

**\$623
MILLION**

The amount the National Council on Compensation Insurance Inc. has already proposed increasing Florida workers compensation rates based on one state Supreme Court ruling.

WORKERS COMPENSATION

Florida braces for big comp rate hikes

Recent court cases undercut cost controls

BY STEPHANIE GOLDBERG

With no legislative fix in sight, Florida employers may face skyrocketing workers compensation rates as a result of recent state Supreme Court rulings.

The Florida Supreme Court earlier this month invalidated the state's temporary total disability provision, ruling in *Bradley Westphal v. City of St. Petersburg et al.* that limiting benefits to 104 weeks is unconstitutional and creates a system that "no longer functions as a reasonable alternative to tort litigation."

Six weeks earlier, the same court ruled in *Marvin Castellanos v. Next Door Co. et al.* that Florida's attorney fee schedule is unconstitutional, as it hinders an injured worker's ability to obtain legal representation.

To cover the projected impact of *Castellanos*, the National Council on Compensation Insurance Inc.

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RISK MANAGEMENT

ORLANDO SHOOTING HIGHLIGHTS LONE-WOLF TERROR THREAT

Tighter security expected but risks still loom



AP PHOTO

An LGBT activist in India shouts slogans of support as the world reacts to the Pulse nightclub shootings.

BY ROB LENIHAN

The Orlando, Florida, nightclub shootings are likely to result in increased security and risk management efforts among publicly accessible businesses, but so-called "lone-wolf" attacks remain a major part of today's terrorist threat.

Law enforcement officials said that Omar Mateen, 29, shot and killed 49 people and wound-

ed 53 others at Pulse, a gay nightclub, before he was killed by police. During the attack, the shooter called 911 and pledged allegiance to the Islamic State terrorist group.

Relatives of Mr. Mateen said he objected to gays; patrons of the nightclub said Mr. Mateen had been at the business several times previous-

See **ORLANDO** page 25

INTERNATIONAL

E.U. exit could cause mayhem for U.K. buyers

Vote to leave would create uncertainty

BY SARAH VEYSEY

Risk managers in the United Kingdom are weighing possible changes in risk profiles of their organizations if the British public votes to leave the European Union.

On June 23, voters will go to the polls in a binding referendum that will decide whether Britain remains a member of the European Union or leaves the economic, trading and political bloc.

The latest opinion polls suggest the result will be close, with a mid-June ORB International KMS Ltd.



survey putting sentiment to stay at 48% and to leave at 40%, with 3% undecided.

Other polls put the vote leaning more toward leaving the E.U.

If the U.K. opts out of the E.U., there likely would be some immediate stock market volatility, and that could hurt buyers and insurers, "so we are looking at that on clients' behalf," said Mark Weil, CEO of Marsh U.K. and Ireland, part of Marsh L.L.C.

"From the buyer's perspective, we are a global organization and so we would have our own issues" if the U.K. left the E.U., said Tracey Skinner, London-based director of group insurance and risk financ-

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Q&A: FRED W. SMITH IV

Head of U.S. mining and metals at Willis Towers Watson P.L.C. discusses safety challenges

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Insurance professionals are the new "cool kids" in the world of international development

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A federal appeals court upholds denial of severance benefits to former Marsh executives

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WORKPLACE SAFETY TRENDS

OSHA flexes its muscles while employers wonder whether the agency is neglecting safety; construction safety targets Hispanic workers; drones keep workers off dangerous heights; international effort backs safety standards.

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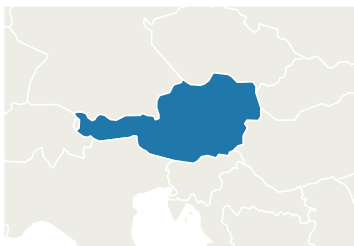
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Fueled by more labor-friendly laws, nearly 90,000 employment lawsuits were brought in 2015.

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Suit casts pall on sister act

Ellen Granahan, Pennsylvania's chief deputy attorney general, has filed a discrimination complaint against the office of her twin sister, Attorney General Kathleen Kane **26**

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NEWS

SAFETY

OSHA SETS OUT TO PROTECT HEALTH WORKERS FROM VIOLENCE

Targeted effort aims to help vulnerable group

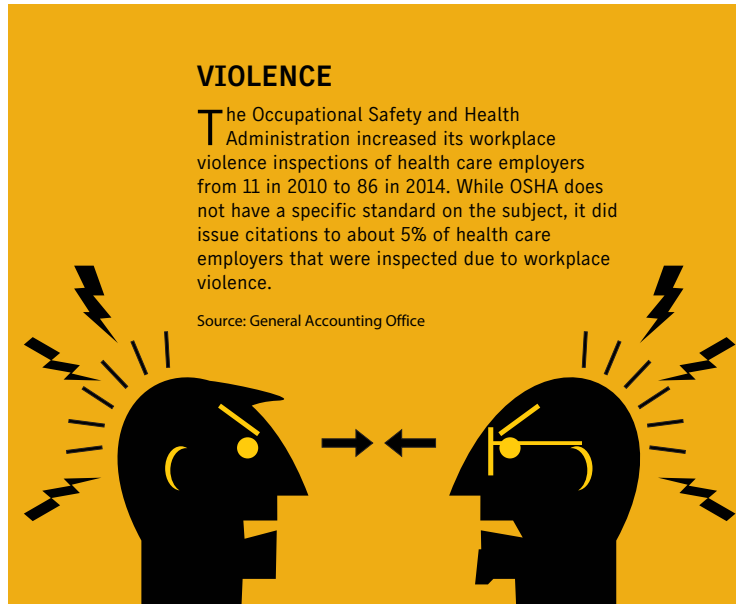
BY GLORIA GONZALEZ

WASHINGTON — Workplace violence experts hope federal regulators will follow California's lead in drafting a standard to protect health care workers — a group particularly vulnerable to dangerous workplace incidents.

A potential standard was included on the U.S. Occupational Safety and Health Administration's regulatory agenda published in May, with the agency planning to issue a request for information in November from health care employers, workers and subject matter experts on the impact of violence and ways to prevent it.

"It will be most effective for us to just focus first on health care and social services rather than doing it much more widely, so that's where we're going to start," David Michaels, assistant secretary of labor for occupational safety and health, said during a National Advisory Committee on Occupational Safety and Health meeting in Washington last week.

Health care workers experience substantially higher rates of violent but nonfatal workplace injuries compared with workers overall, but the full extent of the problem and its costs are unknown, partly because not all incidents are reported, the Gov-



ernment Accountability Office said in a March report.

The underreporting issue is one that Ascension Health, a Catholic, nonprofit health system with more than 150,000 associates at 1,900 locations, tackled head on. In 2014, it launched a process to evaluate and proactively address the risk, including defining workplace violence as a threat or an act of violent behavior against oneself, another person or a group that results in or has a high likelihood of resulting in injury, psychological harm or death.

"Our associates needed to be pre-

pared on how to recognize and report a threat or an actual event," said Bob Williamson, director of associate safety at Ascension Risk Services in St. Louis.

"We had to make it clear what workplace violence looks like. It's more than just physically being assaulted. It's a threat. It's the perception that somebody could cause harm."

"We knew this was coming," he said of a potential OSHA standard. "For us, it's better to prepare than to respond and react."

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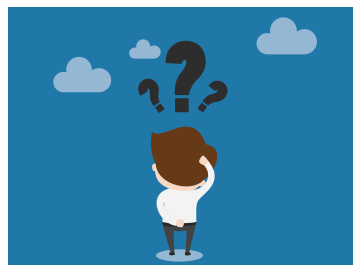
EMPLOYMENT PRACTICES

Class action ruling muddies arbitration agreements

BY JUDY GREENWALD

An appeals court ruling upholding the use of class action waivers in arbitration agreements is creating confusion for employers because it conflicts with other appeals courts on the issue.

Observers say they anticipate the waiver issue, the focus of a May 26 ruling by the 7th U.S. Circuit Court of Appeals in Chicago in *Jacob Lewis v. Epic Systems Corp.*, will be appealed to the U.S. Supreme Court, though it is not clear whether the nation's high court will agree to hear this case or a related one (see story, page 23).



Experts say the 2nd, 5th and 9th Circuits have issued rulings contrary to the 7th Circuit's, and the 8th Circuit did so again just days after *Epic*.

Though not a party in the case, *Epic* does reflect the National Labor Relations Board position that mandatory arbitration agree-

ments are unenforceable under the National Labor Relations Act, observers say.

The NLRB does not comply with court decisions contrary to its interpretation of the law under its "nonacquiescence" doctrine, but it would have to fall in line with a U.S. Supreme Court ruling, experts say.

Epic creates a situation where national employers cannot require their workers to sign waivers in the 7th Circuit, which covers Illinois, Indiana and Wisconsin, but can do so in circuits that have ruled in the waivers' favor or not

See **CLASS** page 23

REGULATION

Insurers keen on Fed's plan for SIFI reform

GOP lawmaker lays out alternative proposal

BY MARK A. HOFMANN

The Federal Reserve Board and a leading House Republican want to clarify the way insurers deemed to be systemically important financial institutions are treated, but their proposals take entirely different approaches.

The Fed acted first, releasing an advance notice of proposed rule-making earlier this month that said it is considering a new approach to apply to systemically important insurers.

"The consolidated approach would categorize an entire insurance firm's assets and insurance liabilities into risk segments, apply appropriate risk factors to each segment at the consolidated level, and then set a minimum ratio of



Rep. Hensarling

required capital," the Fed said in a statement.

"I think it is a pretty clear signal to the U.S. insurance industry that their worst fears will not be realized," said Howard Mills, global insurance regulatory leader at consultant Deloitte L.L.P. in New York.

"The Fed appears to be taking a line that comports with U.S. state regulators and is an indication that the Fed is looking out for the U.S. insurance industry with regard to the ongoing debate around global insurance capital standards."

The Property Casualty Insurers Association of America also praised the move.

The proposal is a "major step forward," Robert Gordon, PCI's Washington-based senior vice president of policy development and research, said in a statement. "It is important to get this right, as the Fed's approach to capital standards may set a precedent for the state-based U.S. regulatory system and may also impact the international deliberations."

SIFIs also drew the attention of House Financial Services Committee Chairman Jeb Hensarling. During an address several days later in New York, Rep. Hensarling, R-Texas., outlined details of the

See **SIFI** page 23

6/20/16

ONLINE
FEATURES

OPINION

Editorial cartoons

Cartoonist Roger Schillerstrom shares his sketches of the top risk management and insurance news.

www.BusinessInsurance.com/EditorialCartoon

VIDEO



In Focus: Cyber resilience protects medical data

Health care organizations work to prevent breaches

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GALLERY

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RESEARCH

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NEWS

RISK MANAGEMENT

QUICK ACTION NEEDED TO STOP
RETALIATION CASES ESCALATING

Public entities exposed in excessive force incidents

BY ROB LENIHAN

ATLANTA — Advance preparation on several fronts is essential for municipal risk managers to respond appropriately and minimize potential liabilities as cases of retaliation and excessive force abound.

Ashley Bonner, Atlanta-based senior risk control consultant at Trident Insurance Services L.L.C., said all public entities can be hit with retaliation claims that often arise out of discrimination.

She cited several major lawsuits to illustrate the seriousness of the issue, including the case that former parks worker James Duffy brought in 2011 against the City of Los Angeles alleging discrimination, harassment and retaliation based on his race and disability. The city in February voted to pay a nearly \$4 million judgment that a jury awarded in 2014, which was upheld on appeal.

“How can you get to \$4 million?” Ms. Bonner asked. “Basically, it spun out of control because of personal animosity with all of the people involved. There was a termination involved, threats of, ‘I’m gonna kill you,’ and an unusually toxic atmosphere.”

Ms. Bonner, speaking during the Public Risk Management Association’s annual conference in



Atlanta earlier this month, said employers must be sensitive to potential conflicts and establish appropriate policies and educate managers.

“Do the right thing and address it before the government steps in and says you need to do whatever,” she said. “Because that way you can say, ‘Hey, we’re trying to protect our employees regardless of what the government is telling us do. Why? Because it’s the right thing to do and it’s the reasonable thing to do.’ It’s a good, strong defense.”

“Eventually, you’re probably going to get one of these types of claims. And when you do, you

hope like heck you’ve done everything you can reasonably do” in advance, said Ms. Bonner, who encouraged municipalities to have a separate anti-retaliation policy and to have their policies and procedures reviewed by a knowledgeable labor attorney.

Elizabeth Capek, Chicago-based vice president and claim client manager at Munich Reinsurance America Inc., focused on issues related to excessive force cases involving police departments, including the use of video.

In a case involving a police officer of an unnamed department

See **PRIMA** page 22

EMPLOYEE BENEFITS

Benefit brokers
moving from
sales to serviceComplex market
requires new approach

BY SHELBY LIVINGSTON

COLORADO SPRINGS, Colorado — As employers demand more services from benefits brokers, brokers are seeking new ways to deliver value and cost savings.

Fortunately for brokers, the evolving benefits landscape has offered several opportunities to transform their business models from transactional insurance middlemen to one-stop-shops for benefits and human resources.

“There’s a transition from brokers really being focused strictly on the employee benefits arena and everything around helping employers secure benefit rates and best plan designs for employees, and it’s getting much more into everything around supporting the human resources team,” said Adam Bruckman, president and CEO of Digital Insurance Inc. in Atlanta.

The shift, which has been in the works for several years, is partially driven by the health care reform law’s complexity, which has left employers in need of broker support for compliance and regulatory issues. Rising health care costs have prompted many employers to shift to high-deductible health plans, which demand more communication with workers and a menu of voluntary benefit options for brokers to help assess.

Techcentric benefits startups that combine benefits brokering with HR capabilities have driven employers to think of brokers as consultants and providers of anything benefits and HR managers could need, including payroll, absence management, onboarding, wellness and benefits design, several brokers said during interviews at the Council of Insurance Agents and Brokers May 31-June 3 Employee Benefits Leadership Forum in Colorado Springs, Colorado.

Employers in the past “may have looked at a technology company for this, and a HR outsource company for this, and a broker for negotiating rates. Now there’s a convergence of all those things,” under the brokerage umbrella, Mr. Bruckman said.

That means brokers “are really

See **CIAB** page 22

PROPERTY/CASUALTY INSURERS

Insurers urged to rethink customer strategies

BY GAVIN SOUTER

SINGAPORE — Significant differences remain between the products that insurers offer and the services that commercial insurance buyers need, but both sides say they are working to bridge the gap.

In Southeast Asia in particular, sophisticated insurance buyers say their needs often are not met locally.

But by making better use of available data, insurers say they should be able to offer more relevant coverage and services to policyholders everywhere.

Insurers are “critical financial

“You are not helping. The way you provide your products, the way you transact your products is not seen as a very efficient process or sufficiently agile to respond to our needs.”

Franck Baron,
International SOS Pte. Ltd.

stakeholders” for commercial policyholders, but rarely do policyholders’ senior executives view insurers as such, said Franck

Baron, group general manager of risk management and insurance at International SOS Pte. Ltd. in Singapore and chairman of the Pan-Asia Risk & Insurance Management Association.

Chief financial officers seldom meet with their organizations’ insurers, which is a missed opportunity to develop mutually beneficial relationships, he said during the Global Insurance Forum, held last week in Singapore by the International Insurance Society.

“You are not helping. The way you provide your products, the way you transact your products

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- Brokers must be under 40 and employed as a broker on Oct. 1.

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RISK MANAGERS PREPARE TO MEET CHALLENGE OF REFORMS TO U.K. INSURANCE LAWS

Changes impose disclosure requirements but could limit claims denials

BY SARAH VEYSEY

HARROGATE, England — Insurance buyers, brokers and underwriters still have work to do to be ready for the U.K.'s new insurance law in August.

The Insurance Act 2015, which replaces the Marine Insurance Act 1906, will make it more difficult for insurers to deny claims, experts say. But it also places new disclosure requirements on buyers.

The new law closes a loophole in the 110-year-old statute that enabled insurers to avoid claims if a buyer failed to disclose any information, even if the insurer had not requested it.

Under the new law, insurers can avoid such claims only if the buyer's nondisclosure was "deliberate or reckless."

Instead, the act imposes on buyers the duties of "fair presentation" of risks and requires they disclose every material circumstance they know, or ought to know, that would put a "prudent insurer" on notice, among other things.

During the Airmic Ltd. annual conference in Harrogate, England, this month, experts said buyers, brokers and insurers in the United

Kingdom are preparing for the requirements, but certain parts of the market still have some way to go.

According to a survey of more than 150 Airmic members, about 90% of risk managers said they have taken "significant steps over the last 12 months" to ensure they will be compliant when the law goes into effect in August, said Airmic CEO John Hurrell.

Almost 80% said they had reviewed policy wordings; 70% said they had talked with their broker about ensuring compliance; and about 45% said they had reviewed internal processes to collect renewal information to ensure a fair presentation of their risks.

But fewer than 25% had reviewed responses from their insurers confirming their own compliance, while just over 20% said they were doing business with their insurer as if the law already were in effect. Fewer than 10% said they had done nothing to prepare.

"None of us should underestimate the implications of the act in what we all do day to day," said Richard Pryce, CEO of the European operations of QBE Insurance Group Ltd. in London.

He said he believes smaller insurance buyers may have to rely on their brokers to come to grips with the requirements.

"I have some fear that the industry has been slow in getting to this," said Paul Jardine, executive vice president and chief experience officer at XL Catlin in London.

The workload associated with preparing for Solvency II, the risk-based capital regulatory regime for insurers and reinsurers in Europe that went into effect this year, may have delayed insurers in preparing for the Insurance Act, Mr. Jardine said.

"We've been on a journey for about 12 months in preparing (for the act), and I feel that we are in a good place," said Tracey Skinner, director of group insurance and risk financing at BT Group P.L.C. "But from the buyers' perspective, with an 18-month run in to this act (from passage to implementation), there does seem to have been a pause" in the insurance industry.

She said she expected "a little bit of a muddle" about interpreting the law when it does go into effect.

"We have been doing a lot of work to understand the act and make sure that clients understand

INSURANCE ACT 2015

80% Risk managers who have reviewed insurance policy wordings to comply with new law.

70% Those who already had discussed compliance with the law with their broker.

25% Risk managers who had received responses from insurers on insurers' compliance efforts.

20% Those doing business with insurers as if the law already were in effect.

Source: Airmic Ltd.

it," said Charles Beresford-Davies, U.K. managing director and risk management practice leader at Marsh Ltd. in London.

"Fundamentally, an insured's obligation to disclose information has not changed," he said. It's the process for disclosure and ramifications of improper disclosure that will change, he said.

Marsh has focused on ensuring that buyers have a process to be certain they are presenting their risks to underwriters in a manner that complies with the law, he said.

While the act "clearly narrows an insurer's ability to deny a claim," as yet there is no case law or precedent, so it remains to be seen what the law will mean in practice, Mr. Beresford-Davies said.

Buyers will have to make some "judgment calls," about what is "reasonable" to disclose, said David Hertzell, a consultant at law firm Berrymans Lace Mawer LLP, and former member of the Law Commission who worked extensively on reforms that led to the updated Insurance Act.

To comply with fair presentation of risks, buyers should document their processes and have clear frameworks about disclosure, said Rob Smart, research and technical director at London-based consultant Mactavish Group.

CYBER THREATS STIR WORRIES BUT NOT ACTION WHEN IT COMES TO BUYING COVER

HARROGATE, England — Cyber threats pose the biggest worries for members of U.K. risk management association Airmic Ltd., but less than half actually buy the coverage.

Forty-six percent of the 150 risk managers surveyed cited cyber-related business interruption, and 44% said cyber risks resulting in the loss or theft of personal data were their top two concerns, but only 43% said they purchase such coverage.

"There is clearly a lot of concern" among Airmic members about cyber risks, Airmic CEO John Hurrell said during the group's conference this month.

"Inadequate coverage" and "relevant insurance being unavailable and high cost," were the two main reasons the U.K. buyers said they do not purchase cyber cover.

According to U.K. government statistics, 90% of large businesses — those that employ more than 500 people — suffered a cyber security breach in 2015; in addi-

tion, 74% of small and medium-size companies suffered a breach, said Nick Beecroft, manager of emerging risks at Lloyd's of London.

The average cost of those attacks was £1.46 million (\$2.08 million) to £3.14 million

"Cyber doesn't obey any of the usual rules of risk that we usually look for" in calculating exposure because it is a multifaceted risk that emanates from human action and can be systemic.

Nick Beecroft, Lloyd's of London

(\$4.48 million) for large companies, and £75,000 (\$107,000) to £311,000 (\$443,000) for smaller companies, he said.

While overall cyber insurance takeup is limited, Mr. Beecroft said it is Lloyd's fastest growing class of business. With 65

syndicates providing cyber capacity and limits of up to £300 million (\$427.7 million) for a single risk, he said Lloyd's writes about 20% of cyber insurance globally.

"Cyber doesn't obey any of the usual rules of risk that we usually look for" in calculating exposure because it is a multifaceted risk that emanates from human action and can be systemic, he said.

"It is very much about understanding how cyber risks affect your company and, once you do understand that, then we can go to the insurance market and find insurers willing to go out of the box" to provide relevant coverage, said Erica Constance, senior vice president of cyber at Paragon Insurance Brokers Ltd. in London.

"It is not one-size-fits-all; it depends on your industry, and it depends on your geography," said Laila Khudairi, underwriter of enterprise risk at Tokio Marine Kiln in London.

"For me, as a buyer, I need a policy to say if it has happened and you have suf-

fered business interruption, then you are covered," whether the attack is a cyber breach, disruptions caused by outsiders or insiders, or whatever the cause, said Mike Jacobs, business continuity manager at Dyson Ltd.

Several insurers now will offer coverage that is an all-risk policy, rather than relying on a cyber trigger, said Graeme Newman, cyber technology and media practice leader at CFC Underwriting Ltd. in London.

While data loss is a big concern for some companies, others are more worried about physical damage, business interruption, inability to trade or reputational damage, said Mark Weil, CEO of Marsh L.L.C.'s U.K. and Ireland operations.

"This all points to a bespoke (insurance) product," he said.

Buyers, along with their brokers, need to examine what could go wrong and find risk mitigation and insurance coverage to fit that, he said.

