

CALIFORNIA FACES CHANGES IN COMP, QUAKE COVERAGES

by *Scott Hooper*

Special to The Regulator

California, with an economy — and a land mass — larger than most of the world's nations, goes its own way in a lot of areas. The California Department of Insurance, for instance, has offices in both Los Angeles and San Francisco (plus administrative and management staff in Sacramento), the better to accommodate consumers and companies in both ends of the state.

Yet in many other ways, the state's insurance regulators face the same issues and concerns that their counterparts in other states must confront.

Take workers comp. There probably isn't a state in the union where comp stays the same for more than a year or two, and California is no exception. Joel Laucher, chief of consumer services, and Sheryl Lawrence, chief of field rating and underwriting, explain that starting this year their people are focusing closely on workers comp claims practices.

Workers comp changes

"We've always reviewed workers comp rating and underwriting," Lawrence said. "Now we're getting into the claims side also."

Until this recent change the Department of Industrial Relations was the primary comp regulator when it came to claims, except that its focus was on labor code violations.

The reason for the move to the Department of Insurance is the fact that, since 1996, comp carriers have been operating under open rating.

"They used to go from one set of bureau-promulgated rates, and the only real difference in anybody's premium was based on dividend plans," Laucher said. "Now they have the opportunity to use schedule rating and to deviate their rate.

"We want to make sure that the companies are applying these new-to-them

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You thinking of commuting in Vegas? Forget it.

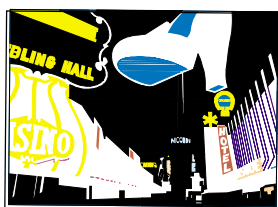
There are lots of hotels in Las Vegas, so don't pick the wrong one when making plans for the 1999 IRES Career Development Seminar.

All of the CDS meetings are at the Las Vegas Bally's hotel, which is the seminar headquarters. This is where all the general sessions, breakout sessions, luncheons, awards ceremonies and meetings will take place. We have a very competitive \$105/night rate at the Bally's and there are plenty of rooms held for IRES guests.

Sure, you might have another hotel or favorite casino in mind — but beware. There is no mass transit in Las Vegas other than taxicabs. The touring "trolley" only stops at certain hotels, doesn't start until 9:30 a.m. and moves very slowly.

Thinking of staying somewhere else and walking to the

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**Come to
Vegas!!**
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President's Forum

Gary W. Meyer, CIE

IRES president

I have had a serious case of writer's block trying to think of things to write in my bi-monthly column. Asking fellow employees and associates for ideas, one suggested I write about the Y2K problem. I don't know enough about Y2K to write about it, but since this hasn't stopped anyone else, I will write all I know.



I saw a feature on television about an individual who was selling Y2K survival kits. His previous job was selling nutritional additives. One must ponder how he has deduced what and how much of his products people will need to survive the anticipated calamity. I wonder how many vitamins are included in the survival kit.

Another TV feature showed people hoarding grain and raising their own chickens for eggs. If Y2K doesn't get them, cholesterol might. Many insurers are excluding Y2K losses from their policies and then endorsing the risk back onto the policy at an extra cost. How are they arriving at a reasonable premium? I suspect some 16-year-old computer genius has figured out a solution to the whole Y2K mess but hasn't told anyone because he or she wants to see all the excitement. Okay, that's all I know about Y2K.

* * * * *

It is not too early to begin making plans to attend the 1999 IRES CDS in Las Vegas. We expect that just like last year, this CDS will be a full house. Don't delay in making your reservations. We are flush with up-to-date topics along with excellent presenters and panelists.

* * * * *

While you're making your plans for what to wear (I understand that barrels are still in style), and how much extra spending cash to bring, please consider one more thing. Now is the time to look

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Past Presidents to focus on IRES' future

by Gary L. Domer, CIE
chair, IRES Past Presidents Council

At the Society's Career Development Seminar last year in Chicago, President Gary Meyer announced the formation of an advisory council made up of the past presidents of IRES.

The idea for the Past Presidents Council was very basic. These individuals possess a tremendous amount of knowledge and experience that otherwise might be lost. We must continue to utilize their talents. Besides, some aren't that busy!

Although several of these past presidents are no longer directly involved in state regulation, they still have a strong commitment to our organization. The Past Presidents Council will be advisory to the elected IRES Executive Committee, which assigned special projects to the Council for study. The Council will then report back to the Executive Committee on its recommendations.

The first task assigned to the Council was to look into the feasibility of allowing an IRES designation for non-regulators. The Council began discussing this issue at its first

teleconference call on Jan. 21, 1999. During the course of the call, a number of good ideas were discussed.

The general consensus of the past presidents favored further study of the concept of allowing non-regulators to earn an IRES designation. The question centered on whether this should involve allowing non-regulators to seek the current AIE or CIE, or whether IRES should develop one or more

new designations specifically designed for non-regulators. The Council was set to continue discussion of this item at a conference call slated for late February.

