

STORM TAB



Storms Desmond, Eva and Frank, which battered the northern United Kingdom in December with high winds and heavy rains, combined to produce:

\$1.89 billion estimated insured losses

5,000 commercial claims so far

50% projected percentage of claims by businesses

100% projected increase of some commercial insurance premiums at renewal

Source: BI reporting

INTERNATIONAL

U.K. storms wreak havoc for businesses

Higher percentage of commercial losses seen

BY SARAH VEYSEY

Many businesses in areas of the northern United Kingdom are facing insurance losses after a series of December storms caused widespread flooding across the region.

And though losses from the floods will not hurt the capital positions of most insurers, some will see profits decline and reinsurance programs may be affected, experts say.

Insured losses from windstorms Desmond, Eva and Frank, which hit the United Kingdom in December, will likely total about £1.3 billion (\$1.89 billion), the London-based Association of British Insurers said last week.

Of the 15,000 claims received by insurers so far, about 5,000 are

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SAFETY

BUSINESS TECHNICAL: WEARABLE DEVICES AT WORK

Various products aim to promote safety on the job



BY STEPHANIE GOLDBERG

In the form of vests, belt clips and more, wearable safety devices intended to mitigate occupational injuries and deaths could transform the workers compensation industry sooner than expected after buy-in from one of the world's largest insurers.

American International Group Inc. this month announced its "strategic investment" in New York-based Human Condition Safety, which is among the startups piloting sensor technology said to identify potential injuries and reduce the frequency and severity of workers comp claims.

While companies such as BP P.L.C. and Target Corp. already use activity and sleep tracking devices to promote healthy habits among workers, experts say more employers are showing an interest in using wearables to prevent occupational injuries. AIG's deal,

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WEARABLE WONDERS

More than 44 million wearable technology devices are expected to be sold in the United States in 2016, with a projected revenue of \$1.3 billion from fitness activity trackers alone, according to the Arlington, Virginia-based Consumer Technology Association, which produces the annual Consumer Electronics Show in Las Vegas. Experts see workplace uses of the devices — particularly for safety and wellness purposes — growing in the next two years. Examples of such devices include:

Smart glasses (a pair by manufacturing company Carl Zeiss Inc. at top left), which are worn like eyeglasses but function like smartphones, might soon be used to stream information about processes or identify worksite hazards, experts say.

Sensors in the belt-mounted device created by New York-based Kinetic (bottom left) measure workers' movements, alerting employees and employers when it detects high-risk motions such as improper lifting. The device is currently being piloted by industrial workers at several large companies.

Globe Holding Co. L.L.C.'s Wearable Advanced Sensor Platform shirt (right) is designed for firefighters. The Pittsfield, New Hampshire-based company's flame-resistant, moisture-wicking T-shirt (1) contains sensors that track heart, respiration and other biometrics (2,4) and an indoor tracking device (3) for when GPS isn't available.

HEALTH CARE REFORM

ACA opponents plan to wait out Obama's term

2016 election results may prompt next move

BY JERRY GEISEL

When Congress gave final approval this month to legislation repealing key provisions of the health care reform law, it was the first time lawmakers had done so since the Patient Protection and Affordable Care Act was passed in 2010.

But that effort, which was immediately vetoed by President Barack Obama, may be the last time Congress votes to repeal ACA provisions until 2017, when a new president takes office, key lawmakers and others say.

While predicting that the ACA will eventually be repealed, House Speaker Paul Ryan, R-Wis., said that isn't likely to occur until after the 2016 congressional and presidential elections.

"We will see this law either collapse under its own weight, or we will see this law, in the next session of Congress, as we are proving here today, be repealed and signed and replaced by a Republican president," Rep. Ryan said as he signed the legislation earlier this month — vetoed the next day by President Obama — to repeal

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Mr. Ryan



Q&A: KATHLEEN REARDON

CEO of Hamilton Re Ltd. discusses the reinsurer's approach to the market

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A court ruling demonstrates how a personal incident can spiral out of control

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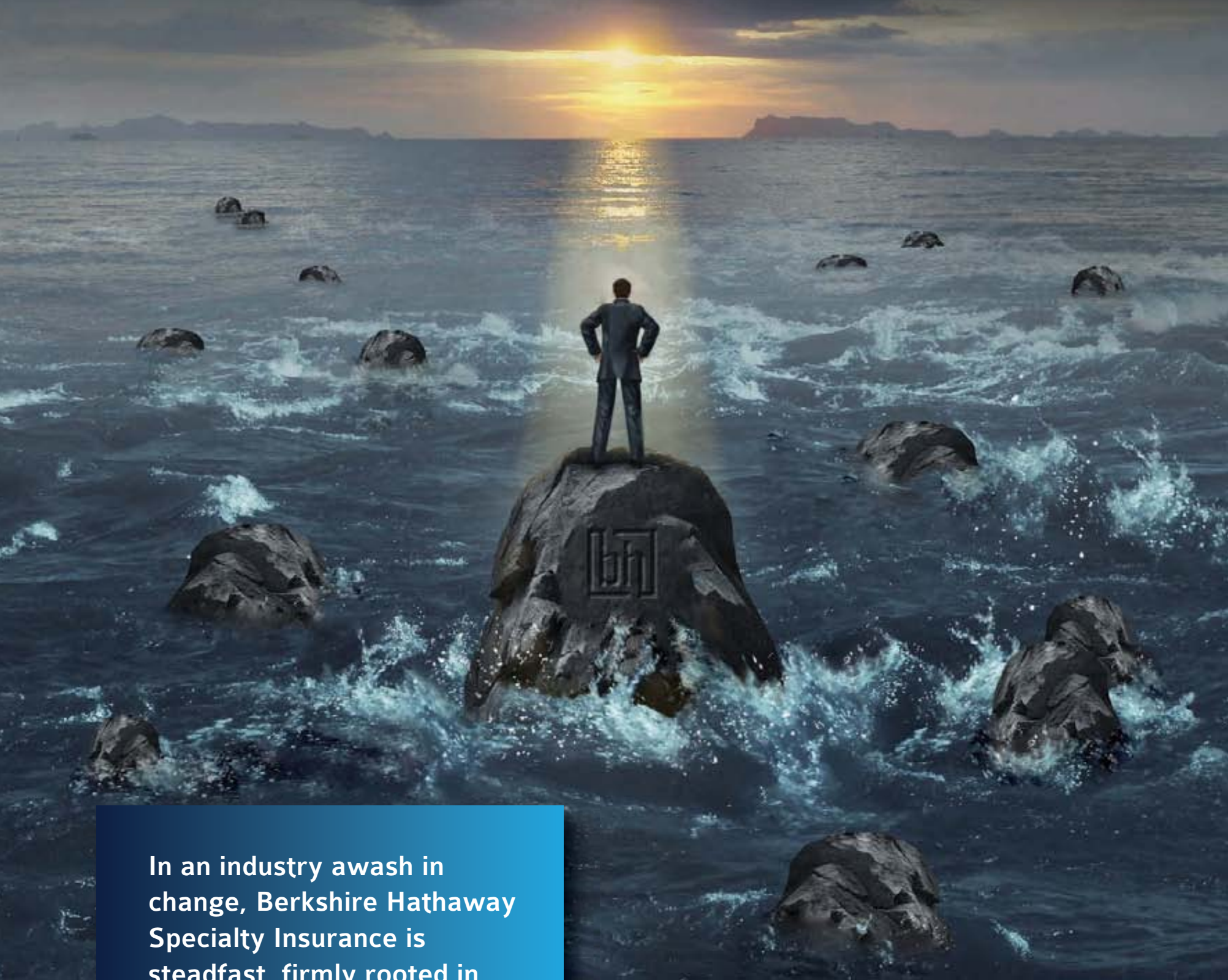


PRESCRIPTION DRUG MANAGEMENT

Doctor's murder conviction a wake-up call on opioid treatments; doctors see more state regulation of painkillers; education may ease insomnia side effects; overuse of pain medications an ongoing issue; PBM rankings.

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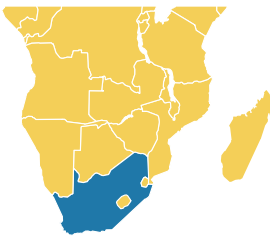
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NEWS

BENEFITS MANAGEMENT

FERTILITY TREATMENT COSTS SCARE OFF EMPLOYERS

But coverage may lead to some long-term savings

BY SHELBY LIVINGSTON

Kristina Diedrick and her husband, Brian, tried for a year to get pregnant with no luck. After visiting a fertility clinic in 2014 and being told nothing was medically wrong, the couple opted for three rounds of artificial insemination. Still, nothing happened.

So last October, Ms. Diedrick, a 29-year-old freelance wedding coordinator in Charleston, South Carolina, decided to try in vitro fertilization, the most advanced fertility treatment for many women struggling to get pregnant.

Finally, after a total of 32 months since they began trying, she found out she was pregnant two days before Christmas. The tally? About \$18,000 out of pocket for IVF with chromosomal testing, roughly \$3,000 for three artificial insemination attempts, and 60 to 70 doctor's visits' worth of copays. Her husband's employer, which provides the couple's health care benefits, did not offer coverage for fertility treatments or drugs.

Undergoing IVF, where ripened eggs are removed, fertilized externally and later implanted in the

THE COST OF MULTIPLE BIRTHS



Having twins or multiple births significantly raises the health risks for mothers and children, as well as the health care costs involved. Experts say that implanting more than one embryo during in vitro fertilization significantly increases the odds of a multiple birth. (Costs are for mother, including those incurred the 27 weeks before and up to 30 days after the delivery; and infants, for all medical expenses up to the first birthday.)

AVERAGE HEALTH CARE COST	
One child	\$21,000
Twins	\$105,000
Three or more	More than \$400,000

Source: November 2013 study published in the American Journal of Obstetrics & Gynecology

uterus, wasn't a difficult decision for Ms. Diedrick.

"We knew it would be a lot of money and super taxing on both of us, but we knew it was the next step" to having a baby, she said.

But employer coverage would have helped alleviate some of the burden. "It probably wouldn't have taken us as long to do (IVF) as it took us," she said.

Like the Diedricks, many couples undergoing fertility treatments

shoulder most of the cost.

While 60% of employers with more than 500 workers offer some type of fertility benefit, according to a Mercer L.L.C. November study, it can be limited to a consultation with a doctor. About one-third of those employers cover fertility drug therapy, 24% cover IVF, and 23% cover artificial insemination. Forty percent of employers don't cover any fertility services, according to Mercer.

What's more, of the 15 states that require insurers to offer coverage for fertility treatments, only eight mandate IVF coverage, according to Resolve, a McLean, Virginia-based infertility advocacy organization. And that doesn't apply to self-insured employers.

The cost can deter employers, experts say. For one, the average cost of an IVF cycle in the United States runs \$12,400, the Birmingham, Alabama-based American Society for Reproductive Medicine says.

Some employers may question its value, while others find it to be an important investment.

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MERGERS & ACQUISITIONS

Willis Towers Watson chiefs share optimistic outlook

BY MATTHEW LERNER

Created through a merger of equals, Willis Towers Watson P.L.C. should be well-placed to offer seamless services to commercial buyers looking both property/casualty and benefits products and services, its senior executives say.

But the combined entity created out of the recently completed merger of Willis Group Holdings P.L.C. and Towers Watson & Co.

will first have to successfully weave both companies' operations, now that the deal is completed.

Observers say prospects for the merged company should be bright as it gains scale in a competitive market.

John Haley, who headed human resources and benefits consultant Towers Watson & Co., and Dominic Casserley, who was CEO of insurance and reinsurance bro-



Mr. Casserley

kerage Willis Group Holdings P.L.C. before the merger closed last week, are optimistic.

"When we look at some of the big companies in this space, they tend to be broking operations that have acquired smaller

human resources and consulting operation," said Mr. Haley, CEO of Willis Towers Watson. "We don't

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CORRECTION

There were several misstatements in the Research & Data section on private health insurance exchanges in the Jan. 4 issue.

Under the self-funded or fully insured category, Aon Hewitt's private exchange offering should have been self-funded or fully insured; Xerox HR Consulting's offering should have stated it was offered as self-funded for active employees and fully funded for other populations. Also, Hilton Worldwide Holdings Inc. participated in Aon Hewitt's exchange in 2014; the year of inception for Towers Watson & Co.'s exchange should have been 2006 for retirees and 2008 for active employees.

Nominate a benefits manager

Know a benefits manager who deserves recognition for his or her outstanding benefits program? Nominate them via our new simplified process for the 2016 Benefits Manager of the Year® award and Benefit Management Honor Roll®.

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nominate them — co-workers, managers, employee benefits consultants, brokers, insurers or anyone who works with a top-class benefits manager.

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The awards recognize excellence and innovation in employee benefit management and focus on outstanding performance in the management or administration of group health, group life, retirement and pension, or work/life programs.

For complete information about the process and to access the nomination portal, go to www.businessinsurance.com/BMOY2016.

The deadline for submitting nominations for this year's award is March 1.

Submissions will be judged and scored by a panel of independent judges. After the second-round judges consider the full nominations, the benefit manager with the highest score will be selected as the Benefit Manager of the Year®.

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Profiles of the winners will feature in the July 4 edition of *Business Insurance*.

1/18/16

ONLINE
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GALLERY

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VIDEO



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NEWS

CLIMATE CHANGE

INSURANCE SECTOR HAS KEY ROLE
IN CLIMATE AGREEMENT

Resilience efforts, investing both seen as important

BY GLORIA GONZALEZ

The international insurance industry is set to play a significant role in fulfilling the promise of the global climate agreement reached in Paris last month, both as providers of products and services and as investors.

In December, nearly 200 countries adopted a climate deal that aims to limit the increase in global temperatures to 1.5 degrees Celsius, establishes commitments by countries for their contributions to this goal and commits all countries to submit more progressive climate plans every five years, among other actions.

"The agreement is about as good as could have been hoped for, which is limited," said Michael Gerrard, professor and director of the Sabin Center for Climate Change Law at Columbia Law School in New York. "They are voluntary and not enforceable, but there will be a stringent reporting system."

A major success from the viewpoint of insurers was the explicit mention of the role of risk insurance facilities, climate risk pooling and other insurance solutions laid out in Article 8 of the Paris agreement, said Peter Hoeppe, head of Geo Risks Research/Corporate Climate Center for Munich Reinsur-



AP PHOTO

Nearly 200 countries adopted a climate deal that aims to limit the increase in global temperatures to 1.5 degrees Celsius.

ance Co. in Munich.

For Shaun Tarbuck, CEO of the International Cooperative and Mutual Insurance Federation, one of the highlights of COP21 — shorthand for the United Nations Framework Convention on Climate Change's 21st Conference of the Parties — was the recognition and acceptance of the insurance industry's role in the global climate solution.

"Our job is to manage resilience and risk so we are the actual bedfellows of governments in terms of trying to protect lives and livelihoods," he said. "And I think that

was beautifully reflected."

That's not to say the agreement is without major flaws, notably the lack of specific commitments about who has to contribute to the previously established goal of providing \$100 billion in climate finance per year by 2020 to developing countries, Mr. Hoeppe said.

Steve Waygood, chief responsible investment officer for Aviva Investors Holdings Ltd., said in an email that it was disappointing the agreement did not mention or include a carbon price, carbon tax,

See **CLIMATE** page 20

WORKERS COMPENSATION

Texas employers still opting out despite lawsuits

BY SHEENA HARRISON

The appetite for opting out of Texas' workers compensation system has remained steady despite a series of significant jury verdicts last year against Texas nonsubscribers, sources said.

Nonsubscription is "still creating a great deal of interest among employers," said Keith Rosenblum, a senior workers compensation risk control strategist at Lockton Cos. L.L.C. in Kansas City, Missouri.

While choosing not to purchase traditional workers comp coverage has helped nonsubscribing employers save money, experts advise that nonsubscribers need to provide strong safety programs and quick, effective medical treatment to injured workers in order to limit potential liability exposures.

"An effective nonsubscription program should be put together with a variety of different mechanisms

to control the potential exposure to large tort losses," said Eric Silverstein, Dallas-based senior vice president with the national casualty broking practice at Willis Towers Watson P.L.C.

Texas has allowed employers to opt out of the state's workers comp system since its inception more than 100 years ago. Employers that opt out are not required to provide benefits for injured workers, although sources say most sophisticated nonsubscribers do provide a form of recourse.

