The Regulator®

INSURANCE REGULATORY EXAMINERS SOCIETY

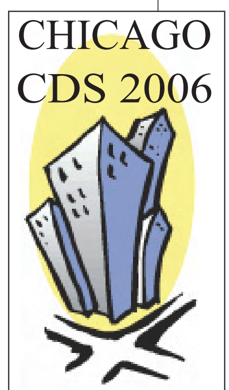
The CDS Interview

Exploring Federal Alternatives

*Wayne Cotter and Scott Hoober sat down during this year's Career Development Seminar (CDS) with Illinois **Director of Insurance Michael T. McRaith**; Mississippi attorney **Jim Moore Jr.**, Copeland Cook Taylor & Bush; and **David Snyder** of the American Insurance Association to discuss the aftermath of Katrina, optional federal charter legislation and the future of state-based regulation. Note that due to space limitations, some responses have been abbreviated.*

Regulator: *Jim, you had mentioned in this morning's opening session Mississippi Commissioner George Dale's efforts to deal with the aftermath of Katrina. Could you elaborate?*

Jim Moore: Sure, first of all just to give you a little background, insurance claims totaling almost $11 billion have been paid on the coast on approximately 500,000 claims. That gives you an idea of the workload that the commissioner's office has had. In the very early stages, the Governor invoked emergency powers that allowed many different divisions within the state — including insurance commissioners — to promulgate emergency regulations and guidelines.



George Dale wasted no time in using those emergency powers and began issuing certain mandates . . . such as a waiver of proof of loss or notice of claim. He put a moratorium on cancellations and nonrenewals and gave an extension to policyholders to pay premiums. Also, on the water/wind issue — which continues to be the subject of much dispute and litigation — he issued mandates on factors, evidence and information that insurers were to consider in responding to claims, such as the damage in the neighborhoods, eyewitness accounts, and required inspection of the premises.

Dave Snyder: I think everyone was caught in an unprecedented series of events and the commissioners in Louisiana and Mississippi have worked very hard to try to maintain a market and at the same time address the unique challenges that came up. I certainly believe in the end the courts will uphold the necessary contractual language.

By the way, I think everybody involved in the process has done an amazing

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Shady characters

Who were these two and what were they doing in the ballroom of the Hyatt Regency Hotel during the Society's 2006 Career Development Seminar? *see coverage inside*

Freeman of Missouri is new IRES president

CHICAGO — Douglas A. Freeman, CIE, Missouri, was elected 2006-07 President of IRES during the Society's annual meeting and Career Development Seminar at the Chicago Hyatt Regency McCormick Place.

Also elected to the IRES Executive Committee at the annual meeting:

President-Elect — Polly Y. Chan, CIE, California

Vice President — Jo A. LeDuc, CIE, Wisconsin

Treasurer — Karen L. Dyke, CIE, Nebraska

Secretary —Katie C. Johnson, AIE, Virginia

Past President Stephen E. King, CIE, unaffiliated

At Large — Michael W. Hessler, CIE, Illinois

Freeman is a Market Conduct Examiner-In-Charge with the Missouri Department of Insurance, Financial Institutions & Professional Registration. He has been an IRES member since 1997, an active member of the Board of Directors,

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From the President

Winds of Change

The winds of change have breezed through IRES as evidenced by the fabulous IRES Chicago Career Development Seminar (CDS). Congratulations to Steve Martuscello and Mike Hessler, who led a wonderful team of Section Chairs and numerous IRES volunteers who put together a truly memorable conference with new ideas, some format changes, and a great turnout!

And, hats off to Stephen King who had the wisdom to appoint Steve and Mike as CDS co-chairs and congratulations to Polly Chan, Chair of the IRES Education Committee, which oversees the CDS. Of course, no CDS can successfully occur without David Chartrand, Susan Morrison, Joy Moore, Art Chartrand, Elaine Bickel, and Scott Hoober attending to every one of the literally thousands of details it takes to put on a CDS!

As I begin my IRES Presidency, I hope to continue to implement the "winds of change" that Stephen King and the Executive Committee have encouraged in the CDS format and throughout the IRES organizational structure and programming. The IRES Board, and each IRES member, has a duty to continue to make IRES an even stronger organization than the wonderful Society it already is. But, IRES needs your help.

Change will occur no matter what we do or don't do. However, in order to help shape those changes, we all need to be engaged and active. Everyone — and I mean every IRES member and potential member — has something to offer. IRES regulatory members and sustaining members (insurance industry personnel) are eligible to serve on IRES committees, subcommittees, and CDS sections.

As I discussed during my inaugural speech at the CDS, I think IRES has to do — and is capable of doing — an even better job of tapping into the wonderful resources and experience of our IRES members and focus that knowledge and talent into priority items of concern to IRES.

At the Chicago CDS, the IRES Board endorsed three goals and objectives as priorities for 2006-2007. On the form on p. 21 is a description of each of those goals and the IRES committees, subcommittees, and CDS sections that will try to implement them.

Please complete this form and mail or fax it to the IRES office and let me know as soon as possible the names of the committees, subcommittees, and/or CDS sections you are interested in. The new IRES Committee Chairs are forming their committees, subcommittees, and sections now.

