandria, Va., that promotes ergonomics in the workplace. Ms. Saunders said that, in the past three years, computer injuries have gone down even while computer use has gone up. She said this indicates that employers are doing what is necessary to reduce injuries due to improper computer use.

On the other hand, Ms. Simonian said, she still sees computer equipment advertisements produced for large companies such as Micron Technology Inc. and Dell Computer Corp. that show poor desk setups. She said this indicates that people need further education about ergonomics.

Ms. Saunders said it is also important to look at how people use their home computers. If people use computers improperly at home, they will feel the effects while at work.

Another problem is that soft-tissue damage can result from a variety of activities. Ms. Rich said it is often difficult to pinpoint the cause of soft-tissue damage, and RSI has become an easy explanation. As a result, employers are being held responsible for injuries that are not necessarily their fault. For example, in some cases an MSD might result from repetitive activities done at home.

Although she doesn't think ergonomics can solve every problem in the workplace, Ms. Rich said they are important. RSIs and MSDs do exist and can be traced to activities such as typing. Preventing them saves a company money, and, she said, employees develop better morale when their company shows an interest in their well-being.

"It's part of a sound employer/employee relationship that you're going to take care of your employee," she said.

For more information about ergonomics, contact the Center for Office Technology by telephone at 703-684-7760 or by fax at 703-684-4554. Information about ErgAerobics can be obtained by telephone at 800-689-9199 or on the World Wide Web at www.ergaerobics.com.

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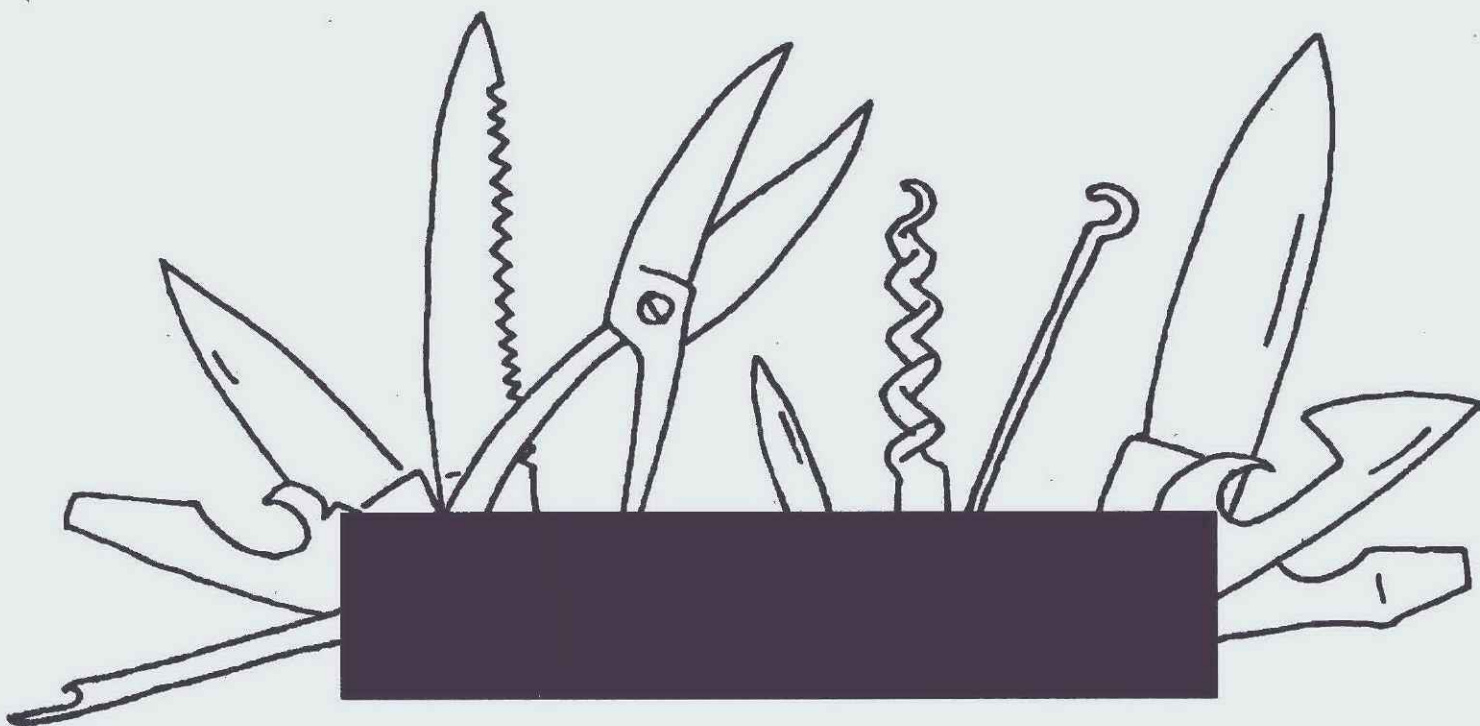
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ST. PAUL, Minn.—St. Paul Fire & Marine Insurance Co. has introduced a new product for high-tech startup companies.

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Some of the coverages available to information technology businesses include computer virus, telecommunications theft and media liability.

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Medical and biotechnology coverages include those for research animals, valuable records research, and business interruption and extra expense, which includes delayed or canceled grants, endowments and other financial contributions for research and development.

Limits up to \$5 million are available for the general liability coverage. Emerging information technology or electronics manufacturing

companies may also purchase the Cybertech+ package. Cybertech+ includes up to \$5 million in limits for media liability and errors and omissions liability. Global coverages are also available.

VisionPak will be distributed through about 80 agents nationwide. Policyholder applications will be processed online, and information can be input by either a policyholder or an agent.

VisionPak has been filed in 50 states and is currently approved in 37 states and the District of Columbia. It is available to firms that generate up to \$15 million in annual revenues.

For information, contact Jon Farber, technology underwriting director at St. Paul Fire & Marine, 651-310-8366.

Virtual benefits

MARIETTA, Ga.—A new online system from Prime Financial Group aims to simplify benefits

administration by connecting employers, administrators, insurers and employees to a wide range of benefits and financial data.

When an employer uses PrimeWire for benefits administration, each employee receives a password that provides access to benefits information over the Internet 24 hours a day. An employee can check on the status of a 401(k) plan, change an address or update information about an insurance policy.

PrimeWire aims to eliminate much of the paperwork and data entry involved in benefits administration. With PrimeWire, employees can enroll and make updates to their benefits packages, and the information is automatically transferred to the benefit providers, such as insurers and retirement plan management firms.

The initial setup fee for the PrimeWire platform is negotiable, and there is a per-employee-per-

month administration fee that varies by the client's number of employees. This fee includes Section 125 and COBRA administration.

Prime Financial Group was formed to develop Internet-based solutions for insurance and benefits administration.

For information, contact Harold Ham, marketing manager of Prime Financial Group, 770-321-4945.

Environmental help

NEW YORK—AIG Risk Finance and AIG Environmental, divisions of American International Group Inc., have combined their resources to offer Environmental Protection Programs.

EPPs use risk transfer and risk financing to manage current and future environmental liabilities related to the long-term cleanup of a contaminated site.

The programs are based on finite, multiyear insurance policies. The EPPs incorporate a credit that rewards policyholders for favorable loss experience.

The EPPs from AIG can be used to insure environmental liabilities disclosed on Securities and Exchange Commission filings; multiple party settlements of environmental liabilities, including Superfund settlements; and liabilities that must be quantified and capped for a merger or acquisition transaction to proceed.

The programs can be designed to address environmental liabilities specific to certain cleanup situations, including closure, post-closure and corrective action of landfills or waste treatment facilities; nuclear decommissioning; mine reclamation; and utility restructuring.

To underwrite the programs, AIG Risk Finance and AIG Environmental will tap the environmental engineering and consulting expertise of the Environmental Management Division of AIG Consultants, an American International Group Inc. member company.

For information on the EPPs, contact Ken Radigan, vp/environmental product manager for AIG Risk Finance, 212-770-7332 or kenneth.radigan@aig.com; or access the Web site www.aigriskfinance.com. **B**

Swiss Re America appoints chief financial officer

William K. Lowry Jr. has joined Swiss Reinsurance Co. as chief financial officer of Armonk, N.Y.-based Swiss Reinsurance America Corp. and Swiss Re America Holding Corp. Prior to joining Swiss Re, Mr. Lowry was executive vp and chief operating officer for US RE Cos. Inc.

In other reinsurer changes: The SCPIE Cos. of Los Angeles have named **Timothy C. Rivers** se-

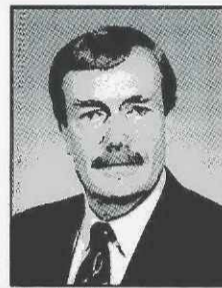
nior vp, ceded and assumed reinsurance. Prior to joining SCPIE, Mr. Rivers was managing director and a member of the U.S. operating committee for Marsh & McLennan Cos. Inc.'s reinsurance brokerage unit, Guy Carpenter & Co. Inc. Also at SCPIE, **James J.**

Phair has been named vp, ceded and assumed reinsurance. Mr. Phair previously was president and chief executive officer of Tokio Re Corp. Messrs. Rivers and Phair will be based in a new office in New Jersey.

Gerling Global Reinsurance Corp. of America has appointed **Robert E. Giddings** senior vp. He previously was a senior vp and Northeast regional facultative manager for the domestic operations of American Re-Insurance Co. Gerling Global Re of America also has named **Glenn D. Foster** vp. Mr. Foster comes to the company from Everest Reinsurance Co., where he was a director of treaty underwriting.

Insurers

Boston-based CGU Insurance, part of CGU P.L.C. of London, has named **Don Hillier** senior vp

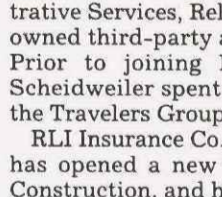


Mr. Hillier

of human resources. Mr. Hillier previously was senior vp of human resources and business operations for Zurich Financial Services

Group company Zurich Commercial.

Bernard Scheidweiler has been appointed senior vp/chief operating officer of the large accounts division of Reliance Insurance Co. in Philadelphia. Mr. Scheidweiler also has been named CEO of Sterling Administrative Services, Reliance's wholly owned third-party administrator. Prior to joining Reliance, Mr. Scheidweiler spent 26 years with the Travelers Group.



Mr. Scheidweiler

RLI Insurance Co. of Peoria, Ill., has opened a new division, RLI Construction, and has hired executives to lead the new business. **Richard W. Girden** will serve as president of RLI Construction in Chicago, while **Kenneth L. Crane** and **Jeffrey L. Diers** will be vps in Strongsville, Ohio, and Atlanta, respectively. All three come to RLI from Chicago-based CNA Financial Corp.

Zurich Kemper Life of Long Grove, Ill., has named **Eric Miller** senior vp of select markets for its agency strategic business unit.

Agents/brokers

Rogers J. Johnson has joined Acordia Inc. in Boston as a vp-employee benefit consulting. A 17-year veteran of the health and welfare industry, Mr. Johnson worked for several years as a health underwriter for the Travelers Insurance Co.

Robert F. Driver Co. Inc. of San Diego has promoted two execu-

tives in its Robert F. Driver Associates division. The Newport Beach, Calif.-based division specializes in program business. **Ted Davidson** has been named CEO and managing executive, and **Gordon DesCombes** has been named president.

Reinsurance broker North American Treaty Corp., based in Lake Success, N.Y., has named **Linda Bishop Young** president.

Raleigh, N.C.-based BB&T Insurance Services has named **David Wells** and **Jim Farmer**, both senior vps, to its senior management team. Mr. Wells currently manages the agency's five regional property/casualty divisions in Columbia, S.C. Mr. Farmer is financial services manager in Wilson, N.C.

Other suppliers

Nashville, Tenn.-based FOCUS Healthcare Management has appointed **Douglas J. Markham** vp of network development.



Mr. Markham

Mr. Markham previously was executive vp of Nashville-based manufacturer Innovative Plastics South Corp.

The Chicago-based Blue Cross & Blue Shield Assn. has named **Dr. Allan Korn** chief medical officer and senior vp-clinical affairs. He previously was vp and chief medical officer for BC/BS of Illinois.

William Gallagher Associates of Boston has appointed **Michael Rodgers Jr.** vp in its employee benefits consulting practice. Prior to joining WGA, Mr. Rodgers was a consultant with Marsh & McLennan Cos. Inc. and Sedgwick Noble Lowndes in Boston.

The Healthcare Financial Management Assn. of Westchester, Ill., has named **Lee Guthrie** vp-marketing and business development. Ms. Guthrie previously was senior vp-product development and marketing at Learning Insights Inc. in Chicago. **B**

Comings & Goings: Industry

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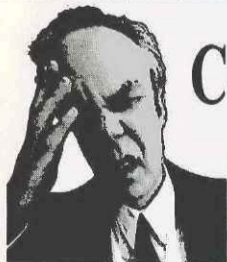
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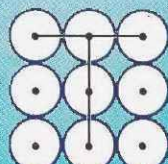
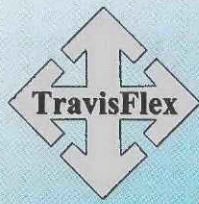
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Deadline approaching for BI directory

Business Insurance will publish its 12th annual Directory of International Property/Casualty Insurers and International Benefit Networks on Oct. 25. This issue will contain a Spotlight report on international benefits and risk management.

The directory is published as an editorial service, and there is no charge to be included. To be listed, companies must provide property/casualty insurance or operate a benefit network in countries other than that in which the company is based.

If your company meets the requirements and has not received a questionnaire, please request one immediately by calling Directory Editor Kevin Edison at 312-649-5279.

Copies of the questionnaire also can be printed from the BI Web site at www.businessinsurance.com/magazine/directories.html.

Completed questionnaires must be submitted by the extended deadline of Oct. 1.

Judges

Continued from page 3

Darla Moore School of Business at the University of South Carolina in Columbia. Ms. Doeringhaus also served on the panel last year, representing insurance educators.

- Merritt W. Fabel, director of corporate risk and insurance for American International Group Inc. in New York. Mr. Fabel is the 1999 Risk Manager of the Year.

