

Insurance Times: THE COUNCIL SURVEY: Commercial Lines Rates Hardening
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Trend seen continuing during 2000

After a prolonged soft commercial insurance market, property/casualty rates across the country have slightly hardened over the last year for accounts of every size, according to the new Commercial Insurance Market Index published by The Council of Insurance Agents & Brokers.

The Council's Commercial Insurance Market Index surveys member firms from all regions of the United States. It shows that an unmistakable upward trend is underway in the pricing of five distinct lines of commercial property/casualty insurance. While most of the increases have been 10 percent or less over the last year, increases are continuing today compared to prices of just three months ago.

Group Medical Rates

Moreover, the index shows that group medical coverage rates are up significantly compared to a year ago and, at this time, show no sign of turning around.

For small accounts, 59% of firms report increases compared to one year ago, while 45% report increases over the last three months. For large accounts, 48% of firms say prices are up compared to one year ago, while 45% report higher prices within the last 90 days.

Among five lines of insurance, the commercial auto and workers compensation markets have clearly hardened the most over the last 12 months.

"There is a great need in our industry for reliable and comprehensive data about the condition of the marketplace," says Council President Ken A. Crerar. "That is why we created the Commercial Insurance Market Index.

He said the index gives agents solid numbers to use when talking to clients about broad market conditions."

The Council will release new index findings every quarter.

In this first release, the data show that the most significant increase in rates has occurred for medium-size accounts. Seventy percent report that prices for medium accounts are higher today than one year ago, while 64% report higher prices within the last 90 days.

Sixty-seven percent report that the workers comp market is "somewhat hard" compared to one year ago, while 5% report that it is "very hard." Compared to three months ago, the workers market is "somewhat hard," according to 66% of firms, while 4% report a "very hard" market.

In the commercial auto market, 62% report it is "somewhat hard" compared to a year ago, while 3% said it is "very hard." Meanwhile, 52% of firms the market is "somewhat hard" over the last 90 days, while 5% say the market is "very hard" over the period.

In property insurance, 43% of firms report a "somewhat hard" market compared to a year ago, while 37% report a "somewhat hard" market over the last 90 days.

In the general liability market, 34% of firms report a "somewhat hard" market compared to a year ago, while 30% report a "somewhat hard" market over the last 90 days. And in the umbrella market, 16% report a "somewhat hard" market over the last year, while 20% say the market has been "somewhat hard" in the last three months. Group medical pricing has witnessed widespread and significant increases over the last year, according to the Index. For small commercial accounts, 95% of firms report increases, with 65% saying rate hikes have been over 10% within the last year. For medium accounts, 92% of firms report increases, with 57% reporting increases of over 10%. Among large accounts, 83% of firms report increased rates, with 35% saying hikes have been over 10%. Similar trends are reported in group medical pricing over the last 90 days.

Insurance Times: Arbella Keeps Sailing Along
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Acquisition of Commonwealth Mutual latest move

by C.A. Soule
Insurance Times

BOSTON - It is a line item that does not get much publicity any more.

There, under line 26A of the liabilities section of Arbella Insurance Group's 1998 annual statement, reads the figure \$118,663,147.

That figure represents the balance on the surplus note Arbella drew from Kemper Insurance Companies, after that carrier fled the Massachusetts auto insurance scene in 1988 after sustaining huge losses.

For the first time last year, Arbella chipped away at its capitalization note, lowering it by \$337,000. Rather than writing a big check to the state, however, Arbella instead worked out an agreement with the Massachusetts Division of Insurance to amortize the note over a 50-year period, simply by staying put in Massachusetts.

That happiest of capitalization stories is only part of the good news for the company these days, as it has rolled along from the sixth to the second largest auto insurance carrier in Massachusetts, growing its agency force from 250 to 500, and looking abroad at new markets.

In 1988, when other firms were hastily writing big checks for future claims in order to extricate themselves from Massachusetts, Kemper came up with a different kind of deal, creating a new company, Arbella, in order to satisfy its obligations to policyholders in the state.

What a deal it has turned out to be for Arbella. Kemper soon signed the \$119 million note over to the Division of Insurance, which still holds the instrument. The birth of a company typically involves a capitalization involving an indebtedness or surrender of control, whether that involves a bank loan, an initial public offering of stock, or venture capital financing. That is not the case with mutual insurance companies, which are created to serve the public. When the note was transferred, the

division agreed to let the note languish in exchange for Arbella being a good corporate citizen, and keeping most of its workforce in Massachusetts.

The deal does not seem to be a concern for most of Arbella's competitors. "I don't recall any hue and cry from Commerce, Safety, Plymouth Rock, or the others," said analyst Pat Matthews of AM Best, the New Jersey rating agency.

The last time any "hue and cry" was raised about Arbella was a decade ago, when the mainstream media followed the birth of the company with interest, mostly because of the celebrity caché former Attorney General and gubernatorial candidate Francis X. Bellotti brought to Arbella's board.

Bellotti and current Arbella chairman John Donahue were attorneys involved in helping bring about Kemper's spin-off of Arbella. In so doing, they positioned themselves nicely to lead the company going forward. They brought in Richard Brewer from National Grange to run the day-to-day business, and the company began its transformation to a dominant Massachusetts insurer.

Demutualization Aspect

A forgotten aspect of Arbella's arrival gives Bellotti & Co. a golden opportunity to raise cash in a hurry, should the company decide to effect an aggressive expansion. Because Arbella was created as a mutual insurance company, the Massachusetts legislature has to approve its creation. In the "enabling" legislation that allowed Arbella to begin operations, these lawmakers wrote into the bill a "fail-safe" provision that would allow the company to "demutualize" if needed to raise cash for operations, with approval from the insurance commissioner. That provision is still on the books, making Arbella the only property and casualty company in Massachusetts that is "pre-approved" for an instant credit line from the financial markets, via an IPO. While several individuals point out that the insurance commissioner could block such a move, recent demutualizations have shown that insurance commissioners for the most part will block the conversion of a mutual only if it proves "prejudicial" to the public.

While Donahue told InsuranceTimes that the company had no plans to demutualize, he pointed out the central problem for enlarging a company's business. "In order to grow, an insurance company needs to add money to its surplus," Donahue said. "Given the rate decreases in our largest line of insurance, that is difficult."

Other States

Especially when that growth involves other states. Donahue said that Arbella recently acquired insurance licenses in New York and Pennsylvania, although he said that the company would probably not attempt to penetrate those markets this year.

When it decides to, some in the industry say that the company should learn from its expansion into Connecticut last year.

Arbella chose to experiment with selling "direct" in the Nutmeg State, a decision which irked independent agents, and which has resulted in slow-going so far for the company.

"In Connecticut, we had no prior relationships with agents, and because of that fact, we believed the best method in Connecticut was a direct approach," Donahue said. "But that approach comes

with significant start-up costs. It takes more TV advertising, and we had to get a call center up and running. It takes several years to become profitable on the direct-writing model, and we knew that going into this."

Donahue said that he was satisfied with the \$7 million in premium the company had attained after two years of selling in Connecticut.

Latest Acquisition

But not so satisfied that it wouldn't jump at an opportunity to increase its agency force and market share there.

On Feb. 29, Arbella agreed to purchase The Covenant Group, Inc., which writes approximately \$26 million in personal lines business in Connecticut, and, through its subsidiary Commonwealth Mutual, about \$34 million in Massachusetts.

"This agreement will allow us to combine our talents and operations to better serve the private passenger and homeowners insurance markets in Connecticut and Massachusetts," said Donahue in a statement announcing the transaction, which must be approved by regulators.

Arbella seems to have cemented strong relationships with its agents in Massachusetts, even as the company in a sense has gone into competition with them. Several years ago, the company acquired Allied American Insurance Agency, merged it with the Carlin Agency, and created a \$200 million independent agency, the largest in the state.

The company had acquired Allied American out of the ashes of the collapsed American Mutual Insurance Co. Donahue said that Arbella has passively added other agencies to Allied after being contacted by agency principals interested in selling. "We haven't been pounding on doors," said Donahue. "We tell agents it is there if they want an exit strategy."

The model seems to be working so far. The Massachusetts Association of Insurance Agents acknowledges that it has kept tabs on Allied American, and is satisfied that Arbella treats Allied American on par with its other agencies.

Eastern Bank

Allied American's prospects appear to be greatly enhanced, following a deal with Eastern Bank to market insurance to its account holders. The bank has branches dotted throughout Boston's North and South Shores, territory covered by a large percentage of Arbella's agents. These agents, however, appear to stick to the belief that they are very much competing against Allied American, and not its corporate parent (and their business partner), Arbella.

"I think that Arbella is trying to find different ways of distributing products," said Bernard West, and Arbella agent and board member. "Agencies are trying to do more of these kinds of deals themselves, and Arbella is simply doing the same. Everyone is in this darn business these days."

One way Arbella attempted to diversify was by via a limited excursion into the world of health insurance. That strategy went sour, and the company decided last year to wind down that book of business, which had gotten as large as \$20 million in premiums.

Health Market

"When we made that decision earlier in the decade, we did not get into it just to be a health insurer," said Donahue. "We were responding to political issues that would have made health insurance primary, under attempted reforms under Clinton. We thought that if a significant chunk of business had to be routed through health care, it made sense to be in that business." The company has been canceling its health policies as they come up for renewal.

For now, the company has other worries. At the time of the interview, Donahue said that Arbella's 1999 results had not yet been finalized, but said that 1999 was "a better year than 1998, but not as good of a year as it should have been."

He laid the blame squarely on the shoulders of Insurance Commissioner Linda L. Ruthardt for her reduction of auto rates from levels four or five years ago, a claim readily seconded by other insurance companies in Massachusetts.

Still, the company initially filed for lower discounts on the state's Safe Driver Insurance Plan than many of its competitors, but hauled that discount to meet the market standard later.

Arbella's filing showed that it will sacrifice market share in Massachusetts in order to keep its book healthy, and its to acquire licenses in New York and Pennsylvania show that it is not averse to broadening its base. If it does so, it may not go for the slow drip approach it is trying out in Connecticut.

"We very much believe insurance is a localized product," said Donahue. "So you need to be a significant player in the markets."

That brings Arbella back to point A, surplus expansion. A pre-approved line of credit in the capital markets can be a handy thing.

Insurance Times: In NY HMO Appeals Process, Insureds Batting About .500
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In 305 appeals, about half were overturned

by Joel Stashenko
Associated Press

ALBANY, N.Y. - Consumers are ``winning'' about half the time under a new appeals process for people who have coverage denied by their health maintenance organizations for procedures they deem medically necessary.

Those outside arbiters are upholding the decisions to deny coverage by HMOs in the other cases.

Since July 1, 1999, unhappy HMO patients can appeal to outside experts to reverse their insurers' denial of coverage for certain procedures. The Legislature and Gov. George Pataki in 1998 decreed that the process be set up amid complaints from consumers, especially those with serious illnesses, of having little recourse when their HMO refuses to provide coverage. Out of 750 requests received by the state Insurance Department for outside appeal, 305 have been forwarded for review, spokeswoman Allison Klimmerman said. Of those, 157 HMO denial decisions were upheld and 148 overturned, she said.

That roughly 50-50 breakdown between patient ``winners'' and ``losers'' is about the same experience that other states with similar outside appeals processes have had, Klimmerman said. ``We think it shows that consumers are taking advantage of this appeals process and they are getting justice in their health care decisions,'' Klimmerman said.

Seventeen cases were referred by the department for an expedited appeal - indicating that doctors attested to the fact that patients were seriously ill or were in life-or-death situations. Of those, nine denial decisions were reversed and eight were upheld, according to the Insurance Department.

The 445 cases which were not forwarded for outside review failed to qualify for various reasons.

``Some were not for something that was medically necessary,'' Klimmerman. ``Some were complaints like, `They didn't pay for my eyeglasses' or who knows what.''

Other cases were rejected by the department because the internal appeal that consumers must make to their HMO has not been made. Still others were not deemed eligible for review because the disputed HMO decision took place before July 1, 1999, Klimmerman said. Only those denials after that date are eligible under the new law.

Klimmerman said state insurance officials were somewhat surprised over the number of appeal requests filed so far.