But, the Executive Committee and all other IRES committees, subcommittees, and CDS sections need your participation! So please call me at 636-236-9642 or e-mail me at dafreeman18@aol.com with your ideas about how you can help one of the IRES committees.

Also, be sure to urge colleagues to join IRES and have fun in the process! When you fill out the form on p. 21, please indicate the committee, subcommittee, and/or section of preference as well as a second choice, etc. The Executive Committee will do its best to place you in one of your top choices.

Thank you and take care!

Douglas A. Freeman, CIE
IRES President

The 2006 IRES recognition awards

CDS 2006

President's Award

Jo LeDuc, Wisconsin

President King praised Jo as a "true professional with a firm grasp on today's technology and innovative ideas."

Al Greer Achievement Award

Lynette Baker, Ohio

Lynette with Don Koch, Greer chairperson

Schrader-Nelson Publications Award

Rebecca Westmore, California

On behalf of Rebecca, Polly Chan of California accepts the award from Regulator editor Wayne Cotter.

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job especially compared with the negative publicity that has been put out sort of deliberately on a few claims. When you hear the numbers of claims that have been settled and the amount paid out under very, very difficult circumstances in which companies found themselves without office buildings or agents.

Regulator*: When you say "everybody" did a good job, are you talking from an insurance perspective?*

Snyder: I would say so. It doesn't mean that everyone is happy with the results. In some cases, people who didn't buy flood insurance wish that they had. But that's not an excuse for throwing away the basic contracts. I know it's taken some time in a percentage of cases because of various disputes, but I think the vast majority of cases are being handled pretty well by both the regulators and the insurance companies.

Editor Cotter with (left to right) Moore, Snyder and McRaith

Regulator: *What was your reaction to the federal response to Katrina?*

Moore: I cannot make comments in my capacity as an attorney, but [as a member] of a large group that carried a lot of supplies to the [Gulf] Coast and witnessed first-hand areas that the federal government was not able to respond to as quickly as the states.

. . . .

The states had an overwhelming response with food, supplies, gasoline, clothing . . .. New Orleans probably got more attention [regarding the inadequacy of the FEMA response] because of the Superdome incident, but there were many, many stories . . . on [the federal government's] inability to respond.

Snyder: I think to the extent that something valuable can come out of both the human and societal tragedy that these events reflected, it lies in the emphasis — in some cases renewed emphasis — on things like building codes — the need for them in some cases, the need for better enforcement in other cases. A serious look at land use — we've got to perhaps stop subsidizing unlimited coastal development and look at how we prevent our environment from being degraded in a way that can contribute to our losses in the case of a major natural catastrophe.

I think nationally [we need to] put more focus on basic infrastructure — levees, whatever it is — we simply need to not take any of that for granted and focus human and financial resources on making sure that we've got the very best infrastructure possible to withstand natural and man-made catastrophes.

And finally I think it's forced a serious look at how federal, state, and local governments coordinate and act in the case of a natural or man-made catastrophe. How we can improve the linkages, the communication, the assignment of responsibilities and how government in turn can coordinate better with the private sector.

(Note: Illinois Director McRaith joins the interview at this point.)

Regulator: *I know AIA has gone on record in favor of the optional federal charter. Could you explain why you favor the option?*

Snyder: We believe that if the United States is to remain capable of competing effectively for international insurance capital, then our regulatory system has to be modernized. We are virtually alone among the leading insurance markets in having a regulatory system that is something other than at the national level and virtually alone in having a regulatory system that permits the government to set prices and determine what products are offered in the marketplace. The combination of those two factors we believe in the long term will be lethal to the ability of the United States to continue to have the kind of insurance system that we have where there's adequate supply, where people can buy what it is that they need to buy.

The United States has to be far more efficient in its regulatory system than it is today. Also, [there is] concern expressed by companies that do business on a national level with [the regulatory] differences from state to state. I mean does a consumer in Idaho really want anything different than a consumer in Florida or anywhere else? You talk about the products that insurance represents. Certainly [they are] no more complicated than getting under the hood of a car. So we don't see why a national market and a national product shouldn't be regulated nationally and the nature of that regulation be one that supports and encourages competition rather than puts the government in the position of setting prices and determining what products [are available]. That's outmoded and largely abandoned in the United States [for other noninsurance products] and worldwide it is virtually unheard of, even in insurance.

Regulator: *You said you favor national regulation, but you're still supporting the option of federal regulation?*

Snyder: Yes, we are.

Regulator: *Would you prefer national regulation?*

Snyder: Well, a lot of the companies we represent would prefer national [regulation], but I think it's an option that ought to be available. We ought to have competition between those two regulatory systems. Consumers in turn can pick companies that are licensed in the state or nationally under the optional federal charter. The national regulator would have market conduct [oversight] and all other regulatory authority. Mostly it would be focusing on solvency regulation and allow the market . . . to determine the rates and products that are offered.