- David A. Holcombe, risk manager of International Speedway Corp. and the National Assn. for Stock Car Auto Racing Inc. in Daytona Beach, Fla. Mr. Holcombe is a member of the 1999 Risk Management Honor Roll.

- Douglas Leatherdale, chairman and CEO of The St. Paul Cos. Inc. Mr. Leatherdale is serving on the panel for the first time, representing insurers.

- Lewis Leigh, executive director of Renton, Wash.-based Washington Cities Insurance Authority, a self-insurance pool. Mr. Leigh is a member of the 1999 Risk Management Honor Roll.

- Sheryl A. Pixler, risk manager for Storage Technology Corp. in Louisville, Colo. Ms. Pixler is a member of the 1999 Risk Management Honor Roll.

- John T. Sinnott, chairman and CEO of Marsh Inc. and a director of Marsh & McLennan Cos. Inc. Mr. Sinnott is serving on the judges' panel for the first time, representing insurance brokers.

- Shivan S. Subramaniam, president and CEO of Factory Mutual Insurance Co. Mr. Subramaniam is representing mutual insurance companies on the panel for a second consecutive year.

- Arvid R. Tillmar, chairman and

CEO of T.E. Brennan & Co. in Milwaukee. Mr. Tillmar is serving on the panel for a second consecutive year, representing risk management consultants.

Judges evaluate each nominee based on 10 criteria (see related story). The nominee scoring the highest is named Risk Manager of the Year, and the remaining nominees are placed into one of these categories:

- Corporations with sales exceeding \$300 million.

- Corporations with sales of less than \$300 million.

- Government entities.

- Tax-exempt or non-profit entities.

The highest-scoring candidate in each of the categories not represented by the Risk Manager of the Year is eligible to be named to the Risk Management Honor Roll, subject to the judges' discretion.

A nominee needn't handle risk

management responsibilities full time, but he or she must be a full-time employee of the organization whose program he or she directs. Anyone familiar with a candidate's work may sponsor him or her by submitting a nomination.

All nominations are confidential, with only honored candidates names announced.

Each nomination must include: a completed nomination form, a letter from the sponsor, and an endorsement letter from an executive at the nominee's organization. That executive must hold a higher office than the nominee. The letter must certify the accuracy of the information in the nomination.

To obtain a nomination form, contact Karen Tucker, assistant to the publisher, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590; 312-649-5319. **BI**

Criteria for picking Risk Manager of the Year

Ten criteria are used to score the nominations submitted for the annual *Business Insurance* Risk Manager of the Year Award and Risk Management Honor Roll.

The panel of 10 independent judges will score each nominated candidate on a scale of one to 10, according to how well he or she:

- Established and implemented an effective risk management program within the organization.

- Tackled and solved one or more major problems for his or her organization.

- Innovatively applies the diverse tools of risk management and insurance.

- Creatively and effectively uses the insurance markets to structure an insurance program that serves the needs of the organization (specifically addressing the types of policies purchased and manuscripted policies, if any).

- Established a workable intelligence system inside and outside the organization, culminating in a flow of information about events and activities that affect the organization's risk manage-

ment and insurance (how the risk manager secures information from other departments and the use of risk management information systems are addressed in this criterion).

- Skillfully performs the functions of management in the overall organization and within the risk management/insurance department. The functions include planning, organizing, directing and controlling.

- Achieves the most effective program at the optimum cost over the long term.

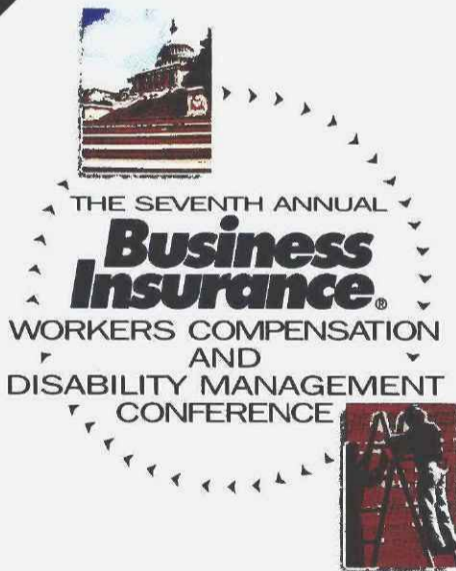
- Developed technical exper-

tise in any or all of the broad categories included within risk management, leading to a better managerial grasp of the operational aspects of the job.

- Exhibits an attitude and performs activities fostering the advancement of the risk management profession (such as professional activities, speaking engagements, teaching and related activities).

- Develops in his or her career (as exhibited by job history, including current job description, education, honors and memberships).

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Monday, October 18th
Malibu Country Club - The Golf Outing is offered at no cost to paid conference attendees. Availability is limited and will be confirmed on a first-come, first-serve basis.

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Monday, October 18th
Employers Only - This roundtable session provides an opportunity for participants to share information about their experiences and programs.

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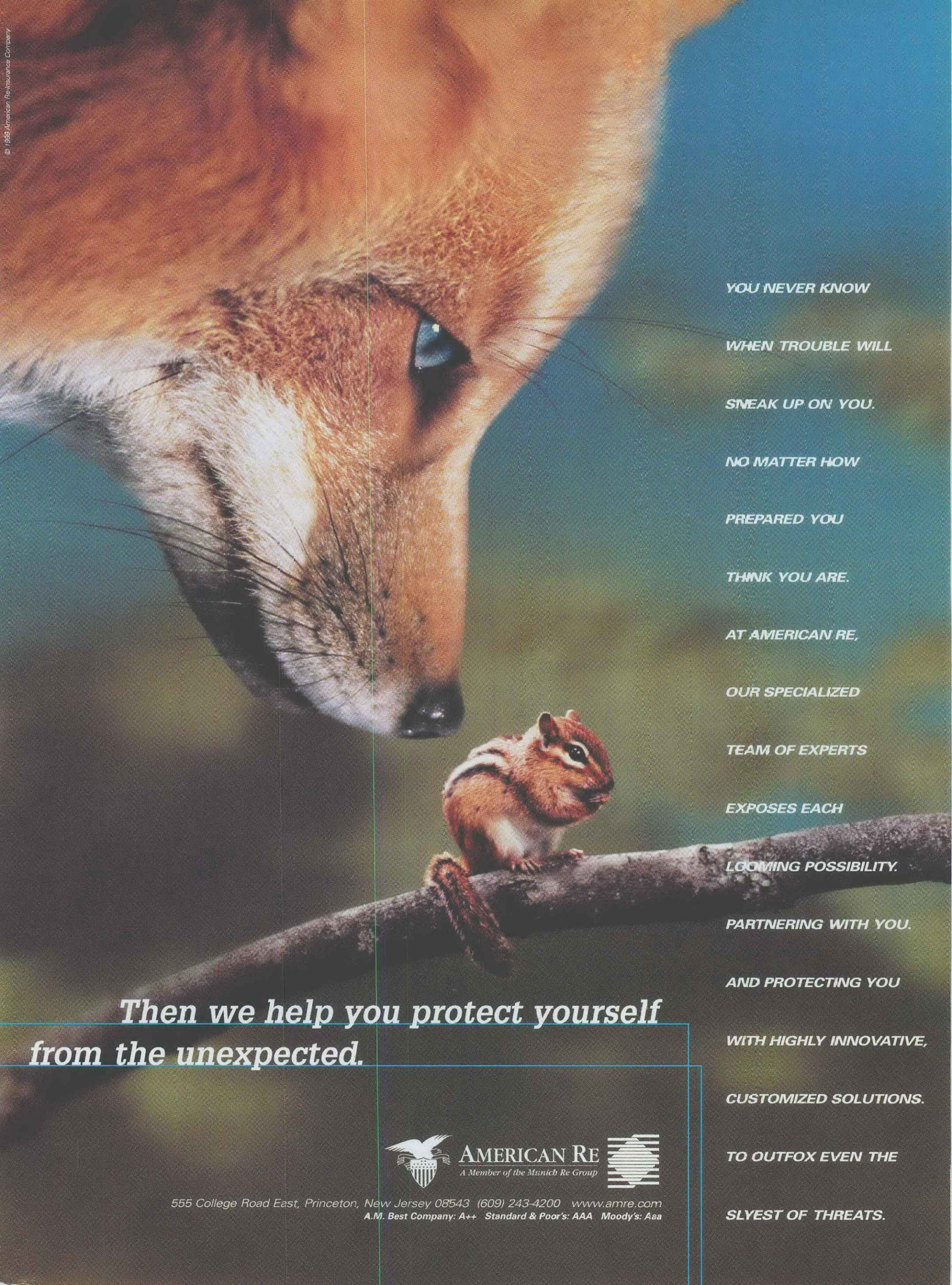
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Consider direct approach to dental benefits

By Ronald S. Moen

TRADITIONAL INSURANCE historically has been the preferred form of coverage for U.S. employers offering dental benefits. But over the past decade, as employers have looked for approaches that will cut costs while helping them recruit and retain employees, they have sought alternatives to traditional dental insurance.

Taking a cue from the health care industry, employers have the obvious choice of managed care plans.

Unlike the situation in the medical industry, managed care isn't the predominant player in the dental benefits market, as traditional insurance and fee-for-service plans still make up the majority of coverage.

But managed care does have a strong hold on the health care industry, with 85% of all U.S. employees now enrolled in some form of managed health care. And, despite HMOs' efforts to control them, medical costs once again are on the rise. As a result, HMOs are continuing their merging frenzy in an effort to gain market share and keep costs from rising too high for their customers.

It isn't working.

Medical costs continue to grow at a rate twice that for general goods and services. And, to the surprise of many managed care proponents, medical costs rose 35% from 1990 to 1995. At the same time, dental costs without many managed care cost controls rose less than 33% during that period, according to the American Dental Assn.

In addition, there is now some evidence that growth in managed dental care may be stalling. The Mercer/Foster Higgins National Survey of Employer-Sponsored Plans shows that the percentage of employers offering dental HMOs was 19% in 1997, compared with 20% in 1996.

One reason for this is a lack of interest by employers that are too concerned with medical costs to worry about dental coverage. But, in many cases, employers and plan sponsors are finding it is simply not worth it to limit access to dental providers to provide dental benefits. Even dental PPOs with their larger networks can't provide the kind of access employers seek for their employees. Certainly, dental HMOs limit access even more, as well as limiting coverage.

Employers get complaints from workers upset that they must choose from five of the 35 dentists in their community, says John Stoner of The Stoner Organization, a third-party administrator and brokerage in St. Petersburg, Fla.

In Florida, most employers don't want to pay for the costly first-dollar coverage of traditional plans, but they don't want to upset their employees with restrictive managed care plans, either, he says. One alternative is direct reimbursement, a form of dental financing that can be easily administered by employers or a third-party payer. Because it cuts out the middleman, the philosophy behind direct reimbursement is quite different from both traditional insurance and managed dental plans.

The direct reimbursement concept has existed more than 20 years and is slowly becoming a preferred form of dental coverage by employers. Managed care plans are realizing that direct reimbursement may be a formidable competitor.

Direct reimbursement is a simplified method of self-funding group dental benefits. The concept allows employers to pay dental benefits directly to employees without insurer involvement. In such a plan, employees pay their dental providers for treatment and then request reimbursement from the employer. Instead of paying premiums to an insurer, the employer puts aside money, usually in an interest-bearing checking account, to reimburse employees according to a predetermined reimbursement schedule. Reinsurance is not needed in DR because dental costs are predictable and, unlike medical care, there is virtually no unknown catastrophic risk.

For employees, direct reimbursement works much like any other expense reimbursement program many companies already have in place. An employee pays to attend a work-related seminar, for example, and then turns in the receipt for reimbursement. The employee may be responsible for a portion of the bill, based on the amount the company deems reasonable for such seminars, and the company pays the remaining amount.

With direct reimbursement, employees are not limited to a network of providers. They can choose any licensed dental provider they wish and can receive any services they

want. The employer or plan sponsor decides the maximum amount an employee will be reimbursed, but it does not decide the types of services employees can access or which providers they see.

DR users also have the freedom to customize the plan to fit the organization's needs, in that the reimbursement amount and the maximum depend on the amount both the employer and employees are willing to contribute.

Employers value this level of control and recognize the advantages of making their employees part of the process.

Ed Askew, vp of Human Resources at the Greenville Utilities Commission, says his employees pay a small portion of the cost of the company's direct reimbursement dental plan. "Having an employee contribution protects everyone from overutilization, because the employee is spending his or her money, too," Mr. Askew said.

Managed dental plans often point to overutilization as a risk of direct reimbursement programs because such programs do not monitor providers and members. Managed care plans track both provider and patient behavior in an effort to manage costs. If utilization managers believe too many services are being provided, they may either cut benefits or raise premiums at the next enrollment period. In addition, dental providers who too often use one kind of procedure may be cut from the network.

The risk of overutilization is not a factor for direct reimbursement, however, because of the high predictability of costs. To be successful, DR program sponsors must predict the cost of providing dental coverage over a year.

According to Tillinghast-Towers Perrin, about 50% of

Because it cuts out the middleman, direct reimbursement is quite different from traditional insurance and managed dental plans.

the U.S. population has dental insurance, and only a small percentage receives coverage for high-dollar, complex dental services. Tillinghast reports that 54 out of 100 adults who have dental insurance receive preventive dental services, including X-rays, exams and cleanings. The actuarial firm says minor restorative procedures, such as a filling or an extraction, are given to 32 out of 100 adults, and only 21 receive more complicated services. For children, 44 out of 100 with dental insurance receive preventive services, 31 receive minor restorative services, and five require major dental services.

Unlike managed dental plans, direct reimbursement programs allow employees to decide, with their dentist, what services they need that year and to do so without putting the employer at risk. Because there is a limit to the amount of money an employee will be reimbursed, an employer doesn't need to worry about overutilization. In addition, plan sponsors do not receive the number of employee complaints under DR that they receive when a dental HMO or PPO won't cover a particular procedure.

"Our direct reimbursement program covers about 4,600 employees. Of those employees, we probably get less than 10 complaints a year," said Diane Andersen, benefits manager of First Security Bank in Salt Lake City. "The majority of those complaints center around the fact that the employee pays the provider first. However, once I explain the difference between how direct reimbursement works versus a managed care plan that pays only 50% of the benefits, the employee is usually very satisfied."

