$5

Business Insurance®

April 19, 2010

www.businessinsurance.com

AIR CRASH HIGHLIGHTS NEED FOR KEY PERSON RISK PLAN / PAGE 3

GREENBERG GOES TO COURT TO SEEK DISMISSAL OF SUIT OVER FINITE FRAUD / PAGE 3

RIMS BENCHMARK SURVEY SHOWS RATES REMAIN SOFT FOR MOST LINES / PAGE 3

In Brief

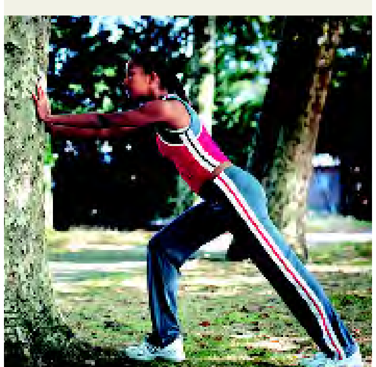
Obama signs extensions of COBRA, NFIP

President Barack Obama has signed into law legislation that extends the National Flood Insurance Program through May 31, and another short-term extension of COBRA health insurance premium subsidies for involuntarily terminated employees. The law extends the 15-month, 65% COBRA premium subsidy to employees laid off from April 1 through May 31. The NFIP extension, which is part of a more comprehensive measure that temporarily extends a variety of federal programs, allows the program to again issue new policies.

Coverage unlikely for ash-canceled flights

Airlines that lost revenue from flight cancellations caused by a cloud of volcanic ash over much

See **IN BRIEF** page 22



BenefitInsider

BENEFITS COMMUNICATION & TECHNOLOGY

Employers use behavioral economics techniques to communicate with workers; technology helps change employee health habits; firms struggle to make wellness programs stick. PAGE 9

MERGERS & ACQUISITIONS

Wholesaler AmWINS gains scale in deal

Colemont buy broadens reach in U.S., overseas

By SALLY ROBERTS

CHARLOTTE, N.C.—AmWINS Group Inc.'s acquisition of Colemont Insurance Brokers gives the wholesaler more scale and diversification, including an international platform, observers say.

For Colemont, the deal relieves what were seen as significant financial pressures stemming from its aggressive international expansion and the prolonged soft U.S. insurance market—pressures that forced it to explore its options, market observers said.

Indeed, several market observers characterized the deal as "distressed," though AmWINS' top executive said that was not the case.

This month, AmWINS and Colemont jointly announced they had merged into a combined entity that will operate under the AmWINS name with more than $4.8 billion in annual premiums and 1,800 employees located in 16 countries. Terms of the deal were not disclosed.

Charlotte, N.C.-based AmWINS was the second-largest wholesaler in *Business Insurance*'s 2009 ranking, based on 2008 property/casualty premium volume of $2.21 billion. Dallas-based Colemont ranked at No. 5, based on property/casualty placements of $1.36 billion.

Mr. DeCarlo (left) will lead the new combined entity. Mr. Kath resigned as part of the deal.

The combined firm, which will be based in Charlotte, will have four divisions: AmWINS Brokerage, AmWINS Underwriting, AmWINS Group Benefits and Colemont Global Group.

The combined entity will be led by AmWINS' top leaders, including CEO M. Steven DeCarlo and Presi-

See **M&A** page 19

RISK MANAGEMENT

Schools work to reduce liabilities over bullying

More lawsuits expected as problem grows

By JUDY GREENWALD

The widely publicized suicide of a Massachusetts teen and an $800,000 award to a Michigan teen, both of whom allegedly were bullied by classmates, are expected to generate more litigation against school districts, observers say.

In the Massachusetts case, 15-year-old Phoebe Prince, a recent immigrant from Ireland, hanged herself in January after being bullied by classmates at South Hadley High School. The bullying allegedly began after she briefly dated a high school senior.

See **BULLY** page 20

HEALTH CARE REFORM

Health care voucher provision may inflate employer costs

By JERRY GEISEL

WASHINGTON—A provision in the new health care reform law requiring employers to give low-paid employees vouchers to purchase coverage in state health insurance exchanges could sock employers with even bigger health insurance cost increases.

The provision, which has gotten little attention, would have its biggest impact on employers with large numbers of low-paid workers who are required to pay a high percentage of the premium.

Under the provision, employees would have to meet two conditions to be entitled to the employer-funded vouchers: their family income could not exceed 400% of the federal poverty level; and the premium contributions their employers require them to make must be between 8% and 9.8% of their income. Some experts believe the 9.8% figure was a drafting error and will be changed later in a technical corrections bill to 9.5%.

If those conditions are met, those employees would be entitled to receive a voucher from their employers, and the value of the voucher would not be tied to the plan in which the employee was actually enrolled.

Instead, the voucher's value would be equal to what the employer would pay if the employee were enrolled in whichever of its plans offered the largest premium contribution by the employer. Experts say it isn't clear whether "largest" refers to the percentage of the premium paid by the employer or the dollar amount of the contribution.

Then, the employee could use the voucher to purchase health insur-

See **OPT OUT** page 19

INDEX

Business Insurance

Online features & highlights www.businessinsurance.com

VIDEO: RIMS IN FOCUS

Business Insurance Associate Editor Colleen McCarthy takes viewers on a virtual tour of things to see and do while attending the Risk & Insurance Management Society Inc.'s upcoming annual conference & exhibition in Boston. Click on the Multimedia tab.

STOCK INDEX

The *BI* Stock Index offers comprehensive stock and financial information on all companies within the index. Find it under the Research Center tab.

Benefit Systems Directory
Access from Research Center tab

FOLLOW *BI* ON TWITTER AT RIMS

Business Insurance has a new home on Twitter. Follow us at *www.twitter.com/BusInsMagazine* for continuous news and information, as well as extensive coverage of the upcoming Risk & Insurance Management Society Inc. conference and exhibition in Boston this month.

BI news

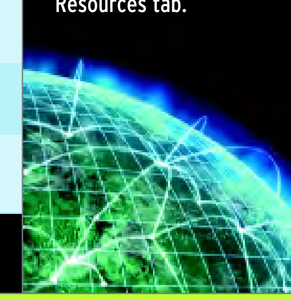
MOST POPULAR STORIES
Week of April 12, 2010

1. Obama signs short-term COBRA subsidy extension
2. Longer COBRA premium subsidy extension proposed
3. Senate nears final vote on COBRA premium subsidy extension
4. Senate OKs short-term extension of COBRA subsidy
5. Wholesaler CEO resigns after merger
6. Aon Benfield announces management changes
7. Health insurers shifting costs ahead of law: Report
8. AIG rises on speculation Treasury may lower stake
9. Truck driver can press sex discrimination claim: Court
10. Mount Vesuvius Europe's most dangerous volcano: Study

GET ONLINE NEWS EACH DAY
Subscribe to *BI*'s daily newsletter

HEALTH CARE WEBCAST ON DEMAND

An archived version of the *Business Insurance* webcast "The New Health Care Reform Law: What Will Employers Need to Do to Comply?" is now available for viewing on demand. To register to view this presentation and download materials, click on Webcasts/ Webinars on the Tools & Resources tab.



COMINGS & GOINGS

Want to see who's where or who's new? Search the industry's executive changes alphabetically by a person's name or company, as well as by date. Click on the Comings & Goings tab.

Business Insurance BEST places to work 2010

Business Insurance's Best Places to Work in Insurance program gives industry firms a chance to see how they compare as employers of choice and provides valuable insight into how employees view the companies they work for in numerous areas. Five company categories are eligible to register: agents/ brokers, property/casualty insurers, group life/health insurers, reinsurers and third-party administrators. Register by April 30 at *www.bestplacestoworkins.com*.

Business Insurance (ISSN 0007-6864) Vol. 44, No. 16, is published weekly, except for combined issues the first week of June, the second week of June, the third week of June, the fourth week of June, the first week of July, the second week of July, the fourth week of July, the first week of August, the second week of August, the third week of August, and no issue the fourth week of December, 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 $125 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.

RISK MANAGEMENT

Air crash highlights need for key person risk strategy

Firms review plans after Polish leaders die in single incident

By MICHAEL BRADFORD

SMOLENSK, Russia—The deaths of Poland's president and other prominent political, military and civilian leaders in a plane crash has brought attention to the importance of having a key person risk management strategy in place and prompted some companies to review their procedures for protecting executives and other valued employees.

President Lech Kaczynski, his wife and 94 others perished April 10 when the state-owned Tupolev Tu-154 aircraft crashed while attempting to land in heavy fog at an airport in Smolensk, Russia. The group was on its way to a ceremony commemorating the 1940 Soviet massacre of Polish military officers and civilians.

Speculation as to the cause of the accident centered on pilot error in attempting the landing in bad weather.

The accident highlights a stark difference in how many governments manage the risk of losing key leaders and the way businesses approach that exposure, experts say.

It is unlikely that a risk-savvy company would have permitted such a prominent group of leaders to travel together, said Paul Hopkin, technical director at the Assn. of Insurance & Risk Managers in London. "There certainly would be policies in place" to make sure a large number of corporate executives were not on the same aircraft, he said.

"It's shocking," agreed Paul Schweingruber, member of the executive board of Kessler & Co. Inc., a Zurich-based broker partner of Marsh Inc. "I'm really surprised that they took such a high risk. We advise our clients to avoid such risks, to not put management on the same plane."

See **TRAVEL** page 22

Polish army soldiers flank coffins of victims of a plane crash that killed 96 people, including high-level officials.

AP PHOTO

REUTERS/LANDOV

Ex-American International Group Inc. leader Maurice "Hank" Greenberg leaves court following his deposition in an ongoing New York state investigation.

REINSURANCE

Greenberg seeks dismissal of suit alleging finite fraud

Former AIG chief denies asking Gen Re to enter sham deal

By COLLEEN McCARTHY

NEW YORK—Former American International Group Inc. Chairman and CEO Maurice R. Greenberg is expected to go before a New York state judge Tuesday to request the dismissal of a 2005 civil fraud lawsuit against him.

The suit, brought by then-New York Attorney General Eliot Spitzer, accused Mr. Greenberg and former AIG Chief Financial Officer Howard Smith of using a sham 2001 reinsurance transaction between AIG and General Re Corp. to hide losses and inflate reserves at AIG.

However, in documents filed last week in New York State Supreme Court, Mr. Greenberg said he didn't ask Gen Re to enter into a fraudulent reinsurance transaction with AIG and never authorized anyone at AIG to enter into such a deal. The documents detail Mr. Greenberg's testimony from a March deposition with the New York attorney general's office.

Until the March deposition, Mr. Greenberg had declined to testify about the transaction in the state suit because of an ongoing federal investigation. However, Mr. Greenberg's attorneys said last month that the statute of limitations for any criminal action had expired, freeing Mr. Greenberg to testify.

Mr. Smith made similar statements in a March deposition, according to the court filings.

Meanwhile, attorneys for New York state argued Messrs. Greenberg and Smith's recent deposition testimony "has confirmed the abundant independent evidence establishing their personal liability." The Gen Re deal "was personally initiated by (Mr.) Greenberg with his CEO counterpart at Gen Re. It is not possible to find greater involvement in a

See **GREENBERG** page 7

RISK-LINKED SECURITIES

Market favorable for cat bond activity

By COLLEEN McCARTHY

At least one new catastrophe bond is being marketed to investors, and a report finds that cat bond activity likely will gain momentum in the second quarter of 2010 amid ongoing favorable market conditions for sponsors.

Assurant Inc. is planning to launch a $100 million catastrophe bond to cover a portion of its U.S. hurricane exposure, a market source confirmed last week.

The bond, Ibis Re II Ltd., is being marketed to investors and is expected to close next month. The deal would represent the second transaction for the New York-based specialty insurer. Last June, Assurant entered the market with a $150 million catastrophe bond, Ibis Re Ltd., to cover losses from U.S. hurricanes over three years.

If successful, it will be the fourth cat bond issued in 2010. The potential pipeline includes several other transactions that are currently in the early stages of development, market sources said. Additional deals are expected from Boston-based Liberty Mutual Insurance Co. and San Antonio-based USAA Group, sources said.

Insurers could complete an estimated five to 15 second-quarter transactions, according to the analysis by New York-based Guy Carpenter & Co. L.L.C. and GC Securities Ltd., both units of Marsh & McLennan Cos. Inc.

While the second quarter typically is active as the market approaches the June 1 start of the Atlantic hurricane season, the outlook remains "bullish" with expected total issuance for 2010 reaching $3 billion to $5 billion, the report said.

Two cat bonds totaling $300 million closed in the first quarter of 2010, both featuring strong investor demand that resulted in significant upsizing relative to the original targets. By comparison, three transactions totaling $575 million closed during the first quarter of 2009, according to the report, "Catastrophe Bond Update: First Quarter 2010—Heavy Smoke, Some Fire…Encouraging Conditions Persist."

Current cat bond spreads, which determine the pricing for sponsors, are roughly in line with the tradi-

See **CAT BOND** page 7

PROPERTY/CASUALTY INSURERS

Property/casualty rates remain soft

Pricing aids buyers but squeezes brokers: RIMS survey

By MARK A. HOFMANN

The soft commercial property/casualty insurance market shows no sign of ending, according to a survey released last week by the New York-based Risk & Insurance Management Society Inc.

The "RIMS Benchmark Survey," which is administered by New York-based consultant Advisen Ltd., found decreases in premiums for every line of coverage tracked by the survey during the first quarter this year.

The survey found that general liability was the most competitive line during the quarter, with the average premium falling 4.4%. The average property premium, which had been essentially flat during the past several quarters, fell 2.9%. The average workers compensation premium fell 2% and the average directors and officers liability premium declined 1.1%.

COSTS TRENDING DOWN

Changes in premiums during first-quarter 2010 compared with first-quarter 2009

- General liability: **DOWN 4.4%**
- Property: **DOWN 2.9%**
- Workers compensation: **DOWN 2%**
- Directors and officers liability: **DOWN 1.1%**

Source: "RIMS Benchmark Survey"

The average D&O premium "had been flat to slightly higher throughout 2009 due to rate increases in the financial institution sector, but those increases now have abated," RIMS and Advisen said in a statement about the survey results.

"Insurance capacity is abundant throughout the commercial lines market, but the lingering impact of the global recession has reduced the demand for that capacity," Dave Bradford, Advisen executive vp, said in the statement. "Abundant capacity, coupled with diminished demand, keeps downward pressure on rates. As things now stand, insurance buyers can anticipate another year of favorable insurance prices, although catastrophe claims always are a wild card in the pricing cycle."

"There were no big surprises," Mr. Bradford said in an interview. "We continued to expect to see in 2010

See **RATES** page 18

PROPERTY/CASUALTY INSURERS

AIG sells off aircraft, criticizes limits on pay

Regulatory filings show SEC satisfied with reserve levels

By COLLEEN McCARTHY

NEW YORK—American International Group Inc.'s sale last week of 53 aircraft for $1.99 billion from its aircraft leasing unit, International Lease Finance Corp., will generate much-needed cash to pay off some of the unit's mounting debt, analysts say.

However, there is no guarantee that AIG will not have to tap government funds to support ILFC in the future, observers say.

Separately, U.S. Treasury Department officials reportedly were discussing ways to lower the government's stake in AIG.

In addition, AIG last week disclosed compensation details for its top executives in a regulatory filing that criticized pay curbs imposed by U.S. pay czar Kenneth Feinberg.

The New York-based insurer also appears to have satisfied regulators' concerns about possible reserve shortfalls, according to documents disclosed last week in which the Securities and Exchange Commission said it has "no further comments" about the matter.

Los Angeles-based ILFC, which owns roughly 1,000 aircraft, agreed to sell the 53 aircraft to Macquarie Aerospace Ltd., a subsidiary of Australian investment bank Macquarie Group Ltd., below their book value of $2.3 billion, the companies said in a statement.