Arthur Levin, head of the New York City-based Center for Medical Consumers, said the numbers of participants in New York's new appeals program also sounded high to him. He said that because of the relative newness of the program, it is too early to say whether the large numbers are because of some particular unhappiness in New York with HMO coverage decisions, or simply because New York is the largest state to set up an appeals process.

He, too, said the 50-50 split is typical of such appeals programs in other states.

``It is hard to interpret what the numbers mean,'' Klimmerman said. ``I don't know if anybody has had an opportunity to do a critical analysis to see if 50-50 is a reasonable split.''

The Insurance Department forwards the appeals at random to either the Island Peer Review Organization of Lake Success, N.Y., or Medical Care Management of Bethesda, Md.

The president of the Health Plan Association, Paul Macielak, said that he favors expanding the pool of outside groups hearing appeals to six or seven.

``We would like to see a broader range of appeals agents,'' he said. ``The question - and we have heard it from some consumer groups as well - is whatever standards or biases in a group or two affect decisions. If it is a wider pool of agents and if those numbers still hold, I think it will dismiss those arguments.''

The Health Plan Association represents most health maintenance organizations in New York.

Consumers who lose their appeals upon outside review can then sue their HMOs in an effort to get a court to order coverage, Klimmerman said.

Insurance Times: NH Lawmaker Presses Ban On Genetic Testing In Insurance

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Bill would bar use for most life, disability

by Norma Love
Associated Press

CONCORD, N.H. - Insurers should be barred from using genetic tests in deciding whether to issue disability, long-term care and most life insurance policies, witnesses told a House committee. ``These are essential insurances,'' said House Finance Chairman Neal Kurk, R-Weare, the bill's sponsor.

Genetic testing is uncommon, Kurk said. But he urged the Commerce Committee to prevent problems before they arise by barring using it as evidence in determining a person's insurability.

Kurk's bill would bar using the tests in issuing disability, long-term care and group life insurance policies. Also, genetic tests could not be considered in individual life insurance applications under \$500,000.

Kurk said the cap would prevent people who knew they had fatal illnesses from taking out huge life insurance policies. The \$500,000 trigger was arbitrarily chosen and could be changed by the committee, he said.

A 1995 state law bars employers and health insurers from using genetic testing in hiring and insurance eligibility, but it excludes life, disability and long-term care coverage.

Kurk said now is the time to expand the ban because genetic science is rapidly changing.

Without government protections, people will be afraid to get genetic tests that may tell them whether they are predisposed to certain diseases, such as breast cancer, other witnesses said.

``This sets a basic entitlement,'' said Sen. Clifton Below, D-Lebanon.

But insurance companies objected, saying the bill would give people a privately funded entitlement to insurance by blocking insurers' ability to assess the risk of insuring their lives. They said they do not ask for genetic tests now because they are costly and unproven indicators of the future in all but a few instances. But they said if a record is in a person's medical file it should be used just like other tests to determine the risk of selling them insurance.

Michael Bartholomew of the American Council of Life Insurance said the 1995 law differentiated between the necessity of health insurance and the voluntary nature of life insurance. Bartholomew said his association represents 435 companies, including 300 that write 85 percent of the life insurance in the state.

``Our companies are in the risk-taking business,'' he said. But to give consumers the most insurance at the lowest prices, insurers must have access to their medical records.

``We consider genetic information the same as an electrocardiogram,'' he said.

If a person is concerned enough to have a genetic test done, insurers want to know why, he said.

Dr. Tom Murphy, medical director at Jefferson Pilot Corp., said barring insurers from knowing when someone has a potentially lethal condition would ultimately mean higher premiums for everyone since policies could not be tailored to individual risk

factors.

Genetic test results wouldn't be used as a sole determinant in writing a policy, he said.

But Claire Ebel, executive director of the New Hampshire Civil Liberties Union, argued the protections are needed for individual privacy, particularly since insurers share medical information through a clearinghouse.

Every time consumers sign an authorization for a health insurer to pay a claim, the information goes to the clearinghouse, she said. In applying for life, disability or long-term care insurance, consumers sign a form authorizing access to the information in the clearinghouse.

``It takes a preventive strike for privacy,'' Ebel said.

Insurance Times: Personal Lines: Phoenix Home Life names Young president; Insurance Innovators promotes Labrie; CGU appoints Moynihan, VanVleet; Lynch heads Beacon Mutual legal department

March 14, 2000, Vol. XIX No. 6

Phoenix Home Life

Twenty-one years after beginning her career as a summer intern, Dona D. Young has been named president of Phoenix Home Life Mutual Insurance Co.

In naming Young to the job, Phoenix's board of directors named a likely successor to chairman Robert W. Fiondella.

Young had been executive vice president, overseeing sales of individual products and the legal department.

Fiondella relinquished the president's title but will remain chairman and chief executive officer. Fiondella hired Young as a summer intern from the University of Connecticut law school during the summer of 1979.

``My appointment is part of a natural succession process that the board has undertaken,'' Young said.

She expects to play a larger role in the day-to-day operations at Phoenix, a company with 3,300 employees and \$71.9 billion in assets under management.

In addressing the board, Fiondella noted that Phoenix ``must evaluate our structure in order to assure ourselves that it permits us the flexibility to pursue the wealth management market aggressively.''

However, how the Phoenix ownership structure could change remained unclear when the meeting ended.

Several analysts said Phoenix has little choice but to follow John Hancock Financial and Mutual of New York, two former mutuals who sold stock to the public.

Insurance Innovators

Brenda L. Labrie has been named senior vice president of marketing and production at Insurance Innovators Agency of New England, Inc.

Labrie will be responsible for all marketing and production activity in the New England territory. She will continue to be responsible for a production territory and the personal lines

department.

Labrie joined the West Springfield, Mass. managing general agent and wholesale broker in 1982 and has held various positions, most recently vice president.

CGU

CGU announces the appointment of two members to its corporate human resources team. Cathleen Moynihan has been promoted to vice president for learning and development, and Emily VanVleet has joined CGU as assistant vice president for compensation, benefits and information systems. Both report to Don Hillier, senior vice president for human resources.

Moynihan will provide direction for CGU's expanding training and associate development initiatives.

VanVleet joins CGU from Invensys, where she was director of benefits and human resources information systems.

Alliance of American Insurers

The Alliance of American Insurers has appointed David R. Anderson vice president and assistant director of workers compensation and health.

Previously, Anderson was vice president and associate general counsel for CNA Insurance Cos. Anderson served in the legal and government affairs functions during a prior stint with the Alliance.

Beacon Mutual

Michael D. Lynch, Esq., has joined the staff of Beacon Mutual Insurance Co. in W. Warwick, R.I. as vice president for legal services.

Lynch will establish an office to manage the legal services provided to Beacon and its policyholders.

He comes to Beacon after 16 years of workers compensation law experience at the firm of Higgins, Cavanagh & Cooney, where he had been a partner since 1992.

NY Department

New York Superintendent of Insurance Neil Levin has named Kevin M. Rampe to the position of senior deputy superintendent and general counsel. Rampe has been general counsel since 1999.

Levin said Rampe will play a role in the department's implementation of the new financial modernization law.

Insurance Times: CNA To Sell Life Operations
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CNA, the nation's second largest commercial insurer, announced plans to sell its individual life insurance and life reinsurance businesses.

"This initiative is the latest in a series of steps we've taken recently to make CNA the underwriter of choice in the business market," said Bernard L. Hengesbaugh, chairman and chief executive officer. "We believe this strategy plays to our strengths at a time of tremendous change in the global financial services industry and is in the best interests of our customers, stockholders, employees and business partners." p

Cigna settles with whistleblower

Cigna Corp. has agreed to pay the federal government nearly \$9 million to settle allegations it overbilled the Health Care Financing Administration by approximately that amount in a case initiated by a Cigna employee.

Philadelphia-based Cigna denied any wrongdoing or liability in the case.

Whistleblower Peter Scott, a Cigna employee, will receive \$840,000 of the \$8,988,500 settlement for his part in the prosecution, according to his lawyer.

Scott's complaint alleged that Connecticut General Life Insurance Co., a Cigna subsidiary, knowingly double-counted paper costs for documents it printed and sent to Medicare recipients from 1990 through 1997. Each document was printed on both sides but the insurer billed the government for two sheets of paper, the complaint alleged.

Insurance Times: Redlining Case
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RICHMOND, Va. (AP) - The Virginia Supreme Court has agreed to reconsider its decision to throw out a \$100 million judgment against Nationwide Mutual Insurance Co. in a racial discrimination lawsuit filed by a fair-housing organization. On Jan. 14, the court ruled 4-3 that Housing Opportunities Made Equal could not bring its lawsuit because it was not injured by Nationwide's alleged discrimination against minorities in issuing homeowners insurance.

HOME petitioned for a rehearing, which the court granted in a one-sentence order. The court did not give a reason for its decision.

Insurance Times: Guide to Law Firms
March 14, 2000, Vol. XIX No. 6

Rowley, Forrest,
O'Donnell & Beaumont
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518 434 6187 Fax 518 434 1287

Thomas J. Forrest, John H. Beaumont, David C. Rowley General Insurance Defense Personal Lines, Commercial Lines; Employment Practices; Products Liability; Insurance Coverage and Claims; Subrogation; ERISA Coverage; Environmental Law; Employment Law; Directors & Officers Liability; Regulatory and Government Affairs, Company Licensing; Employment Law; Insurance Fraud

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Bad Faith Claims; General Laws Chapter 93A Claims; Unfair
Insurance Practices Act; Consumer Protection Claims; Fraud;
Arson; Insurance coverage and Claims; Policy Analysis; Personal
and Professional Liability; Commercial Automobile; Motor Vehicle
Torts; Homeowners; Premises Liability; Legal Malpractice; Medical
Malpractice; Products Liability; Errors & Omissions

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Care Liability; Health Law; Insurance Fraud; Healthcare Fraud and
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Insurance Company and HMO Corporate Matters; Regulation and
Government Affairs; General Insurance Defense; Insurance Coverage
and Claims; Medical and Professional Malpractice; Workers
Compensation; ERISA; HMO Provider Litigation

Theriault & Joslin, P.C.
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and Claims; Subrogation; Medical and Professional Malpractice;
Workers Compensation; Liquor Liability; ERISA Coverage;
Environmental Law; Insurance Agents' E&O; Directors & Officers
Liability; Employment Law; Managed Care Liability; Health Law;
Insurance Fraud
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860 548 2600 Fax 860 548 2680 Peter Kelly, John C. King, Frank
G. Usseglio
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Professional Malpractice; Employment Law; Workers Compensation

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Providence RI 02903 401 421 3060 Fax 401 272 6803 Benjamin
V. White, Gordon P. Cleary, Howard A. Merten, Brooks R. Magratten
General Insurance Defense; Products Liability; Insurance Coverage
and Claims; Subrogation; Professional Malpractice; Life &
Disability; ERISA; Environmental Law; Insurance Agents' E&O;
Directors & Officers' Liability; Employment Law; Insurance Fraud;
Aviation and Maritime; Medical Device; Pharmaceutical Defense

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Insurance Times: P/C Insurers Seek To Clarify Medical Privacy Rules For WC

March 14, 2000, Vol. XIX No. 6

WASHINGTON, D.C. - Proposed medical record privacy regulations need certain clarifications to ensure the ability of workers' compensation insurers to process claims in a timely manner., insurers told federal officials last week.

The industry also warned that subjecting workers compensation claims to federal privacy rules would undermine states' workers compensation laws.

Over three dozen insurer and business organizations and companies representing property and casualty insurance and direct benefit providers joined with the American Insurance Association in submitting comments to the U.S. Department of Health and Human Services' proposed medical privacy regulations.

Although the regulations do not include property and casualty benefit providers (including employers self-insured for workers compensation) among entities directly subject to the rule (i.e., "covered entities), they are ambiguous in a number of respects in the ability of property and casualty insurers to collect information necessary to process claims and manage disability under states' workers compensation laws.

In addition to AIA, groups submitting comments included the Alliance of American Insurers, Insurance Services Office, National Association of Mutual Insurance Companies, National Council on Compensation Insurance and National Association of Independent Insurers.

"Our comments suggest revisions clarifying the authority of workers compensation carriers to gather adequate information from medical providers in processing policyholder claims," Bruce Wood, AIA assistant general counsel said. "Obtaining adequate information from providers is critical to the ability of workers compensation carriers to pay claims for injured workers timely, ensure proper medical treatment and ensure expeditious return to work."