Up-front payment is another element of direct reimbursement that managed care plans point to as a negative. They claim that employees, in many cases, cannot afford to pay the up-front costs, particularly for major services such as orthodontics. What they don't mention is that most managed dental plans cover less than half of the cost of major services, including orthodontics. This means members in dental managed care plans also pay a large portion of the bill up front for high-cost procedures, but they don't get reimbursed for any of it.

In a direct reimbursement scenario, employees can

choose to use the majority of their dental coverage on such major procedures as orthodontics, as in a case where a child or family member needs braces. This puts employees in control of their dental-care dollars and allows them to have a higher reimbursement for major services. This type of control does not exist in managed care.

Instead, managed dental plans charge premiums to employers and plan sponsors in exchange for managing their costs, designing benefits for their employees, and choosing the doctors that employees can see. As a result, the plan sponsor and enrollee have little control over the plan. In addition, part of this premium goes toward a plan's administration, sales, taxes, interest and profit. An ADA analysis of a recent report by the National Assn. of Dental Plans showed that managed care plans allocate 30.8% to 41.6% of their premium dollars to non-dental costs.

The following comparisons paint a clearer picture of how managed dental plans and direct reimbursement programs measure up.

Plan sponsors considering both a direct reimbursement plan and a managed dental care plan will find significant differences in the way they are structured and administered. These differences may have an impact on the cost, level of choice, ease of use and satisfaction of both enrollees and plan sponsors.

Direct reimbursement plans provide the plan sponsor with maximum control in designing benefit plans and in maximizing plan savings. From a benefits perspective, the complete customization allowed by DR gives the plan sponsor an opportunity to choose benefits that meet financial objectives.

A typical DR plan might include:

- 100% coverage of the first \$100 of any dental expense.
- 80% coverage of the next \$250 of any dental expense.
- 50% coverage of remaining expenses, up to \$1,000 annual maximum reimbursement.

This plan design provides a high level of coverage but with maximums that allow the plan sponsor to define the financial resources committed.

A typical managed care dental plan may include:

- 100% coverage of preventive and diagnostic treatments.
- 80% coverage of basic services, including fillings, endodontics and periodontics.
- 50% coverage of "major services," including prosthetics and root canals.

In addition, managed care plans often include limitations and exclusions. These include, for example: no orthodontics or a lifetime maximum for such services; limitations on X-rays, crowns, bridges and other procedures—despite dentist recommendations; no "cosmetic" dental procedures; and a restricted network of dental providers.

Instead of managing the plan sponsor's risk through coverage maximums, the managed care plan strives to control costs by limiting the enrollee's access to benefits and limiting dental providers' ability to provide all services they think necessary and appropriate.

The plan sponsor also benefits from the self-funding structure of direct reimbursement. Basically, the plan sponsor sets up a fund and pays claims directly from it. Because they retain the funds themselves, plan sponsors that choose a direct reimbursement plan keep any interest that is accrued throughout the year and retain money that is not paid out. In addition, the company gets to deduct from its corporate income tax the amount it pays in claims.

In a managed care plan, however, the plan sponsor pays the enrollee's premium to the insurer. Thus, the money earns interest for the insurer, and any money not paid out in claims stays with the insurer as profit.

On the administrative expense side, direct reimbursement also can provide significant savings in contrast to managed care plans, where 30% to 40% of each dollar spent on premiums accounts for overhead and profit.

Direct reimbursement claims for 100 employees typically can be processed within an hour, representing a substantially lower administrative expense. Because of DR's simplicity in plan design and the absence of limitations and exclusions, there also is little time spent educating employees and answering questions.

Even if a plan sponsor chooses to outsource the

See Reimbursement on next page

Reimbursement

Continued from previous page

administrative services of the direct reimbursement to a third-party administrator, the administrative costs are substantially lower—about 10% of the total cost. Thus, 90% or more of the money spent on direct reimbursement goes toward actual patient dental care and not toward overhead, profit or other administrative costs.

Enrollees in direct reimbursement also experience some significant differences from managed dental care—most noticeably in their provider selection. Under a direct reimbursement program, the phone book is the enrollee's provider directory. The enrollee has complete choice to see a licensed dentist, orthodontist or other dental specialist.

In contrast, most managed care plans require an enrollee to select a dentist from a limited network of contracted providers. Consumers see this as one of the most negative aspects of managed care. It may compromise existing relationships and treatment with another dental provider and may result in a high level of dissatisfaction and complaints to the plan sponsor.

Finally, because DR and managed care differ in their plan design and structure, enrollees may have very different experiences with each. One of the objectives in developing a

DR plan is increased simplicity. Under DR, enrollees will see no confusing benefit schedule, no complex certificate of coverage and no list of benefits and exclusions. But under managed care, the use of a limited provider network, a certificate, utilization review requirements, limitations and exclusions all result in a program that requires more time and detailed analysis for the enrollee to understand and use properly.

Managed medical care today is experiencing a backlash by consumer and plan sponsors who believe that quality and choice have been compromised in the quest for financial savings. With managed dental care, consumers see the same problems and the same compromises to the provider/patient relationship.

Managed dental plans do provide several mechanisms to reduce employer and plan sponsor costs. But because of the highly predictable nature of dental costs and consumer dental behavior, plan sponsors can implement a DR plan with a very low degree of risk. Thus, the need for high levels of outside management and control found in managed care are unnecessary. With DR, plan sponsors are in effect prepaying for an expense they will incur that year.

To keep costs down, managed care plans must restrict benefit designs, which limits covered services. With DR, plan sponsors set the benefit levels and annual maximums at levels that are appropriate for group and financial needs,

and those benefits are structured in a way that doesn't limit dental benefits that enrollees need and want.

The success of managed dental plans relies on their ability to limit the number of dental providers, drive member volume to these providers and attain discounts so they can reduce costs for the employer. This results in dissatisfied members, who are forced to change dental providers to participate in the plan.

Employers in the 1990s are feeling pressure both to cut costs and to provide benefits that help them recruit and retain good employees. Direct reimbursement is a simple way to provide good dental benefits with the freedom of choice for their employees, while allowing employers to retain the money they don't spend on dental services. **BI**



Ronald S. Moen is the executive director and secretary-treasurer of the American Assn. of Orthodontists.

Book largely a reprinting of EPL policies

"Employment Practices Liability Insurance"
(Second Edition)

By Kelly A.M. Bowdren

Published by Standard Publishing Co.,

155 Federal St., Boston, Mass. 02110; 617-457-0600.
\$76.50

By Kevin M. Quinley

WITH NEW LAWSUITS by employees on the rise, it's no wonder that more and more businesses are purchasing employment practices liability insurance. With so many insurers entering the market, however, it is hard to sort out all the policy options.

To the rescue of the befuddled risk manager comes the second edition of "Employment Practices Liability Insurance" by Kelly Bowdren. This new edition has been expanded beyond its predecessor and gives risk managers a comprehensive understanding of the exposures created by discrimination, sexual harassment and wrongful discharge.

From the Americans with Disabilities Act to the Family and Medical Leave Act to civil rights acts and age discrimination, risk managers can consult the book for some easy-to-adopt risk management practices to prevent and limit liability.

Among the things risk managers will learn from

Books & Ideas

"Employment Practices Liability Insurance" are:

- How personnel interviewers can inadvertently create a contract with a few simple words.
- When an employer is liable for sexual harassment committed by a supervisor.
- What types of e-mail employers may monitor.
- Where definitions in insurance policy language differ significantly.

The book contains the verbatim text of each of 20 different policies from leading EPL underwriters. There is also a discussion of the Insurance Services Office Inc.'s Employment-Related Practices Liability Form, a chart outlining essential policy features and a sample sexual harassment policy.

A few mild criticisms of the book. The author is shown as Kelly Bowdren. I looked in vain for an author's biography. There is an Esq. after the name, so presumably the author is an attorney. But the credentials and qualifications of the author are hard—if not impossible—to find.

Most of the book is simply a reprint of sample insurance policies underwritten by the principal insurers that provide EPL coverage. In fact, only a slim portion of the book is the author's text. The other 75% of the text appears to be

appendix, consisting largely of insurance policy reprints. The disproportionate space between analysis and simple reprinting of insurance policies is a publishing version of the tail wagging the dog.

Some readers and buyers might feel a bit shortchanged by this. A master chart comparing different features of the insurers' policies would have added a helpful dimension to the book. Readers are looking for time-saving tools that will help them analyze and compare various policies issued by different EPL insurers. An index at the back would also serve as a time-saver for busy risk professionals.

An obvious comparison arises between this book and "The EPL Book" by Griffin Communications. Discerning risk managers may wish to compare the two before deciding which one belongs on their reference shelves. **BI**



Kevin M. Quinley is senior vp of risk services for MEDMARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. He holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

Problem with right knee ruled part of compensable injury

AN EMPLOYEE'S RIGHT KNEE INJURY arising out of a work-related injury to her left knee was a compensable industrial injury, according to the Supreme Court of Nevada.

Edna Hayes sustained an industrial injury to her left knee in 1979. Subsequently, she developed an antalgic (pain-avoiding) limp causing problems in her right knee. She sought treatment of her right knee for pain and other physical problems relating to her right knee. She also sought workers compensation benefits for a work-related injury to her right knee. An appeals officer awarded her benefits; however, a trial court reversed that decision.

The state Supreme Court concluded that Ms. Hayes' right knee injury was compensable as a new, late-developing manifestation of an earlier work-related left knee injury. The court emphasized that a provision in the state workers comp law barring recovery of comp benefits for aggravation of a work-related injury in a manner that does not arise out of the course of employment was inapplicable here. According to the court, Ms. Hayes' industrial injury manifested itself in the form of symptoms that were not present at the time of the original compensable injury but were newly developed manifestations of the original industrial injury. The court

Legal Briefs

ruled that Ms. Hayes was entitled to benefits.

Hayes vs. SIIS, Supreme Court of Nevada, Sept. 30, 1998 (BI/02/Ju.-\$10).

No workers comp for the incarcerated

In a case of first impression, the Commonwealth Court of Pennsylvania ruled that a workers compensation claimant who was incarcerated even though he was eligible for work release nevertheless was disqualified from receiving workers comp benefits.

Brinker's International Inc. operated a restaurant and employed Todd Weissenstein as a cook. In March 1995, Mr. Weissenstein slipped on a wet floor in the restaurant, jamming the thumb on his right hand. His hand was placed in a cast for six weeks. After the cast was removed, Mr. Weissenstein returned to work but lasted only one day because of pain in his hand. He filed a claim for workers comp in May 1995. While his claim was pending, Mr. Weissenstein was incarcerated at a detention and alcohol recovery facility for a prior conviction of driving under the

influence. While the compensation claim was pending, Mr. Weissenstein became eligible for work release. The compensation board awarded him benefits that included the period during his incarceration.

On appeal, Brinker's argued that Mr. Weissenstein was not entitled to benefits for the period of time that he was incarcerated for his conviction regardless of the fact that he was entitled to work release. The court concluded that the term "incarceration" should not be narrowly defined to apply only to prisoners confined 100% of the time. Thus, the court said Mr. Weissenstein was "incarcerated" regardless of his eligibility for work release and was not entitled to workers comp during that period of incarceration. The decision of the board was reversed.

Brinker's International Inc. vs. W.C.A.B., Commonwealth Court of Pennsylvania, Dec. 10, 1998 (BI/05/Ju.-\$10). **BI**

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

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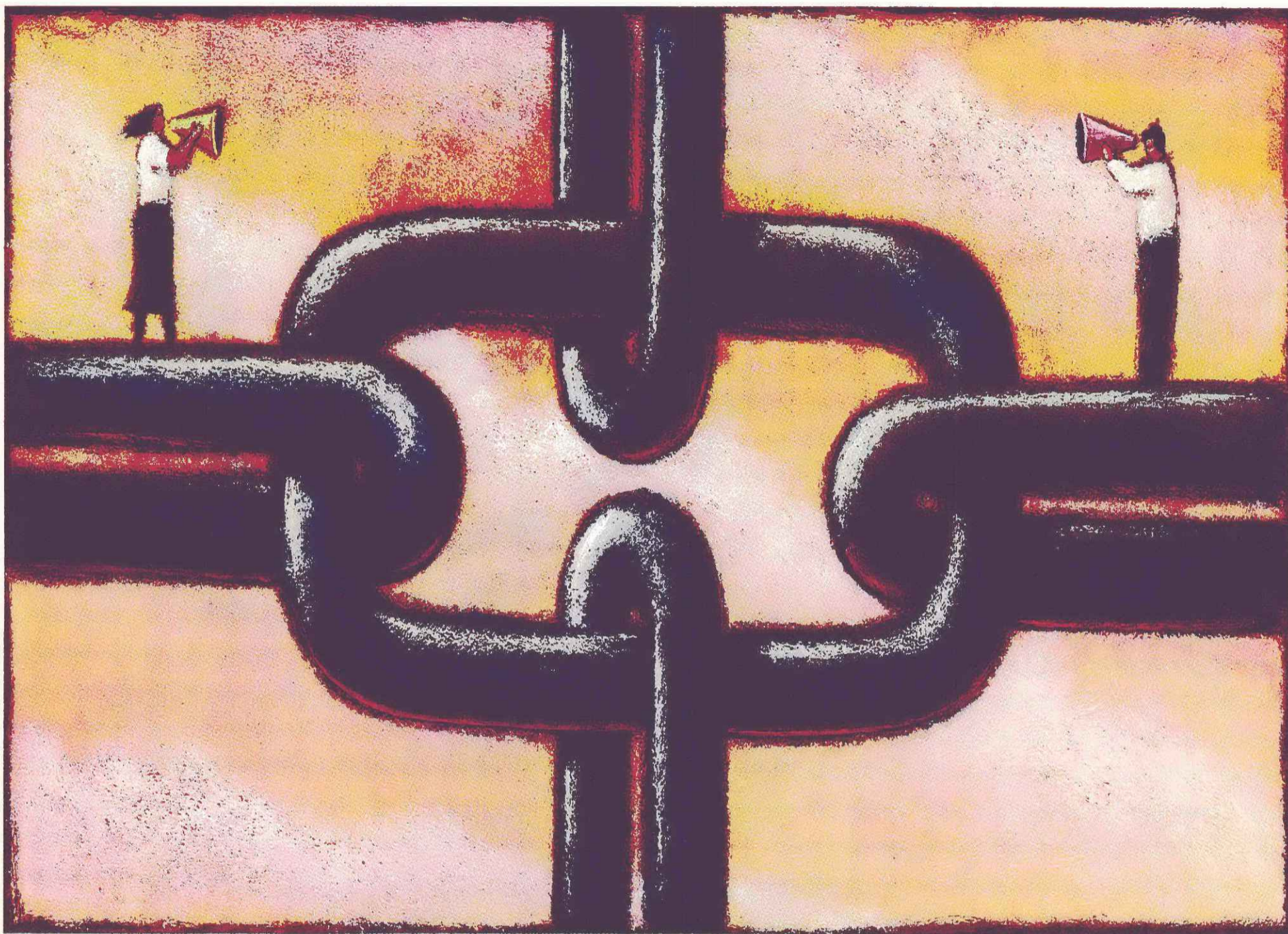
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INTERNATIONAL

