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Business Insurance

www.businessinsurance.com

February 28, 2005

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\$5

TRIA bill offers rallying point

Senate set to start hearings on extending federal terrorism backstop

By MARK A. HOFMANN

WASHINGTON—The recent introduction of legislation that would extend the Terrorism Risk Insurance Act by two years has raised hopes among policyholders that Congress will act on the TRIA extension issue sooner rather than later.

TRIA, which provides a federal backstop for insurers facing losses from future catastrophic terrorist attacks, is slated to expire on Dec. 31. Risk managers, insurers and others have advocated that the law be extended for at least two years to avoid insurance market disruptions.

The introduction of extension legislation in the Senate drew praise from risk managers.

"This is a good positive step toward this issue. As we all know, the expiration of the backstop is fast approaching," said Bradley R. Wood, senior

BENNETT-DODD BILL OVERVIEW

Risk managers and insurers have argued that extending the Terrorism Risk Insurance Act beyond its Dec. 31, 2005, sunset is necessary to avoid disruptions in the property/casualty market. A bill, introduced recently in the Senate, would:

- Extend TRIA through the end of 2007.
- Require that policies written by Dec. 31, 2007, continue to enjoy TRIA backup, but only until they expire in 2008.

vp-risk management for Marriott Corp. in Bethesda, Md., welcoming the move.

"This is an issue that has been a concern to policyholders in 2004 in that we'd be running up against the clock," said Mr. Wood. "As we've pro-

gressed here in 2005, we're getting some positive signs that there is some keen interest in getting the act extended."

"The timely introduction of the bill will assuage the concerns of many risk managers," said Peggy Rychtarik, vp-risk management at Grubb & Ellis Co. in Northbrook, Ill.

The bill, introduced by Sens. Bob Bennett, R-Utah, and Chris Dodd, D-Conn., on Feb. 18, just before Congress went on its weeklong Presidents Day recess, would extend TRIA through the end of 2007. In addition, it would require that policies written by Dec. 31, 2007, continue to enjoy TRIA backup but only until they expire in 2008, with no backup extending beyond Dec. 31 of that year.

Meanwhile, the Senate Banking, Housing and
See TRIA/page 30

Late News

Third Marsh exec pleads guilty in Spitzer probe

Kathryn Winter, a former broker and managing director at Marsh Inc., last week pleaded guilty to criminal charges related to New York Attorney General Eliot Spitzer's investigation. Ms. Winter admitted that she instructed insurers to submit noncompetitive bids for insurance business during a period from 2001 to 2004, Mr. Spitzer's office said. Ms. Winter, who worked in Marsh's excess casualty operation in New York, left earlier this year, a company spokeswoman said. Marsh & McLennan Cos. Inc. last month settled the attorney general's lawsuit, which charged the company and its brokerage unit with rigging bids and steering clients to insurers paying it the highest contingent commissions. Mr. Spitzer's investigation has now produced 10 guilty pleas, three involving Marsh employees.

HRH stops taking volume commissions

Hilb Rogal & Hobbs Co. will stop accepting volume-based contingent commissions but will continue to take profit-based contingent commissions from insurers, the brokerage said. In announcing its results for 2004, the brokerage said it received \$42.4 million in contingent and override commissions in 2004, representing 6.8% of its \$619.6 million in revenues. HRH noted that 19% of its contingent commission revenue was derived from volume-based national override agreements. On Jan. 1, "these national override agreements...reverted into industry standard contingency agreements, which will be paid and recorded annually beginning in early 2006," HRH said.

Chubb seeks rescission of Nortel D&O coverage

Chubb Corp. is attempting to rescind the \$40 million of directors
See LATE NEWS/page 31

Washington state mulls play-or-pay measure

By JOANNE WOJCIC

OLYMPIA, Wash.—California's voters may have rejected a controversial law that would have required employers to offer health insurance or pay the state to do it for them, but will it play in Olympia?

Consumer advocates, labor unions and Democratic lawmakers in Washington state believe it will.

The "Health Care Responsibility Act," which was introduced earlier this month in both houses of the state Legislature, has been nicknamed "the Wal-Mart bill," because supporters assert that hundreds of Wal-Mart Stores Inc. employees have turned to the state's Basic Health Plan, which provides coverage to the working poor.

The legislation also has been compared to California's "play or pay" law, which was repealed by a ballot initiative last November.

Like the California measure, employers would have the option of "playing" by offering health coverage themselves or "paying" a fee to the state to cover the cost of providing insurance to their employees. But, unlike California's measure, the bill does not specify the level of coverage an employer must provide to be exempt from the tax. The Washington bill also would require employers whose insurance premiums are less than those charged by the state's Basic Health Plan—approximately \$200 per month per employee—to pay a tax equal to that difference.

This last stipulation is similar to legislation that was passed in 1988 in Massachusetts, which would have assessed a "medical security contribution" tax on employers. But that law, too, ultimately was repealed.

This is Washington's second
See PLAY/page 30



Mr. Spitzer



Ms. Madigan



Mr. Blumenthal

Trio of attorneys general in settlement talks with Aon

By SALLY ROBERTS

CHICAGO—Aon Corp. should be able to absorb the financial impact of the settlement it is currently negotiating with attorneys general in Connecticut, Illinois and New York to resolve their investigations into compensation practices at the Chicago-based brokerage, analysts say.

Although the details of any charges against the brokerage remain unknown, analysts say that Aon has sufficient resources in cash and credit facilities to fund a settlement, especially if the structure of the agreement mirrors the one

Marsh & McLennan Cos. Inc. reached last month with New York Attorney General Eliot Spitzer.

MMC's \$850 million settlement, which resolved allegations that its brokerage unit rigged bids to steer business to those insurers paying it the highest contingent commissions, is in line with the \$845 million it collected in contingent commissions in 2003.

In 2003, Aon collected \$169 million in contingent commissions.

Although Aon has said that an internal review found no evidence that it solicited fictitious quotes, engaged in bid rigging or violated an-

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Benefits Management

**HEALTH CARE
COST CONTROL**



**Rankings of the largest
Prescription Benefit Managers
and Case Managers**

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Mr. Lohmann

Lohmann out as CEO of Converium

By MATT SCROGGINS

ZUG, Switzerland—Troubled reinsurer Converium Holding A.G. has replaced Dirk Lohmann as chief executive officer, naming Terry G. Clarke as his successor.

Mr. Clarke formerly was managing director of the Zug, Switzerland-based reinsurer, a post he assumed in September 2004. He has served on the company's board since 2002. Before joining Converium, he was the managing principal of the North American practice of Tillinghast-Towers Perrin.

Converium Chairman Peter C. Colombo said in a statement that "the board believes that a management change is necessary to bring about a long-term cultural transformation and restore stakeholder confidence."

A spokesman for Converium could not be reached.

Mr. Lohmann became CEO in 2001, after Converium was created through Zurich Financial Services Group's spinoff of Zurich Re, a company he also headed.

Converium has lost business since it was downgraded out of the A range last year by A.M. Best Co. and Standard & Poor's Corp., following the announcement of reserve boosts, mainly for U.S. casualty business (BI, Sept. 27, 2004).

Reliance execs settle for \$85 million

By MEG FLETCHER

HARRISBURG, Pa.—Pennsylvania Insurance Commissioner Diane Koken said late last week that regulators have reached an \$85 million settlement of directors and officers liability claims against the defunct Reliance Insurance Group.

The mediated settlement, still subject to judicial review, will provide \$51 million to pay policyholders claims. Combined with \$45 million previously recovered from Reliance's parent companies, the settlement brings to \$96 million the amount recovered by the department for policyholders' claims, according to a department statement.

That amount, however, is dwarfed by the \$3 billion gap between Reliance's total remaining assets and its liabilities, the department estimates. The department took over the insurer in 2001 and filed the civil action against the former directors and officers in 2002.



Former Reliance CEO Saul P. Steinberg and other executives agreed to the recent settlement.

Helping to drive the settlement were mounting defense costs and some uncertainties about the ability to collect on judgments, a department spokeswoman said. Under the settlement, the \$85 million must be paid by Dec. 31, 2005.

"The goal of this settlement was to maximize the recovery for Reliance policyholders," Ms. Koken said.

The remaining \$34 million of the mediated settlement will go toward paying the bankers and creditors of Reliance Insurance Co.'s parent companies, Reliance Group Holdings Inc. and Reliance Financial Services Corp.

In addition, the settlement requires that three lead defendants—former Reliance executives Saul P. Steinberg, Robert M. Steinberg and George R. Baker—promise not to serve as officers or directors or to hold controlling interest in any insurance company domiciled, licensed or conducting business in the state for 15 years. None of the defendants admitted any wrongdoing.

According to a department spokeswoman, Reliance has \$122.8 million in D&O insurance after paying defendants bills. Reliance's D&O coverage was led by Lloyd's of London underwriters, of which

\$97.8 million in coverage remains. In addition, Reliance had \$24 million in limits from Wilmington, Del.-based Greenwich Insurance Co. and \$1.0 million from Trenton, N.J.-based Clarendon National Insurance Co.

The settlement must be approved by Judge James Gardner Colin, the president judge of the Pennsylvania court, as well as a judge in the U.S. Bankruptcy Court for the Southern District of New York, according to court documents.

Once approved, Ms. Koken's civil suit against Deloitte, Reliance's former auditor, is expected to resume, a department spokeswoman said.

Ms. Koken said in a statement that she was pleased with the settlement. "We also stand ready to assist law enforcement agencies in their continuing efforts and investigations into the collapse of the Reliance companies," she added. The department spokeswoman was unable to provide details.

Medicare managed care plans grow

By JERRY GEISEL

WASHINGTON—The potential of Medicare managed care plans to cut employers' costs while providing retired workers with richer benefits continues to improve.

Reversing a multiyear downward trend, enrollment in Medicare managed care plans is increasing once again, as plans increase benefits, cut premiums, move into new markets and return to previously abandoned ones.

In 2004, enrollment in managed care plans that participate in the government's Medicare Advantage program and provide coverage to enrollees who opt out of the traditional Medicare indemnity program rose by about 100,000, according to the Centers for Medicare & Medicaid Services, the federal agency that administers the program.

While the increase, which boosted participation to nearly 4.8 mil-

lion, is modest, it is the first time in several years that enrollment has risen.

Indeed, since it peaked in 2000 at about 6.2 million participants, enrollment has sharply fallen each year until it hit its low mark of just under 4.7 million in 2003.

The reason for the enrollment decline during the early part of the decade was simple: at a time when health care costs were surging by double digits, Congress capped the annual increase in the rate increases it provided the plans at 2%.

The result of that congressional parsimony was predictable: managed care plans by the dozens pulled out of markets or raised rates and cut benefits.

But Congress, seeing the Medicare Advantage program withering away, reversed course in 2003, when it agreed to add an additional \$1.3 billion in federal funding over the next two years to the plans as

Aided by increased federal funding, most Medicare managed care plans increased benefits or cut premiums last year, and many plans now are entering new markets

part of legislation adding a prescription drug benefit to Medicare next year.

That increase in funding translated into federal base rate increases for the plans averaging 10.6% in 2004 and 6.6% this year.

Aided by this new federal generosity, most plans increased benefits or cut premiums last year, and many plans now are entering new markets.

"It is a big turnaround and one

that is continuing," said Karen Ignagni, president of America's Health Insurance Plans, the Washington-based managed care plan and insurer trade group.

"The first step was to improve benefits, and the second step is to look at new market areas. That is what we have been doing, and that is what we will continue to do in the future," said a spokeswoman for PacifiCare Health Systems Inc., whose Secure Horizons unit is one of the biggest Medicare Advantage plans.

In fact, CMS currently has applications for 141 new Medicare Advantage plans, equal to about 75% of the plans now in the program. If all the applications are approved, more than 300 plans will be available to beneficiaries later this year, roughly equaling the number of plans that were offered in 1999, just before the big exodus from the program.

See **MEDICARE**/page 28

Inside Business Insurance

Fremont General faces fraud charges

Regulators and cedents of a Fremont General reinsurance unit charge the insurer with misappropriating assets. **Page 4**

Abandoned hockey season goes uncovered

Insurers are unlikely to be slapped with claims following the cancellation of this year's hockey season. **Page 4**

Employers stub out worker smoking

In an effort to cut health care costs and increase productivity, employers are taking radical steps to extinguish smoking by employees. **Page 4**

'Play or pay' won't solve health care problem

States should legislate to cut health care costs, not jobs, an editorial argues. **Page 8**



Claims disputes likely after huge food recall

Food companies in the United Kingdom and their insurers will likely have to grapple with product recall claims after a cancer scare. **Page 25**

Online

• The **Datebook** calendar lists upcoming industry seminars and meetings and allows you to add info about your own event.

• Searchable **directories** provide access to all the listings of industry vendors found in *BI's* Market Sourcebook.

• New **Opinion Poll** for readers: How likely is it that Congress will extend the Terrorism Risk Insurance Act this year?

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 39, No. 09, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. \$5 a copy and \$97 a year in the U.S. \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2005 by Crain Communications Inc.

Standard Mail Enclosed in Editions 05 and 06

Lawsuit alleges fraud in Fremont-Comstock merger

Separate suit by California Insurance Department says Fremont looted insurance subsidiary

By JUDY GREENWALD

SANTA MONICA, Calif.—Lawsuits filed by policyholders of a former reinsurance unit of Fremont General Corp. and by the California Insurance Department charge the company with abandoning policyholders and fraudulently appropriating its insurance units' assets as a prelude to getting out of the insurance business altogether.

The policyholders of the former reinsurance unit, Comstock Insurance Co., contend that Fremont General merged the solvent operation with another insolvent unit in

order to escape its financial obligations, leaving them with little chance of collecting their claims.

Fremont General's conduct was, "quite frankly, outrageous," said Philip Singer, chief executive officer of London-based CX Reinsurance Co. Ltd., formerly CNA Reinsurance Co. Ltd. CX Re is one of the plaintiffs in the litigation, which was filed in federal court in Los Angeles Feb. 10. "It just beggars belief that people can do this sort of thing," Mr. Singer said.

Separately, litigation filed in state court by the California Insurance Department against Santa Monica,

Calif.-based Fremont General last year charges the company with the fraudulent use of net operating loss carryforwards in its financial statements and with a "pattern and practice of looting the insurance company subsidiaries of their assets," among other charges. One of the two lawsuits filed by the department was dismissed last month, although that suit is expected to be refiled.

According to the lawsuit filed earlier this month by the reinsurance policyholders, the solvent Comstock Insurance Co. was merged into the "deeply insolvent" Fre-

mont Indemnity Co., a direct workers compensation insurer, in March 2003. Two months later, the combined operation was put into conservation, and a month later into liquidation.

But this left Comstock's reinsurance clients with little hope of being paid the funds owed it. "Policyholders of direct insurance policies are statutorily afforded a much higher priority for—and thus have a much greater chance of receiving—any distributions from the liquidating estate, as compared to cedants under reinsurance contracts, including plaintiffs," says the lawsuit,

which adds that the plaintiffs are not expected to be paid in the liquidation proceedings because of insufficient funds.

The lawsuit says that although Comstock had been in voluntary runoff since 1986 and was in "precarious financial condition," it nonetheless "would have remained solvent and been able to continue to satisfy its obligations under the reinsurance contracts" if it had not been merged into Fremont Indemnity.

The lawsuit, which seeks compensatory and punitive damages, See **FREMONT/page 29**



PHOTO: GETTY IMAGES

The canceled National Hockey League season means Chicago's United Center won't host the Blackhawks this season.

NHL is uninsured for canceled season

By GLORIA GONZALEZ

The cancellation of the 2004-05 National Hockey League season is not expected to have an impact from an insurance perspective because event cancellation based on labor disputes is not an insurable risk.

The NHL canceled its season on Feb. 16 after the league and the players union failed to reach agreement on a new contract following a six-month lockout. The NHL did not return calls for comment on its insurance arrangements or loss projections related to the cancellation. Revenues for the 2002-03 hockey season were about \$2 billion, according to the latest figures made available by the league.

The cancellation of the hockey season should not have an impact on the insurance market because coverage for the cancellation of sporting events due to labor disputes is not available, said Marc Blumencranz, executive vp of Jericho, N.Y.-based BWD Group L.L.C., the broker for the National Hockey League. "Unfortunately, years ago, the capacity for event cancellation for strikes

or lockouts became impossible to buy," he said. "You cannot get that type of insurance."

Event cancellation policies feature exclusions for labor disputes, said Lowery Robinson, president and chief executive officer of Duluth, Ga.-based Marketing Etc., a managing general agent involved in the event cancellation insurance market.

The unwillingness of underwriters to cover this type of risk stems from the 1981 Major League Baseball strike, when insurers paid teams nearly all of the \$50 million in strike coverage limits that the teams had purchased.

Underwriters "realized it was not an insurable risk," Mr. Blumencranz said.

Meanwhile, suppliers and other businesses that have lost revenues due to the cancellation of the season say they do not have insurance to cover the losses.

Nashville, Tenn.-based Central Parking Corp., which provides parking services near seven hockey arenas, will lose \$2 million in revenues and does not have insurance that would respond, a spokesman said.

Companies fight tobacco use to lower health care costs

By RUPAL PAREKH

Fed up with mounting health care costs, companies are using an array of tactics to get employees to quit—smoking cigarettes, that is.

While many employers dangle carrots such as wellness programs and cash incentives in front of smokers, a growing number of firms are opting for the stick, even vowing to fire employees who refuse to kick the habit.