Property and casualty insurers obtain medical information to make claim-related decisions, not underwriting decisions on individuals. The individual about whom a property and casualty insurer collects medical information is not its policyholder but

is an individual making an injury claim against its policyholder.

Adverse Legal Parties

Insurers contend that privacy rules cannot place in the hands of adverse legal parties the ability to control the very information needed by others against whom the party has asserted a legal claim. Doing so would disrupt the workers compensation system, driving up litigation and employer costs.

Examples of suggested changes to the proposed regulations include clarifying that the term "health plan" does not include property and casualty benefit providers. Another change sought is to eliminate a "minimum necessary" requirement that seeks to restrict the amount of information shared by a health provider. "A 'minimum necessary' standard puts medical providers in the untenable position of making legal judgments about the relevancy of protected health information (PHI) for property and casualty benefit determination purposes," according to the groups' comments. "This is inappropriate because the nature of medical information necessary in connection with a property and casualty claim is not a medical judgment but a legal judgment, since the information received can have a direct bearing on the legal rights and obligations of parties."

The groups argued that subjecting property and casualty insurance to a federal rule governing information relevancy will effectively federalize property/casualty claims determinations. Wood said insurers are encouraged by the efforts by HHS to recognize the "unique needs of property and casualty benefit providers."

Insurance Times: Premier Seeks HMO Auto Discount March 14, 2000, Vol. XIX No. 6

Premier Insurance Co. is attempting to gain approval for an auto insurance discount for insureds who use their own health maintenance organizations for medical treatment in the event of an accident.

The insurer has proposed a 15 percent discount on personal injury and medical payments coverage for insureds using their own HMOs. Drivers now utilize any health care provider for the first \$2,000 and turn to their own HMOs after that. Premier wants to reward drivers who are willing to use their own HMO from the start. At last week's public hearing, trial attorneys opposed the discount, claiming that the idea seeks will confuse drivers and discourage them from reaching the \$2,000 threshold above which they can sue.

Premier has been trying to get a similar discount approved for the past four years. This latest Premier proposal differs somewhat from the company's original, which would have required insureds to use an HMO set up by Premier to qualify for the discount.

Insurance Times: Maine Contraceptive Benefit In Effect March 14, 2000, Vol. XIX No. 6

LEWISTON, Maine - A state law went into effect last week requiring insurers who provide prescription drug coverage to cover the cost of birth control pills and other contraceptives. The requirement was approved by the Maine Legislature last year after insurers' coverage of the male potency drug Viagra drew attention to the lack of coverage for contraceptives. Advocates say women of reproductive age tend to spend more on health care than men do, largely because of contraceptive costs. The law makes Maine the fifth state to extend insurance coverage to contraceptives. The law will take effect gradually over the coming year, as employers renew their health plans or select new ones, said Sara Hayes, clinical director at Tri-County Health Services in Auburn. Insurance plans must also cover intrauterine devices (IUDs), the diaphragm, Norplant and Depo Provera, which is known as ``the shot.' ' They are not required to cover drugs that terminate pregnancies.

Insurance Times: Boston Software Acquires Resource Associates
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NEEDHAM, Mass. - Boston Software Corp., a provider of Windows rating software for independent insurance agencies, has purchased Resource Associates, Inc., a 15-year old Binghamton, N.Y.-based rating vendor.

Boston Software says the acquisition makes it as the largest rating vendor in Massachusetts, with more than 1,200 installations. The firm also provides rating software to more than 7,000 agencies in 23 other states through custom rating contracts with insurance carriers.

"This is an important deal for us because it helps increase our market share, broaden our product offerings, and remove a formidable competitor," commented Boston Software's Charlie Walsh.

John and Laura Trainor, the principals of Resource Associates, will remain with Boston Software for at least a year.

Insurance Times: NY Doubles Insurance Fraud Convictions
March 14, 2000, Vol. XIX No. 6

New York insurance officials announced that the number of criminal convictions in insurance fraud cases almost doubled in 1999, jumping from 101 in 1998 to 194 last year.

"The department's efforts to protect New York State consumers from insurance fraud are working," said Superintendent of Insurance Neil D. Levin. "The partnership between the department and insurance companies have made the fraud fighting efforts more efficient and effective. We are committed to continuing this trend to eliminate insurance fraud in the coming year."

There were a record 390 arrests for insurance fraud in 1999, a 41 percent increase over 1997 and a 20 percent increase since 1994. Also, 420 insurers implemented fraud prevention plans.

Insurance Times: Direct Response Corp. Buys Conn. L&C
March 14, 2000, Vol. XIX No. 6

WHITE PLAINS, N.Y. - Direct Response Corp. (DRC), a national direct seller of auto insurance, has agreed to acquire Connecticut Life & Casualty, which writes \$13 million of auto and homeowners business in Connecticut. DRC officials said they will expand the company nationally.

The acquisition is subject to approval by the Connecticut Insurance Department.

Robert Weiss, formerly an independent insurance agent, formed Connecticut Life & Casualty in 1990. It sells directly to consumers.

DRC was initially financed in 1996. Through its operating subsidiaries, including Response Insurance, DRC sells low cost auto insurance in New York, California, Florida, Georgia, Illinois and Maryland.

Insurance Times: New Twist For Trust As Insurer Wins Appeal Of CAR
Distribution Formula
March 14, 2000, Vol. XIX No. 6

Decision could be worth \$20 million

BOSTON - Trust Insurance Co., currently in receivership, has won an appeal in its eight-year challenge to a residual market reimbursement formula, a victory which could be worth more than \$20 million.

Trust's potential reward from a reworking of the disbursement formula - plus possible interest earned since 1992 - could go a long way toward improving the financial condition of the Taunton, Mass.-based auto insurer. Trust was seized by Insurance Commissioner Linda Ruthardt last month after she determined that the company's surplus had fallen to unacceptable levels, perhaps as low as \$12 million.

Trust's attorney, Francis Sally, a partner with the Boston law firm of Sally & Fitch, said the decision "does put in place approximately \$20 million...which the receiver may take into account."

Sally told InsuranceTimes that Trust will pursue the CAR issue in the wake of the Massachusetts Court of Appeals decision. (Trust Insurance Co. vs. Commissioner of Insurance, No. 98-P-223). This effort will include pressing Ruthardt to recuse herself from deciding the CAR formula issue due to alleged conflict of interest stemming from her role as Trust's receiver.

Since 1992, Trust Insurance Co. has been battling the formula used by Commonwealth Auto Reinsurers (CAR) for redistributing monies paid by auto insurers withdrawing from the state.

When Aetna Insurance left the state in 1992, it paid \$88 million to cover its future obligations to CAR. Those funds were redistributed to the state's remaining auto insurers in accordance with each insurer's share of the CAR deficit but without consideration for how much of Aetna's business each insurer was taking on.

As a result, Trust received 3.4% percent, or about \$3 million, of

the funds while assuming some 20 percent of Aetna's business. Trust had expected to receive closer to \$25 million. Meanwhile, another insurer, Liberty Mutual, received 10 percent of the \$88 million without assuming any of the business Aetna left behind.

Trust used this and other examples to dramatize the unfairness of the formula used by CAR. But the governing committee of CAR resisted, voting 11-1 on June 17, 1992 not to change the distribution. Trust was the lone governing committee dissenter. After 19 months of administrative wrangling with CAR and appeals to the commissioner, Trust went to court to force the commissioner to modify the rule.

Last week, Judge Rudolph Kass of the Massachusetts Court of Appeals, came down on Trust's side in an opinion which criticizes the way state officials handled the matter.

The written opinion said the commissioner was mistaken in claiming that the insurer had exhausted its administrative remedies when it missed a so-called 30 day deadline. CAR's rules contain no such requirement, the court found.

The opinion also criticizes the commissioner for declining to issue a written opinion on the formula after she held a March, 1993 public hearing on the issue.

After that hearing "the lump sum distribution question vanished into an administrative black hole," according to the court decision. "Occasionally, Trust rattled the commissioner's cage but nothing happened, except for receipt of assurance that something would," Judge Kass wrote.

Finally, in March, 1994, Ruthardt responded, only to reject Trust's request that she make a formal written decision.

"She said neither 'yes' nor 'no,' but only that she would issue neither a decision nor order. Given the nature of Trust's request, viz., modification and codification of the distribution formula, a 'no action' announcement was action; it meant the formula would remain as it was," Judge Kass wrote.

The judge wrote that the court itself would not decide what disbursement method was fair but remanded that the commissioner take steps to address Trust's complaints.

"The record as developed provides no basis for a court to decide whether the existing distribution formula and the procedure by which it derived are fair, whether the reforms for which Trust has pressed are more fair, or whether some other formula is best. It is not too much to ask of the commissioner that she state why the formula chosen is preferable to others, and whether the formula should be enshrined in CAR's Plan and Rules of Operation," the decision stated.

While leaving the resolution to Ruthardt, the decision goes so far as to suggest that the method Trust recommends might be preferable:

"One might imagine, for example, that a distribution formula that lines up with the formula for assigning profits and losses to members of CAR is more efficient than different formulae for different kinds of distributions. In the absence of some articulation of reasons, the commissioner's actions in this case takes on the character of arbitrary decree."

CAR officials declined to comment.

While the matter was winding its way through the courts, Trust in many respects operated as if it had already won the estimated \$20

million in additional CAR funds. Various management and financial mistakes, documented in last issue's page one story (Why Trust went bust and why, Feb. 29, 2000), resulted in the company being placed under administrative supervision by the state in November, 1999, and culminated in the company being seized by Ruthardt last month.

Ruthardt disclosed that the department had been urging Trust to find buyers or investors since the fall of 1998, but that all deals fell through.

Meanwhile, Ruthardt has set about the business of determining remaining options, including whether to sell off Trust's assets. Now, Ruthardt is in at best an awkward position, having to act as both receiver for Trust and decision-maker on the CAR controversy.

Ruthardt was unavailable for comment.

Five months later, Trust filed a complaint with the commissioner, asserting that the method used was unfair and unreasonable and insisting that CAR had to adopt a formal rule as part of its plan and rules of operation to govern such disbursements.

Three months later, the commissioner responded with a letter dismissing Trust's complaint as not timely because it came more than 30 days after the governing committee's 11-1 vote.

But at the same time, the commissioner called for a public hearing to consider "the current administrative practice of CAR in disbursing settlement monies paid by withdrawing insurers pursuant to Rule 11 and to determine whether a settlement disbursement procedure should be codified as part of the CAR Rules and Plan of Operation."

On March 18, 1993, a public hearing was held, with CAR and Trust the only parties submitting briefs.

After that hearing "the lump sum distribution question vanished into an administrative black hole," according to the court decision. "Occasionally, Trust rattled the commissioner's cage but nothing happened, except for receipt of assurance that something would," Judge Kass wrote.

More than a year later, Trust wrote to the commissioner asking that she render a decision and warning that, if she did not, Trust would have to seek judicial relief.

Finally, on March 31, 1994, Commissioner Ruthardt responded, only to reject Trust's request. She maintained that the public hearing was for informational purposes only and that a written ruling was not required.

Insurance Times: Harvard Pilgrim Turnaround Plan Underway
March 14, 2000, Vol. XIX No. 6

by Jean McMillan
Associated Press

BOSTON - State officials and health care advocates have diagnosed Harvard Pilgrim Health Care as alive and well, but warned that the health care crisis is far from over. State regulators spent two months soliciting interested buyers, poring over financial statements and debating whether for-profit or nonprofit status would be best for the financially strapped

HMO.

In the end, they decided the best course of action was to do nothing.

Attorney General Thomas Reilly announced March 3 that while state officials worked to find a buyer or investors, the company made great strides as it continued with its internal turnaround plan. Reilly said it was suggested last week that the company work itself out of debt.

``That's exactly what we are going to do. We have decided to stay the course with Harvard Pilgrim,'' he said.

Harvard Pilgrim, New England's largest HMO with 1.1 million members, was put into state receivership Jan. 4 after company officials came to them with news that their expected losses for 1999 were higher than anticipated and would likely total more than \$150 million. Later estimates put the losses at \$197 million.

Reilly and Insurance Commissioner Linda Ruthardt, the state's appointed receiver, have asked the court to lift the receivership and allow Harvard Pilgrim to continue its plans under close state supervision.