If anyone would like to provide input on this issue, please forward your comments to the IRES office. David Chartrand will relay your comments to the Past Presidents Council. The underlying theme in establishing this Council, as it relates to

the entire IRES organization, is simple and one that has been strongly stated by all members of the Council — "BE INVOLVED."

Past Presidents

Christel Szczesniak, 1997
Gerald A. Milsky, 1996
Robert D. Flege, 1995
Gary L. Domer, 1994
Donald P. Koch, 1993
Roger Langley, 1992
Richard D. Rogers, 1991
Howard T. Spence, 1990
Brad Connor, 1989
Thomas L. Reents, 1987-88

Time to sign up
for IRES market
regulation course

The next IRES/NAIC Regulating the Marketplace school will be April 26-29 at the Kansas City training offices of the National Association of Insurance Commissioners. This is our four-day, in-depth problem-solving and training school for experienced market regulators — from producer licensing to consumer services to market conduct to rates and forms and more. Regulators only!! To

request registration forms for your department, contact the NAIC's Education and Training Department, 816-374-7192. Tuition is \$450 for insurance department staff.

Topics covered in the school include market conduct case studies, model laws and regulations, handling consumer complaints, regulating producers, combating fraud and issues in enforcement and prosecution.

Market regulation the California way

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kinds of rating and underwriting plans fairly.”

Added Lawrence: “This is a huge change for the people who sell workers comp in California. This puts them more into the realm of being like regular commercial underwriters in terms of having additional pricing tools at their disposal.

“There’s serious competition in California right now, and the companies are competing drastically to grow their books of business,” she added. “So our department is trying to make sure that we’re overseeing these companies as they go into this frenzy of competition.”

There have also been a number of buyouts and consolidations among comp carriers, to which the department has reacted with increased vigilance for solvency issues — along with claims and underwriting practices.

“The department wants to make certain that insurers are paying claims promptly despite declining premium volume,” Laucher said.

Two bureaus

On the market conduct side of things, the California department relies on two bureaus, each with 20 employees: market conduct, which covers claims, and rating and underwriting.

Although the department has undergone some shrinking in recent, tight-budget years, the trend now is moving in the right direction. As of this summer, field rating is slated to gain five employees, and ten more positions will be added to market conduct.

The California commissioner, Charles Quackenbush, is one of the relatively few elected commissioners and there has been speculation about the impact of a Republican commissioner in a state in which the newly elected governor is a Democrat and the Democratic majority in the Legislature was

strengthened still further by last November’s vote.

By one count, the trial bar spent more than \$8 million during the ’98 election cycle and will be seeking to get its money’s worth.

The California market conduct people are also getting their feet wet when it comes to automating parts of the exam process.

“Our entire staff just underwent training from ACL,” Laucher said.

Saving time and money

“We’ve utilized a bit of ACL in our exam practices in the past, but the idea is to broaden its use and look for areas where it will be meaningful to our exams — timeliness can be reviewed through ACL, for instance, and then our people can focus their energy on subjective stuff, where the company is using its judgment.”

Lawrence added: “It’s going to be a pretty big change for the compliance people within the com-

pany too, to add a computer aspect to compliance, and get through their own quandaries about confidentiality.

“I’ve only talked to a couple of companies so far, and they are just perplexed by it — to think that we can chop up and dissect their book of business to some degree, even identify particular policies.”

As one example, she said, what if the department finds that the company’s computer has mis-rated all the policies in a particular territory?

“Well, with ACL, on our own, without having the company do it, we may be able to pull the policy numbers for every single policy in that territory and have the company report to us return premium of every one of those policies,” Lawrence said. “We could do it in the past, but their computer people would put it together. We haven’t submitted to them a list of their own policies before.”

While ACL may cut travel time a bit, that’s not a



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Market regulation the California way

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major factor, Laucher said. “But we hope that things that save time save money.”

If all goes well, companies might end up liking ACL a lot since it could save them cash twice — once when they don’t have to pay as much to cover the department people’s time, then again when their own people are asked to run fewer errands.

Domestics vs. aliens

Unlike many a state, California believes in examining every insurer licensed to do business in the state, no matter where it’s domiciled.

Size matters, as do factors like what lines the department will be looking at, but every insurer can expect a visit — and they can expect it more frequently than in the past.

“We’re working on maintaining a pretty systematic schedule of looking at insurers every three to four years, rather than the five-or-more-year kind of cycle that we’ve been on here in California in the past,” Laucher said.

“Our goal is to do a more efficient and focused exam and a shorter exam, but to be there more frequently so that we have a better idea of what’s going on.”

Because of the size of the California market, most companies will have an office somewhere in the state.

That may drastically reduce out-of-state travel, but when you consider the size of the state, it sure doesn’t shorten up the trips. Even with the staff split between the office in Los Angeles and the one in San Francisco, there’s still a fair amount of travel.

“Our individual bureaus are actually split in half, with half of the people at each end of the state, so that people can hopefully go to places that are fairly near their own home,” said Lawrence.