The deal, which is expected to be completed by year-end, came after AIG's failed efforts to sell all of ILFC as part of its broader asset sale program to repay its government loan. Some analysts had said ILFC likely was AIG's last major asset to be sold.

However, ILFC's substantial debt obligations combined with the tough capital markets meant a deal could not be reached, analysts said. Instead, AIG switched to selling individual aircraft to fund the unit and last month said it was looking to sell planes for up to $3.5 billion.

"This is strictly damage control at this point," said John L. Ward, CEO of Cincinnatus Partners L.L.C. in Cincinnati. Initially, analysts viewed the unit as potentially fetching up to $9 billion, "but now they've been forced to sell off planes piecemeal," Mr. Ward said. In addition, the roughly $2 billion raised will be used exclusively to pay down ILFC's debt, not AIG's government debt, he said.

In its annual report published in February, AIG said ILFC had more than $6.7 billion of debt maturing in 2010. According to Moody's Investors Service, $26.7 billion of ILFC's $30.1 billion in debt as of Dec. 31 matures by year-end 2013. AIG has said it will support ILFC into February 2011.

Still, ILFC has made some progress, analysts said. In March, ILFC said it sold unsecured debt for the first time since the 2008 financial crisis. In a statement last week, Alan Lund, ILFC president and CEO, said its recent success in raising more than $4 billion in new secured and unsecured financing, plus the aircraft sales, "strongly demonstrates ILFC's ability to generate liquidity and 'de-lever' its balance sheet." AIG President and CEO Robert H. Benmosche said in the

See **AIG** page 18

CLIMATE CHANGE

Climate change and regulatory revisions were on the minds of attendees at the recent World Insurance Forum in Bermuda.

Insurance execs debate climate change issues

Global changes bring risks, possible rewards, WIF panelists say

By REGIS COCCIA

TUCKER'S TOWN, Bermuda—Climate change's effect on the insurance industry and regulatory developments were among key topics discussed at the recent World Insurance Forum in Bermuda.

An executive panel moderated by AXIS Capital Holdings Ltd. Chairman Michael A. Butt discussed whether climate change represents a threat or an opportunity for the global insurance industry.

By itself, "climate change is a threat to our business; it's not something we can safely muddle through," said Barney Schauble, a managing partner at Hamilton, Bermuda-based Nephila Capital Ltd., an investment management company that specializes in insurance and reinsurance. "If pricing of existing products can reflect the underlying risk, then climate change is an opportunity—if not, then it's a threat," he said.

David Bresch, head of sustainability and emerging risk management at Zurich-based Swiss Reinsurance Co., noted that climate change is difficult to translate into product pricing. "When we renew contracts, climate change is always high on the agenda. Quantitative assessment is utterly difficult, and it will be difficult to put those numbers into models," he said.

The insurance industry has "the capacity to play an important role in the worldwide discussion of management of global warming," said Peter Hoeppe, a professor of meteorology and biology and head of geo risks and the corporate climate center at Munich-based Munich Reinsurance Co. "The insurance industry is one of the

See **WIF** page 6

RISK MANAGEMENT

Struggling economy calls for ERM

Symposium outlines strategies to set organizational appetite for risk

By JEFF CASALE

CHICAGO—The 2008 financial crisis highlighted the importance of enterprise risk management, but some companies still are grappling with ways to apply ERM to their business practices, according to risk management experts.

Strategies to define sources of risk, categorize risks and ascertain organizations' appetite for risks have to be developed for an ERM program to succeed, said experts at the 2010 Enterprise Risk Management Symposium in Chicago last week.

The ERM Symposium, co-hosted by the Society of Actuaries, Casualty Actuarial Society, Canadian Institute of Actuaries, and Professional Risk Managers' International Assn., highlighted the importance of anticipating and managing risks during troubled economic times.

82%

A recent survey of 319 actuaries working in risk management by the Schaumburg, Ill.-based Society of Actuaries revealed that 82% think a holistic approach to risk is embraced by senior leadership within their organizations, but only 47% said that ERM was integrated within their corporate culture.

The need for effective ERM was apparent when the credit markets imploded in late 2008 and corporate giants such as Bear Stearns Cos. Inc., Lehman Bros. Holdings Inc. and American International Group Inc. suffered huge financial losses. With companies looking to avoid similar fates, ERM and identifying ways to defend against massive losses as a result of taking on risk have become increasingly important, experts say.

"(Risk managers) are now looking at why risk management failed and what is the future of risk modeling," said John Wengler, chief risk officer for Chicago-based BlueStar Energy Services.

A recent survey of 319 actuaries working in risk management by the Schaumburg, Ill.-based Society of Actuaries revealed that 82% think a holistic approach to risk is embraced by senior leadership within their organizations, but only 47% said that ERM was integrated within their corporate culture. Nearly 45% of those surveyed disagree or are unsure that their firm's external risk

See **ERM** page 21

HEALTH CARE REFORM

Webcast interprets health care reform

Employers confused by law's requirements on adult dependents

By JOANNE WOJCIK

Employers are struggling to comprehend certain provisions in the recently enacted federal health care reform legislation that will be among the first to be implemented, a *Business Insurance* webcast has revealed.

Based on questions submitted during the 90-minute Internet presentation Thursday, two provisions that appeared to pose the greatest

See **WEBCAST** page 21

Marie Chalmers of Mercer Health & Benefits L.L.C. and Mark Holloway of Lockton Benefit Group offered their interpretation of the health care reform law during a webcast last week presented by *Business Insurance* and sister publication *Workforce Management*.

WIF: Climate change threat, opportunity

CONTINUED FROM PAGE 4

largest investors in the world, and more and more investments are in new technologies" that can reduce carbon emissions, Mr. Hoeppe said.

Members of the industry have differing viewpoints, noted Rolf Tolle, former head of the franchise performance directorate at Lloyd's of London. "Where we have failed is in working with society and politicians and making it clear what the consequences are," he said. "We're still not all marching in the same direction. With one voice as an industry, we could be much more effective" in leading the discussion on climate change.

Mr. Butt questioned whether products addressing climate change can have risk-based pricing.

"What we have today is average risk prices; we subsidize high-risk with low-risk," said Mr. Tolle, citing as an example property construction in catastrophe-prone areas. "We don't have enough data" to factor climate change risk into pricing, "but one thing we can do is to reward people for improving the risk," he said.

"Mitigating or reducing vulnerability is key to keeping risks insurable," said Mr. Hoeppe. "For example, it is essential to avoid more development in flood-prone areas."

Also participating on the climate change panel was Kyle Danish, a partner at law firm Van Ness Feldman P.C. in Washington.

Another panel at the WIF, moderated by Constantine Iordanou, chairman, president and CEO of Arch Capital Group Ltd., explored risk assumption by the private sector and funding from governments and taxpayers, focusing on responses to catastrophic events.

"The insurance industry in general, and the Bermuda marketplace particularly, has shown itself to be remarkably creative in getting ready to serve again" after catastrophes strike, said Mike McGavick, CEO of Bermuda-based XL Capital Ltd.

"The role of the industry in the 9/11 terrorist attacks is underappreciated," said John Degnan, vice chairman and chief operating officer of Warren, N.J.-based Chubb Corp. "Within days, most companies said they would not apply the war risk exclusion. The economic terrain got stabilized, and that defeated the terrorists' main objective," he said. "We didn't ask for a dime to pay the $40 billion in losses" resulting from the World Trade Center attack.

Scott Harrington, a professor at the Wharton School at the University of Pennsylvania, said the insurance industry "doesn't get the credit it should" for responding to catastrophes. "It's difficult to explain to people why rates increase. People tend to think companies just recoup their losses," he said.

Representing government on the panel was Ray Spudeck, chief economist in the Florida Office of Insurance Regulation, who discussed the state's experience with hurricanes. "We've learned our lesson. You not only need to have building codes, you have to enforce them," he said.

When asked about a public funding mechanism prior to a catastrophic event, Mr. Spudeck said, "I'd rather have something before a catastrophe; it reduces confusion" over how losses will be funded.

Mr. McGavick, however, questioned the need for government catastrophe funding. "What is the greater social purpose of government intrusion in these markets? The gearing of private insurance allows for economic activity, and when there's a disruption (from a catastrophe), you want economic activity," he said.

Also speaking on the panel was David Brown, CEO of Flagstone Reinsurance Holdings Ltd. in Bermuda.

EXECS GATHER IN BERMUDA

The World Insurance Forum, a biennial gathering of Bermuda insurance and reinsurance executives, took place March 14-16 at the newly opened Tucker's Point Resort in Tucker's Town, Bermuda. About 200 insurance industry executives and media attended.

In 2008, the WIF took place in Dubai, United Arab Emirates, the first location outside Bermuda in the forum's history. Neill Currie, chairman and CEO of RenaissanceRe Holdings Ltd., who chaired the 2010 WIF Advisory Board, said the forum organizers will consider plans for the next event but that "my personal preference would be to host it in Bermuda."

Plans for the 2012 World Insurance Forum have not yet been announced.

For more information, visit *www.worldinsuranceforum.com*.

—By Regis Coccia

Commentary

Health care reform law lacks med mal changes

MARK A. HOFMANN

Senior Editor Mark A. Hofmann can be reached at: mhofmann@businessinsurance.com

Just about everybody agrees that the battle over health care reform is far from over.

Republicans already are promising to make every effort to repeal the Patient Protection and Affordable Care Act. Of course, corralling enough votes to override a certain presidential veto—assuming Republicans gain control of Congress as a result of November's elections and that the repeal effort occurs while President Barack Obama is still in office—would be a monumental task.

The new health care reform law is extremely complex. There's no reason to believe that even the most obsessed policy wonk in Washington understands everything that it contains, which assures there will be continuing disagreement over what it does and doesn't do.

But one thing is certain about what it doesn't contain. That missing piece is meaningful medical malpractice liability reform of any kind.

The new law authorizes the secretary of Health and Human Services to award five-year demonstration grants to states to develop, implement and evaluate alternative medical liability reform initiatives, such as health courts and early offer programs, beginning in 2011.

> That missing piece is meaningful medical malpractice liability reform of any kind.

The law also extends medical liability protections under the Federal Tort Claims Act to officers, governing board members, employees and contractors of free clinics.

Maybe an incurable optimist would say, "So far, so good," but given that these provisions don't go very far at all, there's little to cheer about here.

Health care reform is promoted as a means to achieve two goals. One goal is to extend coverage to more uninsured people. The other goal is to control costs.

Given physicians' fear that being sued drives up costs, one is hard pressed to see how this second goal can be achieved without some change to the medical malpractice liability system.

That's because doctors, who fear being second-guessed in court, practice more defensive medicine than they otherwise would. They order tests that aren't medically necessary but cost real dollars. They do so not because there's a firestorm of malpractice awards, but because the awards aren't predictable and sometimes don't seem to line up with the harm caused.

No one expected the new health reform law to contain sweeping medical malpractice liability changes. After all, the law is the product of a single political party and that party has, by and large, been skeptical of tort reform. Truly revolutionary legal ideas weren't going to find a home there.

But more modest ideas, such as creating some sort of legal mechanism to help assure that awards for noneconomic damages aren't grossly disproportionate to underlying economic damages, should have been considered. Unfortunately, even such a modest reform didn't make it into the law.

The aim of such a reform isn't to deny injured people access to courts, nor is it to demonize the plaintiffs bar. People suffer real injuries as a result of real malpractice, and they deserve a day in court and effective representation.

But if cost control is the integral component of health care reform that supporters of the new law insist it is, medical malpractice reform has to be part of the solution.

After all, with government assuming more and more control over health care, the taxpayers ultimately pay the bill—including at least some of the bill for malpractice awards—directly or indirectly.

It's simply a matter of fairness that every effort be made to assure that the taxpayers don't end up paying a penny more than they must.

Medical malpractice liability reform, even if relatively modest, has to be part of that effort if it is to succeed.

Cat bond: Market favorable for activity

CONTINUED FROM PAGE 3

tional market and likely will spur further issuance, Guy Carpenter said.

Pricing peaked during the first half of 2009 when the market was still hampered by the financial crisis.

However, a significant drop in cat bond pricing during the fourth quarter of 2009 helped boost issuance last year.

And although declines in pricing levels may moderate, net cash flows into the sector plus more than $4 billion of bonds that are scheduled to mature this year should continue to exert downward pressure on pricing, the report said.

In addition, losses resulting from recent events including the earthquake in Chile and Windstorm Xynthia in Europe have strained reinsurers' earnings but have not put cat bond layers in jeopardy, the report concludes.

Deals completed in the first quarter include Swiss Reinsurance Co.'s $120 million Successor X Ltd., which provides three-year catastrophe coverage against losses from North Atlantic hurricanes, European windstorms and earthquakes in California and Japan.

In addition, Hartford Financial Services Group Inc.'s $180 million bond, Foundation Re III Ltd., provides protection against U.S hurricanes.

In other cat bond activity so far this year, State Farm Fire & Casualty Co., a subsidiary of State Farm Mutual Automobile Insurance Co., recently placed a $350 million cat bond to cover part of its U.S. earthquake exposure excluding California, according to New York-based Standard & Poor's Corp. The bond, not counted in the first-quarter total, is expected to close this month.

The report can be accessed at *http://www.gccapitalideas.com*.

XINHUA/LANDOV

The recent earthquake in Chile strained reinsurers' earnings but has not put catastrophe bond layers in jeopardy, according to a report by Guy Carpenter and GC Securities.

Greenberg: Seeks to dismiss suit

CONTINUED FROM PAGE 3

fraudulent transaction by a chief executive officer," according to court documents.

New York State Supreme Court Justice Charles Ramos, the judge presiding over the suit, will hold a hearing on April 20. Mr. Greenberg will formally ask for the case to be dismissed, while the state will argue for a summary judgment, or a win, without going to trial.

In 2008, federal prosecutors obtained five convictions of former Gen Re and AIG executives, including former General Re CEO Ronald Ferguson. Prosecutors said the bogus deal boosted AIG's loss reserves by $500 million without transferring any risk.

'Discredited allegations'

During the trial, prosecutors said Mr. Greenberg was an unindicted co-conspirator. Messrs. Greenberg and Smith, who both left AIG in 2005 amid investigations into AIG's accounting practices, repeatedly denied any wrongdoing.

While Mr. Spitzer dropped portions of the suit in 2006, attorneys for Mr. Greenberg argue the remaining allegations are unfounded.

The "public should ask why the attorney general is continuing to waste substantial sums of government money pursuing discredited allegations against Mr. Greenberg," said Lee Wolosky, a partner at Boies, Schiller & Flexner L.L.P. in New York and one of Mr. Greenberg's attorneys, in a statement.

New York Attorney General Andrew Cuomo's office, which is handling the case, did not respond to a request for comment.

In 2006, AIG agreed to pay $1.64 billion to settle fraud charges related to its practices with state and federal authorities. This year, Gen Re agreed to pay $92.2 million to settle U.S. Securities and Exchange Commission charges that it entered into a fraudulent reinsurance deal with AIG and Prudential Financial Inc.

Business Insurance OPINIONS

Consider final costs of change in drug tax

WE WELCOME THE DECISION of the chairmen of a House committee and subcommittee to cancel a hearing on a provision in the health care reform law that reduces the value of a federal tax break provided to employers that offer retiree prescription drug benefits at least equal to Medicare Part D.

Under that provision, which takes effect in 2013, employers still will receive a tax-free federal subsidy equal to 28% of retiree prescription drug expenses that fall within a certain range. However, employers no longer will be able to take a tax deduction for prescription drug expenses equal to the subsidy.

How can anyone measure how the law will affect employers financially when major portions won't go into effect until 2014?