Last month, Weyco Inc., an Okemos, Mich.-based health benefits administrator with about 200 employees, announced that it would no longer employ smokers. Citing costs upward of \$4,000 a year per smoker due to elevated medical bills and absenteeism, the company in late 2003 told workers that beginning Jan. 1, 2005, those who continued to smoke would be terminated. The rule prompted about a dozen workers to quit smoking, Weyco said, while seven employees chose to quit their jobs instead.

Weyco's tobacco-free policy—which mandates random carbon monoxide tests—is more extreme than most, observers say. But the company is not alone in adopting a hard-line approach to snuffing out smoking.

Omaha, Neb.-based railroad company Union Pacific

SMOKERS IN THE CROSSHAIRS

Employers are targeting smoking behaviors to reduce health care costs.

- 32% offer a smoking cessation program
- 27% have policies limiting the number of breaks employees can take during the day
- 17% have written policies stating that smoking in undesignated areas may result in termination
- 5% charge higher health care premiums for smokers
- 2% ask about smoking behavior in the recruiting process
- 0% have a formal policy against hiring smokers

Source: Society for Human Resource Management survey

Corp. last fall stopped hiring smokers in certain states, including Texas and Arkansas. Alaska Airlines requires applicants to pass a urine test for tobacco in order to be considered for employment. And this summer, Warrenton, Ill.-based Navistar International Corp. will begin increasing health insurance premiums for employees who smoke.

See **SMOKING/page 28**

Controlling asthma helps employers breathe easier

By RUPAL PAREKH

For both employers and their employees, chronic illnesses such as asthma can be particularly challenging, with associated health expenditures lasting for years. Companies may be able to curb asthma-related costs, though, by helping their employees with asthma understand and minimize their exposure to triggers and by ensuring proper access to care.

More than 20 million Americans suffer from asthma, according to the Atlanta-based U.S. Centers for Disease Control & Prevention, and experts predict that figure will rise.

"From an employer's standpoint, it is a disease with a high enough prevalence that they need to be concerned about it," said Dr. Thomas D. Barela, a Phoenix-based physician and a medical director with The Se-

gal Co. "And because employees come to work with their symptoms, it has the effect of causing decreased productivity in the workplace."

The American Lung Assn. estimates that asthmatics cost the U.S. economy \$14 billion annually, including an estimated \$9.4 million in direct health care costs and \$4.6 billion in indirect costs from lost productivity and missed workdays.

"There's no question; it's a major, major problem for employers," said Helen Darling, president of the Washington-based National Business Group on Health. For employers, "asthma and allergies are usually up there in the top five biggest health problems," Ms. Darling said.

This month, the Washington-based Asthma & Allergy Foundation of America released its "2005 U.S. Asthma Capitals Rankings." It is an annual study that evaluates the na-

WORST CITIES FOR ASTHMA

Most challenging cities to live and work in for people with asthma

1. Knoxville, Tenn.
2. Memphis, Tenn.
3. Louisville, Ky.
4. Toledo, Ohio
5. Washington, D.C.
6. St. Louis, Mo.
7. Allentown, Pa.
8. Springfield, Mass.
9. Grand Rapids, Mich.
10. Scranton, Pa.

Source: Asthma & Allergy Foundation of America

tion's 100 largest metropolitan areas based on a number of asthma risk factors, including their air quality, public smoking laws and the number of their asthma specialists per patient.

For a second consecutive year, Knoxville, Tenn., topped the list as the worst city for asthmatics to live and work in. It was followed by Memphis, Tenn.; Louisville, Ky.;

See **ASTHMA/page 6**

Asthma: Minimize trigger exposure

Continued from page 4

Toledo, Ohio; and Washington.

"It is, indeed, very commonly held that asthma is a bigger problem in the cities than in rural areas," said Mike Tringale, director of AAFA's research team for the study. Air pollution and ground ozone levels are often higher in cities, and both are related to asthma, he said.

But asthma symptoms are linked to more than just geography. "You cannot move away from your disease," Mr. Tringale said. "What you can move away from, however, are the triggers that cause your symptoms."

Medical professionals describe asthma as an unpredictable disease that is aggravated by hundreds of potential triggers that vary from person to person.

According to Ms. Darling, employees often do not "know their triggers" or those of their dependents, because they "are still not getting the tools or information they need to manage their asthma." As a result, employers' costs are driven up, as workers with asthma wind up

in the hospital even in avoidable cases.

To prevent asthma attacks, "talking to an asthma specialist is the No. 1 best strategy," said Mr. Tringale.

Employers also are increasingly turning to disease management programs to cope with individuals with chronic illnesses (*BI*, Nov. 22, 2004).

Although asthma disease management programs were among the earliest created for employers, they have been overshadowed in recent years by programs developed for diabetes, heart disease and hypertension, observers say. But a resurgence for asthma programs is occurring as companies have begun seeing significant returns on investment.

"A preponderance of asthma in employees can hurt the bottom line," said Jay Salvio, director of health management programs for the Farmington, Conn.-based managed care firm ConnectiCare Inc. "We do have a lot of interest from employers in our disease management programs now."

ConnectiCare created an asthma disease management program,

called "Breathe," and offers it at no cost to its 275,000 members.

Through its claims system, the plan identifies workers with severe, moderate, and low-risk asthma and then develops a personalized asthma management plan.

About 25,000 asthmatics are enrolled in Breathe, and according to Mr. Salvio, members' rates of hospitalization have dropped over a three-year period. Asthma "bed days" for Breathe members stood at 21.6 days annually per 1,000 members in 2001 but fell to 11.8 by 2004, while emergency room visits dropped from 39.7 visits annually per 1,000 members to 28.9 visits last year.

In evaluating and purchasing disease management programs, experts say companies should not make their decisions based on cost alone and that results should be measured once a program is implemented.

"Asthma will be a continuing issue for employers," said Bruce Kelley, senior consultant at Watson Wyatt Worldwide in Minneapolis. And "disease management will only be a small part of the solution," he said.

Paul Winston

Fear and loathing in the trial bar

A recent New York Times article, "Behind Those Medical Malpractice Rates," repeated an argument often made by opponents of tort reform that the real reason for the malpractice liability insurance crisis is not runaway jury verdicts but insurers jacking up rates to make up for poor investment returns. The story cites recent data showing payouts for malpractice claims fell in 2004, while insurance rates continued to trend upward.

An excellent counterargument to those conclusions, which trial lawyers quickly seized upon as evidence that they are not the root of the problem, is at www.pointoflaw.com. There, Walter Olson offers a lengthy critique. At the same site, Ted Frank takes a tongue-in-cheek view of the arguments made by

the trial bar and proposes a way to expose legal reformers as "charlatans."

He suggests that if the trial bar believes its propaganda—to wit: that doctors are not sued indiscriminately, with only a small percentage of doctors accounting for the majority of malpractice suits; and that caps on noneconomic damages have no real impact on insurance rates—they should launch their own malpractice insurer.

If tort reform opponents' claims are true, he reasons, they could simply experience rate all doctors they insure. If only a small number of negligent docs are at risk of being sued, the others should enjoy cheaper premiums to reflect their "true" exposure.

Also, if caps have no impact on rates, this insurer could disregard efforts to limit payouts, waiving them in states that have already imposed such limits, as a means of making its policyholders more attractive to patients who are nervous that their legal recoveries might otherwise be limited.

If trial lawyers were to invest in such an insurer, Mr. Frank writes, the benefits should be obvious:

- "Doctors get cheaper insurance rates.
- "Patients both get better health care and don't have to worry about malpractice caps.
- "Lawyers make more money than ever before, because they get both the profits from suing doctors and the 'huge profits' from running the malpractice insurance industry.
- "And legislators can forget about the malpractice debate and focus on their core mission of investigating Super Bowl halftime shows for indecency."

The weird pro

Last week, the father of gonzo journalism, Hunter S. Thompson, killed himself at age 67. It's been years, but there was a time when I used to read

everything by him I could get my hands on. In high school, "Fear and Loathing in Las Vegas" was required reading. It opened our eyes to the possibilities of a writing career fueled by anger, chemical substances and irreverence. My favorite line: "When the going gets weird, the weird turn pro."

As a Coloradoan, I also felt a kinship to him, and one spring break spent skiing in Aspen, my group of friends made a point of stopping every morning to salute his house with a can of Coors. We hollered down from the road, hoping we might impress the famous and volatile author with our gesture of appreciation, but we never saw him. Given his fondness for guns, perhaps it's a good thing. Even so, we felt he had communicated his feelings.

You see, he had painted the roof of his home so that it was visible from the road: in the center was a large hand giving the finger to all who passed, bracketed by two flying pigs.

Later, I had an opportunity to meet him. It was at a holiday party thrown by Rolling Stone magazine, where I was serving an internship.

The party was crowded, and I noticed a man who appeared to be trying to shrink into a corner under some stairs. He stood out in making such a visible effort to disappear. I realized it was the famous Hunter Thompson, but something about his manner made an approach seem inadvisable. It was if he were being assailed by the imaginary bats of his writings, and maybe he was.

While perhaps not the best of role models, he was a source of inspiration for those of us trying to make it as writers and weirdos.

Winstonia growing

The Republic of Winstonia team organized to raise funds for the St. Baldrick's Foundation's effort to cure childhood cancer is growing. Joining the team so far, in order of their immigration status, are: Joe Walker of *Business Insurance*, John Szajna of Hewitt Associates Inc., and Chuck Chamness of the National Assn. of Mutual Insurance Cos. Also, two individuals have been granted honorary team status, though shaving elsewhere: Steve Ryan of the American Institute for CPCU/Insurance Institute of America Inc., and Eric Berger of The Gray Insurance Co.

I appreciate their support of this effort and would welcome anyone wishing to join the team, or to donate to the cause. You can support both online at www.stbaldricks.org.

Editorial Director Paul Winston's commentary appears fortnightly. He can be reached at pwinston@businessinsurance.com.



Paul Winston

WITH OUR NEW NAME,
WE HAD TO MAKE
A DRAMATIC CHANGE.



THIS IS IT.



HEATH INSURANCE BROKERS WILL BE COLEMONT.

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Business Insurance

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ADVERTISING: Boston: 617-292-4856; Chicago: 312-649-5276; Irvine CA: 949-255-5355; New York: 212-210-0133
SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

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Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Fax: 312-280-3174. biweb@crain.com. Offices: 711 Third Ave., New York, N.Y. 10017-5806. Fax: 212-210-0704; 71121 Minkler St., Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048-4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 34 Southwark Bridge Road, London SE1 9EU, Fax: +44-(0)20-7457-1440; 8157 N. Torrey Place, Tucson, Ariz. 85743, Fax: 520-579-3476; 1746 Cole Blvd., Suite 150, Golden, Colo. 80401, Fax: 303-733-9941; 1133 W. 108th St., Overland Park, Kan. 66210, Fax: 312-280-3174; 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704. 4 Executive Circle, Suite 185, Irvine, CA 92614-6791. \$5 a copy and \$97 a year in the U.S., \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Rudolf Von Bartsch, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Karen Brown Tucker, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806, 312-649-5319, Fax: 312-280-3174.

Editorial

'Play or pay' is not good medicine

WE ARE SURE most employers, if they could afford to do so, would provide employees with good health insurance and pay a generous share of the premium.

Regrettably, though, with the average premium per employee now exceeding \$7,000, not every employer can afford to pay for coverage, much less a significant share of it.

That is something Washington state legislators need to think about as they consider so-called "play or pay" health care legislation.

As we report on page one, employers with at least 50 employees would be assessed a fee that would be used to help fund a health insurance plan offered through the state. However, that fee would be offset by the amount of money employers pay for health insurance. Employers with reasonably generous plans likely would not have to pay the fee.

The Washington state proposal bears a strong resemblance to legislation Massachusetts lawmakers enacted in 1988.

Washington legislators perhaps need to be reminded of what happened to the Massachusetts play or pay law. While initially hailed as a model, it never was implemented and ultimately legislators repealed it.

That turn of events came as employers, especially smaller firms, argued that the law's negative effects far outweighed the positive. They warned of job losses, saying some employers facing the levy would relocate to other states while others would reduce their workforces.

No one knows if that would have happened. But California voters apparently understood that threat to job security when they voted last year to repeal a 2003 play-or-pay health care mandate.

Simply put, what good is an employer health care mandate if the result is fewer jobs for state residents?

We think the wiser course of action for state legislators is to take steps to reduce the cost of health insurance, making it more likely that employers will offer coverage.

Such steps could include, for example, requiring hospitals and other health care providers to open up their cost and quality information to enable consumers to make better, more cost-effective choices when using health care services.

Other, better choices than a play-or-pay approach that places the full cost burden on employers would be lowering eligibility requirements for Medicaid and expanding state-subsidized programs for those having problems getting coverage in the commercial market.

HUD eliminates illogical LTC rule

WHY A FEDERAL agency last year decided to discriminate against long-term care facilities that use risk retention groups and other alternative risk financing vehicles to fund professional liability exposures escaped us.

But whatever reason the Department of Housing and Urban Development had when it proposed rules that effectively would have denied federal guarantees of mortgages or other real estate loans for long-term care facilities that fund liability coverages through RRGs, we are glad to see HUD has reversed course.

As we recently reported, HUD has rescinded a part of a proposed rule that would have required long-term care facilities to purchase professional liability coverage from insurers licensed in the states where the facilities are located in order to obtain the federal loan guarantees.

In one fell swoop, that requirement would have eliminated RRGs as an insurance funding vehicle for many multistate long-term care facilities.

That is because under federal law, an RRG can provide coverage in any state in which it has members after meeting the licensing requirements of one state. As a result, RRGs typically are set up in states with attractive captive statutes and then write coverage in any state in which they have policyholders.

Congress established this one-step-licensing feature to reduce barriers and costs, such as the need to use a fronting insurer, that had previously prevented buyers from setting up captives.

In effect, through its multistate licensing requirement, the HUD proposal would have eliminated RRGs—regardless of how soundly capitalized and designed they were—as a funding option for many LTC facilities.

The irony of the situation created by the HUD proposal was obvious. Risk retention groups were created through federal law, with that law laying out the rules on how those groups could operate.

Yet, here were federal regulators using their own rules to make it virtually impossible for most long-term care facilities seeking federal loan guarantees to use RRGs. It was a clear case of discrimination against risk retention groups.

HUD belatedly recognized that its proposed rule clashed with the Risk Retention Act licensing rules, and the agency has eliminated the requirement that a facility's insurer be licensed in the state where the facility is based.

With the illogical HUD requirement now out of the way, long-term care facilities once again have a real-world alternative to the commercial market, where coverage, in recent years, has been expensive and not always easy to obtain.

Schillerstrom



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EPLI coverage not a given in wage-and-hour suits

By Dale Diamond

Who is exempt and who isn't for overtime pay is increasingly becoming a litigated issue, including what job criteria determines into which category an employee falls.

Some of the cause for increased litigation stems from the fact the Fair Labor Standards Act, which sets basic minimum wage and overtime pay standards, had not been updated since it was promulgated in 1938 and subsequently modified in 1949 and



Labor Standards Act regulations had become outdated, subjectively

The number of lawsuits and complaints to the U.S. Department of Labor alleging job 'misclassification' and the resulting loss of overtime pay has ballooned.

1975. As a result, Fair

interpreted and irrelevant to many of the job categories of today's workforce.

The number of federal and state class action lawsuits and complaints to the U.S. Department

of Labor alleging job "misclassification" and the resulting loss of overtime pay has ballooned, along with the amount of money employers have been made to forfeit in back pay and defense costs.

The department's FairPay Overtime Initiative was promulgated in an attempt to remedy this situation; it went into effect Aug. 23, 2004. The initiative raised the salary threshold below which workers automatically qualify for overtime from \$155 a week to \$425 a week—or from

\$8,060 per year to \$22,100 per year.

Other changes included revising the job duties that qualify for the exemption "to better correspond to 21st-century workplace realities. The old 1949 regulations mention classifications that no longer exist, such as keypunch operators, straw bosses, leg men and gang leaders."

Little effect on litigation

Not everyone believes that FairPay will diminish litigation, at least in the near term.

The new regulations are not expected to have much effect on litigation brought under laws in states that, like California, impose different and more stringent requirements than the Fair Labor Standards Act. When an employee falls under both state and federal overtime laws, that employee is covered by whichever law sets the higher rate of pay.

Employers that look for insurance protection from their employment practices liability insurance policies may find no clear assurances as to coverage. Many insurers deny coverage for FLSA claims on the basis that the claims stem from misclassification which is characterized as a business risk that is uninsurable, rather than from discrimination.

To cover these claims would make the insurer a guarantor of the employers' payroll, they argue. Many, if not most, EPLI policies contain exclusions for claims stemming from FLSA-related provisions and similar provisions in state laws.

Hidden perils

In addition, claims of employee misclassification are not listed among the named perils that are found in the employment practices liability insurance policies that grant coverage in that fashion.

However, the EPLI policy exclusions for claims made "for violation of any (of the) responsibilities, obligations or duties imposed by the FLSA (or any) similar provisions of any federal, state or local law" do not always negate coverage for the defense and indemnity of allegations of a state wage-and-hour suit.

A judge looking to find coverage under the policy may argue that wage-and-hour suits are filed under state laws because of the differences, not the similarities, between the state wage-and-hour laws and the FLSA.

The potential value of EPLI coverage in wage-and-hour claims and lawsuits will depend upon individual policy language and case circumstances.