“Sometimes personal lines are located in an entirely different state, or there’s some program that they’ve put into their home office in a different state. But we try to focus on a local branch office, and then do some policy review at the distant places just for consistency verification and that kind of thing.”


Besides, she added, “for the personal-lines companies, generally you can pull policies from everywhere, on-line. If you’re paper-free, it doesn’t matter where you are — you can look at the policy wherever a terminal happens to be.”

Like most insurance examiners, Lawrence’s people spend most of their time out in the field, with not enough cubicles back in the office to cover the entire staff. Instead they have “laptops and part of an office,” as she put it.

California hasn’t jumped into contracted examiners as wholeheartedly as some.

continued on next page

California Insurance Department

- 
- *Market conduct exams handled by:* Market Conduct Bureau and Rating and Underwriting Bureau
 - *Size of staff:* 41 in market conduct/989 in department
 - *Contractors:* Very limited: They’ve been authorizing companies to hire contractors to handle targeted exams
 - *Domestic/total companies:* 229/1,492
 - *Confidentiality:* Only basic financial information is considered part of the public record; market conduct exam reports historically have been confidential, although confidentiality is at the discretion of the commissioner.
 - *Contacts:* Craig Dixon, chief, market conduct, 213-345-6510, and Sheryl Lawrence, chief, rating and underwriting, 415-538-4265

Market regulation the California way

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“We have a limited pilot program wherein exams submitted by approved external entities have been deemed to be acceptable in lieu of an on-site exam by our staff,” said Laucher.

The department doesn’t hire the contractor, the company does, in much the same way it would retain an outside accountant to verify their financial records. And use of the department-approved contractors, which began late last year, is reserved for companies with limited writings in California and no serious consumer complaints.

“It’s only been given limited use, and it’s not clear if we’re going to continue,” Laucher added.

Shake, rattle and roll

Then there are catastrophes, with world-class earthquakes, not to mention storm surges and mud slides.

In a state where the public can name the nearest earthquake fault more quickly than they can identify the commissioner, state law requires every homeowner to be offered quake coverage.

For the most part, insurers handle this requirement by joining the California Earthquake Authority, a quasi-state agency with a staff of just a couple dozen. Insurers join the CEA and contribute to the authority’s reserves, and then in the event of a quake, CEA provides the coverage for those insurers’ policyholders.

The 15 or so member companies provide about 70% of the state homeowners coverage.

“In the event of an earthquake,” Laucher said, “the member companies will be doing the claims adjusting themselves, so they’re sending out their adjusters on behalf of the California Earthquake Authority. The authority will pay the claim, but it will be adjusted by the member company. The CEA will pay some claims-handling expenses.”

Added Lawrence: “We pay a lot of attention to making sure that companies are following all the rules about the offer and sale of earthquake policies.”

How it responds to earthquakes and other natural disasters is a good way to tell whether an insurer — or a department — is doing its job well.

Laucher and Lawrence are proud of the way their department works at informing consumers, agents and companies of what’s going on.

Responding to the public

“We have an 800-number, a Consumer Communication Bureau that, in addition to answering every phone call that comes through and referring people or handling questions as best they can, also puts out a number of publications on all sorts of topics to address common questions,” Laucher said.

Then there’s the department Web site, he said, a

particular favorite of Commissioner Quackenbush.

“And we do have a pretty darn good site,” Lawrence said. “It’s split to insurers, agents and consumers so you can easily get to where you want to go.

“The insurer part is especially helpful to us



“We have a pretty darn good [web] site,” says a Department official. “You can easily get to where you want to go.”

market conduct folks: Our most recent regulations generally get put on there, so companies can just download them straight off our Web site.”

A limited version of company financial reports are online too, although market conduct exam reports are not.

After going through some tough times, including budget cuts and staff layoffs, California’s consumer services and market conduct branches are once again on the move. ■

Market conduct school opens April 7

The 6th annual special market conduct school for industry

The 6th Annual IRES Foundation Market Regulation School promises to be the best yet! Set for April 7-10 at the Hyatt Regency at Hilton Head, South Carolina, the two-day school and regulator/industry networking event will be another sellout. Connecticut Commissioner and NAIC President George Reider, Kentucky's George Nichols, South Carolina's newly appointed Director Ernst Csiszar and Delaware's Donna L. Williams are just a few of the keynote speakers. They will be joined by 20 other senior state regulators serving as faculty for this year's school.

This year's theme is "Market Conduct Regulation — *Everyone's Responsibility*." Along with the program fundamentals of market conduct regulation by each state, special sessions will focus on banking, privacy and confidentiality, and electronic commerce. These are all issues that poses challenges for insurers, regulators, agents and consumers alike.

An unprecedented number of attendees is already booked to arrive early and stay through the weekend, many playing in the school's second annual golf tournament. On Friday night, guests will be treated to a beach party on the ocean sponsored by California-based Sonnenschien, Nath & Rosenthal. A special "surprise" guest speaker has been engaged to start the school off on a fun, informational and upbeat note. You will not want to miss this special keynote presentation.