By Sarah Veysey

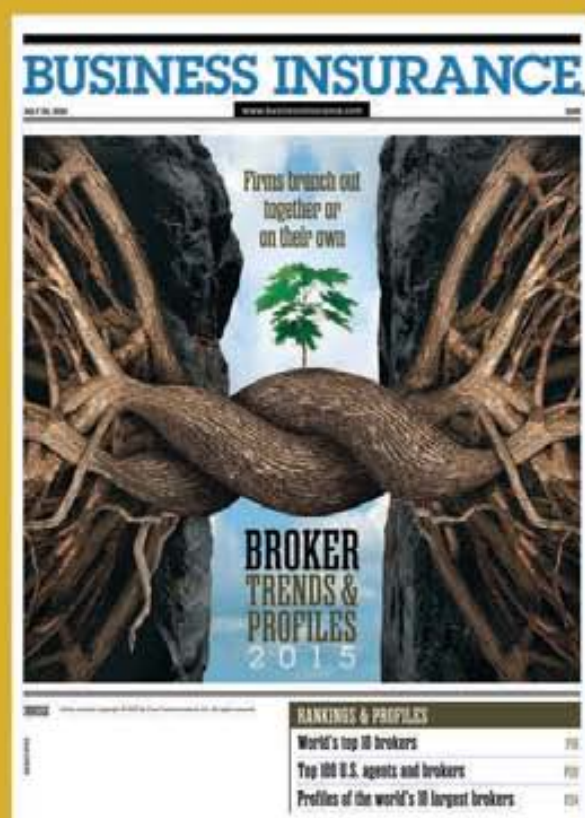
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Court denies severance benefits to former Marsh executives

■ A federal appeals court has upheld Marsh & McLennan Cos. Inc.'s refusal to pay employment benefits to two former executives who were terminated when they refused to cooperate in the 2004 bid-rigging investigation by then-New York Attorney General Eliot Spitzer involving Marsh and insurers including American International Group Inc. In *William W. Gilman, Edward J. McNenney Jr. v. Marsh & McLennan Cos. Inc.*, the 2nd U.S. Circuit Court of Appeals in New York upheld a lower court ruling that Messrs. Gilman and McNenney had been fired for cause after they refused to sit for in-house interviews after being identified as co-conspirators in the scheme. "Marsh had cause to fire them, as it did, and Gilman and McNenney are entitled to none of the employee benefits they seek," said the ruling. "Marsh was presumptively entitled to seek information from its own employees about suspicions of on-the-job criminal conduct," said the ruling. "And as corporate officers, Gilman and McNenney had a duty to Marsh to disclose information they had about the AG's allegations."

House GOP to release plan for health care reform repeal

■ Republican leaders in the House of Representatives will unveil their plan to replace the 2010 health care reform law Wednesday at the American Enterprise Institute, a Washington-based conservative think tank. The proposal is more for discussion purposes rather than the start of a new GOP drive in the remaining weeks of the congressional session to repeal the ACA. House Speaker Paul Ryan, R-Wis., said the GOP would wait until 2017 to resume a repeal drive following President Barack Obama's successful veto earlier this year of a Republican-backed measure that would have repealed key parts of the health reform law, such as the employer mandate. Donald Trump, the presumptive GOP presidential candidate, backs ACA repeal.

Human activity likely cause of Alberta wildfire

■ Lightning was ruled out as a probable cause of the May 1 wildfire that destroyed parts of the Fort McMurray, Alberta, area. Wildfire investigators for the province of Alberta, have concluded that the fire was likely caused by human activity, and the Royal Canadian Mounted Police will determine if there is a link between the fire and a criminal offense. The police have not determined how the fire was started, the RCMP said in a statement. The wildfire is estimated to cover 1.5 million acres. Currently there are 14 active wildfires in Alberta. The fires have not been classified as out of control, the Alberta government said in a statement. Losses have been estimated at \$3.4 billion to \$7 billion. According to Standard & Poor's Corp. reinsurers could take at least 50% of the loss.

House committee approves boost in HSA contributions

■ Employees could make bigger contributions to their health savings accounts under H.R. 5445, approved on a 23-15 vote by the House

Ways and Means Committee. Employees enrolled in high-deductible health plans and opting for single coverage could contribute up to \$6,500 to their HSAs in 2017, while those with family coverage could contribute up to \$13,100. Under current law, the 2017 maximum HSA contributions are \$3,400 for employees with single coverage and \$6,750 for family coverage. "The idea is to allow employees to fund all their out-of-pocket costs — except plan premium costs — through their HSA contributions," said James Gelfand, senior vice president of health policy at the ERISA Industry Committee in Washington.

Lab student's Zika infection highlights emerging hazard

■ The U.S. Occupational Safety and Health Administration has no jurisdiction over a workplace safety incident in which a laboratory worker contracted Zika. The first U.S. occupational Zika case was reported earlier this month when a student volunteer at the University of Pittsburgh contracted the virus from a needle stick while working with the Zika virus on a lab experiment. The Occupational Safety and Health Act covers most private employees, but not volunteers, nor state and local government workers, unless they are in a state that has an OSHA-approved state plan, which Pennsylvania does not. "Unfortunately, OSHA does not have jurisdiction over that because the worker was technically a volunteer," Chris Brown, an OSHA specialist in public health emergency preparedness and response, told members of the National Advisory Committee on Occupational Safety & Health in Washington. "It was basically a sharps injury, and that's probably going to be the biggest hazard that we'll see in laboratories," Mr. Brown said.

Premium hikes expected on public health exchanges

■ Based on proposed insurer filings, premiums for popular health plans offered in public exchanges in 14 metropolitan areas will rise by an average of 10%, according to an analysis by the Kaiser Family Foundation. The analysis, based on insurer filings and not on final approval by state regulators, found wide variations in proposed rate hikes for so-called lower cost silver plans, ranging from increases of 18% in the Portland, Oregon, area to a decrease of 13% in the Providence, Rhode Island, area. Few exchange enrollees pay the full premium, however. More than 80% of exchanges enrollees receive premium subsidies, according to the U.S. Department of Health and Human Services. Just under 13 million people signed up earlier this year to receive coverage through the exchanges.

California takes step toward opioid prescription monitoring

■ Health care providers in California could soon be required to check the state's prescription drug monitoring database before dispensing controlled substances. The California Assembly Committee on Business and Professions have passed S.B. 482, which would require health care providers to consult the state's Controlled Substance Utilization Review and Evaluation System, known as CURES, no earlier than 24 hours before prescribing a Schedule II, III or IV controlled substance for the first time

and at least annually thereafter. Introduced in February 2015, the bill states that prescribers who knowingly fail to consult the database would be "subject to administrative sanctions by the appropriate state professional licensing board."

Mercer CEO gets behind bill to curb PBGC premium hikes

■ Congress should pass legislation that would end a widely criticized and counterproductive budget-balancing "gimmick" of increasing the premiums employers must pay to the Pension Benefit Guaranty Corp., Mercer L.L.C. President and CEO Julio Portalatin says. H.R. 4955, introduced in April by Rep. Jim Renacci, R-Ohio, would repeal part of a 1980 law that allows PBGC premiums to be counted as general revenue when balancing the federal budget. Though used exclusively to help the PBGC pay pension benefits in plans it has taken over, allowing the premiums to be counted as federal revenue has encouraged Congress to "dramatically increase" PBGC premium rates in the past few years, Mr. Portalatin wrote in a letter to the House Budget and Education and the Workforce committees. These increases are not only unnecessary, they are counterproductive, Mr. Portalatin wrote: "Many plan sponsors are concluding that the only way to reduce the growing burden of PBGC premiums is to leave the pension system."

Tenn. insurance commissioner to serve as vice chair of IAIS

■ Tennessee Insurance Commissioner Julie Mix McPeak has been elected to serve as vice chair of the Basel, Switzerland-based International Association of Insurance Supervisors, the National Association of Insurance Commissioners said. Ms. McPeak, who has served on the IAIS executive committee for more than two years, is also vice president of the NAIC. In addition, NAIC President-elect Ted Nickel, who is also Wisconsin insurance commissioner, and Texas Insurance Commissioner David Mattax were chosen to serve on the committee. Another U.S. insurance regulator, Connecticut Insurance Commissioner Katharine L. Wade, was appointed to the IAIS Financial Stability and Technical Committee.

Some in Congress itchy to nix health premium tax breaks

■ While employers have been sweating the Cadillac tax, some health benefits experts say growing congressional sentiment to reduce or eliminate the tax breaks for employer-sponsored health insurance could pose an even greater threat to the group insurance market. There's "growing energy in Congress about tax reform and tax policy, and with employer-sponsored health care plans and retirement plans being the top two expenditures from a tax basis, it's front and center," said Tim Prichard, executive vice president and head of the national employee benefits practice at Wells Fargo Insurance Services USA Inc. "Any tinkering with the exclusion from taxation for benefit plans would be a wholly unwelcome development with repercussions throughout the entire employer community," said Joel Wood, senior vice president of government affairs at the Council of Insurance Agents & Brokers in Washington.

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Bigger Panama Canal means bigger risks

■ The Panama Canal's expansion will increase the value of insured goods and risk accumulation, Allianz Global Corporate & Specialty S.E. said in a report that examines the risk management effect of the June 28 opening of a third channel for larger vessels. The \$5.25 billion expansion creates an additional lane of traffic for the New Panamax vessels, which are as long as four football fields. The report said a fully loaded 12,600 twenty-foot equivalent unit container ship could have an average insured cargo value of \$250 million, based on an average value of \$20,000 per TEU. "The value of insured goods transported will increase with the expanded canal, as will the risk accumulation," said Andrew Kinsey, senior marine risk consultant for Allianz Global, said in the report. "This is the reason why proactive loss controls will continue to be needed, including tracking of the risk accumulation." Mr. Kinsey described training as "key to mitigating the risks involved with larger vessels."

Runoff specialist snags pool's legacy business

■ London-based Compre Group has acquired Allianz IARD S.A.'s Ridgwell Fox & Partners Ltd. pool legacy reinsurance business. Terms of the deal were not disclosed. London-based RFP is a reinsurance pool containing runoff liabilities of Allianz IARD and five other carriers. The transaction is structured as a loss portfolio transfer followed by a legal business transfer, according to the statement.

New CEO starts overhaul at Zurich

■ Zurich Insurance Group Ltd. Chief Executive Mario Greco is counting on the integration of life and general businesses and a new regional structure to provide a basis for his efforts to turn around Switzerland's biggest insurer. The first fruits of that strategy came with changes to structure and personnel that will see general insurance head Kristof Terryn take on the new role of chief operating officer. Global life CEO Gary Shaughnessy will become Zurich's CEO for Europe, Middle East and Africa. Chief Operations and Technology Officer Robert Dickie will leave the company. Mr. Greco said his aim was to simplify "the famously complicated structure of Zurich Insurance" and to remove

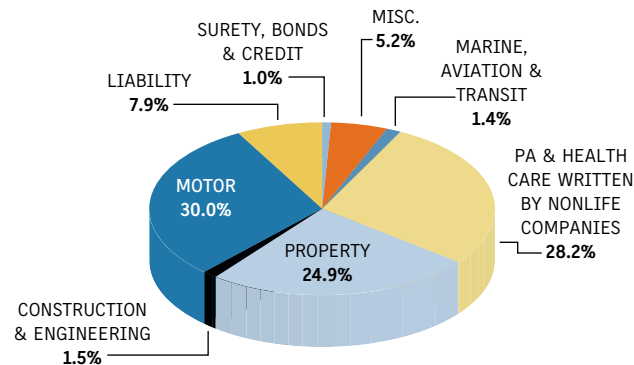
PROFILE: AUSTRIA

\$13.8 BILLION

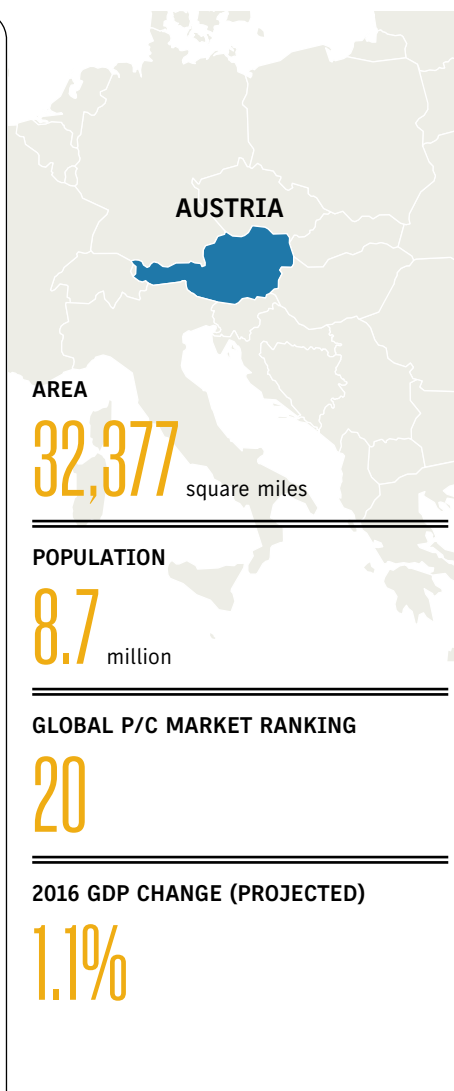
A republic since 1918, Austria regained its independence from Germany in 1955, 10 years after World War II. A gateway to Eastern Europe, the nation and its mature insurance market are well situated for international growth. Susceptible to storms — a 2015 hail storm produced \$194 million in insured losses — Austria touts measures that cut flooding losses in 2013 from those incurred in lighter storms 10 years earlier. Still, insurers worry that the threat is underestimated.

◀ 2014 P/C gross premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



MARKET DEVELOPMENTS

UPDATED
JANUARY 2016

- The Insurance Supervisory Act 2016 put the European Union's Solvency II insurer capital requirements into effect in Austria.
- In conjunction with the Supervisory Act, Austria has established a governance system that, among other things, reflects international developments, adds a balance sheet specific to solvency and coordinates supervision with the Financial Market Authority.
- Established in 2016, capital requirements for "small" insurers — those that collect less than \$5.3 million in premiums or whose technical reserves don't exceed \$26.3 million — cover companies exempt from Solvency II.
- Pending tax changes are expected to set motor policy requirements based on the size of the car and eliminate items from corporate tax deductions.

COMPULSORY INSURANCE

- Indemnity for various professions including music therapists, electronic signature certifiers and horse coach operators
- Liability for operators of cable cars, ski lifts and ski schools
- Hunters and dog owners liability
- Hazardous cargo liability
- Air and land passenger liability
- All people earning above a certain level must be insured against sickness

NONADMITTED

Unauthorized insurers cannot carry on insurance activity in Austria, but nothing in the law requires insurance to be purchased from locally authorized insurers, especially if approached by a buyer. Insurers with offices in the European Economic Area — E.U. plus Iceland, Liechtenstein and Norway — can write cover in Austria if registered with their home authorities.

INTERMEDIARIES

Agents and brokers have to be licensed by the Financial Market Authority. Contracts with insurers abroad are deemed to have been concluded in Austria if a professional intermediary is involved. EAA intermediaries must be registered with their home authorities.

MARKET PRACTICE

Fronting and coinsurance is widely used to provide seamless cover, particularly for liability policies. Fines and penalties for noncompliance that range from \$63,000 to \$105,000, license suspension and prison time vary with the offense.

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

internal barriers that at times meant different parts of the group competed with each other. "With this organizational structure we would be in a much better position to respond to what's going on in the market, in the industry, and to respond to the needs of the customer," Mr. Greco said in a call with reporters.

Reuters

European flood losses set to top \$1 billion

■ Recent widespread flooding in Germany could result in insured losses of more than €1 billion (\$1.14 billion), Fitch Ratings Ltd. said. Fitch said claims of that scale would weaken the underwriting profitability of German insurers, but likely would not affect their credit profile. The rating agency

said losses of €1 billion would equal the entire expected natural catastrophe losses this year for German insurers, "although excess-of-loss reinsurance cover will cushion the impact." Fitch also altered its estimate of the German nonlife insurance sector's combined ratio to 94% from a previous expectation of 91%. Thunderstorms and floods hit areas of central and southern Germany as well as Belgium, Switzerland and France, where the River Seine broke its banks in Paris.

Risk model outlines U.K. terror threats

■ Pool Reinsurance Co. Ltd., Cranfield University and Guy Carpenter & Co. L.L.C. have partnered on the development of a terrorism risk model for the United King-

dom. The model will include the potential impact of a chemical, biological, radiological or nuclear attack, Pool Re said in a statement. "Major strands of our modernization program have been concerned with the introduction of more risk-reflective pricing and an improved understanding of the exposures faced by both the insurance community and the broader U.K. business community in the face of a changing terrorism threat. This important partnership will develop a risk model that helps us in both of these areas," Pool Re CEO Julian Enoizi said in the statement.

Ontario law creates provincial pension plan

■ Ontario has passed the Ontario Retirement Pension Plan Act

(Strengthening Retirement Security for Ontarians), which establishes a provincial defined benefit plan. Introduced on April 14 and adopted on June 2, the law makes it mandatory for employers and employees without a comparable workplace pension plan to contribute a maximum of 1.9% of the employee's annual earnings up to \$90,000 Canadian dollars (\$69,093). The legislation stems from government concerns that employees are unprepared for retirement, since two-thirds of provincial workers do not participate in a workplace pension plan, according to the Ontario Ministry of Finance. "This is an important change for the pension system in Ontario because currently an employer is not required to provide any pension plan to its Ontario employees," said Sonia Mak, a Toronto-based partner with Borden Ladner Gervais L.L.P.

MINING INDUSTRY FACES RENEWED SCRUTINY ON SAFETY ISSUES

Q What are the key issues or challenges the mining sector is dealing with?

A The current Mine Safety and Health Administration in the U.S. is coming down on the mining industry fairly hard. There's a renewed focus on mine closure obligations and financial assurance that mining companies have to provide to ensure that after they disturb the land and extract the minerals, they put it back to its original state. The mine closure financial assurance is really being looked at closely, both in the U.S. and globally, because the financials of mining companies are under so much pressure that you're seeing bankruptcies. With that, some states are left with closure obligations that the mining companies previously were covering. Now they are bankrupt or liquidated, and there might not be enough money to cover the costs of reclaiming the land. That's really heating up the pressure on the mining companies that are left that aren't in Chapter 11.

On the environmental front, you've had a number of global events in the last few years relat-

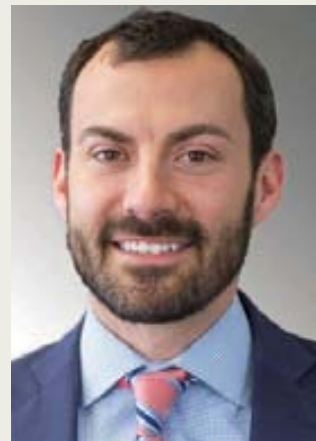
Q&A

ed to tailings and impoundments, which is basically where the mine waste is stored after the minerals are extracted and processed. These are hundreds-of-millions-of-dollars events, up to a \$1 billion event. Previously, what companies may have thought of as their maximum exposure for a liability event of an environmental nature are now double and triple what they thought they were, which could trigger a bit of a contraction in capacity. You may see some insurance companies start to review their exposure. At the moment, there is still plenty of capacity to transfer these risks to the insur-

ance market, but with more of these events happening, it's going to be looked at closely.

Q On the financial assurance issue, is there an insurance solution?

A Companies can post cash or letters of credit to the state they're operating in, but more frequently they get an insurance company to provide a bond. Depending on the financials of the company, there will be some level of collateral required. Obviously, where we are right now with the financial health of a lot of companies, you're seeing that collateral amount raised because the surety companies are worried the mining companies won't be there to honor the obligations, and they'll be stuck with it. There are a number of (insurance) companies out there that do this, but there aren't dozens. There might be six or seven, and every day they're getting asked by senior management: "What's your exposure to coal? What's your exposure to mining?" It's under a lot of scrutiny. The industry for financial assurance is still good, but people are watching it pretty closely.



FRED W. SMITH IV

WILLIS TOWERS
WATSON P.L.C.

challenges with *Business Insurance* Senior Editor Gloria Gonzalez. Edited excerpts follow.

Low commodity prices, increasing regulatory pressure — including on the workplace safety front — and major environmental events have challenged the global mining industry, leading to bankruptcies and an expanded search for new technology and insurance solutions. Fred W. Smith IV, director of natural resources and head of U.S. mining and metals at Willis Towers Watson P.L.C. in Knoxville, Tennessee, discussed these

Q How has the environmental liability insurance market changed in recent years for the mining companies?

A It's not as robust of a market. It is expensive coverage, and you typically don't see companies in the U.S. buying really high limits, which they probably should. The environmental liability market has developed pretty well, but there are still not a lot of (carriers).

Q Is there more that can and should be done with regard to workplace safety in the sector?

A I think the overarching issue that the industry needs to do better job at is the mining companies and MSHA working together versus in opposition. It's the Mine Safety and Health Administration, but it's often viewed as an enforcement agency. With the mine closures, you have a lot more inspectors out there inspecting fewer mines. Most mining companies have an inspector on the site almost every day. It's disruptive, so I think that's where some of the conflict comes in, even though they are there to keep the miners safe.

COMINGS & GOINGS

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FIRST INDUSTRY JOB: I started as an intern at Richards & Fenniman of New York Inc., an insurance brokerage firm co-founded by my grandfather ... I used an



old-fashioned typewriter to type certificates of insurance and hand-delivered "important documents."

WHAT SURPRISED ME: The industry draws people from so many diverse academic backgrounds. My undergrad concentration in geology turned out to be a good ... basis for my career.

OUTSIDE THE INDUSTRY, A DREAM JOB: Chef at a farm-to-table restaurant.

HOBBIES: Taking my girls on adventures, skiing, hiking and tennis.

THING MOST PEOPLE DON'T KNOW ABOUT ME: During my senior year at Hamilton College, I conducted climate change research on the RV Polar Duke, an ice-strengthened research vessel, off the coast of Antarctica.

ADVICE: Ask lots of questions and keep in mind that you bring a fresh perspective that could change the way problems are solved.

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EDITORIAL

FINDING LESSER OF TWO EVILS ON PENSIONS

It wasn't that long ago that Congress passed legislation intended to prevent the collapse of multiemployer pension plans and the federal insurance program that partially guarantees participants' benefits. The 2014 law, among other things, gave financially distressed plans the right — after securing regulatory approval — to cut benefits to prevent their insolvency.

While that option clearly would be a painful one, keeping benefits intact would be far worse. Some financially distressed plans surely would fail and participants would see their benefits slashed to a fraction of what was promised, even with protection by the Pension Benefit Guaranty Corp.

Even that limited federal benefit guarantee would overwhelm the PBGC's hugely underfunded multiemployer pension insurance program, ultimately leading to its collapse and some plan participants losing their pension benefits entirely.

The 2014 law was supposed to buy time for Congress to develop long-term legislation to provide a better future for multiemployer plans and the PBGC's insurance program, but that scenario now seems unlikely to develop. That's thanks to the Treasury Department's rejection of an application by the Central States Pension Fund to cut benefits.

The plan is so underfunded, by roughly \$17 billion at the end of 2014, the most recent year information is available, that its collapse not only would be a financial disaster for participants, but also the PBGC's financially strapped insurance fund. We hope lawmakers do not allow that to happen, and we think there are several approaches for Congress to consider.

One should be a re-examination of the 2014 law provision in which financially distressed plans must get Treasury Department approval to cut benefits and then, as happened in the Central States case, allowing plans to walk away if regulators reject a plan's proposal. One possible change in the law would be establishing a mandatory arbitration system in which distressed plans and the Treasury Department have to keep talking until a benefit cut agreement is reached.

Fortunately, time is on everyone's side, up to a point. As troubled as it is, the Central States plan is not in imminent danger of going broke, and the PBGC's multiemployer program will not run out of money in the immediate future. But the time for lawmakers to examine the issue is now.