Dale Diamond is the employment practices liability insurance program manager at specialty insurer Shand Morahan Co. in Deerfield, Ill.



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Inside

Annual ranking of largest PBM

The nation's largest prescription benefits managers are ranked by revenues from unbundled PBM services, covered lives and workers compensation lives.
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Largest providers of case management

Charts compiled by *Business Insurance* rank the largest case management service providers by gross revenues as well as employer clients.
Page 18

Benefit procurement techniques advance

Technological advances are helping to generate more employer interest in benefit procurement strategies as a means of improving efficiency and cutting benefits costs.
Page 19

Employers offer help to high-risk moms

Employers seeking to reduce the instances of high-risk pregnancies are seeking to intervene early to help employees reduce the risk of premature births.
Page 22

Cost containment survey seeking input

A national survey on health care cost containment strategies is being conducted to develop an index for employers, and employee benefit managers and benefit executives are invited to participate.
Page 24

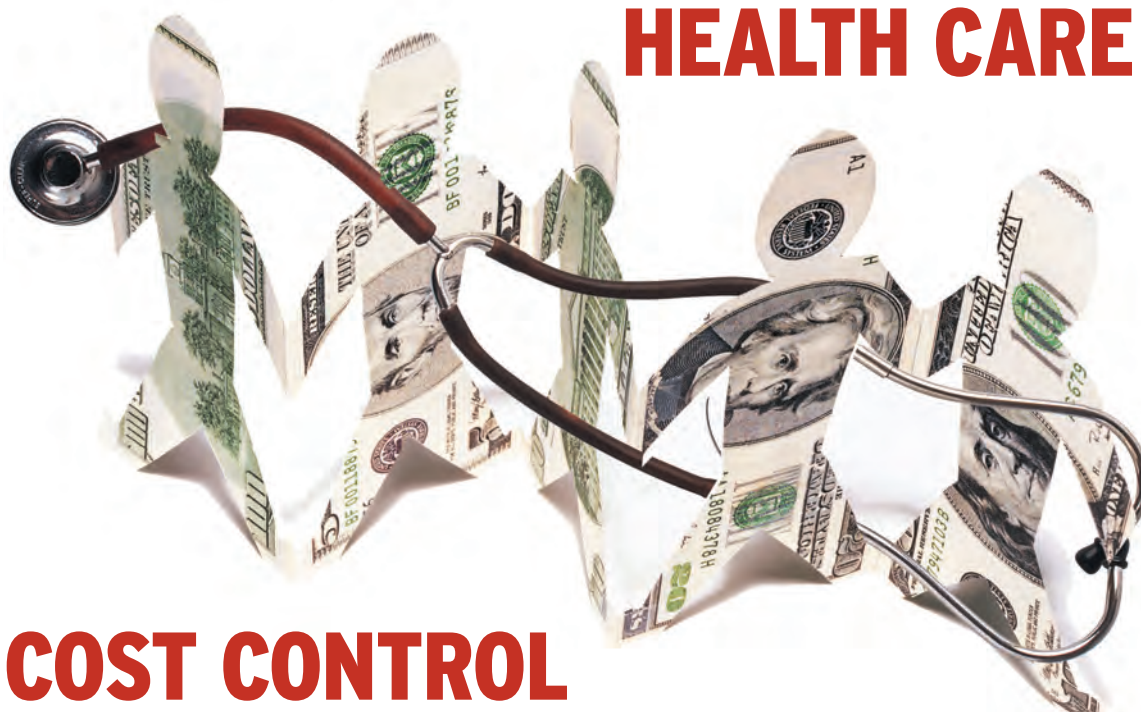
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HEALTH CARE

COST CONTROL

New approach addresses root causes of illnesses

By SALLY ROBERTS

More employers are finding that disability management programs, while important, are not going far enough to curb rising health care costs.

By focusing just on the small percentage of employees who are the greatest users of health care, the vast majority of an employee population—many of whom may be at high risk for developing high-cost chronic conditions in the future—gets ignored.

Employers hope that by taking a more-comprehensive approach to health care, which includes early intervention and disease management, they will keep their employees healthy and rising health care costs at bay and, at the same time, reduce the indirect costs associated with absenteeism and presenteeism.

The approach—known as “population health management”—is gaining momentum, especially among employers that have done all they can in terms of shift-

ing rising health care costs onto employees and making their health plans as efficient as possible, observers say.

“What we’re looking at is cost avoidance here,” said David R. Groves, vp-corporate health management for Comerica Inc. in Detroit, which has embraced a population health management approach. “Cost reduction is great, but it’s becoming tougher and tougher, because people are getting older and they do have the chronic conditions. But what you can do to avoid costs is to do the types of programs we’re doing.”

Indeed, “traditional disease management has only looked at 20% of the population that has driven 80% of the cost, and that’s good,” acknowledged Gregg O. Lehman, chief executive officer of Gordian Health Solutions Inc., a population health management firm based in Nashville, Tenn. “But they’re only dealing with the people that are driving most of the cost. What are they doing to keep from filling that bucket again year after

See **APPROACH**/page 22

Direct contracting helps rural employers wield clout

By ROBERTO CENICEROS

Direct contracting with medical providers has rarely been an attractive option for employers in urban areas, but employers in rural regions have won sizable cost reductions and gained other advantages through the practice.

Employers with large employee populations whose influence in urban areas would be limited are sometimes able to wield significant clout in rural areas, where they employ a significant proportion of the

local hospitals’ and doctors’ patients, employers and consultants say.

Direct contracting also enables employers to develop closer relationships with medical providers and enables them to resolve difficulties more efficiently, they say.

In direct contracting, employers form their own medical networks rather than contract with established health maintenance organizations or preferred provider organizations.

Perdue Farms Inc.’s use of direct

contracts has become a key part of its cost control strategy and helps it provide better care for the company’s workers, said Dr. Roger Merrill, chief medical officer at the Salisbury, Md.-based poultry processing company.

Perdue contracts directly with 60 hospitals and 5,000 doctors in networks that care for more than 21,000 employees and 45,000 covered lives across 14 states.

Most of Perdue’s workers live in rural areas, although some are near

See **DIRECT**/page 12

Discount cards may find wider appeal as health care cover changes

By JOANNE WOJCIK

Burgeoning interest in high-deductible health insurance plans linked to health savings accounts and last month’s introduction of a low-cost health benefit program for the uninsured that includes discount medical cards is increasing interest in the cards.

Though discount medical cards are not new, their use has been largely limited to ancillary benefits, such as vision and dental coverage and prescription drugs, and they have been sold mostly to individuals or through affinity groups. Only recently has their use been expanded into paying for medical services, including payments to doctors and hospitals, and marketed directly to employers.

But as more employers offer consumer-driven health plans featuring high deductibles linked to HSAs and health reimbursement arrangements, the cards may gain appeal, industry sources say.

Last month’s launch of a low-cost health benefit program that includes as one option a discount card from UnitedHealth Group Inc.’s Health Allies subsidiary, is already boosting the cards’ visibility.

And though only two states currently regulate the discount medical card industry, at least 15 other states are considering legislation to protect consumers from unscrupulous vendors by establishing standards for the industry to follow.

Kip Wall, chief executive officer of the state of Louisiana’s office of employee benefits, has looked at the use of discount medical cards as a possible solution to the state’s problem of having so many of its 140,000 employees and dependents go without at least some form of health care, often using hospital emergency rooms that cannot turn them away.

But many of the state’s employees are low-wage earners who do not participate in the state’s health plan because they cannot afford the contributions and the discount card would provide little assistance, he said.

“Unless a person is relatively healthy, this card is not going to afford them any significant coverage. A night in the hospital could be \$5,000 to \$10,000. And even though a discount might help

See **CARDS**/page 20

Direct: Rural employers take to direct contracting

Continued from page 11

population centers such as Richmond, Va., noted Dr. Merrill.

The company has participated in direct contracting for about 10 years and also operates medical clinics and laboratories at its work sites. As a result, employees can easily access high-quality health care and company-sponsored disease management programs, he said.

While similarly sized employers saw their medical inflation rate rise about 17% last year, Perdue's health costs decreased slightly, Dr. Merrill said.

Direct contracting also fosters

close contact between the employer and doctors, he said, so if employees and providers encounter difficulties that they need help resolving, they can contact Perdue directly rather than turn to an insurer, which, as an intermediary, may not be familiar with a particular employee.

Cost reductions and a closer relationship between employers and providers are the two main advantages of direct contracting, agreed Dr. Paul Wernick, a senior consultant for Watson Wyatt in Minneapolis.

Direct contracting is most likely

to present major advantages for large employers in rural areas, Dr.

Perdue Farms Inc.'s use of direct contracts has become a key part of its cost control strategy and helps it provide better care for the company's workers.

Wernick said. Employers have more clout in those settings, because

their employees make up a larger portion of an area's overall population. Thus, they can deliver a significant portion of the area's population to doctors they contract with in return for beneficial financial terms and care standards.

Brenham, Texas-based Blue Bell Creameries set up its own provider networks contracting directly with doctors about 10 years ago for workers at about 40 locations in 14 states, said Bill Rankin, chief financial officer. The savings have been "huge," he said.

But it's growing increasingly difficult to obtain advantageous finan-

cial terms from hospitals, Mr. Rankin noted.

Hospitals are under financial pressures themselves, Mr. Rankin acknowledged, and they are becoming more aggressive in billing employers.

For example, hospitals that previously provided care on a daily basis, under which they charged a set amount for each employee they cared for no matter the health issue, now include stop-loss caps in their contracts, he said.

Under stop-loss arrangements, once care costs exceed a certain amount, typically \$60,000 to \$80,000, the daily rate no longer applies and an employer must pay a certain percent of the total care costs, Mr. Rankin explained.

Still, Blue Bell has no plans to abandon its direct contract program.

There are financial and quality health care advantages that companies can still derive from contracting directly with doctor networks, said A.J. Lester, president of A.J. Lester & Associates, a benefits consultant in Houston whose clients include Perdue and Blue Bell.

And while more hospitals decline daily contracts, some will agree to a "diagnostic-related group" billing system, in which the price for specific treatments is agreed to up front, when contracts are signed, he said.

Despite some restrictions, direct contracting holds an attraction for employers and is even being used for workers in urban areas, Mr. Lester noted.

Benefit consultants note that direct contracting traditionally has not been attractive to most urban employers, because their workers account for only a small percentage of any individual doctor's practice. A much broader network is also necessary for a massive urban setting than for a confined area. Additionally, health maintenance organizations and preferred provider networks are able to dominate the market in large cities, because they can steer much larger employee concentrations to providers than can even large single employers.

But some employers have been so successful with their direct contracts in rural areas that they have spread the practice to cities where they also operate. "Some of our clients actually have their own direct networks in places like Houston; Dallas; Little Rock; New Orleans; and Birmingham, Ala.," Mr. Lester said.

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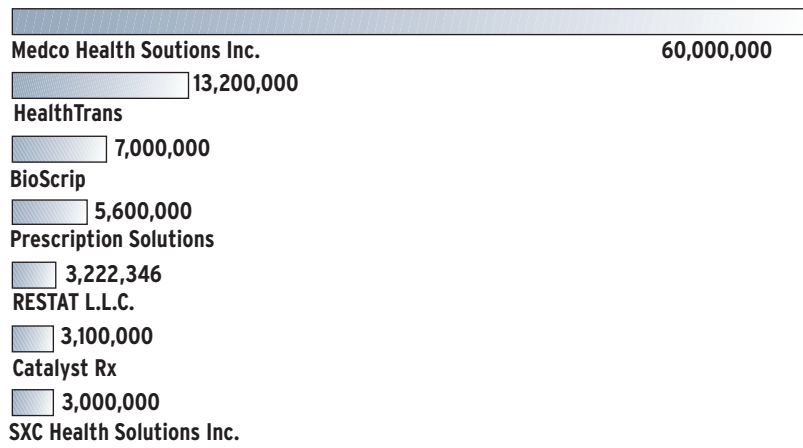
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LARGEST PBMs BY COVERED LIVES

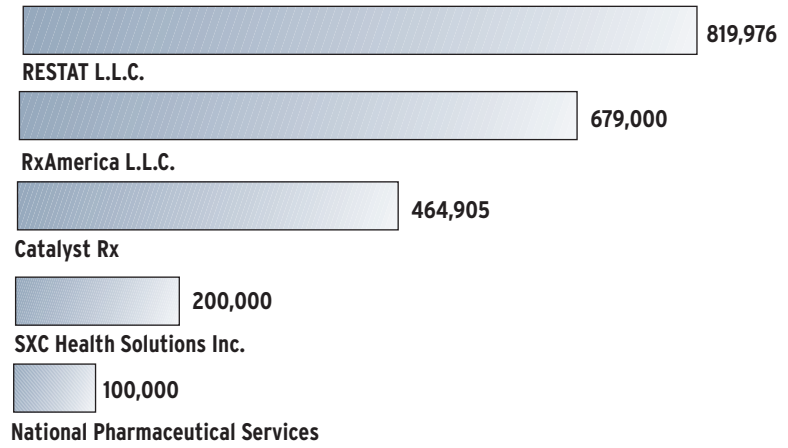
Ranked by total group plan lives enrolled



Source: BI survey

LARGEST PBMs BY WORKERS COMP LIVES

Ranked by number of workers compensation lives enrolled



Source: BI survey

Largest prescription benefit managers

Ranked by 2004 revenues from unbundled PBM services

Rank	Company/Address	Phone/Fax/Web site	Parent	PBM revenues	Total staff	Total clients	Covered lives	Principal officer
1	Medco Health Solutions Inc. 100 Parsons Pond Drive Franklin Lakes, N.J. 07417	201-269-3400 www.medco.com	-	\$35,400,000,000	13,600	NA	60,000,000	David B. Snow Jr., chairman/president/ CEO
2	Caremark Rx Inc. 211 Commerce, Suite 800 Nashville, Tenn. 37201	800-633-9509 Fax: 615-743-6597 www.caremark.com	-	\$25,600,000,000	11,000 ¹	2,000 ¹	NA	Edwin M. Crawford, chairman/president/ CEO
3	Express Scripts Inc. 13900 Riverport Drive Maryland Heights, Mo. 63043	314-770-1666 Fax: 314-702-7059 www.expressscripts.com	-	\$14,600,000,000 ²	NA	NA	NA	Barrett A. Toan, chairman/CEO
4	RESTAT L.L.C. 724 Elm St. West Bend, Wis. 53095	800-926-5858 Fax: 262-808-4260 www.restat.com	The F. Dohmen Co.	\$963,648,099	108	3,546	3,222,346	Michael Clark, president
5	Prescription Solutions 3515 Harbor Blvd. Costa Mesa, Calif. 92626	888-398-5189 Fax: 714-825-6827 www.rxsolutions.com	PacifiCare Healthsystems Inc.	\$703,000,000	831	110	5,600,000	Ed Feaver, president
6	RxAmerica L.L.C. 221 N. Charles Lindbergh Drive Salt Lake City, Utah 84116	801-961-6000 Fax: 801-961-6111 www.rxamerica.com	Longs Drug Stores	\$610,000,000	200	209	4,800,000	John Gardynik, president
7	Catalyst Rx 800 King Farm Blvd. Rockville, Md. 20850	301-548-2900 Fax: 240-268-3112 www.catalystrx.com	HealthExtras Inc.	\$472,000,000	215	1,356	3,100,000	David Blair, CEO
8	BioScrip ³ 100 Clearbrook Road Elmsford, N.Y. 15013	888-818-3939 Fax: 877-347-1448 www.scripsolutions.com	MIM Corp.	\$300,000,000 ¹	254	350	7,000,000	Richard Friedman, chairman/CEO
9	National Pharmaceutical Services 14301 First National Bank Parkway, Suite 200 Omaha, Neb. 68154	402-964-9030 Fax: 402-964-9004 www.pti-nps.com	Pharmaceutical Technologies Inc.	\$250,000,000	45	3,700	1,500,000	Douglas M. Pick, president/CEO
10	HealthTrans 6061 S. Willow Drive, Suite 125 Greenwood Village, Colo. 80111	800-950-9120 Fax: 303-221-7775 www.healthtrans.com	-	\$68,000,000	92	26	13,200,000	Jack McClurg, CEO

¹ Estimated ² BI Estimate ³ Formerly ScripSolutions Inc. NA=Not Available
Source: BI survey

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Employers see benefit in procurement process

New technology secures 'the best rate' for the client

By GLORIA GONZALEZ

Employers are showing increased interest in benefit procurement strategies because of improved technology that has made the procurement process more efficient and less costly.

Costa Mesa, Calif.-based UltraLink, an employee benefits consulting and administration firm, handles procurement negotiations with insurers on behalf of several dozen employer clients, said J. Stephen Ashley, UltraLink's senior vp of client consulting services. The company defines its procurement strategy as trying to obtain the best—though not necessarily the lowest—rate for a particular benefit plan that supports the overall corporate goals and strategies of its employer clients, he said.

UltraLink does not settle for the rates initially proposed by insurers, because they are often based on old claims experience and conservative projections of future claims, Mr. Ashley said. "We negotiate back and forth and come up with a number everyone is comfortable with," he said. "Our goal is to find the right rate for everyone."

The company analyzes three key factors when determining what the ideal rates should be, Mr. Ashley said. The first factor is the design of an employer's benefit plan and its co-payment and co-insurance features, which UltraLink helps its employer clients finalize, he said.