Companies that purchase or self-insure for workers comp in Texas and elsewhere generally are protected from liability lawsuits by exclusive remedy provisions that prevent workers from suing if they are eligible for workers comp. However, Texas nonsubscribers have no such protection and entertain the possibility of liability lawsuits from injured

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RISK MANAGEMENT

RRG legislation
would allow
property cover

Support divided as bill focuses on nonprofits

BY DONNA MAHONEY

The risk retention group sector is deeply divided over legislation that would enable just a sliver of the nation's more than 200 RRGs to write property coverage for policyholders.

Under current law, RRGs, which are special group-owned captives, can write only commercial casualty lines — except workers compensation — for member owners.

But H.R. 3794, introduced in the House of Representatives by Reps. Dennis Ross, R-Fla., and Ed Perlmutter, D-Colo., would narrowly expand RRGs' underwriting authority to allow the groups to provide property coverage for policyholders that are nonprofit organizations with tax-exempt status or educational and educational-related institutions that are nonprofit organizations or governmental entities.

In addition, an eligible RRG would have to be operating for at least 10 years and maintain capital and surplus of at least \$10 million.

Some supporters say the legislation could be a first step toward allowing all RRGs to write property coverage.

"This seemed like our best chance to get the foot in the door, to allow a limited number of risk retention groups to take advantage of adding property," said Richard Smith, president of the Vermont Captive Insurance Association in Burlington, Vermont. "My hope would be that if Congress is able and willing to pass this, then in the near future we would be able to expand that to a broader group moving forward."

Others say the expansion would meet a policyholder need.

"Small monoline property policies, without the liability coverage included, are something the insurance industry typically doesn't want to offer," said Pamela Davis, president and CEO of the Vermont-domiciled Alliance of Nonprofits for Insurance Risk Retention Group in Santa Cruz, California. "This can also make it difficult for nonprofits who are insured by an RRG to find the insurance they need."

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EMPLOYMENT PRACTICES

Employers walk a fine line in accommodating alcoholic workers

BY JUDY GREENWALD

Employers that deal with a suspected alcoholic employee do not have to tolerate any behavior that hurts their business, but they must adhere to federal and state discrimination guidelines in accommodating the worker.

The issue has come up with the recent lawsuit by former University of Southern California football coach Steve Sarkisian, who charged that the university had violated state law and “kicked him to the curb” by refusing to accommodate his alcoholism and terminating his employment in October 2015. The university has denied any wrongdoing, and filed a motion to move the case into arbitration, according to media reports.

Among the issues raised in the case is Mr. Sarkisian’s behavior during a 2015 pep rally, in which

the consumption of two beers and prescription medication created the mistaken impression that he was inebriated, according to his lawsuit.

The Americans with Disabilities Act protects a “qualified” alcoholic who is considered to have a “disability,” which is defined as “a physical or mental impairment that substantially limits one or more major life activities,” according to the federal Equal Employment Opportunity Commission.

California’s parallel Fair Employment Housing Act, under which Mr. Sarkisian filed his suit last month in state superior court in Los Angeles, is looser, defining disability as an impairment that makes a major life activity “difficult.”

“The biggest mistake is not understanding that alcoholism is a disability that needs to be accommodated,” said Robin Paggi, train-



ing coordinator at Worklogic HR Legal Solutions in Bakersfield, California. If an employee has a problem and needs help, “the employer then needs to enter into an interactive process with them to see how they might accommodate them,” said Ms. Paggi.

That is as long as a reasonable accommodation does not cause undue hardship for the employer, said Elisaveta Dolgih, senior attorney with Godwin P.C. in Dallas. A company “obviously cannot operate” if its chief executive asks for two months off to enter a reha-

bilitation program, but it may be able to accommodate a lower-ranking employee with a similar request, she said.

And know there is no need to rush to accommodate an employee, said Lara C. de Leon, a shareholder with Ogletree, Deakins, Smoak & Stewart P.C. in Costa Mesa, California.

Employers “need to hit the pause button and evaluate the situation,” based on what is going on in the workplace, she said. “Is the alcoholism creating a safety issue? Is it creating a performance issue? Is it creating a customer issue? You kind of need to think through the situation,” and not act too quickly without considering alternatives, Ms. de Leon said.

“The question is, what accommodations could an employer make in order to allow the alcoholic to

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TORT REFORM

Asbestos class action bill faces hurdles

Politics, veto threat foreshadow breakdown

BY MARK A. HOFMANN

The outlook for a bill passed by the House of Representatives that would change class action rules in federal court and subject personal injury asbestos settlement funds to new reporting requirements remains extremely murky.

For one thing, the Senate has yet to schedule hearings on the Fairness in Class Action Litigation and Furthering Asbestos Claim Transparency Act — H.R. 1927 — which passed on a 211-191 vote Jan. 8.

Among other things, the measure would require a federal court to certify that plaintiffs in a proposed class action have actually suffered the same type and scope of injury as the named class representatives.

The bill also would require personal injury asbestos settlement trusts to file quarterly reports with the bankruptcy courts. These reports would be available on the public docket and would include already publicly available information about the claims filed with the trust and payments made.

And even if the Senate moves on the bill, President Barack Obama appears very likely to veto it. The Office of Management and Budget issued a statement of administration policy two days before the House vote.

“The administration strongly opposes House passage of H.R. 1927 because it would impair the enforcement of important federal laws, constrain access to the courts and needlessly threaten the privacy of asbestos victims,” the statement says. It adds that “if the president were presented with H.R. 1927, his senior advisers would recommend that he veto the bill.”

Proponents of the measures freely admit they face difficulties.

“Efforts will be made to move H.R. 1927 forward in the Senate, but Democratic crossovers will be difficult to obtain, thus it will be difficult to get the bill to the floor,” said Victor Schwartz, general counsel of the Washington-based American Tort Reform Association and a partner in the Washington office of Shook, Hardy & Bacon L.L.P.

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WORKERS COMPENSATION

Ontario employers could see cost hikes from new workers comp law

BY GLORIA GONZALEZ

Newly adopted legislation in the Canadian province of Ontario has the potential to significantly raise the costs for employers that participate in its workers compensation program and bars them from strong-arming employees about claims.

Bill 109, adopted in December, prohibits employers from retaliating against or discouraging employees from filing for benefits, with corporations that commit such violations or others, such as knowingly making a false or misleading statement to the board, facing sharply higher fines. The law also could spike the costs of providing workers comp benefits by changing how survivor benefits are calculated.

The legislation, which applies to any company that has employees in Ontario and participates in the workers comp system, amended Ontario’s Workplace Safety and Insurance Act to bar employers from threatening or taking disciplinary action, including terminations, suspensions or penalties, against workers for filing workers comp claims or influencing them to withdraw or abandon claims.

It also amended the act to raise the maximum fine that could be imposed on corporations found guilty of offenses to \$500,000 Canadian dollars from CA\$100,000 (\$352,750 from \$70,550).

Legal experts say the legislative change is partly in response to an April 2013 report prepared for Ontario’s Workplace Safety and Insurance Board that found that claim suppres-

sion — actions taken by an employer to induce a worker not to report an injury or illness or to underreport its severity or attendant time lost — appeared to be a “real problem.” The researchers estimated the proportion of likely compensable work-related injuries or illnesses for which workers do not submit claims at 20%, while employer nonreporting was pegged at about 8%.

The legislation is also being driven by the provincial government’s general desire to expand protections for workers, though the experts say most employers take workplace safety reporting obligations seriously.

“For many employers, those prohibitions are not going to impact them,” said Jodi Gallagher Healy, a London, Ontario-based partner with Hicks Morley Hamilton Stewart Storie L.L.P. “They understand that employees have the freedom to report injuries, that they have a responsibility to facilitate that and do their reporting. But this is meant as a protective measure in the event that there are employers out there who are discouraging people from making claims or unintentionally doing so.”

“It’s making out the employers to be the big bad party,” said Norm Keith, Toronto-based partner with Fasken Martineau DuMoulin L.L.P.

The Ontario safety board pays out about CA\$2.5 billion (\$1.76 billion) in benefits each year, according to the agency, and one Bill 109 provision could significantly increase that: It allows the board to calculate survivor benefits

based on the average earnings of the deceased worker’s occupation at the time of diagnosis rather than the legislated minimum payment.

Of the CA\$2.4 billion in benefit payments made in 2014, \$184 million was directed to funding survivor benefits, a total that has held at 7% of overall payments in the 2012-2014 period, according to the board.

The change applies to any injury that occurred on or after Jan. 1, 1998, which would allow survivors to refile their claims or to ask the board to reconsider decisions.

“That’s actually pretty controversial because retroactive application of legislation, at least in the workers comp field here in Canada, is not considered to be particularly good public policy,” said Laura Russell, partner with law firm Mathews Dinsdale & Clark L.L.P. in Toronto.

The legislation addresses a “gap” in the way survivors were compensated in the past, so many are likely to request board review, said Howard Goldblatt, a founding partner for Goldblatt Partners L.L.P. in Toronto.

The board had been making payments based on the date of diagnosis until it came to the board’s attention that previous legislative language did not allow that so the change should not increase costs significantly, said Carmen Santoro, president of the Ontario Professional Firefighters Association, which represents 11,000 members and was a major proponent of the bill.

However, others say the change would increase costs for some individual employers and the overall cost to the workers comp program.



Chubb Ltd. makes debut on New York Stock Exchange

■ The new Chubb Ltd. created by Ace Ltd.'s acquisition of Chubb Corp. began trading Friday on the New York Stock Exchange under the symbol CB. Zurich-based Ace completed its acquisition of Warren, New Jersey-based Chubb on Thursday in a deal valued at about \$29.5 billion. The combined company said in a statement that it is now the world's largest publicly traded property/casualty insurer, with market capitalization of \$51.2 billion, annual gross written premiums of \$37 billion and total assets worth about \$150 billion. Chubb's closing stock price on Friday was \$109.38 in the midst of a broad market decline.

MetLife to part with U.S. retail life business

■ MetLife Inc. said it plans to divest a large portion of its U.S. retail segment to focus instead on its group life and employee benefits business. The New York-based life insurer, which has been designated a systemically important financial institution by the U.S. Treasury Department's Financial Stability Oversight Council, is considering a sale, spinoff or initial public offering, MetLife said in a statement. It will continue to sell its group life insurance and other voluntary benefit products, as well as its pension and retirement products, as well as continue with its operations in Asia, Latin America, Europe, the Middle East and Africa, according to the statement. MetLife cited increased capital requirements from its SIFI designation as its reason for parting with a portion of its U.S. retail segment. The piece is about one-fifth of the firm's overall operating earnings, and the divested segment would have about \$240 billion of total assets, MetLife said.

Insurance partially covers Merck's Vioxx settlement

■ U.S. drugmaker Merck & Co. said it will pay \$830 million to settle a federal class action lawsuit involving allegations the company failed to adequately inform investors about heart risks from its now-recalled Vioxx pain medication. The company's cash payment for the settlement and fees will be about \$680 million after reimbursement from insurance policies, Merck said, and the company will record a charge for that amount in the fourth quarter of 2015. Vioxx was approved by U.S. regulators in 1999 as a new type of treatment for pain and quickly became a blockbuster product, ultimately used by an estimated 20 million Americans. But the company recalled Vioxx in 2004 after a colon-polyp prevention study showed it more than doubled the risk of heart attacks or stroke after 18 months of use.

Reuters

Cyber attacks on critical U.S. manufacturers jump

■ U.S. Department of Homeland Security investigations of cyber attacks on the nation's critical manufacturing sector nearly doubled in the year ended Sept. 30, according to the agency. The DHS' Industrial Control Systems Cybersecurity Emergency Response Team, or ICS-CERT, said in a report distributed this week that it investigated 97 incidents at critical manufacturers during its most recent fiscal year.

That category includes makers of vehicles and other types of transportation equipment as well as metals, machinery and electrical equipment producers. ICS-CERT said that altogether it responded to a total of 295 cyber incidents, up 20% from the previous fiscal year. After critical manufacturing, the next most active sectors were energy, with 46 incidents, water, with 25, and transportation systems, with 23, according to the report.

Reuters

2016 exchange enrollment sign-ups top last season's figures

■ Nearly 8.7 million individuals signed up with health insurance plans through the federal exchange during the first 10 weeks of enrollment for 2016 coverage, the U.S. Centers for Medicare & Medicaid Services reported. Of that number selecting exchange coverage between Nov. 1 and Jan. 9, 74,239 opted for coverage between Jan. 3 and Jan. 9. Enrollment in the federal exchange is significantly higher compared with about the same period a year ago. From Nov. 15, 2014 through Jan. 9, 2015, just under 6.8 million individuals had enrolled in plans offered through the exchange.

Largest pension plans logged undramatic 2015

■ The funded status of very large pension plans sponsored by public companies slipped in December but ended up slightly higher at year-end 2015 compared with 2014, according to a Milliman Inc. survey. Defined benefit plans offered by U.S. employers with the 100 largest pension programs were an average of 82.7% funded as of Dec. 31, down from 83.3% as of Nov. 30, but slightly higher than Dec. 31, 2014, when plans were an average of 81.5% funded. At the end of December, the plans had \$1.410 trillion in assets and \$1.705 trillion in liabilities.

Former Rep. Mike Oxley, finance reformer, dies

■ Former Rep. Mike Oxley, R-Ohio, co-author of the Sarbanes-Oxley Act, died New Year's Day at the age of 71. According to the Washington Post, Mr. Oxley, who served as chairman of the House Financial Services Committee from 2001 to 2007, died of a non-small cell lung cancer, a type of lung cancer seen in nonsmokers. As chairman of the House Financial Services Committee, Mr. Oxley was a key player in crafting the Terrorism Risk Insurance Act of 2002, which created the federal government's terrorism insurance backstop after the terrorist attacks on New York's World Trade Center and elsewhere on Sept. 11, 2001. Mr. Oxley, who was first elected to the House in 1981, retired from Congress in 2007.

RIMS names Pemberton president for 2016

■ Julie Pemberton, director of enterprise risk and insurance management for Outerwall Inc., is the new president of the Risk & Insurance Management Society Inc. for the 2016 term. Based in Oak Brook Terrace, Illinois, Ms. Pemberton, a member of RIMS Chicago Chapter, has served on the society's board of directors for six years and has been a member of RIMS for over 16 years, RIMS said in a statement. "As RIMS 62nd President, I look forward to helping

this Society focus on the future, ensuring that we continue to advance and convert ideas into valuable resources that support the world's risk management community," Ms. Pemberton said in the statement.

Federal contractor pay rule now in effect

■ A rule by the U.S. Department of Labor's Office of Federal Contract Compliance Programs that prohibits federal contractors from maintaining pay secrecy policies took effect Jan. 11. It provides that federal contractors and subcontractors must refrain from discharging, or otherwise discriminating against, workers or applicants who inquire about, discuss or disclose their compensation or the compensation of other employees or applicants, among other provisions. The rule applies to employers that enter into new covered federal contract or subcontracts, or modify existing contracts, on or after Jan. 11.

Prescription drug prices up more than 10% in 2015

■ Prescription drug prices soared in 2015, continuing a trend established the previous year and driven largely by increases in the cost of brand-name drugs, according to an analysis by health care analytics firm TruVeris Inc. Overall prescription drug prices rose 10.4% last year, compared with 10.9% in 2014. Prices for brand-name drugs in 2015 grew 14.8%, flat compared with the previous year, New York-based TruVeris said. Specialty drugs grew 9.2%, compared with 9.7% in 2014, and generic drugs climbed 2.9%, down from the previous year's cost increase of 4.9%, according to the analysis.

Former St. Louis Cardinals exec pleads guilty to hacking Astros

■ Christopher Correa, former director of baseball development for the St. Louis Cardinals, pleaded guilty to charges of unauthorized access to the Houston Astros' computers, the U.S. Department of Justice said. Named to the Cardinals post in 2013, Mr. Correa pleaded guilty to five counts of unauthorized access of a protected computer, the department said. Among other instances in 2013, Mr. Correa was able to access scout rankings of every player eligible for the draft through the Astros' computers, and he admitted to illicitly accessing the Astros' private online database and/or the email accounts of others in order to gain access to Astros' proprietary information, the Justice Department said. Each conviction carries a maximum possible sentence of five years in federal prison and a possible \$250,000 fine, the department said.