State officials said two accounting maneuvers will allow Harvard Pilgrim's net worth to improve from minus \$88 million to \$178 million.

Properties that Harvard Pilgrim owns will be assessed at market value, rather than purchase price, allowing it to add \$70 million to its balance sheet.

And, the value of its tax-exempt bonds will no longer be considered debt, allowing it to erase \$196 million in red ink.

Among the potential investors that had been negotiating with state regulators were Harvard University, which lent its name to the organization 30 years ago, and Texas billionaire Ross Perot. But Reilly said the conditions they and others wanted, including state guarantees on their investments, were unacceptable.

While the immediate threat of a Harvard Pilgrim meltdown seems to have passed, even Gov. Paul Cellucci warned that the state's health care crisis is far from over.

``It's pretty clear that the health care industry here in Massachusetts and around the country is facing serious challenges,'' Cellucci said.

He said he planned to continue plans to meet with House and Senate leaders to develop other measures to avoid such situations in the future.

``We felt it was important to get we get this challenge behind us, because it was immediate, before we address the larger problems of health care,'' he said.

Others sounded similar concerns. ``The price increases that all the HMOs are charging is far from good news,'' said Alan Sager, a professor at the Boston University School of Public Health.

``This is the first battle in the fight to fix Massachusetts health care,'' said Sager, who has been in on the Harvard Pilgrim meetings and made the suggestion last week that the company be allowed to work its problems out.

Sager said the state needs to have more oversight and should consider a stabilization fund that HMOs pay into.

``This is our health, this isn't the corner gas station going broke. Anyone who foolishly pretends that there's a free market here we can trust with our health care is in for some bad news in

the future," he said.

Reilly and others also expressed faith in the management skills of Charles D. Baker, Jr., former administration and finance secretary under Gov. Paul Cellucci.

Baker took over the reins of Harvard Pilgrim last May. Asked if Baker had been lobbying to keep control of the company, Reilly said no. But he said, "He obviously believed in his performance and he believed in his plan and he had a right to believe in it."

Insurance Times: Vermont Employers Face 9.9% WC Increase
March 14, 2000, Vol. XIX No. 6

by Penny Williams
Insurance Times

MONTPELIER - Vermont workers compensation insurers are seeking a 9.4 percent increase in voluntary loss costs and an increase of 20 percent in assigned risk rates. This represents an overall increase of 9.9 percent.

The estimated impact in dollars is \$7.7 million in the voluntary market and \$860,280 in the assigned risk market for a statewide increase of \$8.5 million.

The National Council on Compensation Insurance (NCCI) filed the rate proposal with state insurance officials on behalf of insurers.

Four Decreases

Vermont employers have enjoyed four consecutive rate decreases prior to this proposed rate increase. According to the NCCI, even after the proposed increases, voluntary loss costs will still be 27 percent below the levels in effect in July, 1994, while assigned risk rates will be roughly 11 percent lower.

"If Vermont is to mitigate future loss cost rate increases, and prevent re-population of the assigned risk market, continued diligence is needed by Vermont workers compensation stakeholders to ensure that the system remains strong and competitive," the rating organization stated in its filing.

If approved, the change in rates for manufactures would average 20.3%; for contractors, 6.1%; office clerical, 12.2%; goods and services, 2.6%; and miscellaneous, 9.1%.

The assigned risk market share has fallen from 36.4 percent in 1994 to 6.5 percent in 1998. NCCI estimates that the assigned risk market share will be approximately 5 percent during the next year.

Insurance Times: 35 Insurers Failed In '99 Competitive Pressures Continue
To Lead To Insurer Insolvencies
March 14, 2000, Vol. XIX No. 6

Workers comp marketplace hardest hit

A confluence of factors contributed to the failure of 35 insurance companies in 1999, according to Standard & Poor's. Among the most prominent factors contributing to the rising

number of insurer financial problems are the liquidity crisis of General American Life Insurance Co., the related action against Integrity Life and the Martin Frankel scandal, the global ratings service said.

Standard & Poor's expects the trend to continue into this year - exemplified by the recent failures of Harvard Pilgrim and Superior National - due to increasing competition in the industry.

The number of insurance companies that experienced regulatory action due to financial stress increased to 35 in 1999, compared with 20 in 1998. The 35 companies that failed in 1999 represent only a small percentage of the 3000 plus companies operating in the U.S., says the Standard & Poor's analysis of failed insurance companies.

Other Failures

More than a dozen managed care companies also failed during 1999, leaving half a million members without health insurance. In addition, more than half of all health plans lost money in 1998, and considering statutory filings for 1999 to date, losses are persisting.

Exacerbating the problem, solvency levels and requirements in many states are still very weak, pending adoption of the National Association of Insurance Commissioners (NAIC) risk based capital requirements, Standard & Poor's maintains. In 1999, only five states had adopted the new standards, with most of the rest are expected to follow suit in 2000 and 2001.

The main reasons for failures in the property/casualty sector were continuing competitive pressures which have led to inadequate pricing, leading to weakened reserve positions. The workers compensation business was particularly hard-hit in 1999, Standard & Poor's said.

While the life insurance market is considered to be the most stable among insurance sectors, Standard & Poor's believes that the majority of failures that could and have occurred are the result of a high concentration risk either on a company's asset or liability side.

STANDARD & POOR'S: INSURANCE COMPANIES EXPERIENCING REGULATORY SOLVENCY-RELATED ACTION IN 1999

14 Healthcare Organizations

American Healthcare Trust, Inc. TN N/A

DayMed Health Maintenance Plan, Inc. OH \$8.0 million

Garden State Hospitalization Plan NJ \$5.4 million

Greater Pacific HMO Inc. CA Under \$1 million

Harvard Pilgrim Health Care of New England (Rhode Island)(1) RI \$95.1 million

HealthOhio, Inc. d/b/a HealthFirst OH \$20.2 million

HIP of Pennsylvania Inc. d/b/a HIP Health Plan PA PA \$1.4 million

Kitsap Physicians Service WA \$26.0 million

MedQuest KY N/A Physicians Care PPO Inc.

PA \$4.0 million Premier Healthcare of Arizona, Inc. AZ \$13.5 million

Wellcare of Connecticut Inc. CT \$4.4 million

Xantus Healthplans of Mississippi, Inc. MS Under \$1 million

Xantus Healthplan of Tennessee TN \$ 34.1 million
- On January 4, 2000 Harvard Pilgrim Health Care affiliates were placed into receivership. Those companies, with the exception of Harvard Pilgrim Health Care of New England (Rhode Island), do not appear in this report due to the fact that the regulatory action did not take place until 2000.

9 Property/Casualty Insurers

Back of the Yards Neighborhood Council Risk Mgmt. Assn. IL N/A
Fidelity National Insurance Co. FL \$7.0 million
FTBA Mutual Inc. FL \$41.1 million
Illinois Electrical Employers Workers Compensation Assn. Inc. IL N/A
Illinois Insurance Co. IL \$30.1 million
Nonprofits Mutual Risk Retention Group VT Under \$1 million
Paradigm Insurance Co. IN \$51.2 million
Sac Farmers' Mutual Insurance Association IA Under \$1 million
Unistar Insurance Co. TX \$5.5 million

12 Life Insurers

Family Guaranty Life Insurance Co. Inc. MS \$28.9 million
Farmers & Ranchers Life Insurance Co. OK \$13.7 million
First National Life Insurance Co. of America MS \$126.2 million
Franklin American Life Insurance Co. TN \$76.1 million
Franklin Protective Life Insurance Co. MS \$24.1 million
General American Life Insurance Co.(1) MO \$14,044.1 million
Integrity Life Insurance Co. AZ \$7,408.6 million
International Financial Services Life Insurance Co. IL \$206.9 million
Life Insurance Co. of Alaska AK N/A
National Affiliated Investors Life Insurance Co. LA \$4.6 million
Settlers Life Insurance Co.(4) VA \$205.9 million
Universal Life Insurance Co. TN N/A
(1) The company was acquired on 1/6/2000 by Metropolitan Life Insurance Co. (4) Although not influenced directly by Martin Frankel, the primary reason for the failure of the company Insurance was a failed reinsurance transaction with a company that was allegedly defrauded by the former financier. On 12/16/99, Settlers Life was acquired by National Guardian Life Insurance Co., and is currently free from regulatory control.

Insurance Times: Congress Begins Work On Patients' Rights Compromise **March 14, 2000, Vol. XIX No. 6**

WASHINGTON - House and Senate lawmakers are starting work on compromise legislation that would afford Americans some rights when dealing with HMOs and health plans. They have set a tight deadline of March 31. The House and Senate passed bills last fall that contain many of the same patient protections. But the two bills differ on two touchy issues - whether Americans should be allowed to sue HMOs and whether a federal patient protection law should apply to everyone or only to those whose plans are not already regulated by states. Democrats argue that patients need protections from HMOs and managed care plans. Republicans say lawsuits will drive up

health care costs and force employers to drop coverage. But with patient rights a popular issue among voters, GOP lawmakers in the House joined Democrats last fall to pass a bipartisan patients' rights bill that allows lawsuits and applies to all people with private insurance. The Senate bill, crafted by Republicans, doesn't allow lawsuits and applies to fewer people. A bipartisan committee appointed to draft a compromise met for the first time last week. The House and Senate bills both give patients a variety of rights, including:

- Ability to appeal HMO decisions to an outside panel.

- Guaranteed access to reasonable emergency room care.

- Ability to see pediatricians and obstetricians without permission from primary care doctors.

- Timely access to specialists.

- A requirement that plans not prohibit doctors from telling patients about all their medical options.

Both bills would also allow anyone to buy medical savings accounts, which let people set aside money, tax-free, to pay for routine care, and would let self-employed people deduct from their taxes what they spend to purchase their own insurance. They differ on who is covered and whether health plans can be sued.

The House bill would allow patients to sue HMOs, the Senate bill would not.

The House bill would apply to every American with private health insurance. Most provisions of the Senate bill would apply to people insured through employer-based plans that are exempt from state regulation. One exception is a requirement that plans let patients appeal to an outside review panel if care is denied that would apply to everyone with private health insurance.

Insurance Times: Insurers Find Draft FTC Financial Privacy Guidelines

Encouraging

March 14, 2000, Vol. XIX No. 6

WASHINGTON - Proposed financial privacy rules issued last month by the Federal Trade Commission (FTC) add welcome guidance to insurers regarding implementation of the new federal financial services modernization law, but uncertainty remains, according to insurers.

"The proposed FTC rules help answer questions that many insurers have concerning how the Gramm-Leach-Bliley Act will apply to their everyday operations," said Rey Becker, vice president of the Alliance of American Insurers. "These include a reassurance that the new privacy law applies only to products and services for personal, family or household purposes, as well as guidance as to when a privacy notice is actually required."

In terms of insurance policies, the privacy notice would be triggered when the consumer executes the contract. "In most insurance situations, this would mean the application process. Thus, merely discussing an insurance policy with a prospective customer would not require any formal privacy notice," Becker said.

"There even is flexibility for insurers or agents marketing over the telephone," Becker added. "The rules would allow the insurer

and the consumer to agree to delay the initial privacy notice until after the product or service is provided, rather than before."

The FTC also has indicated it will issue separate standards governing insurer confidentiality regarding the use of nonpublic personal information on customers.

"For better or worse, these standards should assist insurers in meeting the concerns of state insurance commissioners," Becker said, noting that the New York Insurance Department has already asked insurers for this type of information.

He did note some negatives in the proposed rules, including" an expansive definition of what constitutes 'financial information' that prompts special treatment, even where there is nothing remotely 'financial' about the data."

He also expressed concern about language that could trigger privacy requirements when an insurer 'collects' data on a potential consumer from other sources but has no customer relationship yet.

The FTC is expected to issue final rules on or before May 12. The privacy provisions of the financial modernization act take effect Nov. 12.

Insurance Times: Legislative States
March 14, 2000, Vol. XIX No. 6

In New Hampshire, an insurance industry-opposed bill (SB 440) expanding the definition of after market parts and restricting their use by insurers has been killed in committee.

The bill will not be referred out of committee but it could still come before the floor of the Senate, industry observers think this is unlikely.

The American Insurance Association, The National Association of Independent Insurers and the Alliance of American Insurers all opposed the bill.