Global Briefs

Gerling Group A.G., based in Cologne, Germany, has postponed its planned stock market listing until 2000. Chief Executive Officer Juergen Zech said Gerling has completed all requirements for an initial public offering, but he is concerned that the timing is wrong. Mr. Zech said investors might be worried about effects of the millennium bug on insurers. . . . Lloyd's of London has outperformed its competitors in terms of return on equity over the past 16 years, despite being subject to greater volatility in its results, according to research released by **A.M. Best Co.** last week. The Oldwick, N.J.-based rating agency discovered Lloyd's outperformed its closest peer group, the London market, by 2.3% in terms of return on net written premium between 1981 and 1997, though it underperformed the U.K. and U.S. reinsurance markets over the same period. . . . London-based broker **Benfield Greig Ltd.** has launched a new reinsurance intermediary subsidiary in Canada. Benfield Greig Canada Ltd., based in Toronto and Vancouver, British Columbia, is headed by Vic Arneill as president and CEO. . . . Lloyd's agency **Brockbank Underwriting Ltd.** is exiting personal auto business with the sale of its Zenith Insurance Policies at Lloyd's and Admiral Insurance Services Ltd. businesses. Zenith's management team, led by underwriter Ken Acott, has acquired the syndicate, which will be managed by PXRE Managing Agency Ltd. beginning next year. Admiral, a direct telesales motor business, also has been sold to its management, led by Managing Director Henry Englehardt. . . . German health insurance fund Barmer Ersatzkasse is considering **legal action against U.S. tobacco companies** to recover costs for treating smoking-related injuries in Germany. The insurance fund is one of six major funds that form the backbone of the German health insurance system. Four other health insurance funds, including the Verband der Angestellten Krankenkassen (Employees Sickness Fund Assn.), said they may join the action. . . . As part of the unification of London market back-office systems, the **London Processing Centre** has begun trials of its Claims Loss Advice and Settlement System in the Lloyd's of London aviation market. Active Lloyd's aviation syndicates, the Lloyd's Claims Office and brokers are involved in the trial of the claims management system, which will examine whether the system can serve as a front-end system for claims agreement at Lloyd's. . . . **British trade credit insurers** supported £188 billion (\$312 billion) of trade last year, according to figures released last week by the Assn. of British Insurers. That represented a 5.0% increase over 1997 in sums insured, though it corresponded to a 1.0% drop in premium volume, to £314 million (\$520 million). . . . **Aon Risk Services U.K. Ltd.** has teamed up with Federation Internationale des Administrateurs de Biens et de Conseil Immobiliers, an international association of real estate and associated professionals, to offer the association's members risk management and insurance brokerage services. . . . **SVB Syndicates Ltd.**, the Lloyd's underwriting agency subsidiary of SVB Holdings P.L.C., has forecast profits for its two syndicates, 1007 and 1212, for both the 1997 and 1998 years of account. For 1997, due to be reported next year under Lloyd's three-year accounting system, the agency expects the syndicates to post profits of 6.5% to 11.5%, respectively, on their capacity. These levels are expected to fall for both syndicates for the 1998 year of account, with 1007 posting a forecast range of between 2.5% and 7.5% and 1212 coming in slightly higher, at 4.0% to 9.0%.

Strong quake rattles Greece



PHOTO: AFP

Firefighters attempt to extinguish a blaze at a collapsed building near Athens, Greece, after an earthquake struck the region.

By MARIA KIELMAS

ATHENS, Greece—Insurers and engineers last week still were assessing the losses from Greece's biggest earthquake in the past 20 years.

The quake occurred about 3 p.m. local time on Tuesday, Sept. 7. It struck Athens, a city of about 5 million people and home to half of the population of Greece.

The magnitude of the earthquake was 5.9, and its epicenter was about 12.5 miles north of the center of Athens.

Although rescue operations still were under way, reports last week indicated the quake caused at least 70 deaths, injured 2,000

seriously and rendered 10,000 people homeless. In Athens' northern suburbs, about 80% of the buildings, mostly apartment blocks, were damaged, with some 30% of these left uninhabitable after the quake.

Most of the dead had been trapped in old factories in the Menidi and Metamorphosi areas of Athens, three of which—an electrical appliances plant with attendant showroom, a pharmaceuticals plant and a cleaning products plant—were the worst hit.

The disastrous earthquake that hit Turkey last month was a 7.5 magnitude—about 100 times stronger than the Athens quake.

See Greece on next page

Risk practices not state of the art

U.K. museums face growing exposures, inadequate coverage, report warns

By MARIA KIELMAS

Public museums in the United Kingdom face growing property and casualty risks that may not be adequately covered by their current self-insurance practices, a recent report warns.

U.K. museums currently are not permitted by the government to buy insurance for these exposures and, therefore, must settle any claims with funds in their already-stretched budgets.

In special circumstances, namely when a museum is displaying items on loan from private-sector museums or private collections, the government will provide limited indemnification, but this does not extend to a U.K. museum's own collection.

Compounding this situation is a "worrying degree" of ignorance among museums about basic principles of risk management, said Jeremy Warren, assistant director of the Museums and Galleries Commission, a national advisory body for public museums in the United Kingdom.

The MGC's report, "Museums and Insurance," published in August, examined insurance practices among U.K. museums. The research, conducted by London's City University, examined government policy on insurance for buildings, property, collections and exhibitions, and museums' growing exposure to third-party liability claims.

The U.K. government's policy for its national art collections has been to forgo buying insurance.

"You do not spend Treasury money twice," said a spokesman for the Museum, Galleries and Cultural Properties Division of the Department of Culture, Media and Sport, the ministry that oversees public museums. The spokesman explained that the Treasury's policy is that, because the U.K. taxpayer pays once to acquire a particular item in any given national or regional collection, the taxpayer should not pay again to purchase its insurance.

Since the 1980s, however, British museums and galleries have been able to obtain a government indemnity against potential losses associated with special exhibitions on loan to museums.

Under the 1980 National Heritage Act, See Museums on next page

Brokers welcome E.C. regulatory draft

By EDWIN UNSWORTH

BRUSSELS, Belgium—European insurance intermediaries warmly welcomed the European Commission's recently released draft proposals for creating more-uniform broker regulation over the next few years.

The plan for a directive regulating insurance intermediaries was initially unveiled by the European Commission in May as part of a five-year plan to improve the European Union's single market in financial services (*BI*, May 31). The European Commission said the directive would harmonize varying national legislation in the 15 European Union member

countries, and so "provide a clear and common approach in regulation of insurance intermediaries."

The time frame for the plan calls for the directive to be presented to European Union member countries by mid-2000 and to be adopted and implemented by 2002.

Last week, the Brussels-based Bureau International des Producteurs d'Assurances et de Reassurances, the federation of European insurance intermediaries, issued a statement welcoming the draft proposals.

BIPAR, which has long campaigned for such European legislation, said it has always considered existing European legis-

lation on insurance intermediaries as "inadequate in its scope and effectiveness." The federation complained that the absence of meaningful binding European regulation of insurance brokers and agents means they still are effectively restricted to their national markets, which, BIPAR says, dramatically reduces competition and buyer choice.

Nicholas Davenport, chairman of BIPAR's European Union Standing Committee, said in the statement: "What is required is a genuine European statute which would guarantee insurance intermediaries the right to provide their services freely, as granted under the E.U."

See Directive on next page

Zurich planning e-commerce hub

By EDWIN UNSWORTH

LONDON—The Zurich Financial Services Group is significantly expanding its electronic commerce capabilities by creating an e-commerce hub.

The hub will be a "portal" through which all brokers would have access to all ZFS products, according to ZFS Chairman Rolf Hueppi. Mr. Hueppi spoke about the insurer's plans while announcing improved first-half results.

A spokesman explained that plans for the e-commerce hub are at an early stage, and details are not yet available.

ZFS has dubbed its electronic trading project "e-business." The spokesman said the group ex-

pects it to be available to some commercial and personal lines customers by around mid-2000, though details still are being developed. He also was unable to say which customers would be targeted generally. Mr. Hueppi has made it clear in the past, however, that ZFS sees the United States as the most fertile ground for expansion (*BI*, May 25, 1998).

Mr. Hueppi said the plan for e-business is to take Internet technology beyond basic distribution and communication and to allow one-stop shopping for insurance products.

Zurich joined with IBM Corp. and ChannelPoint Inc., a Colorado Springs, Colo.-based provider of e-commerce applica-

tions in the financial services sector, to develop the new hub. Its aim is to "increase the distribution capacity for offering" a choice to customers and intermediaries to do business either electronically or in person and to provide integrated solutions.

A ZFS spokesman said the group still is assessing the possibility of offering third-party products through the hub. Such products could be those ZFS does not itself offer or that it offers in only a few locations, such as health coverage or small-business loans, he said.

He was speaking as ZFS, created in 1998 from the merger of the financial services units of Zurich Insurance and B.A.T Industries P.L.C. of London, an-

nounced that consolidated net income for the first half of 1999 rose more than 17% to \$1.69 billion, from \$1.44 billion in the same period of 1998. The improvement came from better performances by both life and non-life operations, for which operating income rose by 9.9% and 27.9%, respectively.

Gross written premiums, policy fees, insurance deposits and premiums written by the exchanges of Farmers Group Inc., ZFS's leading U.S. subsidiary, totaled \$23.95 billion, up 3.7% from \$23.11 billion.

Mr. Hueppi expects that, barring any extraordinary events, last year's merger will result in another strong operating result for the full year. **BI**

INTERNATIONAL

Museums

Continued from previous page
the U.K. government will indemnify public museums for up to two years for certain exhibitions and for loans of private items. The gallery or museum holding the exhibition has to carry a deductible of £5,000 (\$8,028) or the equivalent of 1% of the exhibition's total value, whichever is greater.

The ministry official said this indemnity has encouraged public galleries and museums to stage exhibitions they otherwise would not be able to, given the potential liabilities.

But a number of ambiguities in this coverage are not generally appreciated, such as coverage for the transportation of art items to an exhibition, said Robert Graham, a fine-art specialist at the London-based insurance broker Blackwood Green, a division of Lambert Fenchurch Group P.L.C. If the transportation is arranged and carried out by the museum in question, it is covered under the government indemnity. If the owner of the

art item brings his or her own property to the exhibition, however, potential losses to that same property while in transit are not covered by the U.K. government.

But U.K. museums have no such plan available for their permanent collections. Nor are they allowed to

Without liability insurance, museums have no financial or legal defense coverage, according to the MGC report.

buy insurance for these works, unlike in the United States.

The MGC's Mr. Warren said he would like U.K. museums to follow U.S. practices in insurance and risk management. The MGC is consulting insurance brokers on the matter.

The MGC report's key findings include:

- A large proportion of independent museums, particularly the smaller museums, are inadequately insured. In a survey of independent museums—those not owned by a branch of the government or a university—97% of those that responded agreed they are legally obliged to have liability insurance, but only 77% claimed to purchase it.

Without this insurance, these museums have no financial or legal defense coverage for claims brought by employees or the public, the report said.

Mr. Warren added that injury claims by museum visitors are mounting.

According to Blackwood Green's Mr. Graham, "The situation is getting dangerous, especially on the liability side."

He explained that exhibitions that feature lasers or interactive sculptures present risks of bodily injury, as do more mundane conditions such as faulty floors and carpets. And injuries can lead to litigation against museums.

The legal fees alone from such liti-

gation, even before any damages are awarded, could be enough to severely damage a museum's budget. The U.K. Treasury insists, however, that museums meet such claims from their annual budgets.

- None of the national and regional museums surveyed for the report purchases title insurance that would provide coverage for works of art subsequently found to have been stolen or otherwise illegally acquired. Such coverage would reimburse a museum for the money it spent to acquire an item that had to be returned to its rightful owner.

- There is serious concern that self-insurance for the collections of national museums and galleries has no binding legal basis. Consequently, there are serious doubts about the ability, let alone the willingness, of the government to compensate a museum in the event it incurs a catastrophic loss.

Mr. Graham said there is no problem in arranging coverage for these risks in the private sector. "Specialist art insurers are crying out for the

business," he said.

The MGC's Mr. Warren said he wants public sector museums to be able to arrange their own insurance from their budgets, if they so choose. He said an integrated-package insurance policy of the type that U.S. museums purchase would be a good model to follow. This single policy would generally cover such risks as property, liability, goods in transit and title defects.

The MGC report suggested that British museum associations explore developing a similar program for their members.

Several museum directors and curators contacted for comment on the MGC report's findings declined to comment or said they were unaware of the report.

Copies of "Museums and Insurance" are available for £21.25 (\$34.04), including shipping, from the Museums and Galleries Commission, 16 Queen Anne's Gate, London SW1H 9AA, United Kingdom; 44-207-233-4200; fax: 44-207-233-0933.

Directive

Continued from previous page
Treaty, while at the same time offering a clear framework of common rules to protect the consumer. A single market for insurance is not possible without a single market for intermediaries."

Much of the current regulation relating to intermediaries stems from a 1991 non-binding recommendation by the European Commission on insurance intermediaries. BIPAR maintains that the recommendation "has simply been ignored by many member states and incorrectly adopted by others." A 1976 directive coordinated the professional requirements of intermediaries, but BIPAR maintains the directive was only a "transitional" measure that has never been updated.