The second factor is the location of the company's business units and its employee population. Rather than using the national average of health care costs to determine rates, the company uses it as a benchmark and evaluates it against the factors of a particular geography that might lower the costs of providing health care in the area. For example, the company has determined that rates in the Miami-Fort Lauderdale, Fla., area should be lower than the national average because the large number of providers has increased competition in the region.

"The dynamics of the market still have a lot to do with the cost of care," Mr. Ashley said. "Medical care is still a local business."

The third factor is the age and gender demographics of the employee population, he said. For example, health care costs for an industrial company with a predominantly older, male employee population might be above the national average, while a technology company with a predominately younger, male workforce might cost less to insure.

UltraLink incorporates all this information into its online procurement tool, iProcure, to analyze the data, develop requests for proposals and collect insurer responses.

San Francisco-based BenefitPoint Inc. created its own procurement software platform that addresses some of the technological chal-

lenges that had previously slowed down the procurement process, namely the security of the information being transmitted, said Kurt de Grosz, senior vp, sales and marketing. The company's Aptus platform connects benefit managers and brokers with insurers online through a secure, efficient channel through which insurers can view RFPs, make changes and quote prices, he said. "The industry needs to become more efficient, and employers are starting to demand it," Mr. de Grosz said.

Enhanced technology has enabled companies to use procurement strategies that have been around for many years by making data collection more comprehensive and efficient, consultants say. For example, historical data can be easily stored and reviewed to assess a vendor now and in the future, consultants say.

"Data is stored electronically, so you can more efficiently call it up and more efficiently mine it," said Ted Chien, global practice director, group benefits and health care for Watson Wyatt Worldwide in Minneapolis.

Companies also can collect and compare information from different insurers about a variety of topics, including plan adjustments, communication activities, provider relationships and reimbursement methods, tools to support employees and their dependents and reporting capabilities. "You're really

unlimited in what you can ask," Mr. Chien said.

Another key benefit is the transparency of the bidding process, which observers say is important due to the increased emphasis on the full disclosure of insurance placements. Using the Aptus system, for example, employers have the ability to access all information, including quotes, related to their RFPs, Mr. de Grosz said. "There's real visibility as to what happened in the procurement process," he said.

There are two main areas of savings for companies that use this

'The dynamics of the market still have a lot to do with the cost of care....Medical care is still a local business.'

*J. Stephen Ashley
UltraLink*

technology in the procurement process, Mr. Chien said. The process is more efficient because there is less paperwork, and the broker is able to collect a lot more data, he said. It also makes the process more competitive, because more insurers respond to online RFPs than to those sent through the mail or through unsecured channels, he said.

"You're doing less manual work, more on an automated basis, which is more cost effective," Mr. Chien said. "You can go out to more com-

panies on an automated basis than you can on a manual basis."

"It allows the broker to go out to a broader market," Mr. de Grosz agreed. "It ultimately ends up lowering costs for the consumer."

Procurement negotiations can also include certain performance guarantees that an insurer must meet or risk financial consequences, said Barry Barnett, a principal with the health care practice of New York-based PricewaterhouseCoopers HR Services. For example, if an insurer says its disease management program will save \$2 for every \$1 spent, the broker or consultant will ask the insurer to put its fees on the line if the insurer fails to meet the guarantees. "They pay money back if they don't meet the benchmarks," Mr. Barnett said.

Companies involved in the procurement process say these strategies have produced significant financial results. UltraLink, for example, has saved its clients more than \$100 million in the last four years through the use of its procurement strategies, Mr. Ashley said.

UltraLink's client list includes Fort Worth, Texas-based American Airlines and Orlando, Fla.-based Darden Restaurants Inc.

Going forward, interest in procurement strategies will continue to increase as the technology becomes even more sophisticated, observers predict. "This is the way procurement is going to be coordinated in the future," Mr. de Grosz said.



A mountain of knowledge

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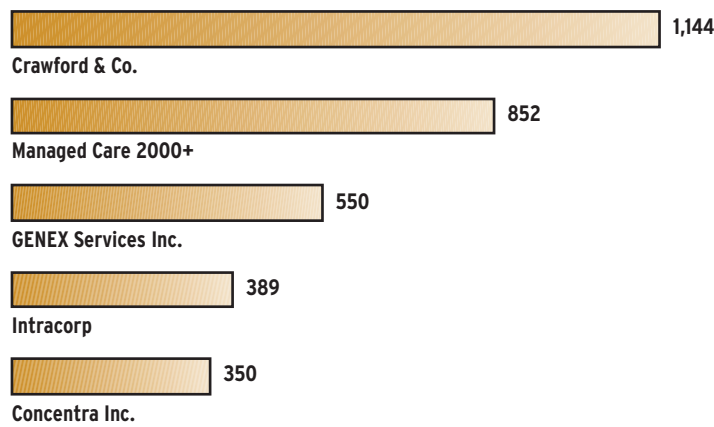
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LARGEST CASE MANAGERS BY EMPLOYER CLIENTS

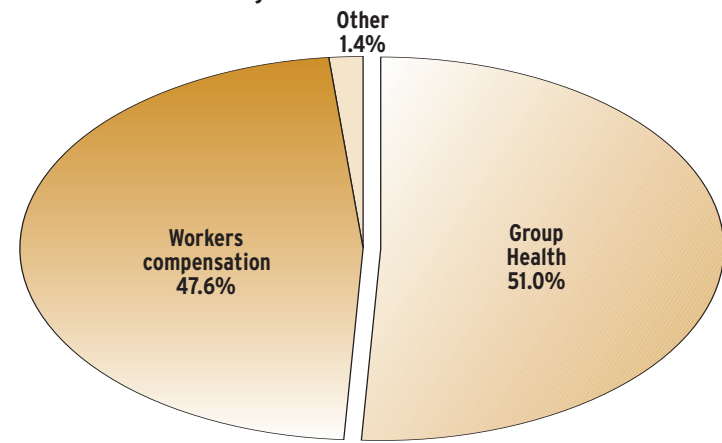
Ranked by number of employer clients in 2004



Source: BI Survey

TYPE OF CLAIMS MANAGED

Percent of total cases managed



Source: BI Survey

Largest case management providers

Ranked by 2004 gross revenues from case management services

Rank	Company/Address	Telephone/Fax/Web site	Parent	Case management revenues	Total employees assigned to case management	Certified Case Managers	Total cases managed	Principal officer
1	Intracorp 1601 Chestnut St. Philadelphia, Pa. 19192	800-345-1075 Fax: 215-761-5538 www.intracorp.com	CIGNA Corp.	\$495,000,000	3,998	2,352	1,392,556	Kenneth R. Ross, president
2	Concentra Inc. 5080 Spectrum Drive, Suite 400W Addison, Texas 75001-4648	800-232-3550 Fax: 972-387-0550 www.concentra.com	-	\$189,000,000	2,000	740	200,000	Dan Thomas, CEO
3	GENEX Services Inc. 440 E. Swedesford Road, Suite 1000 Wayne, Pa. 19087	610-964-5100 Fax: 610-964-1919 www.genexservices.com	UnumProvident Corp.	\$155,000,000	1,038	387	145,000	Peter C. Madeja, president/CEO
4	CorVel Corp. 2010 Main St., Suite 600 Irvine, Calif. 92614	949-851-1473 Fax: 949-851-1469 www.corvel.com	-	\$135,000,000	2,000	350	200,000 ¹	V. Gordon Clemons, CEO
5	Broadspire Services Inc. 1601 S.W. 80th Terrace Plantation, Fla. 33324	954-693-1147 Fax: 954-693-4074 www.choosebroadspire.com	Platinum Equity L.L.C.	\$65,000,000	1,277	363	57,919	Dennis Replogle, president/CEO
6	SHPS 11405 Bluegrass Parkway Louisville, Ky. 40207	888-421-7477 Fax: 502-263-5610 www.shps.com	SHPS Inc.	\$58,000,000	312	84	205,226	Dave Nelson, president/CEO
7	Crawford & Co. 5620 Glenridge Drive N.E. Atlanta, Ga. 30342	800-241-2541 Fax: 404-845-3155 www.crawfordandcompany.com	-	\$46,622,000	472	120	37,468	Tom Crawford, president/CEO
8	ENCOMPASS Health Management Systems 6000 Westown Parkway West Des Moines, Iowa 50266	515-223-2900 Fax: 515-273-8767 www.encompassonline.com	Iowa Foundation for Medical Care	\$15,000,000	71	19	11,400	Don Lovasz, president
9	MedInsights Inc. 4360 Chamblee Dunwoody Road Atlanta, Ga. 30341	770-457-2400 Fax: 770-457-1500 www.medinsights.com	GAB Robins North America Inc.	\$14,000,000	125	65	9,104	Paul Bode, senior vp
10	Avidyn Health 8625 King George Drive, Suite 400 Dallas, Texas 75235	214-920-9076 Fax: 214-920-9370 www.avidynhealth.com	Fiserv Inc.	\$11,000,000	67	67	11,192	John Weymer, president/CEO

Companies that derive 100% of case management revenue from specialized case management services are not ranked. 1 Estimated.

Source: BI survey

Visit www.businessinsurance.com for the full searchable Case Management directory

Cards: Wider appeal with expanded use

Continued from page 11

some, it's not going to protect them in the event of a major medical event," Mr. Wall said.

He has also been skeptical of the discounts the cards are said to provide.

"Are you really getting a discount? How do you verify the discount? How do you verify utilization? Are you really giving these employees something of value?" he queried.

Group rates

But Mr. Wall's attitude recently changed somewhat with the introduction of National Health Access, the brainchild of the Affordable Health Care Solutions Coalition. The coalition, which is comprised of human resource executives from Fortune 300 companies, was formed last May by the Washington-based HR Policy Assn. to find a solution to the growing number of uninsured part-time and contract workers not eligible to participate in their employers' health plans.

"It's worth a look," he said, "because UnitedHealth is involved."

A discount card developed by Minneapolis-based Health Allies, which was acquired by Minnetonka, Minn.-based UnitedHealth in 2003, will be the lowest cost option among six available through National Health Access, averaging less than \$5 a month. The card allows users to receive health care services, including doctors' office visits, hospital stays, pharmacy benefits and behavioral health at the same price

UnitedHealth pays its network providers under contract. Other similar discount medical cards offer comparable discounts because they usually subcontract with established national preferred provider networks, including Beech Street Corp. of Lake Forest, Calif.; PPO Next of Long Beach, Calif.; and Galaxy Health Network Inc. of Arlington, Texas.

"UnitedHealth's entry into the health discount card market could be a catalyst for growth among employers," predicted Tom Billet, senior consultant at Watson Wyatt Worldwide Inc. in Stamford, Conn. "Up until now, it has been more of an individual market."

For example, many discount medical cards are marketed to individuals over the Internet or affinity groups such as AARP.

"The largest health plan in the U.S. is sponsoring it," Mr. Billet noted. "And it has the seal of approval of a number of major national employers. That's a big difference from somebody just getting a flyer in the mail or finding out on the Internet."

Alliance HealthCare, a Norcross, Ga.-based discount card vendor, said it has been getting a lot of calls since the HR Policy Assn.'s announcement.

"If nothing else, it definitely has raised awareness and visibility," said Thomas Kiser, president and co-founder of Alliance. "The part-timers, the seasonals, the contract workers; this is an underserved market," he said.

Terry Tullo, president of New Benefits Ltd. in Dallas, said the

growth of the HSA market is also sparking more interest in the cards.

"The high-deductible plans work beautifully with the discount cards," she said.

Even when HSAs include access to discounted provider networks, "they could be used for ancillary services such as vision, chiropractic, dental or alternative medicine," Ms. Tullo said.

Some employers are already offering discount cards to participants in their benefit plans as an added perk.

Although Mike Wrigley's initial objective in offering Alliance HealthCare's card to his employees at Label Source Inc. in Atlanta was to provide some assistance to those not covered by the company's health plan, nearly half of the employees that have full insurance use the health card as a supplement to cover vision and dental care, he said.

And even though Mr. Wrigley, co-founder and secretary/treasurer of Label Source, has health care coverage through his wife's employer's plan, he is considering using the card to help pay for his daughter's orthodontia.

The cards also can be used to obtain discounts on many health care-related services that usually aren't covered by insurance, such as weight loss programs, fitness centers and infertility counseling, according to Andy Slavitt, founder of Health Allies, who now serves as managing director of UnitedHealth's Center for Affordable Consumer Health.

"Other employers offer it with a subsidy to train people to be better

WHO'S IN THE CARDS FOR MEDICAL DISCOUNTS

Alliance HealthCard

www.alliancehealthcard.com

AmeriPlan

www.ameriplanusa.com

Best Benefits

www.bestbenefits.com

Care Entrée

www.careentree.com

CAREINGTON International

www.careington.com

Health Allies

www.healthallies.com

New Benefits Ltd.

www.newbenefits.com

ProCare HealthPlans Inc.

www.procarecard.com

(ProCare is a private-label reseller of New Benefits' cards.)

Note: This is not a comprehensive list but a sampling of the market based on interviews with other card vendors. AmeriPlan, Best Benefits, Care Entrée, CAREINGTON International and New Benefits are members of the board of directors of the Consumer Health Alliance, the national trade industry group for discount card vendors.

health care consumers, to get people to put more money into their FSAs, which helps employers' tax burdens," he said. "They've been cutting back on benefits every year for the last number of years, and they feel that if they add this, it will help balance off when we cut a certain benefit or raise their co-pay or their monthly contributions."

"It's all about cost containment and finding innovative ways to do it in this world of consumerism," Ms. Tullo agreed.

But not all discount cards are worthwhile, and it behooves an employer considering offering one to make sure the vendor and the discounts are real, Mr. Slavitt warned.

"There's a whole cottage industry out there," he said. "It's so easy to get into this business. You can call any of these PPO networks and ask to contract with them."

"There are some people in the last year or two that have popped up that are relatively fly-by-nights," said Mr. Kiser without giving names.

State regulators have stepped up their scrutiny of discount card vendors and have been warning the

public about potential scams. Eliot Spitzer, the New York attorney general known for his prominent probes into the mutual fund industry and, more recently, the insurance industry, has a consumer protection brochure posted on his Web site. And the Florida Legislature recently enacted onerous regulatory legislation that takes effect March 31.

Not insurance

In particular, state lawmakers are concerned about some card vendors marketing the cards as insurance, which they are not.

"A lot of vendors are misrepresenting the product," Ms. Tullo acknowledged.

Concern about such misrepresentation is one of the reasons Mr. Wall has been hesitant to offer discount cards to the state's employees.

"They look at us as the entity that provides insurance. We would have to clearly distinguish that 'No, this isn't insurance; this is just a discount,' and many people would see our name on it, our brand on it, and they would think 'I've got some coverage here.' And, in fact, they would not," he said.

"Remember, we've got 280,000 lives, roughly 140,000 employees. We don't have the ability to go out and interact with these employees on a one-on-one basis, so the educational process is really difficult," Mr. Wall said.

Though Florida is one of just two states—the other being Illinois—with laws specifically addressing discount medical card vendors, 21 other states have some kind of legislation on the books that would apply to them, and legislatures in 15 states have bills under consideration.

"They're all heading toward what Florida has done," said Ms. Tullo, "but I think it's good for the industry."

Ms. Tullo is among a small group of card vendors, known as the Consumer Health Alliance, a national group working with the National Assn. of Insurance Commissioners and attorneys general in several states on crafting model legislation to govern the industry.

This regulatory crackdown, along with the new competitive environment being created by the growth of consumerism in health care, should force the bad actors out of business, leaving only the strongest card vendors behind, Mr. Kiser predicted.

"There will be a weeding-out process," he said.

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Maternity programs monitor high-risk pregnancies

By GLORIA GONZALEZ

When Bank of America looked at its maternity claims for the past few years, the company realized that there was a missed opportunity to address some of the costs and complications caused by high-risk pregnancies.

The company's traditional maternity management programs were doing an adequate job of providing basic information to its mothers-to-be but were seeing a higher-than-expected rate of costly, complex deliveries, said James Huffman, senior vp of global benefits. In 2003, 76 complex delivery cases cost the company \$11 million in

claims, he said.

The Charlotte, N.C.-based company, with an employee population that is 70% female and at an average age of 38, decided it needed to specifically address these high-risk maternity claims, he said. This year, Bank of America is launching a care management program focused on identifying its pregnant employees who are at high risk for complications and aggressively managing their care.

"We know there's an opportunity there," Mr. Huffman said. "We're not trying to eliminate our (neonatal intensive care unit) days, but we're trying to reduce the inappropriate or the unnecessary ones."

Many employers are recognizing the need to tackle maternity costs and are focusing care management programs to address maternity cases, particularly high-risk pregnancies that result in premature births and large-dollar claims.

"A fair number of companies are taking this approach," said Dr. Alan Spiro, head of the national clinical consulting group for Towers Perrin, based in Boston. "Smarter companies are analyzing whether this is an issue based on their demographics."

The costs of premature births are significant. According to the March of Dimes, average hospital charges for premature infants are at least \$79,000, vs. \$1,500 for newborns

without complications.

Identifying high risks

Maternity management programs attempt to identify women at high risk for complications and to intervene to reduce the incidence and severity of preterm births. Pregnant employees are screened for conditions such as diabetes, high blood pressure, heart or respiratory disease and any signs that may signify the possibility of preterm labor, such as early contractions or a past history of premature births. They are screened for lifestyle choices that can affect their babies, such as smoking or drinking alcohol. They

are also screened for the use of fertility treatments, which can often lead to multiple-birth pregnancies that sometimes have complications.