The IRES Foundation schools have been a prime opportunity for the Foundation to raise funds for insurance regulator education programs. Accordingly, many fine companies have found the

school to be an excellent vehicle for their charitable and educational donations. If your company is interested in sponsoring this school in some way, just call the IRES office. We make donating easy! Sponsors are generously recognized for their support of the IRES Foundation and its educational mission.

A few logistical notes for those attending. A rental car is the best way to travel. The

drive is about 60 minutes from the Savannah, Georgia, airport or 90 minutes from Charleston. Caution: Driving at night might be a challenge for some not accustomed to the environment. The island area has no street lights and there are winding roads and some road construction en route. US Airways and Continental have direct service

to Hilton Head Island Airport. However, Savannah is the closest and primary airport service for Hilton Head. Once on the island, make sure you choose the William Hilton Expressway. This Expressway is an extension of 278 and will take you past Hilton Head Airport and directly to the "Palmetto Dunes" entrance—the location of both the Hyatt and Hilton Hotels.

Grayline Shuttles is a second transport option from the airport @ 843-785-1234 xt1392. Round trip fare from Savannah's airport is \$55.20. These fees include a 15% gratuity for the driver and all charges can be applied directly to the Hyatt Regency. For travelers coming into Hilton Head's Airport, the fare is \$13.80 based on one-way transfer. Taxi service from Savannah is pricey at about \$70 one way.



To register call 913-768-4700

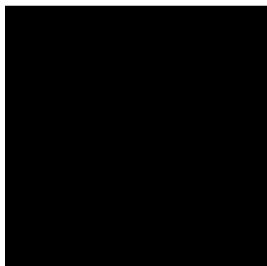
Or e-mail us at www.ires-foundation.org

MEET YOUR BOARD MEMBERS

Gary D. Evans

IRES Board of Directors

Market Conduct/Consumer Services Manager, Delaware Department of Insurance. Been a regulator for 10 years.



If I weren't a regulator, I'd be: "Missing the best profession."

The biggest issue facing insurance regulation today: "Control of Internet activity."

My proudest accomplishment: "Becoming a regulator."

If I could do one thing over, it would be: "Become a regulator earlier in my life, as I feel I have contributed to the protection of consumers."

Tell us about your family: "I have a wife and three children, three cats and one Labrador."

Hobbies: "Landscaping, golf and enjoying life."

Most recent or favorite book you've read: "The Runaway Jury" by John Grisham

Favorite quote: "Can't do the time, don't do the crime!"

Dudley B. Ewen, AIE

IRES Board of Directors

Chief Examiner for the Property-Casualty Market Conduct Section of the Maryland Administration. Been a regulator for 20 years

If I weren't a regulator, I'd be: "A Maryland state trooper."

The biggest issue facing insurance regulation today: "Electronic commerce and the convergence of the insurance and financial services industries."



My proudest accomplishment: "My family."

If I could do one thing over, it would be: "Have more patience with my children when they were growing up."

Tell us about your family: "Married to Annette. We have four children: Dudley, Jennifer, Nicol and Mandy. Three grandchildren: Dylan, Logan and Trevor."

Hobbies: "Enjoying the sun and ocean at our beach home in Cape Hatteras, NC. Occasionally, surf fishing."

Most recent or favorite book you've read: "To Kill A Mockingbird."

Favorite quote: "Hi, Granddad."



Bank insurance agencies and state regulation

by Cathy L. McLaughlin, CIE, CLU, FLMI

As more banks seek to offer insurance products, more is being written and discussed about how they do business. Issues being raised include questions of whether additional regulation is needed and how to monitor those banks that generate complaints. It is apparent that there is still confusion about how banks are engaged in the business of selling insurance.

A national bank generally sells only credit insurance.

If a national bank wants to sell life, disability or other general

lines of insurance, it usually creates a bank subsidiary. This subsidiary corporation, known as the insurance agency, is registered with the secretary of state and licensed with the department of insurance in its state of domicile. It also must obtain necessary non-resident licenses. This process is similar to that for any agency not affiliated with a national bank.

A bank's insurance agency is simply another distribution channel for an insurance company. The concept of agency — long recognized in the insurance industry — holds that a principal (the insurance company) is responsible for actions of its agents. The insurance company, whose products are sold through an agency, is legally responsible for the actions of its contracted agents and agencies. This legal responsibility is unchanged even when the agent is an employee of a national bank insurance agency.

The following are key points about insurance distribution through banks and bank insurance agencies:

- Insurance is sold through a separate corporation that operates as an insurance agency. With the exception of credit insurance, national banks generally **do not** sell insurance, its subsidiaries do.
- The insurance agency obtains proper licenses.
- The agency employs licensed insurance agents who then seek appointment with insurance companies.
- Neither the insurance agency nor the parent bank underwrites insurance. The agency sells insurance products of licensed insurance companies.