Since its adoption of the five-year plan, known as "Implementing the

Framework for Financial Services," the European Commission has drawn up the basis for a draft proposal of the directive. Its two key objectives are to ensure free provision of the services of insurance intermediaries and to upgrade consumer protection. BIPAR was consulted during the proposals' drafting, which has not yet been concluded. BIPAR said the directive should include minimum binding rules on matters such as professional indemnity coverage, financial requirements, information regarding the financial position of the intermediary, and sanctions.

On the issue of professional indemnity coverage, the European Commission proposes that each intermediary have coverage of 1 million euros (\$1.1 million). But Harald Krauss, BIPAR's director, said that while his organization thinks that is too high, BIPAR and the European Commission are nearing a compromise on the matter. **BI**

Greece

Continued from previous page
Nevertheless, the damage in Athens has been surprisingly severe, said Kostas Makropoulos, professor of seismology at the Seismological Laboratory of the University of Athens. This is because the earthquake originated at a very shallow depth—some 6 miles underground—and struck greater Athens, Mr. Makropoulos said. In addition, the affected buildings were constructed on soft soil, he said.

Gerald Turner, general manager of Athens-based broker Aon Turner Reinsurance Services SA, said local reports suggest that some of the factories might have been built on sites where fill earth has been used.

Additionally, the northern suburbs are home to mainly low-income families, and the quality of construction in those areas can be very poor, Mr. Makropoulos said.

Greece's building code, which took effect in 1995, divides the country into four earthquake severity zones. Earthquakes that occur in Zone 1 are typically the least severe, while the most severe are found in Zone 4, which is located around the islands of Levkos, Kephallonia and Zakynthos in the Ionian Sea west of mainland Greece. Athens is in Zone 2.

Mr. Turner said his office was undamaged by the shock and that, generally, buildings in the center of the capital performed well in

the earthquake.

"Athens shook like it has never shaken before, but the building codes seem to work," Mr. Turner said. The earthquake cut some telephone lines, but ancient monuments in the city, including the Acropolis, were not damaged.

"There will be insurance losses, but nothing compared with the Turkish earthquake," Mr. Turner said. Earthquake insurance

'Athens shook like it never has before, but the building codes seem to work,' says Gerald Turner.

against property damage and business interruption has to be purchased separately from property policies in Greece.

He said Greeks typically do not buy much personal lines insurance. "Less than 10% of households have fire insurance, and of these, less than 10% have earthquake insurance," Mr. Turner said. "For commercial and industrial lines, most of it is well-insured," he said.

Total premium volume in the Greek market is about 50 billion drachmas (\$162.2 million).

Ten insurers control about 80% of the market, with the Ethnikos Hellenic General Insurance Co., a subsidiary of the National Bank of Greece, controlling approximately

20% of the market. The market was fully opened to foreign competition in 1996.

Although there is no obligatory earthquake insurance in Greece, the government has been trying to revive the idea of a government-controlled earthquake insurance fund to cover both personal and commercial claims. The idea was most recently floated by the Ministry of Public Works in the aftermath of last month's earthquake in Turkey.

The government "would like to collect a form of premiums which would then go to pay a proportion of claims after an earthquake. The premiums would be calculated per square meter insured," Mr. Turner said.

This idea has been circulating for the last two years, he said. "It's a way of saying to the public to go out and get covered. The state will no longer pay the bill (after an earthquake) and give short-term loans," Mr. Turner said.

But this time the Greek government has promised emergency financial help of \$667 to each homeless family and additional financial assistance for renting temporary housing. The state also will pay one-third of the cost of the reconstruction or repair of damaged buildings, and it will provide interest-free loans for such purposes for up to 15 years. Businesses with damaged premises also will be able to get additional loans for other expenses, while retired and unemployed individuals will receive increased benefits. **BI**

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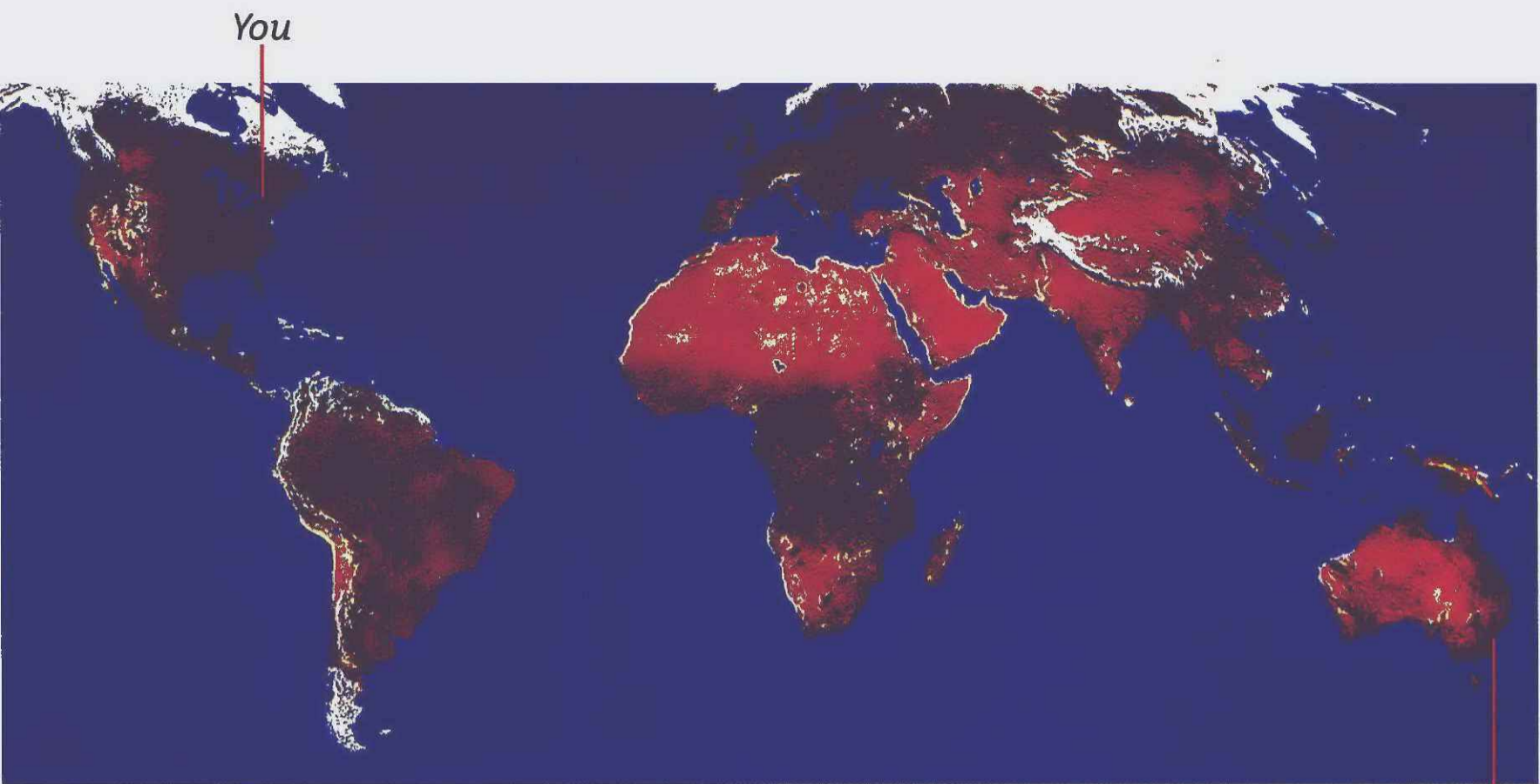
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Business Insurance

Five injured in Oregon plant explosion

ALBANY, Ore.—A titanium manufacturing plant exploded last Tuesday night, injuring five workers.



API/WIDE WORLD PHOTOS

Five workers were hurt when this titanium plant in Albany, Ore., exploded last week.

The cause of the explosion at the Oremet-Wah facility in Albany, Ore., has not yet been determined. The explosion occurred in a vacuum arc melting furnace, said a company spokesman.

He said the blast is not expected to severely affect the company's productivity, noting that the company can shift operations to two other facilities. The spokesman said the company is insured for the damage.

The plant employs about 500 workers. Oremet-Wah Chang is owned by Allegheny Teledyne Inc. of Pittsburgh.

Florida tobacco trial shifts to damages

MIAMI—The tobacco industry, having scored a victory earlier this month, is scheduled to return to court today in the second phase of a trial to determine how much tobacco companies should pay estates of smokers who died and Floridians with smoking-related illnesses.

The case resumes after a state appeals court ruled Sept. 3 that damages must be considered on a case-by-case basis, removing the possibility of single large award.

In July, a jury in the so-called Engle case ruled the tobacco industry produced a defective product (BI, July 12). In the phase that begins today, jurors will decide how much the defendants will pay the original class members.

The tobacco industry is expected to appeal the case once damages are assessed.

Both sides were barred by order of Circuit Court Judge Robert Kaye from discussing the case.

Zurich insuring Presidio cleanup

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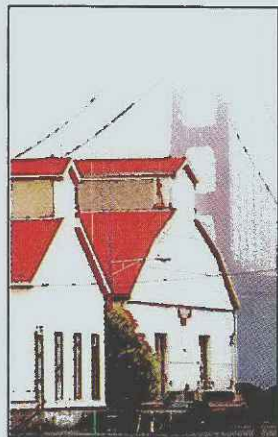


PHOTO: AFP

The Presidio will be restored with the help of coverage from Zurich.

million in environmental coverage to insure the cleanup of San Francisco's historic Presidio.

The policy provides remediation stop-loss protection, in case cleanup costs exceed the \$100 million budget, and real estate environmental liability insurance, if additional unexpected contaminants are discovered during cleanup, explained William Lynch, director of the Denver office of Zurich Environmental, a division of Zurich U.S.

The policy for the Presidio, the 200-year-old former military base, was placed by Marsh Inc.'s San Francisco office.

Funding for the cleanup and insurance policy is coming from the U.S. Army as part of an agreement negotiated by the Presidio Trust. The trust, created by Congress in 1996 to restore the Presidio and make it self-sufficient, will assume responsibility as the lead agency for remediation activities.

Much of the cleanup involves removing contaminated soil from landfills, which include substances ranging from building debris and household garbage to hazardous materials. The restoration project, expected to take between five and seven years, will convert the Presidio into a historical and recreational park.

Gallagher acquires two benefit companies

ITASCA, Ill.—Arthur J. Gallagher & Co. has acquired two companies: Group Benefit Concepts Inc. of Charlotte, N.C., and Stanley E. Clarke & Associates Inc. of Washington. Terms of the transactions were not disclosed.

Group Benefit Concepts is an employee benefits broker and consultant serving diversified clients throughout the Southeast. It will become part of the employee benefits consulting and administrative division of Itasca, Ill.-based Arthur J. Gallagher & Co.'s Gallagher Benefit Services.

The company will merge with Gallagher Benefit Services' existing North Carolina-based operation, with Richard Atkinson, Susan Kinzler and Gene Gruendel serving as area chairman, executive vp and vp, respective-

ly, under the direction of David Ziegler, GBS' Eastern region president.

Stanley E. Clarke & Associates provides retirement plan consulting, actuarial and administrative services for employers in the Mid-Atlantic states.

The company will continue to operate its offices in Washington under the direction of Angelo Nardi, president of GBS' North Central region, with Stephen E. Clarke serving as vp.

Aon to move head office

Aon Corp. is moving its head offices to the Amoco Building, Chicago's second-tallest skyscraper. The move is expected to be complete by the end of September 2001, and the lease will run for more than 10 years, an Aon spokesman said Friday.

Aon will occupy 515,000 square feet on floors three through 20 of the building, which will be renamed the Aon Center on Jan. 1, 2001. Aon has also leased 400,000 square feet in a building in the Chicago suburb of Glenview, Ill. The move into that building is expected to be complete by the end of 2001.



PHOTO: AFP

Aon's new home base will be in a Chicago landmark.

Comings & Goings: Industry

Mary Roth has been appointed to the newly created position of deputy executive director at the Risk & Insurance Management Society Inc. . . . Thomas M. Comer has been named president and chief operating officer of Woodland Hills, Calif.-based Swett & Crawford Group Inc. He previously was executive vp and COO for the wholesale brokerage. . . . Willis Faber North America Inc., based in New York, has named Frank Reider vp-reinsurance. Prior to joining Willis, Mr. Reider was a vp at Guy Carpenter & Co. . . . CIGNA Corp. of Philadelphia has named Jim Hom vp-strategic growth and development. Prior to joining CIGNA, Mr. Hom was a senior vp for The St. Paul Cos. Inc. . . . ACE USA of Philadelphia has named Michael J. Piccolino to the new position of vp-fidelity. He previously was underwriting manager at Executive Risk Inc. in Simsbury, Conn. . . . Dallas-based Summit Global Partners Inc. has named David L. "Casey" Bowlin president and chief executive officer of retail operations. He comes to Summit from Marsh Inc.

Electric

Continued from page 1

conditioning systems, according to the company spokesman.

Ninety percent of the electrical losses reported to HSB occur in standard commercially insured facilities, such as office buildings, retailers and wholesalers, apartments, schools and colleges and municipalities.

Two main factors contribute to electrical system failures, according to HSB experts: overloading caused by the increased use of technology and electricity-dependent equipment, and a lack of maintenance.

HSB has uncovered significant exposures at many of its policyholders' properties as part of a nationwide electrical risk assessment initiative.

For example, HSB engineers have found prestigious addresses with trash and debris inside electrical closets and buildings with palatial lobbies that have a foot of water in their basement electrical equipment rooms.

"We all know that water and electricity don't mix," said Mr. Glennon, who explained that the objective of the inspections is not so much to catch policyholders off guard as to prevent future losses.

"We're trying to forecast where the next big electrical loss will be," he said.

Losses caused by electrical equipment breakdown can be easily prevented through a professional electrical maintenance program that includes periodic inspections, cleaning and tightening of connections, and power monitoring.

Philadelphia-based Bell Atlantic Co. for several years has been con-

ducting its own electrical system vulnerability checks, according to Chuck Yauches, associate director of property and loss control.