"We're looking for anything in their life that might affect their pregnancies," said Donna Snow, director of operations for Richmond, Va.-based Health Management Corp., which runs a maternity management program on behalf of employers and insurers.

In HMC's program, women who are determined to be at a low risk for complications are given information and advice on topics such as healthy nutrition and reassessed at the 28th week of their pregnancy,

See MATERNITY/page 24

Approach: Population health management

Continued from page 11

year after year? There's a great, great economic value proposition to look at the 80% of the population that are only driving 20% of the cost and keep them from migrating into the 20% bucket."

"Two years ago, we saw a lot of employers evaluating the opportunity for disease management," said Camille Haltom, national practice leader for health and productivity management for Hewitt Associates Inc. in Lincolnshire, Ill. "I do think the positive experience employers have had in the disease management space—as well as employers coming to the conclusion that they've done what they can in terms of cost shifting and ensuring they are using appropriate providers—has led them to ask 'What's next?'"

Population health management "is a logical next step," she said.

Increasingly, employers are realizing that if they want to sustain reduced health care cost trends, they have to start dealing with root causes, agreed Michael Thompson, a principal with PricewaterhouseCoopers Human Resource Services in New York. For example, he said, "It's hard to ignore the obesity epidemic and the impact stress has on health and productivity."

In general, population health management can be defined as the process of improving the overall health of a defined population through needs assessment, delivery of preventive services, condition management and outcomes measurement, experts agree.

The first step in implementing a population health management program is taking a needs assessment of the employee population to determine who is at risk and what conditions need to be targeted, experts say. This is typically done in the form of a health risk appraisal or health risk questionnaire.

To maximize the response rate among employees, incentives should be offered, experts say. These can range from providing cash payments of between \$50 and \$100 to offering benefit design-based incentives, such as making contributions toward employees' flexible spending

accounts or health reimbursement arrangements.

"My clients are starting to really engage in the incentives that aren't just a water bottle and something very small; some are actually tying incentives into their overall benefits strategy," said Cheryl Agranovich, president of WellCorp. Inc., a Cleveland-based population health management company.

For example, one client with about 26,000 employees that was offering an online health risk appraisal got an 83% response rate from employees and a 67% response rate from their spouses when it offered a \$25 health care premium reduction for employees

ing sessions with health coaches.

"Employers will have a variety of different methods for individuals to access the programs," Hewitt's Ms. Haltom said. "In many cases, they may offer some self-service or online types of programs. Those are used most often for individuals who are essentially healthy but may have some risk factors but aren't high cost today. From there, employers turn up the intensity of the intervention, so that individuals with chronic conditions might get telephonic outreach or telephonic health counseling," she said. "In some cases, where employers have onsite medical staff or clinics, they might also involve them...in pro-

dress such issues as diet, nutrition and stress management, Dr. Bunn said. Vital Lives also includes an initiative that permits employees to access self-care information via a book the company distributes or from the Internet if they become ill, he said.

In addition to a variety of educational programs targeting such conditions as irritable bowel syndrome and migraines, Comerica Inc. this year is working with the Arthritis Foundation of Michigan to help its predominately female population deal with the pain associated with osteoarthritis, Mr. Groves said.

After separating groups into low-to-moderate pain and moderate-to-severe pain categories, Comerica is conducting a variety of educational interventions "to try to help them deal with the pain of arthritis that might take them away from the workplace," Mr. Groves explained. Equally important, he noted, the interventions can aid those who might have been "showing up to work but, because they're hurting so bad, they can't do their job well," engaging in so-called presenteeism.

The moderate-to-severe pain group, for example, is participating in a six-week onsite self-management class that gives them tips on how to handle pain and makes sure they're managing it well, Mr. Groves said. An ergonomic specialist also is being brought in to do a workplace review for the participants to help them do their jobs better despite the arthritis pain, he said.

Condition management

For those employees with chronic conditions, a variety of disease management programs help manage the illnesses and keep costs down.

And experts note that the newer programs address a wide variety of conditions, in addition to the more mature programs that help manage conditions such as diabetes, cardiac care, asthma and congestive heart failure.

Hewitt's Ms. Haltom, for example, said she knows of cancer care programs that help individuals manage the symptoms of cancer treatment.

In addition, "we're seeing the market responding by implementing programs around musculoskeletal or pain management, because many employers find musculoskeletal claims drive a lot of their health care dollars," she said.

CIGNA HealthCare, for one, recently announced that it was expanding its agreement with American Healthways Inc., a Nashville-based disability management provider, to include 10 more disease management programs. Beginning in January 2006, CIGNA's customers will have access to programs aimed at managing such conditions as acid-related stomach disorders, hepatitis C, irritable bowel syndrome, osteoarthritis, osteoporosis and urinary incontinence.

Return on investment

By combining prevention and disease management, employers will save money both directly and indirectly, proponents of population health management contend.

Gordian, for example, estimates that, on average, its clients see a 1.70-to-1 return on their investment in the first year—meaning that for every dollar spent on a population health management program, \$1.70 goes back to the employers' bottom line, Mr. Lehman said. In year two, employers can expect a two-to-one return on their investment, and in year three, the expected ROI is 2.46 to 1, he said.

But it's not just about direct costs, said Sean Sullivan, president of the Institute for Health & Productivity Management in Scottsdale, Ariz. "You have to look across an entire population and see how much healthier and more productive they can be, and that's where we believe the big returns will ultimately come," he said.

Mr. Sullivan said published reports conservatively estimate that employers that take a population health management approach can realize cost savings in productivity that are two to three times the savings they see in direct medical costs.

"Most people still don't grasp how large the opportunity is here," he said. "They define costs in medical terms. But the number of employers that are understanding this is growing rapidly."

'The positive experience employers have had in the disease management space—as well as employers coming to the conclusion that they've done what they can in terms of cost shifting and ensuring they are using appropriate providers—has led them to ask 'What's next?''

Camille Haltom
Hewitt Associates Inc.

and a \$15 reduction for spouses, Ms. Agranovich said. "It was just incredible," she said.

Intervention

Once a health risk appraisal is complete, employers can take a variety of approaches to intervene, experts say.

Those individuals with existing health conditions, for example, can be referred to or invited to participate in various educational programs on topics that range from nutrition to stress management to migraines. These programs may come in the form of informational brochures or onsite lunchtime meetings, and they aim to make employees aware of how to manage their conditions, as well as tell them about new medications that may be available, experts say.

Others at high risk for developing chronic conditions such as coronary heart disease or diabetes may be invited to participate in counsel-

ing some face-to-face counseling or assistance," Ms. Haltom said.

Warrenville, Ill.-based International Truck & Engine Corp. offers a variety of programs under the banner "Vital Lives" that are designed to change employees' lifestyles and to keep them healthy, explained William Bunn, vp-health, safety, security and productivity. About 70% of its 14,500 employees around the country participate in at least one of the programs, Dr. Bunn said.

Among the more popular is an exercise program called "Trucking Across North America," in which teams compete in a 12-week race, with exercise times converted into mileage. "It's something we've done for a number of years, and the participation is such that the average person on a team exercises at least an hour a day," Dr. Bunn said. "That changes a lot of people's lifestyles, and a lot of people have moved from a high-risk category to a lower-risk category" as a result, he said.

Other Vital Lives programs ad-

Commentary

Not taking a flier on crash survival

There it was. Such a rare and welcome news item.

It was a news story that imparted good news, not the typical fare of death, destruction, mayhem and political wrangling that dominates news pages today, since so much of that is going on in the world right now.

No, this was a good news story. A kind of personal risk management story that offered hope.

OK, it did touch on death and destruction, but its main focus was positive. It even offered tips on surviving a life-threatening situation.

So imagine my frustration when I realized that not much of the story would be of value to me.

If you missed the item, I'll pass along the highlights here, in case they could be of any benefit to you.

The story reported on the survivability of commercial airplane crashes. National Transportation Safety Board figures show that 1,525, or nearly 56%, of the 2,739 air travelers involved in 26 major commercial airline accidents between 1983 and 2000 survived their ordeals, according to the report.

Safety improvements such as floor lighting and stronger seats were credited. Additional future improvements, such as better fire-retardant insulation, were heralded.

Obviously, a higher survival rate would have made an even better story. And a report that airlines were replacing their fleets with new planes made of the same material used for those little black boxes would have been an outstandingly welcomed feel-good item.

Still, reading that the odds of surviving an air crash are better than 50-50 was pretty uplifting.

At least it was, until the story got into some tips from the Federal Aviation Administration on how air travelers can increase their chances of walking away from a crash.

That's when I saw I might be my own worst enemy in the skies.

Here are some tips from the FAA:

- Leave your luggage behind.

Strike one for me. I just returned from a trip in which I interviewed the 2005 Risk Manager of the Year and the award winner's staff. Sure, I could replace the inches-thick file of background documentation I was given during the three full days of interviews. But there would be no way to replace the three steno books of interview notes

that I took.

I can't imagine anyone agreeing to sit through something like that a second time, when the first time around is never appealing to the award winner.

Don't misunderstand me; all the winners over the years have been more than generous with their valuable time. But even a marathon runner can't lace it up for back-to-back races.

No, I'd have to make a heroic effort to rescue the briefcase.

- When boarding, count the rows between your seat and the nearest emergency exit. You could then feel your way out of the plane in an emergency situation in which you would likely find yourself amid

darkness and smoke.

Strike two. It's not that my math skills aren't up to snuff. This problem goes to my orientation, or lack thereof in certain situations. You see, I'm spatially challenged. I get wildly disoriented when I'm upside down, or even when I'm right-side up in something that is upside down. In attempting a flip off

the swimming pool diving board, there's a good chance I won't hit water.

This is the problem that ended my careers as an ace fighter pilot and a world-class gymnast.

So, even if I knew the number of rows to the nearest emergency exit, in an upside-down plane I'd likely head in the wrong direction. And that's assuming I'd be lucky enough to find the overhead bins—which in that case would be the underfoot bins—so I could rescue my briefcase first.

- Get into the crash position and brace for impact.

Hoo boy. Strikes three and four. Even in the few planes that leave anyone above the age of 10 enough room to get into the crash position, I'd have a problem. I'm usually asleep on takeoffs and landings, which is when so many crashes occur.

I suppose a good neighbor or flight attendant might wake me to ensure that I folded myself into the closest thing resembling a crash position.

But think about it. That's really not a nice thing to do to somebody, especially if it's potentially your last act.

After all, I'd much rather go peacefully in my sleep than in a plane crash.

Senior Editor Dave Lenckus can be reached by e-mail at dlenckus@businessinsurance.com.



Dave Lenckus

Maternity: High-risk programs

Continued from page 22

she said. Women who are found to be at a high risk for complications are managed depending on what their conditions or symptoms are. For example, if a woman experiences severe vomiting during pregnancy, HMC's on-staff pharmacists will coordinate with her physician to prescribe a medication that will alleviate the condition, she said.

These programs also aim to address the lifestyle choices that can often lead to premature births. For example, a pregnant employee who is a smoker would be educated on the dangers of smoking and encouraged to participate in an intensive smoking cessation program. "What you're trying to do is show them the impact their lifestyle is going to have on their baby," said Barry Barnett, a principal with the health care practice of PricewaterhouseCoopers HR Services based in New York.

'An all-around win'

The programs can also prevent or minimize lengthy hospital stays by addressing risk factors through al-

ternative methods or treatments, according to Allen Woolf, senior vp and national medical director for Bloomfield, Conn.-based CIGNA HealthCare. For example, a 27-year-old pregnant woman who was a CIGNA member entered the hospital because of early contractions. She was released once her condition stabilized. When she began having contractions again, CIGNA arranged for a monitoring device to be set up at her home and sent a nurse to her home to monitor her condition rather than putting her in the hospital again. "These programs are really an all-around win for the members, the physicians and those who are paying for the bill," Dr. Woolf said.

Employers who have maternity management programs have seen a return on investment of \$2 to \$4 for every \$1 spent, observers say. "If you can stop one neonatal claim...you've more than paid for the program," Mr. Barnett said.

Using care management programs to curtail maternity costs is not a new concept, but poor utilization is a problem for some companies be-

cause of a lack of communication, consultants say. "It's not enough just to have the program; you have to have people enrolling in the programs," said Stephanie Pronk, senior consultant for the group and health care practice for Watson Wyatt, based in Minneapolis.

One challenge in using care management programs for maternity costs is most programs use claims data to identify potential enrollees, she said. With maternity management, though, it is important to identify women as early as possible in their pregnancies, so the vendor cannot wait for claims data. "It's a much more challenging area to identify people and get them into programs," she said. "People really have to self-identify."

To encourage pregnant employees to enroll, some employers pay a greater share of the total health care expenditures or pay the costs of smoking cessation programs, consultants say. Other employers use incentives such as car seats and other baby items, which are popular programs for first-time mothers, consultants say.

Benefit execs invited to compare success of cost containment efforts

When it comes to negotiating discounts on self-funded medical claims, few large employers appear to have success in achieving high discount rates, according to a new survey sponsored jointly by Concentra Preferred Systems and *Business Insurance*.

Based on the preliminary results of a national health care cost containment study this year, the average discount rate for in-network health care claims was 34%. For out-of-network claims, the average discount was 16%, and half

of the employers reported no discount at all on nonnetwork claims.

"This study is intended to enlighten and empower America's employers through deeper understanding of what constitutes an effective cost containment strategy," said Gene Della Torre, a Concentra vp in Naperville, Ill., who is directing the research.

Business Insurance and Concentra Preferred Systems are inviting employee benefit managers and benefit executives who have not

yet completed the survey to take part by April 29.

All respondents completing the online survey will receive a benchmark comparison of their results to their industry segment and the nation at large. Each respondent also will receive a final copy of the report, "The Health Care Cost Containment Index: Measuring the Savings Opportunities for America's Employers."

To participate and create your organization's index, please visit www.concentra-mail.com/bistudy.

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Business Insurance

Dye threat triggers U.K. food recall

Contamination of widely used ingredient raises liability coverage questions

By CAROLYN ALDRED

ST. ALBANS, England—A massive product recall that was triggered in the United Kingdom last week when a cancer-causing chemical was discovered in a widely used food ingredient will likely lead to numerous recall claims—but it remains unclear whether the claims will be covered under traditional product recall insurance policies.

Policy wordings, which have been tightened over the past several years, often confine coverage to recalls linked to bodily injuries that occur within months of the recall, experts say.

The potential damage from the traces of Sudan 1, a cancer-causing dye, could take years to manifest and therefore may be excluded under many product recalls, they say.

And, regardless of the coverage details, there will likely be liability disputes as manufacturers and suppliers in the U.K. food industry argue over specific contract requirements, they say.

Hundreds of companies, from retailers to food processors to commodity suppliers, are caught up in the mass recall ordered by the United Kingdom's Food Standards Agency on Feb. 18 after traces of Sudan 1 was discovered in Worcester-shire sauce made by St. Albans, England-based Premier Foods P.L.C. The sauce is added to hundreds of processed foods.



The U.K. Food Standards Agency has recalled food products made with chili powder contaminated with the dye Sudan 1.

As a result, more than 400 products, ranging from store-brand processed meals to Caesar salad dressings at McDonald's Corp. restaurants, have been withdrawn from sale.

"A lot of companies will be insured, and a lot of companies won't be insured for the huge costs involved in the product recall," according to Justin Whitehead, a director of London-based R.K. Harrison Insurance Brokers Ltd., which places one of the main product contamination lineslips in the London market, led by Lloyd's of

London syndicate 623 and QBE Insurance Group Ltd.

But the recall may lead to claims disputes, said Tina Kirby, underwriter for syndicate 623, managed by Beazley Furlong Ltd.

Many product contamination policies—which cover the costs of a recall and loss of profits as well as provide crisis management and public relations advice—include a specified manifestation trigger.

See RECALL/page 27

World Updates

Insurers sued over blackout claims

Proposed class action suits have been filed against three Canadian insurers, alleging failure to pay claims related to the August 2003 Northeast blackout. The suits were filed last week in Windsor, Ontario, on behalf of policyholders of Aviva Canada Inc., Lombard General Insurance Co. of Canada and Royal & Sun Alliance Insurance Co. of Canada. The suits, which seek millions in damages, charge breach of contract and bad faith. The claims were for perished stock and business interruption losses caused by the massive power outage. A spokeswoman for RSA said the suits are without merit.

Quanta opens London office

Bermuda-based Quanta Capital Holdings Ltd. has received approval to open a branch operation in London. Quanta provides specialty insurance and reinsurance and risk consulting.

Health care costs rising in Canada

Canadian employers will continue to see double-digit health care cost increases in 2005, though hikes have moderated slightly, says a survey by the Canadian unit of Mellon Human Resources & Investor Solutions. Prescription drug costs, which represent about 65% of the average employer-sponsored plan's costs, are projected to rise 15.1% for 2005, down from 15.6% in 2004. Mellon cited fewer new expensive drugs and the withdrawal of several drugs due to safety concerns. Employer medical costs are estimated to rise 13.8%, down from 15.1%.

Hurricanes drag down Renaissance Re profits

Bermuda-based RenaissanceRe Holdings Ltd. said 2004 profits fell 73.7%, to \$164.2 million. The reinsurer, which saw a net loss of \$570 million from the four U.S. hurricanes last year, had a 104.4% combined ratio, vs. 56.4% for 2003. Net premiums written rose 16.9% to \$1.35 billion. Earlier, RenaissanceRe said accounting errors led it to understate its nine-month net income by \$12.5 million. It said adjustments to 2001-2003 results will not change net income for those years.