Four states are taking steps toward modernizing their insurance laws by working to reform agent countersignature requirements.

The states in question - Alabama, Massachusetts, West Virginia and Wyoming - are four of only eight states left with absolute countersignature laws on their books. The others are Florida, Mississippi, Nevada and South Dakota. Twelve states have so-called retaliatory laws in place.

The Houses of Representatives in Massachusetts, West Virginia and Wyoming have passed legislation to repeal their respective countersignature laws. All three bills now await consideration in their respective senates.

Officials who run a large prescription assistance program in New Jersey want to stop covering ``cosmetic'' treatments for problems such as baldness and age spots.

Proposed amendments to the Pharmaceutical Assistance to the Aged and Disabled program would end funding for the popular drugs Propecia, Retin-A and Meridia for many patients.

State officials said the costs of offering prescription aid are rising at an unacceptable rate around the country. The cuts in

New Jersey's \$280 million program, which covers the low-income elderly and disabled, would save the state about \$200,000 per year.

``Most people would argue that we should not be paying for drugs that are purely cosmetic,' ' the program's director, Kathleen Mason, told The Star-Ledger of Newark. Many private insurers already restrict coverage for such treatments.

But drugs to treat some of the external effects of aging are increasingly in demand by senior citizens. Their large interest group, AARP, does not believe that the treatments in question should be automatically off-limits to coverage. The prescription program covers 190,000 low-income New Jerseyans on a \$5 co-pay plan.

Insurers are opposing a Massachusetts bill (H. 5028) that would repeal the sunset provision for the joint underwriting association for liquor legal liability insurance.

In testimony before the Joint Committee on Insurance, the American Insurance Association pointed out that the sunset provision has existed since the JUA was formed in 1985. The number of risks written by the JUA has declined steadily for the past several years.

"As a matter of public policy, the government should not be making residual markets permanent. Rather than perpetuate this involuntary market, it is better public policy to allow these few risks to be taken care of by the voluntary market," said James T. Harrington, AIA vice president, northeast region.

Federal financial services reform did more than simply remove barriers between banks, insurers and securities firms. The Gramm-Leach-Bliley (GLB) Act also addresses the collection, use and disclosure of nonpublic personal information on customers by these same entities.

Even though the federal act provides new privacy protections, there has been a flurry of state legislation on privacy issues, notes Rey Becker, vice president for the Alliance of American Insurers. While some seek to build-upon GLB, he maintains that others are solutions in search of problems:

Opt-In: While GLB allows consumers to opt-out of having their information shared, these bills would prohibit such sharing unless the consumer affirmatively gives permission. The industry believes that this denies potentially valuable information to consumers who forget to fill out and return a form. Such bills have surfaced in Arizona, California, Delaware, Massachusetts, Minnesota and Washington and Minnesota.

No discrimination against customers who decline to share: According to insurers, this negates one of the key benefits of GLB by effectively denying premium discounts and specialized products to those who want them most. These bills have surfaced in California, Massachusetts and New Jersey.

Information Collection: These bills prohibit the collection of information, not the use or distribution. Since accurate information is crucial to underwriting and rating, insurers have problems with these. Washington is considering one.

Identity Theft: Some bills would criminalize efforts to obtain personal financial information for fraudulent or criminal

purposes. Insurers are concerned that some of the bills are so over-reaching as to make felons out of law-abiding businesspersons. Variations on this are pending in nine states including California.

Enforcement: Many of the bills would create a private right-of-action to encourage attorney involvement (California, Hawaii and Washington). Still others would involve state attorneys general in policing this area, thereby duplicating insurance department oversight.

Insurance Times: Latest Agency Mergers
March 14, 2000, Vol. XIX No. 6

Fred C. Church, Inc. of Lowell, Mass. has acquired the Gorman-Litchfield Insurance Agency in Dracut, Mass. The acquisition brings to 10 the number of branches Fred C. Church has in northeastern Massachusetts and southern New Hampshire. Gorman-Litchfield has 4,000 clients, 60 percent of whom are from Dracut.

In addition to Lowell and Dracut, Fred C. Church operates Massachusetts offices in Chelmsford, Andover, Methuen, Wilmington, Littleton, Haverhill, Woburn and an office in Portsmouth, N.H.

The purchase was formalized on March 1 by Fred C. Church President John F. Reilly, Jr., and Gorman-Litchfield owner Frank Gorman.

Americana Financial Services, Inc., a New York City-based insurance brokerage, has acquired Morstan General Agency, Inc., a wholesaler serving a network of more than 7,000 independent brokers with products for small and medium-sized businesses. Americana Financial Services, Inc. sees the acquisition as a good fit with its online e-commerce business, BrokersUSA.

Morstan, based in Lake Success, New York, represents more than 65 insurance companies and premium volume in excess of \$125 million. It has offices in New York, New Jersey and Florida. Americana, started in 1998, has 250 employees in six states with projected revenues for 2000 of \$21 million.

The NIA Group of Paramus, N.J., has merged National Associates, a major southern New Jersey insurance agency, into NIA. Both firms have entered into a joint venture with two other insurance firms: Consolidated National Insurance and Insurance Management Services.

National Associates, headquartered in Cape May, will add its 50 employees and offices in Marlton and Turnersville to NIA's 500 employees and New Jersey offices in Randolph, Somerset, Cranford, Freehold, Paramus and in New York City.

M&T Bank Corp. of Buffalo, N.Y. and its principal subsidiary, Manufacturers and Traders Trust Co., has completed the acquisition of Matthews, Bartlett & Dedecker, Inc., a property/casualty insurance agency located in Buffalo. MBD will operate as a subsidiary of M&T Bank. MBD's president, Gerald C. Saxe, will continue with the company as president of the subsidiary.

Insurance Times: Opinion Exchange: The following is taken from Harrington's testimony before the Massachusetts Legislature On H.4994 relating to financial privacy rights
March 14, 2000, Vol. XIX No. 6

by James T. Harrington
Vice President, State Affairs
American Insurance Association

The following is taken from Harrington's testimony before the Massachusetts Legislature On H.4994 relating to financial privacy rights

This past year Congress enacted broad financial services reform legislation designed to keep America competitive in banking, securities and insurance. As a part of this legislation which is known as the Gramm-Leach-Bliley Act Congress established for the first time a comprehensive privacy policy for the financial services sector.

This policy carefully balances privacy considerations with the need to encourage commerce. As part of this balancing process, Congress intended that its policy be applied in the same way for all three financial services sectors: banking, securities and insurance. For the banking and securities sectors, Congress provided that the policy be implemented and enforced by federal agencies. For insurance, Congress provided that it be implemented by state insurance regulators, with each state responsible for implementing the standards for insurers that are domiciled in that particular state. The challenge and the imperative is that the policies, in fact, be the same across the financial services sectors and among the various states. With uniformity, commerce will flourish and privacy rights will be protected. Without uniformity, there will be a crazy quilt of differing and conflicting standards. Everyone except possibly those in the litigation business will lose.

For banking and securities, uniformity is being achieved by the issuance of coordinated regulations by the major federal agencies such as the Department of the Treasury, the Federal Reserve Board, and the Securities and Exchange Commission. For insurance, uniformity must come from state regulatory action in fifty separate states. To achieve this, the states will need to proceed with a disciplined adherence to Title V of the federal law, which is where the federal privacy standards are established.

It is critical, therefore, that states not enact insurance legislation that is at variance with the federal standards. To do so would not only destroy the balance that Congress established, but would adversely affect the ability of insurers to compete with banks and securities firms. It might also place some insurers at a competitive disadvantage with other insurers, merely because of their corporate structure.

How then should this national policy be carried out with regard to insurance? The first imperative, we believe, is to reject the enactment of substantive state insurance legislation that alters

the Congressional balance or that changes Congressional requirements. The second imperative is that each state either under current state law or with a new implementing statute promulgate regulations to implement the federal privacy requirement for their domiciliary insurers.

As each state proceeds with implementation, it should feel comfortable in knowing that the new federal privacy standards are both rigorous and fair. Under them, customers will have more protections than ever before. They will have more knowledge than ever before. And they will have unprecedented rights to tell financial firms not to share non-public personal information about them. Specifically, under the federal law, each financial institution must for the first time:

Clearly and conspicuously disclose to customers at least once each year their policies for collecting and sharing the customers' non-public personal information;

Allow customers to "opt out" of the sharing of personal information between their financial institution and unrelated third parties (with limited exceptions), thus adopting the approach that has worked so well under the Federal Fair Credit Reporting Act;

Restrain from disclosing information to third party marketers that would allow for direct access of their customers' account numbers; and

Comply with new standards to protect the security and confidentiality of customers' non public personal information. These privacy rights are balanced against other needs that are just as critical to a functioning economy. We must allow information to flow for commercial purposes. We must be able to bring new product and service information to those who are likely to be interested in them. We must allow businesses to manage transactions and prevent fraud. We must not take the "information" out of "information technology."

Some people have argued for a different balance than the new federal law provides, including a requirement that essentially no information be shared for any purpose without an individual's prior approval the so called "opt in" approach. In choosing "opt out" over in", Congress recognized that the "opt out" approach, also featured in the Fair Credit Reporting Act, has worked well to protect customers who prefer to preserve the confidentiality of their personal financial information. Moreover, Title V includes specific provisions to make sure that customers are aware that they have the right to "opt out" and know how to exercise that right. Thus, Congress rejected the "opt in" approach, with good reason. A system that relies on clogging the mails (or the emails!) with a never-ending barrage of prior review notices is a terrible choice. In any case the careful balance represented by the federal bill should not be upset by some individual states.

Our concern with H 4994 is that it does change the federal balance and it does so in a particularly difficult way. First it adopts without any substantial support or examination an "opt in" policy in contravention of the new federal law. Second, it imposes particularly onerous notice requirements for every transaction. Third, it fragments the legal structure by applying its rules to some insurers, but not others; it does this by applying its standards to insurers that are affiliated with

another financial services company, but not to insurers that have no such affiliation.

Therefore, we urge Massachusetts to concentrate on implementing the new federal standards consistent with those standards, rather than adopting other approaches. By implementing the new federal standard for insurers, all financial services customers in Massachusetts - the customers of banks and securities firms, as well as insurers - will enjoy the protections of the new federal requirements, and all financial services firms will be operating under the same rules. Let's not lose this important opportunity.

The American Insurance Association is a country wide property casualty insurance trade association whose members write in excess of 35% of property casualty insurance provided in Massachusetts.

Insurance Times: Mass. Bill Would Shift Costs To Auto From Health Insurers

March 14, 2000, Vol. XIX No. 6

BOSTON - Massachusetts auto insurers took aim last week at a bill (S.2104) they said would shift costs from health insurers to auto insurers and increase costs for all consumers as a result.

The legislation would undo a ruling handed down by the Supreme Judicial Court in *Dominguez v. Liberty Mutual*, 706 N.E.2d 647 (MA. 1999). In *Dominguez*, the court ruled that Massachusetts Personal Injury Protection Benefit statute provides for a careful balance between the responsibilities of the auto and health care insurers. Under Massachusetts' law, the auto insurer is responsible for the first \$2,000 of medical expenses under the PIP statute (M.G.L. c. 90, sec.34A). Coverage for medical expenses between \$2,000 and \$8,000 rests with the claimant's health insurer.

In *Dominguez*, the claimant was injured in an auto accident. He submitted \$2,785 in medical expenses to the auto insurer which paid the statutorily required \$2,000. The claimant's health insurer refused to pay the \$785 balance because the claimant did not follow the health plan's procedures and received the care outside of its network. The claimant then sought payment again from the auto insurer, which refused. The court upheld the auto insurers' refusal, ruling that the claimant cannot frustrate his obligation to coordinate medical benefits with his health carrier by refusing to abide by the health plan's procedures. He cannot shift the cost to his auto insurer, simply by refusing to follow the health plan's rules.

"If claimants are allowed to simply ignore the procedures of their health plan and shift the costs back to their auto insurers, it is not hard to imagine some health care providers, free from any oversight, over treating claimants to buttress their liability case," said James T. Harrington, American Insurance Association vice president, northeast region.

"The Legislature crafted the coordination of benefits in the PIP statute in such a way as to provide claimants immediate coverage for their medical costs, while keeping the impact on auto

insurance costs to a minimum," added Harrington. "S. 2104 undoes that careful balance. All the claimant needs to do to receive full reimbursement is to follow the rules of his or her health plan, as they would for any other health care coverage."