Mr. Yauches is a member of a Bell Atlantic task force that studies the company's network and internal electrical systems regularly to determine whether and where upgrades and additional maintenance are needed.

Overloading and a lack of maintenance are the two main factors contributing to electrical system failures, say HSB experts.

The task force also has established emergency procedures for storms. Those include taking network systems offline in the event of an outage or surge and using backup generators as a substitute for commercially provided electric power.

"If it looks like we're subject to the possibility of an electrical current interruption, we'll pull our buildings off line and use backup power," Mr. Yauches said. "We do that frequently," he said.

Bell Atlantic also pulled itself off the electrical power grid last month during the heat wave that threatened brownouts along the East Coast, Mr. Yauches said.

"We voluntarily pulled off to protect ourselves from an incoming spike (power surge)," he said.

Frequent power surges can damage electrical equipment, according to HSB's Mr. Glennon. They can affect the electrical distribution system itself, much of which is rela-

tively inaccessible because the system usually is installed inside of a conduit that runs through walls.

Devices connected to the electrical system, such as computers, telephone systems, fax machines, copy machines and other office equipment, also are in danger of being damaged by surges, even when they are plugged into surge protectors, Mr. Glennon said.

"That little device that you have plugged in won't help much when lightning strikes," he said. Instead, property owners should install "zone of protection" surge protectors at the point where power enters a facility.

"This concept of having surge protection at the service entrance is not very well known," but "it's easy to install and extremely effective, often costing anywhere from just a couple of hundred dollars to a couple of thousand," Mr. Glennon said.

Property owners without that service entrance protection shouldn't think they're in the clear simply because their equipment withstood one or two blackouts or surges, Mr. Glennon added.

"If there's no damage immediately, it will have a cumulative effect. Power surges slowly eat away the electrical circuitry and melt away parts of chips and microprocessors," he explained.

The building's electrical system itself "can slowly cook itself," he said. "If it's not being maintained or used properly, it can get so hot that the insulation will literally melt. This can lead to fire and significant property damage."

Summit Imaging Inc., a medical imaging company based in Brooksville, Fla., recently installed a "line conditioner" to protect its equipment from power outages and surges caused by tropical storms,

hurricanes and even direct lightning strikes, according to Gary Roberts, director.

"We have \$4 million to \$5 million worth of equipment that's very sensitive, all run by computers. We went to a system that protects us from spikes and brownouts. And in the case of a direct hit by lightning, the system will sacrifice itself to protect our equipment," he said.

The line conditioner was installed on the facility's main power supply as well as on every breaker box, thus providing two levels of protection, Mr. Roberts explained.

While the Brooksville facility has yet to weather a direct lightning strike, "we've gone through some very heavy storms" without significant loss, he said.

By contrast, an affiliated facility nearby spent thousands of dollars replacing software that was corrupted by a power surge its UPS (uninterrupted power supply) system was incapable of handling.

"They lost the use of their equipment for a week," Mr. Roberts said.

Although Jefferson-Pilot Life is more than 200 miles from the Carolina coast, the insurer is prepared should it lose power or have surges as a result of severe weather.

In fact, the company can switch from one Duke Power Co. substation to another, if necessary, according to Mr. McKee.

But even with a second substation, Jefferson-Pilot employees know they must take precautions to protect electronic systems and equipment during bad weather.

"Everyone knows by now to turn the equipment off when the power goes out to prevent surges from damaging it when the power comes back on," Mr. McKee said.

And last year, when the power to the insurer's two multistory build-

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All systems go, so far, as 1-1-00 draws nigh

What a disappointment—I mean relief—to see that nothing happened last Thursday, when world calendars encountered one of a string of mini-trials leading up to the Year 2000.

Electricity worked. I went up and down in elevators. I used an automatic teller machine. Airplanes stayed aloft when they were supposed to and came down when they were supposed to.

Some people had speculated, though, that it could have been otherwise.

That is because last Thursday was the ninth day of the ninth month of the 99th year of this century, expressed casually as 9-9-99. Not too remarkable a date, unless you delight in numerical harmony or you happen to be aware that 9999 is also a code used in mainframe computers to stop programs. Some of those in the latter group thought this date, along with a handful of others during the months leading up to and after 1-1-00, could provide a glimpse of the spectacular system failures and disruptions that surely lie in wait for the end of the year.

Many of us, however, were blissfully unaware the date carried such significance. But as it neared, news reports and conversations focused attention on what might occur as the fourth nine fell into place. I found that many other people shared my curiosity, often with the same apprehension and grim fascination with which one might watch a bomb squad defuse an explosive device (Will they cut the wrong wires? Is it booby-trapped? Will it explode?).

Lest you think this date was taken seriously only by folks with pocket pen protectors and slide rules, I know of several people who changed their travel plans for that day. There was no way they were going to tempt the digital gods and take the risk of being 30,000 feet in the air when a plane's on-board computers or an air traffic control system gave up the ghost. Their determined risk avoidance made me feel a bit reckless in that I had given no thought at all to the date when making my own travel plans.

Others, aware of the possible computer snafu, chose to fly anyway, placing their faith in a higher authority, or in the belief that computer designers could not have been so idiotic as to program systems to crash based on such a simple combination of digits. I silently wished them well, the fools.

One person cryptically said the real problems would occur at midnight on 9-9-99. I did not ask him why, assuming that someone who clearly had spent so much time thinking the problem through must know what he was talking about.

I happened to be on the road, in Europe, at a reinsurance conference, when this auspicious date came to pass. Before I went to sleep on 9-8-99 (or 8-9-99, in the European style), I first took some defensive precautions.

I made sure my hotel minibar was well stocked. In the event society was reduced to a candle-lit, anarchic barter system, I was certain that miniature bottles of alcohol and salted nuts would be valuable indeed.

I then double-locked the door and made sure my miniature Swiss Army knife was handy, in case lawlessness broke out in the middle of the night and efforts were made to bypass my "Do not disturb" sign and loot my stockpile of provisions. And then I went to sleep.

On the morning of 9-9-99, my first waking thought was to see if the electricity was working. A quick check of the bedside lamp confirmed this to be so.

But then I realized that I had awakened without the benefit of a wake-up call from the hotel's switchboard—a computerized wake-up system. In fact, it was already two minutes after the appointed time of 8 a.m.—a virtual eternity in terms of computer processing tasks.

I quickly switched on the television set, wondering if perhaps I would be greeted by static or, worse, by images of planes falling from skies and roving bands of displaced middle-class people scavenging for food, cash and miniature liquor bottles.

Rather than scenes of the end of the world as we know it, instead I was greeted by the ubiquitous, albeit comforting, Cable News Network and the news that the Chicago Cubs had lost to the Cincinnati Reds the day before. Proof that the world was going on as normal. In fact, the arrival of 9-9-99 was so insignificant it didn't even warrant a headline that "nothing happened" during the broadcast.

As I sat contemplating the ramifications of this computer false alarm and wondering what the implications might be for three months from now, the phone rang, and a digital tone screeching in my ear told me both that it was time to wake up and that all was right with the world. Better late than never.

Editor Paul D. Winston's column appears fortnightly. Reach him at pwinston@crain.com.

Pension

Continued from page 1

Adams told the panel, adding that the cash balance conversion will cut the benefit she expected to receive by more than 25%.

But IBM Director of Benefits Kathleen Roin said changing demographics and a new business climate were the drivers behind establishing the new plan, which pays greater benefits to shorter-service employees when compared with the old plan but less in benefits to longer-service employees.

"We realized that we were operating in the '90s with a compensation model built in the '70s and '80s that did not address the requirements of today's diverse workforce," Ms. Roin told the ERISA Advisory Council, a 15-member body that advises the secretary of labor on benefit issues.

IBM's traditional plan was designed in an era when employees expected to spend their careers at the Armonk, N.Y.-based company. Once, 50% of employees stayed with IBM for 30 years, entitling them to rich pension benefits, but only 10% of new hires will work for IBM that long, she said.

A plan whose formula was designed to produce significant benefits only after many years of service offered "relatively little value to a majority of our employees, who were, realistically, not going to spend a full career with IBM," she said.

By converting to a cash balance plan, IBM eliminated for many employees an early-retirement benefit subsidy that had been put in place in the early 1990s.

Under that program, employees could retire and receive a full benefit after 30 years of service.

That subsidy program was put in at a point when IBM was going

through tough financial times. "Faced with significant financial challenges and a very large workforce, we needed to change and we needed to downsize our workforce if the company were to survive," Ms. Roin said.

By providing subsidized early-retirement pension benefits, IBM hoped to avoid layoffs by encouraging enough employees to leave voluntarily.

But the business climate for IBM has changed light-years since the early 1990s. Now, IBM wants to grow its workforce, and a pen-

IBM needed to align retirement benefits with its need to attract and retain experienced employees, says Kathleen Roin.

sion plan that encouraged employees to leave at relatively young ages no longer was appropriate, she said.

"As we looked into the next century, we realized that our retirement benefits needed to be aligned with IBM's need to attract and retain experienced employees," not encourage them to leave, she said. "We ended the early-retirement subsidy in our old plan because it no longer made business sense"—why give valuable employees incentives to leave IBM early? Ms. Roin said.

Ms. Roin said IBM recognized that the transition from the old, traditional plan to the cash balance plan would not be easy for longer-service employees. That is because those employees would not be in the new plan long enough to build up meaningful benefits, while losing the advan-

tage of the old plan, in which most benefits are earned during the final years of employment.

Aware of that problem, IBM included an array of features to protect longer-service employees that Ms. Roin says do not appear to be matched by any other company converting to a cash balance plan.

For example, about 30,000 IBM employees who are within five years of retirement eligibility can remain in the old plan.

In addition, employees moving into the cash balance plan will receive an "enhanced" opening account balance that is the greater of the benefit they accrued under the old plan or an approximation of what they would have received if they had been covered by the cash balance from their time they were hired.

"This is critical, because without this enhanced opening balance, our mid-career employees would have lost out on both the early-stage buildup during their earlier years and the steeply increasing pension value provided under our prior plan later in their careers," she said.

Under another enhancement, IBM provides older employees additional transition credits. While the new plan provides annual credits equal to 5% of pay, IBM employees whose age and service years total 50 or more will get additional credits of 1% to 4% of pay for up to 10 years.

Finally, IBM will provide a sweetened annuity benefit to transition-eligible employees who stay with IBM at least until their earliest retirement eligibility and elect an annuity rather than a lump sum from the cash balance plan.

"Put simply, IBM is not aware of any other company that has built in such a wide variety of transition features," she said. **BI**



Paul D. Winston

Willis

Continued from page 2

a business opportunity there for us," said Kenneth H. Pinkston, chairman and chief executive officer of Willis Corroon Corp., a unit of London-based Willis Corroon Group P.L.C.

For Willis, a franchising effort would be driven by a desire to reach midsize business customers in regions it might not be reaching as well as it would like, Mr. Pinkston said.

"We're very strong in the middle market, and we believe we have solutions that the middle market would value," he said. "We have 45 offices in the U.S., but there are a lot of markets with strong middle-market businesses where we aren't very well represented."

Although consideration of any franchising move is "very much in the preliminary feasibility stage," according to Mr. Pinkston, such a venture would likely be similar to the one Willis Corroon Group put in place in the United Kingdom last year through its Willis Corroon Commercial division.

The U.K. franchising operation "is going very well," Mr. Pinkston said. "But obviously (the U.K. and the U.S.) are two different markets."

Under the arrangement described in the survey, agents would operate under their own names and retain ownership of their client bases and control of client contact, with Willis providing system help, services and access to insurance markets.

"The potential list of services includes training and development," Mr. Pinkston said. "Those are things that could be expanded."

A key aspect of the arrangement is that franchise agents would be able to place business with a panel of insur-

ers on preferential terms. And, the survey says, Willis might be able to assist with acquisition efforts within the agent's territory.

"Obviously they would represent clients in cities throughout the U.S., and the question would be, as a franchisee of Willis, would they have better access to systems...and whether we could provide them better training," Mr. Pinkston said.

There would be "some sort of a revenue-sharing arrangement" between the franchisees and Willis under the

Agents would retain their names and client bases, with Willis providing system help, services and access to markets.

arrangement.

"Obviously we wouldn't want it to conflict with our retail office operation, so obviously that's something we would watch very closely," the Willis CEO said.

Willis expects to see a report on the survey's results in October. If the company decides to move forward with a franchising plan, it would be "well into 2000" before details and an actual business plan are developed, Mr. Pinkston said.

Mr. Pinkston acknowledged that there have been attempts at franchising in the insurance business "going back several years."

"But to my knowledge, we're the only large brokerage firm looking at it," he said.

"Franchises have been tried quite a lot," said George Nordhaus, chairman of Insurance Marketing & Manage-

ment Services in Los Angeles. "There've been 20 different attempts to franchise, but nobody's quite sure what 'franchise' means."

"The difficulty of franchising independent insurance agents from existing agencies" is that they're so independent, Mr. Nordhaus said. "But I could see there is a need."

The pressures of being an independent business mean the independent agent "has to be all things to all people," Mr. Nordhaus said. In today's environment, the technical advice and business support to be gained through a franchising arrangement could be a significant benefit, he said.

"It's really tough to be an independent entrepreneur, so if a lot of those things can be taken off their shoulders, it makes a lot of sense," Mr. Nordhaus said.

Timothy J. Cunningham, principal in the Chicago office of INSIGHT Management Consultants, also noted that previous attempts at franchising in the insurance industry have met with little success.

A key issue, he said, is, "Is the quid pro quo in balance? And, for various reasons, I don't think agency principals see that to be the case."

Both Mr. Nordhaus and Mr. Cunningham liken Willis' idea to ISU Corp., which has about 50 franchise offices. Those offices in 1998 generated a total of \$134.3 million in revenues.

Mr. Nordhaus said that the notion of franchising in the insurance industry is a valid one, even if it hasn't been executed successfully in the past.

"The problem traditionally has been the leadership," he said.

"I can see the feasibility. The only reason this hasn't happened is nobody has had the will to do it," Mr. Nordhaus said. "I think it's time. I think the industry is ready for it." **BI**

Hopewell

Continued from page 1

scheme of arrangement "to pull the wool over Gold Medal's eyes, as Gold Medal and General Mills seem to imply," the judge said.