Briefly noted

French insurer AXA S.A. recorded net income of 2.52 billion euros (\$3.40 billion) in 2004, up from 1.01 billion euros (\$1.27 billion) in 2003, when profits were reduced by a charge for investment losses and by currency exchange fluctuations.

Bermuda's Imagine acquires Danish Re units worldwide

By JUDY GREENWALD

HAMILTON, Bermuda—The Imagine Group has acquired Danish Re (Bermuda) Ltd. and all related subsidiaries of the Copenhagen, Denmark-based Danish Re Group Worldwide.

Hamilton, Bermuda-based Imagine Group, which reported \$282 million in gross premiums written for the first six months of 2004, writes finite risk and traditional reinsurance. The company, founded in 2000, completed a \$100 million private placement of common shares with institutional investors in August.

Danish Re focuses on accident and health, property and financial institutions and has offices in Bermuda, London, Copenhagen and Tokyo, according to the company. In addition to having reserves associated with certain discontinued operations, it owns Danish Re Syndicates, which is the Lloyd's managing agency for syndicate 1400; and Danish Re Capital, the Lloyd's corporate member that provides the capital for the syndicate.

Brad Huntington, president and chief executive officer of Imagine Group, said Danish Re is expected to write about \$120 million in business this year. He would not disclose the purchase price.

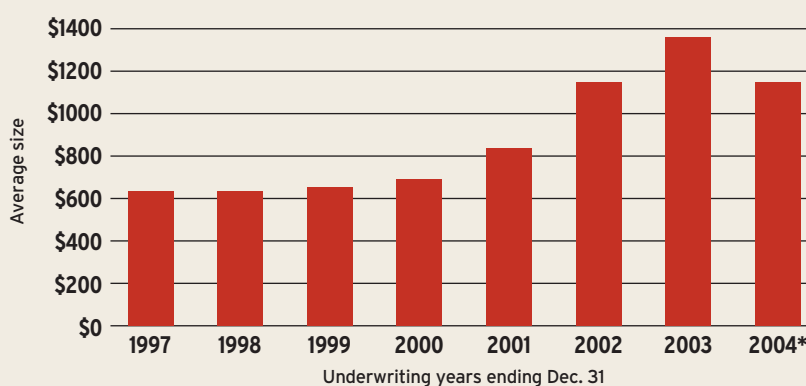
Danish Re was formed in 1999 by Trident II L.P., an investment fund managed by MMC Capital Inc., a unit of Marsh & McLennan Cos. Inc. The reinsurer was founded by former Copenhagen Re executives Leif Corinth-Hansen and Matthew Petzold.

Danish Re had planned a \$200 million private equity placement in 2002, which would have boosted the reinsurer's total capitalization to \$250 million and allowed it to expand its business in Bermuda. That plan fell through, though, and in 2003, Trident increased its capital commitment by \$40 million, which was used primarily to support underwriting capacity at syndicate 1400. It has also received additional capacity from Omaha, Neb.-based Berkshire Hathaway Inc.

Following Imagine Group's announcement, Oldwick, N.J.-based A.M. Best Co. placed its A- rating under review with negative implications.

PUBLIC LIABILITY RATES DOWN UNDER

Average public liability premiums appear to come down



Notes: * Jan. 1 to June 30, 2004
Figures in Australian dollars adjusted to June 30, 2004, values using AWE Index
Derived from responses provided by seven insurers

Source: Australian Competition & Consumer Commission

Liability rates in Australia dropping by double digits

By ELIZABETH FRY

SYDNEY, Australia—Public liability and professional indemnity premiums are falling in Australia, but observers say it is too early to tell whether tort reforms introduced in the past three years are responsible.

According to a recent report from the Australian Competition & Consumer Commission, average public liability premiums declined by 15% over the first six months of 2004. Public liability insurance covers organizations for property damage and bodily injuries suffered by individuals other than their employees.

In addition, average claims settlements fell by 11% in the period, according to the ACCC, which has been monitoring insurers' pricing practices.

Professional liability premiums fell by 17%, on average, in the first half of 2004, the report found, but average claims costs in that class increased 21%

over the same period.

Both lines of coverage had seen significant increases in both premiums and claims in recent years. The price increases and a lack of capacity for some risks were the impetus behind several tort reform measures enacted by federal, state and territorial governments in Australia.

The ACCC's findings are "the first sign of a downward movement in premiums," ACCC Chairman Graeme Samuel said in the report. "These outcomes are counter to the trends observed in recent years and could have been caused by a range of factors, including tort law reforms."

Tort reforms introduced since 2002 focused mainly on minimizing personal injury claims costs by implementing liability caps and impairment thresholds on court-awarded settlements, providing for the use of structured settlements, changing negligence laws and minimiz-

See REFORM/page 27

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Capitol Indemnity Corporation, an A rated, growing national Commercial Lines Insurance/Surety company is seeking an experienced Vice President of Sales and Marketing for our home office in Madison, Wisconsin.

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REQUEST FOR PROPOSALS

FLORIDA WORKERS' COMPENSATION JOINT UNDERWRITING ASSOCIATION, INC. NOTICE

REQUEST FOR PROPOSALS

The Florida Workers' Compensation Joint Underwriting Association, Inc. (FWCJUA) is soliciting proposals to provide policy administration services including managed care. Proposals will be accepted for either: 1) policy administration services including managed care proposed by a single entity; or 2) policy administration services with a managed care arrangement proposed by a partnership/joint venture. No stand alone proposals will be accepted.

Policy administration services include, but are not limited to, the issuance of policies and appropriate endorsements; premium billing and collection; auditing; claims management including managed care services; loss control and safety engineering; fraud investigation and prevention; financial and statistical data reporting; and customer satisfaction services. Managed care services include, but are not limited to, medical management and disability management. Claims administration services, which have historically been provided to the FWCJUA by the policy administration services vendors, may be provided by either vendor or a combination of both.

The complete official notice of this RFP will be contained in the Administrative Weekly published on March 4, 2005. Interested parties may obtain the RFP on or after March 21, 2005 by written request to Laura Torrence, Executive Director, FWCJUA, P.O. Box 48957, Sarasota, FL 34230. Written requests will be accepted by fax at 941-552-5253. Responses to the RFP will be due at 4:00 p.m., ET, May 9, 2005.

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Physicians Practice Group, the physician faculty practice plan of the Medical College of Georgia, has the following position available:

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Qualified applicants may submit resume to: 1499 Walton Way, Suite 1400, Augusta, GA 30901, or fax to 706-722-6920. EOE

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LEGAL NOTICE

In the High Court of Ireland Commercial

Commercial List - Record Number 2005/11 COS in the matter of Colonia Insurance (Ireland) Limited and in the matter of the Companies Acts 1963 to 2003

NOTICE IS HEREBY GIVEN that on 15 March 2005 the hearing will take place before the High Court of a petition (the "Petition") presented by Colonia Insurance (Ireland) Limited (formerly AXA Colonia Insurance (Ireland) Limited, AXA Colonia Insurance (Ireland) public limited company and Colonia Insurance (Ireland) public limited company) (the "Company") for an Order pursuant to Section 201 of the Companies Act, 1963, approving the solvent scheme of arrangement (the "Scheme") passed by the meeting of the AXA Scheme Creditors (as defined in the Scheme) and the meeting of the non-AXA Scheme Creditors (as defined in the Scheme), both meetings having been held on 11 February 2005 at the offices of Ernst & Young LLP, 1 More London Place, London SE1 2AF, England.

Copies of the Scheme Document, Explanatory Statement and Appendices are available in downloadable form on the Company's website at www.coloniascheme.com.

The Petition is directed to be heard on 15 March 2005 at 11.00 am (or at the first opportunity thereafter) at the Four Courts in the City of Dublin, and any creditor or member of the Company or any other person who may be entitled to be heard, may appear at the time of the Hearing of the Petition in person or by Counsel or Solicitor for the purpose of supporting or opposing the making of an Order on the Petition and a copy of the Petition will be furnished to any such person who requires it by the undersigned.

Please note that the Company succeeded to the entire business of Concordia Limited, of PO Box HM 666, Clarendon House, Church Street, Hamilton HM CX, Bermuda, as of 1 January 1990 pursuant to an assumption agreement dated September 1990 and the Company succeeded to the entire business of Nordstern Reinsurance (Dublin) public limited company, of International House, 3 Harbourmaster Place, IFSC, Dublin 1, Ireland, as of 6 October 1998 pursuant to a merger approved by an Order of the Irish High Court dated the same day.

Colonia Insurance (Ireland) Limited, 39 Wolfe Tone Street, Dublin 2, Ireland (Registered No. 154160). Requests for assistance and/or further copies of the Scheme Documents should be directed to the Company, c/o Niall Coveney at Ernst & Young, Harcourt Centre, Harcourt Street, Dublin 2, Ireland, (tel no: +353 [0] 1 475 0555) in the first instance.

Dated 28 February 2005

Signed: ARTHUR COX, Solicitors for the Petitioner, Earlsfort Centre, Earlsfort Terrace, Dublin 2 (Ref. DH)

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Products & Services

AIG domestic A&H offers vision program

NEW YORK—American International Group Inc.'s domestic accident and health division is offering a new vision care insurance program for employers.

AIG Vision Care allows employers to customize their vision care insurance plans by offering various eye care programs, which include a nationwide network of ophthalmologists, optometrists, opticians and vision care centers. Some of the product features include vision examinations, family coverage for spouses and dependent children, customizable co-payments and customizable full coverage for standard corrective lenses.

The program is available to employers with a minimum participation of five employees or 20 percent of the eligible employee population. It is also offered with three different funding options: voluntary, noncontributory and contributory.

For more information, contact Leilani Brown, vp-corporate markets, AIG domestic accident and health, in the New York office at 212-770-2319 or at leilani.brown@aig.com.

ACE USA offers new storm insurance product

PHILADELPHIA—ACE USA is offering an insurance product to protect against property damage and business interruption due to tropical storms or hurricanes.

The Philadelphia-based company's product, ACE Spectra, offers an admitted policy that can cover losses from a single or multiple hurricanes during the annual policy term.

Limits of \$2 million per location are available. Higher limits can be considered, depending upon the specific characteristics of the location.

For more information, contact Michael Luck, assistant vp-ACE Global Weather, at 215-640-5341 or at michael.luck@ace-ina.com.

Online resources added to Chubb EPL program

WARREN, N.J.—The Chubb Corp. has added new online tools to its employment practices liability loss prevention program.

The Warren, N.J.-based company's new ChubbWorks online resource intends to help companies, financial institutions and nonprofit organizations cut their exposure to employee lawsuits. It offers assistance with employment issues and includes access to model employment policies, procedures and forms; employment practices self-audit checklists for executive management, human resources professionals and supervisors; and online training addressing discrimination, sexual harassment and wrongful termination, among other items.

To learn more, visit Chubb's Web site for its EPL program at <http://csi.chubb.com/epllossprevention>.

Schinnerer offers new property policy

CHEVY CHASE, Md.—Victor O. Schinnerer & Co. Inc. has introduced a new admitted property policy for public entities.

The property coverage is available to city, county, state and special district public entities, including transit districts, school districts and water and sewer authorities. The coverage is available through San Diego-based Insurance Co. of the West. The policy provides high limits for various coverages and causes of loss, including accounts receivable, computers and computerized equipment, employee dishonesty, newly acquired personal property, personal property of others, pollution cleanup, and valuable papers and records. The policy also includes coverage for earthquake and sprinkler leakage at full limits.

The minimum premium is \$25,000 and is available in all states except Connecticut, Delaware, the District of Columbia, Florida, Maine, Massachusetts, New Hampshire, New Jersey, New York, Texas, Vermont, Virginia and West Virginia. Some of the limits available include \$125,000 for accounts receivable, \$50,000 for employee dishonesty and \$500,000 for newly acquired personal property.

For more information, visit the Chevy Chase, Md.-based company's public entities Web site at www.publicentities.com.

IFEBP catalog lists benefit resources

BROOKFIELD, Wis.—The International Foundation of Employee Benefit Plans has published a catalog consisting of over 100 employee benefit and compensation resources.

The Brookfield, Wis.-based organization's "Books on Benefits—2005" features information on the IFEBP's offerings such as books, periodicals, survey research and videotapes. The catalog is arranged by topic, including sections on compensation, financial planning, general benefits, health care, multiemployer and public employer plans, pensions, retirement planning and training and development.

To obtain a copy of the catalog, contact the IFEBP at 888-334-3327, option 4, or at books@ifebp.org. More information can also be found on the organization's Web site, at www.ifebp.org.

Best enhances state rate filings product

OLDWICK, N.J.—A.M. Best Co. Inc. has added information on two states

to its "Best's State Rate Filings," which consists of state-specific information on policy rate changes, approved filings, form revisions and new programs.

The product, which now features information on Rhode Island and Vermont, includes data on 41 states. It is available as an online database or can be ordered as printed monthly reports. The database is updated daily and includes a search engine to locate information on states.

For more information, contact the Oldwick, N.J.-based company at 908-439-2200, ext. 5674, or at staterate@ambest.com. More information also is available by visiting <http://bestsstateratefiling.com>.

FleetRisk launches model for commercial risks

ALPHARETTA, Ga.—FleetRisk Advisors has introduced a risk analysis system for the commercial fleet industry.

The predictive analytic system, Transportation Risk Analytics Center, intends to help fleet owners improve fleet safety and increase profitability. TRAC is a relational database that combines routes, schedules, vehicles, accidents and incidents and drivers' historical data with daily operational data. The database analyzes the operational details and outcomes and presents patterns that could create losses or increase costs.

The Alpharetta, Ga.-based company's TRAC product allows performance data to be tracked, managed and stored for several years. Fleet owners can use this database to compare asset profiles and personnel histories.

For more information, contact David Wagner, senior vp, at 678-527-6200 or visit the company's Web site, at www.fleetriskadvisors.com.

TC3 Health launches SDN compliance product

COSTA MESA, Calif.—TC3 Health L.L.C., a provider of claims management and loss control technologies, has introduced a new USA PATRIOT Act compliance product for health care payers.

TC3's new product, OFACsecure, is designed to meet the federal guidelines under the USA PATRIOT Act. The Treasury Department's Office of Foreign Asset Control is the administering agency for the insurance industry under this act. The OFAC administers, publishes and enforces the master list of Specially Designated Nationals & Blocked Persons. The SDN list prohibits U.S. brokers, agents, underwriters, primary insurers and reinsurers and U.S. citizen employees of foreign firms in the insurance industry from engaging in transactions that in any way involve persons designated as SDNs.

OFACsecure allows health care payers to screen provider and member information against the SDN master list. It will alert the OFAC if a match is made.

More information can be found by visiting the company's Web site at www.tc3health.com.

Recall: Massive scope

Continued from page 25

Most policies specify that the bodily injury resulting from the contamination must manifest itself within a certain period, usually 90 or 120 days, Ms. Kirby said.

Sudan 1, a red colorant usually added to solvents, oils and waxes, has been linked to cancer, an injury unlikely to manifest for several years. As a result, many underwriters may deny coverage.

"There's going to be quite a big debate over coverage," said Mr. Whitehead.

Meanwhile, companies from the supermarkets and retailers downward in the food chain will be trying to pass on the financial costs to their suppliers, said Rod Freeman, a product liability partner with London-based law firm Lovells.

In a statement, Premier said, "the responsibility of any financial costs associated with the recall will rest with our suppliers and their insurers." The company also stated that Premier "is insured against such eventualities."

Premier would not comment further on its insurance. London-based AIG Europe (UK) Ltd. confirmed that it provided product recall insurance to Premier but refused to comment further on the coverage.

Supermarkets often insist that suppliers must bear the cost of product recalls, and some even specify in their contracts with suppliers that the suppliers must carry insurance, Mr. Whitehead and Ms. Kirby both pointed out.

In addition, Premier said that it had received "written assurance that the chili powder did not contain Sudan 1" from its supplier, Billericay, Essex-based Unbar Rotheron Ltd.

Unbar said in a statement that it received the chili powder from an-

other supplier in the United Kingdom and that it was "not processed by us in any way."

Clacton, Essex-based East Anglian Food Ingredients Ltd., which supplied Unbar Rotheron, claimed that it had contacted all customers in 2003 after the European Union and the United Kingdom had introduced emergency measures to ban Sudan 1 after the red dye had been detected in chili powder in several E.U. states.

"Several U.K. suppliers of chili powder, including EAFI, were affected and instituted product recalls of contaminated chili powder," the company said, noting that it was supplied with the powder by a U.K.-based importer, which was supplied, in turn, by an Indian exporter.

"EAFI contacted all of its affected customers to inform them of the problem and to ask them to return affected products. It worked closely with the Food Standards Agency to ensure that the recalls were properly executed," the company noted.

"EAFI also agreed to cover the costs (about £300,000) incurred by its customers in relation to the recall," it said, adding that it is still in discussion with the loss adjusters appointed by the importer's insurers.

Unbar Rotheron, one of EAFI's customers and Premier's supplier, recently carried out a test on a batch of chili powder EAFI supplied in September 2002 and found traces of Sudan 1. The same batch had been tested at the time of the 2003 recall and had been found to be free of Sudan 1, according to Unbar Rotheron.

EAFI would not comment further, pending the outcome of the FSA's investigation.