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SCHILLERSTROM



COMMENTARY

INSURANCE PROFESSION: IT'S HIP TO BE THERE

You might not be aware of this, but apparently, if you work in insurance, you are the new “cool kid” in the world of international development.

That's because access to insurance was featured in the four major sustainable development agreements that the United Nations concluded last year, and development experts are waking up to the possibilities of insurance and are eager to learn more, said Quentin Coolen, a U.N. official who now hangs out with the cool insurance kids on the block.

Long seen as burdensome or simply irrelevant, insurance now is being viewed as a tool to help the world's poor deal with issues such as catastrophe risk and climate change, and the experts who fashion and use those tools are in demand.

Of course, there are plenty of insurance products available in the world, but the trick is making them affordable and accessible to the poor and adapting the products to meet their needs. And that's the major goal of the Insurance Development Forum, which was launched this year and featured at the International Insurance Society's Global Insurance Forum in Singapore last week, where Mr. Coolen and others made presentations.

Backed by a range of international insurers and the largest brokers, who are working with the U.N. and the World Bank on the project, the IDF created a lot of buzz at the event. It appeared to fire the imagination of many of the attendees, including risk managers who are participating in the project and see the need for a similar approach to creating access to commercial coverage in immature insurance markets.



GAVIN SOUTER
EDITOR

Growing insurance in tough markets also is the goal of insurance startup Trov, a new app that is intended to sell insurance to the millennial generation — a group usually viewed as being uninterested in insurance and unimpressed or unaware of the financial protection it offers.

The app, also featured at the meeting, can scan a user's email for electronic

receipts to detect valuable purchases and allow users to buy insurance as and when they think they need it. For example, somebody going away for a weekend may want to insure their computer while they are on the road but turn off the coverage when they return home. Through a series of swipes, the app allows you buy coverage, cancel it and make claims.

While it's aimed at consumers initially, it's easy to see it used in the commercial sector. For example, companies that own equipment that's used seasonally could use it to buy cover only when the equipment is in use.

Of course, if it takes off, insurance buyers may get fed up with continually turning on and off their insurance, but by then some bright spark will have invented a policy that covers you uninterrupted for a whole year.

Pretty cool.

Expanded employment liabilities require proactive mitigation

Fueled by more labor-friendly laws, nearly 90,000 employment lawsuits were brought in 2015 with monetary awards topping \$65 million, data from the Equal Employment Opportunity Commission shows. Maxine H. Neuhauser of employment law firm Epstein Becker & Green P.C. looks at the growth and potential outcomes of such litigation and talks about what employers must do to limit their exposures and mitigate any judgments.

The universe of employee-friendly laws, regulations and initiatives has been expanding since well before the Obama administration.

Employment lawsuits offer the prospect of significant reward, and not just to the employee who has sued. Nearly all employment laws — including Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Fair Labor Standards Act and their innumerable state and local counterparts — provide for payment of attorneys' fees to a prevailing plaintiff. The philosophy underlying attorney fees shifting is that it encourages plaintiffs attorneys to take on cases for plaintiffs with limited means who otherwise could not seek redress, because if they win, the employer (or its insurer) will pay their attorneys' fees — a factor that no doubt drives the growth of such litigation.

A review of the “results” tabs on the websites of well-known plaintiffs' employment firms demonstrates that potential exposure from employment related claims can reach into the hundreds of thousands of dollars and beyond, even for a single plaintiff case. Every day, the list of cases filed in New Jersey, for example, includes multiple employment-related lawsuits.

Adding to the trend are new issues unimaginable just a few years ago. New York City's Human Rights Commission, for example, recently announced legal enforcement guidance broadly interpreting the New York City Human Rights Law's prohibition against gender identity and gender discrimination claims in new ways.

Under the new guidelines, employers must use gender-neutral pronouns (such as ze/hir) if requested by an employee to do so, may not require dress codes or uniforms or apply grooming or appearance standards that impose different requirements according to gender, and must permit employees to use bathrooms “consistent with their gender, regardless of their sex assigned at birth, anatomy, medical history, appearance or the sex indicated on their identification.”

Similarly, ban-the-box laws, prohibiting criminal history inquiries on employment applications and delaying background checks until deeper in the hiring process, are recent developments. Today, 20 states and more than 100 cities and counties have enacted such laws. Paid sick and family leave initiatives are also on the agendas of many legislators.

Added to this, the U.S. Department of Labor's proposed revision to the Fair Labor Standards Act is expected to affect millions of employees currently considered exempt from overtime. Imagine what this will mean in terms of potential worker misclassification or failure to pay overtime lawsuits as employers wrestle with managing newly nonexempt employees conditioned to check their email 24/7, who may now expect (and be entitled) to be paid. Already, in-house counsel reports that employment suits are among the most common

class actions their companies face. Expect the trend to continue.

This substantially increases potential exposure for employers in the event of loss and can push even highly defensible cases to settlement. Since there seems to be no end in sight for this trend, employers must be increasingly vigilant at managing their risks and exposures to these types of suits.

The task of avoiding an employment lawsuit is already daunting and poised to become harder — not to mention more expensive.

Staying up-to-date on employment laws in the locations where the company does business is a first step. Employees in a small branch office in Morristown, New Jersey, for example, may not be eligible for leave under the federal Family and Medical Leave Act, but New Jersey's Family Leave Act or Law Against Discrimination may provide such entitlement. Well-documented compliance has never been more important, nor the investment more worthwhile.

As a second step, consider a human resources audit. Does your company's employment application comply with state law? Is your handbook reviewed annually? Are policies revised and updated as needed? Are employment law notices posted and distributed as required? Have supervisors and staff been trained? Have systems and procedures been put in place to monitor employees' hours and leave entitlements? Have job descriptions been reviewed recently? What about your benefits summary plan descriptions? Admittedly, the checklist is long.

Complying with the law and managing litigation risk and exposure will be an ever-growing challenge. In this changing environment, companies cannot afford to be asleep at the wheel.



Maxine H. Neuhauser is a member of the employment law firm Epstein Becker & Green P.C. in New York. Contact her at mneuhauser@ebglaw.com or 973-639-8269.

HEAR INTERVIEW

Maxine H. Neuhauser, member of employment law firm Epstein Becker & Green P.C., discusses compliance challenges as labor law interpretations broaden as well as what employers can do to keep up with *Business Insurance* Managing Editor Mary Jane Grandinetti.

The philosophy underlying attorney fees shifting is that it encourages plaintiffs attorneys to take on cases for plaintiffs with limited means who otherwise could not seek redress, because if they win, the employer (or its insurer) will pay their attorneys' fees — a factor that no doubt drives the growth of such litigation.





Raise safety, productivity through risk control

James Merendino | Vice President and General Manager of Commercial Insurance Risk Control at Liberty Mutual Insurance

Risk control and safety practices not only are important aspects of reducing an organization's total cost of risk, but they also can increase productivity, improve employee engagement, and protect the bottom line. James Merendino, vice president and general manager of Commercial Insurance Risk Control at Liberty Mutual Insurance, discusses some of the benefits of risk control.

Q. | Why should employers emphasize safety?

A. | Emphasizing safety is critical because employees are a company's most valuable asset. Keeping employees safe and healthy enables them to lead productive lives, both at home and at work.

The fact is, it's expensive not to pay attention to safety. For example, a workplace injury that results in a \$20,000 direct loss (medical bills and lost wage payments) can quickly become a million-dollar one. How?

Because every loss includes both direct and indirect costs. Findings from the Liberty Mutual Research Institute for Safety shows that for every dollar of direct loss, there are \$2 to \$4 of indirect expenses, such as overtime pay, lost productivity, hiring temporary workers and so on.

Whether a business pools its risk, self-insures, has a large deductible, or is fully insured, it ultimately pays for some portion of the direct costs and all of the indirect costs. So, a business with a \$20,000 direct loss could experience as much as \$80,000 in indirect costs and a total loss of \$100,000.

If the employer's profit margin were 10%, it would need to generate nearly \$1 million more in revenue to maintain its profitability. By creating a safe work environment that helps prevent injuries, a business can minimize losses, which typically account for 85% of a business's total cost of risk, and put itself in a better financial position.

Employers should care about safety because it can offer other competitive advantages as well. Safety helps protect a company's brand and reputation. Potential employees are looking for employers of choice, and word tends to get around when a workplace has safety problems. Potential clients want to do business with a solid company whose engaged employees deliver quality goods and services on time and budget.

A safety focus helps businesses to reduce not only workers compensation costs but also general liability and commercial auto costs. Regardless of industry, a lack of focus on safety is expensive and can become a reputational risk.

Q. | What loss trends is Liberty Mutual seeing?

A. | There are several interesting trends in the workplace. In general, we are seeing fewer injuries, but when they do happen, they are often more severe. This is happening for a couple of reasons.

On the younger side, we are seeing less healthy people coming into the workforce – people with conditions such as diabetes and obesity. That is creating more joint and low-back pain issues.

The frequency of injury reduces as you get older, but when injuries do occur, they tend to keep older workers out longer. Co-morbidity issues also can turn relatively minor injuries into extensive disability events. That trend is likely to continue, as more people envision themselves working until age 67 or beyond, which is longer than they did in the past.

Also, medical inflation is not slowing; in recent years, it has outpaced the growth of the Consumer Price Index. Employers are looking at strategies to slow medical costs. There is an opportunity to connect traditional workplace safety with health and wellness approaches and look at the full picture.

Q. | What are the major cost drivers in workplace injury claims, and how can risk control help?

A. | The annual Liberty Mutual Workplace Safety Index ranks the leading causes of disabling workplace injuries and their direct costs to U.S. businesses.

According to this year's findings, the total direct workers compensation costs of those injuries was almost \$62 billion, led by overexertion, falls on the same level or to a lower level, and being struck by equipment or an object.

Risk control helps minimize the risk related to how work is done through safer equipment and processes. For example, falls from ladders are a leading cause of injuries in the construction industry. At job sites, risk control efforts can help limit the amount of time employees spend working at heights and on ladders. Approaches might include alternate methods to install lighting or plumbing, or using lifts instead of ladders.

Another area is related to ergonomics and adjusting workflows to limit pushing and pulling or picking up and setting down objects. These kinds of approaches not only make the workplace safer but also can increase productivity and employee engagement.

In addition, we're looking at the "built" environment, or the buildings and surrounding areas where people work. We're consulting more with architects and engineers to incorporate public and employee safety earlier in the process of designing buildings, engaging with them on injury prevention through design.

We're also seeing employers use system-based approaches to improve employee engagement. Often, answers to safety challenges are found with the people doing the work. More employers are discovering great ideas to modify the work environment and increase productivity at the same time, in a way that really engages employees.

Q. | What should employers do to create a safety culture that reduces TCOR?

A. | A safety culture requires sponsorship at the top, with senior management setting the tone. Everybody in the organization looks at what the leaders do, whether they are senior executives or supervisors, so consistent support of safety is important for employees to make it a priority.

A great process for promoting safety is to engage employees across the business in cross-functional discussions on how to prioritize and address problem areas. Consistent and frequent communication is another key factor. Managers and supervisors generally find that talking with employees and showing them how to safely do their jobs, versus sending out memos that may not be read, is more engaging and effective.

Having a plan in place that outlines current safety performance and objectives, goals for the future, and the steps to get there is also key. Finally, it's important to understand, measure and share your data. Open, honest and transparent communication about safety really does work. People want to know what's going on.

The keys are to have a plan in place, a measurement system to monitor how the plan is doing, and active involvement by management and employees to help direct next steps. Taken together, those steps will have a positive impact on both employee engagement and the total cost of risk.

FOR MORE INFORMATION CONTACT:
James Merendino at
James.Merendino@LibertyMutual.com



Liberty Mutual
INSURANCE

More information on the resources available from Liberty Mutual Insurance to help improve workplace safety can be found at <https://business.libertymutualgroup.com/business-insurance/risk-control>

**You take on
complex issues.**

**We help you
pinpoint solutions.**

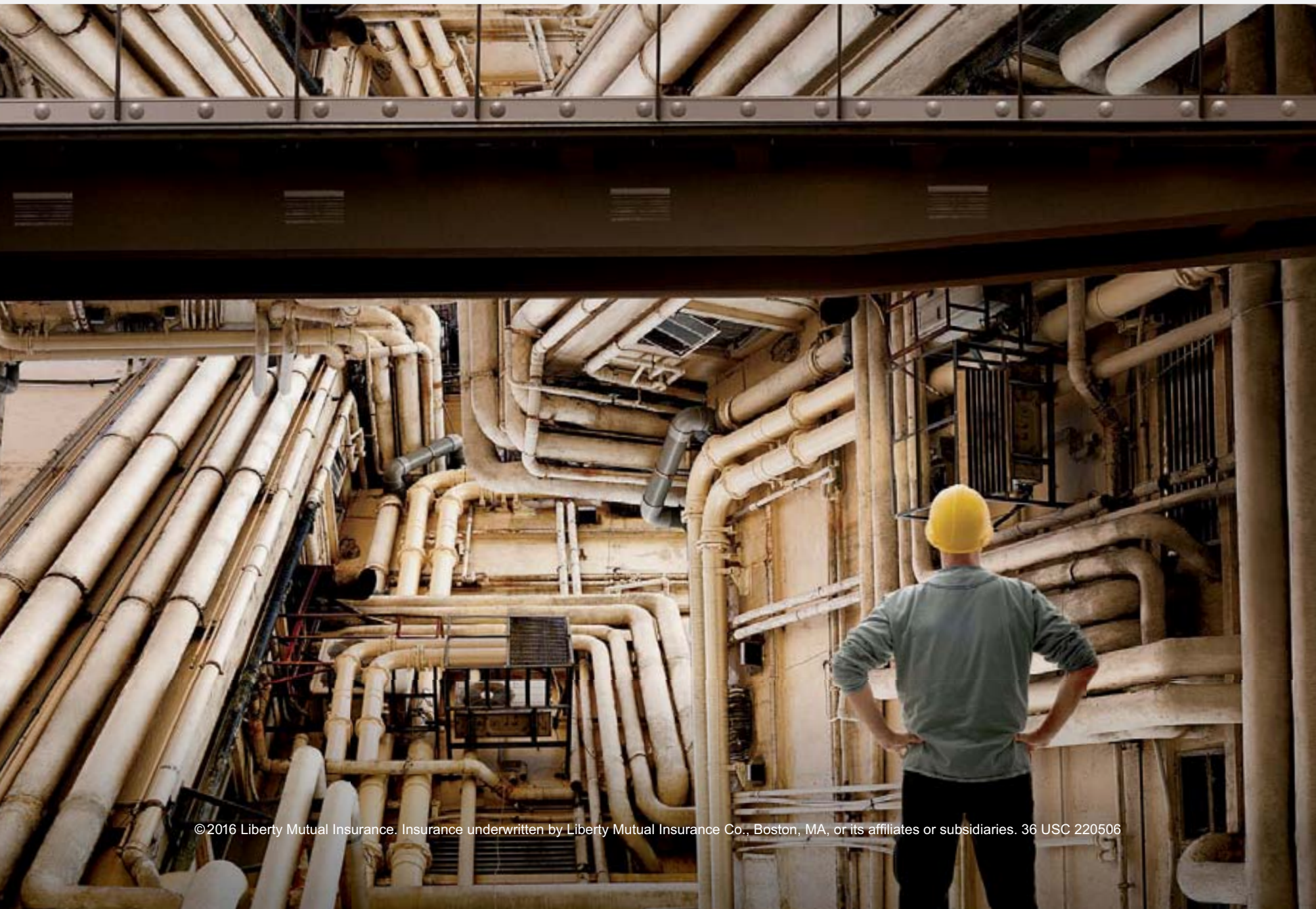


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SPECIAL REPORT

Workplace Safety Trends

Construction safety targets Hispanic workers

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Where does OSHA draw the line?

As agency flexes muscles, employers wonder if it's neglecting its focus on safety

BY GLORIA GONZALEZ

Several Occupational Safety and Health Administration actions are driven by its concern that employers actively discourage or retaliate against employees who report injuries and illnesses, but some stakeholders are worried the federal agency may have lost sight of its core mission: safety.

OSHA's electronic record-keeping rule published in May, the latest example of the trend, has raised concerns about its plan to

collect and publish injury and illness information on a yet-to-be-finalized web platform, its stance against mandatory post-incident drug testing policies and its creation of a citation-based process to handle retaliation allegations.

"The employers I work with are trying to do safety right, they're trying to incentivize reporting of injuries and they're trying to comply with OSHA, but OSHA's just always raising the bar and making it more difficult," said Jason Mills, a Los Angeles-based partner at law firm Morgan, Lewis

& Bockius L.L.P.

Additionally, at a time when cyber risk is top of mind for risk managers, the requirement to electronically submit injury and illness information is a major concern, said Robert Cartwright Jr., Exton, Pennsylvania-based safety and health manager at Bridgestone Retail Operations L.L.C. and treasurer of the Risk & Insurance Management Society Inc.

"Now that we're going to have all of our information and all of our data put out to a database, where is the security of that web-based

application? We have potential new cyber exposures as a result,” Mr. Cartwright said.

The electronic record-keeping rule also may discourage employers from reporting minor safety mishaps to keep their incident rates low since the information will be made public, he said.

Not only does the rule provide an incentive not to record questionable cases, it also encourages employees disciplined for legitimate reasons to claim retaliation, said Ron Taylor, Baltimore-based head of Venable L.L.P.’s Maryland labor and employment practice group. “That represents a real intrusion of OSHA into the employer-employee relationship at a workplace unrelated to safety.”

However, David Michaels, assistant secretary of labor for occupational safety and health, said the agency does not require recording of minor incidents and is focused on serious injuries requiring treatment beyond first aid.

“I’ve never seen evidence that there is overrecording of minor injuries,” Mr. Michaels said. “There’s compelling evidence there’s extensive underrecording of serious injuries.”

The agency also used the rule to reiterate its opposition to employee incentive programs based on leading indicators such as injury and illness rates — a stance repeated late last year in a draft update to its safety and health program management guidelines.

However, some experts have accused OSHA of inconsistency or even hypocrisy because the data to be published online will be injury and illness rates.

“OSHA probably ought to listen to its own advice,” David Sarvadi, a Washington-based partner at Keller & Heckman L.L.P., testified during a congressional hearing last month on behalf of the Coalition for Workplace Safety. “They’ve been telling employers for more than 10 years that employers should be providing and looking for more leading indicators and focused on leading indicators.”

The agency has engaged with various associations on developing leading indicators, “but every one of those injury reports is a real person who’s been hurt,” Mr. Michaels said.

Lisa Sprick, president of Corvallis, Oregon-based Sprick Roofing Co. Inc., said she shares OSHA’s intent to ensure employees are not deterred from reporting injuries and illnesses.

“We ... encourage our employees to report near misses so we can identify problems and prevent injuries from occurring,”

she said. “But this regulation and the other OSHA actions have produced much ambiguity with respect to how OSHA views incentive programs.”

The agency also has engaged in efforts to tackle retaliation against employees.

The electronic record-keeping rule is the latest major manifestation of that trend, but the Labor Department also has sued employers for disciplining employees for failing to immediately report workplace injuries in line with company policy, and for suspending and terminating employees who reported workplace safety hazards.

These lawsuits have forced reconsideration of long-standing workplace safety policies, with some lawyers advising clients not to discipline employees for failing to quickly report injuries and illnesses.

Others wonder whether OSHA has lost sight of its core mission. “The administration has been

“OSHA probably ought to listen to its own advice. They’ve been telling employers for more than 10 years that employers should be providing and looking for more leading indicators and focused on leading indicators.”

David Sarvadi,
Keller & Heckman L.L.P.

preoccupied with retaliation and neglected, in my way of thinking, safety enforcement in recent years,” said Howard Mavity, an Atlanta-based partner at Fisher & Phillips L.L.P. “In an era where OSHA desperately needs more money, they’re really wasting a lot of money on a problem that to me is less urgent than keeping people alive.”

Rather than fighting OSHA, employers should collaborate with the agency on possible solutions, Mr. Cartwright said.

“Employers need to look at OSHA not as the evil lord or the dark hole where things disappear into,” he said. “They’re very transparent, and they’re extremely helpful, and they want to know more about what stakeholders are concerned about. It’s really incumbent on the risk manager to be aware of these changes and to be vocal about what their concerns are and feed them back into OSHA, because OSHA’s looking for that. You can’t fix what you don’t know.”

Construction trades learning safety as a second language

Efforts speak to Hispanics and their high injury rates

BY LOUISE ESOLA

Hispanic and Latino workers’ high rate of on-the-job injuries and deaths in construction has sparked a new resource for an industry with a workforce that is more than one-quarter Hispanic.

“Over the last year, there has been a lot of concern over the Latino workforce because there have been a lot of injuries,” said Jorge Otolara, Vienna, Virginia-based division safety director at Hoar Construction L.L.C., a commercial builder of retail, health care, governmental, industrial and entertainment facilities nationwide. “These numbers have been increasing over the years.”

According to the U.S. Bureau of Labor Statistics, the construction industry topped all other industries in fatal on-the-job injuries in 2014, the latest data available. Construction had a rate of 9.8 deaths per 100,000 workers — nearly triple the rate for all full-time workers. Of the roughly 900 Hispanics or Latinos fatally injured on the job in 2014, about two-thirds were born outside the United States (see box).

There also were nearly 201,000 construction-related injuries in 2014, according to BLS.

For executives such as Mr. Otolara, who oversees construction sites with up to 80% Hispanic workers, this trend has prompted the company to present safety procedures in Spanish as well as English.

In addition, the Park Ridge, Illinois-based American Society of Safety Engineers and the Silver Spring, Maryland-based Center for Construction Research & Training in March jointly released a set of Spanish-language safety instructions and training materials under their existing Safety Toolbox Talks offering.

The effort piggybacks on what the U.S. Occupational Safety and Health Administration has offered employers since convening its first National Action Summit for Latino Workers Health and Safety in 2010, according to a Washington-based OSHA spokeswoman.

“Latino workers suffer and die on the job at a greater rate while doing the hardest, most unhealthy, most dangerous jobs,” she said. “Many of these workers don’t know they have a right to work in a safe and healthful workplace. Most are untrained in addressing workplace hazards, and many face discrimination because of language barriers.”

OSHA also has developed alliances with nonprofit and community organizations and devised a Spanish-

language web page with materials and publications for what the OSHA spokeswoman and others refer to as the most vulnerable set of workers in the United States. It also provides free on-site consultation for firms seeking health and safety advice.

Providing safety materials in Spanish is something that many midsize and larger firms such as Hoar Construction — which employs up to 500 full-time workers at a time but also relies on hundreds of contractors — use routinely, Mr. Otolara said.

“We have had a bilingual safety department with managers who have translated safety materials” for a number of years, he said. “What we’ve seen is that the workers are more aware of the hazards and more easily identify issues and correct them before it actually becomes an injury.”

To ASSE President Michael Belcher, this is precisely what the industry needs.

“There’s a real shortage of safety professionals in the marketplace,” Mr. Belcher said. “The Safety Toolbox helps bridge that gap when small businesses, in particular, don’t have any other resources available.”