Vermont licenses 33 captives in 2015

■ Aided by a record number of redemptions, Vermont licensed 33 captive insurers in 2015, up from 16 in 2014. Eleven captives moved to Vermont in 2015, with captive redemptions coming from Arizona, Bermuda, Cayman Islands, Kentucky, Nevada and South Carolina. Of the 33, 12 are single-parent captives, seven are risk retention groups, seven are sponsored captives, four are special-purpose financial insurers, two are industrial insured captives, and one is an association captive.

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RSA completes sale of Italian business

■ RSA Insurance Group P.L.C. has completed the sale of its Italian business, RSA Italy, to Trento, Italy-based ITAS Mutua, as part of a program of disposals. RSA said it would pass on insurance liabilities of £434 million (\$643.0 million), and their associated assets, and receive a further goodwill payment of £19 million (\$28.2 million). Late last year, RSA sold businesses in Russia and Latin America, among other disposals.

Ironshore MGA unit opens Shanghai office

■ Ironshore International subsidiary Pembroke Managing Agency will open a Shanghai-based office in January as part of the Lloyd's of London China platform. The agency will underwrite specialty lines of business, initially focusing on agriculture, marine and health care. Tracy Ma will lead underwriting of specialty lines, Ironshore International said in a statement. Ironshore parent Fosun International Ltd., headquartered in Shanghai, "positions us with clear distinction in the local market, allowing us to offer onshore specialist products to meet growing demand within this vibrant city," Mark Wheeler, CEO of Ironshore International, said in the statement.

Scor, Brit expand catastrophe bonds

■ Scor S.E. has expanded its Atlas catastrophe bond for 2016. Atlas IX Series 2016-1 will provide the Paris-based reinsurer with multi-year risk transfer capacity of \$300 million against U.S. named storm and U.S. and Canada earthquake events from Jan. 13, 2016, to Dec. 31, 2019, Scor said in a statement. Meanwhile, London-based Brit Ltd. said it has renewed its Versutus Ltd. catastrophe bond for 2016. The amount of the notes, in support of Brit's property treaty portfolio for 2016, was raised 10% from the previous year to a new total of \$82.5 million.

Canadian accident nets prison time for manager

■ A project manager in Ontario, Canada, has received a prison sentence of 3½ years for his role in a workplace incident that killed four employees in 2009. Ontario Court Judge Ian MacDonnell sentenced Metron Construction Ltd. project

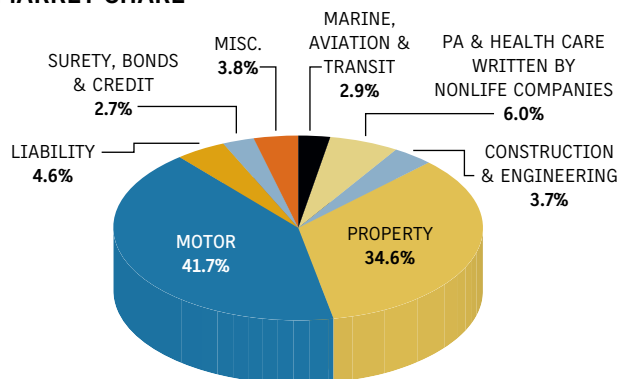
PROFILE: SOUTH AFRICA

\$9.14
BILLION

Marked by tight controls, a complex regulatory structure and deliberate pace, South Africa is a competitive market for insurance, with growing direct and telesales and significant e-commerce potential. Restless youth disenchanted with the political status quo, as well as upheaval resulting from widespread blackouts due to insufficient electric capacity, pose threats to the country. Flooding, windstorms, bushfire and earthquake are the major natural disaster issues for insurers, with a frequency that vexes reinsurers.

◀ 2013 P/C gross premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



AREA
470,693 square miles

POPULATION
54 million

GLOBAL P/C MARKET RANKING
22

2015 GDP CHANGE (PROJECTED)
2.5%

MARKET DEVELOPMENTS

UPDATED
OCTOBER 2015

- South Africa's risk-based Solvency Assessment and Management regime was implemented Jan. 1, 2016.
- With the comment period closing March 2, 2015, the stage is set for implementation of the "twin peaks" approach to financial services regulation, with the creation of two new entities to oversee the soundness of financial institutions and supervise market conduct.
- Hollard Insurance Co. Ltd. has agreed to buy Regent Group from Imperial Holdings Ltd. for \$222 million. Credit Insurance Solutions began underwriting on behalf of RMB Structured Insurance Ltd. Leading credit insurer Euler Hermes Group S.A. entered the market.

COMPULSORY INSURANCE

- Auto third-party bodily injury and workers compensation, both state operated
- Clinical trials insurance
- Flight operators third-party and passengers liability
- Shipowners liability for marine pollution
- Professional indemnity for pension fund trustees and financial services providers

NONADMITTED

Unauthorized insurers cannot carry on insurance activity in South Africa, but there is nothing in the law indicating that insurance must be purchased from locally authorized insurers. This is generally interpreted to mean that insurers can issue any type of policy from abroad, if approached by a buyer or intermediary.

INTERMEDIARIES

Agents and brokers have to be authorized by the Financial Services Board. Intermediaries are not allowed to solicit business in South Africa on behalf of unregistered insurers. Lloyd's of London is the only nonregistered company allowed to write direct cover in the country.

MARKET PRACTICE

Some local insurers have turned to fronting to place risks offshore with minimal or no retention. Illegally placing risks offshore would be considered a criminal act with maximum penalties of \$89,000 or 10 years in prison if convicted.

Information provided by Axco Insurance Information Services.
www.axcoinfo.com

manager Vadim Kazenelson to concurrent jail sentences after he was found guilty of four counts of criminal negligence causing death and one count causing bodily harm in a June 2015 court case, according to a statement issued by the Ontario Federation of Labor. Four employees were killed and another seriously injured when a swing stage collapsed at a Toronto high-rise on Dec. 24, 2009. Metron was fined more than \$1 million dollars for the 2009 incident, according to the statement.

Swiss Re names U.K., Ireland lead

■ Swiss Re Ltd. has appointed Frank O'Neill as CEO of its U.K. and Ireland operations, effective immediately. Mr. O'Neill replaces Russell Higginbotham, who was appointed head of life and health reinsurance products at Swiss Re

in October. Mr. O'Neill formerly was CEO of Swiss Re's Middle East and Africa operations. He will be based in London.

Natural catastrophe losses hit 6-year low

■ Natural disasters caused insured losses of \$35 billion in 2015 compared with \$40 billion in 2014, the lowest annual insured losses since 2009, according to a report released by Aon Benfield Group Ltd. The \$35 billion loss figure is 31% below the 15-year average of \$51 billion, Aon Benfield said in its annual Global Climate and Catastrophe Report. Although there were 300 natural disaster events in 2015 compared with the 15-year average of 269, those events caused economic losses of \$123 billion, well below the 15-year average of \$175 billion, the report said. The deadliest natural catastrophe

in 2015 was the earthquake that hit Nepal in April, causing 9,120 deaths and economic losses of \$8.0 billion, according to the report.

Child slavery lawsuit stands against Nestle

■ The U.S. Supreme Court rejected a bid by Nestle S.A. the world's largest food maker, and two other companies to throw out a lawsuit seeking to hold them liable for the use of child slaves to harvest cocoa in Ivory Coast. The high court left in place a December 2014 ruling by the San Francisco-based 9th U.S. Circuit Court of Appeals that refused to dismiss a lawsuit against Nestle, Archer-Daniels-Midland Co. and Cargill Inc. filed by former victims of child slavery. The plaintiffs, who were originally from Mali, contend that the companies aided and abetted human rights violations through their

active involvement in purchasing cocoa from Ivory Coast. While aware of the child slavery problem, the companies offered financial and technical assistance to local farmers in a bid to guarantee the cheapest source of cocoa, the plaintiffs said.

Reuters

AIG appoints CEO for U.K. operations

■ American International Group Inc. has appointed Anthony Baldwin CEO of its U.K. operations. Mr. Baldwin will take up the post in addition to his current role as CEO and board director of AIG Europe Ltd., which is headquartered in London, AIG said in a statement. AIG's U.K. managing director, Jacqueline McNamee left the company late last year as part of several management changes announced by the insurer.

HAMILTON RE CEO RELIES ON DIVERSIFIED STRATEGY

Q How does Hamilton Re approach the market?

A Right from the start, we had a diversified strategy. We weren't solely relying on one line of business such as the property catastrophe line of business. Strategies in the past worked a very long time with having that monoline catastrophe focus. It was a high-margin business. It performed very well. But that's not the market we're in right now. We knew that we set up the company in a soft market. We knew that we had to have a diversified approach to build a sustainable, profitable, growing company. And that's exactly what we've done.

You'll see that Hamilton Re premium is split almost perfectly a third property, a third casualty and a third specialty, and within the specialty we are offering multiple classes of business.

Our approach was to have expertise in these lines of business before we marketed them, so over the last two years we've hired two underwriters on the specialty casualty team. They've come from Lloyd's syndicates and bring

Q&A

expertise in personal accident, satellite, aviation (and) terrorism. So we didn't want to do this without the expertise.

This year, since they've been here, they've really further diversified and developed that specialty book of business.

Q Do you see growth coming organically, by acquisition or both?

A Our strategy — each of Hamilton's operating company's strategy — is an organic one, and we're dedicated to meeting that strategy.

We have a five-year plan. We've been pretty public saying on various occasions that if we were presented with an acquisition that brought us to these strategies more quickly or if it gave us some talent or technology or regional spread or new lines of business or different policy offerings, we would definitely be interested.

Q Much has been said of the alternative capital flowing into the reinsurance sector. What are your views?

A Well, first, I think it's here to stay. We actually welcome it. I view it as a positive, to the extent we need to buy retrocessional cover. We're embracing the alternative capital markets. It fosters innovation because it makes you say, "I have to keep up with the other guys and come up with some new ways of offering products and providing products to my clients that they actually want to buy and find useful."

There's lots of capital out there, but you need to have relevant capital. You need to match the capital with the right risk. And that's a



KATHLEEN REARDON

HAMILTON RE LTD.

Kathleen Reardon is CEO of Hamilton Re Ltd., the Bermuda-based reinsurance arm of Hamilton Insurance Group Ltd. She is a member of the company's founding management team and has more than 20 years of reinsurance experience, serving from 2005 to 2012 as chief underwriting officer and senior vice president for Ace Tempest Re Ltd.'s Bermuda international property catastrophe reinsurance business. Ms.

Reardon is also a 2014 *Business Insurance* Women to Watch honoree. She recently spoke with *Business Insurance* Associate Editor Matthew Lerner. Edited excerpts follow:

challenging job. So if you don't have the right capital on your rated traditional company, then it makes sense to partner with capital that has a different appetite than you do.

I would argue this is nothing new. Even reinsurance is a form of third-party capital. We're all offering capital. So I don't mind sitting side by side with alternative capital. There's plenty of room for everybody.

Q Where do you see challenges?

A The industry is being disrupted by technology, and a large percentage of the workforce is retiring in the next five years. We need to get the word out that this is an industry that is willing to change and that we're willing to be disruptive. We know we need to innovate and get that word out and hopefully attract the next generation.

COMINGS & GOINGS

UP CLOSE: ANDREW HALSALL

BEDFORD, NEW HAMPSHIRE-BASED PRESIDENT AND CEO

Government Entities Mutual Inc. P.C.C.

PREVIOUS POSITION: New York-based reinsurance restructuring officer for American International Group Inc.

GOALS FOR NEW POSITION: To grow GEM's participation in public entity risk financing for current and future members, and to partner alongside other risk providers to deliver sustainable solutions.

CHALLENGES FACING INDUSTRY: At a macro level, it's all about the conflict between overcapacity and maintaining underwriting discipline; underpricing inevitably comes back to bite. For public entities specifically, law enforcement liability has attracted a lot of attention.

INDUSTRY OUTLOOK: I think interest rates will be a major influence. As rates rise, capital will flow out of the insurance/reinsurance sector in search of better yields and shrink the overcapacity in the marketplace.

FIRST INDUSTRY JOB: I handled goods-in-transit claims for a shipping company in the north of England.

WHAT SURPRISED ME: How many different ways



goods can get damaged in transit.

ADVICE: Success isn't just about acquiring technical skills. A successful, satisfying, enjoyable career will be driven just as much by the relationships we develop along the way.

OUTSIDE THE INDUSTRY, A DREAM JOB: A friend of mine designs pyrotechnic displays for concerts and other major public events. That has to be really satisfying.

THING MOST PEOPLE DON'T KNOW ABOUT ME: I play drums in a rock band. My proudest moment was playing at The Stone Pony, an iconic New Jersey venue.

FAVORITE MEAL: A good curry.

WHEN I RETIRE: I think I'm the only Scotsman who doesn't play golf. I'm hoping to remedy that between now and retirement.

CAN'T-MISS TELEVISION SHOW: "Homeland."

BEST CITY: It has to be Dublin; what a vibrant city with great people.

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EDITORIAL

NOW, IT'S TIME TO REPEAL ACA EXCISE TAX

We welcome last month's congressional action to delay the health care reform law's excise tax on the portion of group health insurance plan premiums that exceed statutory levels as a first step toward repeal of the unnecessary and unjustified ACA provision.

With the delay to 2020, lawmakers now can carefully study the need for the so-called Cadillac tax — something they did not do in 2010 when they included it in the Patient Protection and Affordable Care Act. Under that provision, that portion of group health care plan premiums exceeding \$10,200 for single coverage and \$27,500 for family coverage will be hit with a 40% federal excise tax.

Since its enactment, federal researchers have clung to an unproven — and we believe incorrect — theory that the tax will be a big revenue generator, with the receipts used to help pay for health insurance premium subsidies the ACA authorized to the lower-income people obtaining coverage in public insurance exchanges.

The Congressional Budget Office has estimated that the tax would raise \$87 billion between 2018 through 2025.

And what was basis of that CBO estimate? One assumption is that to avoid the excise tax, more employers will shift to lower-cost, high-deductible plans. That shift, so the reasoning goes, will increase employers' taxable income by reducing tax-deductible health premium expenses. But employers don't need the threat of being hit by an excise tax to move to lower-cost consumer-driven health care plans. Indeed, in just the last three years, enrollment in CDHPs has nearly doubled to 28% of covered employees working for larger employers, according to a Mercer L.L.C. survey. Employers know that exposure to more costs through higher deductibles makes employees better health care consumers.

Even more dubious is the CBO assumption that an excise tax will generate revenue because employers cutting benefits will boost employees' wages — and with that, their taxable incomes — to help offset the financial impact of paying a greater portion of their health care expenses.

What is fact is that the excise tax is unfair. An employer based in a part of the country with high health care costs could be hit with a tax, while an employer in another area with lower costs would not.

For these and many other reasons, we hope Congress moves quickly to repeal the unnecessary and unfair tax.

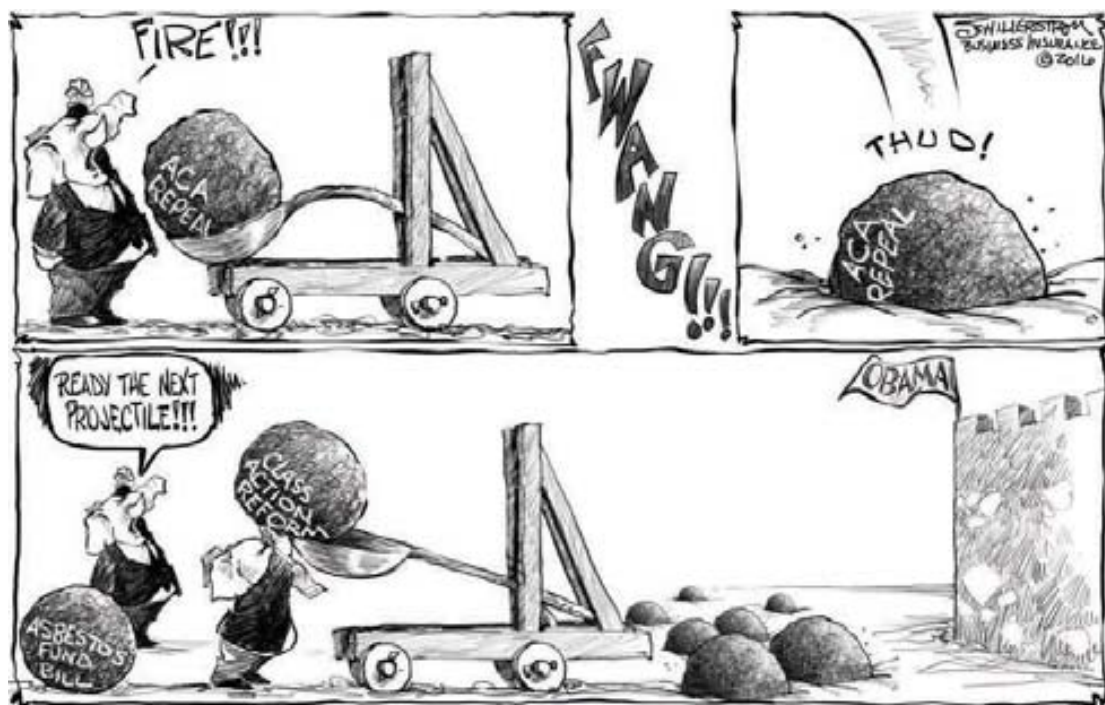
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SCHILLERSTROM



COMMENTARY

COMPASSION OVER PROTOCOL WOULD SERVE GOVERNMENT WELL

A federal appeals court ruling last week vividly demonstrates how an intensely personal incident can spiral out of control and become very much a public matter that can end up in court and may eventually involve insurance.