Not surprisingly, employers affected by the change in tax law have been reporting big non-cash charges to earnings.

As explained in letters sent to several corporations by Rep. Bart Stupak, D-Mich., chairman of the Oversight Committee, and Rep. Henry Waxman, D-Calif., who chairs the Energy and Commerce Committee, the purpose of the hearing would have been to determine the financial impact of the reform law on the corporations.

It is relatively easy to quantify the effect on corporate earnings on a change in tax law, but how can anyone measure how the reform law as a whole will affect employers financially, when major portions of the law won't go into effect until 2014?

The committee chairmen recognized that and called off a hearing that would have served no useful purpose. A better course of action would be for the committee to examine whether the costs of the change in the tax deductibility of retiree prescription drug expenses, which will likely lead to more employers dropping the coverage, exceeds the benefits of more tax revenues for the government.

School bullying creates far-reaching problems

SCHOOL BULLYING, which has been a problem ever since the first schools were established, is being taken much more seriously now than it has been in the past, and rightly so.

As we report on page 1, school districts are becoming targets of litigation for not adequately dealing with the issue of bullying, which in some cases has resulted in death.

In addition, experts say that bullying is being exacerbated by online social networking, which is only likely to grow in importance.

School districts have the responsibility of providing the safest learning environment possible, which includes instituting and enforcing anti-bullying policies.

The second part is key: Simply having a policy on the books without enforcing it isn't—and shouldn't be—enough. But bullying is not a problem for school districts alone.

While schools are the front line in the efforts against bullying, they have company. It is a societal problem that needs a societal response. And it's something in which corporate risk managers, who don't have a direct connection to school behavior policies, ought to be involved.

Today's schoolyard bully or online tormenter could very well grow into a very expensive walking and talking employment practices liability claim tomorrow as an adult.

WRITE

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters.

Please send your letters to:

Letters to the Editor
Business Insurance
360 N. Michigan Ave.
Chicago, Ill. 60601-3806

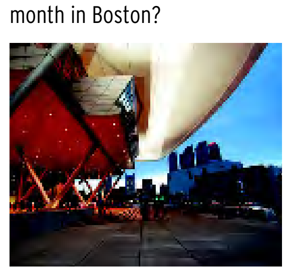
fax: 312-280-3174, e-mail: *rcoccia@businessinsurance.com*

VOTE

in the *BI* Online Poll at *www.businessinsurance.com*

THIS WEEK'S RESULTS

Q Are you planning to attend the RIMS annual conference and exhibition this month in Boston?



YES, I attend RIMS regularly 35%

YES, but it's my first time 4%

NO, but might in future 41%

NO, don't value attending 18%

NEXT WEEK'S QUESTION

Q: Will the health care reform law withstand legal challenges by state attorneys' general?

PERSPECTIVES

Perspectives and expert analysis online at *www.businessinsurance.com/section/perspectives*

Contribute your expert opinions and knowledge

Business Insurance accepts articles from experts in commercial insurance, risk management and employee benefits management for publication in its Perspectives section.

All articles for the Perspectives page should address the concerns of the corporate buyer of insurance; i.e., the risk management or employee benefits manager.

All authors must license copyright on original articles to *Business Insurance.*

To submit a query about writing a Perspective, e-mail *gsouter@businessinsurance.com.*

ONLINE
Read the full text of this and other Perspectives online at
www.BusinessInsurance.com

Vice President/Publisher: Martin J. Ross III (*New York*)

Associate Publisher/Editorial Director: Paul D. Winston (*Chicago*)
Editor: Regis J. Coccia (*Chicago*)
Editor-at-Large: Jerry Geisel (*Washington*)
Managing Editor: Gavin Souter (*Chicago*)
Assistant Managing Editor - Multimedia: Kathy L. Barnes (*Chicago*)
Assistant Managing Editor - News: Matt Scroggins (*Chicago*)
Art Editor: William Murphy (*Chicago*)
Special Projects Editor: Rodd Zolkos (*Chicago*)
Senior Editors: Michael Bradford (*Zurich*) Roberto Ceniceros (*Boise*); Judy Greenwald (*San Jose*); Mark A. Hofmann (*Washington*); Sally Roberts (*Denver*); Joanne Wojcik (*Denver*)
London Bureau Chief: Sarah Veysey (*London*)
Associate Editors: Colleen McCarthy (*New York*); Zack Phillips (*New York*)
Staff Reporter - Interactive: Jeff Casale (*Chicago*)
Copy Editors: Charmain Benton (*Chicago*); Ann Reus (*Chicago*)
Research Director: Kevin P. Edison (*Chicago*)
Research Editor: Karen Brown Tucker (*Chicago*)
Online Editor: Katherine Downing (*Chicago*)
Online Producer: Amy R. Curtis (*Olathe*)
Editorial Cartoonist: Roger Schillerstrom (*Chicago*)
Editorial Assistant: Mike Tsikoudakis (*Chicago*)

Regional Sales Managers: William J. McGuire (*Chicago*); Ron Kolgraf (*Boston*); Robert B. Murray (*New York*); Mary Pemberton (*Denver*); Robert A. Raidt Jr. (*New York*)
Classified Advertising Manager: Monique Murray (*New York*)
Assistant to the Publisher: Pat Ghazvini (*New York*)
Events Manager: Rebecca Briggs (*New York*)
Production Manager: J. Thomas Janka (*Chicago*)

Circulation Manager: William O'Driscoll (*New York*)
Assistant Circulation Manager: Craig Bowman (*Detroit*)

Promotion Director: Michael Ambrosio (*New York*)

EDITORIAL: Boise: 208-286-1425; Chicago: 312-649-5200; London: 44-207-457-1400; Los Angeles: 323-370-2455; New York: 212-210-0100; San Jose: 408-774-1500; Washington: 202-662-7200
ADVERTISING: Boston: 617-292-4856; Chicago: 312-649-5286; Denver 303-898-4043; London: 44-207-457-1412; New York: 212-210-0133
SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.
Chairman: Keith E. Crain
President: Rance Crain
Secretary: Merrilee Crain
Treasurer: Mary Kay Crain
Executive Vice President/Operations: William A. Morrow
Senior Vice President: Gloria Scoby
Vice President/Group Publisher: Christopher Crain
Group Vice President/Technology, Circulation, Manufacturing: Robert C. Adams
Vice President/Production & Manufacturing: Dave Kamis
Corporate Circulation/ Audience Development Director: Kathy Henry
Chief Information Officer: Paul Dalpiaz
G.D. Crain Jr. Founder (1885-1973)
Mrs. G.D. Crain Jr. Chairman (1911-1996)
S.R. Bernstein Chairman-executive committee (1907-1993)

Published weekly at 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; 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; 21 St. Thomas St., London SE1 9RY, U.K. Fax: +44-(0)20-7457-1440; 12524 Acuff Court, Olathe, Kan. 66062, Fax: 312 280-3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704. $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). Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Ave., New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. 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, please contact Lauren Melesio/Crain Communications at 212-210-0707 or e-mail BusinessInsurance@reprints.crain.com.

To subscribe, Call 888-446-1422, or 313-446-0450 outside the U.S.
www.businessinsurance.com

BPA WORLDWIDE
AMERICAN BUSINESS MEDIA
The Association of Business Media Companies

Business Insurance
BenefitInsider

How to nudge workers toward desired path

By JOANNE WOJCIK

Some innovative employers have found that "behavioral economics," a longstanding consumer marketing strategy, can be used in managing and communicating benefits to "nudge" employees to save for retirement, be better health care consumers and adopt healthier lifestyles.

Through the use of "choice architecture," which almost always makes the default choice the preferred option, and "loss aversion," or humans' greater aversion to losses, employers have found they can use employees' inclination toward inertia to steer them in the desired direction.

For example, when Nationwide Mutual Insurance Co. wanted to increase employee participation in its 401(k) plan and ensure workers were saving enough toward retirement, the Columbus, Ohio-based insurer made enrollment and contribution escalation automatic.

Participation rates had hovered around 74% when Nationwide had voluntary 401(k) enrollment and escalation, said Jack Towarnicky, associate vp of benefits planning. Now, all of Nationwide's employees are automatically enrolled in the program with a minimum contribution unless they actively opt out.

In addition, unless employees object, the amount they contribute to the plan increases by one percentage point each year, usually in conjunction with their annual salary increases. In 2007, the first year it implemented automatic enrollment, participation in Nationwide's 401(k) plan grew to 94% (*BI*, Sept. 22, 2008), where it remains about the same today.

Nationwide's experience mirrors that of most employers that adopt automatic enrollment, according to the Chicago-based Profit Sharing/401k Council of America, which says 401(k) participation rates among such employers jumped from an average of 70% in 2005—before a 2006 law allowed automatic enrollment—to more than 95% today.

Behavioral economics also is being applied to health care.

Lowe's Cos. Inc. is using "loss aversion" to nudge employees taking maintenance medications to switch to a lower-cost mail-order service. Even though the company communicated the program's benefits, most employees still filled their prescriptions at retail pharmacies.

So the Mooresville, N.C.-based home improvement store chain had its pharmacy benefit manager, St. Louis-based Express Scripts Inc., reach out to those employees and offer to transfer the prescription on their behalf. Employees who declined soon discovered that they would have to pay the full retail price for their drugs the next time they tried to fill their prescriptions at their local pharmacy, said Bob Ihrie, Lowe's senior vp of employee rewards and services.

95%

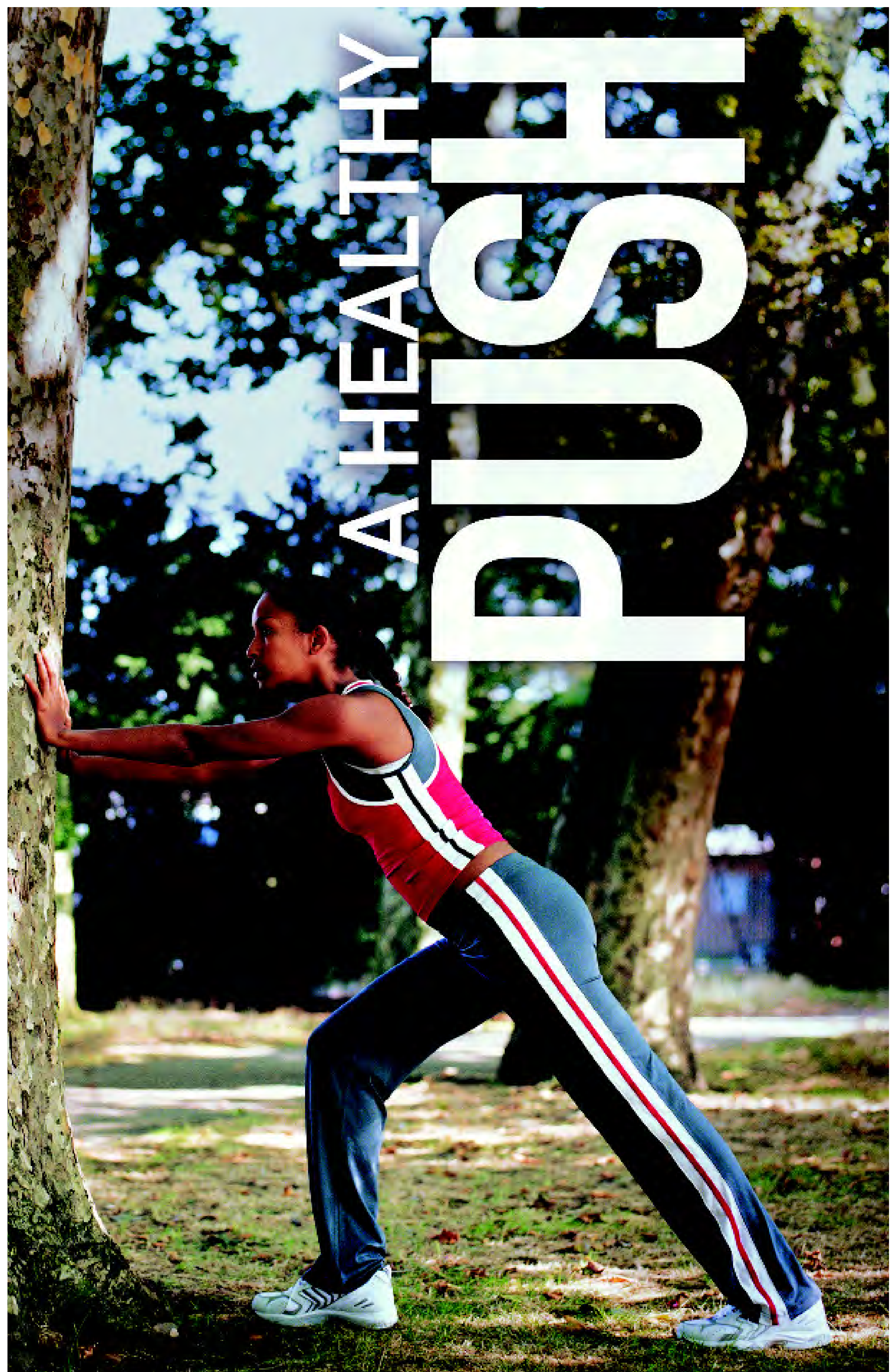
The Profit Sharing/401k Council of America says employee participation rates in 401(k) plans jumped from an average of 70% in 2005—before a 2006 law allowed automatic enrollment—to more than 95% today.

The nudge increased the use of mail-order pharmacy benefits by Lowe's employees from 15% to 52% in less than three months, saving the company approximately $2.7 million in 2009, Mr. Ihrie said at a recent conference.

Unlike traditional economic theory that assumes people make rational decisions, behavioral economics assumes people don't always make the best choices. Behavioral economics research also has found that people tend to work harder to avoid a loss than to achieve a gain, and they generally place more weight on current circumstances than on the future.

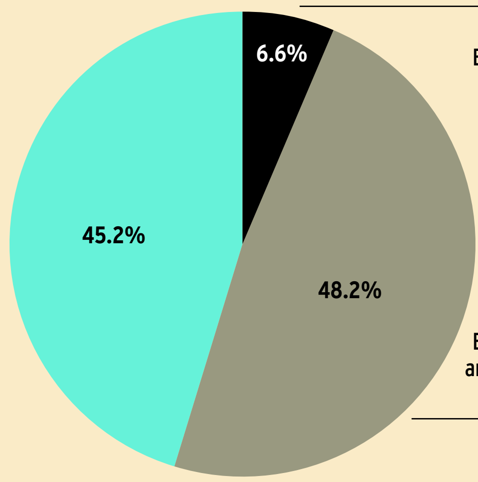
To counter these tendencies, employers are designing benefit programs that allow employees to remain on autopilot, such as

See **BEHAVIOR** page 12



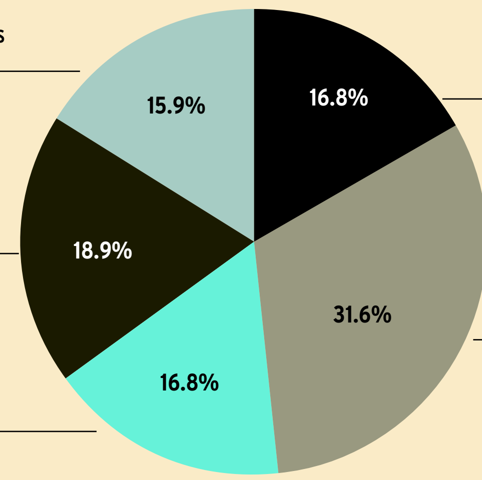
TYPE OF SYSTEMS

Based on the system's primary purpose for all companies listed.