The free Safety Toolbox Talks, introduced two years ago, have seen hundreds of thousands of downloads. As of late May, the Spanish version introduced this year had already been downloaded 2,000 times, said Eileen Betit, director of research to practice at the Center for Construction Research & Training.

Included in the online resource are 52 publications that are printable and easy to navigate, with illustrations and bullet points. They cover everything from working with a forklift and other heavy equipment to dealing with the risks of asphalt fumes and carbon monoxide poisoning, falling objects on a construction site and protecting their eyes.

This resource, which Mr. Otolara said has already been employed by several construction worksites, covers basic safety rules and procedures for workers exposed to falls, electrical and weather hazards, he said.

“We have people working all summer long in high temperatures,” he said. “This covers all the risks for heat stroke, for example. If you have that information in your own language, you can understand what is happening before it becomes a catastrophic problem.”

“We encourage people to employ the advice from professionals,” Mr. Belcher said. “Our goal is to create a safe workplace. It’s not a sustainable practice to be putting people at risk.”

WORKPLACE INJURIES & DEATHS

3,000,000

There were nearly 3 million nonfatal workplace injuries and illnesses in U.S. private industry in 2014, nearly 201,000 of which were in construction.

4,800

There were more than 4,800 fatal workplace injuries, with construction accounting for the biggest percentage of the total with 899 — the highest number since 2008.

9.8:100,000

Construction had a fatal injury rate of 9.8 per 100,000 workers versus a rate of 3.4 for all full-time workers.

800

There were more than 800 Hispanic or Latino workers involved in fatal workplace injuries, with more than half born in Mexico or elsewhere in Central America.

Source: U.S. Bureau of Labor Statistics

Eyes in the skies keep workers safe on the ground

Using drones for inspections can reduce falls in high-risk sectors

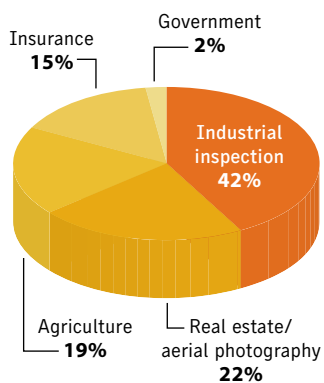
BY DONNA MAHONEY

The risks posed by drones have spurred warnings from the Federal Aviation Administration, but safety professionals say the unmanned aerial systems' ability to conduct industrial inspections can help avoid exposing workers to danger.

The FAA, which issued a special alert last year after several incidents in which drones forced aircraft fighting wildfires in the U.S. West to halt their efforts along with issuing rules covering the use of certain drones, forecast in March that the commercial drone fleet would grow to 540,000 craft by 2020, with industrial inspections being the largest market for the unmanned aircraft.

Using drones to inspect construction, tall telecommunications equipment and remote, hard-to-reach areas could reduce falls that the U.S. Bureau of Labor Statistics said are the No. 1 cause of death in the construction industry and the No. 3 cause of death in all industries.

"Anytime you have a worker that does not have to climb to high levels, it provides an improvement in workplace safety for those workers," said Desiree Tolbert-Render, assistant vice president of national technical compliance at Sedgwick Claims Management Services Inc. in Orlando, Florida.



LARGEST USERS

Industrial inspection and insurance are among the top uses seen for commercial unmanned aerial systems, or drones.

Source: Federal Aviation Administration

She said drones are improving safety on construction sites by, among other things, checking to ensure scaffolding is set up properly or that workers are using their fall protection equipment.

"Drones can easily fly over infrastructure and send back imagery showing the condition of electric lines and equipment to employees on the ground. This makes the entire inspection process safer and more efficient," said Eric Back, San Francisco-based director of compliance and risk management at Pacific Gas & Electric Co.

PG&E, which received FAA approval last year to use drones to assist inspections of the company's

DRONE FORECAST

The number of commercial unmanned aerial systems, or drones, is expected to increase rapidly in the next several years.

Year	Projected UAS fleet
2016	32,800
2017	101,300
2018	196,000
2019	352,000
2020	542,000

Source: Teal Group Corp. and Federal Aviation Administration

electric and gas infrastructure, said the drone inspections limit the times employees have to climb high towers or navigate steep terrain.

A California company that has an FAA exemption to use drones to capture aerial imagery and provide data analysis to its customers said its primary customers currently are roofers and insurers, but Dave Tobias, BetterView Marketplace Inc.'s Burlingame, California-based co-founder and chief operating officer, said it expects other industries to also use its services.

Gustavo B. Guerrero, a BetterView client and president of Oakland, California-based Ben's Roof-

ing Inc., said the drone aerial photography not only allows the company to show customers how projects are progressing, it also allows for checking workers to make sure roofs are installed properly and safely.

"To send somebody up on the roof to check on the workers is a risk in itself, and the drones can easily do that job," Mr. Tobias said.

Using drones for inspections is occurring within the rapidly growing cell tower and power industries, where the telecommunications structures that can be as tall as 2,000 feet are required by the Federal Communications Commission to be inspected on a regular basis, said Bryan C. Sanders, Portland, Oregon-based vice president and client relations director at Homeland Surveillance & Electronics L.L.C.

"These towers are often located in very challenging-to-reach areas like on the side of a mountain where there are windy conditions — you also have a lot of signal strength up there ... drones can limit workers having to make the dangerous ascent and descent of the equipment that needs regular inspections," he said.

ProSight Specialty Insurance Group Inc., which offers drone insurance, sees industries using drones in innovative ways in the future.

"For anything a person can do,

there is someone trying to find out if it can be done easier with a drone," said Mike Kelly, ProSight's Laguna Beach, California-based media risk control manager.

However, Mr. Kelly said, even businesses that have an FAA 333 exemption that allows them to operate drones should be aware that there may be limits on their activities.

"There is an enormous amount of misunderstanding about the FAA 333 exemption and its restrictions," Mr. Kelly said. "We have people who have an exemption from the FAA and are approved for data collection, but they are not looking at what is not approved. If a client wants to use a drone to perform any task, they need to make sure their exemption does not restrict them from it."

Sedgwick's Ms. Tolbert-Render said future drone usage in other industries may bring safety benefits as well.

Citing transportation incidents, which the Bureau of Labor Statistics said was the No. 1 fatal occupational injury contributor in 2014, she said "the use of drones for delivery seems to have worker safety implications."

Although not currently permitted by FAA rules, delivering packages by drones could be another way to avoid transportation worker injuries and even deaths, she said.

INTERNATIONAL STANDARDS FOR WORKPLACE SAFETY MAKING PROGRESS

BY STEPHANIE GOLDBERG

A highly anticipated international safety standard intended to help companies reduce risks and promote safer workplaces is inching toward publication.

First proposed by the International Organization for Standardization in 2013, ISO 45001 is a voluntary occupational health and safety framework. Originally, it was expected to go into effect in October, but safety professionals involved in developing the standard say a 2017 publication date is more likely.

Stakeholders met earlier this month in Toronto to wade through nearly 3,000 comments on a draft of the standard after 71% of participating countries voted in favor of it, 28% — including the United States — voted against it, and 1% abstained, said Kathy Seabrook, founder and president of safety, health and environmental consulting firm Global Solutions Inc. in New York and vice chair of the U.S. Technical Advisory Group working on ISO 45001.

Two-thirds of the countries must vote in favor of the draft and less than one-fourth can vote against it to win publication approval, she said.

With 67 countries voting on the draft standard, "one of the most difficult things about a consensus standard is building a consensus," said Victor Toy, San Mateo, California-based chair of the U.S. Technical Advisory Group and principal at safety consulting company Insyst OH&S.

An occupational health and safety management system is a newer concept for countries where companies are "still managing the numbers rather than the risks," Mr. Toy said, as opposed to countries such as the United States, the United Kingdom and Canada, which have federal agencies overseeing safety.

"Whether you're in Vietnam, Canada, the United States, Mexico or Japan," the goal is to get everyone to follow the same framework to manage their occupational health and safety performance, which means reducing injuries and illnesses, Ms. Seabrook said.

Not to be confused with safety programs, which are smaller in scope, "this standard gets everybody involved in the all the processes. It's not just safety as a stand-alone process, but it's integrated into the business," Mr. Toy said.

While safety programs include "practices and procedures to comply with spe-

cific rules and regulations," a management system is "more of an overarching thing and looks higher in a management chain," said Carol Schmeidler, manager of general safety and industrial hygiene programs at the department of environmental health and safety at the State University of New York at Buffalo.

Though ISO 45001 would be voluntary, it could become a regulatory requirement in parts of the world.

"In some countries, they just adopt whatever the international standard is," Ms. Seabrook said. She said the current "default consensus international standard" is Occupational Health and Safety Assessment Series 18001, which the British Standards Institution developed in 1999.

According to the institution, OHSAS 18001 will be withdrawn, and certified organizations will have three years to transition to ISO 45001 upon its publication.

The most recent version of ISO 45001 requires organizations to implement a "safety culture," Mr. Toy said. However, "it's hard to come up with a single definition of what that really is. And when you have that difficulty, how do you know

when you're there? ... That issue is currently being worked through the standard."

Adopting the standard could be particularly important for contractors, said Luis Pieretti, a Tampa, Florida-based safety management consultant for workers compensation insurer The MEMIC Group.

"Some multinational companies will only do business with suppliers or contractors that are ISO-certified," he said.

Progressive companies with good safety cultures likely already meet many of the potential ISO 45001 requirements, sources said.

For those companies, becoming certified could be a matter of developing "more formal processes for auditing" the company's safety performance, Ms. Schmeidler said.

In countries where standards are "not quite as stringent," ISO 45001 will provide a goal that "should be measurable and auditable and improvable," Ms. Schmeidler said. U.S.-based companies doing business abroad typically "try to comply with American-type standards, rather than the standards of the country that they're working in, which can be a big advantage."

LARGEST SAFETY CONSULTANTS

The 10 largest safety consultants, ranked by 2015 revenue from unbundled safety consulting services¹

Rank	Company	Phone/Website	Safety consulting revenue	Total staff	Total clients
1	Bureau Veritas S.A.	888-357-7020 www.us.bureauveritas.com	\$710,200,000	6,600	49,000
2	Marsh Risk Consulting	866-928-7475 or 212-345-9589 www.marsh.com, www.marshriskconsulting.com	\$105,000,000	388	3,500
3	Safety Management Group	800-435-8850 www.safetymanagementgroup.com	\$18,795,768	138	314
4	Esis Inc.	215-640-1000 www.esis.com/hse	\$16,000,000	150	200
5	Gallagher Bassett Services Inc.	630-773-3800 www.gallagherbassett.com	\$13,050,000	103	2,200
6	Ramboll Environ Inc.	617-259-0172 www.ramboll-environ.com	\$13,000,000	2,000	N/A
7	FDRsafety L.L.C.	615-370-1730 www.fdrsafety.com	\$12,500,000	85	1,250
8	PSRG Inc.	713-532-8800 www.psr.com	\$10,200,000	83	1,000
9	Regional Reporting Inc.	212-964-5973 www.regionalreporting.com	\$6,000,000	300	300
10	Zurich Services Corp.	800-982-5964 www.zurichna.com/en/risk	\$5,300,000	179	117

¹ Revenue from safety consulting services provided on a direct, unbundled basis; only participating companies that provided verification of stated revenue are included; some also provide other consulting services.

Source: BI survey

INDUSTRIAL HYGIENE CONSULTANTS

Safety consultants with the largest number of industrial hygiene consultants

Rank	Company	Number
1	Bureau Veritas S.A.	895
2	Esis Inc.	50
3	Marsh Risk Consulting	30
4	Ramboll Environ Inc.	20
5	AM Health & Safety Inc.	8

Source: BI survey

OCCUPATIONAL HEALTH CONSULTANTS

Safety consultants with the largest number of occupational health consultants

Rank	Company	Number
1	Bureau Veritas S.A.	860
2	Safety Management Group	128
3	Regional Reporting Inc.	75
4	Marsh Risk Consulting	30
5	Ramboll Environ Inc.	20

Source: BI survey

LARGEST SAFETY SPECIALISTS

Safety specialists with 100% of revenue from safety consulting

Rank	Company	Safety consulting revenue
1	Safety Management Group	\$18,795,768
2	FDRsafety L.L.C.	\$12,500,000
3	PSRG Inc.	\$10,200,000
4	AM Health & Safety Inc.	\$4,000,000
5	Watson & Associates Occupational Hygiene & Safety L.L.C.	\$3,000,000

Source: BI survey

TOP CAUSES

The top causes of fatal occupational injuries

Incident	Number	Percent of total
Transportation incidents	1,984	41.2%
Falls, slips and trips	818	17.0%
Violence, other injuries by persons or animals	765	15.9%
Contact with objects, equipment	715	14.8%
Exposure to harmful substances, environments	390	8.1%
Fires, explosions	149	3.1%
Total	4,821	100.0%

Source: U.S. Bureau of Labor Statistics

TOP CITATIONS

Employer safety violations that resulted in citations by the U.S. Occupational Safety and Health Administration

Safety violation	Fiscal 2015 citations	Average penalty per citation ¹
Fall protection	7,310	\$3,285
Hazard communication	5,807	\$590
Scaffolding	4,576	\$2,040
Respiratory protection	3,663	\$745
Lockout/tagout (control of hazardous energy)	3,347	\$2,848
Powered industrial trucks	2,982	\$1,703
Ladders	2,738	\$1,539
Electrical, wiring methods	2,503	\$1,113
Machinery and machine guarding	2,598	\$3,746
Electrical systems design	2,048	\$1,569

¹ Reflects amount as of May 24, 2016

Source: U.S. Occupational Safety and Health Administration

INJURY COST

Top causes and direct costs of the most disabling U.S. workplace injuries¹

Cause	Cost (billions)	Percent of total
Overexertion involving outside source	\$15.08	24.4%
Falls on same level	\$10.17	16.4%
Falls to lower level	\$5.40	8.7%
Struck by object or equipment	\$5.31	8.6%
Other exertions or bodily reactions	\$4.15	6.7%
Roadway incidents involving motorized land vehicle	\$2.96	4.8%
Slip or trip without fall	\$2.35	3.8%
Caught in/compressed by equipment or objects	\$1.97	3.2%
Struck against object or equipment	\$1.85	3.0%
Repetitive motions involving microtasks	\$1.82	2.9%
Other	\$10.82	17.5%
Total	\$61.88	100%

¹ 2016 Liberty Mutual Workplace Safety Index, based on 2013 injury data
Source: Liberty Mutual Research Institute for Safety

Alliance to cooperate on cyber risk modeling

Guy Carpenter & Co. L.L.C. has formed a strategic alliance with Mountain View, California-based cyber security firm Symantec Corp. to create a cyber aggregation model.

The model will include a comprehensive catalogue of cyber scenarios from which insurers can derive frequency and severity distributions to measure the potential financial impact of loss from affirmative cyber coverages and “silent” all-risk policies, where cyber is the peril but no cyber exclusions exist.

Guy Carpenter’s cyber solutions specialty practice will spearhead this effort. The model is being marketed to insurers and reinsurers.

“Symantec’s cyber security data and analytics, combined with Guy Carpenter’s deep knowledge of the emerging cyber reinsurance market, will give our insurance customers a better understanding of the most damaging cyber attacks,” said Roxane Divol, senior vice president and general manager of website security at Symantec and executive sponsor of Symantec’s new Cyber Insurance Group.

Fitbit unveils health, wellness services

Fitbit Inc. has launched Fitbit Group Health, which brings together the offerings Fitbit provides to corporate wellness partners, weight management leaders, insurers and clinical researchers.

In addition, San Francisco-based Fitbit has launched Wellness Insighter, a service that aims to help corporate wellness leaders validate corporate wellness investments with data that can be compared against industry peers or used to evaluate and improve program design, according to the statement.

“Partnering with Fitbit got our employee population moving and more engaged in our wellness program,” Selena Baker, nutrition counselor at Ohio University, a participant of the Fitbit Wellness Insighter pilot program, said in the statement. “With Fitbit Wellness Insighter, our employees had the opportunity to communicate their perceptions of and changes that resulted from the program. Their input has significantly changed our approach to activity, challenge cadence and employee communications tactics.”

XL Catlin unit to focus on alternative risk transfer

XL Catlin’s insurance operations have launched Structured Risk Solutions, a team that will focus on alternative risk transfer and nontraditional insurance, XL Catlin said.

Structured Risk Solutions is a global underwriting unit that will provide solutions for large and complex risks where there is currently no traditional insurance product offered by the market, the insurer said in a statement.

The Structured Risk team will be led by London-based Rob Turner, global head of SRS. Previously, Mr. Turner was U.K.

PRODUCTS & SERVICES



Product protects film production in at-risk locales

Ironshore International has launched an insurance product designed to address the risk exposure of film production companies shooting in at-risk locations worldwide.

Ironshore’s political risk program is underwritten to protect film producers against loss and damage of equipment and property caused by acts of foreign governments while filming on location, the insurer said in a statement.

The policy coverage includes equipment, props, wardrobe and other production materials for loss as a result of abandonment, deprivation, expropriation and license cancellation, according to the statement.

Policy limits are available up to \$40 million, an Ironshore spokeswoman said in an email.

“Ironshore’s specialty product for this complex industry risk combines political risk with war and terrorism coverage to protect producers filming in territories with a history of uncertainty and turmoil,” James Dover, New York-based senior vice president for war and sabotage, said in the statement.

underwriting manager for complex accounts.

Offerings will include customized risk transfer solutions for new and emerging risks for corporations and financial institutions, as well as multiyear, multi-line structured reinsurance and insurance solutions for captive insurance companies, according to the statement.

Specialty insurer boosts cyber liability coverage

NAS Insurance Services L.L.C. has enhanced its NetGuard Plus cyber liability product.

The updates include cyber crime coverage, coverage for payment card industry fines, penalties and assessments, business interruption expenses and coverage for cyber incidents that happened before the date of the policy, Encino, California-based NAS said in a statement.

Maximum limits are up to \$25 million, according to the statement.

“We’re seeing significant growth in demand for cyber insurance from the (small to midsize business) sector,” Michael Palotay, national cyber liability practice leader for NAS, said in the statement. “It’s not just the large corporations with large volumes of credit card data that are targeted. Often, it is employees of smaller companies falling prey to social engineering or phishing scams that lead to a breach or other criminal activity which really hurt the small and mid-sized businesses.”

Underwriter to offer auto parts recall policy

Liberty International Underwriters has launched an automotive components product recall policy.

The policy was designed to cover first- and third-party recall expenses. The coverage includes critical, noncritical and aftermarket parts with limits of \$5 million primary and \$10 million excess, the Liberty Mutual Insurance Co. unit said in a statement.

“Critical and noncritical auto parts is an underserved market and one that we often receive requests to write,” Jane McCarthy, senior vice president for LIU global crisis management, said in the statement.

Hiscox product addresses technology, cyber risks

Hiscox Ltd. has launched Hiscox ClearTech, designed to provide coverage for technology businesses across a range of industries.

Hiscox offers cyber and technology coverages that allow users to create a policy that addresses their specific exposures, the company said in a statement.

Coverage for technology liability includes protection for claims of misappropriation of trade secrets, negligence and service credit and liability coverage for third-parties. Cyber liability covers the costs to defend and resolve claims alleging the mishandling of personally identifiable or confidential corporate information, negligence and violation of privacy or consumer protection law, breach of contract and regulatory investigations, issues related to network security failure, according to the statement.

“Although this market is complex, it doesn’t need to be complicated. Hiscox ClearTech will provide technology software and services companies with a clear, tailored insurance package, which includes access to a global network of technology and cyber lawyers and technical specialists. This helps ensure that our clients both understand their exposures and have the right tools to mitigate their risks,” Dan Burke, technology product head at Hiscox, said in the statement.

DEALS & MOVES

Gallagher acquires specialty health care industry broker

Arthur J. Gallagher & Co. has acquired Charlotte, North Carolina-based insurance broker McNary Inc. Terms of the deal were not disclosed.

McNary provides commercial property/casualty insurance, risk management services and employee benefits insurance and consulting services to hospitals and the health care industry throughout the Eastern United States, Gallagher said in a statement.

In addition to Charlotte, McNary has locations in Marietta, Georgia, and Baton Rouge, Louisiana.

McNary President William Yaeger and the firm’s roughly 60 employees will continue to operate under the direction of Mitchel Brashier, head of Gallagher’s Southeastern retail property/casualty brokerage operations, and David Ziegler, head of Gallagher’s Eastern employee benefit consulting and brokerage operations, Gallagher said.

Insurer pushes into carwash sector with acquisition

Alliant Insurance Services Inc., based in Newport Beach, California, has acquired Western Carwash Insurance Program.

Terms of the deal were not disclosed.

Western Carwash provides property/casualty and workers compensation insurance for carwash owners and operators and is the exclusive insurance program of the Sacramento, California-based Western Carwash Association, Alliant said in the statement.

The program is led by Sam Furno. He and his management team and staff will join Alliant and continue to serve clients from Western Carwash’s Sacramento offices, according to the statement.

Gallagher lassos retail broker based in Lubbock, Texas

Arthur J. Gallagher & Co. has acquired Ashmore & Associates Insurance Agency Inc., Lubbock, Texas.

Terms of the deal were not disclosed.

Ashmore is a retail insurance broker that provides property/casualty, employee benefits consulting and risk management insurance services in the U.S., Gallagher said in a statement.

Wilburn Ashmore, Elizabeth Ashmore and their team of 30 employees will continue to operate from their locations in Lubbock, Canadian and Midland, Texas under the direction of Bret VanderVoort, head of Gallagher’s south central retail property/casualty brokerage operations, and John Neumaier, head of Gallagher’s south central employee benefit consulting and brokerage operations, Gallagher said.

Independent agency to expand offerings after acquisition

Brokerage Oswald Cos. has acquired The Hoffman Group, an independent agency.

Terms of the deal between the Cleveland firms were not disclosed.

Hoffman offers commercial property/casualty and personal insurance and will expand its offerings to include employee benefits, retirement plan services and life insurance. Hoffman will operate under the name The Hoffman Group, an Oswald company.

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LEGAL NOTICE

IN THE MATTER OF THE LIQUIDATION OF
PROFESSIONAL LIABILITY INSURANCE COMPANY OF AMERICA
Supreme Court County of New York; Index No.: 400986/10

NOTICE

Pursuant to an order of the Supreme Court of the State of New York, County of New York, entered on February 10, 2014, the Superintendent of Financial Services of the State of New York and her successors in office were appointed as liquidator ("Liquidator") of Professional Liability Insurance Company of America ("PLICA") and directed to take possession of PLICA's property and liquidate its business and affairs pursuant to Article 74 of the New York Insurance Law ("Insurance Law"). The Liquidator has, pursuant to Insurance Law Article 74, appointed Scott D. Fischer Special Deputy Superintendent ("Special Deputy"), as her agent to liquidate the business of PLICA. The Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Liquidator has submitted to the Court an application by Order to Show Cause seeking an order: (i) establishing June 30, 2017 or such other date as may be set by the Court as the bar date ("Bar Date") for the submission to the Liquidator of all claims and documents supporting those claims against PLICA or its insureds, including claims reportable under any extended reporting period endorsements of policies issued by PLICA, other than the Liquidator's claims for administrative expenses, after which date, no new claims or evidence of claims shall be accepted by the Liquidator; and (ii) providing for such other and further relief as this Court may deem just and proper.