Insurance Times: Arguments Begin In Major Lloyds Lawsuit
March 14, 2000, Vol. XIX No. 6

LONDON - Venerable insurance colossus Lloyd's of London took up the fight of its 312-year life last week when lawyers began arguments in a lawsuit accusing the company of massive fraud. Hundreds of Lloyd's investors, known in the business as Names, allege they were duped into joining the institution at a time when Lloyd's faced overwhelming losses due to claims by victims of asbestos-related illnesses. The Names argue that top Lloyd's executives knew about these enormous liabilities but deliberately concealed them as they launched a worldwide drive to recruit thousands of new investors to help absorb the potential losses. The lawsuit, expected to last several weeks, seeks damages of up to \$237 million.

Insurance Times: Allmass Group To Sell Directly In Brockton
March 14, 2000, Vol. XIX No. 6

BROCKTON, Mass. -In a path-breaking move for an agency network, allMass Group Inc., through its subsidiary, the allMass Insurance Agency, has begun selling insurance to consumers in the Brockton, Mass., area. It is offering auto, home and small-business insurance.

"Our goal is to make profits that will support expansion of our services to our members services and ultimately reduce dues," said Stephen J. Ledogar, allMass Group president and CEO.

Because the nearest allMass member is about 15 miles away, allMass won't be competing with any of its own members, he added.

Previously, allMass Insurance Agency served only allMass members, offering them additional markets with A-rated carriers. That will still be its main role.

"We have a full-function agency, and it makes sense to use it to its full potential," Ledogar said. The agency is managed by Joyce O'Neill, allMass Group's executive director, who is a licensed broker.

Ledogar believes that allMass Insurance Agency eventually may produce enough commissions and profits to eliminate all member dues and assessments.

allMass Group (www.allmass.com) offers members appointments with top carriers, profit sharing, statewide consumer advertising, branding, specialty markets, and access to acquisition capital and management consulting.

Owned by agents, allMass Group members have about 30 locations and write more than \$60 million in premiums.

For more information, call allMass at (800) 899-8929.

Insurance Times: InsuranceTranslation.com site re-launched
March 14, 2000, Vol. XIX No. 6

New Haven, Conn. - MultiTech Communications, Inc., a provider of foreign-language translation services to insurance and related sectors worldwide, has re-launched its InsuranceTranslation.com Web site.

In addition to expanding the information available on the firm's services, the recently re-launched site enhanced its Glossary Agent and Language Perils sections by organizing them according to topic.

Glossary Agent is InsuranceTranslation.com's expanding set of links to online glossaries in a variety of languages in insurance, reinsurance, healthcare, law, shipping, and other disciplines of interest to insurance industry professionals. Language Perils, InsuranceTranslation.com's e-letter, offers an interactive forum for insurance and related professionals worldwide to address issues of their markets through the unique prism of terminology. For example, recent contributors have discussed consequential losses in Germany, the problems of communicating U.S. healthcare terms to Russian emigres, segregated cells in captives, and proximate cause in Argentina. InsuranceTranslation.com welcomes contributions to Language Perils from industry professionals worldwide. More information is available at the firm's Web site.

Insurance Times: Weather Insurer Offers Consumer Policies
March 14, 2000, Vol. XIX No. 6

Worldwide Weather, a specialist in providing weather insurance for commercial operations and major sporting events including Major League Baseball's All Star Game, has launched a new web site - www.RainDay.com - making rain insurance available to consumers.

RainDay.com offers protection for single day or vacations canceled due to rainy or inclement weather.

The Vacation Protection Plan provides up to \$100,000 in coverage. The One Day Protection Plan offers coverage up to \$50,000 per hour, per day, for single day events such as weddings, sporting events, holiday outings and more.

RainDay.com allows visitors to the site to obtain instant quotes, file applications, and submit claims online.

Insurance Times: P/C Insurers Set Record For Arbitration Use
March 14, 2000, Vol. XIX No. 6

Property/casualty insurers and self-insureds resolved more than \$1 billion in inter-company claims disputes through arbitration in 1999, according to Arbitration Forums, Inc. (IAF).

The record use of arbitration last year marked the second consecutive year in which the \$1 billion mark was exceeded, noted D. Kay Smith, chief executive officer of IAF.

An IAF study found that for every dollar a company spends on

inter-company arbitration, the return on investment is \$18.92. Cost items reviewed in the study included the salary of the claims handler, file preparation time and copying and mailing costs.

Insurance Times: Computer Hack Attacks Spark Interest In Internet Loss Insurance
March 14, 2000, Vol. XIX No. 6

Insurance is security blanket for risky business

As federal authorities investigate a recent string of computer hack attacks that temporarily shut down some of the Web's most popular sites, a growing number of insurers are offering policies that cover Internet losses.

Marsh Inc., a San Francisco-based insurance broker, recently began offering up to \$200 million in coverage in its NetSecure policy. A handful of smaller firms offer similar policies. Coverage options vary, but typically clients pay to protect against revenue lost due to widespread Internet outages or if their site is inaccessible to consumers for any number of reasons from a service outage to a hacker attack.

Marsh has sold about 100 policies so far, and has seen a fivefold increase in inquiries about the coverage since recent Web attacks, said Bill Power, a managing director in Houston.

``Technology is not bulletproof,'' said Emily Freeman, director of the company's e-business division. ``It's a business-risk issue and needs to be addressed.''

Handango, a Dallas startup that sells hand-held technology and offers software downloads through its Web site, bought ``cyberspace liability coverage'' earlier this year after an internal review revealed potential for heavy Internet losses. The Internet ``is everything that we do,'' said CEO Laura Rippey is CEO. ``Insurance is a security blanket in a Web world that does not provide a whole lot of security.''

Net insurance is a budding market that has growth potential as online business continues to expand, said Martin Sheffield, vice president of the PC ratings division at A.M. Best Co.

``Certainly it's a niche,'' Sheffield said. ``I think as the Internet exposure becomes more apparent, there will be more products that align themselves with that exposure, and with any innovative enterprise the insurance industry comes along to fill in any of those risks.''

Sean Kaldor, an e-business analyst for Internet researchers International Data Corp., said there are ``a few'' insurers who currently offer Internet policies, but the number is growing steadily because of the demand.

Most big sites such as Yahoo! and eBay are insured, but generally don't discuss it because businesses _ not customers _ are covered by the policies, Kaldor said. Smaller sites and traditional businesses that have Web sites will need Internet-specific coverage, he said.

``I think that anyone doing business online realizes that it presents unique risks. Any way you can mitigate those risks is going to make your investors feel more comfortable doing business

with you as well as your customers," Kaldor said. For now, large insurers are steering clear of the Web because there is no definitive data showing how big a liability the coverage could be, Sheffield said. In addition, Kaldor said, there are other issues that need to be ironed out, such as who will evaluate and set rates and what happens if there is a major online disaster. There's also a risk that the cushion of an insurance policy could compromise security awareness, he said. "What we don't want to see is online merchants getting sloppy and saying, 'Oh if this happens we'll be covered."

Insurance Times: Iroquois Doubles Mass. Size With Merger
March 14, 2000, Vol. XIX No. 6

New England General Insurance Agency has merged with the Iroquois Group, the companies announced Feb. 17. New England General, a network of 22 independent Massachusetts agencies, writes more than \$4 million in premiums annually. The transaction roughly doubles the Olean, N.Y.-based Iroquois Group presence in Massachusetts to 41 agents. The company said that the deal is part of a continuing plan to expand into New England. "New England General agents already have a strong customer base," said William Branch, president of Iroquois Group, in a prepared statement. "Now, through the Iroquois network, they will have vastly improved access to a broad array of quality insurance companies, plus better training, technology and administrative support. As Iroquois members, they will be able to lower their costs and increase their volume." Bill Genovese, chairman of New England General, called the merger "the logical solution to our growth requirements." "New England General has focused primarily on commercial business and high value home insurance," said Genovese. "Now we can do all that and more. We're excited about joining Iroquois." The companies said that New England General will continue to provide centralized underwriting authority to area agents out of its Woburn office. Agents will place business for their clients with a single application. Central staff will then search markets and select the company whose underwriting posture, philosophy, and pricing best suits the account. "New England General is a prime example of the type of organization that benefits from joining the Iroquois network," said Branch. "Even the most established agencies need access, at one time or another, to additional standard and specialty markets. We improve their access to insurance markets so they can offer more products to their clients. Plus, their margins are much better, because our network members can achieve volume requirements that are beyond the reach of small operations." Iroquois calls itself the oldest, largest network of independent insurance agents in the country, with nearly 1000 rural and suburban agencies in 22 states, representing \$2 billion in premium volume.

Insurance Times: Demand For Online Purchasing And Claims Handling
Continues To Increase

March 14, 2000, Vol. XIX No. 6

Auto coverage most likely to be bought online, followed by life

GREENWICH, Conn.- Nontraditional players may be breaking into the online insurance market, but consumer loyalty is with insurance carriers, according to a recent survey conducted by IVANS Inc., an e-business solutions provider for the insurance industry.

Thirty-six percent of respondents said they would most likely purchase insurance over the Internet directly from an insurance carrier opposed to a search engine (20%), insurance mall (8%), or a brokerage (5%) or banking (4%) site.

Nearly half of the consumers surveyed said they would be most likely to purchase automobile coverage electronically, followed by life (23%), homeowners (20%) and health (13%) coverage.

Forty-eight percent of those responding have Internet access at home while one-third have access to the Internet at work.

Findings indicate a parallel between those interested in researching cars online and researching auto insurance online.

Nearly a third of the 36% who researched buying a car online said they have also researched buying auto insurance online.

"The number of educated consumers is growing as the Internet continues to provide easy and convenient access to information on products and services," said Dan Carmichael, president and CEO of IVANS, who presented the findings at IVANS Chief Executive Forum in New York.

"Insurance carriers must develop a solid e-business strategy today if they want to respond to growing customer demands and retain customer loyalty tomorrow."

Already, the electronic market is testing the survival of the industry's fittest. Ten percent of survey respondents said they would switch insurance carriers if their insurance carrier did not offer the ability to purchase insurance and file claims online, if another carrier did. This number is likely to increase as more insurance companies strive to secure their niche on the Internet.

Window Shopping

"Our survey shows that consumers are using the Internet to window shop for much more than books, CDs and homes," added Carmichael.

"Online insurance is the next logical step consumers will be taking, and carriers must be ready to turn browsing into business."

More than a third of all respondents said they are aware that their auto, health and life insurance carriers have an online presence. Nearly half (44%) of respondents said they are aware of their health insurance carrier's Web site; 39% said their auto insurance carrier has a Web site; and 33% said their life insurance carrier has a Web site.

But only seven percent of respondents said they access their auto, health or life insurance carrier on a monthly or daily basis. Respondents said they are more likely to visit auto (23%) and health (20%) insurance carrier Web sites over life insurance

(13%) sites.

IVANS Inc. is an e-business solutions provider for the insurance and healthcare industries. More information on IVANS may be found on the Internet at www.ivans.com.

Insurance Times: Calif.'S Biggest Comp Writer Seized
March 14, 2000, Vol. XIX No. 6

SACRAMENTO, Calif. (AP)- State regulators on March 2 seized the Superior National Insurance Group, California's largest workers compensation insurance entity that authorities said was in severe financial straits with scant reserves.

Insurance Commissioner Charles Quackenbush went to court on March 6 in Los Angeles and Sacramento to seek a formal court order placing the management of the group under state authorities. The action means the state takes over complete control of the group's operations, and can sell the off company, which the commissioner said had \$730 million in assets and \$240 million in premium income during 1999.

Quackenbush said Superior suffered excessive losses and a depletion of reserves, among other problems.

``Superior National faced unforeseen loss ratios and an adverse claims history that has resulted in a significant shortfall in reserves,'' the commissioner said. ``Superior National must be conserved (seized by the state) to ensure that claims will be paid,'' he said.

Superior National - actually a collection of five companies - is the largest private workers compensation insurance group in the state, with about 9.8 percent of California's market share, according to A.M. Best, an independent research firm that targets insurance.

Quackenbush said four of the five companies were seized by California regulators - California Compensation Insurance Co., Combined Benefits Insurance Co., Superior National Insurance Co. and Superior Pacific Casualty Co.