Source: BI survey

HOW EMPLOYEE BENEFIT SYSTEMS ARE SOLD



Source: BI survey

Employee benefit systems providers

Company/Address	Phone/Web site	System type(s)	2009 number of systems offered	First installation	Principal officer
Benefit Express 220 W. Campus Drive, Suite 203, Arlington Heights, Ill. 60004	847-637-1551 *www.benefitexpress.info*	Benefit information system	3	2001	Maria Bradley, president
bswift 224 N. Des Plaines, Sixth Floor, Chicago, Ill. 60661	312-261-5750 *www.bswift.com*	Benefit communication system, benefit information system	1	2000	Richard Gallun, CEO
Cantor & Co. 8796 Hollywood Blvd., Los Angeles, Calif. 90069	310-657-4505 *www.cantorandco.com, www.riskmapsoftware.com*	Benefit communication system	1	1983	Alan B. Cantor, president
CHT-P+W Software 5655 Lindero Cyn Road, Suite 403, Westlake Village, Calif. 91362	818-707-7690 *www.consumerhealthtech.com*	Benefit communication system, benefit information system	1	1987	Tom Philipp, president
DATAIR Employee Benefit Systems Inc. 735 N. Cass Ave., Westmont, Ill. 60559	630-325-2600 *www.datair.com*	Benefit communication system, benefit information system	6	1967	Aaron Venouziou, president
Flex Compensation Inc. 5775 Wayzata Blvd., Suite 690, St. Louis Park, Minn. 55416	800-333-5597 *www.flexcompensation.com*	Benefit information system	1	1986	Gary Bohline, president
Hay Group Inc. 100 Penn Square E., Philadelphia, Pa. 19107-3388	215-861-2569 *www.haybenefits.com*	Benefit communication system, benefit information system	1	1984	Chris R. Matthews, president/CEO
Hewitt Associates L.L.C. 100 Half Day Road, Lincolnshire, Ill. 60069	847-295-5000 *www.hewitt.com*	Benefit communication system, benefit information system	2	1991	Russ Fradin, chairman/CEO
HR Consulting Group Inc. 1202 Dover Drive, Provo, Utah 84604	801-765-4417 *www.hrconsultinggroup.com*	Benefit communication system, benefit information system	10	1983	Rob Thurston, president
NuView Systems Inc. 200 Brickstone Square, Suite 303, Andover, Mass. 01810	978-296-6600 *www.nuviewinc.com*	Benefit communication system, benefit information system	1	1994	Shafiq Lokhandwala, CEO
Travis Software Corp. 1155 Dairy Ashford Road, Suite 250, Houston, Texas 77079	281-496-3737 *www.travisoft.com*	Benefit information system	3	1986	Alan H. Williams, president
TriZetto Group Inc. 500 Technology Drive, Naperville, Ill. 60563	800-569-1222 *www.trizetto.com*	Benefit information system	1	1981	Jeff Margolis, chairman/CEO

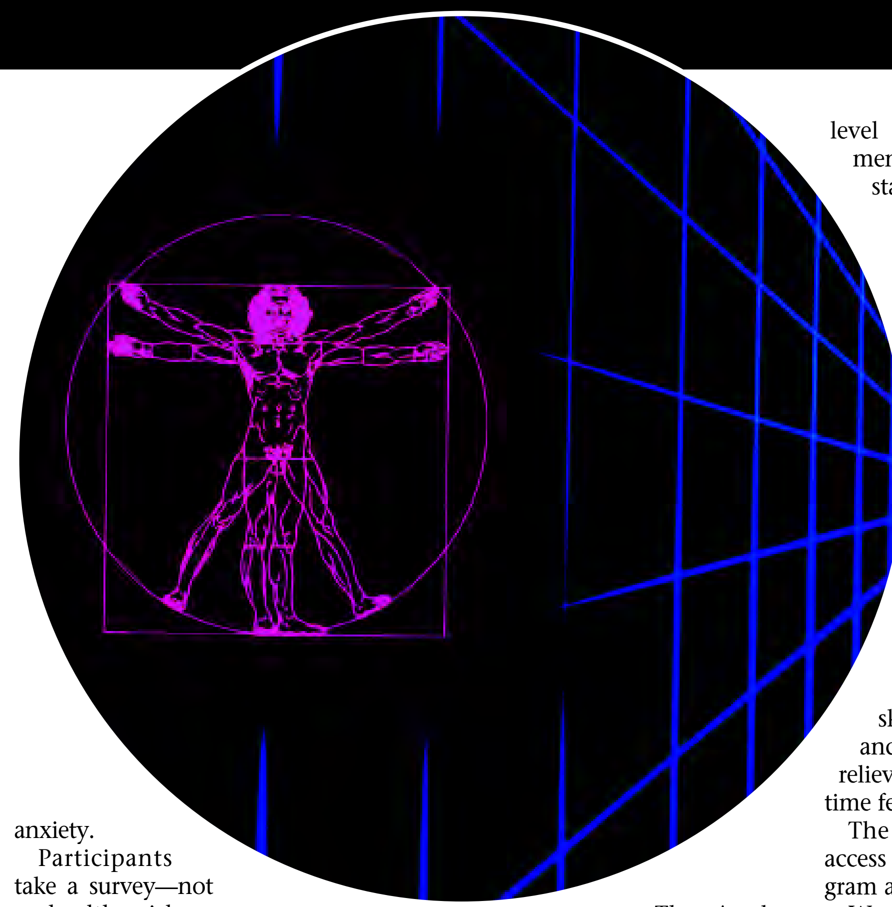
Source: BI survey
Researched by Kevin Edison and Karen Tucker

Visit *www.BusinessInsurance.com/directories* for more information and to access the full searchable Directory of Employee Benefit Communication and Information Systems. *Business Insurance* now offers the option to purchase the entire online directory as an Excel file or as a PDF.

Virtual coaching aims to achieve very real results

Technology tool focus ranges from behavior to mental coherence

By KRISTIN GUNDERSON HUNT



Benefits departments continue to invest in technology that supports their programs, including their health and wellness initiatives, experts say.

"Human resources continues to invest in technology for health and wellness benefits, and I think it's because of improved efficiency and improved effectiveness," said Thomas Keebler, global practice leader for human resources technology at Towers Watson & Co. in Philadelphia.

He said most benefits technology allows employee access at any time and any location, shifting some of the workload away from HR departments. Additionally, he said technology helps employees to be better consumers of services and, in many cases, take more responsibility for their own health.

Ann Arbor, Mich.-based HealthMedia Inc. has developed what it calls "digital coaching" technology, which aims to "easily and inexpensively reach large populations," said Calvin Schmidt, president of Johnson & Johnson's J&J Wellness & Prevention Inc. HealthMedia also is a J&J unit.

Digital coaching offers automated online counseling sessions on health topics such as nutrition, depression and exercise based on participants' individual needs.

Participants complete a health habits survey, then the program crafts action plans to solve their unique problems. Live people do not talk to participants, but the written content is conversational—addressing participants by name, referring to their specific survey responses and even expressing empathy.

Mr. Schmidt said the price for the digital coaching service ranges "from pennies to dollars" per member per month, depending on the size of the workforce. He said digital coaching should not entirely replace in-person or telephonic coaching, but he said it's just a fraction of the cost.

Mr. Schmidt said an organization may choose to save live coaching for those who are at higher risk.

Blue Cross and Blue Shield of Louisiana uses the digital coaching tool for its employees, but one-on-one coaching still is available for those who need or desire it. Barbara Robinson, Baton Rouge, La.-based human resources specialist for the insurer, said its effectiveness and efficiency appeal to the company and its employees.

"We provide as many tools as we can to encourage employees to change their behavior," Ms. Robinson said. "Digital coaching, from our view, provides more of an action plan for employees. It's comprehensive and easy to access."

Online health and wellness courses are another form of technology being used to educate employee populations. TheAcademy.com, a San Antonio-based online training company, will launch 11 such courses at the end of April that focus on issues such as alcohol use, diabetes and anxiety.

Participants take a survey—not a health risk assessment—so the program can determine their health risks and recommend pertinent courses.

Participants then enroll in the interactive courses, whereby they answer questions and take quizzes, but must read much of the content to be able to answer the quizzes.

'We provide as many tools as we can to encourage employees to change their behavior. Digital coaching, from our view, provides more of an action plan for employees. It's comprehensive and easy to access.'

Barbara Robinson, Blue Cross and Blue Shield of Louisiana

For $29, participants receive access to the survey, all of the courses and a healthy employee initiative resource guide, which attempts to cultivate a wellness culture within the organization using TheAcademy.com program.

"The program works on the simple premise that if employees are taught to be healthy, they will be," said Mere Noonan, senior vp for The Academy in San Antonio.

More interactive, perhaps, are emWave technologies from Boulder Creek, Calif.-based HeartMath L.L.C. The "em" stands for empowerment and emotion and the "wave" refers to the heart rate variability. The emWave Personal Stress Reliever and Desktop Stress Relief System aim to help participants manage and reduce the negative effects of stress with immediate feedback.

Supplemental e-learning material teaches users how to control their responses to stress. The Personal Stress Reliever is a mobile device like a pager that measures pulses from users' thumbs or ears. An LED readout on the device indicates a user's level of "coherence"—a positive mental, emotional and physical state.

The desktop system, which retails for $299, uses an ear sensor that measures pulse and plugs into a USB port. The software allows users to watch their heart rhythms change on their monitor, play interactive games to build and sustain coherence, and refer to past personal data to see how they're faring.

Employers with a minimum of 100 participants in the Revitalize You! program—a five-hour video-based e-learning program that delivers a practical skill set to respond to stress and includes a personal stress reliever device—can pay a one-time fee of $395 per employee.

The fee includes 12-month access to the online alumni program as well.

Woody Bedell, the Chicago-based director of the board of benefits services for the Reformed Church in America, said the organization has been using emWave technology since 2007. Initially, employees used the desktop version, but now they use the mobile device.

He said an actuarial analysis of the program at the religious organization showed that medical and claim costs for HeartMath patients users were less in 2008 than 2007 by 3.8% and 0.06% respectively; cost savings as a result of HeartMath intervention equaled $585 per participant and the one-year return on investment was almost 2-1.

Those savings, Mr. Bedell said, prove the worth of investing in health and wellness programs and the technology that supports them, even in a down economy.

"I've been around the block multiple times in this business and the first thing HR directors and managers will do is cut out the health and wellness programs, and I think they're the last things they should cut," he said. Benefits technology "allows for greater participation and greater participation means greater savings," he said.

Behavior: Nudging employee habits

CONTINUED FROM PAGE 9

Nationwide's automatic 401(k) enrollment, or nudge them to change, such as Lowe's prescription drug approach.

"So often we see people not do the right thing," said Tim Glowa, a Woodlands, Texas-based consultant in Hewitt Associates Inc.'s research and insights practice. "Like the 401(k) match: It's free money, but there are still people who don't sign up," he said.

Tom Weakland, managing partner in the health care practice at Diamond Management & Technology Consultants Inc. in Chicago, acknowledged that "some people would call behavioral economics trickery. But it's no more manipulative than your local grocery store putting sugary kids' cereal at eye level with kids. It's been used in advertising and marketing for decades; it's just now being applied in health care and retirement savings."

"The power of the 'opt out' vs. the 'opt in' is huge. The whole premise is, when given a tough decision to make, if we don't feel confident making a decision, we will choose the default," he said.

Decisions such as saving for retirement vs. spending or dieting vs. overeating are difficult for humans, who tend to postpone unpleasant tasks and place greater emphasis on current consumption, according to behavioral economics experts Richard H. Thaler and Cass R. Sunstein, authors of "Nudge: Improving Decisions About Health, Wealth and Happiness," which has become a behavioral economics primer for benefits managers.

It is human nature to discount the value of things that we get in the future, a process Mr. Weakland called "hyperbolic discounting."

"That's why we don't think about retirement savings," he said. "We would rather have $5 today than $100 tomorrow."

Woonsocket, R.I.-based PBM CVS Caremark Corp., which is studying ways to improve patient medication adherence, has found behavioral economics is effective because it gives employees a choice, rather than dictating their decisions, said Bari Harlam, vp of marketing. "Consumers want to be involved in making the decision; we just have to make it easier for them to understand the plan design," she said.

To make employees feel they still have some power, behavioral economics employs a statistical technique called "conjoint analysis," which typically is used in market research to determine how people value different features of a product or service, said Hewitt's Mr. Glowa.

"When we ask people directly what's most important to them regarding any purchase, they'll most likely tell us everything's important. But that's not actionable," Mr. Glowa said. "So I use conjoint analysis to understand how people make trade-offs so we can infer what's most important and design benefit programs that deliver value to the employee but also meet the needs of the organization."

For example, when employees are asked whether they'd rather have a bigger salary, more life insurance, less health care cost-sharing or a larger contribution to their retirement plans, their answers vary based on their demographic, Mr. Glowa said.

"What older workers are looking for is the polar opposite of what younger workers want," he said.

The trade-off is especially distinguishable among workers earning less than $35,000 a year. "They will almost forgo all retirement benefits for free or low-cost health care. They value more importantly the money in their pocket today than some unknown, unforeseen, intangible benefit in the future."

Mr. Glowa said conjoint analysis can help employers decide which financial incentive is needed to nudge employees into wellness activities. "If we ask people directly, they'll say it requires a big number" of dollars to participate, he said. But when the question is framed so that it is more of a choice, the size of incentive needed is much smaller.

"By understanding the trade-offs people are willing to make, we are able to deliver greater value to the employee at a lower cost to the organization," Mr. Glowa said.

Employers struggling to get wellness programs to stick

By LOUISE ESOLA

The vast majority of employers remain committed to worker wellness programs, yet they still struggle to engage employees in such programs that are intended to reduce costs and ensure a healthy workforce, experts say.

Numerous tactics are at work as employers look for ways to get employees more involved in behavior-changing programs, but cash incentives just for employee participation in wellness programs don't do much to keep employees engaged on a longer-term basis, said LuAnn Heinen, Minneapolis-based vp of the Washington-based National Business Group on Health.

In conjunction with Towers Watson & Co., the NBGH recently released findings of the 15th annual "Survey on Purchasing Value in Health Care," which found that 37% of the 507 companies surveyed reward only employees who complete a wellness program and 29% reward only employees who complete several wellness-based activities, as opposed to providing incentives for merely signing up for such programs—a longtime practice that doesn't always succeed in keeping employees healthy, experts say.

> 'Why aren't people engaging themselves in these? Because when it's difficult and it's something you have to work on every day, you'll have fewer people on board.'
>
> Shelly Wolff, Towers Watson & Co.

"What employers are finding is that those initial incentives aren't everything," said Ms. Heinen. "You still have the people who don't follow through (with programs) because they don't want to commit the time, they don't understand it or they don't want their employer interfering with their lives."

Shelly Wolff, Stamford, Conn.-based leader of health and productivity for Towers Watson, said many employees find longer-term wellness programs to be difficult, such as smoking-cessation and weight-loss programs.

"Why aren't people engaging themselves in these? Because when it's difficult and it's something you have to work on every day, you'll have fewer people on board," Ms. Wolff said. "Most people want to make changes, such as eating better and exercising more; it just has to be easier for them to follow."

Barry Hall, Boston-based principal with Buck Consultants L.L.C., said companies that promote wellness programs as part of a change in the company's culture are bound to have more success in getting employees engaged.

"There's a lot of talk about creating a culture of health," Mr. Hall said. "This goes beyond health assessments. Creating this culture is one of the most difficult things to achieve because (workers) are skeptical."

Ms. Heinen said she suspects that many workers want wellness programs to go away altogether. "They have their issues with wellness initiatives. They want to know why their employer is getting involved in their health. They will say, 'This is my business,'" she said.

That's why some employers are trying to push wellness from a self-empowerment standpoint, Ms. Heinen said. For example, IBM Corp. and GlaxoSmithKline P.L.C. push wellness initiatives that promote the benefits of being healthy rather than dwelling on the rising costs of health care, she said (see stories, page 14).