A hearing on written submission is scheduled on the Liquidator's application on the 18th day of August, 2016 ("Return Date"), at 9:30 a.m., at the Courthouse at 60 Centre Street, Room 130, the IAS Motion Submission Part. If you wish to object to the relief sought, you must serve a written statement setting forth your objections and all supporting documentation ("Answering Papers") upon the Liquidator at least seven days prior to the Return Date. Service on the Liquidator shall be made by first class mail or overnight courier at the following address: Superintendent of Financial Services of the State of New York as Liquidator of Professional Liability Insurance Company of America, 110 William Street, New York, New York 10038, Attention: General Counsel.

You must also submit copies of the Answering Papers, with an affidavit of service on the Liquidator, to the Court at IAS Motion Submission Part, Room 130 at the Courthouse located at 60 Centre Street, New York, New York, at 9:30 a.m. on the Return Date.

The Liquidator's application and supporting papers are available to be viewed on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org>. In the event of any discrepancy between this notice and the Order to Show Cause signed by the Court, the Order to Show Cause controls.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6241. Dated: May 18, 2016; Maria T. Vullo, Acting Superintendent of Financial Services of the State of New York as Liquidator of Professional Liability Insurance Company of America.

LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING-UP)
NO. 436 OF 1995

IN THE MATTER OF
ELECTRIC MUTUAL LIABILITY INSURANCE
COMPANY, LTD.

AND IN THE MATTER OF THE COMPANIES ACT OF 1981
NOTICE OF RELEASE OF LIQUIDATOR AND DISSOLUTION

NOTICE IS HEREBY GIVEN that by Order of the Supreme Court of Bermuda dated 2nd day of June 2016, I, Christopher Hughes, was released as the liquidator of Electric Mutual Liability Insurance Company, Ltd. And the Company was dissolved.

Dated this 20th Day of June 2016

Christopher Hughes
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Continued from page 4

trying to expand their full capabilities, not just their ability to negotiate rates and plan design,” he said. “It’s a lot of hard work because you have to train producers on these new solutions, and you have to address all these employer needs.”

Digital Insurance, for example, has hired specialists in everything from technology to wellness to meet employers’ needs.

Brokers have evolved from advisers to “a very, very heavy service mode. It’s a business partner mode,” said Kent Crawford, Newport Beach, California-based managing principal at Integro Insurance Brokers.

Employers expect brokers to devise benefits strategies as well as execute them, he said. As benefits have become more complex and employers introduce high-deductible health plans to save costs, communicating those changes has become a major broker role.

“You are introducing plan designs that are requiring that employee to be much more engaged in the process” of selecting and using the benefit plan, Mr. Crawford said. “That discussion is becoming more complex on a day-to-day basis.”

“The broker, as we strive to be relevant to our clients, has moved from just being a product expert and delivering a quality product ... (to) you being the product yourself,” said Jim O’Connor, Manasquan, New Jersey-based president of employee benefits at CBIZ Inc., which has its own platform that integrates benefits consulting and human resources processes.

Brokers are acting as benefits administrators, compliance advisers, communication experts and sometimes even outsourced HR departments, he said.

Importantly, brokers have also taken a leading role in helping employers to “bend” the health



“There’s a transition from brokers really being focused strictly on the employee benefits arena and everything around helping employers secure benefit rates and best plan designs for employees, and it’s getting much more into everything around supporting the human resources team.”

Adam Bruckman,
Digital Insurance Inc.

care cost trend, Mr. O’Connor said.

“This is where the broker has to evolve his or her knowledge (to) be an expert in the provider side of the equation: What’s going on in the world of doctors and hospitals and how are they changing in the equation of benefits?” he said, pointing to accountable care organizations and high-performance physician networks.

Because spending on all health plan types and prescription drugs has risen steadily, cost savings won’t come from “shopping for better rates and finding a network that has a huge difference in the amount of provider discounts they provide,” said Dan Gowen, Chicago-based senior vice president and national employee benefits practice leader with Wells Fargo Insurance Services USA Inc.

Instead, brokers “need to be making sure that we’re spending a lot of time with our clients, understanding the risks in their population, how to keep the healthy (people) healthy, and how to try to keep those that are in the chronic

condition stages from moving into more acute types conditions. The more that you can balance that out the better you are going to be from a total cost perspective on a year-over-year basis.”

“We are spending a tremendous amount of time on transparency and cost control, especially around pharmacy strategies, given the explosion in cost relative to pharmacy and specialty drugs,” said Mike Barone, San Diego-based president of employee benefits at Hub International Ltd. “Brokers who have an ability to understand the space and propose strategies to their clients to reduce cost and improve outcomes are going to have a unique competitive advantage relative to those who don’t.”

While brokers’ roles have expanded, their commissions haven’t.

“You are working with potentially the same dollar, but you’ve got more that you are trying to do to meet the needs of our clients,” Digital’s Mr. Bruckman said.

Part of the reason commissions

haven’t grown is health care costs make it difficult for employers to spend their money elsewhere, said Jennifer Walsh, San Francisco-based senior vice president and national employee benefits business leader at Woodruff-Sawyer & Co.

Competition also is keeping commissions down. “I have more competitors today than I had five years ago,” she said.

On the plus side, some sources said they are making more money in fees.

“We’re seeing some movement away from commissions and into fees,” said Mr. Barone. “What we’re seeing in the marketplace are several larger consulting firms take their commissions down a little bit, but build them up significantly on the technology side and benefits administration side.”

“So in aggregate, especially when larger and mid-market clients are buying technology, they’re actually paying a lot more than they ever have,” Mr. Barone said.

“What I’d like to see is us stop annoying the customer. We ask them lots of ridiculous questions that we already know the answer to because it’s out there in the digital space.”

Brian Duperreault,
Hamilton Insurance Group Ltd.

rate insurance placements are not made through Asia for a very simple reason — we are still missing the right level of expertise and talent to make it happen,” he said.

Saurabh Verma, chief insurance officer at Reliance Industries Ltd. in Mumbai, agreed that complex risks often are not placed in local

markets, despite ample capacity.

“Everybody goes to London first. The moment the risk gets complicated or becomes a large risk, the signing authority doesn’t rest in this region,” he said.

Insurers at the conference also agreed that customer service needs to improve.

“What I’d like to see is us stop annoying the customer. We ask them lots of ridiculous questions that we already know the answer to because it’s out there in the digital space,” said Brian Duperreault, chairman and CEO of Hamilton Insurance Group Ltd. in Bermuda.

By leveraging the data, insurers can reduce the expense of underwriting risks, he said.

For example, there is a record of policyholders’ calls to emergency services, such as 911 calls, Mr. Duperreault said. “It’s all out

there, so why are asking them? We’ve got to take the ridiculous amount of expense that we have in our business out.”

Brokers, too, should change their approach to focus less on collecting data, because it is not their core strength, he said. “Advise the customer; that’s what you should be getting paid for, not this mindless work.”

Insurers have the opportunity to make much better use of data, but it will require a change in mindset, said Chris Wei, executive chairman of Aviva Asia and global chairman of Aviva Digital, units of London-based insurer Aviva P.L.C.

For hundreds of years, insurers have made money by “tweaking pricing” in the belief that they know more about their business than anyone else, he said.

“We’ve got to rethink that funda-

Continued from page 4

who shot a suspect who fled police after acting suspiciously in a convenience store, Ms. Capek said video from two police cars was crucial in supporting the police officer.

“During the investigation, they realized there was another cop car and he was stopped at a different angle. Once they viewed that second camera angle, they saw what that person was doing. That individual wasn’t just stopped. He stopped to turn, he had his hand in his pocket, it was coming back out.”

Videos taken by police and individuals have factored into many recent cases of alleged excessive force by police.

“People have to realize that some of this public video that you see is very limiting and it isn’t the whole story,” she said.

Stratford, Connecticut, Police Chief Patrick Ridenhour said it’s important to stay in contact with local media and make statements quickly following a controversial incident, such as police shooting a suspect.

But the police chief had some reservations about several police departments’ moves to equip officers with body cameras.

“There are some types of body cameras that will give you a huge view of everything,” he said. “But that doesn’t necessarily mean that’s what the officer saw during the course of the incident. The thing with body cameras is that it’s going to give some idea of what happened, but body cameras can also make people very impersonal. You have this body camera on and now you go back to the 1968 ‘Dragnet’ days of, ‘Just the facts, ma’am, just the facts.’ In law enforcement, you want your officers to be able to positively engage with people.”

Continued from page 4

is not seen as a very efficient process or sufficiently agile to respond to our needs,” he said of insurers.

For example, insurers often gather data from their policyholders only once a year, and the information is quickly out of date, Mr. Baron said.

However, he said, “The burden is not just on your shoulders. It is also on ours as risk professionals to make it happen in an efficient manner.”

Inefficiencies are compounded by the lack of expertise among insurers in the Asia-Pacific region, Mr. Baron said.

“The vast majority of our corpo-

mentally, and I think the industry is way behind in realizing that there’s a lot more data out there,” Mr. Wei said.

David Fried, CEO of emerging markets at Sydney-based insurer QBE Insurance Group Ltd., agreed that making better use of data can help insurers transform their business. For example, QBE writes third-party auto insurance in Columbia through thousands of agency outlets, he said.

“As you can imagine, there are fraud issues, other claims management issues. We were able to put this into our center of excellence for data and analyze the data and understand the trends as they are developing, so we are no longer reactive but proactive. We are able then to price product, shut locations if necessary and remediate as required,” Mr. Fried said.

CLASS

Continued from page 3

ruled at all on the subject.

The 7th Circuit was the first federal appeals court to essentially say the NLRB was correct in its analysis, said Bennet D. Alsher, a partner at Ford & Harrison L.L.P. in Atlanta.

"This is a huge issue," Mr. Alsher said. Many employers draft arbitration agreements that waive the right to bring class actions "because they prevent these kinds of catastrophic class actions from being filed."

"There are many cases percolating" on this issue before the NLRB and appeals courts, Mr. Alsher said.

As matters stand, the ruling means there is a different law in the 7th Circuit than elsewhere, said Andrew Volin, a member of law firm Sherman & Howard L.L.C. in Denver. This "makes it much more difficult for national companies to have uniform employment policies" and will create confusion.

"It's going to make it more problematic for employers that want to continue to maintain these programs. It puts a cloud on them," said Steven M. Swirsky, a member of Epstein Becker & Green P.C. in New York.

All this makes it likely the Supreme Court will consider the issue, experts say.

"We've known for some time the Supreme Court is going to have to rule on this issue at some point, and this case just reinforces that conclusion," said Ron Chapman Jr., a shareholder at Ogletree, Deakins, Nash, Smoak & Stewart P.C. in Dallas.

"We've already had the dichotomy of the NLRB taking one position and the Court of Appeals uniformly rejecting it, so that the dichotomy was going to have to be resolved by the Supreme Court. Now, we have the additional factor of a

circuit split, which reinforces the chance for the Supreme Court to clarify the issue," Mr. Chapman said.

Several observers are optimistic the Supreme Court would rule in favor of permitting the waivers.

There are plenty of reasons to believe the court will say, "We're going to apply our well-settled principals upholding the value and importance of arbitration," said Howard M. Bloom, a principal at Jackson Lewis P.C. in Boston.

At the same time, the court's makeup of eight justices creates "even more uncertainty," he said.

In its 2011 ruling in *AT&T Mobility*

L.L.C. v. Vincent and Liza Concepcion, the high court said an arbitration agreement may contain a class action waiver.

And in 2013, the court held in *American Express Co. et al. v. Italian Colors Restaurant* that federal arbitration law does not permit courts to invalidate contractual waivers of class arbitration.

Experts say another significant ruling on the issue was the ruling by the 5th U.S. Circuit Court of Appeals in New Orleans in *D.R. Horton Inc. v. National Labor Relations Board*, which overturned an NLRB ruling that held the Fort Worth, Texas-based home builder's arbitration agreement violated the NLRA.

COURT RULES ON SIDE OF EMPLOYEES IN COLLECTIVE REMEDIES CASE

On April 2, 2014, Epic Systems Corp. sent an email to some employees that contained an arbitration agreement mandating that wage-and-hour claims be brought only through individual arbitration and waiving employees' right to participate in class actions, according to the 7th U.S. Circuit Court of Appeals ruling in *Jacob Lewis v. Epic Systems Corp.*

"Epic gave employees no option to decide if they wanted to keep their jobs," the three-member appeals court panel ruled unanimously in late May.

One employee, technical writer Jacob Lewis, initially signed the agreement, but later had a dispute with Epic and sued the company federal court, alleging the health care software firm violated the Fair Labor Standards Act by misclassifying him and fellow workers and depriving them of overtime pay.

When Epic moved to dismiss Mr.

Lewis' claim and compel individual arbitration, he responded that the arbitration clause violated the National Labor Relations Act because it interfered with employees' rights to engage in concerted activities and was unenforceable. The federal court agreed and denied Epic's motion, which the Verona, Wisconsin-based firm appealed.

But the appeals court upheld the lower court. The National Labor Relations Board has interpreted the NLRA "to prohibit employers from making agreements with individual employees barring access to class or collective remedies," and Epic's arbitration provision impinges on rights provided by the NLRA, the appeals court ruled.

The attorney for Epic could not be reached for comment on any plans to appeal the ruling to the U.S. Supreme Court.

By Judy Greenwald

VIOLENCE

Continued from page 3

While there is no current workplace violence prevention standard, OSHA has cited employers for hazards found during inspections — including violence in health care facilities — under the Occupational Safety and Health Act's general duty clause.

The agency increased its workplace violence inspections of health care employers from 11 in 2010 to 86 in 2014 and issued general duty clause citations in about 5% of cases, according to the GAO study. However, the GAO suggested OSHA consider additional action, including whether a standard is needed.

"In the past, OSHA really hasn't had a ton of enforcement behind it when it comes to this exposure because there's no specific regulation on workplace violence," said David Barry, national technical director for casualty risk control at Willis Towers Watson P.L.C. in Overland Park, Kansas. "Unfortunately, I have seen or read about past incidents where somebody has been murdered because of a workplace violence incident in the health care field and the citations have been as little as \$10,000."

OSHA published voluntary health care

employer guidelines in 1996 and updated them in 2014, but specific requirements will be critical, he said.

"It needs to be clearly defined and have what the expectations are for the employer," he said.

In California, stakeholders have high praise for the draft regulation being pro-



mulgated by the Division of Occupational Safety and Health and urge OSHA to adopt elements of the state agency's proposal.

California's draft regulation is "outstanding" and includes requirements such as performing a physical risk assessment, developing a prevention plan and training employees on the plan,

and requirements for acute care hospitals to submit incident reports to a central repository, said Joann Sullivan, San Jose, California-based senior vice president and managing consultant at Marsh Risk Consulting's workforce strategies practice.

"I think (a federal standard) is probably going to look similar to what California did," she said.

California's plan, to be voted on later this summer, covers every health care worker in every kind of facility, service category or operation and has a strong training component, said Katherine Hughes, a registered nurse, member of the Service Employees International Union Local 121RN and a co-petitioner of the effort that launched the state's rule-making process.

It also calls for employee involvement at each step, which is important because employees have the best knowledge and understanding of the hazards in specific situations such as layout of emergency rooms or employees working in isolated areas, she said.

"We want what we're doing in California to be the template and the driving force behind, hopefully, getting something similar to this done nationally because I don't think people realize the prevalence of workplace violence in health care," Ms. Hughes said.

SIFI

Continued from page 3

Financial CHOICE Act, a Republican plan to replace the Dodd-Frank Wall Street Reform and Consumer Protection Act. CHOICE stands for Creating Hope and Opportunity for Investors, Consumers and Entrepreneurs.

Rep. Hensarling took aim at the Financial Stability Oversight Council, which has the power to designate financial institutions as SIFIs that are subject to heightened capital requirements and reporting rules. Two insurers, American International Group Inc. and Prudential Financial Inc., carry the designation. A third, MetLife Inc., won its court challenge of the designation, but the government is appealing.

"Much criticism has centered on FSOC's lack of transparency," Rep. Hensarling said in a statement. "But more troubling is its vast powers under a vague mandate."

"Our Republican reform plan repeals FSOC's authority to designate so-called SIFIs going forward and retroactively repeals FSOC's previous SIFI designations," he said.

The National Association of Mutual Insurance Companies hailed the proposal.

"I think Dodd-Frank tried to rein in what it saw as an out-of-control Wall Street, but in the process may have created an out-of-control Washington bureaucracy," said Jimi Grande, senior vice president in NAMIC's Washington office. "I believe the Financial CHOICE Act is an attempt to restore the proper balance to our financial regulatory system. Retroactively repealing the authority of FSOC to designate firms as SIFIs would be one of the most important objectives to restore that balance."

"Generally, we've always felt that insurance companies were not systemically risky in the first place, and never thought it should apply to insurance companies," said Wes McClelland, vice president of federal affairs at the American Insurance Association in Washington. Pointing out that Rep. Hensarling has consistently criticized Dodd-Frank, Mr. McClelland also noted that nothing in the Hensarling proposal "directly addresses insurance companies or insurance issues."

"We're definitely interested in seeing the (legislative) language," he said. "It never hurts to address any issue," but he also said that given the congressional schedule, moving a bill this large will probably run into calendar problems.

President Barack Obama has threatened in the past to veto any legislation that made material changes to Dodd-Frank. Presumptive Democratic presidential nominee Hillary Clinton supports Dodd-Frank, while presumptive Republican presidential nominee Donald Trump has said he would dismantle the law.

"There are problems with the way that Treasury has been handling the SIFI designation, but that shouldn't be any reason to get rid of the SIFI concept," said Lawrence Mirel, a former commissioner of insurance, securities and banking at the District of Columbia and now vice president-director of government affairs for insurance consultant The Goldwater Taplin Group in Washington. "It is at least conceivable that an organization that includes insurers could have a negative impact on the financial system, which is the whole point."

"You have to be able to regulate an entire group or enterprise," said William Goddard, a partner in the Hartford, Connecticut, office of Day Pitney L.L.P. who advises clients on insurance regulation. He cited AIG as an example. "Who was watching the whole AIG enterprise (before its near-collapse in 2008)? The Office of Thrift Supervision."

"Somebody's got to regulate for groups and enterprises, and somebody's got to regulate for systemic interaction," said Mr. Goddard. "Somebody's got to look out for the health of the financial system as a whole, and somebody's got to look at these large financial enterprises holistically."

VOTE

Continued from page 1

ing at BT Group P.L.C. “Dealing with the short-term chaos it would create would be an additional problem on top of that.”

“As a corporation, we have a neutral position,” said Nicolas Aubert, head of Great Britain at Willis Towers Watson P.L.C. in London. But there could be issues for clients of the insurance brokerage should the U.K. exit the E.U., he said.



Last week, Peter Hancock, CEO of American International Group Inc., said AIG would consider moving its London hub elsewhere in the E.U. should Britain exit, Bloomberg reported.

Clients and insurers, including Lloyd’s of London, could be subject to short-term financial and economic volatility, he said.

Financial market volatility could hurt insurers’ balance sheets, which could affect buyers’ counterparty credit risks if insurers are downgraded, said Charles Beresford-Davies, U.K. managing director and risk management practice leader at Marsh Ltd. in London.

Leaving the E.U. also could put mergers and acquisitions on hold, he said.

Companies discussing a deal with a European counterpart face “myriad risks” should the U.K. exit, such as uncertainty about future regulation, and “risk managers need to be plugged into that,” Mr. Beresford-Davies said.

Even before the vote, “we have seen clients holding off on decisions on M&A” until after the referendum, he said.

Hold on passporting?

A U.K. departure would have broad implications for “clients, service providers and insurers,” Mr. Beresford-Davies said.

For one, what is known as passporting allows entities regulated in one E.U. member state to sell products throughout the European Union via that entity.

Passporting also is used in putting together global insurance programs and makes collecting claims simpler, he said.

But there is no guarantee that European regulators would allow U.K. companies to continue to use passporting after a U.K. exit., said Richard Pryce, CEO of the European operations at QBE Insurance Group Ltd. in London.

In addition, said Mr. Beresford-Davies, any changes to the ability of labor to freely move between Britain and E.U. members states could create talent and personnel challenges.

Likewise, limits on moving goods and services between Britain and E.U. member states could create risk management issues such as

LONDON MARKET DIVIDED ON EFFECTS OF E.U. EXIT

A U.K. exit from the European Union would pose “a grave threat” to London insurance market business and jobs, according to a position paper by the International Underwriting Association, Lloyd’s of London and Fidelis Underwriting Ltd.

But two high-profile insurance leaders have added their names to the Vote Leave campaign that supports a British exit.

According to the paper, there is a “real and obvious concern” that a “material number” of the 34,000 people directly employed in London’s insurance sector could be at risk if the U.K. leaves the E.U., reducing the U.K.’s ability to trade and potentially prompting some companies to move operations elsewhere.

The paper also states that E.U. membership grants the London market a single point of access to a “vast community” of businesses and individuals in the European Union “as well as a single regulatory regime and the ability to attract the best talent from across Europe.”

“It allows insurance companies from elsewhere in Europe to invest in the London market freely, and they have done so to the tune of billions of pounds,” the paper said.

On the regulatory issue, London market companies likely would need supervision equivalent to that of the E.U. Solvency II risk-based capital oversight — “so no scope would exist for our own regulator to ease its requirements,” according to the paper. “Further, London market companies would almost certainly be required to lodge large sums of money in E.U. member countries and make reports to local insurance

supervisors.”

According to an IUA member survey, “at least six firms would reconsider the legal status of their London operations in the event of a leave vote, though there may be others,” IUA CEO Dave Matcham said in the paper.

In a London briefing last week, American International Group Inc. CEO Peter Hancock said the New York-based insurer would consider moving its London office elsewhere should Britain leave the E.U., Bloomberg reported.

But not all London market insurance leaders support the “remain” campaign.

Dominic Burke, group CEO of London-based brokerage Jardine Lloyd Thompson Group P.L.C., and Robert Hiscox, life president of major Lloyd’s insurer Hiscox Ltd., recently signed a letter on behalf of the Vote Leave campaign.



Mr. Burke

The letter to the public with more than 100 signatories said problems in the Eurozone — the European currency union of which the United Kingdom is not a member — “may prove insurmountable.”

For example, a 2012 economic slump in Greece plunged the eurozone into an economic crisis and resulted in a bailout for Greece; similar problems could prompt a banking crisis or government debt crisis across the region, experts said.

The letter also said that the E.U. may not provide an environment for innovation.

“Specifically, we worry that the E.U.’s approach to regulation now poses a genuine threat to our financial services industry and to the competitiveness of the City of London,” according to the letter.

By Sarah Veysey



regulatory turmoil, said Mr. Aubert.

“For the Lloyd’s market, Brexit would be a disaster,” said Paul Jar-

dine, executive vice president and chief experience officer at XL Catlin and deputy chair of Lloyd’s of London.

While the ability to passport could be replicated, it would “take time and be very expensive,” he said.