The ruling in *Michael G. Kent v. Oakland County* by the 6th U.S. Circuit Court of Appeals in Cincinnati is one of those, and it has some eerie echoes of recent incidents involving police shootings that have caused so much controversy.

According to the ruling, on Sept. 1, 2013, Dr. Kent's parents were visiting him in his home in Commerce Township, Michigan. His father, Rick, had been suffering from serious health problems for several years and spent most of his time in bed in significant pain.

That morning Dr. Kent found his father unresponsive, although still breathing. "He knew at that point that his father was dying," says the ruling. Rick Kent had executed a living will that provided he did not want his life "artificially prolonged by life-sustaining procedures." In accordance with his father's wishes, Dr. Kent made his father as comfortable as possible and by 7:08 p.m. determined he had died. "Mr. Kent's wife called the nonemergency dispatch to report the natural death," said the ruling.

Responding emergency medical technicians asked for copies of Mr. Kent's do-not-resuscitate order, which was unavailable. That's when things apparently got out of control. The technicians' protocol required them to attach a defibrillator to Mr. Kent, determine whether there were signs of life and "do everything" they could for the patient. Dr. Kent strenuously objected, which led to a sheriff's deputy shooting Dr. Kent in the stomach and chest with a Taser.



JUDY GREENWALD
SENIOR EDITOR

He fell to the floor and was handcuffed.

He was questioned for 15 to 20 minutes before his wounds were dressed and handcuffs removed. It was then determined the elder Mr. Kent was dead, according to the ruling.

In December 2013, Dr. Kent sued Oakland County, Michigan, and the personnel involved, charging excessive force. The U.S. District Court

in Ann Arbor, Michigan, refused to dismiss the case, agreeing that the deputies had used excessive force and were therefore not entitled to the governmental immunity they sought. The appeals court agreed in a 2-1 ruling. "While Kent may have prevented EMTs from fulfilling their perceived duties, his conduct does not resemble the physical and immediate safety threat we have found in other cases to justifying tasing," said the majority opinion.

It is hard to disagree with the majority ruling. Here was an understandably emotionally distraught son who had just lost his father after what must have been an agonizing day of desperately trying to comply with his final wishes. And he was a physician. Under the circumstances, a modicum of sympathetic compassion and understanding would have been much better than rigid adherence to "protocol."

Similar reflection and discretion in the recent police shootings could have prevented a great deal of the resulting tragedy and anguish — and legal action.

Don't wait for Congress to act on cyber security standards

Growing cyber threats to the U.S. infrastructure and business call for action now, and the National Institute of Standards and Technology Cybersecurity Framework that arose from a 2013 executive order is a ready-made way to tackle the issue. Mike Sayre, CEO of cybersecurity company NexDefense Inc., warns that if companies don't embrace adoption of the standards, Congress may force them to.

Congress enacted the Sarbanes-Oxley Act in 2002 in response to major financial scandals by corporations including Enron Corp., Tyco International Ltd., Adelphia Communications Corp., Peregrine Systems Inc. and WorldCom Inc. that resulted in significant losses, corporate failures, lawsuits and prison time for various executives.

For example, the WorldCom scandal cost investors \$180 billion, 30,000 people lost their jobs, the company filed for bankruptcy, and CEO Bernie Ebbers was sentenced to 25 years in prison for fraud, conspiracy and filing false documents with regulators.

These scandals exposed substantial problems with financial reporting practices and internal controls of publicly traded companies at the time. To address those, Sarbanes-Oxley required top management to be held accountable for the accuracy of their financial data, to be more forthcoming in public disclosures of operational and financial risk, and to select and implement an internal control framework to annually assess and report on those controls.

Ten years before Sarbanes-Oxley passed, the Committee of Sponsoring Organizations of the Treadway Commission, established to study causes of fraudulent financial reporting, developed such an internal control framework. The voluntary Internal Control Integrated Framework provides guidance on effective internal controls, enterprise risk management and fraud deterrence. With just a few early adopters, including The Boeing Co., the framework didn't come into wide use until Sarbanes-Oxley basically made it a de facto law.

Equally urgently, another set of voluntary guidelines, the National Institute of Standards and Technology Cybersecurity Framework, was released in 2014. Arising from a presidential executive order, these guidelines accelerate the cyber security efforts of American enterprises in the face of increasing threats that reach far beyond a company's walls.

'Voluntary' cyber security framework

Recognizing the threat, President Barack Obama issued an executive order in 2013 to protect critical infrastructure, and thus national security, from

cyber attacks.

According to the order, critical infrastructure refers to the "systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters." Under this definition, critical infrastructure includes power plants, oil and gas refineries and pipelines, defense systems, public transportation, chemical and pharmaceutical manufacturing plants, financial institutions, health care facilities and more, involving a significant number of U.S. companies.

Within the executive order, President Obama selected the director of the National Institute of Standards and Technology to develop a voluntary cyber security framework. After 10 months of collaborating with more than 3,000 security professionals, the NIST Cybersecurity Framework was published with standards, guidelines and practices to help organizations proactively mitigate cyber risk. Building from those standards, guidelines, and practices, the framework provides a common taxonomy and mechanism for organizations to:

- Describe their current cyber security posture
- Describe their target state for cyber security
- Identify and prioritize opportunities for improvement
- Assess progress toward the target state
- Communicate cyber risk to internal and external stakeholders

Though the financial reporting framework had only a handful of early adopters, major corporations are lining up behind the cyber guidelines. Among them, American International Group Inc., Apple Inc., Bank of America Corp., Intel Corp., Chevron Corp., Pepco Holdings Inc., QVC Inc. and Walgreen Co. have adopted all or parts of the framework. Many also are requiring their suppliers to do the same.

But adoption is not accelerating as quickly as the threat landscape, which is cause for concern. While the North American Electric Reliability Corp., backed by the Federal Energy Regulatory Commission, has issued enforceable cyber securi-

ty regulations for the energy sector to protect that portion of our critical infrastructure with significant penalties for noncompliance, other industries operate with no regulation at all.

While government-issued regulations, like those in France and Germany that hold the owners and operators of critical infrastructure legally accountable for maintaining strict cybersecurity standards, are not applicable to the U.S., there is a growing demand on organizations to take cyber risk more seriously. Adoption of the cyber security framework is ideal for organizations to assess that risk and develop comprehensive cyber security programs. It keeps the burden of responsibility in their control, at least for the time being.

Is cyber security legislation needed?

Like the COSO Framework, the NIST guidelines began as voluntary. But full adoption of the cyber security framework cannot wait 10 years for a law similar to Sarbanes-Oxley to come along. Cyber threats are too widespread, broad and potentially costly to address them reactively.

Even without a related congressional action, the NIST Framework can easily be accelerated into de facto law. Here's why:

- A high level of collaboration between the government and industry cyber security experts in developing the framework
- The increasing frequency of cyber attacks putting national security and public safety at risk
- The mounting motivation and sophistication of hackers worldwide
- Potential disruption and/or devastation of successful attacks
- Early adoption by major companies in several industries

In addition, the NIST framework provides information that would be needed for future auditing and reporting requirements.

Many now admit that Sarbanes-Oxley and the financial reporting framework did help improve their businesses. In fact, Financial Executives Research Foundation released a 2005 survey revealing that 83% of large company chief financial officers said the act had increased investor confidence, and 33% stated it reduced fraud.

Midsize and large businesses should expect the same from the NIST framework, making critical infrastructure safer, more secure and reliable.

The financial investment of adopting the cybersecurity tools and processes within the NIST Cybersecurity Framework is well worth it, and compliance officers, board governors and financial planners need to understand this as part of their risk mitigation strategy.

By doing so, U.S. enterprises will ensure the safety and security of millions of assets and people — perhaps without the involvement of the federal government.



Mike Sayre is the co-founder, president and CEO of NexDefense Inc., a cyber security company for industrial control systems. Contact him at 404-600-1117 or michael.sayre@nexdefense.com.

Full adoption of the cyber security framework cannot wait 10 years for a law similar to Sarbanes-Oxley to come along.

SPECIAL REPORT

Prescription Drug

Management

Doctors see more state regulation of painkillers

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Education may ease insomnia side effects

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Overprescribing pain medications an ongoing issue

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Data and rankings on prescription drug managers

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Dr. Hsiu-Ying "Lisa" Tseng was found guilty of three counts of second-degree murder, 19 counts of unlawful controlled substance prescription and one count of obtaining a controlled substance by fraud, among other charges.

AP PHOTO

Murder by prescription

Doctor's conviction a wake-up call on opioid treatments

BY SHEENA HARRISON

The murder convictions of a California doctor for prescribing unnecessary painkillers are a warning for doctors who treat injured workers to prescribe opioids sparingly.

Sources said they hope that efforts to hold doctors liable for irresponsible opioid prescribing practices, in tandem with using safe prescribing guidelines, will help reduce opioid addiction and overdoses among workers comp patients.

"Hopefully, it will cause physicians to pause and consider their actions before prescribing in the future," said Dr. Teresa Bartlett, Troy, Michigan-based senior vice president and medical director at Sedgwick Claims Management Services Inc.

"I would definitely expect to see more prosecutions" for overprescribing narcotics, said Joseph Paduda, principal of Madison, Connecticut-based Health Strategy Associates L.L.C.

In the California case, a jury in late October found Dr. Hsiu-Ying "Lisa" Tseng guilty of three counts of second-degree murder, 19 counts of unlawful controlled substance prescription and one count of obtaining a controlled substance by

fraud, among other charges.

She was accused in the 2009 prescription drug overdose deaths of Vu Nguyen, 28; Steven Ogle, 24; and Joseph Rovero, 21. Prosecutors said Dr. Tseng prescribed "massive quantities of addictive and dangerous drugs" to the men, though they had "no legitimate need" for the drugs.

"This verdict sends a strong message to individuals in the medical community who put patients at risk for their own financial gain," Los Angeles District Attorney Jackie Lacey said in a statement in October. "In this case, the doctor stole the lives of three young people in her misguided effort to get rich quick.

"This is the most severe penalty we have ever gotten on a doctor who illegally overprescribed drugs to patients," Ms. Lacey said in the statement.

The district attorney's office declined further comment until Dr. Tseng's sentencing, which is scheduled for Feb. 5.

Sedgwick's Dr. Bartlett said medical professionals likely will heed the outcome of the case as they weigh whether to prescribe opioids to their patients.

"Cases such as this will highlight for doctors the importance of prescribing and following best practices," she said.

While Los Angeles prosecutors touted Dr. Tseng's case as

the first time nationwide that a physician was convicted of murder for overprescribing prescription drugs, Mr. Paduda said other states have prosecuted doctors.

For instance, he cited the case of Dr. Gerald Klein, a Florida pain physician who was acquitted of first-degree murder in September in the 2009 death of a patient who overdosed on opioids and Xanax, which is used to treat anxiety. The former physician, however, was convicted of a third-degree felony for prescribing the drugs and reportedly is awaiting sentencing.

Mr. Paduda said he believes criminal prosecutions of doctors who overprescribe medications to workers comp and group health patients could discourage other physicians from doing likewise. However, he said other strategies — such as following clinical guidelines on using narcotics and scrutiny of pharmacies that dispense too many opioids — also are needed to keep opioid overprescribing in check.

Such efforts “are going to have a cumulative effect,” Mr. Paduda said.

The Ohio Bureau of Workers’ Compensation, Ohio’s monopoly workers comp insurer, has worked to hold doctors accountable by enforcing penalties for physicians who provide significant amounts of narcotics to their patients, said Johnnie Hanna, the bureau’s Columbus, Ohio-based pharmacy program director.

The bureau can report doctors to state or local law enforcement officials or seek to have the Ohio State Medical Board revoke their licenses if it believes a physician is prescribing negligently, Mr. Hanna said. However, he said the bureau most often blocks overprescribing physicians from treating injured workers.

“We have a very aggressive fraud department as far as looking into allegations of misprescribing or inappropriate treatment or inappropriate billing by physicians,” Mr. Hanna said.

The bureau’s efforts seem to be working so far. Three of the state’s top 10 opioid-prescribing physicians in 2010 lost their Ohio medical licenses as of 2014, Mr. Hanna said.

Prescribing shift?

One doctor in that top 10 has drastically reduced the number of patients receiving significant dosages of opioids, Mr. Hanna said. The doctor had 17 patients in 2010 receiving 1,000 morphine equivalent doses per day, but reduced that to just one patient in 2014.

“I really think we’re starting to see a change,” said Mr. Hanna, adding that opioid utilization has fallen 28% since 2011 among Ohio injured workers. “It will take time, but I believe we are seeing a shift in prescribing.”

The U.S. Drug Enforcement Administration has worked to hold prescribers criminally liable for providing significant amounts of powerful medications to patients, said Phil Walls, chief clinical and compliance officer at Tampa, Florida-based pharmacy benefit manager Matrix Healthcare Services Inc., which does business as myMatrixx.

The DEA’s “Cases Against Doctors” website shows that the agency pursued more than three dozen cases in 2015 against doctors, pharmacies, dentists and other medical

providers. While records show that some of those cases were dismissed, some led to the revocation of a provider’s medical license.

Mr. Walls said he believes criminal action against overprescribers has been an “effective” tool in the fight against opioid addiction. He also noted that anyone suspicious of overprescribing can alert authorities about such activities.

“Every citizen has the right to contact their state board of medicine to report that they’re concerned,” Mr. Walls said.



“We have a very aggressive fraud department as far as looking into allegations of misprescribing or inappropriate treatment or inappropriate billing by physicians.”

Johnnie Hanna, Ohio Bureau of Workers’ Compensation



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DOSAGES INCREASED

Price-focused regulation of physician dispensing may not be effective or sustainable to reduce costs as physicians sometimes prescribe new, more costly dosages of existing medications.

In California, physician dispensing of a 7.5-milligram version of cyclobenzaprine increased from zero in 2011, when it was introduced, to 47% in the first quarter of 2013 at a price per pill of \$2.90 to \$3.45. Physician dispensing of existing strengths of the muscle relaxant declined despite costs of 35 cents to 70 cents per pill for 5- and 10-milligram dosages.

In Illinois, physician dispensing of a new strength of Vicodin, 2.5 milligrams of hydrocodone and 325 milligrams of acetaminophen, increased from zero in 2012 to 25% in the first quarter of 2013 after state reform, even though the new strength cost \$3.04 per pill compared with 66 cents to \$1.06 for existing higher strengths.

Source: Workers Compensation Research Institute, 2015

STATES PUT THE BRAKES ON PHYSICIAN DRUG DISPENSING

Yet reforms see mixed results as doctors adjust prescribing patterns

BY GLORIA GONZALEZ

States have pursued several different approaches to restrict costly physician dispensing of medications, particularly opioids, often with mixed results.

Twenty states changed rules governing reimbursement for physician-dispensed drugs as of last August, according to the Workers Compensation Research Institute in Boston.