Other tactics also are at work, experts say.

One example, cited by three experts, is the model utilized by Safeway Corp., a national supermarket chain that makes its employees "test out" of wellness programs and provides incentives, via premium deductions, only to workers who are proven to be healthy.

"This behavioral economics is a strategy more and more companies are considering," said Ms. Wolff. "Programs that shift incentives to healthier workers are in the early stages and we are predicting more changes to come."

Experts say employers plan to keep wellness on the table, but will continue to modify ways to reach employees.

For example, 93% of companies in the 2010 NBGH/Towers Watson survey said they plan to continue their health promotion programs. In addition, 83% said they have changed or plan to change their strategy this year, up sharply from 59% last year.

"Employers know that if people don't participate, you won't have an impact, no matter how strong your program is," said Mr. Hall of Buck Consultants. "They aren't just looking at participation numbers. They need to see engagement for programs to work (to help reduce health care costs)."

Keep workers interested with stars, bananas

By LOUISE ESOLA

At American Express Co., volleyball star Gabrielle Reece and giant banana suit props have much in common when it comes to getting the company's employees to get on board with wellness initiatives.

"We try to pique people's interest in a way that stands out," said David Kasiarz, New York-based senior vp for global compensation and benefits for American Express. "We like to find ways to deliver our health care message above the daily clutter of communications between employer and employee.

"You can't just send a letter or e-mail. If you do that, it gets lost," he said.

For Mr. Kasiarz and his team, this means deploying big stars to speak at corporate wellness events or looking for silly but memorable ways to deliver a message that "rises above the sleepy health fair" for the company's 58,000 employees worldwide, he said.

Last September, for example, the company held a big-tent health event at its headquarters in New York, hiring professional volleyball player, actress and model Gabrielle Reece and her husband, professional surfer Laird Hamilton, to speak to its New York-based employees about wellness.

Similarly, in India and the United Kingdom, American Express brought in sports stars and Olympians to speak about the importance of good health.

AP PHOTO

American Express hired professional volleyball player, actress and model Gabrielle Reece and her husband, professional surfer Laird Hamilton, to speak to its employees about wellness.

It is at these high-profile events that the credit card company provides wellness screenings.

"All of these events have a positive return on investment for us," Mr. Kasiarz said. "Health care is confusing. If you can get someone to get (employees') attention and speak to them on their level, you can see participation and engagement go up. If you screen enough people, you see some benefit from the screenings. You really engage people this way. "

Last year, after a similar "big-tent" campaigns, the company had 9,000 employees take part in health screenings—roughly one-third of the company's 27,000 U.S.-based workers, according to Mr. Kasiarz.

"We would have never gotten those numbers had we not had such a big event dedicated to health," said Mr. Kasiarz. "All of the screenings are designed for follow-ups."

Such high-profile tactics may be unaffordable for smaller companies and smaller American Express offices, he said. "We don't bring stars like Gabrielle Reece out all the time. It can be something much simpler."

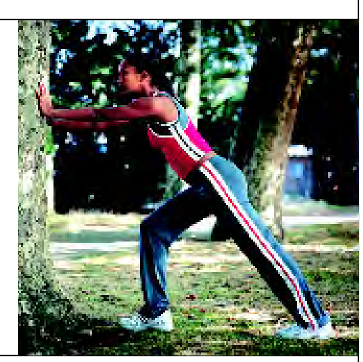
Enter the giant banana suit.

This spring, at some of American Express' larger U.S. offices, Mr. Kasiarz said the company plans to have a person dressed up as a banana hand out water bottles to workers coming into the office on the day it introduces its Going Bananas for Healthy Living program, which will launch on-site health clinics at several locations.

"It doesn't always have to be a big celebrity," he said. "It just has to be something that stands out. We are approaching this in the same way we do marketing and advertising. We do things that stand out to get employees' attention."

A HEALTHY PUSH

SOME EMPLOYERS ARE TRYING wellness from a self-empowerment standpoint. American Express Co., IBM Corp. and GlaxoSmithKIine P.L.C. push wellness initiatives that promote the benefits of being healthy rather than dwelling on the rising costs of health care.



Rebate program adds incentive for health

By LOUISE ESOLA

At IBM Corp., wellness starts with feeling better.

Accessible online and easy to navigate, IBM's Personal Vitality Rebate program, which started this year, aims to prevent health problems through a series of online programs that ask employees to consider their everyday lifestyle and struggles, said Dr. Joyce Young, Durham, N.C.-based well-being director for Armonk, N.Y.-based IBM.

The goal, she said, is to improve employees' quality of life.

"This is a new way of looking at wellness," Dr. Young said. "We are looking at the broader picture: What can I do to improve how I feel? If I do this, I will feel better."

IBM's wellness effort differs from traditional health risk assessments in which data is gathered at a health fair and refers employees elsewhere, Ms. Young said. Instead, the Personal Vitality program empowers employees, she said.

Through a series of online questions, employees provide answers about the physical, emotional and mental state of their lives. The questions include: "Do I wake up feeling refreshed?" and, "How do I manage my water intake?"

Once the questions are answered, employees are referred to online 12-week incentive-based "practices." They include "power sleep" to improve the quality of each night's rest; "color-coded eating" to teach workers how to improve their nutritional choices to have more energy; stress-management programs and guided exercise programs.

'Our message is: "If you exercise more for a month, here's some money for new sneakers."'

Dr. Joyce Young, IBM Corp.

The programs are individualized and intended to give employees the tools and knowledge they need to improve their lives, Dr. Young said.

"We want to empower people to make changes that are good for them," she said.

The rebate portion of the program also differs from wellness efforts that add cash to employees' health savings accounts or flexible spending accounts. This one adds $150 to a worker's paycheck for every "practice" he or she completes. IBM's maximum Personal Vitality Rebate is $300 a year.

"That's an extra $300 (in) cash for employees," Dr. Young said. "We like to reward employees in a way they can understand. Not everybody uses the health care system and they may not understand (flexible spending accounts). Who doesn't love extra cash?"

"Our message is: 'If you exercise more for a month, here's some money for new sneakers,'" she said.

So far this year, 15,000 employees have logged on to the program and the numbers are increasing every day, Dr. Young said.

"By all indications, things are going really well," she said.

IBM employs about 400,000 workers worldwide. It does not provide figures specifically for U.S.-based personnel, about 80% of which are covered by IBM's self-insured health care plan.

Wellness programs apparently have paid off for IBM, which said it invested $79 million in wellness programs between 2004 and 2007 and saved about $191 million in health-related costs along with "dramatic increases in healthy behavior among its employees."

Get healthy, gain energy, feel better

By LOUISE ESOLA

Pharmaceutical and personal care giant GlaxoSmithKline P.L.C.'s ongoing goal is "helping people to do more, feel better and live longer," so it's not surprising that the London-based company's wellness initiatives are centered on the self-empowerment principles of feeling good and having energy.

That's the assessment of Ann Kuhnen, Philadelphia-based vp of health and safety, who oversees GlaxoSmithKline's Energy and Resilience wellness programs, which are intended to give its U.S.-based employees the tools to simply "feel better" in their daily activities, at work and at home.

"We help people make the connection between their health and their energy," Dr. Kuhnen said.

Dr. Kuhnen said it's easy to deliver the message to GlaxoSmithKline's 23,000 U.S.-based employees, most of whom are aware of the company's place in the health care industry and the products the company makes—from prescription medications that treat diseases such as HIV and malaria to everyday consumer products such as toothpaste and weight-loss supplements.

"By virtue of what we do as a company, we have employees that are aware of their health, but we like to take it a step further," Dr. Kuhnen said. "But we know health is often something that gets put on the list of just one more thing to do and it can get overlooked. Here, we try to give (employees) the reasons why they may want to look at health."

Mainly, this means telling employees why they need to zero in on health unrelated to the details regarding costs, she said.

"It's about the framing of what good health can do for you and how it can help you do more of what you want to do," Dr. Kuhnen said. "It's more than simply talking about health."

Specifically, the company has four cash incentive-based programs that focus on mental and physical health, individually and among teams of workers.

The Team Resilience program is a process that helps groups of workers look at workplace pressures and conflicts.

Two programs, Energy for Performance and Personal Resilience, are workshops that help employees manage their everyday health physically, emotionally and mentally.

The fourth, Leading an Energized Organization, is a newer program that is aimed at managers who can help ignite positive change among workers.

GlaxoSmithKline began adding wellness programs to its benefits 15 years ago and gradually has refined and added more, Dr. Kuhnen said. Figures regarding savings were not available.

As for engagement among employees, while Dr. Kuhnen did not disclose numbers, she said "uptake is fantastic."

"Employees respond well when they feel that their company is doing something good for their individual employees," she said, adding that rarely does the company talk about the monetary reasons associated with wellness initiatives.

"The language that we use is 'energy,'" Dr. Kuhnen said. "Good health will give you energy."

2010 BENEFIT INSIDER DEMOGRAPHIC EDITORIAL CALENDAR

Date	Ad Close	Benefit Insider Editorial Content
Jan 18	Published	**Rethinking Health Care** *Bonus Distribution: EHHCC, IBI/NBCH*
Feb 15	Published	**Benefits for a Diverse Workforce** *Bonus Distribution: NBGH*
Mar 15	Published	**Value-Based Plan Design** *Ranking/Directory: Consumer-Driven Health Care Plan Providers* *Bonus Distribution: IHPM*
Apr 19	Published	**Benefits Communications & Technology** *Ranking/Directory: Employee Benefits Software*
May 17	May 5	**Benefit Consulting** *Ranking/Directory: Benefits Consultants/Outsourcing Providers* *Bonus Distribution: AHIP, World at Work*
Jun 21	Jun 9	**Supplemental Benefits: Life, Disability, Dental & Vision** *Ranking/Directory: Dental Plan Providers*
Jul 19	Jul 7	**Pensions & Savings Plans** *Ranking/Directory: 401(k) Plan Providers*
Aug 23	Aug 11	**Health Care Cost Control Strategies** *Ranking/Directory: PBMs*
Sep 20	Sep 8	**Prescripton Drug Benefits**
Oct 18	Oct 6	**Alternative Benefit Financing**
Nov 15	Nov 3	**Wellness Benefits** *Bonus Distribution: NBCH*
Dec 13	Dec 1	**Behavioral Health & Work/Life Benefits**

Note: Editorial Content and Bonus Conference Distributions are subject to change.

Business Insurance **BenefitInsider**

If you're searching for a better view of what's happening in the benefits marketplace, or if you need the leaders in this field to notice your company, take a look at ***Business Insurance's*** new **Benefit Insider** demographic section.

Each month more than 26,500 specifically chosen ***Business Insurance*** subscribers, and nearly 70,000 total readers* will get an inside look at what's happening in the benefit arena. CEOs, CFOs, Benefit Managers, Agents, Brokers and Consultants will get the scoop on everything from health care to pension plans to cost control strategies and much more. And they'll get it all with the agenda-setting editorial leadership they expect from ***Business Insurance***.

Get the facts about ***Business Insurance's*** **Benefit Insider.** Call 212-210-0137 or e-mail Advertising@BusinessInsurance.com.

* As submitted, BPA Circulation Statement, Dec. 2009, Paragraph 3A. Pass-along based on an audience profile of Business Insurance subscribers conducted by Erdos & Morgan, Inc.

Business Insurance
www.BusinessInsurance.com
The Trusted Voice of the Risk and Benefits Management Marketplace.

NEW YORK: 212.210.0137 • CHICAGO: 312.649.5286
WEST COAST: 303.898.4043 • BOSTON: 617.292.4856
LONDON: +44.207.457.1412

Professional MarketPlace

To place your ad, contact Monique Murray 212.210.0129
E-mail: mmurray@BusinessInsurance.com

Business Insurance, Classified Department, 711 Third Ave., New York, NY 10017-4036 • Call for details on blind box and internet advertising

REQUEST FOR PROPOSAL

NEW YORK CITY HOUSING AUTHORITY

INVITATION FOR BID

PRIMARY/EXCESS GENERAL, AUTOMOBILE, NON-OWNED & HIRED AUTOMOBILE, EMPLOYEE BENEFITS (CLAIMS MADE) LIABILITY INSURANCE

The New York City Housing Authority ("NYCHA") requests Proposals from qualified **INSURANCE CARRIERS** for Primary/Excess General, Automobile, Non-Owned & Hired Automobile, and Employee Benefits (Claims Made) Liability Insurance Coverage. Carriers must be licensed in N.Y. State with "A.M. Best" rating of at least **"A- VIII". Coverage is to become effective August 1, 2010.**

Proposals must be in the format included in the Invitation for Bid package containing instructions, specifications and detailed submission requirements. Packets may be obtained by calling NYCHA's **Liability Insurance Broker: Towers Watson, One Stamford Plaza, 263 Tresser Boulevard, Stamford, CT 06901-3226 at (203) 351-5171.** In order to be eligible, completed bid proposals **must be received by 3:00 P.M. EST on May 21, 2010.**

All inquiries for additional information regarding the Invitation for Bid are to be directed to **Paul Perry, Senior Vice President, at the aforementioned address, telephone or e-mail at: Paul.Perry@towerswatson.com.**

NEW YORK CITY HOUSING AUTHORITY

NYCHA IS NOT SOLICITING QUOTES FROM BROKERS

Michael R. Bloomberg, Mayor, New York City
John B. Rhea, Chairman, NYCHA

REQUEST FOR PROPOSAL

NEW YORK CITY HOUSING AUTHORITY

INVITATION FOR BID

PUBLIC OFFICIALS/EMPLOYMENT PRACTICES LIABILITY INSURANCE

The New York City Housing Authority ("NYCHA") requests Proposals from qualified **INSURANCE CARRIERS** for Public Officials/Employment Practices Liability Insurance Coverage. Carriers must be licensed in N.Y. State with "A.M. Best" rating of at least **"A- VIII". Coverage is to become effective August 1, 2010.**

Proposals must be in the format included in the Invitation for Bid package containing instructions, specifications and detailed submission requirements. Packets may be obtained by calling NYCHA's **Liability Insurance Broker: Towers Watson, The Prudential Center, 800 Boylston Street - Suite 600, Boston, MA 02199-8103 at (617) 638-3769.** In order to be eligible, completed bid proposals **must be received by 3:00 P.M. EST on May 21, 2010.**

All inquiries for additional information regarding the Invitation for Bid are to be directed to **Lorraine Linehan, Vice President, at the aforementioned address, telephone or e-mail at: Lorraine.Linehan@towerswatson.com.**

NEW YORK CITY HOUSING AUTHORITY

NYCHA IS NOT SOLICITING QUOTES FROM BROKERS

Michael R. Bloomberg, Mayor, New York City
John B. Rhea, Chairman, NYCHA

Business Resources

BENEFIT STATEMENTS

Advertisers in this section can also be found online at:
BusinessInsurance.com/Marketplace

Business Insurance
www.BusinessInsurance.com

Products & Services

Crisis management added to umbrella cover

NOVATO, Calif.—Fireman's Fund Insurance Co. has enhanced its commercial umbrella policies with the addition of crisis management products.

According to a statement, the crisis management products provide a sublimit of $250,000 for costs incurred during crisis management, which include medical, funeral, psychological counseling, travel and temporary living expenses, along with expenses to secure the premises.

The crisis management endorsement loss coverage component provides $50,000 in addition to the policy limit for various fees and expenses for companies that use crisis management or public relations firms, and other costs for advertising and mailing materials, the Novato, Calif.-based insurer said in the statement.

Fireman's Fund, a unit of Allianz S.E., said the crisis management endorsement is for admitted commercial umbrella policies and policyholders who purchase umbrella or property coverage.

For more information, contact Garick Zillgitt, vp of casualty commercial insurance, at 415-899-8494 or *garick.zillgitt@ffic.com*.