On the other hand, Mark Drummond Brady, deputy CEO of Jardine Lloyd Thompson Group P.L.C., said he believes there would be time to adjust to a U.K. exit and that the impact would be minimal on brokerages.

If Britain votes to leave the E.U., there would be a roughly two-year transition period as it extricates itself from E.U. rules and oversight, sources said.

FLORIDA

Continued from page 1

subsequently proposed a 15% statewide average rate increase. A 1.8% increase stemming from a new health care provider reimbursement manual would bring the total to 17.1%, or \$623 million, according to the Boca Raton, Florida-based rating and research organization. Now NCCI is evaluating the ruling in *Westphal* “and will provide further details upon submission of any amended rate filing to the Florida Office of Insurance Regulation,” a spokesman said in an email.

“It’s hard to speculate as to what that figure might be, but I think it’s going to be much lower than the 15%” rate increase related to *Castellanos*, said Trey Gillespie, Austin, Texas-based senior workers compensation director at the Property Casualty Insurers Association of America.

Carolyn Johnson, director of business economic development and innovation at the Florida Chamber of Commerce in Tallahassee, agreed that *Westphal* won’t have as big of an effect on Florida businesses since “it only really impacts the most severely injured employees.”

Bradley Westphal, a firefighter and paramedic for the city of St. Petersburg, sustained severe occupational injuries to his back and knee in 2009, court records show. Not having reached maximum medical improvement, he sought permanent total disability benefits after exhausting 104 weeks of temporary total disability, but a Florida judge of compensation claims denied his request, saying he fell into a “statutory gap.”

In September 2013 in an 8-3 en banc ruling, Florida’s 1st District Court of Appeal in Tallahassee said injured workers should be able to receive permanent total disability benefits if they remain totally disabled at the end of the 104-week limit on temporary total disability. Despite the appellate court “valiantly attempt(ing) to save the statute from unconstitutionality,” the Florida Supreme Court ruled 5-2 earlier this month that the limit is unconstitutional and granted Mr. Westphal 260 weeks of temporary total disability benefits.

“The decision, in some ways, begs for additional clarification” since it “potentially created another statutory gap — albeit farther down the road than what would occur in the 104-week limitation period,” Mr. Gillespie said.

Injured workers in Florida were entitled to 350 weeks of temporary total disability until the legislature reduced it to 260 in 1990 and 104 in 1994.

Considering that most workers comp claims are medical only, meaning they don’t involve lost time, most injured workers don’t reach 104 weeks of temporary

total disability benefits, said Tammy Perdue, general counsel of Tallahassee-based business association Associated Industries of Florida.

Citing NCCI data, Ms. Perdue said the average number of days away from work was 57 from 2004 to 2009 and 67 from 2001 to 2003, far less than the five years of temporary total disability benefits the state Supreme Court has deemed necessary, she said.

The 260-week duration will cause employers to evaluate their safety programs and how they manage severe claims, said Tom Ryan, workers compensation market research leader of Marsh L.L.C.’s Workers’ Compensation Center of Excellence in New York. The additional 156 weeks “will create a lot of increased awareness and, hopefully, new practices will emerge.”

But any midyear workers comp rate increase could take a toll, particularly on small businesses, which are responsible for two of every three jobs in Florida, said Ms. Johnson of the Florida Chamber of Commerce.

“Small business might not have even been aware that there were

“The decision, in some ways, begs for additional clarification” since it “potentially created another statutory gap — albeit farther down the road than what would occur in the 104-week limitation period.”

Trey Gillespie,
Property Casualty Insurers
Association of America

these court cases out there and, all of a sudden, they might have a, let’s say, 20% rate increase,” Ms. Johnson said. “It’s really going to impact their bottom line. It could mean the difference in hiring a new employee or offering raises, offering bonuses. It just depends on the small business, if they’re barely getting by or if they have money in reserves.”

Some attorneys have said the decision in *Castellanos* to eliminate statutory caps on claimant attorney fees could lead attorneys to “convince people ... (to) try to extend their maximum medical improvement to continue to receive the benefits,” Ms. Johnson said.

Litigating more claims or keeping them open longer would increase attorney fees.

Lawyers for Mr. Castellanos, who suffered cuts on his head, neck and right shoulder during a 2009 altercation with a Next Door Co. co-worker, secured \$822.70 in workers comp benefits, but received only \$1.53 per hour for 107.2 hours of legal work, according to court records.

ORLANDO

Continued from page 1

ly, according to reports.

Since the June 12 attack, “my phone’s been ringing off the hook,” said Chris McGoey, president of Murrieta, California-based McGoey Security Consulting. “Every business will be talking about this. Anyplace open to the public is going to have discussions and meetings.”

Mr. McGoey noted that Pulse had stronger security measures than many such venues, including an off-duty police officer stationed outside the club.

“Pulse took steps beyond what the normal club would take by employing that officer to be outside. So that’s a good thing. From the liability standpoint, that’s an argument in your favor, that you ... made a business decision to hire this off-duty officer just in the exercise of extra caution,” he said.

“People are going to start seeing a heightened sense of security” overall, said Brad Moody, executive vice president of operations at Lowers & Associates, a risk management firm in Purcellville, Virginia.

Mr. Moody said nightclub owners have a challenge in that they want patrons to be safe, but they also want them to be comfortable.

“You don’t want them to feel they’re not safe by going in because there’s metal detectors or turnstiles,” he said. “There’s something psychological that happens when someone needs to enter a location and they feel like they’re being evaluated or looked at

differently.” People would think, “I don’t look like a thug, so why am I being treated like a thug?” And that’s the problem.”

Harry Rhulen, CEO and co-founder of Firestorm Solutions L.L.C., an Atlanta-based crisis management firm, said the substantial increase in mass shootings in the past 10 years means “there’s an expectation that companies be at least aware of their workplace violence exposure and are doing what they can to mitigate or eliminate as much of



AP PHOTOS

Flags fly at half-staff in Washington to honor the victims of the Pulse nightclub shootings in Orlando, Florida.

that exposure as possible.”

“So that’s where the liability ultimately is going to come from,” said Mr. Rhulen. “A nightclub is a workplace for the bouncer, for the people working at the bar, and those are usually the people who get injured first. But if you look historically, nightclubs around the world have been the scenes of shootings and terrorism on a fairly frequent basis. So

it is not uncommon to see violence in nightclubs.”

For example, the 2002 bombings at a Bali nightclub killed more than 200 people, while a 2001 suicide bombing outside a disco in Tel Aviv, Israel, killed more than 20 people.

Gordon Woo, London-based catastrophe-risk expert at Risk Management Solutions Inc., said in a statement that lone-wolf attacks “have a comparatively small chance of being detected and stopped by counterterrorist agencies monitoring communications. That said, while terrorist attacks seem random, there are patterns, which mean that the risk can be modeled.”

While the threat can be reduced, “such crimes will always happen,” Mr. Woo said in an email. “Draconian surveillance would be needed to suppress the lone-wolf threat significantly. From an insurance perspective, their impact is minimal.”

Mr. Woo added that today’s terrorist seems to be shifting to off-the-shelf military weapons, which are more reliable than improvised explosive devices.

Robert Pape, director of the University of Chicago Project on Security & Terrorism, said the Islamic State itself is encouraging followers to use assault rifles because “they fire a large number of shots in a small period of time.”

“It’s just that basic,” Mr. Pape said. “There’s nothing more complicated. They’re saying they’re readily available, go buy them, practice, and go do it.”

But he also said companies and institutions are investing more in efforts to reduce risks for so-called “soft targets,” generally public places where large groups of people

gather.

“There is no 100% security against anything. And the way security works is with people layering kinds of security, and that’s also true with soft targets,” he said. “What we’re seeing here is a pattern of trying to kill large numbers of people. And you can’t defend every party and every place there’ll be 20 or 30 people; however, it is going to make sense to invest some more in particularly large places.”

Roughly 300 people were inside Pulse at the time of the shooting, just before the nightclub was to close.

Mr. Pape added that soft targets can be protected, but that “it costs money, and businesses simply don’t want to invest the money here unless it’s necessary — but it’s becoming necessary.”

He said the Islamic State has stepped up attacks on the West as it has lost ground to the U.S. and other countries in Iraq and Syria. “They’re not operating out of strength,” he said. “They’re operating out of desperation, and they’re desperate like a cornered animal.”

But none of the experts expect people to entirely avoid nightclubs or other publicly accessible places.

“In order to get out of bed in the morning,” Mr. Rhulen said, “we all have to exercise a certain amount of denial. We have to believe that nothing is going to go wrong and nothing is going to happen to us. We’ve become desensitized because we see this kind of thing every day on the news, and as long as it didn’t happen to us, as long as it’s not our crisis, it really becomes part of the general media buzz that we’ve become immune to.”

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WOMEN
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AP PHOTOS

Kathleen Kane (left) and her twin sister Ellen Granahan

Dispute casts pall on sister act

The classic movie “White Christmas” features an Irving Berlin song that goes, “Sister, sisters, there never were such devoted sisters; those who’ve seen us, know that not a thing can come between us.”

It’s a fair bet, however, that the song is not being sung these days in the households of either Pennsylvania Attorney General Kathleen Kane, or her twin sister, Ellen Granahan, the state’s chief deputy attorney general.

That’s because Ms. Granahan has filed a wage and gender discrimination complaint with the U.S. Equal Employment Opportunity Commission against the Office of Attorney General, according to news reports. The complaint, which was filed in December, was publicized this month.

According to the reports, Ms. Granahan who has worked in the department since 2008, about five years before Ms. Kane was elected attorney general, says her \$88,509 annual salary is 17% to 37% lower than that paid to male and female agency lawyers with similar titles.

Neither Ms. Kane nor Ms. Granahan is commenting on the issue, reports confirm.

Careful with that axe, Eugene

A bar in Halifax, Nova Scotia, might be an insurance broker’s dream but an underwriter’s nightmare.

Embracing the “lumberjack lifestyle,” the Canadian watering hole offers a unique activity for blowing off steam: axe throwing.



Co-owner Darren Hudson, a fifth-generation sawmill operator and lumberjack sports champ, told the Canadian Broadcasting Corp. that

“Axe throwing has always traditionally been a way to unwind. It’s a way of celebrating one’s hard work in the forest industry.”

The venue offers patrons hatchets or double-edged axes to hurl at thick wooden bull’s-eye targets. They book groups, parties and even host axe-throwing leagues.

“We’re an indoor, axe-throwing facility and the Timber Lounge, where people can enjoy tastes of Nova Scotia food, sample craft beers from around Nova Scotia as well,” Mr. Hudson told the CBC.

We can add axe-throwing to curling, poutine and winter as some of the special risks Canadians face.

SITE OF CELEBRITY WEDDINGS SWEEPS INSURER UNIT OFF FEET



STEPHEN RICHARDS

The newly purchased Asticus building looms behind London’s historic Caxton Hall. The Asticus is part of Caxton Hall’s redevelopment.

The real estate investment market in London has been jittery ahead of this month’s referendum on whether the United Kingdom should leave the European Union. But Axa Investment Managers Real Assets, a unit of Paris-based insurer Axa S.A., has taken a punt and splashed out on a historic office building for a cool £80 million (\$117.0 million) on behalf of one of its funds.

The 57,000-square-foot Asticus building originally was redeveloped in 2007 as part of historic Caxton Hall. Built in 1878 as Westminster Town Hall, the original had played host to A-list weddings of Elizabeth Taylor and Joan Collins, among others, according to the London Evening Standard.

Huw Stephens, U.K. head of transactions at Axa IM Real assets, said the purchase reflected the company’s “confidence in London’s long-term attraction as a leading business center,” the Standard reported.

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Fake policies land teen behind bars

If you’re planning to write fraudulent insurance policies, it might be wise not to pretend you’re a big insurer.

A 19-year-old British man has been sentenced to a year in jail for fraud by false representation after being caught selling fake car insurance allegedly branded as Allianz policies using the U.K.’s free classified website gumtree.com, according to reports.



The troubles started for Azeem Mahmood Hussain of Walsall, England, after police started pulling over drivers with invalid coverage that could not be confirmed by Allianz, reports said. That led to an investigation by the City of London Police’s Insurance Fraud Enforcement Department.

According to the Walsall Advertiser news site, gumtree.com has removed its insurance section to prevent future crimes.

Detective Sgt. Matt Hussey of the Insurance Fraud Enforcement Department told the Advertiser: “Hussain is one of the youngest ever people we’ve dealt with for insurance fraud. This was a crude attempt to make some fast cash from his bedroom.”



Actress Jennifer Lawrence has a microwave mishap in “American Hustle.”

‘Science oven’ complaint nuked

You can’t trust J. Law. Or more precisely, anything Jennifer Lawrence’s ditz character Rosalyn Rosenfeld says in the 2013 film “American Hustle,” according to a California appeals court.

The California Second District Court of Appeal, Division Eight, in Los Angeles recently rejected a \$1 million lawsuit filed by Paul Brodeur, a former staff writer at the New Yorker magazine who objected to a scene in the Oscar-nominated film in which Ms. Lawrence’s character claims that microwaves take the nutrition out of food and attributes that information to an article by Mr. Brodeur. He accused the movie’s producers and distributors of libeling, defaming, slandering and portraying him in a false light because he never made the quoted statement and in misquoting him “suggested to the movie audience that Mr. Brodeur made a scientifically unsupportable statement,” according to legal documents.

The appeals court loss will be costly for Mr. Brodeur, because it directed the trial court to enter a new order granting the motion and awarding the defendants attorney fees and costs.

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MODERATOR:

Scott Godes | Insurance Recovery Partner and Co-Chair of Data Security and Privacy Practice | Barnes & Thornburg L.L.P.

FEATURING:

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Irene Coffey | Chief Underwriting Officer, Custom Accounts Division | Hartford Steam Boiler Inspection & Insurance Co.

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CRAIN'S Benefits Outlook

Summer 2016

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Value of investment is emerging as a way to measure how well employer health initiatives meet goals



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Benefits and metrics are moving targets

It's a delicate balancing act for companies: Offer enough attractive benefits to lure and retain outstanding employees, but don't break the bank. Cost-shifting, de-risking and other approaches address the latter part of the equation, but it's been difficult to determine how effective these actions are with the return-on-investment tools long used to measure the hard processes of doing business.

Enter value of investment. Still in early adoption, VOI looks at how an investment in human capital — through wellness and other programs — improves employee performance and engagement.

According to Derek Yach, New York-based chief health officer with wellness program provider The Vitality Group Inc., there may not be “a single crisp number” to attach to productivity or health-cost savings. But CEOs know “that (wellness) makes sense in the same way that if you ask any of the companies to give you the ROI on their spending on the Super Bowl ... none of them will be able to give you a crisp figure, but they will tell you that it creates the aura and the vision for the overall company,” Mr. Yach said.

Cost-shifting through the use of voluntary benefits, where the employee picks up most, if not all, of the premium tab, is an increasingly popular way to manage expenses — and benefits providers are seeing administrative changes there.

“Traditionally, you looked at plan design through the eyes of the employer because they (employers) were paying for it,” said Dr. David Guarrera, national clinical director and vice president of the MetLife Inc. unit that handles dental and vision products, the leading voluntary benefits. Now consumers are paying for it, he said, and they want “different things,” such as dental implants, which traditionally were not covered, and white fillings instead of silver.

The effort to corral costs also is giving

rise to second-opinion services, a cheaper alternative to checking diagnoses than a visit to another doctor.

“Everybody agrees that there is a lot of money spent on health care, but there is a lot of money spent on unnecessary procedures,” said Ed Lehman, Los Angeles-based senior vice president at Grand Rounds Inc., which provides second-opinion services for employers. “Second opinions ensure that employees and their families, as patients, get the right care as quickly as possible and as early as possible.”

Still, according to National Business Group on Health data, the utilization rate remains low, though 60% of companies offer the service.

Employee well-being doesn't stop at health, either. Of late, it has extended to retirement finances. To help boost sometimes-meager nest eggs, “a lot more companies are being more aggressive” in setting higher default contributions for employees subject to automatic enrollment in a 401(k) plan, said Rob Austin, director of retirement research at Aon Hewitt. In 2001, more than half of companies automatically enrolled new employees at a default contribution rate of 3%. Last year, nearly a quarter imposed a 6% default rate.

“People need to be saving 15% or 16% of income,” Mr. Austin pointed out, adding that there is no sign employees are being spooked by the higher default rates.

In Europe, pension de-risking is growing with the advent of Solvency II. Capacity-rich insurers are ready, willing and able to help, all the while diversifying their portfolios.

Charlie Finch, a partner in Lane Clark & Peacock L.L.P. and a co-author of its report on the issue released in December, put a dollar figure on that capacity: “We forecast buy-in and buyout capacity will grow to over £15 billion (\$21.75 billion) in 2016.”

This issue tackles these developments and more in the moving target that is employee benefits.



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Going after value in employee health

BY SHELBY LIVINGSTON

Leading employers are evaluating their health and wellness programs based on the value they add to business performance, rather than focusing narrowly on the potential medical costs they could save by having healthier employees.

This shift from return on

investment to what industry experts call “value of investment” illustrates the growing consensus among employers that, when implemented correctly, wellness programs may not only reduce health costs but also boost worker productivity and engagement, reduce absenteeism and help attract and retain employees.

Value of investment asks, “What does the investment in the workforce — the human capital — generate in terms of improved employee performance, reduced employee absence and greater employee engagement, all of which are ultimately tied to overall business performance?” said Dr. Bruce Sherman, Cleveland-

based medical director of population health management with Xerox HR Services.

Though not a widespread concept among employers, forward-thinking companies including American Express Co., Procter & Gamble Co. and General Electric Co. are embracing value of investment to demonstrate the worth of their health and wellness initiatives — especially in the face of critics and reports that claim wellness is a waste of time and money.

Wellness programs can produce health cost savings, experts say, but measuring the savings alone can “limit the understanding of the broader impact that those programs may have,” Dr. Sherman said.

For instance, programs to tackle workers’ financial stress “may not have a direct

impact on health costs,” but the confidence employees gain from them will help alleviate stress and reduce distractions at work, he said.

The growing focus on value of investment may also be due to the difficulty of calculating the ROI of a comprehensive wellness program, which requires complex data analysis that most employers can’t pull off, sources said. Only 46% of employers measure the ROI of their wellness programs, according to a February Willis Towers Watson P.L.C. survey of 487 U.S. employers.

Moreover, said Dr. Sherman, “There are very few conditions in health care where we can actually spend money to save money,” making an ROI even more difficult to come by.

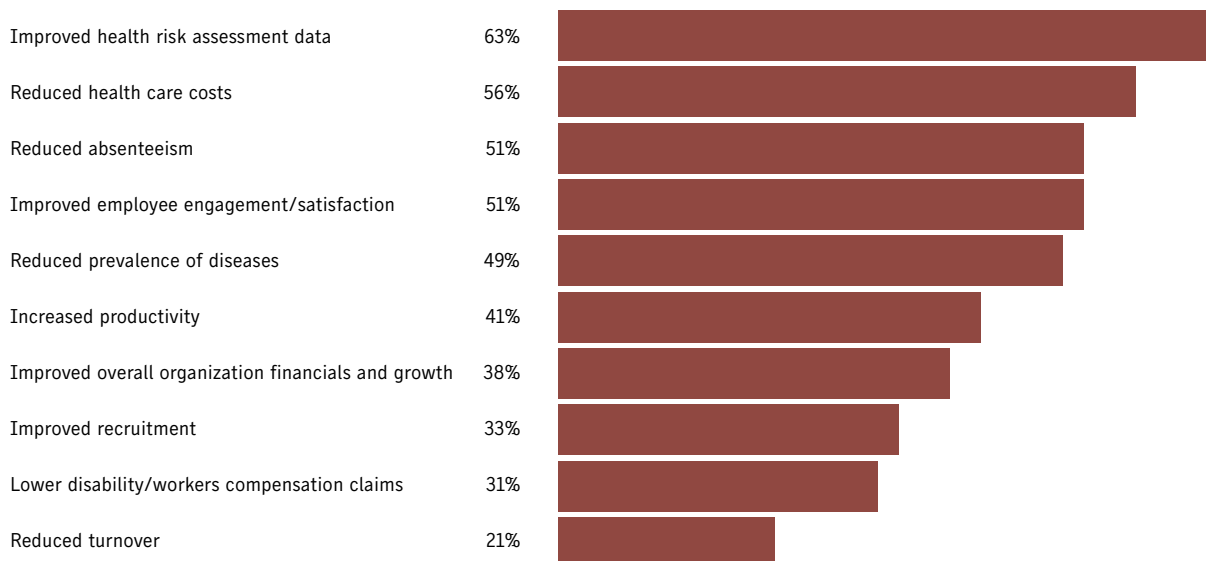
Even so, many executives seem to demand hard num-

bers before giving the green light to wellness programs.

“Leadership sometimes has to be taught that with health and health care costs, there’s not going to be savings in an environment that is indexing at double-digit costs,” said Sandra Morris, former senior manager of U.S. benefits design with Procter & Gamble who is now a consultant at her firm About Quality Benefits Design L.L.C. in Cincinnati. But, “you’re going to have the avoidance of costs” related to future diseases when you help employees stay healthy through workplace programs, she said.

Additionally, employees who work for a company that takes the time to put together a holistic wellness program that caters to all workers’ needs will likely feel that the company cares about

Value of investment (VOI) of wellness efforts*



*Percent of employers seeing positive impact
Source: International Foundation of Employee Benefit Plans

them, which “means a lot to employees, particularly when you are in a competitive hiring environment,” Ms. Morris said. That “employee perception” is something “you can’t put in a number.”

“If you ask a CEO, ‘Why do you think we should have better workplace programs?’ interestingly, the first thing they turn to is not the ROI. It’s not the cost of the program. It’s the fact that they believe it’s an example where a company can show their employees that they truly care about them,” said Derek Yach, New York-based chief health officer with wellness program provider The Vitality Group Inc.

“The standards we often apply to a tiny fraction of the health costs of a company are way beyond what is done on the majority of the costs of the company,” he said.

Though there may be no “single crisp number” to attach to productivity or health cost savings, CEOs

know wellness “makes sense in the same way that if you ask any of the companies to give you the ROI on their spending on the Super Bowl ... none of them will be able to give you a crisp figure, but they will tell you that it creates the aura and the vision for the overall company,” Mr. Yach said.

Still, in a time when health care costs keep growing — total health benefit cost per employee in 2015 rose 3.8% after a 3.9% increase the year before, according to Mercer L.L.C. — numbers do matter. Company executives want to know that their wellness investment is making a difference, giving credence to ROI, sources said.

“It’s actually quite important to look at the value from a financial perspective as well as from other perspectives,” said Ron Goetzel, Bethesda, Maryland-based vice president of consulting and applied research at Truven Health Analytics and

director of the Institute for Health and Productivity Studies at the Johns Hopkins University Bloomberg School of Public Health. But if reducing health costs is an employer’s only objective, “there are a lot quicker ways to save money,” such as raising health plan deductibles and out-of-pocket costs, he said.

What the employer needs to evaluate is whether the amount of money spent on health and wellness initiatives is enough to affect workforce health, he said, adding that most employers spend too little. A good amount to spend on “prevention and health promotion” is “in the neighborhood of \$200 to \$500 per employee per year.”