These efforts usually are driven by a desire to combat the opioid epidemic or to crack down on the rising costs of physician-dispensed drugs inside and outside the workers comp system, although they often run into resistance from physicians concerned their patients will be unable to access needed medications or those with financial incentives to prescribe certain medications, experts said.

“Broadly categorizing, I would say there’s been good compliance,” said Frank Radack, vice president and manager of commercial insurance and claims managed care at Liberty Mutual Insurance Co. in Boston.

Florida banned physicians from dispensing Schedule II and Schedule III opioids such as Vicodin in July 2011, leading to a 12% decrease in the percentage of injured workers receiving strong Schedule II and III opioids from their doctors, according to a WCRI study published in December 2014.

Prior to the reforms, 3.9% of injured workers received strong opioids dispensed by physicians during the first six months after their injuries. After the ban, only 0.5% of patients with new injuries received physician-dispensed strong opioids, according to the study.

“The reform has been very successful in what it set out to do,” said Donald Lipsy, Tucson, Arizona-based manager of regulatory,

communications and compliance at First Script, the pharmacy benefit management program offered by Coventry Workers’ Comp Services.

However, a Journal of the American Medical Association study last August found that Florida’s policies were associated with just a 1.4% decrease in opioid prescriptions and a 2.5% decrease in opioid volume.

“They went through all this effort, they passed this major legislation, or so they thought, and really when you think about the problem of opioids, that’s in my opinion a really minimal impact,” said Dr. Teresa Bartlett, senior vice president of medical quality at Sedgwick Claims Management Services Inc. in Troy, Michigan.

WCRI expected that Florida physicians would continue prescribing these medications after the ban and that they would be filled at pharmacies, leading to an increase in pharmacy claims of strong opioids, said Vennela Thumula, Boston-based author of the WCRI study. But the percentage of patients receiving strong opioids through pharmacies was 12.5% post-reform versus 12.2% prereform, according to WCRI’s study.

Instead, physicians dispensed medications that they could fill, including nonsteroidal anti-inflammatory drugs and weaker Schedule IV opioids such as Tramadol, she said. The percentage of post-reform patients receiving physician-dispensed NSAIDs increased from 24.1% to 25.8% and weaker opioids increased from 9.1% to 10.1%, according to the study.

It is possible physicians were dispensing other medications they could prescribe so they could still receive financial incentives, Ms. Thumula said.

“All these findings do suggest that the strong

opioids that physicians dispensed prior to the ban may not have been necessary,” she said.

It is unclear whether other states will follow Florida’s lead, but Tennessee implemented a similar statewide ban in October 2013.

“Do I think more states will pass legislation?” Dr. Bartlett said. “I do ... not necessarily at a workers comp level, but at a state level in an effort to really decrease opioid use altogether. It’s such an alarming trend that I feel our country has to do something bigger.”

Indiana, Nevada, North Carolina and Pennsylvania limit workers comp physician dispensing to a short timeframe, according to WCRI research. In North Carolina, Schedule II and Schedule III drugs are limited to an initial five-day supply.

The majority of physician-dispensing reforms to date have focused on price, with 14 states adopting reforms focused on cost reduction only, according to WCRI. The states generally targeted higher prices paid to physicians for drugs they dispense — mostly repackaged drugs — compared with filling them at a pharmacy, WCRI said in a January 2015 study.

Price-focused reforms often limit reimbursements to an amount similar to the average wholesale price assigned by the drug manufacturer, but regulated parties sometimes found ways to maintain their revenue by prescribing newly introduced dosages of existing medications.

“The prevalence of these high-priced, new-strength products is increasing the overall prices paid for these drugs, which brings into question in the long run if the price-focused reforms are going to be effective in controlling the costs of physician-dispensed drugs,” Ms. Thumula said.

An awakening to better sleep therapies

Painkillers, sedatives often not a helpful mix

BY STEPHANIE GOLDBERG

Taking into account the link between chronic pain and insomnia, the workers compensation industry is educating health care providers and injured workers about sleeping pill alternatives to improve patient safety.

Sleeping pills, known as sedatives or hypnotics, made up just 2.6% of workers comp prescriptions in 2014, according to pharmacy benefit manager Helios’ most recent drug trend report. However, drugs such as antidepressants, which accounted for 7.3% of prescriptions, and muscle relaxants, which accounted for 10.4%, often are used off-label to treat insomnia, which experts say makes it difficult to get a clear picture of utilization.

“Poor quality and insufficient duration of sleep are among the strongest predictors for pain in adults over 50,” Dr. Terrence J. Wilson, Dallas-based utilization review medical director at managed care services provider Genex Services L.L.C., said in an email.

The relationship between pain and insomnia is why sleep aids often are prescribed with other categories of medications, such as opioids, he said.

According to a 2015 poll by the Arlington, Virginia-based National Sleep Foundation, two-thirds of people with chronic pain also experience trouble sleeping.

There’s a “vicious cycle” between chronic pain, insomnia and depression, said Dr. Robert Hall, Westerville, Ohio-based corporate medical director at Helios. Physicians usually try to get an injured worker’s pain under control before addressing insomnia in hopes of breaking the cycle, he said.

Introducing sleeping pills can be dangerous, since many medications injured workers take for chronic pain — including muscle relaxants, benzodiazepines and opioids — “have this additive effect of suppressing the central nervous system,” which can be fatal, Dr. Hall said.

Sleeping pills such as Ambien and Lunesta, the two most popular hypnotics used in workers comp, usually are prescribed near the six-month mark, when an injured worker’s pain is controlled during the day but he or she still has trouble sleeping at night, experts say.

“They are typically prescribed because of side effects from opioids that create sleep disorders,” Mark Pew, senior vice president at

Duluth, Georgia-based medical management company PRIUM, said in an email. “Alternative options obviously are to reduce dosage or remove drugs that create insomnia side effects.”

Identifying potential causes of insomnia can help prescribers avoid sleeping pills altogether, Dr. Hall said, as medications for group health conditions such as high blood pressure also can disrupt sleep.

Stimulants such as Provigil and Nuvigil, which sometimes are prescribed to help injured workers taking several medications stay awake during the day, also can lead to insomnia, said Susan Martin, Westerville-based senior clinical pharmacist at Helios.

“Rather than just taking the stimulant away and reducing some of the doses on the other medications,” injured workers might be prescribed a hypnotic to help them sleep, Ms. Martin said.

However, workers comp professionals are wising up to the potential dangers of sleeping pills and pushing health care providers to explore other therapies before prescribing sedatives or hypnotics, experts say.

“Providers are increasingly looking at alternatives, such as cognitive behavioral therapy and progressive muscle relaxation training,” Dr. Wilson said. Physicians should “consider using sleep hygiene questionnaires and reinforcing the basics,” such as regular exercise, going to bed and waking up at the same time each day and limiting caffeine and alcohol, he said.

Other sleep hygiene techniques include keeping the bedroom cool and dark, not exercising or watching TV right before bed, and avoiding naps and nicotine, experts say. An over-the-counter medication such as melatonin also is safer than prescription sleeping pills, they add.

Though it depends on the employer, sleeping pills typically require prior authorization, said David Lupinsky, Folsom, California-based vice president of medical review services at third-party administrator and managed care services provider CorVel Corp. It then could go to utilization review, but the goal is “not just to have a roadblock,” he said.

“If we see a request like this, our hope would be to circle back and either do some coaching with the attending (physician) on trying sleep hygiene techniques first, or just going directly to the injured worker ... and educat(ing) them on good sleep hygiene,” Mr. Lupinsky said.

Either way, good sleep hygiene techniques should be used in conjunction with medications, which might not work as well over time, Mr. Lupinsky said.

“The use of medications for sleep is not a good long-term solution,” said Dr. Steven Feinberg, chief medical officer at Feinberg Medical Group in Palo Alto, California,

and an adjunct clinical professor in the anesthesia/pain management department at the Stanford University School of Medicine. “That doesn’t mean they shouldn’t be used at all; but in workers comp, at least in my state, we see people who are on long-term sleep aids who have never been counseled or gotten any benefit of learning proper sleep hygiene.”

In the past three years, payers have been more willing to pay for sleep aids such as cognitive behavioral therapy, yoga, gym memberships and sleep studies, Mr. Pew said.

“It has taken positive affirmation

of their benefits to change industry perceptions and reimbursement behavior,” Mr. Pew said.

One of the most proactive things workers comp professionals can do is educate health care providers and patients about a more conservative approach, sources said.

“If I say, ‘You really should consider having this patient enroll in cognitive behavioral therapy and undergo sleep hygiene,’ (the provider) may not know what the next step in their community is for that,” Dr. Hall said. “How do you go about finding that local expert who can help with those types of services? That’s the challenge.”

SLEEP AIDS



The use of hypnotics, such as **Ambien** and **Lunesta**, is **down 15%** from 2014 and 33% over the past three years.

Though **melatonin**, an over-the-counter hormone, is **up 42%** from 2014 and 176% the past three years, its use lags as a sleep aid.

Usage of **trazodone**, an antidepressant often prescribed for insomnia, is **down 3%** from 2014 and 6% over the past three years.

Source: Helios

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OPIOID OVERDOSES ON THE RISE THOUGH UTILIZATION RATES FALLING

Calls increase for alternative medications and wider access to overdose kits

BY JOYCE FAMA KINWA

With a record number of opioid-related deaths nationwide despite a drop in utilization, overprescribing of the pain medications is an ongoing issue in workers compensation, and some argue that drug overdose kits should be provided to anyone taking prescription opioids.

“The opioid overdose epidemic is worsening,” the U.S. Centers for Disease Control and Prevention said in a January report. “There is a need for continued action to prevent opioid abuse, dependence and death.”

Of more than 47,000 drug-related deaths in 2014, which the CDC said is a record, 61% involved some type of opioid, including heroin.

In its latest drug trend analysis, released in April 2015, Express Scripts Holding Co. reported a decline in utilization of opioids but an increase in the number of days supply that workers were prescribed. And while opioid utilization decreased 10.9%, the narcotics still accounted for 36.0% of the 25 most commonly dispensed comp medications in 2014.

“There is a lot of media around it. However, in work comp, the overdose potential (is) very high because they are utilizing a lot of the pain meds,” said Nikki Wilson, Omaha, Nebraska-based director of pharmacy product development at Coventry Workers’ Comp Services. “We are seeing a lot of the opioids within our industry, but fortunately if you go back and look at each one of the trend reports we put out in the last five or so years, you can see that each year there has been a reduction.”

Dannielle Foroozandeh, Irvine, California-based director of pharmacy product development at Coventry Workers’ Comp Services, said clinical management programs may be responsible for the overall reduction in the utilization of narcotics. “Over the last five or so years, we have actually seen a decline in narcotic utilization,” Ms. Foroozandeh said.

“There is a happy theory to lower use and a dark theory,” Peter Rousmaniere, co-author of “Workers’ Compensation Opt-out: Can Privatization Work?” and a risk management consultant in Woodstock, Vermont, said in an email. “The happy theory, to which I in effect subscribe ... is that prescribing doctors became more careful and a host of controls, such as prescription monitoring systems and such, began to kick in,” he said, citing Texas’ earlier formulary efforts.

“The dark theory is that nothing by the docs or others made much of a difference — use went down because patients abusing the drugs were no longer able to do it thanks to drug redesign, and simply (stopped) asking for it,” he said.

But while utilization may be down, overprescribing remains a problem in workers comp, and health care professionals should consider alternatives to opioids, said Dr. Gary Franklin,

medical director of the Washington State Department of Labor and Industries, the state’s monopoly workers comp insurer.

“The problem is that sometimes workers comp insurers don’t pay for ... cognitive behavioral therapy, integrated exercise,” Dr. Franklin said. “You want to prevent inappropriate opioid use in the first place. Even during an acute pain episode, you don’t want to use opioids for things that aren’t very severe.”

Aside from the potential of addiction, overdosing and death, injured employees prescribed opioids early in their workers comp claim tend to have “lower recovery time and more delay to return to work and higher medical costs,” Dr. Melissa Cheng, Salt Lake City-based assistant professor at the University of Utah’s Rocky Mountain Center for Occupational and Environmental Health, said in an email.

To fight opioid overdoses and deaths in general, the World Health Organization recommended increasing access to naloxone, which is used to revive people who overdoses on heroin and other opioids, as well as training family

and friends to use overdose kits.

The CDC this month also recommended increasing access to naloxone.

“It’s unclear how many lives you can save doing that, but it’s a good idea to give high-risk patients (naloxone) kits to keep at home and their families. So anyone on high doses of opioids, over 100 milligrams a day, should be given a kit,” said Dr. Franklin.

Students at John Hopkins University, Baltimore, have taken another approach: building a tamper-resistant pill dispenser prototype to help fight drug overdoses that can be opened only with the prescribed individual’s fingerprint.

“The ideal end game would be that when patients are prescribed opioids, they have the opportunity to have them delivered in a device that only they can get into at the time and in the dose that they need so that it protects them and everyone in their environment from accessing these things,” said Andrea C. Gielen, a professor and director of the Johns Hopkins Center for Injury Research and Policy.



OVERDOSE DEATHS

47,055

The record number of drug-related overdose deaths in the United States in 2014, a 6.5% increase from 2013.

61%

The percentage of all 2014 drug overdose deaths attributed to opioids, which include heroin.

200%

The increase in opioid-related drug overdose deaths since 2000.

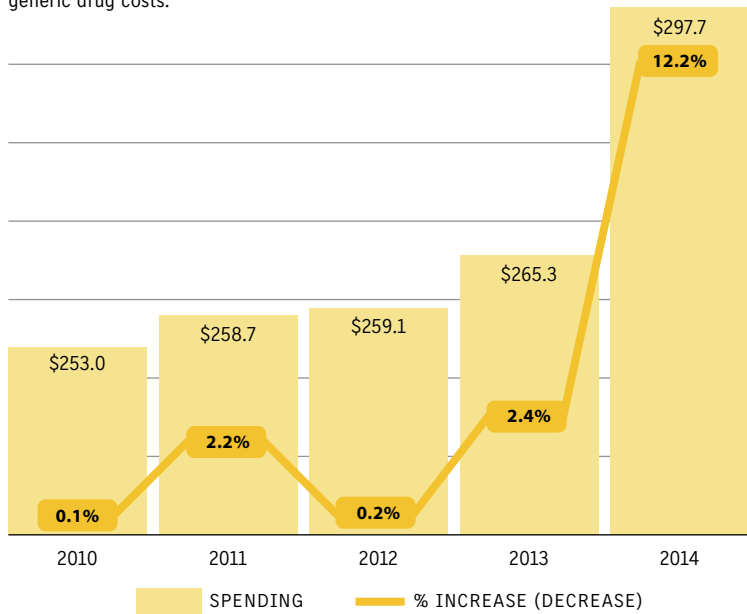
4,452

The number of drug overdose deaths in California in 2014, followed by Florida (2,474) and New York (2,309).

Source: U.S. Centers for Disease Control and Prevention

PRESCRIPTION DRUG SPENDING

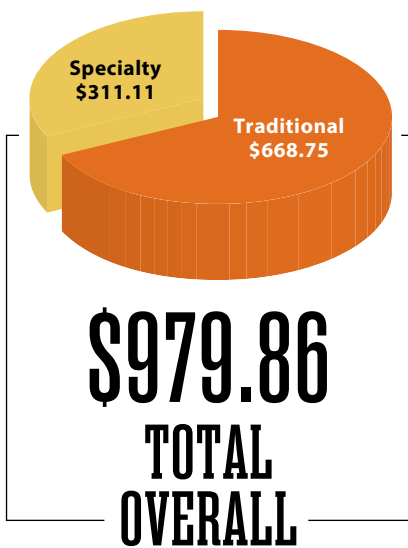
Retail U.S. drug spending, in billions of dollars, spiked in 2014, an acceleration attributed largely to specialty drugs such as those used to treat hepatitis C and higher generic drug costs.