Reform: Effects unclear

Continued from page 25

ing legal costs by capping costs on small awards.

Though fewer reforms were directed specifically at professional indemnity liability costs, several jurisdictions have enacted legislation since June 2004 aimed at reducing the cost of such coverage. These include measures affecting professional standards and proportionate liability, which insurers expect to have an impact on claims costs and premiums in the longer term.

According to the ACCC report, most insurers expect the reforms to have an impact on claims costs and premiums, but they considered it too early to determine whether the tort reforms have already started to affect premiums and claims costs.

The reductions may be linked to a rush in claims filings prior to the tort reforms, which led to fewer claims being filed in 2003 and 2004, the report notes. "Accordingly, the net effect of reforms on the number of claims filed with courts will only become clear over the next few years," the report said.

"Some insurers were concerned that the degree to which reforms will be successful will depend on the courts with regards to awarding

damages, as well as the degree to which plaintiff lawyers find ways to circumvent reforms," the report said.

Insurance Council of Australia Executive Director Alan Mason said that the final impact of the reforms remains unknown.

"The reforms have not yet been tested right though the legal system and up to the High Court, and an awful lot of the cases in the system now are still old cases....In our view it is a good thing the ACCC will monitor these price decreases for another three years," he said.

Nevertheless, "premiums are coming down, so clearly the insurers are responding, they have confidence and they're not waiting for the actual results," Mr. Mason said.

According to Lori Callahan, national manager for liability claims for Allianz Australia Ltd. in Sydney, the reforms have led to changes in damages claims. For example, in order to meet impairment-threshold requirements, claimants are seeking larger psychological damages associated with physical damages.

"Public Liability and Professional Indemnity Insurance: Fourth Monitoring Report" is available online at www.accc.gov.au.

Smoking: Employers seek to snuff out cost increases

Continued from page 4

"The trend is clearly to disincentivize smoking," said Richard A. Chaifetz, chairman and chief executive of Chicago-based employee assistance program provider, CompPsych Corp. Companies "are definitely getting more aggressive."

An estimated 46 million adults in the United States, or 22.5% of the population, smoke cigarettes, based on 2004 data from the Atlanta-based U.S. Centers for Disease Control and Prevention. According to "The Health Consequences of Smoking," a 2004 report from the Office of the Surgeon General, smoking is the nation's leading preventable cause of illness and death. "Quitting smoking has immediate as well as long-term benefits, reducing risks for diseases caused by smoking and improving health in general," the report says.

Research shows that smokers are also a drag on businesses.

Last year alone, smokers cost the country \$157.7 billion in health-related economic losses, of which \$75.5 billion was spent on extra medical care and \$81.9 billion was lost in productivity, according to the Surgeon General's office.

"The consumer is a lot more powerful than we give them credit for. They can make a positive impact, if they choose to, on health care costs," said Stephanie Pronk, national practice leader for health management with Watson Wyatt Worldwide in Minneapolis.

Consultants say employees who smoke are generally less productive than nonsmoking employees, and decrease in productivity relative to how many cigarette breaks they take throughout the day.

Additionally, "People who smoke have a higher preponderance of health issues," said Mr. Chaifetz. "In the workplace, specifically, they tend to have more absences than nonsmokers and healthier people."

With employers viewing smoking as a "lifestyle behavioral issue," or something that is controllable as opposed to an illness or genetic dis-

SMOKING HABITS

National estimates:

■ About 22.5% of all adults, or 46 million people, smoke cigarettes in the United States.

■ Cigarette smoking is the leading preventable cause of death in the United States, causing nearly 1 in 5, or 440,000, deaths yearly.

■ More men (25.2%) in the U.S. smoke cigarettes than do women (20.0%).

■ Groups of cigarette smokers vary by age as follows: 18-24 years (28.5%); 25-44 years (25.7%); 45-64 years (22.7%), and 65 years or older (9.3%).

■ Cigarette smokers also vary by race: American Indians/Alaska Natives (40.8%); Caucasians (23.6%); African Americans (22.4%); Hispanics (16.7%); and Asians [excluding Native Hawaiians and Pacific Islanders] (13.3%).

■ Education level is correlated with cigarette smoking, as estimates of smokers are higher for adults with a General Education Development (GED) diploma (42.3%), or with 9-11 years of education (34.1%), as compared to estimates of smokers with an undergraduate college degree (12.1%) or graduate degree (7.2%).

Source: Centers for Disease Control and Prevention's Office on Smoking and Health, May 2004.

order, Mr. Chaifetz said, CompPsych—which offers in-person, telephone-based and online coaching to help employees overcome problems—is seeing companies more than ever target smokers to lower their health care costs.

Federal laws bar U.S. employers from discriminating against potential and current workers on the basis of race, religion, gender, disability or age, but smokers are only a protected class in parts of the coun-

try; 29 states and the District of Columbia in recent years have enacted legislation banning employers from discriminating against employees who smoke, according to the American Lung Assn. In states such as Arizona, Colorado, Pennsylvania and Wisconsin, antismoking policies like Weyco's are considered illegal.

Furthermore, violating state smoker protections can really burn an employer. "Under Colorado law, employees are given the right to sue their employer for lost wages as a result of their firing," for off-duty lawful conduct such as smoking, said Kimberlie K. Ryan, an attorney with The Ryan Law Firm L.L.C. in Denver and member of the San Francisco-based National Employment Lawyers Assn.

But employers in states without such laws are instituting policies that target smokers.

For nearly a decade, Alaska Airlines has tested prospective employees for tobacco use. "It's all very up-front and on the table," a Seattle-based spokesman for airline said. "When people apply, they are told that this is a condition of employment," he said, noting that their policy uses an honor system. "The company is not punitive. There's nobody following employees on the weekends to see if they smoke."

Alaska Air believes hiring solely nonsmokers contributes to a healthier workforce, the spokesman said, "which probably comes out on the bottom line relative to health care premiums," though such data has not been tracked.

Other employers, like trucking firm Navistar International, are penalizing smokers by raising their contributions to health care premiums. "We announced last August that beginning in July 2005, employees who smoke will be charged an extra \$50 a month towards their health care premium," a company spokesman said. Navistar arrived at the decision because smokers were creating additional health care costs of about \$1,000 a year each, said

the company, which has a workforce of 14,000.

Illinois law protects employees who smoke from bias in terms of hiring and compensation practices, but permits employers to charge smokers higher health insurance rates.

In the face of rising health care costs, companies are trying to send a message to employees that "if you're not a partner with us, then you're part of the problem," said Julie Slezak, Health Management Benefits Consultant for Lincolnshire, Ill.-based Hewitt Associates.

Workplace privacy proponents around the country are fuming over the possibility of more companies cracking down on smokers in states lacking antidiscrimination laws—including states with large worker populations such as Michigan, California and Texas—and think that companies should butt out of employees' lives outside the job.

Paula Brantner, Program Director and an attorney with Kansas City, Mo.-based Workplace Fairness, considers such anti-smoking policies to be "overkill." They represent the intersection of three negative workplace trends: "employment-at-will, rising health care costs and workplace privacy intrusions," she said.

"It's quite different to have a ban on smoking at the workplace, and a ban on smoking while someone is at home having dinner," Ms. Ryan said. Strict rules against smoking also do not make distinctions between chain smokers and social smokers, she pointed out.

"I foresee a lot of employees putting their foot down, and pursuing actions against their employers, because we're talking about their jobs and their livelihood here," said Ms. Ryan.

On that front, Michigan Sen. Virg Bernero, D-Lansing, this month announced plans to introduce state legislation that would prohibit employers from terminating workers for engaging in legal conduct outside the workplace.

"I don't think the proposed legislation is the answer. I think it's a known fact that smoking is very costly, for both the employer and the person who does it," said Gary Climes, Weyco's chief financial officer and an ex-smoker himself. If passed, the legislation would be "taking a step backward," he said.

Long-term, workplace privacy supporters say, eliminating smokers from companies could negatively impact the economy—adding to the country's unemployed, uninsured population, and shifting costs to the taxpayers.

Whether employee smoking bans become widespread remains to be seen. But for now, rigorous anti-smoking policies are still far from standard, based on a December 2004 survey of 270 benefit and human resource managers by the Alexandria, Va.-based Society for Human Resource Management.

Whereas 32% of companies reported offering smoking cessation programs to employees, just five percent said they charge smokers higher health care premiums than nonsmokers, only two percent specifically ask about smoking behavior during the recruiting process, and none had a formal policy against hiring smokers.

"I think employers always err on the side of 'let's try to get at this problem in a more positive way,'" said Hewitt's Ms. Slezak.

"It's a slippery slope," said Kip Wall, chief executive officer of the Louisiana state office of group benefits in Baton Rouge, which oversees health care for 280,000 state employees and teachers. "How far do we intrude into people's lifestyles to manage health care costs?"

Before drafting any new employee smoking policies, companies should familiarize themselves with state smoking laws to mitigate liability, consultants say. Smoke-free policies should be developed with ample lead-time, and involving employees in the decision-making process may increase support of the program, they say.

Medicare: Enrollment increases for Advantage plans

Continued from page 3

"We are seeing a lot of renewed interest by plans," said Cara Jareb, director of retiree medical consulting for Watson Wyatt Worldwide in Washington.

Just in the past two months, a slew of applications has been approved by CMS to allow plans to enter numerous new areas. Those plans and the areas affected include:

- Humana Inc. began offering Medicare Advantage plans in the Kansas City metropolitan area; in Maricopa County, Ariz., which includes Phoenix; in DeKalb and Fulton counties in Georgia, which includes Atlanta; in five counties in the Louisville, Ky., area, which is where Humana is based; in eight counties in Ohio and Kentucky, including Cincinnati; in 12 Louisiana parishes, including the cities of New Orleans and Baton Rouge; and in

the Texas cities of Austin, Corpus Christi, Houston and San Antonio.

- Cypress, Calif.-based PacificCare expanded its Medicare Advantage plans to San Francisco and to most of Sonoma County.

- HealthSpring, a subsidiary of Nashville, Tenn.-based NewQuest Health Solutions L.L.C., now is offering coverage in Chicago and five Chicago metropolitan area counties.

The renewed interest of health plans in contracting with the government to provide coverage to Medicare-eligible beneficiaries is potentially good news for employers and their retirees.

For employers, it means that the plans again may be a way to significantly cut retiree health care expenses. During the boom years of Medicare Advantage plans—then known as Medicare HMOs and later as Medicare + Choice plans—many

employers reaped big savings when their retirees moved from company-sponsored plans that supplemented Medicare to Medicare managed care plans.

The savings were so significant, in some cases, that employers could give retirees financial incentives to join the plans and still come out ahead financially.

For example, Los Angeles County saves millions of dollars annually by encouraging retirees to enroll in Medicare Advantage plans instead of more expensive county-sponsored Medicare supplemental plans. The county comes out ahead financially even though it picks up most of the tab for Medicare Part B premiums—\$66.60 a month out of a total of \$78.20—for retirees in the Medicare Advantage plans but not for retirees in county-sponsored plans, explained Kathy Migita, di-

ON THE REBOUND

Enrollment in Medicare Advantage plans is starting to increase

Year	Enrollment
2004	4.8 million
2003	4.7 million
2002	4.7 million
2001	5.4 million
2000	6.2 million
1999	6.2 million
1998	6.0 million

Source: Centers for Medicare and Medicaid Services

rector of health care benefits for the Los Angeles County Employees Retirement Assn. in Pasadena, Calif.

In many cases, retirees also come

out ahead when they join Medicare Advantage plans. They receive far richer benefits compared to being in the traditional Medicare plan. Those who enroll in Medicare Advantage plans that are HMOs are limited, though, to using providers in their plans' networks.

But the corporate strategy to encourage retirees to join the plans began to fizzle as plans pulled out of markets, raised premiums and cut benefits.

Even with the latest favorable change in the market, employers will be cautious about contracting with Medicare Advantage plans until they are more certain that the government will not slash federal funding for the plans once again.

"There is no rushing in," due to the history of this program, said Rick Johnson, a senior vp with The Segal Co. in Washington.

Fremont: Looting of subsidiaries alleged

Continued from page 4

charges that Fremont Indemnity officials embarked on "this improper, fraudulent and/or unlawful scheme" to "escape from having to honor their obligations out of their own pockets, abandon their sinking workers compensation and other insurance operations, and instead focus on other profitable endeavors, all to the intended detriment of plaintiffs."

'Cynical maneuver'

The suit says the merger and subsequent liquidation "was a highly strategic, cynical maneuver designed to provide for defendants' cost-saving exit from the insurance industry years earlier than if defendants continued to run off" Comstock and Fremont Indemnity's business "in normal course."

Fremont General is now a financial services holding company that focuses on commercial and residential real estate lending.

Mr. Singer said, "They had run Comstock down to the point where it no longer had shareholder value, but it wasn't insolvent." Once Comstock was merged into Fremont Indemnity, Fremont General's share price increased, he said, "because they no longer were faced

with the prospect of having to support those companies."

Dean Hansell, an attorney with LeBoeuf, Lamb, Greene & MacRae in Los Angeles who represents plaintiffs in the litigation, said as much as \$30 million may be owed to the plaintiffs who have brought the suit. Comstock "probably

'They had run Comstock down to the point where it no longer had shareholder value, but it wasn't insolvent.'

*Philip Singer
CX Reinsurance Co. Ltd.*

would not have paid 100 cents on the dollar, but ... they would have been able to satisfy a good amount of its obligations," said Mr. Hansell.

CX Re is owned by Tawa UK Ltd., which acquires and manages runoffs for insurance and reinsurance entities.

Other plaintiffs in the litigation are Howard Mills, acting New York insurance superintendent, on behalf of insolvent Midland Insurance Co. and Ideal Mutual Co., and Philadelphia-based Philadelphia Reinsurance Corp. The com-

pany had no comment on the litigation.

State court charges

Separately, the California Insurance Department filed two related lawsuits in state court last year on behalf of Fremont Indemnity and Comstock.

According to the Fremont Indemnity suit, among other charges, Fremont General improperly appropriated Fremont Indemnity's net operating loss carryforwards for its own benefit "without an exchange of fair and sufficient consideration to Fremont Indemnity."

Their value "would otherwise be available for the benefit of Fremont Indemnity's policyholders and creditors," says the lawsuit. Net operating losses can be used to reduce income for purposes of federal income tax liability. A similar claim was made in the Comstock lawsuit.

The Fremont Indemnity lawsuit also charges that Fremont General concealed a dispute with New York-based Gerling Global Reinsurance Corp. of America that led to the cessation of more than \$100 million in annual reinsurance payments to Fremont Indemnity.

In the Fremont Indemnity litiga-

tion, a Superior Court judge in Los Angeles in January granted Fremont General's motion to dismiss the lawsuit, stating the company used the net operating loss carryforwards in accordance with an agreement among Fremont Indemnity, Fremont General and the insurance commissioner. But the judge granted the department permission to refile on the concealment charge related to Gerling.

The suit will be refiled on the concealment charge, said Deputy Attorney General Raymond B. Jue, who filed the litigation on behalf of the insurance department. Fremont General said in a statement that the charge is "without factual merit."

The judge's ruling does not affect the Comstock litigation. Fremont General said that lawsuit also "lacks merit."

Howard Mills, acting superintendent of insurance of the State of New York, in his capacity as liquidator of Midland Insurance Co., et al., vs. Fremont General Indemnity et al.; U.S. District Court for the Central District of California, CV051052.

Fremont Indemnity Co. vs. Fremont General Corp. et al.; Superior Court of the State of California for the County of Los Angeles, No. BC316472.

Court rules on dredge status

WASHINGTON—A dredge is a vessel for purposes of determining an employer's liability under federal law, the Supreme Court ruled Tuesday.

At issue in *Stewart vs. Dutra Construction Corp.* was whether Willard Stewart, an injured marine engineer, could sue his employer for negligence stemming from serious injuries he suffered while working on a dredge in Boston Harbor. The federal Jones Act of 1920 provides that "seamen" can sue for negligence in court, while longshoremen are covered by a workers compensation system under 1927's Longshore & Harbor Workers Compensation Act. The question was whether the dredge qualified as a vessel under the LHWCA.

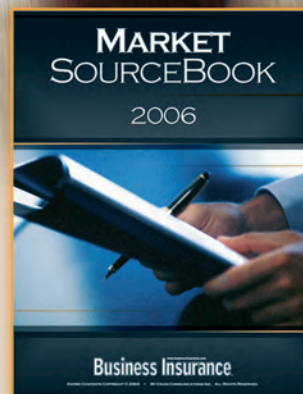
Both the U.S. District Court for Massachusetts and a three-judge panel of the 1st U.S. Circuit Court of Appeals sided with the employer, holding that the dredge was not a "vessel" under the LHWCA. But the Supreme Court ruled 8-to-0, with ailing Chief Justice William Rehnquist not participating in the decision, that a dredge is indeed a vessel as has been legally understood since the 1870s.

The justices remanded the case to the lower court for reconsideration.

—By Mark A. Hofmann

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TRIA: Bill acts as rallying point

Continued from page 1

Urban Affairs Committee—of which both Sens. Bennett and Dodd are members—will hold a hearing on TRIA oversight Thursday. During a hearing last fall on the state of the insurance industry, almost every member of the committee spoke in favor of extending TRIA (*BI*, Sept. 27, 2004). Committee Chairman Richard Shelby, R-Ala, however, did not mention the issue.