My bank, like most large financial institutions, has designated compliance staff for each business unit and for each subsidiary. For Wachovia's insurance agency, a formal compliance program was developed and included a compliance manual that was distributed to its agents. The compliance program encompasses communicating the policies of the program through compliance manuals, training and other on-going communications, and monitoring the effectiveness of the program through on-site visits with agents, audits of new business, suitability

reviews and customer surveys. The program and its managers are expected to ensure compliance with all state and federal laws.

In addition to the business unit compliance program, a corporate compliance committee meets quarterly to share information on compliance issues, audits, and internal reviews of the various subsidiaries of the holding company. Results are reported to the board of directors.

As a former market conduct examiner for the North Carolina Department of Insurance, I participated in over 40 examinations of insurers' market practices. Of those companies, only one had implemented a proactive compliance program and most had very little, if any, emphasis on agency compliance. National banks and their subsidiaries always have placed a great deal of emphasis on compliance.

Bank insurance agencies also are required by the Office of the Comptroller of the Currency to perform additional activities before selling insurance. These include:

- Following a documented process of due diligence in selecting products and insurers.
- Conducting background checks of all prospective agents, including disciplinary and complaint history.
- Providing verbal and written disclosures to each customer to make sure that the customer is not confused by who is selling the insurance and understands that there is no FDIC insurance or bank guarantees.

Insurance departments monitor solvency and market practices. At any point, a department can examine an insurer's market practices, including the activities of its agents. Complaints are a very important regulatory tool and can be indicative of significant market conduct issues. It is important for a state insurance department to have a mechanism to monitor complaints and detect trends.

In summary, the regulatory structure to monitor insurance companies and agencies, including those affiliated with a national bank, are already in place. It is appropriate for insurance departments and the National Association of Insurance Commissioners to monitor complaints from all agencies that sell insurance, not just agencies that are affiliated with a bank.

States regulate insurance agents and agencies. Only agents can sell insurance and an insurance company is responsible for the actions of its agents. Bank insurance agencies place significant emphasis on compliance with state and federal insurance and banking laws. They want to make sure their customers understand the transaction and do what is in the customer's best interest.

Ms. McLaughlin is the Insurance Compliance Manager for Wachovia Bank in Winston-Salem, North Carolina. She formerly worked for the NAIC and the North Carolina Department of Insurance.

Guest commentary

REGULATORY ROUNDUP

ARIZONA — Fraud Unit Steps Up Enforcement Effort

The Arizona Department of Insurance announced that its Fraud Unit opened 816 criminal cases of suspected insurance fraud in 1998, up from 308 cases in 1997. The Fraud Unit obtained 122 convictions and recovered nearly \$1.1 million, including \$38,092 in fines, during 1998. Another 81 cases still await arrest or trial. The Arizona Insurance Director said, "We want to send a message to those who would perpetrate insurance fraud that Arizona is aggressive about investigating and prosecuting those illegal acts." If you have questions about insurance fraud in Arizona or the Fraud Unit itself, you can call the Fraud Unit at (602) 912-8418. See AZ Department of Insurance Press Release 1999-3 (Jan. 28, 1999).

CALIFORNIA — Ruling a Victory for Holocaust Victims and Their Heirs

The California Insurance Commissioner applauded a Los Angeles Superior Court ruling on January 25 which denied a motion to dismiss by Assicurazioni Generali, a global insurance company, in a lawsuit brought by Holocaust survivors and their families. The Holocaust survivors and their families are trying to recover life insurance benefits from Generali, and Generali has denied liability on policies issued to Holocaust victims. The California Insurance Department reaffirmed its commitment to correct what it calls the "massive historical and ongoing injustice" caused by European insurance companies refusing to pay Holocaust insurance claims. See CA Department of Insurance Press Release #012 (Jan. 27, 1999).

CONNECTICUT — Self-Insured Employer Can File Claim Under Guaranty Act

The Connecticut Supreme Court recently ruled that a self-insured employer is not an "insurer" for purposes of the Connecticut Insurance Guaranty Association Act and, therefore, is not precluded from asserting an

Dee Dee Gowan is an attorney with the law firm Baker & Daniels in Indianapolis, Ind., and focuses her practice on insurance regulatory matters.

by **Dee Dee
Gowan**

**Strip in
her new
mug**

otherwise valid claim. See *Doucette v. Pomes*, 199 WL 26012, *12 (Conn. 1999). In this case, Doucette was injured in an automobile accident caused by Pomes. Pomes' insurance carrier became insolvent. Doucette's employer, a self-insurer under the Connecticut Workers' Compensation Act, paid benefits to Doucette, and filed a claim for reimbursement from the Guaranty Association.