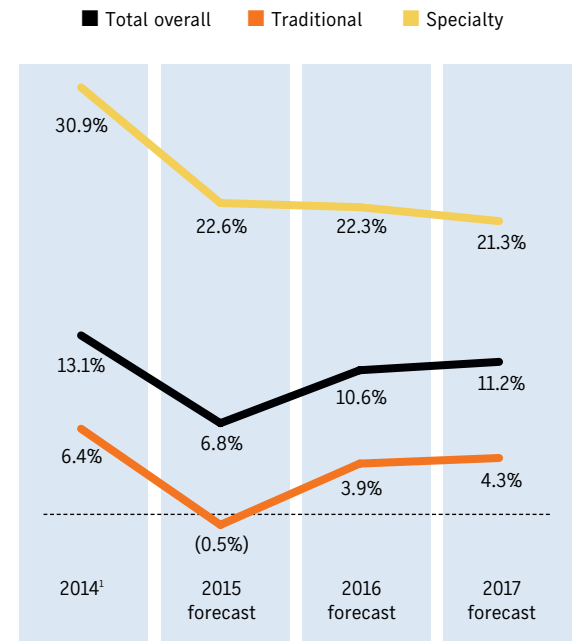
Source: U.S. Centers for Medicare and Medicaid Services

SPENDING FORECAST

Overall prescription drug spending per pharmacy benefit plan member per year increased 13.1% in 2014, due in large part to a record 30.9% jump in the price of specialty drugs. Double-digit increases are expected in 2016 and 2017.

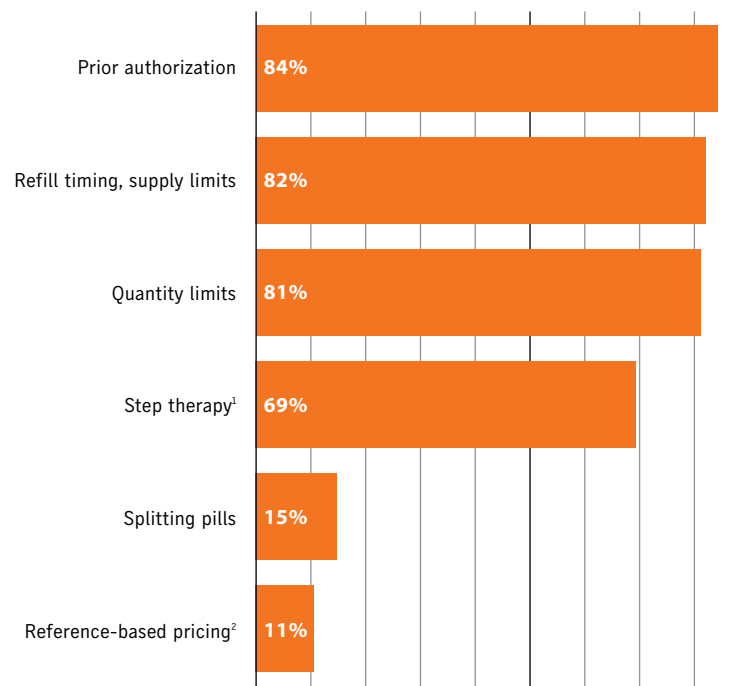


1 Compared with 2013.
Source: Express Scripts Holding Co.

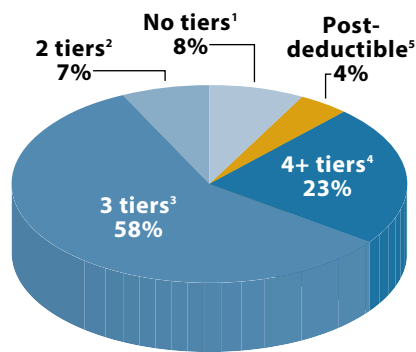


MANAGING USAGE

Utilization management programs generally are highly effective because they directly influence the prescription drug dispensing process at the point of sale.



1 Less expensive drug must be tried first.
2 Limits certain benefits for specified procedures to a specific dollar amount.
Source: Pharmacy Benefit Management Institute L.P.



COST-SHARING

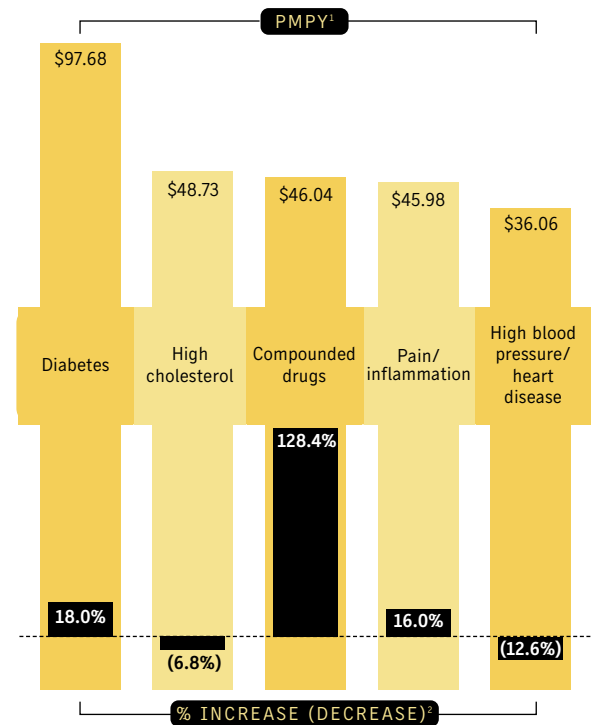
Employers often place prescription drugs in generic, preferred or nonpreferred tiers to encourage participants to choose cheaper alternatives or face higher costs. In 2015, 88% of workers with a pharmacy benefit plan had some type of tiered drug pricing, and nearly one-quarter had four or more tiers of drug cost-sharing.

1 First-tier drugs generally are generics.
2 Second-tier, preferred drugs are brand-name medications for which there is no generic substitute.
3 Third-tier, nonpreferred drugs generally are brand-name medications for which generics are available.
4 Fourth-tier drugs often are lifestyle medications or biologics subject to higher copayments or coinsurance.
5 Health plan pays entire cost after employee deductible met.

Source: Kaiser Family Foundation/Health Research & Educational Trust

TOP USES

Top therapy classes for which prescription drugs were used in 2014²



1 Per member per year. 2 Compared with 2013.
Source: Express Scripts Holding Co.

EMPLOYER GOALS

Specialty drugs' sharply rising costs have caught employers' attention, making management of specialty drug costs employers' top priority in 2015, among other goals.

78%

Manage specialty drug cost trend

42%

Reduce inappropriate utilization

35%

Improve adherence

29%

Reduce drug acquisition cost

14%

Improve patient satisfaction

Source: Pharmacy Benefit Management Institute L.P.

Liability underwriting report prevents oversights

Verisk Analytics Inc.'s Verisk Insurance Solutions unit has launched General Liability Advantage Report, which provides insurers a single-source point-of-sale report for underwriting general liability policies.

Part of Verisk's Underwriter Insight data and analytics product, the report provides information through the ProMetrix ordering platform. The report provides information that might be missing from a policy application and validates existing application fields. This includes type of business, number of employees, estimated annual sales, U.S. Occupational Safety and Health Administration and health department inspections and violations, business registration and licenses, credit history metrics, observed hazards, property details, and the risk potential of neighboring businesses, Verisk said in a statement.

"Misclassifications often cause errors in selecting and pricing risks, which can negatively affect profitability," Anil Vasagiri, senior vice president of product management and strategy for Verisk Insurance Solutions, said in the statement. "This report solves the problem by providing a reliable, in-depth risk evaluation. Underwriters won't have to guess at a business' classification, exposure, or management efficiency because the report gives a comprehensive picture of the risk."

Allianz launches division for crisis management

Allianz Global Corporate & Specialty S.E. has launched a North American crisis management division to provide prevention, preparation for and recovery assistance from crisis incidents.

The division will offer crisis management assistance services on a 24/7 basis through its partner company, New York-based red24 Inc.

Chicago-based Marcos Garcia Norris has been named crisis management regional practice group leader. Previously, Mr. Norris was class underwriter for crisis management for Lloyd's of London syndicate 2007 with Novae Group P.L.C., AGCS said in a statement.

"Our clients face an increasing array of complex, perilous risks, and they rely on the global leadership of AGCS to provide the expertise to help protect their customers, employees, property and overall reputation," Dieter Hautzer, regional head of liability in North America, said in the statement. "We are delighted to welcome a well-respected industry expert such as Marcos to our team to lead this key expansion."

Berkshire offers E&O cover in Canada

Berkshire Hathaway Specialty Insurance Co. has launched miscellaneous professional liability insurance coverage in Canada.

The Professional First policy offers claims-made coverage for professionals

PRODUCTS & SERVICES



Tokio Marine expands to inland marine in U.S.



Tokio Marine Management Inc. is launching a line of inland marine insurance products in the U.S.

The inland marine coverages will focus on fine arts, renewable energy generation, transportation, construction, jewelers block, equipment sales and rental, and floater products, Tokio Marine Management said in a statement.

Rich Soja who joined Tokio Marine Management last year as senior vice president, leads the team of marine underwriters. Previously, Mr. Soja was executive vice president and chief marine underwriter for the U.S. at Aspen Insurance Holdings Ltd.

"Inland Marine is a natural fit with our Ocean Marine division, and the dedicated underwriting team of product experts we've assembled enabled us to deliver superior service immediately," Koki Umeda, CEO of Tokio Marine Management, said in the statement. "Rich Soja's expertise, including launching a marine division with a previous company, provides valuable leadership to TMM and value to our customers."

and professional services firms, providing protection to professionals and professional services firms accused of negligent acts, errors or omissions, misstatements, misleading statements, neglect, breach of duty and unintentional breach of contract, BHSI said in a statement.

In addition, the policy includes preclaim assistance coverage, earnings loss reimbursement and reimbursement for attendance at legal proceedings, according to the statement.

"Our new Professional First MPL form provides coverage that maximizes protection and results in peace of mind for Canadian professionals," Michael Denham, Toronto-based vice president of executive and professional lines for Canada, said in the statement. "With our coverage and our experienced professional liability team, policyholders are assured of expert, responsive service to help them avoid claims and successfully navigate those that arise."

XL Catlin policy covers employer labor risks

XL Catlin's Hamilton, Bermuda-based professional lines team has launched a policy that combines employment practices liability and wage-and-hour cover.

According to XL Catlin, the policy was created to address recent lawsuits against employers that combine allegations of both employment practices liability wrongdoing and wage-and-hour violations.

The policy offers full employment practices liability coverage, which includes discrimination, harassment, common law violations, wrongful termination and treatment and available third-party discrimination coverage. The policy also offers full wage-and-hour coverage, covering statutory wage claim, statutory damages, earned wages liquidated damages, attorneys' fees and punitive damages, XL Catlin said in a statement.

In addition, the policy offers coverage for claims by employees, independent contractors and the U.S. government, including the Equal Employment Opportunity Commission, the Department of Labor and the Department of Justice, according to the statement.

"The new blended policy also fills any gaps in piecing together separate policies and offers peace of mind that hybrid claims involving both EPL and Wage & Hour liabilities will be addressed in one comprehensive policy," Matthew Irvine, XL Catlin's Bermuda professional lines chief underwriting officer, said in a statement.

DEALS & MOVES

Hub International acquires employee benefits specialty firm

Hub International Ltd. has acquired the assets of Brentwood, Tennessee-based Cowan Benefit Services Inc.

Terms of the deal were not disclosed.

Cowan provides employee benefits, products, consulting, insurance, health and benefits, wellness and benefit administration services.

Cowan CEO Matt Cowan will join Hub Gulf South and oversee operations in Tennessee.

"Cowan has provided the highest-quality service to its clients and developed unique capabilities to meet their needs over the last 25 years," Mr. Cowan said in a statement. "Adding the capabilities of Hub will allow us to grow and continue to meet these ever-changing needs for many years to come. We were attracted to Hub because of their long-standing belief in the local service model."

Medical liability mutual buys Florida-based med mal insurer

Norcal Mutual Insurance Co. has completed its acquisition of FD Insurance.

Terms of the deal were not disclosed.

Jacksonville, Florida-based FD Insurance is a medical malpractice provider for physicians and surgeons in Florida. It has 25 employees, serves over 2,200 Florida health care providers, and has annualized gross written premium of approximately \$28 million, according to a statement from San Francisco-based Norcal.

Vericclaim buys contractor network providing property damage repairs

Vericclaim Inc., a subsidiary of Sedgwick Claims Management Services Inc., has acquired Jacksonville, Florida-based First Choice Repair Network.

Terms of the deal were not disclosed.

First Choice Repair is a managed repair network of contractors servicing damaged commercial and residential properties.

"Vericclaim's reputation in the claims industry was built on expertise in field adjusting for complex, high-severity property loss claims," Michael Arbour, CEO of Naperville, Illinois-based Vericclaim, said in a statement. "With the addition of First Choice Repair, Vericclaim is now able to offer a more robust response to high-frequency, low-severity property events resulting from catastrophes or daily claims. First Choice Repair's large and well-credentialed contractor network, strong client base and talented team led by President and CEO William Breslin will be great assets to our organization."

Brokerage expands in New Orleans through specialty purchase

H.W. Kaufman Financial Group has acquired New Orleans-based specialty insurance broker B&F Special Risks Inc.

Terms of the deal were not disclosed.

The B & F team will join Kaufman's flagship company Burns & Wilcox in New Orleans.

"This acquisition expands the presence of Burns & Wilcox in New Orleans and Louisiana," Alan Jay Kaufman, chairman, president and CEO of Kaufman Financial Group said a statement.

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WHAT MATTERS MOST



REQUEST FOR PROPOSAL

NEW YORK CITY HOUSING AUTHORITY -PUBLIC NOTICE- INVITATION FOR BID NETWORK SECURITY & PRIVACY LIABILITY INSURANCE

The New York City Housing Authority ("NYCHA") requests Proposals from qualified **INSURANCE COMPANIES** for Network Security & Privacy Liability Insurance. Insurers must be licensed in New York State, preferably with a current "A.M. Best" rating of at least "A minus X".

Coverage is to become effective **May 1, 2016**

Proposals shall be made in the format included in the Invitation for Bids submission packets containing instructions, coverage & limits specifications, and detailed proposal requirements. Packets may be obtained by contacting NYCHA's Network Security & Privacy Liability Broker:

Edgewood Partners Insurance Center
One Stamford Plaza, 263 Tresser Boulevard, 8th Floor
Stamford, CT 06901-3226
Rebecca Oliver at (203) 658-0512

In order to be eligible, completed bid proposals must be received by **3:00 P.M. EST on February 12, 2016**.

All inquiries for additional information regarding the Invitation for Bids are to be directed, in writing via e-mail, to rebecca.oliver@epicbrokers.com.

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CLIMATE

Continued from page 4

end to fossil fuel subsidies or a requirement to extend emissions trading to reduce greenhouse gases. But the talks and other elements of the agreement were positive, including welcome plans by the Organization for Economic Cooperation and Development to consider whether a new guideline for investors in relation to their fiduciary duties and climate change was necessary, he said.

“The agreement isn’t perfect,” he said. “But it is very, very good.”

European insurers and reinsurers who have been sounding the alarm on climate change for many years were visible participants at COP21 and have taken concrete steps to contribute to a climate solution, said Cynthia McHale, director of the insurance program for Boston-based investor coalition Ceres, an advocate for sustainable business practices.

In November, Munich-based Allianz S.E. announced plans to divest from coal assets, which will apply to companies that derive more than 30% of revenue from coal mining or generate more than 30% of their energy from coal.

“That takes a lot of courage for Allianz to do that” because Germany is a major coal-produc-

ing country, Ms. McHale said.

By contrast, the U.S. insurance industry is “continuing to be very silent on this” and was noticeably absent during the Paris talks, she said.

Many of the individual climate plans, formally known as intended nationally determined contributions, include significant scaling of renewable energy generation, which presents a major demand opportunity for the insurance industry as these facilities will need to be insured, Mr. Gerrard said.

During a COP21 session, the insurance federation announced the launch of its 5-5-5 Mutual Microinsurance Strategy, which aims to protect 25 million people in the poorest areas of the world by 2020 by offering insurance coverage tailored to disasters in developing countries, starting with India and the Philippines, by scaling existing cooperative mutual insurance companies in these countries, Mr. Tarbuck said.

Insurers should also refuse to insure parts of cities not being developed with an eye toward mitigating the effect of natural disasters, which could encourage revised building codes and discourage risky development, he said.

Carriers also have a significant role to play as investors, namely intensifying their focus on smart-risk investing, Mr. Tarbuck said.

The federation and the International Insurance Society reached their goal of doubling investment in green finance to \$84 billion by the

end of 2015 and plan to raise this target to \$420 billion by 2020.

The next phase entails providing a framework for all asset classes and changing the behavior of the asset managers in insurance.