Marsh Market allows monitoring of insurers

NEW YORK—Marsh Inc. has developed an electronic service to help its clients monitor the financial condition of their insurance companies.

Marsh Market Information is a secure Web portal that provides information and analysis on the financial strength of 1,500 insurance companies, the company said in a statement.

It is offered exclusively to Marsh clients and allows users to compare the financial results of insurance companies with the overall credit exposure of their insurance programs.

New York-based Marsh said the online service combines ratings and outlooks from A.M. Best Co. Inc., Moody's Investors Services Inc. and Standard & Poor's Corp., which includes insurer and group financial data, stock charts, credit default swaps, and analyzes the information, which can be delivered to its clients via e-mail alerts.

More information is available online at *http://global.marsh.com/services/marketinformationwebsite.php* or contact Paul Sherbine, leader of Marsh's Market Information Group, at *Paul.F.Sherbine@marsh.com*.

Medmarc offers lower-cost product liability coverage

CHANTILLY, Va.—Medmarc Insurance Group said it is offering claims-made product liability coverage for clinical trial-stage companies and emerging growth enterprises at a lower fixed annual cost.

The product liability coverage is available to such companies that have annual revenue of up to $10 million. The minimum premium for policies has been reduced up to 30%, Medmarc said in a statement.

The policy includes blanket clinical trials, extended reporting period protection and access to loss control services, along with coverage of medical expenses of clinical trial test subjects regardless of fault, among others.

A spokesperson for Medmarc said the policies will be underwritten by Noetic Specialty Insurance Co., a unit of Medmarc.

Chantilly, Va.-based Medmarc offers product liability coverage for medical technology and life sciences companies.

For more information, contact George Ayd, assistant vp of operation, at 703-652-1309 or *gayd@medmarc.com*.

Zurich adds coverage for in-house counsel

SCHAUMBURG, Ill.—Zurich North America Commercial has introduced errors and omissions coverage for in-house lawyers.

The policy, Employed Lawyers Select, provides coverage of negligence claims against in-house lawyers for companies of all sizes, the insurer said in a statement.

While companies purchase the coverage on behalf of the legal counsel they employ, the company itself is not covered. The policy reimburses companies for costs defending litigation against in-house attorneys.

The policy incorporates the Schaumburg, Ill.-based insurer's existing directors and officers liability policies, but adds enhancements such as reporting periods up to six years and an option for an insured person to extend the coverage, among others.

Zurich said Employed Lawyers Select also will be offered to financial services and health care clients.

For more information, contact Brad Gow, senior vp of Zurich's specialties and errors and omissions group, at 215-979-6652 or *brad.gow@zurichna.com*.

TO SUBMIT ITEMS

BI's Products & Services column reports on new product offerings. Please send Product & Services news to Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. or e-mail *mtsikoudakis@businessinsurance.com*.

UP CLOSE Comings & Goings

BLANCA CASTILLO

NEW JOB TITLE: Vp for El Paso, Texas-based JDW Insurance

PREVIOUS POSITION: El Paso-based account executive in personal lines and the emerging and entrepreneurial department at JDW.

GOALS FOR NEW POSITION: My goal is to give guidance to everybody in the department at this point. There are a couple of departments that have been struggling to meet goals.

INDUSTRY CHALLENGES: We do a lot of commercial business and we have a lot of businesses in El Paso. Our challenge here is just getting out there. There are a lot of businesses in the area here, so we really just need to get out there and find clients.

INDUSTRY OUTLOOK: We were able to meet our targets last year—not only meet, but exceed. There is so much business out there. It is just a matter of timing and getting out there.

FIRST MARKET EXPERIENCE: My very first job was with a mom-and-pop agency. It was just the owner and myself in the office. I was the very first employee. I learned so much. Three weeks into my training, the owner got really, really ill, so I was by myself in the office for over a month. I did a lot and learned so much, because I was thrown into a situation where I had to just do it. That (automobile insurance) agency doesn't exist anymore, but I always see that as my learning experience.

ADVICE: This is an industry you will never get bored in. If you find something you don't like in the industry, you will find something that you do like. There is so much going on in the industry.

WHAT YOU WANTED TO BE WHEN YOU GREW UP: I always wanted to work in the medical field and now it's funny because I would want nothing to do with medicine.

OUTSIDE THE INDUSTRY, A DREAM JOB: Right now I think any dreams that I have in my career, they are all targeted with working within the insurance field.

E-MAIL OR PHONE, AND WHY: I prefer talking to people face to face. I think you can do so much more face to face.

Comings & Goings ONLINE

VISIT *www.businessinsurance.com/ComingsandGoings* for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings and sign up for the weekly e-mail.

TO SUBMIT ITEMS

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

Mike Tsikoudakis
Business Insurance
360 N. Michigan Ave.
Chicago, Ill. 60601-3806
mtsikoudakis@businessinsurance.com

POSTING THIS WEEK

BROKERS:
- BMS Group Ltd.
- Heffernan Insurance Brokers
- Integro Insurance Brokers
- Lockton Cos. L.L.C.

INSURERS:
- Berkley Accident and Health L.L.C.
- Torus Insurance Holdings Ltd.

REINSURANCE:
- ACE Tempest Re Group
- Guy Carpenter & Co. L.L.C.

OTHER PROVIDERS:
- Covington & Burling L.L.P.
- Great-West Retirement Services

AIG: ILFC sells aircraft for $1.99 billion

CONTINUED FROM PAGE 4

statement that AIG and ILFC have "worked hard to enhance ILFC's long-term potential."

However, if ILFC cannot borrow money to repay its debt, AIG may have to support the unit, potentially tapping its credit line with the U.S. government to do so, analysts say. Last year, AIG loaned $3.9 billion in federal funds to ILFC, according to filings with the SEC.

The $182.3 billion rescue package in 2008 gave the U.S. government a roughly 80% stake in the struggling insurer. Now, the Treasury Department reportedly is trying to lower its equity stake in AIG. A Wall Street Journal report last week, citing people familiar with the situation, said Treasury officials are considering converting its preferred stake in AIG into common shares that eventually would be sold off to other investors—similar to its strategy for Citigroup Inc., the report said.

While the move would not change AIG's outstanding government debt, analysts say it still would be a positive step for AIG.

"It's better for AIG to move towards a stand-alone basis sooner rather than later," said Bill Bergman, an analyst with Morningstar Inc. in Chicago.

AIG declined comment. The Treasury Department did not respond to a request for comment.

Meanwhile, compensation restrictions on top AIG executives—a condition of the government's rescue package—prompted AIG in a regulatory filing last week to say it "strongly objected" to Mr. Feinberg's decision in November to reduce the salaries of Chief Financial Officer David Herzog from $675,000 to $350,000 and Chartis Inc. Executive Vp Kristian P. Moor from $1 million to $450,000.

Mr. Feinberg, who is overseeing compensation packages of the 100 highest-paid employees, has capped cash salary at $500,000 absent exceptional circumstances.

AIG said the restrictions mean cash compensation as a percentage of total pay was significantly lower than its competitors, and the limits put the insurer at a "competitive disadvantage." The SEC proxy was filed ahead of AIG's May 12 annual shareholder meeting.

Analysts said the comments underline the tension between AIG and Mr. Feinberg. "It's a little unusual they would put this in a proxy filing, but I think they felt it was important to convey the situation to shareholders," Mr. Bergman said.

Mr. Moor's 2010 cash salary increased to $700,000 and his annual package, with cash and stock, could reach $7.6 million, the filing said.

Mr. Benmosche, who joined AIG in August 2009, was paid $2.7 million in cash and shares and received a $1.38 million incentive award for 2009. This year, he is allowed a maximum compensation package of $10.5 million, the filing said.

Separately, AIG told regulators that a November 2009 analyst report that raised concerns about possible reserve shortfalls in the insurer's property/casualty unit relied on a "faulty analysis," according to a series of SEC documents released last week.

In a report, Sanford Bernstein & Co. analyst Todd Bault said AIG was facing an $11 billion shortfall to cover potential claims. But AIG told the SEC that the analyst used "insufficient" data. AIG said it attempted to recreate Mr. Bault's analysis—utilizing the same published "Schedule P data" and methodology the authors said was used in the analysis—and "identified errors in both data and methods used," the documents said.

In addition, "AIG had cautioned users of Schedule P data that it's not possible for any person to accurately determine the adequacy of the company's loss and loss expense reserves using the company's Schedule P data as the sole source," AIG said in the documents.

The SEC had asked AIG if there was any reason to believe that reserves were inadequate. In its response, AIG said it "did not identify any matters that indicated its reserves as reported at Dec. 31, 2008, or any 2009 period were not adequate." In each filing, AIG disclosed "adverse and favorable development in certain lines of business and the amount of changes in prior-years' estimates resulting from such 2009 developments."

AP PHOTO

U.S. pay czar Kenneth Feinberg, who is overseeing top AIG employees' compensation packages, has capped cash salary at $500,000 absent exceptional circumstances.

In February, AIG said a $2.3 billion pretax reserve boost for its commercial insurance operation contributed to its $8.9 billion fourth-quarter 2009 loss.

The details of the review indicate the SEC appears to be satisfied and AIG's move to set the record straight is a positive step, analysts say.

AIG declined to comment further on the SEC documents.

Rates: Property/casualty prices stay soft

CONTINUED FROM PAGE 3

low single-digit decreases in premium. If there's anything surprising here, it's that general liability fell off a bit more than we expected, but it has been very competitive over the past several years.

"There's nothing to suggest the market's going to turn in 2010," Mr. Bradford said. "We're expecting to see continued gradual erosion this year, but nothing very dramatic."

> **'We're expecting to see continued gradual erosion this year, but nothing very dramatic.'**
>
> Dave Bradford, Advisen Ltd.

Rates were lower, but insurers still posted good results last year, said Robert Cartwright, a RIMS director and loss prevention manager for Bridgestone Americas Holding Inc. in Exton, Pa. That means underwriters have not been "highly motivated" to seek higher premiums, which he said is "good news for risk managers."

But with forecasts of an active hurricane season, "large catastrophe losses could cause prices to increase across the board," he said in the statement.

While positive for buyers, "insurance brokers are suffering from the double whammy of lower rates and reduced premiums levels resulting from the lingering effects of the recession," according to the statement.

Rates for some types of insurance are calculated based on payroll and revenue, which fell "substantially" during the recession, according to the survey.

"Workers compensation premium volume, which is based principally on payroll, has been particularly hard-hit by the economic downturn. Consequently, many brokers have been forced to streamline operations and reduce head count to maintain profitability."

M&A: Wholesaler AmWINS enhances scale in deal

CONTINUED FROM PAGE 1

dent Skip Cooper.

Marshall P. Kath, who was Colemont's CEO since 1996, "voluntarily resigned from the organization as part of the transaction," an AmWINS spokesman said.

Attempts to reach Mr. Kath were unsuccessful.

The two firms "fit like a glove," with very little overlap, said Gene Eisenmann, who founded Colemont in 1992 as Heath Insurance Brokers, a U.S. wholesale division of London-based retail broker Heath Lambert Ltd. The company changed its name to Colemont Insurance Brokers following a 2004 management buyout from Heath.

"We've paid attention to Colemont for a long, long time," Mr. DeCarlo said, noting the wholesaler's Texas operations were a big draw.

"They are very good in Texas; they were built in Texas; they were born in Texas; and they have lots of retail relationships in Texas, and our platform was not very strong in Texas," Mr. DeCarlo said. "We're always looking for opportunities, so when the banker brought us the opportunity (last spring), we (gave) a quote of what we'd be willing to do, and that started the process."

Mr. DeCarlo noted that Colemont's London-based international insurance and reinsurance brokerage platform of more than 25 offices in 16 countries also was a selling point.

"We've looked into some things in London in the past but have not been able to make it work for a lot of different reasons," Mr. DeCarlo said. "It's a nice business," he said of Colemont's international operations, and it's "run by a real pro, Surinder Beerh," who has been named CEO of London-based Colemont Global Group.

Indeed, investment bankers specializing in the wholesale market say AmWINS will benefit from the addition of Colemont.

"I think the deal is good for AmWINS," said John Hompe, managing director and co-head of the insurance investment banking division of Keefe, Bruyette & Woods Inc. in New York. "It gives them an international dimension, which isn't something that they've had to date, and it gives them a significant additional amount of premium under their control," he said.

"For a company that's filed to go public in the past and presumably would look to go public in the future, I think being larger and more diversified by product and geography is always a positive," Mr. Hompe said.

"To me, I think it's a really savvy transaction for AmWINS," said John Butler, a managing director and head of the insurance practice of Piper Jaffray & Co. in New York. It not only gives them new international operations, but it also "takes out a competitor, which is smart."

Experts say the deal also benefits Colemont, which they say bit off more than it could chew by investing in its international expansion in recent years.

Rather than building critical mass in a few places, Colemont expanded into a number of locations overseas and, with few exceptions, was unable to get a lot of traction, experts say. Combined with the prolonged soft property/casualty insurance market, the wholesaler found itself in need of raising more capital, while having to service its debt at the same time.

"From my understanding, it was a distressed sale; and with so few groups capable of taking on this size deal, it would surprise me if AmWINS did not negotiate very attractive terms," said Kevin Donoghue, managing director of Mystic Capital Advisors Group L.L.C. in New York.

The deal really "exposes the corrosive potential of excess leverage in a prolonged soft market cycle, especially on the wholesale side," Mr. Donoghue said. "It would not surprise me if there's more distressed situations out there, just because of the market cycle and the use of leverage over the past five to six years, but I'm not aware of who the next one to fall would be."

Another investment banker, who asked not to be identified, was uncertain about how much stress Colemont was under to sell.

"What I do know is that they had another constituent at the table in (private equity firm Wachovia Capital Partners) and they had a meaningful amount of debt that they had to service and, at the same time, they had an international operation that wasn't particularly profitable or profitable at all," the investment banker said. "That overall stresses the entire organization." The investment banker noted, though, that the international operation has a better chance of success under AmWINS.

For his part, Mr. DeCarlo said he "didn't see it as a distressed deal."

Colemont's "level of debt was more than manageable," he said. "It generated plenty of EBITDA, it was a positive cash-flow company and they had great financial backing from Wachovia Capital Partners," he said of the firm now known as Pamlico Capital.

Pamlico did not return calls.

"They had expanded, clearly, but…there comes a point in time with any business where they have to make decisions about whether they want to look at strategic alternatives. And in this case, they looked at raising capital from the private equity world and other sources and the opportunity to partner with us," Mr. DeCarlo said. "We obviously had to show them why the two firms would be great together and I think we proved that."

"You don't do transactions like this unless both people want to get married. And culturally, we're a good fit," said Mr. DeCarlo, noting that 23 of Colemont's 24 U.S. shareholder producers opted to stay with the combined firm.

"Time will tell if we are able to get all the producers to stick, but I was pretty excited to get 23 of 24 shareholders," who transferred their Colemont shares for AmWINS shares as part of the deal, Mr. DeCarlo said.

Terry Sherwin, the Colemont producer who left, now heads Crump Group Inc.'s Atlanta office, the Roseland, N.J.-based wholesaler confirmed last week.

Acquisition of Colemont seen as one-off deal

Merger and acquisition experts say they do not view the recent combination of AmWINS Group Inc. and Colemont Insurance Brokers as a harbinger of more acquisition activity in the wholesale market.

The deal is more a reflection of Colemont's need to raise capital and a decision to seek a strategic alternative than a trend of buyers willing to pay higher prices for wholesale brokerages, which tends to drive more deals, they say.

"I view this as more sort of a natural course," said John Hompe, a managing director and co-head of insurance investment banking at Keefe, Bruyette & Woods Inc. in New York. "Every year there's a couple of specific companies that have particular issues, whether it's succession or shareholder liquidity pressure or debt load issues," and they look to sell.