Meanwhile, Judge Brozman also rejected procedural challenges raised by Gold Medal, ruling that the Hopewell scheme qualifies for treatment as an ancillary proceeding under the U.S. Bankruptcy Code. Although not a typical court-supervised insolvency, the scheme still qualifies as a "foreign proceeding," and Hopewell's board—which oversees the scheme—qualifies as a "foreign representative," both of which are requirements for recognition in a U.S. court, the judge wrote.

Hopewell representatives expressed satisfaction with the ruling. "It will be a seminal opinion" in ancillary bankruptcy cases requiring "cross-border cooperation," said Howard Seife, a lawyer with Chadbourne & Parke in New York representing the reinsurer.

General Mills will appeal, according to Ivy Bernhardtson, vp and associate general counsel of the Minneapolis-based food giant.

"We strongly disagree with the opinion," Ms. Bernhardtson said, adding that "we don't believe that her decision will affect Gold Medal's ability to collect from its reinsurer for the liability they have to General Mills."

Stephen Cozen, a lawyer representing Gold Medal in the case, declined to say whether the captive would appeal, but he also objected strongly to some of Judge Brozman's conclusions.

Mr. Cozen, a partner with Cozen & O'Connor in Philadelphia, charged that the ruling allows Hopewell to deprive Gold Medal of its contractual rights, including a right to settle disputes under Minnesota law.

"If you allow this to happen to U.S. contracting parties, U.S. contracting parties will have no way of knowing if they'll be 'schemed' out of their substantive contractual rights," he said.

Mr. Cozen also labeled the ruling "a result-oriented decision which clearly reflects the court's desire to grant comity to a foreign proceeding even when the facts clearly establish the unclean hands of Hopewell."

The unusually messy reinsurance dispute has its roots in General Mills' 1994 discovery that an independent contractor had been spraying stores of raw oat grain with a pesticide not approved by the U.S. Food and Drug Administration.

The contractor sprayed 18 separate shipments of grain over a two-year period, and General Mills ended up destroying both raw grain and 50 million unsold boxes of cereal. The contractor later was found to have billed General Mills for a more expensive FDA-approved chemical and was sentenced to five years in prison for fraud.

The cereal maker filed a claim with Gold Medal, agreeing to a "compensable loss" of \$168.8 million. The captive denied the claim, though, arguing that there was no physical damage to property and citing policy exclusions for contamination and faulty materials.

In a peculiar twist, General Mills then sued its own captive in a Minnesota court. The two sides agreed in 1998 to a "baseball arbitration," in which each would submit a settlement figure to an arbitrator who would decide on one of those figures.

Gold Medal warned Hopewell that it might sue if Hopewell refused to cover the settlement, and

shortly before the arbitration was scheduled to begin, Hopewell obtained a Bermuda court injunction barring suits against it in the United States. It also filed an ancillary bankruptcy petition in New York seeking a similar injunction.

In her ruling last month, Judge Brozman granted Hopewell's petition, forbidding any creditor from pursuing claims outside the scheme of arrangement.

In doing so, she turned aside a barrage of arguments from Gold Medal and General Mills, including that Hopewell treated them unfairly in developing the winding-up plan.

Hopewell's main assets are its own reinsurance recoverables: Created in 1972 as a property reinsurer for captives managed by International Risk Management Group, Hopewell retained only 5% of the risk it assumed from captive members and ceded 95% to reinsurers around the world.

The "cut-off" scheme of arrangement created two classes of creditors: Class A, whose claim amounts

'Gold Medal only has itself to blame if it did not learn of the scheme's provisions,' the judge wrote.

were fixed as of June 1, 1995, and who would immediately collect Hopewell's share of the loss and amounts recoverable from retrocessionaires; and Class B, whose claims were unquantified. Once Class B claims—due to be filed by June 30 of this year—are settled by agreement or dispute resolution, captives with these claims will recover whatever they can from Hopewell and the retrocessionaires when the scheme period ends June 30, 2001. Hopewell will then be history.

Gold Medal and General Mills charged that the scheme cheated them in various ways. For example, when captive creditors voted on whether to adopt the scheme, their votes were weighted to reflect the amount of the claims they stood to collect. While Gold Medal, potentially Hopewell's largest creditor, got voting credit for a liquidated \$25,000 claim it had filed, Hopewell valued the \$168.8 million pesticide claim at zero for voting purposes.

In addition, Gold Medal charged that the scheme unfairly replaced a provision applying Minnesota law to arbitrations with one applying Bermuda law.

Judge Brozman clearly was unimpressed with these arguments.

Gold Medal President John Weddle received a statement from Hopewell explaining the scheme. He testified that he "only flipped through" it before forwarding it to General Mills' in-house lawyers for review, she noted.

"Gold Medal only has itself to blame if it did not learn of the scheme's provisions," she wrote.

While Mr. Weddle questioned why the pesticide loss wasn't included in weighing Gold Medal's vote, he ultimately acquiesced to the \$25,000 valuation, the opinion says.

Hopewell, though it knew of the pesticide loss, did not weigh it for voting purposes because Gold Medal—on the advice of its lawyers—had never actually filed a proof of claim. The captive's lawyers were concerned that a proof of claim might be used by General Mills to bolster its case against the captive, according to the opinion.

"Gold Medal suggests that it should have been permitted to vote an enormous claim which it refused to file or quantify and that, in addition, it should not have been and is not bound by the scheme. Such a result is wrong, not only under Bermuda law but under ours as well," the judge wrote.

The two sides disagreed about whether Arthur H. Deters, a former IRMG official who represented Gold Medal at the creditors' meeting, actually voted for the plan. Mr. Deters testified that he abstained, but others testified that he voted for the scheme, and Judge Brozman agreed.

In addition to its vote, Gold Medal also never objected to the scheme when it was put before a Bermuda court for its sanction.

"Gold Medal had notice of all the scheme's provisions and their intended effects, but nevertheless did not vote against the scheme, did not object to the valuation of its claim for voting purposes, did not object at the sanction hearing, did not appeal the scheme (in Bermuda) and did not seek to undo the Bermuda injunction. Whether Gold Medal and its counsel were asleep or made a strategic determination not to challenge the scheme... the bottom line is the same: Gold Medal forwent the many opportunities it had under Bermuda procedure to raise the very issues it seeks to collaterally raise now," Judge Brozman wrote.

Among the provisions the captive agreed to, she added, is Bermuda arbitration, which she found was not prejudicial to Gold Medal.

In 1996, after the scheme was approved, England's House of Lords ruled in an unrelated case that a reinsurer was not bound by a "follow the settlements" clause in its reinsurance agreement, a ruling that applies in Bermuda and could help Hopewell in its dispute with Gold Medal. Hopewell had already said it will not be bound by a settlement between General Mills and the captive.

The change in law, though, does not allow Gold Medal to avoid the requirements of the scheme, Judge Brozman found.

"With the seasons, the tides change," she observed. "Gold Medal evaluated the landscape when votes were solicited, voted in favor of and did not challenge the scheme, acts which it may now regret. However, regret is no substitute for prejudice, and prejudice there is none."

In barring lawsuits against Hopewell, Judge Brozman sought to prevent other creditors from following Gold Medal's lead: "If Gold Medal gets paid first and other creditors... follow in its footsteps, or if the retrocessionaires stop paying Hopewell, funding for the scheme will soon be depleted, harming all of Hopewell's other creditors," she found. "Not only is there nothing inequitable about enforcing the scheme's provisions and requiring Gold Medal to arbitrate in Bermuda, there is a crying need to grant comity to the scheme."

The huge General Mills claim, meanwhile, continues to move on other fronts.

Gold Medal finally did file a formal claim against Hopewell shortly before the June 30 deadline; the \$230 million claim includes the \$168.8 million loss plus interest.

General Mills also dropped its plan for a "baseball arbitration" with Gold Medal and is going ahead with litigation. A Minnesota court has appointed a retired judge to hear the case, and the two sides are set to argue summary judgment motions in October. A trial, if needed, is scheduled to start in November. **B**

Updates

First Union sued over 401(k) plan

Continued from page 2

participants in a former Signet Banking Corp. 401(k) plan, who claimed their assets were shifted to the First Union plan illegally after First Union acquired Signet in 1997. That suit seeks at least \$150 million.

Third-party bad-faith bill amended

SACRAMENTO, Calif.—The American Insurance Assn. has successfully lobbied for amendments that would limit the scope of a third-party bad-faith bill passed this session by the California Legislature.

The original bill, S.B. 1237, would permit third-party bad-faith suits in California.

The amendments to that bill, A.B. 1309, passed the state Senate last week. The amendments would restrict third-party bad-faith suits to auto and general liability claims, including bodily injury and property damage. Workers compensation, life, health and disability claims would not be permitted, however. The amendments also require that any third-party bad-faith suit be filed by a "natural person," as opposed to a business or organization. The AIA sought the restrictions.

Both bills are headed to Gov. Gray Davis' desk now that the 1999 legislative session has concluded. Gov. Davis has not taken a position, his office said.

NatWest to buy U.K. life insurer

LONDON—The U.K. banking and insurance sectors came a step closer to one another last week when National Westminster Bank P.L.C. announced its offer to buy life insurer Legal & General Group P.L.C. The deal would create a financial services conglomerate worth about £33 billion (\$53.97 billion).

NatWest's offer of 210 pence (\$3.43) per share values the U.K.'s fourth-largest insurer at £10.75 billion (\$17.58 billion) and is expected to result in cost savings of at least £130 million (\$213 million) by 2002, though one-time restructuring costs are estimated at around £130 million.

NatWest is offering L&G shareholders 85 pence (\$1.39) in cash per share, with the balance made up of NatWest shares.

Sir David Rowland, chairman of NatWest and a previous chairman of Lloyd's of London, will take over the combined organization. The offer is expected to receive unconditional shareholder approval by the end of this year.

Ford settlement not insured

DEARBORN, Mich.—Ford Motor Co. is not insured for the \$7.75 million sexual harassment settlement reached last week with federal officials, a company spokeswoman said.

Ford's agreement with the U.S. Equal Employment Opportunity Commission calls for the Dearborn, Mich.-based automaker to hire outside consultants to provide sensitivity training at plants across the nation. In addition, \$7.5 million of the settlement will be shared among the approximately 700 to 900 women who can show they suffered sexual harassment or gender discrimination at Ford plants in Chicago and suburban Chicago Heights. The amount each claimant receives will be decided by a three-member independent board that will consist of one member named by the EEOC, one named by Ford and a chairperson appointed by those members.

The agreement also requires Ford to place more women in management positions.

Briefly noted

President Clinton this week is expected to veto a tax cut bill that contains numerous pension reforms, including higher 401(k) contribution limits. . . . The American Medical Assn. is asking the U.S. Justice Department to expand the conditions under which it will allow Aetna U.S. Healthcare's acquisition of Prudential Healthcare. The request was made as part of a public comment period. The Justice Department tentatively approved the deal in June after reaching an agreement with Aetna that required the Blue Bell, Pa.-based Aetna U.S. Healthcare to divest its commercial HMO businesses in Dallas/Fort Worth and certain Houston-area counties. . . . Australian insurer GIO Australia Holdings Ltd. late last week announced that Deputy Chairman Bruce Hogan and Director Marina Darling resigned from the company's board. Mr. Hogan and Ms. Darling were the only two original GIO directors left on the board following the company's takeover by AMP Ltd. at the beginning of this year. GIO is facing a class-action lawsuit by disgruntled shareholders over losses recently sustained by the insurer. . . . Massachusetts Gov. Paul Cellucci has signed legislation that will allow a lower-income retiree who has exhausted his or her Medicare HMO prescription drug benefit limit to obtain a \$750 annual benefit through the state. . . . Rep. Ken Bentsen, D-Texas, and 20 other congressmen sent a letter last week to Labor Secretary Alexis Herman asking her to investigate whether any employers have knowingly misled employees regarding the effect of cash balance pension plan conversions on employees' benefits. . . . Bancassurance could be taking a higher profile in Italy with the announcement late last week that Italy's largest bank, Turin-based Sanpaolo IMI, is looking at forming an alliance with Istituto Nazionale delle Assicurazioni S.p.A., the country's second-largest insurer. . . . Aon Consulting Inc. has acquired Atlanta-based employee benefits consulting firm Harty Associates Inc. Terms of the transaction were not disclosed. . . . Kevin Rampe has been named deputy superintendent and general counsel of the New York State Insurance Department, effective Sept. 20. Prior to his appointment, he served as first assistant counsel to New York Gov. George Pataki.

Continued from page 2

"awareness has paid off" and remedial work has been done, though there are still some situations "where fingers need to be crossed," he said.

The committee expects to issue a report on the state of Y2K preparedness later this month.

Both Sen. Bennett and Sen. Christopher Dodd, D-Conn., the panel's vice chairman, cited some potential problems: The lagging preparations of some of the United States' major trade partners, the possibility that domestic and foreign enemies will attempt to take advantage of Y2K-related problems, and the notion that the health care industry may not be adequately prepared to continue to cause concern, they said.

One potential problem that should not be overlooked involves panic, warned Sen. Dodd. In fact, panic "may create a larger problem" than malfunctioning computers, he said. He added that the situation could resemble that brought about by Orson Welles' famous 1938 radio broadcast of "The War of the Worlds," when people mis-

took a radio drama of a Martian invasion for the real thing.

People with irrational fears that the banking system won't work because of computer problems could try to hoard cash, which would feed financial fears, said Sen. Dodd. There's also no reason to stockpile medicines, he said. Instead, people should prepare for Jan. 1, 2000, the same way they would for a hurricane: by having necessities on hand.

Y2K problems could pose opportunities for groups as disparate as teenage hackers to hostile nation states to attempt to cripple U.S. computer capability, Sen. Bennett warned. He cited a recent article in the Chinese press that said the U.S. military was too strong to meet head-on and that any move to confront the United States would have to be an attack on its electronic data processing system.