Employers should be asking, “What does it cost to achieve positive health outcomes?” Mr. Goetzel said. “It’s a different kind of mathematical equation (than ROI) because it’s not cost savings that you are going after, but it’s health improvement.”

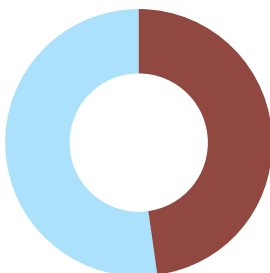
PRIMARY REASON FOR OFFERING WELLNESS INITIATIVES

To control/reduce health-related costs

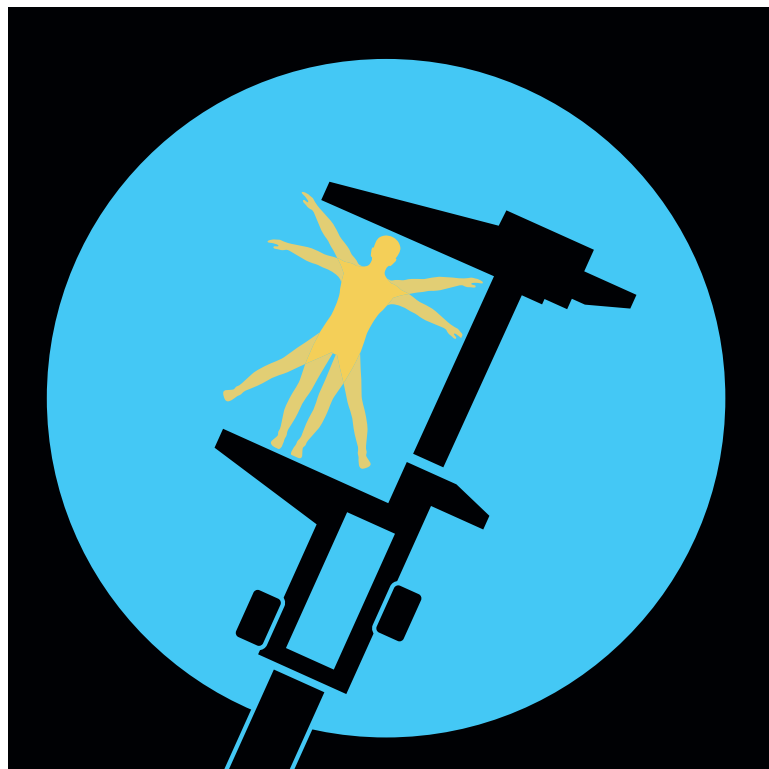
47.9%

To invest in/increase worker health and engagement

52.1%



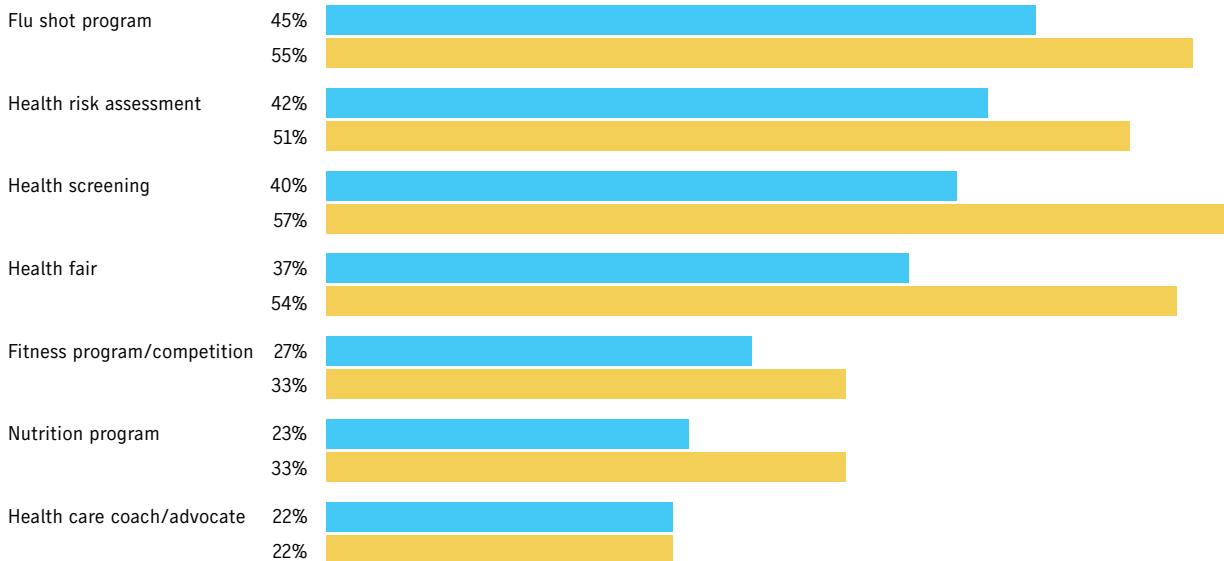
Source: International Foundation of Employee Benefit Plans



Wellness participation rates*

■ No incentive
■ Incentive

INITIATIVE



*Among organizations attaching incentive to specific initiatives
Source: International Foundation of Employee Benefit Plans



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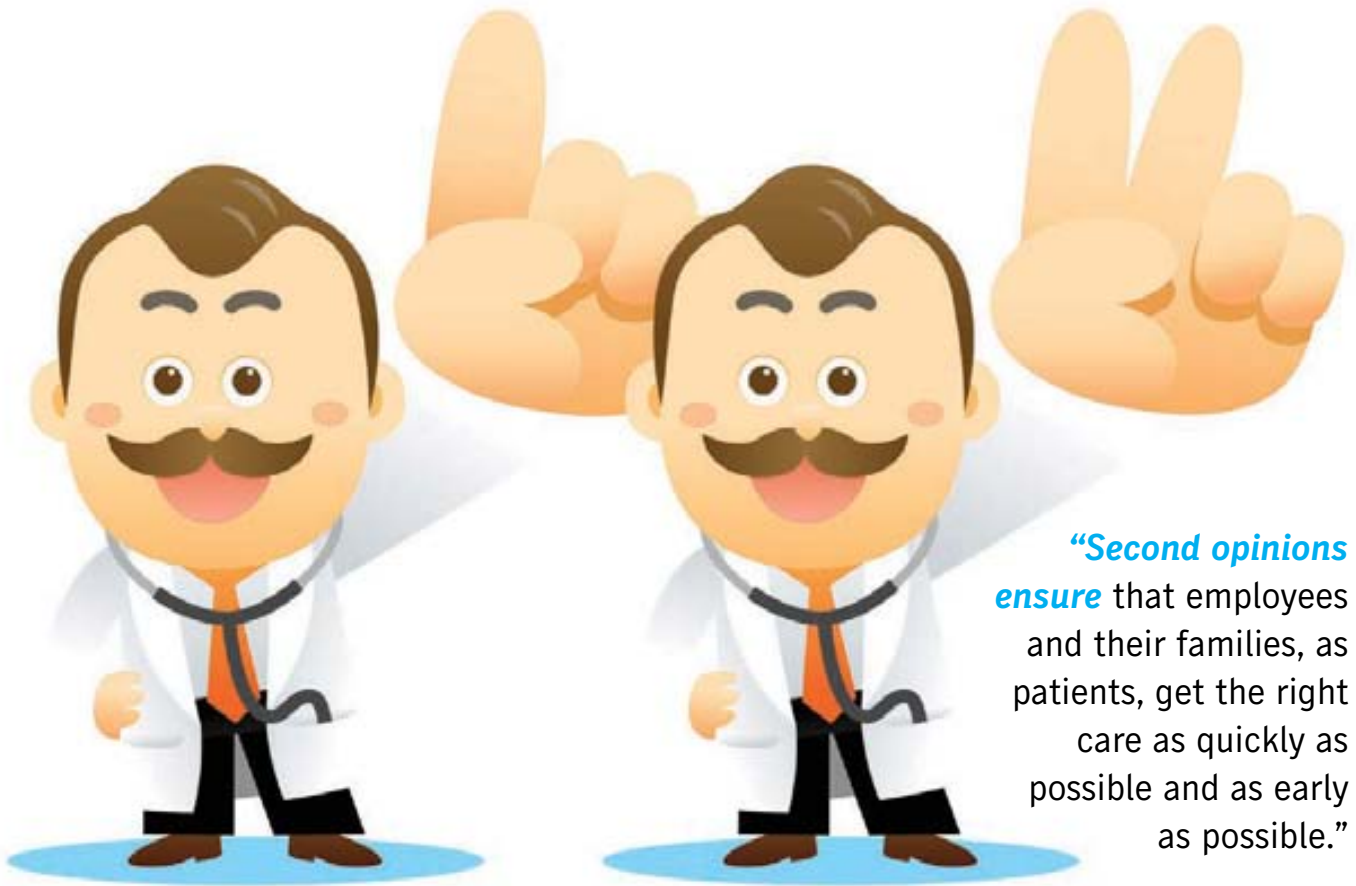
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“Second opinions ensure that employees and their families, as patients, get the right care as quickly as possible and as early as possible.”

Ed Lehman, Grand Rounds Inc.

Second opinions fan out for improved results

BY LOUISE ESOLA

As employers seek ways to save money on medical costs, many are enlisting the second opinions of medical experts nationwide, a relatively new tactic that experts say can lead to immediate savings.

Offering employees the option of a second opinion when it comes to complicated and rare conditions, in addition to everyday health care issues, can save employees from diagnostic errors, unnecessary procedures and more, experts say.

“Everybody agrees that there is a lot of money spent on health care, but there is a lot

of money spent on unnecessary procedures,” said Ed Lehman, Los Angeles-based senior vice president for national accounts client management and channel partnerships at Grand Rounds Inc., which provides a range of second-opinion services for employers. “Second opinions ensure that employees and their families, as patients, get the right care as quickly as possible and as early as possible.”

The Washington-based National Business Group on Health estimates that 60% of employers are offering this service through a variety of vendors. Aon Hewitt found that 58% of 804 employers surveyed plan on adding the

service in the next five years, said Jason Mahler, Houston-based senior vice president of health and benefits for Aon Hewitt.

Typically, the service is tacked on to an employer's benefits offerings and experts say it can cost between \$1.50 to \$8 per enrollee per month, depending on the level of service. To date, there is no hard data on how much this can save.

"I think it's on the rise because employers are interested in anything that will help rein in costs and produce greater outcomes," said Mr. Mahler. "Oftentimes these programs pay for themselves."

Dr. Ronald S. Leopold, Atlanta-based chief medical officer with Lockton Cos. L.L.C., said he likes to steer clients to second-opinion services to ease confusion and reduce the need for often costly procedures and treatments.

"This is a service where a member can call up an expert, independent of their carrier and carrier's network, and have somebody work with them, collect all their medical information, have their information and maybe have a new opinion," said Dr. Leopold.

The service works best for patients with high-cost, high-risk conditions, people with multiple diagnoses and those diagnosed with conditions that have a high level of uncertainty, he said. Shari Davidson, Washington-based vice president of health care costs and delivery for the NBGH, puts it much more broadly: "Anything that has somebody scared."

Mr. Mahler recalls an incident where a client's employee had been sick for five years, and it took a second-opinion service to diagnose and successfully treat the employee for a rare form of blood cancer. "You get these sto-

ries where things are undiagnosed and unsolved for years," he said.

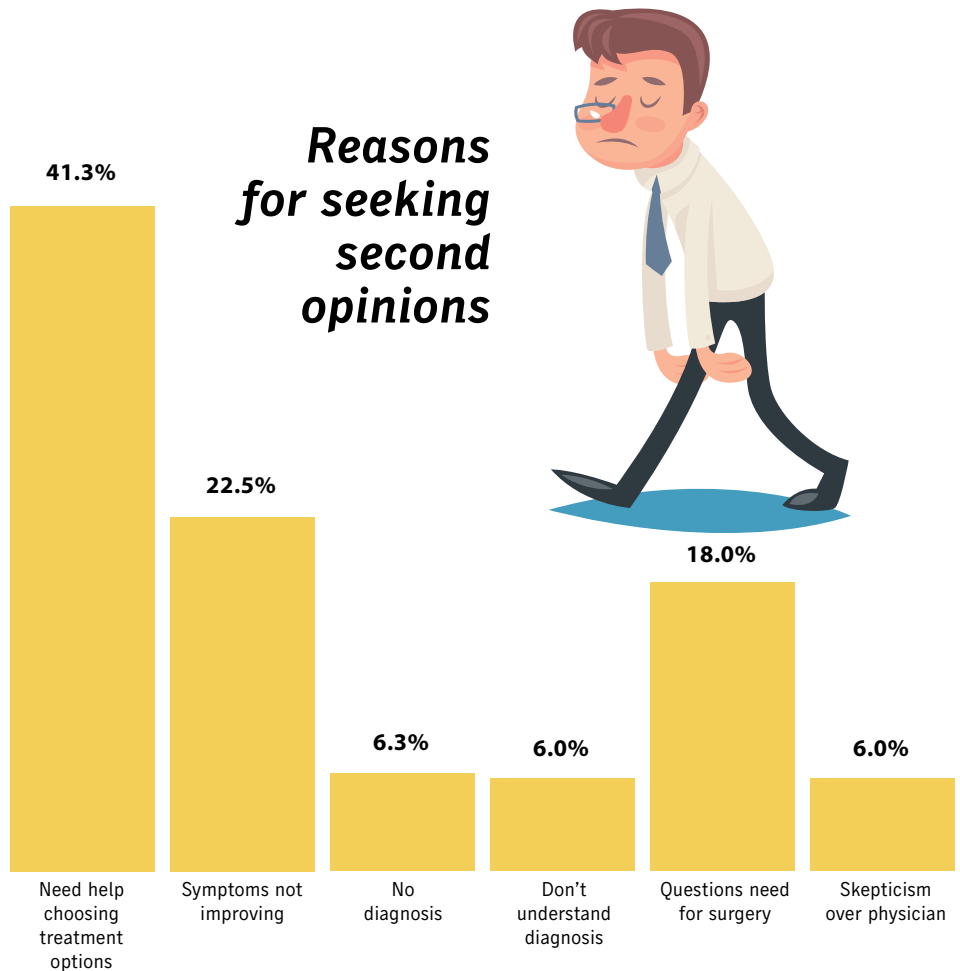
According to data from Grand Rounds, 16% of the time a second opinion changes a diagnosis and 50% of the time the treatment for a correct diagnosis is altered in the best interest of the patient. "Two-thirds of the time we make a change," said Mr. Lehman.

Aamir Rehman, Chicago-based partner and head of clinical service for Mercer L.L.C.'s total health management group for North America, says the trend for second-opinion health services has more to do with quality of care than return on investment.

He highlighted musculoskeletal and spinal issues as areas where a second opinion can make the difference between an unnecessary and painful experience and one that leads to a better, less invasive outcome. "Something like a back surgery would be a flag to get a second opinion involved," he said.

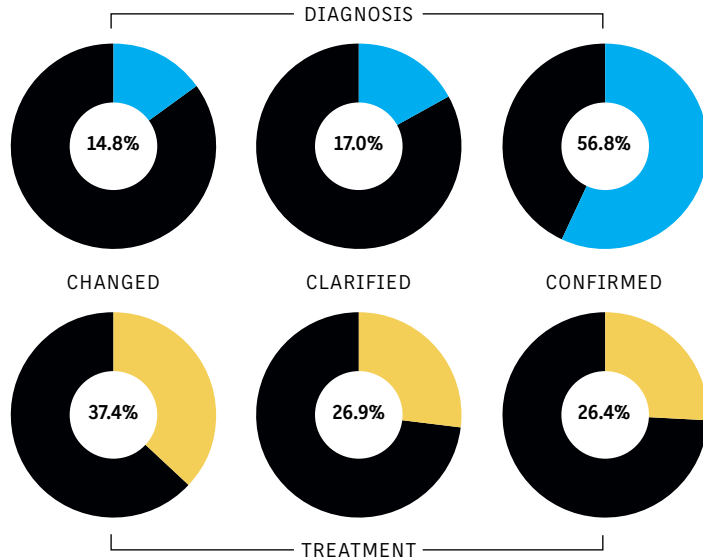
Ms. Davidson said medical decisions are often based on who is standing in front of you: "If you talk to a surgeon, they'll say surgery; if you talk to a physical therapist, they'll say physical therapy."

"Health care is very complicated and employees don't always

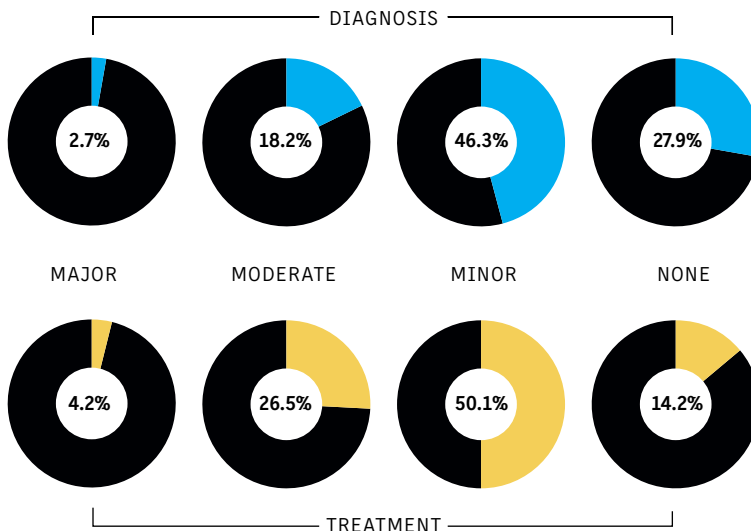


Source: The American Journal of Medicine

DIAGNOSIS AND TREATMENT CHANGES FROM SECOND OPINIONS



EFFECT OF SECOND OPINIONS



Source: The American Journal of Medicine

know the right way to go,” she added. Second-opinion services “put them in touch with the best doctors so an employee can fully understand the range of possibilities.”

Many of these programs are run through “centers of excellence” around the country, which can put patients in touch with the experts in the field they need, Ms. Davidson said. A center of excellence is a facility that provides leadership, best practices, research, support and training for a specific area of medicine.

Grand Rounds maintains a database of 2,000 medical experts in various fields nationwide, according to Mr. Lehman. Much of the time the second-opinion service is provided remotely via telephone, with an expert gaining access to a patient’s records to make a decision, he said, adding that in-person visits with physician-experts is another service that is on the rise.

“These are leaders in the field that employees can have access to,” he said.

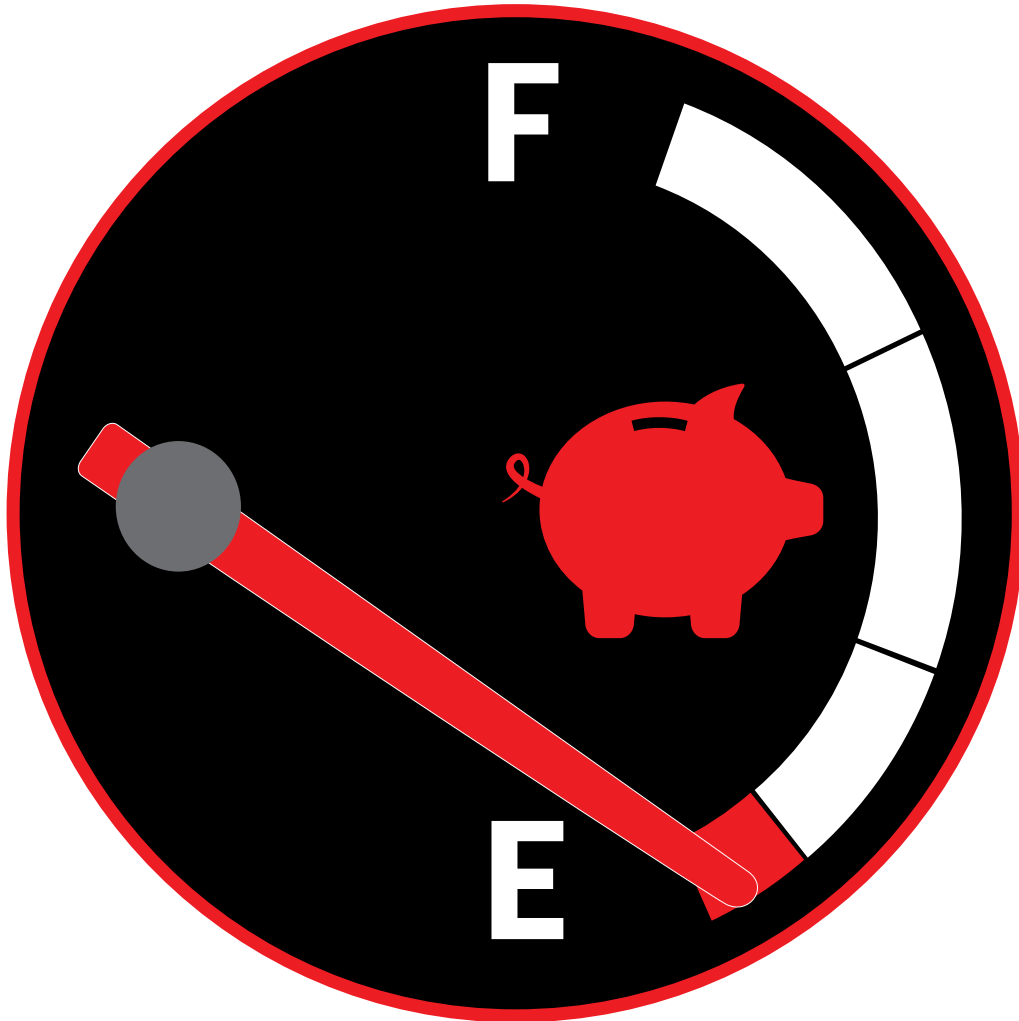
While the service is promising — the NBGH says 60% of companies offer it — the utilization rate remains low, according to Ms. Davidson.

“We know sometimes employees don’t use (second-opinion services),” she said. “In focus groups, we hear that oftentimes they forget they have access to it.”

Ms. Davidson said companies that sign on need to better inform employees that the service is available. Incentives are another way to increase participation, she said.

Dr. Leopold agreed that utilization is low and that companies can better help their employees by providing information about the program regularly.

“(Companies) can also use pharmacy and medical claims data to reach those employees who may not know about the service,” he said.



Filling up retirement tank

BY BILL BARNHART

Early this spring, The Atlantic magazine startled readers with a finding from a Federal Reserve Board survey of Americans' financial status: "Nearly half of Americans would have trouble finding \$400 to pay for an emergency."

The statistic reflects, in large part, the level of poverty and

inadequate wage and salary income many Americans confront. But the headline hit home as well among employers with highly skilled, well-paid workers facing an uncertain retirement.

"We know there is a looming crisis in the United States across the board," said Barbara Brickmeier, vice president for human resource benefits at International Business Machines Corp. The

45%

Retirement planning & savings

The U.S. Bureau of Labor Statistics forecasts that by 2022, more than one-quarter of the U.S. workforce will be older than 55, up from about one-fifth in 2012. Recent research from the Society for Human Resource Management highlights the importance of preparing workers for retirement while they are on the job, considering that many are not financially ready to leave the labor force. Benefits are a major reason workers remain on the job or return to it, according to SHRM's Aging Workforce Research Initiative. Human resources professionals say 45% of retired employees come back for health care benefits and another 16% for retirement benefits.