"What really brings wholesale sellers out en masse is when there are high cash prices being paid," Mr. Hompe said. "That's the principal driver of any burst of activity and the underlying factors that give rise to the lofty prices are an impending hard market and/or attractively priced bank credit. We don't really have either of those dynamics at the moment, so I don't view this deal as a harbinger of more activity."

John Butler, a managing director and head of the insurance practice group of Piper Jaffray & Co. in New York, agrees.

"I think it's a one-off deal in that I believe it was driven by Colemont's specific situation," he said.

"I do, however, believe that the longer the soft market persists, the more challenging it's going to be for the midsized and smaller wholesale brokers to continue to compete," he said. So "I think you'll see some continued activity, but I wouldn't expect a torrent because valuations are still challenging."

—By Sally Roberts

Opt out: Voucher rule may raise costs

CONTINUED FROM PAGE 1

ance coverage from a state health insurance exchange. The exchanges are authorized under the reform law and are supposed to be set up by 2014.

If the cost of a policy purchased by an employee through the exchange is less than the value of the voucher, the employee could pocket the difference in cash, which would be considered income and taxed.

The voucher feature could prove costly to employers, especially those that have a heavy concentration of low-wage employees—such as retailers—and require employees to make hefty employee premium contributions, relative to their incomes.

And depending on how the legislative language is interpreted in subsequent regulations, it also could prove costly to employers that offer employees a choice of health care plans ranging from relatively low-cost to very expensive plans.

Experts say the provision is almost certain to result in adverse selection, inflating employer costs.

For example, a young, low-paid employee working for a company with a high concentration of older, less healthy and expensive-to-insure employees likely would receive a voucher whose value would be much higher than the cost of buying coverage in an exchange, especially if the employee purchased a lower-cost high-deductible plan. Under the reform law, exchanges can base premiums on the age of policyholders.

As a result, employees remaining with the employer's plan would be the most costly to insure, pushing up the employer's insurance premiums.

"We are talking about something that could be very costly to employers," said Chantel Sheaks, a principal with Buck Consultants L.L.C. in Washington.

"As I read it, any employer that offers comprehensive benefits and has low-wage employees could be impacted," said Helen Darling, president of the National Business Group on Health in Washington.

Despite the potential financial impact of the provision, few employers have focused on the voucher provision, noted Jennifer Henrikson, a legal consultant with Hewitt Associates Inc. in Lincolnshire, Ill.

The likely reason for that, Ms. Henrikson said, is that employers now have to concentrate on reform-related issues that are more pressing. The voucher provision does not go into effect until 2014, while numerous others, such as elimination of lifetime dollar limits, go into effect beginning in 2011.

The intent of the provision isn't clear, experts say. A much broader version of the provision was backed by Sen. Ron Wyden, D-Ore., who has sponsored a proposal in which employers no longer would offer coverage to their employees, but instead would give them cash that they would use to purchase health care coverage on their own.

Many issues involving the provision itself are not clear. "There is a lot of complexity here that has to be figured out," said Sandi Hunt, a principal in the San Francisco office of PricewaterhouseCoopers L.L.P.

For example, the provision says the voucher contribution would be equal to the amount the employer would have paid if the employee had been "covered under the plan with respect to which the employer pays the largest portion of the cost of the plan."

That legislative language is about as "clear as mud," Ms. Henrikson said. For example, it isn't clear whether the largest portion of the premium refers to the percentage of the premium paid by employers or the actual dollar amount employers pay, though experts say it likely is the latter.

If the latter interpretation is adopted through regulation, the provision could have a costly impact on employers that give employees a choice between lower-cost plans, such as consumer-driven health care plans and much more costly plans, such as traditional preferred provider organizations.

Take the case of a young employee enrolled in a high-deductible plan with a premium of $10,000, of which the employer paid $7,000. The employer also offered a more traditional PPO plan costing $15,000, of which the employer paid $10,000.

In that example, the employee would be entitled to a $10,000 voucher, funded by the employer. If the employee then found coverage in the exchange, perhaps similar to the high-deductible plan in which he was enrolled, for $8,500, he could purchase the coverage and then have $1,500 in additional cash. But his employer's health insurance cost would be $1,500 higher.

EMPLOYER-PAID VOUCHERS

How the new health insurance voucher would work

- Employees who earn up to 400% of federal poverty level and whose group premium contributions are between 8% and 9.8% of household income are eligible for insurance vouchers provided and paid by their employers.
- Value of the insurance voucher is equal to the greatest employer contribution for a company plan for which the employee is eligible to enroll.
- Employees must use vouchers to buy coverage offered through new state health insurance exchanges.
- If the cost of coverage obtained through an insurance exchange is less than the value of the voucher, the employee receives the difference in taxable cash.

Schools need strategies to fight threat of bullying

Schools must be proactive in efforts to address bullying, observers say.

"When you ignore bullying, it's tantamount to condoning it; and if you're condoning it, then you might as well participate in it," said Philip D. Burns, president of Sytech Research Inc., a psychological research firm in Tulsa, Okla.

School districts "need to be revising their policies to ensure they've taken steps to allow reporting of bullying and disciplining for any inappropriate behavior by students to one another," said Katie Anderson, senior counsel with law firm Strasburger & Price L.L.P. in Dallas.

Schools should have policies and procedures to handle bullying and educate all employees on tactics to halt bullying, observers say.

Programs that "focus on peer-to-peer behavior change should be emphasized," recommended Lee Gaby, executive director of the Athens, Ga.-based Public School Risk Institute Inc. "We often have training programs for helping teachers identify and intervene in bullying cases," but students should be "empowered to act to control their peers' behavior."

Donna Abersman, deputy CEO and chief operating officer of the Alliance of Schools for Cooperative Insurance Programs, said the Cerritos, Calif., group that works with 170 school districts seeks to identify natural leaders among students, who often are gang members. Those individuals are counseled to "teach them to be positive leaders and protect their fellow students" rather than attacking them, she said.

The janitorial staff and perhaps food service staff, who interact with the children and can serve as an ear for their concerns, should be included in training as well as principals, vice principals, teachers and counselors, said Eric Seaborg, risk management consultant for Chevy Chase, Md.-based United Educators Insurance Inc. There also should be classroom discussions to give students an opportunity to talk about the issue, he said.

Mark McKinney, director of risk management for the Tallahassee-based Florida School Boards Insurance Trust, a self-insurance program, said bullied students often are afraid to report it because they may be ostracized and bullied even more.

In Virginia, officials at Norfolk Public Schools encourage all students to report bullying because victims often fear that reporting it themselves "would put them at higher risk," said Dan Hurley, its Chesapeake, Va.-based senior director, risk management and safety.

Communication is important, said Jean Demchak, Hartford, Conn.-based global education practice leader for Marsh Inc. This will differ depending on age, but by high school, school districts should have "full-blown policies" that define bullying and "where the lines are drawn," she said.

Schools should work with the parents of the bullies and victims, said Mr. McKinney.

Consequences should be part of a program, said Mr. Burns. The first step should be warning the bully, followed by parents' involvement and then suspension, with counseling at every stage. The next move should be to "kick the bully out," said Mr. Burns. "There are times when you just have to draw a line in the sand, and I think this is it," he said.

Furthermore, these rules should be applied uniformly and schools should not turn "a blind eye to your star athletes or star academics," he warned.

—By Judy Greenwald

PREVENTING BULLYING

Ten strategies that represent best practices in bullying prevention and intervention

1. Focus on the school's social environment.
2. Assess bullying at the school.
3. Garner all staff and parent support for bullying prevention.
4. Form a group to coordinate the school's bullying prevention activities.
5. Train administrators, faculty and staff to prevent bullying.
6. Establish and enforce school rules and policies related to bullying.
7. Increase adult supervisors in "hot spots" where bullying occurs.
8. Intervene consistently and appropriately in bullying situations.
9. Focus some class time on bullying prevention.
10. Continue these efforts over time.

Source: U.S. Department of Health and Human Services, www.stopbullyingnow.hrsa.gov

A candlelight vigil is held at South Hadley, Mass., High School after the suicide of a student who had been bullied. The issue of bullying has become an area of increasing concern for school district risk managers.

AP PHOTO

Bully: Schools work to reduce liabilities

CONTINUED FROM PAGE 1

Prosecutors have filed charges including statutory rape, violation of civil rights with bodily injury, harassment and stalking against six alleged perpetrators.

In the Michigan case, a federal jury in Detroit last month awarded $800,000 to a student despite the fact that the school district had made some efforts to stop the bullying.

In *David Patterson and Dena Patterson vs. Hudson Area Schools and Kathy Malnar*, the parents of Dane Patterson accused the school district of violating Title IX of the Education Amendments of 1976, which bans sex discrimination in schools, by allowing their son to be harassed by other students. The son, now 19, endured years of escalating bullying by his classmates that culminated in a sexual assault, according to court documents.

Observers say school bullying has always been an issue, but the advent of online social networking has exacerbated the problem.

Steps school district risk managers should take to address the problem include implementing a policy and training students, staff and parents, experts say (see related story).

Eric Seaborg, risk management consultant for Chevy Chase, Md.-based United Educators Insurance Inc., a reciprocal risk retention group, said, "There are a lot of school systems out there that are very, very advanced in regard to having committees and prevention group programs to address bullying, to identify bullying behaviors, to deal with bullying behaviors."

In the Michigan case, the 6th U.S. Circuit Court of Appeals in Cincinnati in January 2009 overturned a lower court ruling that had dismissed the Pattersons' case. The appeals court held that despite implementing several proactive programs to combat harassment and bullying, a "genuine issue of material fact" remained as to whether the Hudson, Mich., school district's actions were "deliberately indifferent," one of the required elements to establish a violation of Title IX.

The 2-1 ruling said after the cycle of harassment against the teen intensified in ninth grade, "Hudson's only response was to employ the same type of verbal reprimands that it had used unsuccessfully in response to the sixth- and seventh-grade harassment," steps that "were clearly unreasonable in light of the known circumstances."

The appeals court ordered the case returned to district court, where a federal jury in March awarded $800,000 to the family. An attorney for the school district could not be reached for comment as to whether an appeal is planned.

Elsewhere, the parents and sister of 14-year-old Christopher David Jones of Crofton, Md., who was surrounded and beaten to death by gang members as he rode his bike home, filed suit last week against the Anne Arundel County Board of Education and others. A school administrator who had promised to take several measures to protect Christopher against gang member threats failed to take any action, said the family's attorney, Richard L. Jaklitsch, of the Upper Marlboro, Md.-based Jaklitsch Law Group. A school district spokesman had no comment.

Bullying is "one of the major, top issues in schools," said Cheryle Mangels, executive director of the Denver-based Colorado School Districts Self-Insurance Pool.

"I think school districts are extremely concerned about it and are paying a great deal of attention to it," said Nancy Sylvester, managing director, public entity and scholastic division, for Arthur J. Gallagher Risk Management Services Inc. in Baton Rouge, La. "The effort (to address the issue) is much more concentrated now than ever before."

"It's a very, very big concern," agreed Lee Gaby, executive director of the Athens, Ga.-based Public School Risk Institute Inc. The Massachusetts incident and the Michigan case, along with other bullying incidents, "all combined may have served to reawaken an interest in finding what's been referred to as a systemic solution" to the problem of bullying, he said.

Internet access has exacerbated the problem. Communications can be sent anytime "with the push of a button," said Philip D. Burns, president of Tulsa, Okla.-based Sytech Research Inc., a psychological research firm. "The consequences now are far more dire due to the instant public humiliation that this type of electronic bullying can bring to the equation," he said. "It's far more devastating on the kids."

In a 2005-2006 study of 7,000 sixth- through 10th-grade students by the Rockville, Md.-based National Institute of Child Health and Human Development, 36.9% reported they have been victims of verbal bullying, 32.1% rumor spreading, 25.8% social exclusion, 13.2% physical bullying and 10.1% cyber bullying.

Among victims of "traditional" bullying, 17.8% also reported online victimization; but 95.1% of cyber victims said they also were victims of traditional bullying.

While there were no reports of litigation by Ms. Prince's parents, more litigation stemming from bullying is expected. "We're not seeing a lot of it, but I think that will increase," Ms. Mangels said.

Jean Demchak, Hartford, Conn.-based global education practice leader at Marsh Inc., said the tendency to sue in such cases has increased as parents have become aware of their rights. "Litigation will increase in this area based on the historical perspective we have of similar incidents," she said.

State law in many cases provides school districts with immunity and such litigation is more likely to be brought under federal law, as in the Michigan case, observers say.

"There's absolutely very likely to be a proliferation of these cases brought," said Katie Anderson, senior counsel with law firm Strasburger & Price L.L.P. in Dallas.

The Michigan damage award "was really shocking," said Christine Lueders, Chicago-based senior vp in the Willis Pooling Practice, a unit of Willis North America. "It really says to the schools that even though they have a policy" and take some actions against individuals when bullying occurs, the school district still may be held liable for failing to create a safe environment for the student.

School districts are charged with the responsibility "of taking action and making sure it's effective," said Ms. Anderson. "They can't just do something and say, 'Look, we did something.' They have to check and make sure it worked."

When a landmark case such as the one in Michigan is successful, plaintiffs attorneys will try to set the same precedent elsewhere, said David Ruiz, employee benefits and risk manager for the Martin County School district in Stuart, Fla.

Webcast: Health care explanations

CONTINUED FROM PAGE 4

dilemma for employers were extending coverage to employees' adult children until age 26 and determining which employees must be counted toward the coverage mandate.

Under the Patient Protection and Affordable Care Act of 2009, all employees' adult children up to age 26 must be offered coverage, according to Marie Chalmers, Boston-based principal and enterprise market leader at Mercer Health & Benefits L.L.C.

However, if the adult child is eligible for COBRA coverage from a previous employer or through a spouse, employers may or may not be required to extend coverage to them, according to Mark Holloway, senior vp and director of compliance services at Lockton Benefit Group in Kansas City, Mo.

"This is one of the issues we're going to have to wait for guidance on," he said.

Ms. Chalmers and Mr. Holloway shared their interpretations of the new law, giving presentations and responding to questions submitted by participants in the April 15 webcast, moderated by *Business Insurance* Editor-at-Large Jerry Geisel.

Rules for mandate

Another area of confusion for many employers that presenters sought to clarify was identifying which employees must be considered full-time equivalents for purposes of determining whether they are subject to the coverage mandate.

Under the law, employers with 50 or more full-time or full-time equivalent employees must offer qualifying, affordable coverage to those employees or be subject to a "free-rider surcharge" of $2,000 per employee. However, the surcharge only will apply to an employer's "real" full-time employees.

The webcast, "The New Health Care Reform Law: What Will Employers Need to Do to Comply?" will be available on demand at *www.BusinessInsurance.com/Webinars*, on Monday, April 19, for a subscription fee of $99. Subscribers can view the full presentation, download the slides, and hear the complete question-and-answer portion of the event.

ADVERTISER INDEX

Issue of April 19

ERM: Strategy application important in down economy

CONTINUED FROM PAGE 4

disclosures to shareholders effectively demonstrate an understanding of key risks.

Sim Segal, president of New York-based SimErgy Consulting L.L.C., said during a session on risk identification that risks often are defined inconsistently by source and outcome, which can hamper a company's ability to identify and manage risks. Mr. Segal said discussions on identifying risks should not only take place with senior management and board members, but should be conducted by each department within an organization so hidden risks are not overlooked.

"There is a lot of overemphasis put on past errors, which crowds out risks that should be on a company's radar," Mr. Segal said. "With too much focus on past events, there are likely risks (a company) should be aware of and they never identify it."