A fifth member of the Superior group, based in New York, is under financial scrutiny by New York regulators, according to the California commissioner.

``The workers compensation insurance market here in California is fiercely competitive. A by-product of that reality is the possibility of circumstances arising such as these, where a carrier cannot remain competitive and financially solvent at the same,'' Quackenbush said.

Industry observers generally agreed with commissioner.

``It's disappointing that the competition has been so severe, and that losses have been accumulating for the last three years at an inordinate rate. Sooner or later, the dam had to break,'' said Barry Carmody, president of the Association of California Insurance Companies, a trade association and lobby in Sacramento. Mark Webb, who heads the Sacramento office of the American Insurance Association, said ``workers comp companies that mainly rely on business from within the state face special stress.

``It means that a company that writes exclusively workers comp and primarily in California is in major danger, for solvency purposes, than companies that diversify, both by line and

geography," Webb said.

Calls to the company's Woodland Hills office went unanswered. Superior National has been hurt in recent years unexpectedly high claims payouts and by an intensely competitive market. In recent months A.M. Best had downgraded the company's bonds because of low reserves and Superior's acknowledged difficulty in collecting \$175 million in claims from a re-insurer. Standard & Poor's put the company on credit watch, an indication that it might downgrade the company's rating.

In 1995 the California Legislature revised state law to allow workers compensation insurers to set their own rates. That, plus a trend in recent years of relatively low claims payments, has prompted insurance companies to slash prices to gain marketshare. The lower prices, plus higher-than-expected claims, have put a squeeze on a number of companies. The California Workers Compensation Insurance Ratings Bureau recently estimated that the state workers compensation market as a whole has a reserve deficiency of \$3.2 billion.

Insurance Times: Ethics Awareness Month Projects Planned
March 14, 2000, Vol. XIX No. 6

A national survey on business ethics, a monograph with ethics-related case studies and an ethics awareness electronic bulletin board will be the focus of Ethics Awareness Month (EAM) 2000 in March.

Established in 1990, EAM is a nationwide educational program designed to promote awareness of ethical issues affecting the insurance and financial services industry. The event's four sponsors are The American College, The American Institute for Chartered Property Casualty Underwriters, the CPCU Society, and the Society of Financial Service Professionals (SFSP).

A survey being conducted for the SFSP will examine ethical issues in employer/employee relations. Key questions will address how employees and managers perceive their company's policies on drug testing, using video cameras in work areas, and monitoring e-mail correspondence and web-surfing behavior. results of the study will be released in mid-March.

The American Institute for CPCU will publish a monograph, "Ethics in the Insurance Industry: A Case Study Approach." David H. Brownell and Steven Heald prepared the study, which was funded by the Insurance Institute for Applied Ethics, a division of the American Institute for CPCU.

The American College will add an ethics awareness bulletin to its website at www.amercoll.edu It will include case studies addressing some ethical dilemmas facing today's financial service professionals.

Insurance Times: MassMutual buys Hong Kong firm
March 14, 2000, Vol. XIX No. 6

SPRINGFIELD, Mass. (AP) - Springfield-based MassMutual Financial Group said it is buying a Hong Kong insurance company, joining other U.S. firms entering Japan and other Pacific Rim countries.

Terms of MassMutual's purchase of CRC Protective Life Insurance company were not disclosed. CRC is owned by HKCB Bank Holding Co. of Hong Kong and Protective Life Corp. of Birmingham, Ala. CRC Protective will be renamed MassMutual Asia.

``Strategically, we were trying to get into Asia without having to start a company from scratch, and this was a perfect way to do that,' ' Robert O'Connell, MassMutual's chairman and chief executive, said Wednesday.

O'Connell said Massmutual would soon expand into Malaysia, Thailand, the Philippines, and possibly Japan.

The deal means that MassMutual is joining other U.S. financial institutions entering the Asian market in the wake of a banking and currency crisis that swept that part of the world. Struggling Asian financial institutions are selling off operations to U.S. companies.

In April, John Hancock Financial Services Inc. of Boston was given permission to sell life insurance in Shanghai through a joint venture with a local company. Hancock hoes to start selling its products early next year.

Insurance Times: First Colony, GE Capital Revise Term Portfolio
March 14, 2000, Vol. XIX No. 6

Two GE Financial Assurance companies have announced new term life insurance packages to replace their current portfolios and pricing.

First Colony Life Insurance Co. and General Electric Capital Assurance Co. introduced products with both fully and partially guaranteed level premium periods. Earlier, the two insurers had announced they would stop offering 1999 products and pricing by the end of February.

The new portfolios are designed to meet customer need in the new regulatory environment created by Triple X regulation.

Featured in each portfolio are two series of term products: one which offers level-rate guarantees for as long as 30 years of coverage (fully guaranteed), and another that offers last year's low term rates but with level-rate guarantees for only a portion of the coverage period (partially guaranteed).

Insurance Times: NY Life LTC Customizes Benefits
March 14, 2000, Vol. XIX No. 6

New York Life Insurance Co. has unveiled LTCSelect Plus, an enhanced long term care insurance product with a wider range of benefits. Where approved, LTCSelect Plus enables individuals to receive customized plans for their insurance protection.

Policyholders can receive benefits for home and community-based care, informal care from friends or relatives, assisted care living facilities or respite care for caregivers.

Some new benefit options include inflation protection and waiting period and waiver of premium option. Policyholders can also select limited plans for two, three, four or five years or unlimited coverage.

LTCSelect Plus eliminates the mental illness exclusion and does not exclude pre-existing conditions. Visit www.newyorklife.com

for more information.

Insurance Times: Critical Illness Insurance Offers Cross Marketing Opportunities
March 14, 2000, Vol. XIX No. 6

Agents urged to learn about this special product

by Dave Goodwin

Critical Illness, or Critical Illness Survivor, insurance is a new concept in the U.S. It pays the insured a lump sum no strings attached for being diagnosed or treated for a named condition and surviving for 30 days.

It's that simple.

The lump sum may be bought in amounts ranging from \$25,000 to over \$1 million. Annual premiums start in the \$400 range. Policies are available individually or through payroll deduction. The concept originated in South Africa in 1983 when Dr. Marius Barnard, brother of the doctor who pioneered open heart transplant surgery, noted the financial hardships which wrecked the survivors of cancer, transplant and other severe procedures. Ruinous money losses struck even after insurance covered the bills. Lost income for the survivor, lost time or lost jobs for the spouse or caregiver, home or auto modifications and other expenses often came atop lost income.

Surviving a Covered Condition

The Critical Illness Survivor policy may be used for any of the above, or anything else. A trip, or a luxury item, or medical costs not covered by insurance, or whatever the insured wants. Policy benefits are not based on medical expenses, but simply on surviving a covered condition for 30 days. Covered conditions usually include life-threatening cancer, stroke, heart attack, Alzheimer's. In addition, some policies pay full or partial benefit for major organ transplant, paralysis, blindness, kidney failure, deafness, heart bypass surgery. Coverages vary widely among carriers.

In 1987, the concept was introduced in England, where more than 70 U.K. carriers adopted it. In Australia, all but two Aussie life companies offer it. In Japan, a limited benefit version sold more than 6 million policies within 4 years.

Although issued (mostly) by life companies, this isn't a life policy. Nor is it a medical expense or disability income policy, and it should not replace any such coverages.

It holds its own special niche.

People may confuse this policy with Survivorship Life or with Accelerated Benefit. It isn't anything like either, and it doesn't replace or overlap either. It's limited only to specified albeit common catastrophic conditions, and then only after 30-day survival. It's easily described and understood. But of course it should be sold only on a professional level; even here, abuses may be perceived. The coverage is provided by individual policies, or as riders on

life or coming soon ---on disability policies.
Prospects range from blue and gray-collar to executive and professional categories.

Ideal Product for Agents

This is an ideal product for agents with any insurance clientele for several reasons:

- appointments are easily made;
- presentations are relatively short and simple;
- prospects are not likely to have been approached by competitors.

Yet, surprisingly, most life or property/casualty agents are not yet selling Critical Illness coverages. Typical reasons:

- "it's too new;"
- "never heard of it;"
- "my company(ies) don't offer it;"
- "can't take time to learn a new product;"
- "afraid of being asked a question I can't handle."

These and other objections, however, won't help an agent's client who missed a chance to have the coverage when it was needed. And it won't help the agent's potential E&O exposure, nor relieve his duty to inform his clients. For the clients' sake, it should be shown. For the agents' sake, it should be shown.

On the positive side, the coverage offers immense prospecting potential, not only for the sale of a policy but for gaining a new client for total needs.

Goodwin, a veteran contributor to Insurance Times, is a cross-marketing consultant who distributes Critical Illness and other products nationwide through P/C agencies and other channels. He may be reached at 800-622-0576.

Insurance Times: CFP Courses Merged Into One Track March 14, 2000, Vol. XIX No. 6

Windsor, Conn. - Effective March 1, 2000, field managers who enroll in the CLF (Chartered Leadership Fellow) designation program will follow one, seven-course track.

This new agreement between The American College, GAMA International, and LIMRA International is the result of increasing cooperation among these three organizations in an on-going effort to support the professional development of field leaders throughout the financial services industry.

Prior to this date, students had to choose between "track A" (AMTC and Foundations in Management) or "track B" (Essentials of Management Development and GIFT).

"Student evaluations of the CLF Capstone course, in terms of content, presentation, and instruction, have been outstanding," commented American College President Samuel H. Weese, Ph.D., CLU, CPCU "but managers and home offices did not like having to choose between the two tracks. I am very pleased to see LIMRA, GAMA, and The American College working together closer than ever before to address these issues.â

To earn the CLF designation, a person must complete seven

courses. The first six can be taken in any order. The seventh Capstone course must be taken last.

The CLF is the first managerial leadership designation created specifically for financial services professionals. For information, or to register for a CLF course, please contact The American College's Office of Student Services at 888-AMERCOL (888-263-7265) or access information on the Internet at www.amercoll.edu.

Insurance Times: Fidelity Launches Insurance.Com As Life-Event Based Consumer Site
March 14, 2000, Vol. XIX No. 6

BOSTON - Insurance.com, perhaps the most desirable domain name in the insurance industry, has been lying dormant since 1994, when mutual fund giant Fidelity Investments first bought it out from under established insurance interests for the lowly sum of \$70. The insurance industry has been waiting for Fidelity to put it to use but the financial firm has been sitting on the name and on the sidelines, watching other insurance sites before acting. In June 1999, things began to stir when Fidelity formed Insurance.com Insurance Agency.

Then on March 1, the waiting was over, when Fidelity launched its newest affiliate, Insurance.com, an Internet site which gives consumers resources to organize a personalized and self-directed insurance plan.

The company plans to take Insurance.com public eventually.

At www.insurance.com, consumers can access life event-focused insurance information, compare quotes, shop for insurance and store their insurance information and policies in a secure online file cabinet.

The site vows to be an objective research and quote tool, with products available from hundreds of leading carriers. No Fidelity products are available on the site now and the Fidelity name is not evident - all part of the strategy to maintain it as an independent and objective site.

Fidelity has outsourced with several leading insurance quote services including Quotesmith.com for rate and quote information for term life insurance; InsurQuote for auto insurance queries and HealthAxis for health insurance. Insurance.com has also linked directly to several home/renters insurance providers, including Amica, American International Group (AIG), Century-National and Nationwide Insurance. The result is that users can access policies and rates from hundreds of companies.

To provide financial advice and counsel to shoppers, Insurance.com has hired Forefield, Inc., a financial planning firm based in Worcester.

"Despite the complexity of insurance, consumers don't have many unbiased resources to turn to for information and guidance," said Lou Geremia, president of Insurance.com. "When consumers visit Insurance.com, they have access to impartial information supplied by a leading professional advice firm, including profiles tailored to unique personal situations. Armed with that information, users can make better decisions about their insurance purchases."

The sales strategy emphasizes the life events that prompt people to buy insurance -such as a marriage, new house, birth or new car, although users can access information in a number of other ways, too,including profiles, products, a glossary and a search function.

"Insurance.com's focus on `life events' is truly unique, and a great way to attract insurance shoppers, in an intuitive and comprehensive way," claimed Jennifer Blackmore, an analyst for International Data Corp. (IDC), "Until now, online shoppers have been generally limited to searching for insurance policies by product, carrier and price, which tends to drive away people who want more personalized information."