“It is important that we utilize our investable assets in a more appropriate way than we have been doing,” Mr. Tarbuck said.

Analysis firm Bloomberg New Energy Finance, a unit of Bloomberg Finance L.P., pegged worldwide clean energy investment in 2014 at \$340 billion, a 12% increase from the previous year.

“We know those investments will be increasing, and we really want to see the insurance industry engaged in that,” Ms. McHale said. “We really need the insurance industry to help finance the transition, just as today and in the past they’ve helped finance the fossil fuel industry.”

Munich Re, for one, had made infrastructure, renewable energies and new technologies investments totaling €1.5 billion (\$1.6 billion) by the end of the 2013 fiscal year and seeks to raise that to €8 billion (\$8.7 billion) over the next few years if it can find sufficient assets to invest in, Mr. Hoeppe said.

“The only solution in our eyes is there should be a quick switch from fossil fuels to clean energy,” he said. “This is the problem right now, but I’m optimistic that Paris COP21 will help us to find these investments.”

RRG

Continued from page 4

For others, the proposed coverage expansion as one of fairness.

“RRGs that insure groups like these can provide millions of dollars in liability coverage for the van driver but can’t cover a few thousand bucks to replace the van,” said David Provost, Vermont’s deputy commissioner of captive insurance in Montpelier.

Not helpful to all

But the trade group that represents many of the nation’s 236 risk retention groups and their brokers and consultants, opposes the legislation because the property coverage expansion would not be available to all RRGs.

The National Risk Retention Association “remains diligent in safeguarding against any initiatives that either do not support the majority of our members or the overall industry, or which might harm the business interests of even some of our members,” Joe Deems, NRRRA executive director, said in a statement.

“We look forward in the next session of Congress to working with the bill’s sponsors and proponents in advance of the legislation’s introduction, to draft a bill of broader benefit to the risk retention and purchasing community that will not prejudice the existing rights of these entities under the federal Liability Risk Retention Act,” Mr. Deems added.

“It would have been wonderful if it was offered for more people, but I would have to say about 99% of RRGs won’t benefit from it,” said Jon Harkavy, an NRRRA officer and vice president and general counsel of RRG manager Risk Services L.L.C. in Washington.

“The bill has a very slim chance of passing, mainly due to the insurance trade organizations being against it,” Mr. Harkavy said.

If the measure were to win congressional approval, it would be the second time that lawmakers have agreed to amend the law.

The original Risk Retention Act, approved in 1981, allowed RRGs to write product liability and completed operations coverage for policyholder members nationwide after meeting the licensing requirements of one state.

Just a handful of RRGs were formed, though. When premiums for many lines of coverage were soaring in 1986, federal lawmakers expanded the law to allow RRGs to write all commercial casualty lines of coverage — except workers comp — for member-owners.

ALCOHOLIC

Continued from page 6

work in the business?” said Scott I. Unger, a shareholder with Stark & Stark in Lawrenceville, New Jersey.

Despite their disability, the workers in question can be held to the same performance and conduct standards of other employees, according to the EEOC.

“Rule No. 1 is that no employer has to continue to employ an employee who’s using at work drugs or alcohol regardless of whether it’s a disability or not,” said Ms. Dolgih.

“You have the ability as an employer to hold an employee accountable for violating work rules, regardless of whether or not they claim the cause of violating the work rules was a disability,” said George C. Hlavac, a member of law firm Norris, McLaughlin & Marcus P.A. in Allentown, Pennsylvania.

“It’s not a free pass to violate work rules” and employees are “not protected from their own misconduct,” Mr. Hlavac said.

Others stressed, however, that if a worker reports he has a disability, the employer is obligated to go through the interactive process to determine a possible accommodation.

Employers also need a uniformly applied testing policy, say experts. “You can’t single out an employee and say, ‘We’ll test you every week’” when others are not tested, said Ms. Dolgih.

But employers can test employees for cause if, for instance, a worker reports with blood-shot eyes and slurred speech, Ms. de Leon said.

Train your managers on this issue, experts say. “A lot of employers don’t know that alcoholism is considered a disability to start with,” so their gut reaction may be to terminate the employee, said Ms. Dolgih.

NONSUBSCRIPTION

Continued from page 4

employees who aren’t covered by workers comp.

A spate of liability lawsuits in 2015 highlighted the risks that Texas nonsubscribers face.

In November, a U.S. District Court jury in Sherman, Texas, awarded \$2.25 million to a former Tyson Foods Inc. dock worker who was hurt on the job. The worker said in court records that he suffered a severe lower back injury in August 2013 while being required to sort heavy boxes at work, and the jury found that Tyson Foods was negligent in that accident, according to court filings.

Meanwhile, the Texas 14th District Court of Appeals upheld a \$780,000 jury verdict in August against Katy Spring & Manufacturing Inc., finding that the Katy, Texas-based nonsubscriber was negligent when an employee was injured by a large-gauge wire that hit him in the chest.

And the state’s 7th District appellate court affirmed a \$5.3 million liability judgment in January 2015 against West Star Transportation Inc., ruling that the Lubbock, Texas-nonsubscriber did not provide a reasonably safe place to work when an employee suffered a traumatic brain injury after a fall at work.

Chad L. Farrar, equity partner and nonsubscriber defense attorney with Mullin Hoard & Brown L.L.P. in Dallas, who was not involved in any of the cases, said nonsubscribing employers in Texas sometimes are found negligent by juries even though they’ve worked to provide a “reasonably safe” workplace, as required by Texas law.

“You’re going to have occasional cases where there’s a rather large verdict that you may not have expected,” he said.

Texas nonsubscription experts say the 2015 liability cases were similar to ones they’ve seen against nonsubscribers in previous years, and that the frequency of such verdicts has remained rare but stable in recent years.

There were about 100 Texas nonsubscriber negligence liability awards and settlements of \$1 million or more in the last 25 years, said Bill Minick, president of Dallas-based PartnerSource, an alternative workers comp consultant unit of Arthur J. Gallagher Risk Management Services Inc.

The opportunity to save money by opting out of

the Texas workers comp system has kept employers interested in nonsubscription in spite of potential liability exposures, said Blake Stock, CEO of Dallas-based Combined Group Insurance Services Inc., a managing general agent that provides liability insurance and benefit programs for Texas nonsubscribers.

While the potential for liability lawsuits is a downside to Texas nonsubscription, Mr. Stock said opting out is still seen as attractive by employers who take a hands-on approach to keeping their employees safe and managing claims from injured workers.

“There’s a real incentive for Texas nonsubscribers to provide an extremely safe workplace, even more so than is in place for workers comp,” Mr. Stock said. “So we see the system working as it’s intended to do and (compensating) those employees that have been legitimately hurt on the job.”

Experts say that employers that opt out of workers comp in Texas can mitigate their liability risks by working to ensure that they protect their employees and take good care of injured workers when accidents do happen.

That includes creating strong safety programs and providing fast access to doctors who will work diligently to return injured workers to health, Lockton’s Mr. Rosenblum said.

“That tends to limit the exposure, but also sends a very positive signal to the family of the injured worker that the employer is there to help,” Mr. Rosenblum said.

He and Mr. Silverstein of Willis Towers Watson also advise that nonsubscribing employers place mandatory arbitration clauses in their employment agreements that would require injured workers to negotiate injury claims out of court, therefore bypassing the potential for large jury verdicts.

Lockton’s Mr. Rosenblum said employer liability insurance for Texas nonsubscribers also is less expensive than worker comp insurance in the state, allowing employers to cover themselves from liability exposures.

“Even though there is this downside potential to tort liability in Texas for an employer who’s opting out of the workers compensation system, you can easily respond to that by layering or buying excess coverage at a very reasonable cost,” he said.



WEARABLES

Continued from page 1

the terms of which were not disclosed, will only accelerate that interest, they add.

AIG's investment in Human Condition Safety shows "this is something that is emerging and is real, and insurers are seeing there will be potential benefits," said Christopher Flatt, managing director and leader of Marsh L.L.C.'s Workers' Compensation Center of Excellence in New York.

Workers comp is a data-rich, compulsory line of business that "lends itself to innovation," Mr. Flatt said. "From our perspective ... if we can differentiate (a client's) risk profile by saying they're using this particular technology, perhaps we can achieve better market pricing from (insurers) or just improve terms."

In the future, AIG could promote wearable safety devices the way Allstate Insurance Co. promotes its Drivewise device, which

drivers plug into their vehicles and earn rewards for safe driving behaviors such as avoiding high speeds and hard stops, said Paul Braun, managing director of casualty claims at Aon Global Risk Consulting in Los Angeles.

Lex Baugh, president of global casualty for AIG, said in a video on the company's website that "there's a real benefit here, both from a financial standpoint in terms of reducing the cost of risk and improving the quality of someone's work experience."

Historically, startups have approached an industry with "disruptive innovation" and made established organizations a little uncomfortable, but AIG's investment is a sign that the "script is being flipped," said Jarrod Magan, Memphis, Tennessee-based vice president of client technology services for Sedgwick Claims Management Services Inc. "Established organizations understand the need to continue to evolve."

Though sources said they're not aware of other partnerships between large insurance compa-

nies and wearable technology startups, deals are inevitable.

"It just makes a lot of sense," said Haytham Elhawary, CEO of Kinetic, a New York-based company that created a wearable safety device for industrial workers. "Right now the data insurance companies have is mostly after the fact — it's once a claim has happened, once an injury has happened. (A wearable safety device) gives you data about risk, so before an injury has happened. The next logical step is to gather this type of data."

Similar to wearable devices by Human Condition Safety and other firms, sensors in Kinetic's belt-mounted device measure workers' movements, alerting employees and employers when "high-risk motions," such as improper lifting, are detected, Mr. Elhawary said.

Crane Worldwide Logistics L.L.C., which piloted the product at a distribution center last summer, was able to measure the number of high-risk lifts performed per day — an average of 140 — and identify the riskiest time of day — before

lunch and an hour before the end of a shift — said Mr. Elhawary.

With additional training and real-time feedback, the Houston-based transportation and logistics services provider saw an 84% reduction in the number of high-risk lifts performed per shift after two weeks, Mr. Elhawary added.

Beyond the ability to correct unsafe behaviors, experts say there's a lot of interest in using wearables to monitor remote workers and mitigate fraudulent workers comp claims.

There is a concern among some workers that employers could start using the data captured by wearable devices against them, Mr. Magan said. He added that while most companies employ the carrot approach when using wearables in conjunction with employee wellness programs, they could shift to the stick approach because of financial reasons, for example.

If that were to happen in the safety arena, tracked unsafe behaviors could lead to increased insurance premiums or termination, he said.

The biggest concern among

workers, however, has to do with privacy. Like any details about occupational injuries or medical treatment, it's "paramount that the data is protected in a way that it can't be hacked or leaked," Mr. Flatt said.

Moreover, a number of questions need to be answered before wearable safety devices become more widespread, Anand Rao, Boston-based partner in the insurance advisory practice at PricewaterhouseCoopers L.L.P., said. For example, would device manufacturers have access to the data collected? And who gives permission — the employer or the employee — to access the data?

Mr. Elhawary said workers using Kinetic's belt-mounted device "are curious about what data we're collecting" but concerns fade when they learn it's about the way they move — not heart rate, location or other "sensitive" information.

Sources said they expect to see more widespread adoption of wearable safety devices in the next two years. "This is happening fast," Mr. Flatt said.

WTW

Continued from page 3

think they've been able to bring together the two operations to work together seamlessly for clients, and the opportunity for us to do that — even though we have enormous things to focus on in the short run — that long-run opportunity is perhaps the most compelling."

Willis Towers Watson's larger rivals, Marsh & McLennan Cos. Inc. and Aon P.L.C., have substantial benefits consulting operations, which grew in part through acquisitions. Marsh acquired William M. Mercer Ltd. decades ago, and Aon bought Hewitt Associates Inc. in 2010. Neither firm could be reached for comment for this article.

Both Willis and Towers Watson "were heading toward \$4 billion in revenues each and were adequately sized," but the larger entity should have brighter prospects, said Mr. Casserley, president and deputy CEO of the new company.

Willis Towers Watson has said it expects to generate \$4.7 billion in incremental value for shareholders over the next three years, including \$375 million to \$675 million in incremental revenue as well as \$100 million to \$125 million in annual merger-related cost savings and about \$75 million in annual tax savings.

With 39,000 employees in more than 120 countries, the new company, based in London, had pro forma 2014 revenue of \$7.30 billion and net income of \$398 million, according to a filing with the U.S. Securities and Exchange Commission.

"A lot of our clients are global," Mr. Casserley said. "They expect global service and excellence around the world, and you have to be of a certain scale to be able to afford the training, the hiring and the deployment of technology into hundreds of markets."

"We're going to be spending our first year-and-a-half focused on making the merger work," said Mr. Haley. "What drives me the most is thinking about five years out. Five years out we have the

opportunity to create a firm that is well-positioned to bring together assets from both sides and to create new solutions for clients."

Willis Towers Watson plans to move further into the large-account space, challenging chief rivals Marsh & McLennan and Aon. "We expect to increase our penetration in the large-company property and casualty market, in the U.S. in particular," said Mr. Haley.

"Marsh and Aon had a lot more market share within the U.S. on the Fortune 100 and 500," said Julie Herman, New York-based associate director of insurance rating at Standard & Poor's Corp.

"Being a bigger company gives us the opportunity to do some additional merger and acquisition activity that we might not have on our own," Mr. Haley said.

Borrowing costs could be marginally lower for the new entity because of its enhanced credit profile and resources.

Analysts agree that the prospects for Willis Towers Watson are promising.

"There is not a lot of overlap with the two businesses, and they both traditionally generated pretty good margins," said James Auden, managing director of insurance at Fitch Ratings Inc., Chicago.

Insurance brokerage and employee benefits, particularly in the private health care exchange area, are both growth areas, said Cliff Gallant, managing director at Nomura Securities International Inc. in San Francisco.

"The merger with Towers Watson will improve Willis' credit metrics because of the lower debt at Towers Watson," said Bruce Ballentine, vice president and senior credit officer at Moody's Investors Service Inc. in New York, in a research report. "The business mix of Willis Towers Watson will also be more like those of Marsh & McLennan and Aon, with a good balance of (property/casualty) and employee benefits products and services."

Still, Mr. Haley said the two companies were not looking to create a competitive clone: "We were looking to create something different from what we saw out there."

FERTILITY

Continued from page 3

At Southwest Airlines Co., employees are covered at 50% coinsurance for up to \$10,000 lifetime maximum of medical expenses for fertility treatments after meeting a \$500 deductible. Prescription drugs related to those treatments are covered at 50% coinsurance for up to \$5,000 lifetime maximum. According to Judy Berger, Dallas-based Southwest's senior manager of benefits planning, more than 100 employees use the benefit annually.

"If we have happy employees, we will have happy customers and, subsequently, happy shareholders," Ms. Berger said in an email. "Fertility benefits have value to employees. While fertility benefits aren't something all employees need, the impact this benefit can have on an employee's life is immeasurable."

In October, technology company Intel Corp. quadrupled its fertility benefit coverage to \$40,000 for medical services and \$20,000 for drugs. In a statement, Ogden Reid, Intel's vice president of human resources, said offering the benefit is part of the company's commitment to being diverse, inclusive and supportive of the employees.

And for San Jose, California-based tech company Cisco Systems Inc., fertility benefits — \$15,000 lifetime maximum for medical treatment and \$10,000 for drugs — are offered simply because it's "the right thing to do," a company spokeswoman said in an email.

Experts say an employer-sponsored fertility benefit improves healthy outcomes and could save medical costs long-term.

"When people are having to pay out of pocket and they are having to feel very pressured, they are making poor health decisions," said Barbara Collura, president and CEO of Resolve. "When they have the insurance and they have the benefits that allow them to do (IVF) more than once and the financial burden is removed, they actually make far better health decisions."

When drug treatments and artificial insemination fail and patients have only enough money to cover one IVF cycle, or no employer coverage for fertility treatments, they are

more likely to choose to implant multiple embryos during IVF to increase the chances that they get pregnant, sources say. The cost is also likely to deter them from using technologies such as genetic testing to ensure against abnormalities that could result in a miscarriage.

But using multiple embryos increases the odds for a multiple birth, which brings high risks for the mother and children, and a giant price tag, data shows.