In addition, companies need to decide what level of risk they are comfortable with retaining, said New York-based Linda Chase-Jenkins, co-leader of Towers Watson's ERM global insurance practice.

"You can't talk about embedding ERM (into a corporate culture) until you have a risk appetite identified," she said. "If you haven't identified your risk appetite, it is virtually impossible to embed an ERM program."

Providing guidelines on how much risk a company is willing to take is part of the disclosure to shareholders called for by federal regulations and legislators. Providing guidelines also allows shareholders to see how a company manages its appetite for risk, particularly when investing, and puts boundaries around its decision-making.

In the end, ERM comes down to the human element of decision-making, said David Ingram, New York based senior vp for Willis Re and an ERM adviser. Mr. Ingram said an ERM strategy needs to include people's ability to make decisions and change strategy and risk appetite in accordance with their economic environment.

"If you pick a strategy and try to stick to it though the environment around you is changing, it's not going to work," Mr. Ingram said. "You need to try to match (ERM) strategies to how the world is reacting to an environment....If you know the world is going to be this way within a random environment, you can predict surprises a little bit easier."

News In Brief

CONTINUED FROM PAGE 1

of Europe unlikely have insurance to recover those losses, sources said. Flights were grounded at many European airports last week as ash from the eruption of Iceland's Eyjafjallajökull volcano drifted across the region, endangering aircraft. Airlines likely are not covered for revenue lost due to grounded aircraft because there is no physical damage, which generally triggers business interruption policies, experts said.

Property/casualty insurers report higher profits

U.S. property/casualty insurers' profits jumped to $28.3 billion in 2009 from $3 billion in 2008, as investment income soared and claims costs declined, according to an Insurance Services Office Inc. and Property Casualty Insurers Assn. of America report. "But insurers' recovery from the recession and financial crisis remained incomplete, with their $28.3 billion in net income for 2009 being less than half of their $62.5 billion in net income for 2007," the report said.

New York appeals rejection of Sept. 11, 2001, settlement

Attorneys for New York are appealing a judge's rejection of a multimillion-dollar settlement reached between WTC Captive Insurance Co. and thousands of Sept. 11, 2001, rescue and recovery workers. Attorneys for the city and its contractors said they filed a notice of appeal to challenge several orders that "are blocking the parties' ability to choose to settle these cases." The settlement of up to $675.5 million provided a system to compensate about 10,000 plaintiffs. The pact called for payments to be made by WTC Captive, a federally financed insurance fund established in 2004 with a $1 billion grant to provide otherwise unavailable liability coverage to New York and about 100 contractors.

Securities suits fall to pre-2007 levels: Analysis

New securities lawsuits related to the credit crisis dropped dramatically to pre-2007 levels, according to an Advisen Ltd. analysis. In the first quarter of 2010, plaintiffs filed only one new securities class action tied to the credit crisis, Advisen said. The number of securities lawsuits fell 39% compared with first quarter of 2009, according to the report sponsored by ACE Group of Cos. Ltd.

SEC fraud charge 'unfounded': Goldman Sachs

Goldman Sachs Group Inc. said a complaint filed against it by the U.S. Securities and Exchange Commission, in which it is being accused of securities fraud in connection with a mortgage-related debt security, is "completely unfounded." The SEC accused Goldman of making material misstatements and omissions concerning a synthetic collateralized debt obligation, ABACUS. The CDO was tied to the performance of subprime residential mortgage-backed securities and was structured and marketed in early 2007, according to the SEC complaint. The SEC says Goldman Sachs did not disclose that a large hedge fund effectively shorted the underlying subprime residential mortgage-backed securities portfolio it had helped select by entering into credit default swaps with Goldman Sachs to buy protection on specific layers of the ABACUS capital structure. Goldman bought swaps on seven of its ABACUS deals from American International Group Inc., but these do not include the ABACUS deal cited in the SEC complaint. An AIG spokesman had no comment.

Administrator takes control of Irish insurer

Quinn Insurance Ltd. has consented to the appointment of a full-time administrator to oversee management of the troubled insurer. Ireland's High Court appointed the administrator in advance of a scheduled hearing today to consider whether such a move was needed to take control of the property/casualty insurer.

Noted

PERILS A.G. estimated insured losses from Windstorm Xynthia at €1.28 billion ($1.73 billion) based on claims data from primary insurers. The loss estimate is based on primary insurers' gross losses and excludes claims paid by a program in France that allows primary insurers to cede coverage on natural catastrophe risks to state-owned reinsurer Caisse Centrale de Reassurance S.A....Jon Kingsdale is stepping down as executive director of the **Commonwealth Health Insurance Connector Authority**, effective June 4. He will be replaced by Glen Shor, assistant secretary for health care policy under Gov. Deval Patrick.

Travel: Crash highlights key person risks

CONTINUED FROM PAGE 3

"You can consider concentrating values when moving goods, depending on what you are shipping, but we are talking about people," said Dieter Berger, risk and insurance manager at Alpiq Management A.G., an Olten, Switzerland-based electricity and energy services provider, and president of the Bern-based Swiss Assn. of Insurance & Risk Managers. Such an accumulation of risk posed by the large number of high-profile passengers on the plane should not have been allowed, he said.

There have been 31 crashes involving various models of the Tupolev Tu-154 since 1973, 15 with a death toll higher than the most recent crash. Twenty-one crashes have killed all aboard, according to AirDisaster.com.

Possible precaution

It is difficult to understand why the Polish government took such a risk, but there may have been at least one precaution, said Tim Prifti, accident and health underwriter at Kiln Syndicate 510, the Lloyd's of London syndicate managed by Kiln Ltd. "It is interesting that the prime minister wasn't there," he said. "Maybe that was a way of managing the risk."

The loss of so many high-profile leaders caused some companies to reconsider their procedures to protect against the loss of a key employee.

"It focuses attention on the need to manage the risk," said Mr. Prifti. "Risk managers are looking at their own policies and saying, 'Do we have similar exposures, and, if so, how can we manage the risk or buy insurance to mitigate the financial impact?'"

Mr. Hopkin said AIRMIC has heard from several of its members for whom the crash has prompted a re-examination of key employee travel procedures.

Large companies are more likely to manage the risk than insure it, experts say.

"The smaller the company, the bigger problem it is," said Carl Leeman, chief risk officer at Katoen Natie N.V., an Antwerp, Belgium-based logistics, storage and distribution company. Small companies often have one or two key executives whose loss could mean the end of the company, and they may not have sufficient resources to properly manage the risk, he said.

Katoen Natie and Alpiq manage the risk and neither carries key person insurance on their executives or board members, the risk managers for those companies confirmed.

Key person insurance is best suited for startup operations that could be severely harmed by the loss of a founder or top executive, said Mr. Schweingruber. "We don't see it otherwise in our large-client area. There's not really a demand."

Among AIRMIC members, which tend to be large companies, there likely are very few that have key person insurance, Mr. Hopkin said.

"The governance and management of an organization is arguably bigger than one person," said Mr. Hopkin. "Most AIRMIC members work on making sure that the small group (of key employees) is not exposed."

Coverage not likely

Experts say it would be surprising if the Polish government, or any other, bought insurance to cover the risk of losing key people and the expense of replacing them.

"Governments tend not to purchase insurance for this," said Mr. Prifti. "They would effectively self-insure that risk."

Paul Carter, London-based partner at broker Glencairn Ltd., said he has never seen a request for a key person policy for a sitting president or prime minister in more than three decades in the insurance business.

While not predicting that governments suddenly will buy key person insurance, Mr. Carter said that "as governments are trying to manage their budgets, they are taking out uncertainty. They seem to be thinking more and more about insurance as a possible solution."

WAYS TO PROTECT KEY PERSONS

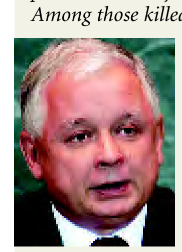
Risk managers are taking a look at their risk procedures to protect key employees after the deaths of Poland's president and many other political, military and civilian leaders in a plane crash this month. In strengthening or developing key person programs, experts recommend companies consider:

- Gauging the potential financial impact of losing key employees.
- Spreading vital responsibilities among employees.
- Protecting significant nonexecutive employees whose roles are vital to the company's financial well-being.
- Having a firm, well-circulated policy on travel of key employees to avoid an accumulation of risk.
- Managing the risk rather than insuring it if they are large enough to spread responsibilities among several employees.
- Insuring the exposure on a per-trip basis when an accumulation of risk is unavoidable, such employees traveling to a conference or employee function together.
- Weighing the risks of employees riding in the same van to and from an airport and staying in the same hotel.

—*By Michael Bradford*

POLAND POLITICAL, MILITARY LEADERS

The crash of a state-owned Tupolev Tu-154 aircraft in Smolensk, Russia, took the lives of all 96 people on board, including Poland's president and other political, military and civilian leaders. Among those killed were:


AP PHOTO

- ◆ Lech Kaczynski, president
- Maria Kaczynska, first lady
- Pawel Wypych, secretary of state, office of the president
- Mariusz Handzlik, undersecretary of state, office of the president
- Wladyslaw Stasiak, chief of the office of the president
- Gen. Franciszek Gagor, chief of the general staff of the Polish army
- Gen. Andrzel Blasik, commander of the Polish air force
- Vice Adm. Andrzej Karweta, commander in chief of the Polish navy
- Slawomir Skrzypek, president of the Polish National Bank
- Piotr Nurowski, chief of the Polish Olympic Committee

Source: News reports

Business Insurance END PAGE

Contributing: Jeff Casale, Roberto Ceniceros, Mark A. Hofmann

Pint-size rule brews on-the-job labor dispute

Talk about a fringe benefit: all the beer you can drink. Better yet: You get to drink it on the job.

So it should come as no surprise that workers at Carlsberg A/S, Denmark's largest brewer, didn't take kindly to an attempt by management to limit their beer intake to three pints a day, at lunch, effective April 1.

According to the Wall Street Journal, workers at the Copenhagen-based company went on strike this month to preserve their perk. Michael Christiansen, a union representative who led the strike, told the newspaper that "this is a right workers have had for 100 years. Carlsberg has taken it away without any negotiating at all."

The article noted that U.S. breweries don't allow workers to drink beer during breaks.

"You just can't drink and operate machinery," Jim Koch, the founder of Boston Beer Co. Inc., told the newspaper.

The WSJ also noted that Carlsberg employees

CARLSBERG GROUP

aren't without other fringe benefits, such as a year's sick leave at full pay and two free crates of beer per month.

Carlsberg said its policy stemmed from the fact that a recent survey showed that 93% of all Danish companies ban drinking on the job. "We don't want to be left behind," a Carlsberg vp told the WSJ.

The strike was suspended temporarily to allow the union and company to renegotiate the drinking issue. In the meantime, it looks like Carlsberg employees will have to settle for three free cold ones only at lunch. That, particularly in conjunction with a couple of free crates of beer a month, could be a benefit to which more than a few U.S. workers would be willing to raise a glass.

REUTERS/LANDOV, AP PHOTO, COOL SPRINGS LIFE EQUITY STRATEGY (BOTTOM)

Gene Simmons, dressed as a member of KISS (left) and sans makeup (right), is extolling the virtues of life insurance for high-worth individuals.

WILL VETERAN PITCHMAN BECOME 'DR. LIFE?'

He has long bragged about wanting to "rock and roll all night and party every day," but now he's spreading the word about life insurance.

Gene Simmons—co-founder of the band KISS long known for his tongue-wagging and fire-breathing antics on stage, star of the reality show "Gene Simmons Family Jewels" and pitchman for many products—now is extolling life insurance with his new group, Cool Springs Life Equity Strategy. The Franklin, Tenn.-based Cool Springs launched last month with backing from life insurance veterans, including Samuel B. Watson, chairman, president and CEO of parent company Cool Springs Financial L.L.C.

But with Cool Springs looking to reach clients worldwide with a net worth of at least $20 million and needing a life insurance policy of at least $10 million, the firm's members felt a big merchandising gun was needed.

"I felt like the best way to get the word out was through Gene," Mr. Watson told the Wall Street Journal, who met Mr. Simmons through a firm where the two men had business ties. He described Mr. Simmons as "a genius merchandiser and marketer."

Cool Springs, at *www.coolspringslife.com*, offers life insurance plus help to protect one's estate, boasting that clients can buy coverage without spending their own money. The firm also works with investment banks to arrange premium loans, which can be repaid from the policy's accumulated savings or with proceeds when the insured dies.

For Mr. Simmons, Cool Springs is peace of mind against the kiss of death. He is reportedly taking out his own $10 million policy with the firm.

Willis supports ex-presidents' efforts for Haiti

It's not every day that a former U.S. president visits an insurance brokerage, but that's what happened last week at Willis Group Holdings P.L.C.

Former President Bill Clinton was on hand in New York to thank Chairman and CEO Joe Plumeri and Willis employees for contributing $408,000 to Haiti earthquake relief.

Willis employees designated the Clinton Bush Haiti Fund, which President Clinton chairs along with former President George W. Bush, as their No. 1 choice among charities to provide aid to Haiti.

"The response and generosity of the people of Willis is a tremendous example of the global outpouring of good will that has led more than 200,000 individuals to make contributions to the Clinton Bush Haiti Fund," President Clinton said. "With help from their neighbors and friends like the people of Willis, Haiti has a chance to reclaim its destiny."

Mr. Plumeri said the insurance industry has a history of helping rebuild following calamities.

COURTESY OF WILLIS GROUP HOLDINGS P.L.C.

Former President Bill Clinton last week updated Willis Group Holdings P.L.C. employees, who donated $408,000, about earthquake relief efforts for Haiti.

"It was true after (the) Northridge (earthquake) during the Clinton administration, and after (Hurricane) Katrina during the Bush administration," said Mr. Plumeri. "In countries with limited insurance coverage, like Haiti, it falls to the generosity of individuals, companies, governments and (nongovernmental organizations) to respond and rebuild.

"In Haiti, thanks to people who have stepped up from around the world, from Willis, and other companies and groups, we have a real opportunity to turn disaster into hope," he said.

CNN ATWITTER ABOUT MAN'S iREPORTER ASSERTIONS

User-generated news content has sent cable news network CNN to court, reportedly suing an iReporter on grounds of trademark infringement, breach of contract and unfair competition.

CNN encourages citizen journalism and viewer video contributions to its CNN iReport Web site. But the practice of encouraging viewers to submit their own news stories has uploaded some new perils, the lawsuit reveals.

The cable news network is suing Robert Paisola for perhaps taking the iReporter concept too far, according to the Hollywood Reporter.

Mr. Paisola, whose online postings carry Sandy, Utah, contact information, reportedly identified himself on blogs and elsewhere as a senior iReporter for CNN. A Twitter feed of his at one time also contained a stylized CNN logo, according to the Hollywood Reporter.

According to the suit filed in Atlanta, Mr. Paisola allegedly tried to use the CNN

Mr. Paisola

iReporter status to obtain press credentials to access news events and violated a prior agreement to cease his activities.

News stories also say he has claimed to be credentialed by other news organizations. Aside from being a news provider, Mr. Paisola's Twitter bio lists him as a "debt collector abuse advocate" and "timeshare scam protector."

CNN reportedly alleges his use of its trademark is likely to deceive the public and cause irreparable harm.


THIS IS
OUR ICE BREAKER
But this is not a corporate retreat. This is the Catlin Arctic Survey. From our Ice Base, located on the frozen surface of the Arctic Ocean, explorers and scientists are working together to gather data regarding potential changes to our environment. In our view, underwriting decisions should be based on hard facts and expert knowledge, which is precisely what we hope to acquire by sponsoring this Arctic endeavor. To learn more about the Catlin Arctic Survey and how Catlin can help underwrite your ambitions, visit catlin.com. This is Catlin.
CATLIN
Underwriting Ambition
SPECIALTY INSURANCE | REINSURANCE