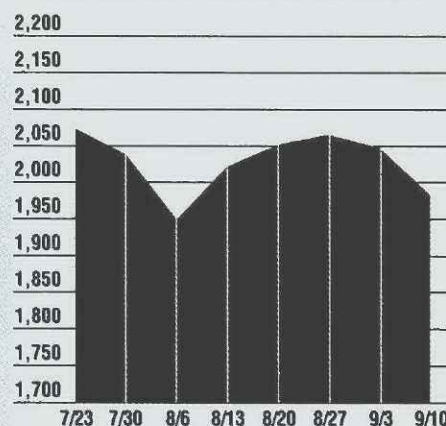
Sen. Dodd named China, Japan, Russia and Italy as countries where remediation is lagging, raising the possibility of disrupted supplies for U.S. companies. He added that Latin American countries have made considerable progress in addressing the problems but that work remains to be done there.

In his July 1998 address, Sen. Bennett could cite only Australia, Canada, Singapore and the United Kingdom as nations that were taking the Y2K problem as seriously as the United States.

In that address, Sen. Bennett also pointed to the health care industry as one of the weak links in U.S. Y2K preparedness, a theme Sen. Dodd returned to last week. The "significant vulnerabilities" of the health care system—the reliance on outside utilities that could fail presents just one example—means that all health care providers should have in place alternatives should outside systems fail, he said.

Sen. Dodd also noted that enactment of the Y2K Liability Act, which provides some limited liability from Y2K-related liability for businesses, should encourage medical device suppliers to be more forthcoming about potential problems with their products, thus allowing health care providers to be better prepared (BI, July 5). Sen. Dodd added that he thought that the trial bar had overreacted to the measure, which President Clinton signed into law in July. Sen. Dodd called the law a "modest, common-sense" approach to the problem that would remain in effect for only 36 months. **BI**

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc. (nordby.com) Boulder, Colo.

PCS catastrophe options

As of Sept. 10	Call spread	Price bid/ask	Call spread	Price bid/ask
National Annual 1999			California Annual 1999	
40/60	15.0/19.5		60/80	0.2/—
60/80	8.0/—		80/100	0.1/0.6
80/100	3.0/—		100/150	0.2/—
150C	2.0/4.0		Western Annual 1999	
200/250	-2/2.0		80/100	-1/9
Southeastern September 1999			National Annual 2000	
40/60	0.5/—		100/150	6.7/—
60/80	0.3/—		150C	5.0/—
Eastern September 1999			190/195	0.3/0.5
60/80	0.5/—		200/250	3.0/—
80/100	0.3/—			

Total volume: 4 Total open interest: 10,295
For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.

Source: Chicago Board of Trade

British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Legal & Gen	200	25.0	3.6	2.3	237-142
Royal & Sun	505	18.2	23.0	5.5	633-455
Brokers					
Lmbt Fenchurch	86	8.3	4.2	6.2	94-58
JLT	274	12.6	12.0	5.4	286-166

Note: Prices are Sept. 10 closings; other numbers from Sept. 9.
Source: CNET Investor (investor.cnet.com) Boulder, Colo.

Fires

Continued from page 3

insurers and property owners are tallying the losses from this year's blazes in California. While firm figures are not yet available, it appears that property losses will not be substantial.

The Property Claims Services unit of Insurance Services Offices Inc. in New York said it doesn't expect insured property losses from fires in California and other states to be near the \$25 million threshold it uses to designate catastrophes. "As of now, there have been very few claims," a spokesman said.

The California Department of Forestry will have property loss figures later this year, the spokeswoman said. "The reports are still coming in."

While wildfires generally do more damage to forests than structures, property owners are urged to take certain precautions that can limit their exposure to wildfire losses.

Much of the loss control for businesses near wild lands is easy to accomplish.

"Every business should think about what kind of roof they have," advised Paul Devlin, chief operating officer of the Institute for Business & Home Safety in Boston. The roof

should be made of fire-resistant material approved by Underwriters Laboratories Inc., he said.

The California Department of Forestry reminds property owners to keep their roofs clear of pine needles, leaves and other combustible matter.

"A lot of people don't realize that the heat from a fire can cause combustion inside a building even if there is no flame," Mr. Devlin said. That's why the institute recommends windows constructed of insulated glass or multilayered glass that has been glazed.

And, Mr. Devlin emphasized, "keep the vegetation away from the building. We see industrial parks right up against wild lands where you can drop a rock off the roof and it will land in shrubs and trees."

The institute suggests vegetation be cut away within 100 feet from structures.

A disaster recovery plan also is essential, Mr. Devlin said. "Every business should have one. You should have a plan for what happens if a fire takes down your building, your major supplier or your major customer. You've got to be up and running immediately. The more down time you have, the less likely it is you will be able to re-open your doors."

Businesses should be able to be "up and

running the same day or the next day," Mr. Devlin said. "You do that by taking these mitigation steps."

A recovery plan should include regular backups and storage of data offsite. Telephones, fax machines and Internet access should be available at an alternate site if a fire causes down time, he noted. "And we argue for business interruption coverage as well."

Who fights a fire depends on where it's burning.

The California Department of Forestry acts as the fire department for small communities in rural areas throughout the state. Large municipalities can rely on firefighting agencies that fall under their jurisdiction.

Los Angeles County counts on its Fire Department to handle the wildfires within its boundaries, according to a source in the county's risk management department who asked not to be identified.

Weed abatement personnel are responsible for keeping combustible vegetation cleared from areas around buildings; when fires do threaten property, county firefighters and contracted help are used to contain the blazes, he explained.

"As far as the risk management practices for those types of perils, we have to rely on them," he noted. "They are the experts." **BI**

BI Industry Stock Report SEPT. 7, 1999, THROUGH SEPT. 10, 1999

BROKERS			Year to date			Year to date			Year to date			Year to date			Year to date									
Price	Weekly % change	Year to date % change	High	Low	Vol.(000)	Price	Weekly % change	Year to date % change	High	Low	Vol.(000)	Price	Weekly % change	Year to date % change	High	Low	Vol.(000)							
Aon Corp.	NYS	33.94	-1.81	-9.20	46.69	32.19	1603	EMC Insurance Group Inc.	NDO	10.19	-0.61	-20.10	13.38	9.00	26	Seibels Bruce Group	NDO	3.00	0.00	-14.29	6.25	2.69	17	
Clark Bardees Holdings	NDQ	17.75	1.43	5.11	21.00	7.13	24	ESG Re Limited	NDQ	12.88	-4.19	-35.02	22.25	12.38	164	Selective Ins. Group	NDO	18.69	3.28	-7.72	23.00	16.69	198	
E.W. Bianchi Holdings Inc.	NYS	67.94	1.02	45.52	71.75	35.63	70	Enhance Financial Services	NYS	20.13	-4.17	-33.47	33.13	17.31	160	Terra Nova Ins Co. Ltd.	NYS	32.25	0.58	32.31	32.63	21.25	246	
Gallagher Arthur J. & Co.	NYS	53.31	-1.95	21.86	56.50	34.88	108	Everest Reinsurance	NYS	28.06	-1.54	-23.51	39.06	27.38	464	Tokio Marine & Fire	NDQ	57.75	-4.94	-1.91	64.63	42.50	92	
Hilb, Rogal & Hamilton	NYS	24.50	1.03	31.54	24.50	15.96	77	Fremont General Corp.	NYS	9.13	-6.4	-62.18	25.69	8.50	1403	Torchmark Corp.	NYS	29.25	-4.88	-15.83	45.50	28.50	667	
Kaye Group Inc.	NDQ	9.19	16.87	26.72	9.25	5.00	1	Frontier Insurance Group	NYS	11.44	-5.67	-8.50	18.75	10.88	288	Transatlantic Holdings	NYS	72.75	-0.68	-3.80	85.94	72.13	141	
Marsh & McLennan	NYS	75.94	1.33	28.44	81.50	43.38	1459	Gainsco Inc.	NYS	6.56	-0.94	-3.96	7.75	3.94	62	Travelers Property Casualty	NYS	32.25	-0.68	18.37	41.88	24.13	371	
Brown & Brown	NYS	36.00	-3.84	3.04	39.44	29.31	22	Harleysville Group	NDQ	19.63	0.64	-23.04	26.13	17.00	100	Trenwick Group Inc.	NDQ	21.00	-6.15	-33.60	35.25	19.00	63	
BROKERS	AVERAGE		2.38	26.19				HSB Group Inc.	NYS	37.06	-1.66	-7.78	45.63	34.75	119	Unico American Corp.	NDQ	8.50	-6.85	-26.29	14.13	8.50	20	
INSURERS/REINSURERS								HCC Insurance Holdings	NYS	16.56	12.77	-2.21	25.13	13.88	902	United Fire & Casualty	NDQ	22.88	-0.81	-31.27	38.50	22.25	9	
ACE Ltd.	NYS	20.25	-2.41	-38.05	35.81	20.06	3146	ING Groep N.V.	NYS	54.50	-4.35	-10.66	70.00	36.06	154	Unilrir	NDQ	35.94	-2.71	1.41	42.38	27.88	117	
Accel International Corp.	NDQ	1.25	-9.09	-58.33	3.38	0.75	4	IPC Holdings Ltd.	NDQ	22.19	3.20	-2.47	27.00	17.38	53	UNIJM Corp.	NYS	35.88	-3.53	-40.15	62.50	33.50	3094	
Acceptance Insurance Cos.	NYS	12.38	-2.46	-37.74	21.13	12.06	131	Hartford Financial Services	NYS	47.50	-2.81	-14.89	66.44	37.63	2250	Vesta Insurance Co.	NYS	5.00	5.26	-13.04	9.88	3.38	235	
AEGON N.V.	NYS	84.63	-2.94	-30.60	130.13	69.25	722	LaSalle Re Holdings Ltd.	NYS	14.88	0.85	-27.88	28.63	11.63	103	XL Capital Ltd.	NYS	49.94	-0.99	-30.22	79.50	48.63	1086	
Aetna Life & Casualty	NYS	76.00	-5.15	-4.78	99.88	62.00	1878	Lincoln National	NYS	45.50	-5.05	-9.80	57.50	33.50	930	Zenith National Ins.	NYS	21.88	0.57	-5.41	26.69	20.31	37	
AFLAC Inc.	NYS	44.25	-4.97	0.57	56.75	25.50	2775	MAIC Holdings Inc.	NYS	25.25	-3.55	-21.09	33.13	24.63	21	INSURERS/REINSURERS	AVERAGE		-0.83	-12.87				
Allmerica Financial Corp.	NYS	56.56	-3.21	-0.11	65.00	38.38	290	Markel Corp.	NYS	175.38	-1.47	-2.70	193.00	132.00	15	HEALTH MAINTENANCE ORGANIZATIONS								
Allstate Corp.	NYS	33.69	2.28	-12.50	48.38	31.56	11914	MBIA Insurance Group	NYS	51.31	-2.49	-22.62	71.88	46.06	1610	Foundation Health Systems Inc.	NYS	13.31	-0.47	21.02	20.06	5.88	1273	
AMBAC Indemnity Corp.	NYS	51.19	-3.42	-14.60	62.38	40.88	511	Meadowbrook Insur. Group	NYS	13.00	16.85	-20.31	25.13	10.56	45	Humana Inc.	NYS	9.31	-2.61	-50.83	22.13	9.00	1725	
American Financial Group	NYS	28.44	-0.44	-30.96	43.88	28.06	237	MMI Cos. Inc.	NYS	13.50	0.00	-19.10	19.06	13.25	26	Oxford Health Plans	NDQ	16.00	0.79	14.29	24.25	6.22	2382	
American General	NYS	70.44	-4.09	-9.98	81.38	52.38	1826	Mutual Risk Mgmt. Ltd.	NYS	26.50	-4.93	-30.15	43.25	25.38	548	Pacificare Health Sys.	NDQ	61.84	2.33	-13.51	100.38	58.19	903	
American Heritage Life Ins.	NYS	31.44	-0.20	30.65	32.00	18.88	102	Navigator Group	NDQ	13.94	0.45	-8.61	16.75	13.25	15	Safeguard Health Enter.	NDQ	3.38	3.85	-5.26	5.50	2.34	19	
American Intl Group	NYS	93.56	-2.41	20.11	107.19	51.88	6139	NYMagic Inc.	NYS	13.69	0.00	-34.43	26.63	12.00	8	Sierra Health Services	NDO	12.31	1.55	-41.02	24.94	10.44	56	
American Safety Insurance	NYS	7.63	2.52	-19.74	10.75	6.63	45	Ohio Casualty Corp.	NDQ	16.03	1.79	-22.04	21.69	15.13	554	United HealthGroup	NYS	60.13	-5.96	34.92	70.00	33.38	2125	
Argonaut Group	NDQ	26.25	2.94	9.38	28.38	21.25	123	Old Republic Int'l	NYS	15.56	0.00	-27.41	24.00	14.81	1456	Wellpoint Health Networks	NYS	76.75	3.98	-10.63	97.00	50.81	1007	
AXA-UAP Group	NYS	62.25	-1.88	-13.01	80.25	38.25	110	Orion Capital Corp.	NYS	47.56	-1.30	-21.37	48.50	27.56	1164	HMOs	AVERAGE		0.43	-6.38				
Baldwin & Lyons Inc.	NDQ	23.06	5.73	-1.34	26.00	18.50	12	Partner Re Ltd.	NYS	36.06	-1.70	-20.19	46.50	33.63	224	ALL COMPANIES	AVERAGE		0.66	2.31				
Berkley W.R. Corp.	NDQ	23.06	-0.27	-31.67	36.50	22.25	141	Penn-America Group Inc.	NYS	9.44	0.67	2.03	11.44	8.13	40									
Berkshire Hathaway Inc.	NYS	61800.00	-2.98	-9.52	81100.00	57000.00	1	PMA Capital Corporation	NDQ	19.94	0.00	1.92	21.13	16.63	45									
Capital RE Corporation	NYS	11.50	-6.12	-41.21	31.75	11.50	190	Philadelphia Cons. Holding	NDQ	14.88	-11.85	-30.00	25.50	10.81	2821									
Capitol Transamerica Corp.	NAS	14.38	2.00	-18.73	20.25	12.50	72	PIXRE Corp.	NYS	17.00	0.37	-32.67	27.63	13.94	56									
Centris Group Inc.	NYS	9.38	19.05	0.00	14.06	7.50	146	Reliance Group Holdings	NYS	4.69	2.74	-63.77	16.13	4.44	1243									

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