Through a partnership, Mercer and New York-based fertility health care provider Progyny Inc. are working to reduce that possibility. In January, they announced a fertility benefit for employers and their employees that is meant to reduce the number of multiple births by offering access to IVF, non-IVF fertility treatments and medications, and the latest technologies including genetic testing, to encourage transferring only one embryo.

By giving patients access to everything they need for each "cycle," or round of treatment,

patients are less likely to skip the technology that's typically offered "a la carte," and they're less inclined to implant multiple embryos when the technology is available to increase the odds a single embryo transfer will be successful, said Karin Ajmani, Progyny's president of health care services.

Using technology to biopsy and test embryos to make sure they are normal raises the IVF success rate to 65% from 31%, she said.

Progyny's benefit also includes counseling and concierge services to help with the heavy emotional toll that comes with infertility, Ms. Ajmani said.

Dr. Mark Perloe, medical director at Atlanta-based Georgia Reproductive Specialists, said 35% to 40% of his patients foot the bill for fertility treatments without insurance. They confide in him about the cost burden, causing some to delay IVF, which weakens their chances of pregnancy as they age.

According to Dr. Perloe, an effective infertility benefit must include coverage for IVF, genetic screening and embryo evaluation, and it must mandate that only a single embryo can be implanted for a "safer, healthier pregnancy outcome, which is obviously the best thing for the employer," he said.



FLOODS

Continued from page 1

commercial claims, the ABI said.

Insured commercial losses from the recent storms will make up a higher proportion of the total loss than in previous floods in the United Kingdom, said Mohammad Khan, general insurance leader at PricewaterhouseCoopers L.L.P. in London.

“Traditionally, commercial lines insurance claims have made up approximately 10% to 30% of the total insured loss claim. Based on what PwC has observed in the market, commercial lines insurance claims will make up about 50% of the total insurance claims” resulting from storms Eva and Desmond alone, Mr. Khan said.

Commercial claims have increased partly because more cities and towns were hit by the recent bad weather than previous U.K. storms.

Business interruption losses likely will make up a greater proportion of the insurance bill than in previous storms, he said.

Companies that suffered losses during the storms likely will see rates increase when they renew insurance coverages during 2016, Mr. Khan said — as much as 100% in some cases.

The floods illustrate the need for buyers to be sure that their coverages suit their needs, according to the London-based U.K. risk management association Airmic Ltd.

“It is at times like this that you find out if your insurance and your contingency planning are fit for purpose. Sadly, we know from experience that some policyholders will be disappointed when they come to make their claims, and that many will not be fully covered,” Airmic CEO John Hurrell said in a statement.

“We would urge them (insurers and reinsurers) to be flexible and pragmatic, and to look favorably on customers who have bought cover in good faith — especially small businesses that might not have absorbed all the implications of the small print,” he said.

The floods have affected businesses and communities alike, said Mike Still, managing director of corporate business from the U.K. and Ireland at Marsh Ltd. in London.

Events such as these floods can go well beyond a businesses’ ability to trade in the short term. They also can deter potential visitors who remember recent flooding in an area and have an emotional impact, Mr. Still said.

Companies need to take steps to manage these effects, he said.



PLANNING AHEAD

Tips from the London-based Business Emergency Resilience Group’s 10-minute plan designed to help small and medium-size businesses respond to emergencies such as flooding, cyber crime and civil unrest

- Consider the impact on your business of factors such as inability to access your site, critical equipment failure, a major supplier going out of business and key staff absence.
- Plan ahead to protect your business. Check live alerts. Consider backup utilities, flood protection, insurance limits, and health and safety training. Follow data protection guidance.
- Consider how to communicate during an emergency. Regularly review and update contacts. Create an “emergency grab bag” of key documents, plans and contact details.

Source: Business Emergency Resilience Group

Among steps insurance buyers can take to increase their resilience in flood events are staying informed about weather conditions; understanding their insurance policies and having all emergency contact numbers readily available; preventing water entering premises by using sand bags or other barricades; having access to pumps, window guards and other equipment, said Mr. Still.

For businesses in flood-prone areas, skipping carpets, placing electrical sockets high on walls and using waterproof plaster on low walls, among other things, can help limit potential losses and reduce insurance rates, Mr. Still said.

The recent losses will dent the profits of some U.K. insurers but should not drastically affect their balance sheets, according to rating agency A.M. Best Co. Inc.

But Oldwick, New Jersey-based Best said in a report that some excess-of-loss reinsurance programs may be affected because of lengthened hours clauses, particularly if extended hours contracts allow them to aggregate losses from the storms.

“For most insurers, losses from each of the individual storms are unlikely to exceed per-event retentions before reinsurance,” the report said. “But U.K. insurers have been able to take advantage of weak conditions in the global reinsurance market to achieve favorable pricing and contract terms,” it added, including longer hours clauses.

“Hours clauses, defining the time period during which claims resulting from a given occurrence can be recovered as a single aggregated loss, have been extended, often up to 504 hours (21 days),” the report said. “As a consequence, insurers may be able to aggregate losses from two of the storms so that excess-of-loss programs are more likely to attach.”

Personal lines insurer Direct Line Insurance Group P.L.C. said its total claims from the three storms would likely be between £110 million and £140 million (\$159.7 million and \$203.3 million), with commercial claims making up about £30 million to £40 million (\$43.6 million to \$58.1 million) of that.

“The group’s per-event retention under its property catastrophe reinsurance contract is £150 million (\$217.8 million), and therefore the group does not currently expect to make any recovery under this contract,” Direct Line said in a statement.

“For the avoidance of doubt, the group can aggregate claims incurred over a 504-hour (21-day) period to assess whether a reinsurance recovery can be made. Furthermore, the group’s commercial division has a retention of £4 million (\$5.8 million) for individual property risks,” it added.

TORT

Continued from page 6

Mr. Schwartz acknowledged the statement of administration policy but said the debate on the House floor “showed arguments against the bill are rather vapid.”

“Why should the legal system open the door to people who are not injured?” Mr. Schwartz said. “One does not have to go to law school to figure that out. In fact, it may be better if the observer about the bill does not go to law school because they will have a good common-sense answer to the question: ‘No.’ The legal system should not waste time and money for claims for people who are not injured.”

“It’s clear there’s House support to fix this problem,” said Tom Santos, vice president of federal affairs at the American Insurance Association in Washington. “There’s concern people are double dipping. We’re trying to make sure past victims get fairly compensated and the trust remains to compensate future claimants.”

The extent and cost of claimants receiving compensation from multiple trusts is unknown. In written testimony before a House Judiciary Committee subcommittee considering the asbestos bill last year, Lester Brickman, professor of the Benjamin N. Cardozo School of Law of Yeshiva University in New York, cited a plaintiff who failed to disclose nine trust claims, eight of which had been filed before he testified in the litigation in which he was involved. “Though egregious, this kind of deceit is by no means the exception,” said Mr. Brickman.

He also cited the example of a “plaintiff denied having filed trust claims despite having received payment of approximately \$185,000 from five trusts and ‘deferring’ 14 other claims worth at least \$313,000” for a total of 19 undisclosed filed claims.

“Improper trust payments no doubt have amounted to billions of dollars,” said Mr. Brickman. “As for tort defendants, it is simply not possible even to begin to estimate

how much money they have paid out as a consequence of plaintiffs making false claims as to product exposures.”

In hearings concerning the class action portion of the bill, no witness on either side of the issue offered an estimate of how many federal court actions might be affected if the bill became law.

“Hopefully, we can build momentum to get a hearing in the Judiciary Committee,” Mr. Santos said.

The National Association of Mutual Insurance Companies also “strongly” urged the Senate to move on the measures, according to a statement issued by NAMIC Senior Vice President Jimi Grande in Washington.

“PCI supports the FACT Act and calls on the Senate to pass this legislation,” Nat Wienecke, senior vice president, federal government relations for the Property Casualty Insurers Association of America in Washington, said in an email. “This common-sense legislation is needed to discourage fraudulent, abusive and inconsistent asbestos trust claims. We think all members would want to support this common-sense bill to reduce abuse of asbestos litigation.”

But Linda Lipsen, CEO of the Washington-based American Association for Justice, which represents plaintiffs attorneys, urged the Senate to reject the measure.

“If I said Congress was considering a bill to shield Volkswagen from being held accountable for the fraud on its customers, and then combined it with a bill to protect companies that knowingly poisoned people with asbestos, no one would believe me,” Ms. Lipsen said in a statement. “But that’s exactly what the House just passed. This is a bill that only helps corporations that killed and cheated people, plain and simple.”

“It’s offensive that with veterans and workers dying from asbestos exposures that Congress would act to delay or deny their compensation at the behest of the companies responsible for their deaths,” she said. “The Senate should recognize this absurd bill for what it is — nothing more than a corporate giveaway — and reject it.”

REPEAL

Continued from page 1

the ACA’s 40% excise tax on costly group health plan premiums, as well as provisions imposing stiff financial penalties on employers that don’t offer coverage and employees who don’t enroll in a plan.

Benefits experts also place low odds on Congress making major ACA changes this year.

“I don’t anticipate any major ACA legislative changes in 2016,” said Geoff Manville, a principal with Mercer L.L.C. in Washington. “There just isn’t enough time. It is a very compressed legislative window,” Mr. Manville added.

Because of the upcoming Republican and Democratic national conventions and the

fall presidential and congressional elections, the congressional session could end as soon as late June, observers say.

At the same time, action Congress took last year — delaying by two years to 2020 the effective date of the 40% excise tax on the portion of group health care plan premiums that exceed \$10,200 for single coverage and \$27,500 for family coverage — reduces the need for quick congressional action to address the excise tax, an ACA provision that has triggered widespread employer and union opposition.

“There is not the same sense of urgency given the delay in the effective date” of the excise tax, said Gretchen Young, senior vice president of health policy at the ERISA Industry Committee in Washington.

“The delay in the excise tax more likely pushes the issue to 2017,” said Steve Wojcik, vice president of public policy at the Nation-

al Business Group on Health in Washington.

Still, the outcome of the November elections could determine the likelihood of congressional action on the ACA, some say.

If a Democrat wins the presidency and Democrats regain control of the Senate, for example, there could be increased Republican interest in making changes, such as repeal of the excise tax, during the lame-duck session likely to follow the elections.

In that case, “there could be more interest in making changes before the president leaves office,” said James Klein, president of the American Benefits Council in Washington.

In addition, some say, the delay in the effective date of the excise tax could delay the release of widely anticipated IRS excise tax regulations.

The delay “gives the IRS the option of taking more time to work on the proposed

rules,” Mr. Wojcik said.

Still, the IRS has not signaled that it will do so, with the rules widely expected to be proposed this spring.

“We have not heard anything yet from the IRS about changes” in the timing of the proposed excise tax regulations, said Amy Bergner, a managing director with PricewaterhouseCoopers L.L.P. in Washington.

Since the passage of the ACA in 2010, Congress has approved and President Obama has signed legislation repealing several provisions.

The most recent legislative change was last year when, as part of a broader bill, lawmakers voted to repeal a provision, which had not been implemented, requiring employers with at least 200 employees to automatically enroll employees who did not respond when asked to select a group plan offered by their employers.



A trained nose on cyber crime

The latest cyber fighting weapon for the Federal Bureau of Investigation just might take a bite out of crime.

New Jersey's FBI office is getting a pooch to help the agency with investigations where they need to search for digital media, according to a news report.

The dog has been purchased by the FBI but won't punch in on the work clock for at least five months while it trains with the New Jersey State Police.

Canines can be specially trained to sniff for electronic devices such as thumb drives, SD cards and external hard drives.

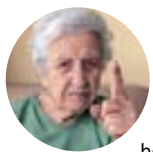
"It could be as small as a fingernail, anything that memory can be stored in, the dog will be able to scent or alert on," Celeste Danzi, a New Jersey FBI special agent, said in a news report.

A black lab named Bear is one of only three dogs in the U.S. who have been specially trained as electronic detection K9s.

Insurers may be tempted to ask businesses to keep a pup or two on the company's payroll, once dogs learn how to sense incoming cyber attacks.

Rise and shine, it's flu shot time!

Patients often need a reminder when it comes to getting a flu vaccine each year. For as many as 10,000 senior citizens, an early morning wake-up call is just what they got.



Watertown, Massachusetts-based health insurer Tufts Associated Health Plans Inc. accidentally sent automated phone calls to thousands of plan members between 3 and 5 a.m. Dec. 29

reminding them to get their flu shots, Quincy, Massachusetts-based news outlet the Patriot Ledger reported.

The automated calls were sent to plan members 65 and over enrolled in the Tufts Medicare Preferred health maintenance organization plan.

The calls were intended for 3 to 5 p.m., and a Tufts spokeswoman told the Patriot Ledger that the mistake came down to "human error."

"It's unfortunate that it happened, and I would just want to issue a complete apology to all those who received a phone call," the spokeswoman told the publication. "I'm sure it was jarring to be woken up like that, and it certainly was not our intent."

PHOTO BUFFS USE LLOYD'S BUILDING FOR RISKY SNAPS



STEVE HORSLEY/SHUTTERSTOCK.COM

Two intrepid photography fans opted not to use the elevators when they wanted to shoot the London skyline from the top of Lloyd's of London.

The Lloyd's of London building is synonymous with risk taking. The building is home to the more than 300-year-old insurance and reinsurance market that prides itself on underwriting unusual risks. And two intrepid photography fans cast aside any thoughts of health and safety when they scaled the iconic Richard Rogers-designed building in order to take pictures of the London skyline.

According to the Daily Mail, daredevils Matthew Adams, 23, and Daniel Batchelor, 26, climbed scaffolding of a neighboring building and then transferred across to the 312-foot-tall Lloyd's building without using any safety equipment.

The two told the Daily Mail that climbing buildings to take photographs gave them a "buzz."

The Lloyd's building is a leading example of "Bowellism" architecture, whereby all services such as ducts, elevators and pipes, are located on the building's exterior to maximize space inside.

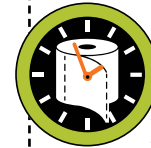
Messrs. Adams and Batchelor are not the first climbing enthusiasts to have hit the headlines for scaling the Lloyd's building.

In 2009, famed French climber Alain Robert, known as "le Spiderman," climbed the building during anti-capitalism protests in London.

Business Insurance isn't all business all the time, and we know you're not either. So visit www.businessinsurance.com for more Off Beat stories and monthly photo galleries featuring the best of the weirdest news about insurance, fraud, liability issues and related topics that make people and companies do funny, silly and strange things.

Workers win right to bathroom break pay

A growing number of employers are introducing rich benefits for their employees, ranging from paid paternity leave to dry cleaning. Then there's business publishing company American Future Systems Inc., which has been docking its workers for their bathroom breaks.



According to an article in the Philadelphia Inquirer, the U.S. Labor Department filed suit against the Malvern, Pennsylvania-based firm in 2012, saying the company allegedly violated the U.S. Fair Labor Standards Act

because employees were not earning the minimum \$7.25 per hour wage "due to the company's policy of requiring workers to clock out while they were going to the bathroom or grabbing coffee or a smoke."

This month the U.S. District Court in Philadelphia ordered the company to pay its employees \$1.75 million in unpaid wages, according to the newspaper.

Blogger and attorney Jonathan T. Hyman, a partner with Meyers, Roman, Friedberg & Lewis in Cleveland, has already nominated American Future Systems as "the worst employer of 2016 (so far)."



'Big Bang Theory' draws lullaby suit

A rendition of the "Soft Kitty" lullaby usually makes everything better on CBS' "The Big Bang Theory," but now the comedy is being sued for copyright infringement.

The lullaby was first featured on the show in 2008 and has been sung several times since — at least once as a round by Sheldon and Penny, played by Jim Parsons and Kaley Cuoco, respectively.

But in a lawsuit filed against Warner Bros. Entertainment Inc. and others last month in a New York federal court, Margaret Chase Perry and Ellen Newlin Chase allege that the CBS sitcom used their mother's lyrics without buying the rights.

They said their mother, late-poet Edith Newlin, wrote the original poem, "Warm Kitty," which was published in a 1937 book of nursery school songs.

The TV lyrics — *Soft kitty, warm kitty, little ball of fur. Happy kitty, sleepy kitty, purr purr purr* — which are slightly different from Ms. Newlin's poem have been used to promote the show, the lawsuit states.



See risk as a path to growth

The right combination
unlocks hidden value