GEORGIA — HMOs Must Provide Point-of-Service Alternative

The Georgia Commissioner of Insurance issued a new bulletin to inform all health maintenance organizations that they are required by statute, Ga. Code § 33-21-29, to offer (or make arrangements for) a point-of-service option for employees of employers who offer only HMO health benefits. HMOs must provide an out-of-network alternative for any service offered to insureds in-network. If the out-of-network option is exercised, then different cost-sharing provisions on claim payment may be applied and the employer may charge a reasonable administrative fee. See GA Bulletin 12-2-98 (Dec. 2, 1998).

MISSISSIPPI — Catastrophe Rate Filing Under Review

The Mississippi Insurance Commissioner has hired the accounting firm of BDO Seidman to conduct a special examination of two rate filings which included a 2% hurricane deductible. The two rate filings were submitted in 1997 by State Farm Insurance Company and Allstate Insurance Company. The Mississippi Insurance Commissioner had previously asked these two companies, along with USF&G, to waive the 2% deductible on claims that occurred as a result of Hurricane Georges due to confusion and misunderstanding by their insureds. While USF&G agreed to comply with the Commissioner's request, State Farm and Allstate declined. A class action lawsuit has been

continued from preceding page

filed against the insurers by policyholders who claim they were unaware of the deductible until they filed claims as a result of Hurricane Georges. *See* Mississippi Insurance Department Press Release (Dec. 18, 1998).

NEVADA — Health Insurers Can Be Sued Under RICO

In an opinion that has received wide publicity nationwide, the United States Supreme Court recently held that health insurers can be sued for fraud under the federal Racketeer Influenced and Corrupt Organizations Act (RICO). *See Humana v. Forsyth*, 119 S.Ct. 710, 719 (1999). The Court explained that the McCarran-Ferguson Act precludes only application of federal law that directly conflicts with state insurance regulation. The Court explained further that insurers could comply with both RICO and Nevada's insurance laws because the laws do not directly conflict. Accordingly, insurers can be sued for fraud under RICO.

NEW JERSEY — Commissioner to Tighten Oversight of HMOs

The New Jersey Insurance Commissioner announced plans to convene a public forum to assist her in developing regulatory initiatives to tighten oversight of New Jersey's 23 HMOs. This decision comes on the heels of the Commissioner taking over two failing HMOs within a two-week period. The Commissioner has formulated a preliminary list of regulatory initiatives which she believes will provide greater protection for consumers and healthcare providers without the need for further legislation. A list of her initiatives can be found at the New Jersey Banking and Insurance Department's website (www.naic.org/nj/pr98123). *See* New Jersey Insurance Division Press Release (Dec. 3, 1998).

PENNSYLVANIA — Protection for Mutuals and Deregulation for Commercial Lines

Pennsylvania's Governor recently signed into law an omnibus insurance package. The new insurance laws protect mutual companies from hostile takeovers as they convert to stock companies. The new laws also lift regulations on commercial insurance lines. Commercial insurers no longer have to file rates "for approval" for customers with annual premiums of \$25,000 or more.

Those customers must have at least 25 employees and must have a risk manager or insurance consultant. Commercial insurers may also change rates by 10% without seeking approval from the Pennsylvania Insurance Department. *See* 1998 Pa. Laws 150 (H.B. 366).

TEXAS — Commissioner Calls for Amendments to Code Pertaining to HMOs

In a report to the Texas legislature, the Texas Insurance Commissioner called for amendments to the Texas Insurance Code to establish a net worth requirement for HMOs and to require HMOs to maintain higher capital and surplus levels than presently required. The Commissioner said that unlike other states, Texas law presently does not establish a net worth requirement and that raises the likelihood that an HMO will operate in a hazardous financial condition. *See* 10 NO. 15 Mealey's Lit. Rep.: Ins. Insolvency 16 (Jan. 6, 1999).

WEST VIRGINIA — Periodic Symptoms Not a "Preexisting Condition"

The West Virginia Supreme Court has ruled that although a patient expressed periodic complaints of symptoms, she did not seek medical advice or treatment for such complaints and, therefore, did not have a "preexisting condition" under her long-term care insurance policy. *See Wickland v. American Travellers Life Ins. Co.*, 1998 WL 918217, *10-11 (W.Va. 1998).

WISCONSIN — Free Medicare+Choice Brochure Available from Commissioner

The Wisconsin Insurance Department has released a new brochure designed to answer questions about changes in Medicare coverage options. The federal program Medicare+Choice was recently announced as a new coverage option available as of January 1, 1999, to eligible individuals. Unfortunately, the federal Health Care Financing Administration (HCFA) was unable to develop informational materials before the announcement. If you would like a copy of this brochure, *Medicare+Choice: Questions and Answers* (as well as other Medicare information), you can call the Wisconsin Insurance Department at 1-800-236-8517 or visit their webpage at www.badger.state.wi.us/agencies/oci/oci_home. ■

C.E. News

Updates and other tidbits from the National IRES Continuing Education program, the CE program is for persons holding AIE and CIE designations.