Once consumers decide on the type and amount of coverage they need, they can compare quotes from a variety of carriers and ultimately purchase the insurance.

In addition to taking visitors through the process of purchasing insurance, Insurance.com's Personal Organizer allows users to keep track of multiple policies in a secure online location regardless of whether the policies were purchased through the site. Over time, the Personal Organizer will also provide users with reminders and information given their specific personal profile.

"The Internet has changed the way many people think about their personal finances. It puts the individual in control, while also keeping them on a path to a secure financial future. With insurance, there's a lot of confusion. We want to be the voice of reason and provide users with the resources they need to direct their own insurance strategies," said Geremia.

"In general, Insurance.com's entry strategy is a strong one," said Blackmore of IDC, "In addition to outsourcing to leading technology partners for their necessary tools, like quote comparisons from multiple carriers, the site offers a new way to search for a policy online."

Insurance Times: Oxford Health Results Show Turnaround
March 14, 2000, Vol. XIX No. 6

TRUMBULL, Conn. - In an apparent economic turnaround, Oxford Health Plans Inc. posted fourth-quarter earnings of \$256 million, or \$3.05 per diluted common share.

The figures reported by the company show significant gains compared with losses of \$18.8 million, or 23 cents per share in the fourth quarter of 1998.

For the year ending Dec. 31, 1999, Oxford posted net earnings of \$274.4 million, or \$3.26 per diluted common share. That's up from a loss of \$624.5 million, or \$7.79 per share, in fiscal 1998.

"We are enormously pleased with the fourth quarter results, which exceeded our expectations. Our continued success in healthcare initiatives coupled with the strength of the Oxford brand contributed to our excellent results," said Chief Executive Officer Norman C. Payson.

The managed care company saw its fortunes change suddenly in October 1997 when it revealed it would take heavy losses because of billing delays and underestimated costs.

Fourth-quarter revenues in fiscal 1999 were \$1 billion, down slightly from \$1.1 billion in the fourth quarter of 1998. Year-

end revenues were \$4.1 billion, a drop from \$4.7 billion in the prior year.

The company absorbed a one-time charge of \$24 million to litigation insurance coverage in the fourth-quarter.

Oxford's membership at Dec. 31 was approximately 1.6 million, down from an estimated 1.9 million in the previous year.

Insurance Times: RI Blues, Hospitals In Contract Dispute
March 14, 2000, Vol. XIX No. 6

PROVIDENCE, R.I. (AP) - A temporary agreement reached between Blue Cross & Blue Shield of Rhode Island and the Care New England hospital network means patients won't be affected while the two sides try to resolve a heated contract dispute.

For now, the insurer will continue to cover its subscribers who seek treatment at the network's facilities, including Butler, Kent County Memorial and Women & Infants hospitals, even though Care New England has filed a lawsuit against Blue Cross.

A Superior Court judge scheduled an April 17 hearing in the case. Care New England and Blue Cross each claim the other violated a memorandum of understanding that was part of their negotiations for a four-year contract.

Neither side would discuss specifics, citing a need for confidentiality as talks continue.

Without the temporary agreement, patients would have been required to pay their own bills, then seek reimbursement from the insurer. Blue Cross likely would not have covered the full amount since the hospitals would be considered "out of network."

John Hynes, president and chief executive officer of Care New England, said Blue Cross was trying to "squeeze further rate reductions from us.

"Clearly, the demise of Harvard Pilgrim in Rhode Island has emboldened Blue Cross to conclude that they can dictate the terms of health care for everyone in Rhode Island," Hynes said in a statement.

Harvard Pilgrim Health Care, suffering millions of dollars in losses, shut down its Rhode Island operations in December, leaving 125,000 subscribers to find new insurance

And Tufts Health Care of New England, which had about 5,000 Rhode Island subscribers, also quit the state.

Blue Cross argued the matter was nothing more than a contract dispute and the health care network had rejected a proposal to operate under a temporary system the two sides have used in the past.

The Health Care Organizing Project, a consumer advocacy group, urged the two sides to quickly resolve the dispute.

"We're glad that Blue Cross is not going to be keeping pregnant women from giving birth next week, however we're extremely concerned about this," project spokeswoman Marti Rosenberg said.

"We're hoping that in the next two months they're going to be able to work this out because in the middle of it all is the consumer, who is scared.

Insurance Times: Great West Acquires Allmerica Group Lines

March 14, 2000, Vol. XIX No. 6

WINNIPEG - Great-West Lifeco Inc. announced that its U.S. subsidiary, Great-West Life & Annuity Insurance Co. of Denver, Colorado, has completed the acquisition of Allmerica Financial Corp.'s group life and health business.

Great-West Life & Annuity, with 6,800 employees, provides a full range of group life, health and financial products to 4.6 million Americans. The company is also a recognized leader in administering tax-qualified annuities for public/non-profit customers.

Great-West Lifeco Inc. is a financial services holding company with interests in the life insurance, health insurance, retirement savings, reinsurance and general insurance businesses. Great-West Lifeco is a member of the Power Financial Corp. group of companies.

Insurance Times: Aetna Target Of Takeover By ING And Wellpoint
March 14, 2000, Vol. XIX No. 6

CEO Huber replaced; insurer mulls offer

by Noelle Knox
Associated Press

NEW YORK - Aetna Inc., the nation's largest health insurer, confirmed that it received a \$10 billion takeover offer from competitor WellPoint Health Networks Inc. and the Dutch investment bank ING Group.

At press time, Aetna's board had not yet responded to the \$70-per-share, cash-and-stock offer, which was received Feb. 24, the day before Aetna ousted its chief executive officer, Richard L. Huber.

Huber was replaced with William H. Donaldson, a board member since 1977, and co-founder of the investment banking firm Donaldson, Lufkin & Jenrette.

``The Aetna Board of Directors will review the letter in due course. Aetna chairman and CEO William Donaldson has previously announced that Aetna has commenced a comprehensive review of the company's strategy and operations,'' according to a statement from the Hartford, Conn.-based company.

Aetna's shares soared after a report of the offer aired on the financial news network CNBC.

``This is certainly the best news we've had in a long, long time,'' said Joseph France, an analyst with Credit Suisse First Boston.

WellPoint and ING offered \$44 in cash and \$26 in WellPoint common stock for each share of Aetna.

WellPoint, based in Thousand Oaks, Calif., saw its shares fall 8 percent on the NYSE after the announcement. ING's U.S. shares were up 25 cents.

Executives of WellPoint and ING, based in Amsterdam, could not be reached.

For WellPoint, it is a bold bid by chairman and CEO Leonard D. Schaeffer. Aetna is three times larger than WellPoint with

revenues of \$21 billion and \$7 billion, respectively. WellPoint has 10,600 employees to Aetna's 55,900. ``It's a surprising offer given it's so much larger than anything WellPoint has ever done,' ' said France. But Aetna is in a weak position. Aetna's stock, which traded as high as \$99.87 last May, has been under pressure as the company struggled with high medical costs, lagging profits and controversy over its policies toward patients. Last fall, the company became the target of several class-action lawsuits alleging, among other things, that its system of paying doctors rewards them for skimping on care. The suits were filed by the same trial attorneys who won big awards against the tobacco companies. Aetna denies wrongdoing. Aetna has also had more difficulty than expected in turning around Prudential Healthcare and NYLCare, two money-losing health insurance companies that it bought last year. Despite the \$70-a-share offer on the table, Donaldson's first order from the executive suite was to hire Robert S. Miller, a turnaround expert. Miller just left insurer Reliance Group Holdings Inc., where he had been president since November. Before that, he served as interim president and chief executive officer of Waste Management Inc., the trash-hauling company.

Insurance Times: Hispanics Facing Health Insurance Crisis: Study
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NEW YORK, N.Y. - Eleven million Hispanic Americans lack health care coverage and often delay or forgo medical treatment because they cannot afford the cost of care, says a new study by Kevin Quinn of Abt Associates. According to "Working Without Benefits: The Health Insurance Crisis Confronting Hispanic Americans," Hispanics account for an alarming one-quarter of the nation's 44 million uninsured people. Hispanics are twice as likely as the general population to go without coverage. The number of uninsured Hispanics more than doubled to 11.2 million from 1987 to 1998. "The health of Hispanic working families in the United States - particularly those at the low end of the income scale - is suffering because too many don't even have the option of getting health insurance, " said Karen Davis, president of The Commonwealth Fund, which funded the report. "Within the past year almost half of uninsured Hispanics have not seen a doctor, filled a prescription, or received recommended medical tests or treatment because of cost." Of the 11 million uninsured Hispanics, 9 million are in families where at least one person works, but 40 percent of working-age Hispanics are uninsured. A key reason why so may lack insurance is that Hispanics are concentrated in low-wage jobs at small firms - jobs least likely to offer insurance. Regardless of what sector of the economy or what type of job they hold, Hispanics are less likely to be insured through their employers. "Hispanics today comprise an increasingly vital share of the nation's workforce, a share that is certain to increase in the future. Yet they appear not to be receiving the same benefits as

other working Americans, " said Cathy Schoen, vice president of research at The Commonwealth Fund. "When they are offered coverage they are just as likely as other groups to accept it." The study says the best way to give more Hispanics access to insurance is through initiatives that make employer-sponsored plans more available and more affordable. The author cautions, however, that to help Hispanics these initiatives must focus on the sectors of the job market in which Hispanics are most concentrated.

The Commonwealth Fund is a private foundation supporting independent research on health and social issues.

Insurance Times: Study Finds Pets' Prescription Drugs Often Cost Less Than Those For People
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Cost for people for same drug sometimes five times higher

WASHINGTON (AP) - If the pill went down with a Milk Bone chaser, chances are it cost a lot less.

Congressional investigators compared wholesale prices of 14 popular prescription drugs marketed to people and pets, often under different brand names, and found the cost for people can be up to five times higher.

Rep. Bill Delahunt, who requested the study for the House Government Reform Committee, said the prices make some drugs unaffordable for people without insurance.

"I'm all for healthy pets, but not at the financial and medical expense of their owners," said Delahunt, D-Mass.

Drug company representatives called the study ridiculous and said the prices must be seen in context.

"The study basically compares apples to oranges, or for that matter, apples to elephants," said Meredith Art, a spokeswoman for the Pharmaceutical Research and Manufacturers of America. Medicines given to animals "piggyback" on the lengthy and expensive approval process needed for use in humans, Art said. Costs of that process must be absorbed by the market for which the drug was originally intended, she said.

Patient advocacy groups say the drug companies are hiding behind research.

"The reality is the prices of prescription drugs have no rhyme or reason related to the cost of producing those drugs," said Ron Pollack, executive director of Families USA.

Pharmaceutical companies charge higher prices for drugs for people because insurance companies often foot the bill, while pet owners usually pay out of pocket, he said.

If drug companies "could reasonably charge considerably more for pets they undoubtedly would do that," Pollack said.

Prices for the drugs in the study were gathered from inside Delahunt's southeastern Massachusetts district but are comparable nationwide, committee investigators said. Medications surveyed were among the top 200 sellers nationally in 1998.

The study found Augmentin, a popular antibiotic marketed as Clavamox for pets, cost more than three times as much when the drug was intended for humans instead of a dog, cat or horse.

The study also looked at ``directly comparable drugs'' _ medications marketed under the same name and given in the same dosages to people and pets. For these drugs, manufacturers charged wholesalers an average of 131 percent more when the drug was intended for human use.

For example, the study found a one-month supply of Medrol cost \$3.90 when purchased as an anti-inflammatory medication for Fido but \$20.10 when bought by Fido's owner for asthma.

Disparities appear to be ``deliberate pricing strategies of the drug manufacturers'' and cannot be attributed to drug production costs or research and development expenses, the report said.

The study said ``drug manufacturers are engaged in systematic price discrimination that adversely affects millions of senior citizens and other consumers who lack prescription drug coverage.

Delahunt suggested fixes, including expanding state health insurance programs and establishing a Medicare prescription drug benefit. President Clinton has proposed providing prescription drug benefits to all Medicare recipients.

Art said the pharmaceutical industry is ``very much at the table'' in the debate over prescription drugs, and it's now time for a ``serious policy debate instead of demonizing the pharmaceutical industry to get votes.