3:10

Back to work

HR professionals are recruiting older workers as part of their companies' staffing management plans, and that puts a focus on retirement. Three out of 10 said they offer phased/gradual retirement as a perk when retaining and recruiting older workers.

Armonk, New York-based information technology giant sponsors the largest 401(k) defined contribution retirement savings plan in the U.S., with assets of \$48 billion and 195,000 plan participants.

IBM represents a growing trend among 401(k) sponsors. It reports that 96% of eligible employees are contributing some amount to the company's most widely subscribed plan. But rather than touting a high participation rate of eligible employees, Ms. Brickmeier and others are measuring their success by the incomes of retirees who have left the 401(k) program.

"IBM has a high participation rate, which we are proud of, but it's not 100%," she said. Moreover, "we want to be sure that the 401(k) can be viewed as part of the total portfolio, with a focus on retirement income."

IBM is compiling data to show the results of its effort, Ms. Brickmeier said. But only one in five employees at 77 large U.S. companies have saved at least as much as they need to continue their preretirement lifestyle, according to a survey by Chicago-based consultancy Aon Hewitt. The minimum savings adequacy target is 11 times final pay, Aon Hewitt has determined.

Such analysis, combined with recently enacted federal disclosure rules making retirement plans easier to compare to each other, is driving employers to intervene more directly in shaping the retirement savings habits of their employees.

"No plan sponsor wants to be caught having a plan that underperforms in a significant way," said Mike Alfred, co-founder and CEO of retirement fund tracker BrightScope Inc., based in San Diego, California. BrightScope rates retirement plans on numerous metrics, including costs, employee participation rates and company contributions.

To boost retirement income

outcomes, "a lot more companies are being more aggressive" in setting higher minimum (default) contribution rates by employees subject to automatic enrollment in the company 401(k) plan, said Rob Austin, director of retirement research at Aon Hewitt. In 2001, more than half of companies automatically enrolled new employees at a default contribution rate of 3%. Just 3% of new enrollees faced the higher default contribution rate of 6%. Last year, nearly a quarter of employers imposed a 6% default rate. That means new employees automatically enrolled at the 6% rate contribute twice the percentage of their salary than the previous 3% norm.

The good news, Mr. Austin said, is that there is no sign that more employees are opting out of 401(k) plans with higher default rates. "People need to be saving 15 or 16% of income," he added. One reason may be that nearly half of employers surveyed now match the employee's contribution dollar-for-dollar, up from 25% in 2011, the Aon survey found.

"The biggest factor and the most obvious (in producing retirement income) is the amount of dollars in the plan, the combination of what the employee puts in and what the company puts in," said Mr. Alfred.

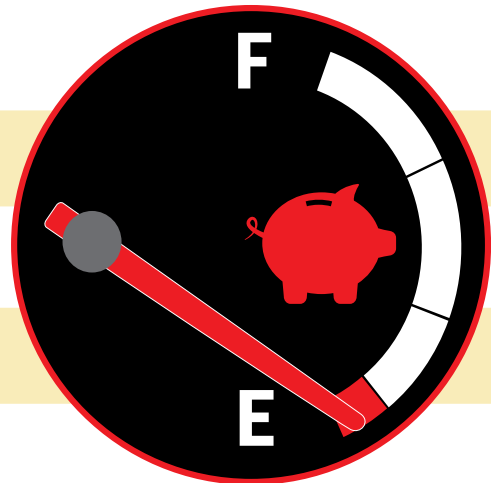
Beyond pushing higher contributions, companies are encouraging employees to curb their enthusiasm for actively managing their retirement assets. With an eye on boosting employee choice, 401(k) sponsors typically offer a dozen or more investment options. But "when you give the average person too many choices, they don't make the right choice," said Mr. Alfred.

In 2001, two-thirds of 401(k) participants selected low-yielding "stable value funds," which are similar to money-market funds. Last year, just 3% of participants chose that option. More than 80%

Retirement savings shortfalls

Shortfalls in retirement savings at age 65 in 2014 dollars according to age cohort, marital status and gender without nursing home or health care costs. The figures represent the additional amount that individuals will have to save by age 65 to eliminate expected deficits in retirement.

	Early baby boomers	Late baby boomers	Generation X
Single male	\$33,778	\$31,342	\$38,065
Single female	\$62,734	\$65,277	\$74,256
Married	\$19,304	\$19,566	\$21,379



Source: Employee Benefit Research Institute Retirement Security Projection Model

of new enrollees chose target date funds, which automatically alter a portfolio of stocks, bonds and cash from riskier to safer investments as the employee ages, according to Aon Hewitt.

IBM's proprietary target date fund program is the default investment for new hires, Ms. Brickmeier said.

One controversial element of 401(k) rules probably won't change, despite its potential threat to the retirement nest egg: Employees may borrow from their 401(k) accounts. At the extreme, an employee could roll over loan after loan, robbing him or her of the opportunity to build retirement income.

Nearly one-quarter of 401(k) participants reported they have borrowed at least once from their retirement account, according to a survey published this year by the Employee Benefits Research Institute. The top two reasons are paying off other debts and purchasing a home.

Specialists in 401(k) design call the borrowing "leakage" from a wise retirement savings plan. Yet employers are reluctant to elim-

inate or discourage such loans.

"The ability of people to get the money out is a powerful incentive to save," said Mr. Austin. "These loans are a necessary evil."

"It gets employees comfortable that they can invest a lot of their paycheck, because if they need the money for a significant issue they know they can get at the money," agreed Ms. Brickmeier of IBM. One step to control lending is to limit loans to money the employee — not the company — contributed to the account.

A bigger threat to building retirement assets occurs when workers change jobs and cash out their 401(k)s, said Mr. Austin.

"What we're finding is if individuals leave their employer, they are not rolling their balances over to the new employer," he said. "They are taking their money as cash, resetting the whole retirement journey."

Still, apparent employee satisfaction with more aggressive company intervention in retirement savings indicates those who can afford to save appreciate the help. "The onus is on you to save," Mr. Alfred said.

"It gets employees comfortable that they can invest a lot of their paycheck, because if they need the money for a significant issue they know they can get at the money."

Barbara Brickmeier,
International Business Machines
Corp.



Among large firms with 200 or more workers, 88% and 63%, respectively, offer or contribute to separate dental and vision plans.

Dental, vision plans shifting to what employees want

BY KAREN PALLARITO

Providers of voluntary dental and vision plans are sweetening benefits, squeezing costs and stepping up decision support and member communications — all in an effort to woo employees.

Employers, of course, must make these plans available before employees can decide whether to buy coverage through the workplace.

Still, insurers and vendors recognize that workers, increasingly, are the ones picking up the tab — or at least a big chunk of it — for dental and vision plans, which account for the bulk of these voluntary benefits.

A 2014 Kaiser Family Foundation/Health Research & Educational Trust employer health benefits survey indicates that 53% of employers offer or contribute to a sepa-

rate dental plan, and 35% offer a separate vision plan. Among large firms, those with 200 or more workers, 88% and 63%, respectively, offer or contribute to separate dental and vision plans. The survey does not indicate what percent of these plans are paid entirely by employees.

However, the 2015 National Survey of Employer-Sponsored Health Plans by Mercer L.L.C. found that about 24% of large employers require employees to pay the full cost of dental coverage, up from 22% the prior year. Voluntary dental plans are most common in the South, where 40% of employers require employees to pick up the whole tab, according to the survey.

“Traditionally, you looked at plan design through the eyes of the employer because they (employers) were paying for it,” said Dr. David Guarrera, national clinical director and vice president of MetLife Inc.’s dental and vision

product unit.

Now consumers are paying for it, he said, and they want “different things,” such as dental implants, which traditionally were not covered, and white fillings instead of silver.

Employees also desire higher benefit levels. Annual maximums, or the amount insurers will cover in a year, once topped out around \$1,000, Dr. Guarrera said. “Now you’re seeing \$1,750 or \$2,000 or even up to \$3,000,” he said.

Colin Bradley, vice president of business development at Manasquan, New Jersey-based Winston Benefits Inc., said dental and vision plans are negotiating good deals and discounts with their providers to make benefit dollars go farther.

“We’re seeing the carriers come to the market with stronger products, adding more features, covering more benefit,” he said.

Mr. Bradley recently negotiated a vision plan renewal on behalf of a large New York hospital system that included higher allowances for frames and contact lenses and fully covered standard anti-reflective coatings. Other eye-wear industry innovations focus on new technologies, such as retinal scans offered as part of preventive exams, added Dona Senkewicz, underwriting and benefits analyst at Winston Benefits.

And vision plans are offering consumers more choices.

Guardian Life Insurance Co. of America, for example, offers a choice of two networks. A lower-cost plan utilizes chain vision stores, and a higher-end alternative focuses on private-practice eye doctors, said Stuart Shaw, vice president and chief actuary for group insurance in Guardian’s Bethlehem, Pennsylvania, office.

In the dental space, Mr. Shaw sees tiered network plans popping up. These plans offer two in-network options, but one includes preferred dentists with whom the insurer has secured better financial terms. Employees who select a dentist from the preferred tier typically share in the savings through lower out-of-pocket expenses or reduced cost-sharing, he said.

Mr. Shaw noted that Guardian is rolling out tiered group

RISE OF VOLUNTARY BENEFITS

Contribution type	Coverage	2012	2014	2016 trend*
Employee pay all	Dental	18%	22%	Up
	Vision	16%	16%	Up
Employer/employee shared	Dental	66%	48%	Down
	Vision	68%	41%	Down
Employer-paid	Dental	11%	17%	Flat
	Vision	10%	17%	Flat

*Based on preliminary data. Percentages don’t total 100% because not all employers offer dental or vision benefits.

Source: Eastbridge Consulting Group Inc.

dental coverage this year.

Tiered and narrow dental networks mimic a cost-containment strategy widely used by medical plans offered on federal and state exchanges under the Patient Protection and Affordable Care Act.

But Dr. Steven Loomis, a Denver-area optometrist and president of the American Optometric Association, worries about financial arrangements that coax people to use one network or tier of providers over another.

“Who you’ve been incented to see really is entirely independent of the quality of care or the quality of the patient experience,” he said.

Dental and vision plans are among the most popular voluntary benefits that employers offer. In fact, most people covered by dental or vision plans in the U.S. get that coverage through an employer, MetLife’s Dr. Guarrera said. But workers often don’t understand or take full advantage of those plans.

In 2014, Rancho Cordova, California-based VSP Global and its VSP Vision Care unit released results of a study showing that employers saved \$5.8 billion over four years in reduced health costs, productivity losses and turnover when they offer a stand-alone vision plan.

The study suggests that employees who have annual eye exams, which can detect other health problems such as diabetes, are more likely to receive early treatment, reducing the long-term cost of care.

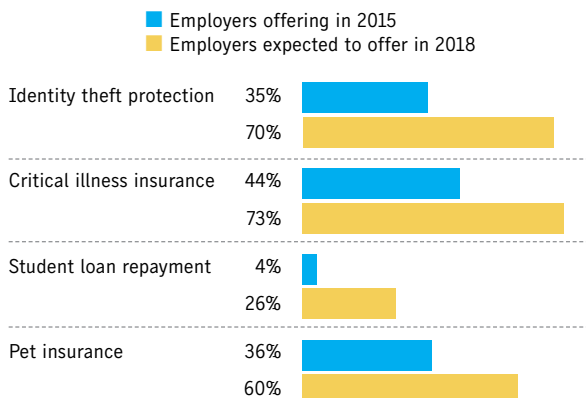
Likewise, multiple studies link poor oral health to chronic conditions including diabetes and heart disease.

Employers “more and more” are leaning on their vendors and benefits administrators to improve post-open enrollment communications, Mr. Bradley said. And new digital tools make it easier to reach employees after open enrollment, he said.

EyeMed Vision Care, a unit of global eyewear manufacturer Luxottica Group S.p.A., offers a mobile app that Lukas Ruecker, president of the Mason, Ohio-based vision care company, likens to OpenTable.com. Employees can tap a button to see what their benefits cover. The app can search nearby providers and employees can schedule an appointment online.

“Consumers want to make an informed choice about what they’re getting, even in something as simple as vision,” Mr. Ruecker said.

HOT VOLUNTARY BENEFITS



Source: Willis Towers Watson P.L.C.



U.K. PENSION DERISKING

A sampling of U.K. companies and agencies that have undertaken pension buyouts and buy-ins of more than £150 million (\$220 million) in 2015.

Phillips Technology Ltd.	Full buyout	£2.4 billion
Civil Aviation Authority	Pensioner buy-in	£1.6 billion
Northern Bank Ltd.	Pensioner buy-in	£680 million
Imperial Chemical Industries Ltd.	Pensioner buy-in	£500 million each in three offerings
Wiggins Teape & Co.	Pensioner buy-in	£400 million
ICI Specialty Chemicals	Pensioner buy-in	£200 million

Source: Lane, Clark & Peacock L.L.P. Pension Derisking 2015

Resinsurers getting a taste of pension plan de-risking

BY SARAH VEYSEY

As companies that offer pension plans continue to explore buyout deals to reduce their liabilities, reinsurers increasingly are attracted to underwriting the longevity risk taken on by insurers in such deals to hedge the mortality risk on their books.

In the United Kingdom particularly, as well as other parts of Europe, many employer-sponsors of workplace pension plans have been exploring ways to transfer their pension liabilities, experts say.

When London-based BT Group P.L.C. undertook the largest such deal to date in 2014, transferring £16 billion (\$23.2 billion) of liabilities to a captive insurer and then reinsuring that risk with Prudential Insurance Co. of America, the trustee of the pension plan said the deal significantly reduced risk to the plan sponsor.

The chairman of the trustees, Paul Spencer, also said the deal provided “enhanced security” for

plan members.

In the deals, plan sponsors buy insurance annuities to cover their pension liabilities and thus transfer them to an outside or captive insurer. That insurer then frequently passes on a portion of the risk to reinsurers.

Willis Towers Watson Group P.L.C. said in a March report that it expects about £20 billion (\$29 billion) of pension liabilities to be transferred by longevity hedging deals this year.

Further, the report said that of the £2 trillion (\$2.9 trillion) total U.K. defined benefit liabilities only around £150 billion (\$217.5 billion) has been hedged.

Aon Hewitt noted in a report issued in December that de-risking efforts will be fueled by abundant capacity and growing demand, among other things, as insurers and reinsurers become more comfortable with the Solvency II risk-based capital rules that took effect in January.

“The financial appetite of the global reinsurance market

remains strong and is expected to be even stronger in 2016,” according to the Aon Hewitt Risk Settlement Quarterly Market Update.

The report noted that insurers’ ability to transfer at least some longevity risk they assume in buyout deals is likely a key factor in the pricing of those deals, based on the amount of risk transferred and retained.

“The record level of competition and extra insurer capacity will be beneficial for pensioner buy-in pricing next year,” Charlie Finch, a partner in Lane Clark & Peacock L.L.P.’s de-risking practice and a co-author of its report on the issue released in December, said in a statement at the time.

“We forecast buy-in and buyout capacity will grow to over £15 billion (\$21.75 billion) in 2016,” he added.

Pension Insurance Corp. and Prudential P.L.C., two of the most active insurers of pension plan buyouts in the United Kingdom, said they had increased their use of reinsurance protection for

“The record level of competition and extra insurer capacity will be beneficial for pensioner buy-in pricing next year.”

Charlie Finch,
Lane Clark & Peacock
L.L.P.

longevity risk in 2015 when announcing their annual results, both in March.

PIC said it had reinsured £3.8 billion (\$5.51 billion) — or 73% — of its longevity exposure in 2015, up from 66% of exposure a year earlier.

And Prudential said it had bought more reinsurance for longevity risk in 2015, partly because of the capital relief granted under Solvency II for reinsurance protection.

In the insurer's annual report, Penny James, group chief risk officer at Prudential, described longevity risk as "a significant contributor to our insurance risk exposure and is also capital-intensive under the Solvency II regime."

"One tool used to manage this risk is reinsurance," she said.

Insurers that carry out pension buyout deals often are attracted by the diversification that the longevity risks assumed in these transactions give them in a portfolio heavy with mortality risks, said Ari Jacobs, senior partner for global

retirement solutions at Aon Hewitt in Norwalk, Connecticut.

Typically, he said, insurers then will look to reinsure that longevity risk.

In some cases, he noted, transfer of some of the risk to a reinsurer is part of the deal from the beginning. In other cases, he said, insurers may farm out some of the longevity risk after the deal is done.

The insurance market for pension buyouts in the U.K. is dominated by monoline companies more interested in buying assets than carrying peripheral risk, such as longevity risk, said Nigel Sedgwick, managing director at Willis Re, a unit of Willis Towers Watson in London.

"So they have relationships with reinsurers," and, in the case of larger deals, reinsurance protection often will be negotiated at the same time as the original buyout, he said.

Reinsurers are attracted to the diversification provided by longevity risk, he said, and it is likely that reinsurers' interest in these types of deals will increase.

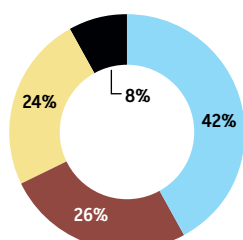
Ulrich Wallin, CEO of Hannover Re S.E., said last year that the reinsurer was keen on the diversification that writing longevity reinsurance offered. But in a call to analysts, he said that increasing competition meant that the Hanover, Germany-based reinsurer was being "conservative" in its approach to longevity risks and would "look for the right deals and not for the volume."

While larger reinsurers are active in this area, smaller ones may also be prompted to start underwriting longevity risk to obtain the diversification benefits under Solvency II, Mr. Sedgwick noted.

In a commentary, Dafina Dunmore, director of insurance at Fitch Ratings Inc. in Chicago, said that Solvency II "incentivizes E.U. insurers to reinsure longevity risk as capital charges for counterparty risk with highly rated reinsurers are low compared with charges for longevity risk."

REASONS NOT TO DE-RISK

Aon Hewitt received 250 U.K. responses to its 2015 Global Pension Risk Survey, more than any past global pension survey. After allowing for schemes where Aon Hewitt received responses from multiple parties (for example, both trustees and scheme sponsors) a total of 220 schemes with nearly 4.5 million members and almost £500 billion of assets are represented.



- Pricing unattractive
- Do not understand market, products
- Not large enough to access market
- Do not trust market, products

Source: Aon Hewitt Global Pension Risk Survey 2015

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Questions & Answers



With employers looking

for ways to provide top benefits while watching costs, there's a growth in telehealth and remote second opinion services. Massachusetts General Hospital has been offering both since 2014, serving more than 10,000 patients. Sarah Sossong, the hospital's telehealth director, and Tony James, its senior vice president of network development and integration, discussed the trend toward telemedicine, its benefits and its future with *Business Insurance* Editorial Assistant Joyce Famakinwa. Edited excerpts follow.

Q

How did Massachusetts General Hospital get into offering second opinion services?

Mr. James: We do second opinions every day, but what we realized is we didn't have a concerted approach to it. And so ... probably two years ago, we started thinking about how do we do this and what we needed to organize our physicians and which vendors we should work with.

Ms. Sossong: Mass General clinical experts provide the second opinion, but there are a lot of other elements involved in the second opinion process, including record collection and correspondence with the patient. Mass General began providing second opinions for patients referred by Grand Rounds (Inc.) in October 2014, and as of April of 2016, Mass General launched our own second opinion website through which an individual consumer may now request a second opinion directly from Mass General.

Q How well-received has it been among employers?

Mr. James: We're working through a partner (Grand Rounds) — it's been extremely well-received ... The number of second opinions we have rendered even outstretched that high end of our potential estimate.

Ms. Sossong: I think many, many employers have this as a

benefit service for their employees, and I think they see a lot of benefit. I would have to double-check on the exact numbers, but it's something like in 60% of cases, there is a change in diagnosis or a significant change in the treatment plan, and the hope is that ends up being something that is better for the patient and the employer in terms of cost, quality and outcomes.

Q For what conditions are the services most useful?

Ms. Sossong: I think the specialties where we're seeing the highest volume ... are in cancer, neurology and stroke, orthopedics, cardiology, (gastrointestinal), pediatrics ... Those are the things where they're really suited to second opinions.

Q What are benefits for employers and employees?

Mr. James: Changed diagnoses are probably the biggest one. So if ... you have a type of cancer and they think it's going to be treatment A and, after you talk to folks here who deal with this more, doing more cutting-edge research ... and it really is perhaps B or C that would be better for you, that is huge, to get you to the best treatment. From an employer's perspective it is if that second opinion can save you from not going down the path that would be not as helpful to the patient and also, then, if you needed to go down B but you went down A and then you had to go down B later, you not only lost time, which may be detrimental to a patient, but you've also increased the cost to the employer and to the patient.

Q What do you see as the future for the services?

Ms. Sossong: Hopefully we can

incorporate second opinions into a flow of care that would include other services. So, for example, if you have a second opinion and say you need to come to MGH for care — say you live on Martha's Vineyard, so you come to MGH for your care — then you go back to Martha's Vineyard after your in-person care. But then we could incorporate these virtual visits and other modalities so that they would all blend together in a way that really takes the best care of the patient in the place that they're at.

Right now we're doing this as a direct-to-patient service. We're hoping that we'll be able to expand the ways in which we're offering this, and I think this is probably a little ways off, but there's a lot of interest at MGH in global health and community health, and there may be a point where we can also be offering this to people who could never afford to pay for it.

On the flip side, there may be ways in which this can benefit the educational system. MGH is an academic teaching institution and, for example, there are conditions that are very common in China or South America that we just never actually see in Massachusetts. So at the same time that us providing second opinions can be very helpful to remote patients, it can also be something that could be potentially also a good teaching experience for us.

Q In what ways have these services been cost-effective for patients?

Mr. James: If you lived in Iowa, and you needed a second opinion, you don't have to drive or fly to wherever — both the costs of travel, the cost of leaving work for both you and whatever caregiver is going with — that's a direct cost. The second is ... not going down treatment paths which aren't going to be as helpful, which, too, are



then both costs to the patient and to their employer in the system as a whole.

Q What are some of the reasons for misdiagnoses?

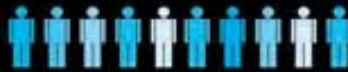
Mr. James: I think there are a number of reasons. Just think about if you have a very rare form of some kind of disease ... and you're in a community that does not have a deep bench of specialists who see all the permutations of that disease on a frequent basis. They're just not going to be as familiar with it and not be as familiar with what to do with it...Oncology's a great example. There are so many different types of mutations that occur and so many more treatments that are being brought online every day at academic medical centers, like MGH and other places around the country, that if you're a community oncologist and you see a lot of breast and lung cancer, but you don't see much liver cancer or you don't see much rectal cancer, you may not know the best new way of treating those things. So your diagnosis, while it may be correct ... you may not know what else you should do, or the best new thing to do that has come out in the last month.

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Sarah Sossong,
Massachusetts General Hospital

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