Fully Retired? Let us hear from you. Retirement status as an IRES member does not automatically grant you retirement under the NICE program. You must affirmatively opt to place your designation in retirement status under the NICE program by submitting the "Permanent Retirement Status Notification Form" (p. 25, NICE Manual) to the IRES CE Office.

Everyone should have received a NICE transcript for the current compliance period, Sept. 1, 1998 - Sept. 1, 1999, with their IRES membership dues notice in January. This year, an additional transcript will be sent in May.

A few CE guidelines to remember:

1. A certificate of attendance or some other reasonable evidence of completion must accompany all credit requests.
2. Credit will not automatically be given for attending local or state chapter meetings of any insurance group unless written documentation is submitted with the compliance report.
3. The maximum credit for any course or seminar is 12 credits. However, full attendance at the IRES CDS is worth 15 credits. **Automatic credit will be given only to persons who stay until the seminar is over and pick-up their attendance certificates.** Those who leave early or do not pick-up their certificate will have to submit a compliance report form and will be given only 12 credits.
4. The deadline for the current reporting period is **October 1, 1999.**

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President's Column

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around your department and think about that person who has put in the extra effort last year and career long. Insurance department managers and supervisors know just how hard it is to acknowledge the accomplishments of their employees. IRES members have an opportunity to provide national recognition to a deserving fellow member.

I am referring to the Al Greer Achievement Award. Although the nomination form refers to "examiner," it is used in the same broad sense as in our society's title, Insurance Regulatory Examiners Society. Whether the deserving employee is a consumer service representative, a policy forms analyst or whatever, they are eligible for the award if they meet the requirements of five years as an IRES member and ten years of regulatory experience. I should also point out that you do not have to be a supervisor or manager to nominate someone for the award, just a member. So take the time necessary to nominate that deserving member. A nomination form is included in this issue of the Regulator. It's a sure bet to make the recipient happy and proud.

I hope by now you have had a chance to look at our newly refurbished web site. It is now a much more informative and useful tool.

Thanks also to Dee Dee Gowan and her column "Regulators Roundup." The column is presenting an excellent thumbnail sketch of the regulatory environment throughout the country. ■

AL GREER ACHIEVEMENT AWARD

Nomination Form

The Al Greer Award was conceived in 1997 and will annually honor an examiner who not only embodies the dedication, knowledge and tenacity of a professional regulator, but exceeds those standards.

Current members of IRES Board of Directors are not eligible for nomination.

A. Basic requirements for nominees include the following:

- (1) Five (5) years as an IRES regulator member and a current member
- (2) Ten (10) years regulatory experience

B. Nomination procedure requirements:

- (1) Completed nomination form
- (2) Validation of nomination must be signed by at least three (3) current IRES regulatory members
- (3) Attach a nomination letter of not fewer than 50 words or more than 100 words
- (4) Send completed form and nomination letter to IRES by no later than April 30, 1999

NOMINEE INFORMATION:

Name: _____

Address: _____

Telephone: Work: _____ Home: _____

FAX: _____

Education / Designations: _____

Insurance Regulatory Examination Experience:

Current Position and Employer:

(make note if nominee is a contract examiner and give jurisdiction currently contracted with)

NOMINATION VALIDATION:

(signature/name of three current members making nomination)

Signature/Name

Signature/Name

Signature/Name

Please return completed *form* and *nomination letter* by no later than April 30, 1999 to: IRES (Al Greer Achievement Award), 130 N. Cherry, Suite 202, Olathe, KS 66061

Selection Process

Nominations will be accepted from the date the nomination form is placed in *The Regulator* through April 30. All nominations must be postmarked no later than April 30 prior to the next IRES Career Development Seminar.

The Al Greer Achievement Award Sub-committee will then determine nominees who meet the basic requirements and nomination requirements.

Nominees making it through the sub-committee process will be voted on by the members of the Membership and Benefits Committee with the nominee receiving the most votes being the recipient of the award. In case of a tie the entire Board of Directors will vote to determine the winner. (In either instance, only one vote per committee member or board member.)

The counting of votes will be conducted by the chair and vice-chair of the Membership and Benefits Committee along with the executive secretary of IRES. The winner will be kept confidential until announced at the next CDS.

Las Vegas!!

BALLY'S HOTEL



In Las Vegas, beat the heat and save your feet at CDS

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Bally's? You may want to think again. While there are some other major hotels on the Bally's strip, most of them are a long, very hot walk away from Bally's. Remember, it's August in the desert. Temperatures can easily hit 100 degrees or worse. Walking around outdoors is no fun.

Another reason to stay at the Bally's with the rest of the IRES guests is so that you can get all the latest, last-minute information on the Seminar activities. Changes in meeting times. Last-minute items for your seminar packet. Special tourist and entertainment information.

Oh, one more thing. When you arrive, watch for the Eiffel Tower. That's right, the Eiffel Tower of Paris. You'll see it pointing up to the clouds when you get close to the hotel. Right along with the Arc de Triomphe and the Paris Opera House.