The House Financial Services Committee, which passed TRIA extension legislation last year, has not yet scheduled a hearing on the issue for this session. A member of that committee, Rep. Deborah Pryce, R-Ohio, told a joint meeting of the Council of Insurance Agents & Brokers and the Reinsurance Assn. of America earlier this month that the full House might not move until the Treasury Department issues its report on the state of the terrorism insurance market (*BI*, Feb. 14). Treasury has until June 30 to issue its report.

Policyholders and insurance industry representatives all hailed the introduction of the Senate bill.

Janice Ochenkowski, vp-external affairs for the Risk & Insurance Management Society Inc., issued a statement commending the senators. "RIMS believes TRIA extension is necessary to avoid the market disruptions that occurred after Sept. 11, 2001, and before the adoption of TRIA. This legislation will ensure that terrorism insurance continues to be available to buyers of commer-

cial insurance in a comprehensive and affordable manner," said Ms. Ochenkowski, who is also senior vp at Jones Lang LaSalle in Chicago.

"With TRIA's expiration looming, the introduction of this legislation is critical to avoiding potential economic dislocation in the short term, and it's a first step in Congress' review of the long-term terrorism risk issue," said Martin DuPoy, vp-government relations for the Washington-based National Assn. of Real Estate Investment Trusts and a representative of the policyholder-backed Coalition to Insure Against Terrorism.

Joel Wood, senior vp-government affairs for the CIAB, called the bill "a much-needed spark plug" for extending TRIA.

"The Dodd-Bennett bill gives us all a rallying point. Clearly, legislation won't be completed until after the Treasury Department has weighed in with their report in June. As much as we'd like to resolve the uncertainty sooner rather than later, perhaps it will be a good thing that Congress legislates on this issue later in the year. By then, it will have fully sunk in that the sunset provisions for terrorism coverage at the end of this year are for real," Mr. Wood said.

"This will be a difficult bill to pass, no doubt. But we're reasonably optimistic about our prospects, because we think legislators are going to realize that the government is in the terrorism insurance business with or without TRIA," he said.

"The introduction of the Bennett-Dodd bill is very good news," said Carl Parks, senior vp-government affairs for the Property Casualty Insurers Assn. of America in Washington. "I'd go back to last fall, when Sen. Shelby held the Banking Committee hearing on the status of the insurance industry, and most of the comments of the members from both sides of the aisle were regarding the need to extend TRIA. And you follow that up with the hearing Sen. Shelby called for March 3," he said.

Certainly, there are "signs that key members of the Senate understand the urgency of extending TRIA and finding a long-term solution to the problem of insuring against terror," Mr. Parks said.

"From the reinsurance perspective, without any type of program in place next year, we don't think there's going to be a viable reinsurance market that's able to provide adequate capacity for terrorist attacks to the primary insurers," said Mary Z. Seidel, vp and director of federal affairs for RAA. "The fact that some key members of the Senate have recognized that there needs to be continued federal backstop is a significant step forward."

The bill's authors "clearly appreciate the urgency of addressing the TRIA expiration issue," said David Winston, senior vp-federal affairs in the Washington office of the Indianapolis-based National Assn. of Mutual Insurance Cos.

Aon: Talks with AGs

Continued from page 1

titrust laws by tying reinsurance to retail placements, it has acknowledged that some employees failed to follow the brokerage's code of conduct (*BI*, Dec. 13, 2004).

Earlier this month, Aon set aside \$50 million for potential settlements that could result from investigations by New York and other states (*BI*, Feb. 14). State officials later revealed that Aon is engaged in settlement talks with New York and Connecticut, whose attorneys generals have lead the investigation into contingent commissions and other compensation practices, and with Illinois, where Aon is headquartered.

Although Aon's growth has lagged behind that of its competitors over the past several years and analysts expect that it will likely pay more than \$50 million to settle charges, it should be able to bear the costs.

"Keeping in mind (Aon's) contingent commissions totaled less than \$200 million and knowing that Marsh settled for \$850 million and their contingent commissions were \$845 million, from a financial perspective, unless there is something we're not aware of or unless something is really outrageous, I think they would have the financial means" to settle any charges, said Steven Ader, a credit analyst at Standard & Poor's Corp. in New York.

"They've taken their \$50 million provision; they are going to generate more than \$1 billion in (earnings before interest, taxes, depreciation and amortization) in 2005; and they've

just renewed two commercial paper facilities," noted Mark Lane, a principal and research analyst with William Blair & Co. in Chicago. "Given the economic cost to Marsh...and given Aon's alleged wrongdoings relative to Marsh, an expected fine in the \$200 million range is easily absorbable," he said.

"They certainly have already put aside the \$50 million," said Gretchen Roepzer, a credit analyst with Fitch Ratings in Chicago. "I think it's pretty well known that...that would be just a beginning dollar amount."

"If you look at Marsh's settlement of \$850 million, it is in line with the contingent commissions it took in 2003," Ms. Roepzer said. If Aon's settlement mirrors that of Marsh's, "they've got another two-thirds to go in terms of a fund," she said, noting that Aon should be able to absorb that.

In addition to the \$50 million settlement reserve, Aon has \$460 million in cash on hand and recently completed a \$600 million three-year revolving credit facility and a new 650 million euro (\$845 million) multicurrency revolving loan credit facility, the company confirmed.

As part of the deal to structure the credit facilities, any settlement reached in connection with the industry investigations by New York and others will not be deemed a material adverse condition, Aon confirmed. Banks can halt borrowing on credit facilities should material adverse conditions arise.

Play: Health cover

Continued from page 1

attempt to adopt health reforms aimed at achieving universal coverage. In 1993, state lawmakers passed a mandate that employers with more than 500 employees cover all of their employees dependents by 1996. All other employers would have had to provide such coverage by July 1999.

But the state repealed the plan in 1995 after Republicans regained control of the Legislature and the state had not received a necessary waiver from the federal Employee Retirement Income Security Act, which pre-empts state laws that relate to employee benefit plans.

If passed, the Washington legislation also will likely face an ERISA challenge, but this time, it may succeed.

"We've crafted ours very carefully regarding ERISA," said Sen. Karen Keiser, a Democrat from Des Moines, Wash., a suburb of Seattle, and the bill's sponsor. "For one thing, we do not describe any type of plan that employers should have."

"Clearly, the bill was written with an eye toward winning a pre-emption fight," said Henry Saveth, an attorney with Mercer Human Resource Consulting in New York. "In the text of the legislation, they declare 'It is not the intent to influence the content or administration of employee benefit plans.' That

was put in there designed to win a pre-emption battle."

So far the legislation has the backing of the Brown & Cole supermarket chain in Bellingham, Wash., and several other large employers that provide health insurance to their employees.

"We've had some employers keep pushing the point that they're at an economic competitive disadvantage because they provide health care and others don't," Sen. Keiser said.

Dr. Norman Charney, president of the Northwest Business Coalition on Health in Spokane, also supports the legislation.

"The fact of the matter is," he said, "not having people covered in this state is costing business a lot more money than they think. When people go to the hospital and they don't have insurance, and they are treated as uncompensated care, where do you think the bills go? The bills go right to the employer in the way of increased fee schedules for their beds and other emergency room costs. So it gets translated into the premiums."

Indeed, according to Sen. Keiser, the legislation would shave as much as \$215 million annually off the cost of uncompensated care in the state.

But Mellani McAleenan, governmental affairs director for the Assn. of Washington Business in Olympia, disagrees.

"Washington's economy cannot take this hit," she said. "This is an additional tax on employers."

Moreover, "it hurts businesses that are already trying to provide insurance," she added. "The way the bill is written, even if you supply insurance, if yours doesn't cost enough to meet what the state will determine is the appropriate funding level, then you have to pay the difference. So there's no incentive to be a smart consumer," Ms. McAleenan said.

The National Business Group on Health and America's Health Insurance Plans, both based in Washington, also oppose the legislation.

"Health care coverage is unaffordable for most Americans. Mandating coverage won't make it any more affordable," said Helen Darling, president of NBGH.

Bentonville, Ark.-based Wal-Mart also weighed in on the bill.

"The issue is much broader than Wal-Mart. Our nation, including large and small employers, faces a health care crisis," said John Haefner, director of benefits, during testimony before two legislative committees earlier this month.

"Penalizing employers because a small percentage of their employees either don't qualify for or choose not to enroll in their benefit plans is not the answer," he said. He acknowledged that just over half of Wal-Mart's employees in Washington are enrolled in the company's health plan.

He also defended Wal-Mart's record in Washington state. Wal-

Mart is one of the state's largest employers, with more than 14,500 employees, 78% of whom are full-time, and all of whom earn more than the state minimum wage, he said.

"Through our medical plans, approximately 8,300 Washingtonians are covered. This is approximately 1,200 more than the same time last year. An associate can obtain health insurance for less than \$40 per month; family rates, regardless of the number of children, start at less than \$155 per month," Mr. Haefner said during his testimony.

Ms. McAleenan also objected to the fact that, under the bill, the Basic Health Plan coverage would only be available to employees who work at least 86 hours per month, "so those part-time, low-income people that you would think they're trying to cover, they're still not covering."

According to an analysis by the Washington-based Employment Policies Institute, a nonprofit research organization dedicated to studying public policy issues surrounding employment growth, the plan would only provide coverage for 18% of the state's estimated 850,000 uninsured residents.

But Sen. Keiser said that the purpose of the bill is not to solve the entire uninsured problem in one fell swoop, but rather, to chip away at it incrementally.

"It certainly would not answer the whole question, but we think this first bite of the apple would get us to 88,000 to 100,000" additional

insured lives, she said.

Sen. Keiser added that the savings produced by reducing the cost of uncompensated care, along with the tax, would be used to further reduce the ranks of the uninsured, perhaps by providing a subsidy to small employers that can't afford to provide health insurance to their workers, among other things.

Nothing in the legislation has been set in stone, she insisted.

"We have put forward a proposal for discussion purposes. And we're getting feedback. And we're working on some of the details," she said.

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Late News

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and officers liability insurance it wrote for Nortel Networks Corp. because of the accounting scandal that has rocked the Canadian telecommunications giant. Chubb, citing fraud exclusions in Nortel's policy language, has asked the Ontario Superior Court of Justice to allow the insurer to rescind the coverage it wrote for Nortel between 2003 and 2004. Nortel faces litigation and investigations by securities regulators over allegations that its 2003 financial results were manipulated to show a profit that allowed senior management to collect bonuses. Nortel did not return calls.



PBGC proposes change to liability payments rule

A newly proposed Pension Benefit Guaranty Corp. rule would make permanent a procedure the agency has used on a case-by-case basis. The rule involves the extra liability payment an employer with an underfunded pension plan must make when it closes down a facility and lays off a significant percentage of its workforce. This payment is triggered if the number of employees laid off represents at least 20% of the total number of pension plan participants. Under the PBGC's proposed rule, the liability payment would be calculated by multiplying the amount of

underfunding by the percentage of employees laid off. Funds would be returned to the employer if the plan does not terminate within five years of the plant shutdown and layoffs.

Utah to eliminate captive premium tax

Utah Gov. Jon Huntsman Jr. is expected to sign a measure that would eliminate premium taxes paid by captive insurance companies licensed in the state. H.B. 191, passed last week, authorizes the insurance commissioner to set an annual fee paid by captives. Neal Gooch, deputy insurance commissioner, said the fee likely would be about \$5,000. He said the elimination of captive premium taxes is an attempt to make Utah, which has two captives, more competitive as a captive domicile.

Beazley to start underwriting in U.S.

Underwriting manager Beazley USA, a unit of London-based Beazley Group P.L.C., plans to start underwriting specialty lines business from a U.S. office in Farmington, Conn., beginning March 1. The office will initially transact surplus lines business on behalf of Beazley syndicates at Lloyd's of London, focusing on miscellaneous errors and omissions coverage, technology E&O, directors and officers liability insurance, employment practices liability, fiduciary liability and fidelity risks, said Nicholas Bozzo, head of specialty lines for Beazley's U.S. operation.

AIG sued over board nomination process

The American Federation of State, County & Municipal Employees pension plan filed suit Friday against American International Group Inc., seeking to make it easier for shareholders to elect their own nominees to the insurer's board. The

suit, filed in U.S. District Court in New York, seeks to require AIG to bring to a shareholder vote an AFSCME proposal that, if approved, would amend the company's bylaws to allow shareholders future access to AIG's proxy materials to nominate individuals to the company's board. The proposal would require AIG to include in its proxy materials the names and other information on candidates nominated by shareholders who own at least 3% of the company's stock for at least one year. AIG had no comment on the suit.

Garamendi, others probing title reinsurance deals



Mr. Garamendi

California Insurance Commissioner John Garamendi said he is issuing subpoenas to title insurers as part of a multistate investigation

of reinsurance arrangements in the title insurance industry. State insurance regulators allege that title insurers participate in a scheme in which they pay realtors, lenders and developers illegal rebates in the form of premiums on fake reinsurance written by the companies' captive reinsurers, in exchange for the companies channeling business to the title insurers. Mr. Garamendi said he is conducting his investigation in conjunction with regulators in Colorado and Washington.

New name, manager at JLT U.S. unit

The U.S. arm of London-based brokerage Jardine Lloyd Thompson Group P.L.C. has renamed itself and appointed new management. The name of the Houston-based specialty retail operation, formerly Capital Risk

L.L.C., officially has been changed to Jardine Lloyd Thompson L.L.C. Ken Carter, executive chairman of JLT L.L.C., will at least temporarily replace retiring chief executive officer John Molbeck, effective March 1. Mr. Carter will retain his prior responsibilities, and the company plans to search for a successor for Mr. Molbeck, who joined JLT in 2003.

Briefly noted

USI Holdings Corp. announced Friday that Chief Operating Officer Thomas E. O'Neil has resigned, effective immediately. USI said that Mr. O'Neil left "to pursue other interests" and that it is searching for a replacement....Two congressional committees will hold hearings next week on the Bush administration's sweeping pension funding reform package. The administration says its package is needed to eliminate loopholes in pension law that have led to massive pension underfunding and exposed the Pension Benefit Guaranty Corp. to huge losses....Donald Bryan, the director of the New Jersey Division of Insurance, will take on the role of acting commissioner of the state's Department of Banking and Insurance beginning March 1. He will replace Holly C. Bakke, who is resigning for personal reasons.... Willis Group Holdings Ltd. will acquire CGI Consulting Inc., a Malvern, Pa.-based employee benefits firm, by the end of the month. Terms of the transaction were not disclosed, but CGI will add about \$7 million in annual revenues to Willis' Atlanta-based employee benefits practice, Willis said.

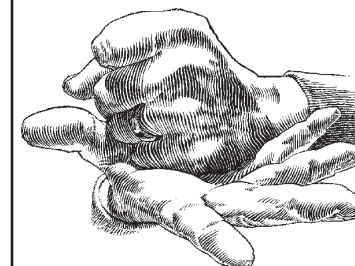
Check out BusinessInsurance.com

Items in the Late News column originally appeared in *BI's* Daily News feature on www.businessinsurance.com. Visit the *BI* Web site to sign up to receive *BI's* Daily News by e-mail.

Online Poll

[2/21 - 2/25]

Looking back, do you think the risk management profession should have taken a harder line years ago on contingent commissions?



Yes	59.5%
No	31.4%
Don't know	9.1%

BI Stock Index

[2/21 - 2/25]

Up-to-the-minute data for all 87 companies that comprise the *BI* Stock Index can be found at www.businessinsurance.com.

Percentage change of *BI* Stock Index vs. key indicators

BI Stock Index **0.38**
2499.74

Dow Jones **0.52**
10841.60

S&P 500 **0.81**
1211.37

Largest gains

Clark Inc.	17.39%
AEGON N.V.	8.51%
ProAssurance	5.98%
AXA	5.89%
Navigators Group	4.99%

Largest losses

United Fire & Casualty	-6.95%
Meadowbrook Insurance	-6.02%
Alleghany Corp.	-4.35%
Gainsco Inc.	-4.17%
PXRE Corp.	-2.65%

Weekly change by market segment

Brokers	2.71%
Insurers/Reinsurers	1.29%
Managed Care Organizations	1.19%

Source: FinancialContent Inc. (<http://financialcontent.com>)

Texas, Florida mulling asbestos reforms

By MARK A. HOFMANN

Lawmakers in Texas and Florida are considering bills that would require plaintiffs in asbestos and silica injury cases to meet certain medical criteria before their claims could go forward.

Texas State Rep. Joe Nixon, a Republican from Harris County, last week introduced H.B. 8. According to its text, the bill's purpose is to "protect the right of people with impairing asbestos-related and silica-related injuries to pursue their claims for compensation" while "preventing

scarce judicial and litigant resources from being misdirected by the claims of individuals exposed to asbestos or silica but having no functional or physical impairment."

The measure also seeks to head off "factually and medically baseless claims of individuals who have been mistakenly identified as claimants by marketing firms and screening companies in the business of creating 'inventories' of toxic tort claimants."

In Florida, State Rep. Joe Pickens, a Republican whose district consists of Putnam County and

portions of several adjacent counties, introduced the Asbestos & Silica Compensation Fairness Act of 2005. That measure, H.B. 1019, also would require plaintiffs to meet medical criteria to pursue claims.

In addition, the bill would ban punitive damages in civil cases alleging asbestos or silica injury and would provide for potential collateral source offsets in settlements and judgments.

Thus far, Ohio is the only state to set statewide medical criteria for civil actions alleging asbestos or mixed-dust injuries (*BI*, May 31, 2004).

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