Bally's is just finishing construction on the 3,000-room Paris hotel and casino — and it adjoins our convention hotel. Word is that the actual casino won't be open until late August. But just the vision of this incredible casino, resort and French wonderland is enough to make your eyes grow wide. Bring your spouse and kids. They'll get a huge kick out of seeing this miniature version of Paris right before their eyes.

But they'll only get to spend time there if you stay at Bally's. With the rest of us.

The 1999 IRES Career Development Seminar

Workshops and general sessions presented by the IRES Sections

Producer Licensing and Continuing Ed
Consumer Services and Complaints
Enforcement and Compliance
Market Conduct
Financial Examination
Property and Casualty
Life and Health

For latest details, watch the IRES web site at www.go-ires.org

WARNING: Hotel rooms always sell out fast so don't wait until June to book your rooms or they'll be gone!!

IRES 1999 Career Development Seminar

AUGUST 1-3, 1999 LAS VEGAS
BALLY'S LAS VEGAS

Official Registration Form

Fill out and mail to The Insurance Regulatory Examiners Society
130 N. Cherry, Suite 202, Olathe, KS 66061

Yes! Sign me up for the 1999 IRES Career Development Seminar. My check payable to IRES is enclosed.

Seminar Fees

(includes lunch, cont. breakfast and snack breaks for both days)

Check box that applies

- ☐ IRES Member (regulator) \$195
☐ Industry Sustaining Member ... \$350
☐ Non-Member Regulator \$295
☐ Retired IRES Member \$85
☐ Industry, Non-Sustaining Member \$555
☐ Spouse/guest meal fee \$65

Name _____

Title _____

First name for Badge _____

Insurance department or organization _____

Your mailing address _____ Indicate: ☐ Home ☐ Business

City, State, ZIP _____

Area code and phone _____

\$

Amount enclosed _____

Spouse/Guest name _____

List professional designations that you would like shown on your name badge

Hotel Rooms: You must book your hotel room directly with the Bally's in Las Vegas. The room rate for IRES attendees is \$105 per night for single-double rooms. Please call group reservations at 800-833-3308, or 702-967-4591. The IRES convention rate is available until June 30, 1999 and on a space-available basis thereafter.

SPECIAL NEEDS: If you have special needs addressed by the Americans with Disabilities Act, please notify us at 913-768-4700 at least five working days before the seminar. The Bally's facilities comply with all ADA requirements.

SPECIAL DIETS: If you have special dietary needs, please circle: Diabetic ☐ shellfish ☐ Low salt ☐ Vegetarian ☐

CANCELLATIONS AND REFUNDS

Your registration fee can be refunded if we receive written notice before July 3, 1999. No refunds will be given after that date. However, your registration fee may be transferred to another qualifying registrant. Refund checks will be processed after Aug. 20, 1999.

Seating for all events is limited. IRES reserves the right to decline registration for late registrants due to seating limitations.



**Call for more details:
913-768-4700. Or see IRES
web site: www.go-ires.org**



California prides itself on doing everything, including insurance regulation, the California way. See Page 1



BULLETIN BOARD

✓ **Welcome new IRES members:** David Beck, Ohio; Johnii Kay Bothell, Delaware; Fred R. Couty, AIE, New Mexico; Dori Drummond, Missouri; Edwin Kasperek, Oklahoma; Sandy Lachowsky, Idaho; Kenneth C. Lang, Florida; Deanna D. Leyden, Nebraska; George L. Price, Florida.

✓ The IRES Foundation's 6th annual Market Conduct Regulation School for the insurance industry is April 7-10 at the Hyatt Regency at Hilton Head, S.C. This one fills up fast!! For registration forms call or fax the IRES office.

✓ Your dues are due!! If you haven't paid your 1999 IRES membership dues (for regulators and individual members), they are now late. If you're not sure about your dues status, call Susan at the IRES office, 913-768-4700. Or drop her an e-mail message at ireshq@aol.com. Sustaining Members (industry) will be billed in May.

✓ Huff Thomas., a regulatory consulting firm providing examination services, is seeking experienced market conduct and financial examiners. Candidates' background should include: Bachelor's Degree, an AIE, CIE, AFE, or CFE and 2-5 years experience participating in the examination of insurance companies. FLMI candidates or CPA is a plus. Salary commensurate with experience. Contract and employee positions available. Travel is required. Relocation is not required. Respond to: Huff Thomas, ATTN: Human Resources Director, 4700 Belleview, Suite 205, Kansas City, MO, 64112

✓ The Vermont Department of Banking, Insurance, Securities, and Health Care Administration is seeking proposals from firms or individuals competent to perform insurance market conduct reviews between July 1, 1999, and June 30, 2001. Work location will vary. Projects may require extended travel to different parts of the United States. The Department currently expects 50% of the work to be performed in Vermont. Contact: Neil Carr at 802-828-4842 (voice) or 802-828-3306 (Fax) or at ccarr@bishca.state.vt.us