Regulator*: Director, would you care to respond?*

Director McRaith: First of all, in the United States right now we do have national regulation and it is state-based, but there is collaboration and the regulation evolves as the industry evolves. I think there is a recognition that the insurance industry has been evolving rapidly in the last several years, and the marketplace is different. There is competition for insurance capital from other markets, but what we have currently is a regulatory framework that is effectively the paragon that other countries . . . have used to establish their own regulatory frameworks.

While we have separate state regulators, there is an emphasis on national collaboration; there is an emphasis on updating the state regulatory framework to fit the products, to fit the demands of the marketplace. And that's what's happening. That's what we're experiencing now.

I think 31 states have adopted the speed-to-market initiative known as the interstate compact. That's a recognition that the industry, in order to maintain pace with competition from other financial sectors, needs improved speed-to-market regulations. The NAIC has adopted that.

Going forward we can look for more efforts toward uniformity. But the bottom line is that insurance is intended to protect the policyholder. Ultimately, insurance is not about whether an insurance company can attract capital or whether the insurance company gets the rates it wants to charge. It's really not about that.

In Florida, for example, State Farm requested a rate increase of 57.3% three weeks ago. That [increase] was approved by the regulators in Florida. So the notion that rate regulation is somehow injuring the insurance industry is simply false. The insurance industry is doing very well, but the bottom line is: What's in the best interest of the policyholders? Is it to have a federal regulator who's basically unaccountable . . . where if she had a complaint she'd have to perhaps hire an attorney to help her wend her way through the system? That is not delivering benefits to consumers that insurance is intended to do.


Illinois Director McRaith

People pay premiums to . . . get the benefits of the policy for which they paid and that is what the current system allows and affords . . .. It's not in the policyholder's interest to have the kind of vague, ambiguous dual regulatory framework that is outlined in the [optional federal charter] bill.

Regulator: *Not all industry supports the optional federal charter or the SMART Act. Some do and some don't. I really haven't heard any consumer groups or consumers speaking out about their opposition to state regulation. Where does the consumer fit in?*

Snyder: Under the optional federal charter, if you're a consumer and you want to continue to do business with a state-chartered company, you'd have that right.

Regulator: *But do you think consumers would understand the difference?*

Snyder: Well I think there are lots of ways that they'd understand the differences. You have agents and others that would explain to them the differences. There's lots of ways people can get information about insurance today and they will in the future. If you're a consumer and you really believe you're going to get better consumer protection from a state-regulated insurance company, under the optional federal charter you'd have the right to stay with that company.

On the other hand, if you believe that you want a company that's regulated nationally . . . focusing on . . . solvency . . . you can go that way. If on the other hand, you like the notion of local regulation, that's an option that would be available to you too by the companies that remained state chartered.

McRaith: I have a lot of respect for Dave and his colleagues and I think their approach to many insurance issues is a benefit to consumers around the country. I think the federal charter is one mistaken policy decision that they've made. The bill is 290 pages long. There

continued on next page

CDS Interview

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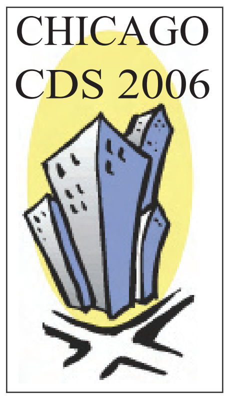
are 15 lines devoted to consumer protections. There are over three pages devoted to the ombudsman, which is industry-funded, industry-selected and industry-directed.

That ombudsman in the current version of the bill has the authority to go into court to initiate legal proceedings to stop a state regulatory action against a federally chartered insurer. So when we're looking at consumer protection, solvency is very important. Dave is absolutely right. Secondly though, but just as important is that you've got to have a company that is going to pay or provide the benefits that the consumer has paid for. And that's where state-based regulation ultimately separates itself from any notion of a federal charter. In Illinois, we had over 14,000 complaints in 2004. Where are those people going to go?



Regulator: *Bill Bailey asked a good question. How would supporters of an optional federal charter react if a Democrat were to win the White House in 2008 and appoint as federal insurance czar Bob Hunter or Eliot Spitzer?*

Snyder: Well I think the companies have thought this through and that they honestly believe that in the long-term both themselves and consumers would be better served with a national regulatory system as an option with full regulatory authority focused largely on solvency with no ability on the part of the regulator . . . to fix prices or set the products. They believe that that's a system that ultimately will be best for the competitiveness in the United States. I would add there is a provision for an ombudsman, but the ombudsman has the authority to go after companies as well. I think the major purpose of the ombudsman would be to serve as a consumer advocate against the companies if you will . . ..

There are a couple of things frankly driving this. The first is frustration with state-to-state differences that really have no substantive basis. It's just "this is the way we've been doing things and this is the way we want to keep doing it." The other frustration [is] the NAIC . . . can't take on the issues that are most frustrating to companies which lie in the area of politicized decisions . . ..

Illinois is clearly not one of those both in respect to the structure and the Director himself who has found a balance between the conflicting claims quite effectively. But the problem is that there are states that have the authority to fix prices and set products. They use it frankly for political ends — directly or indirectly — and it's a terrible frustration to companies that want to function in a well-regulated market.

McRaith: I would be very surprised if there were one governor, one state legislature anywhere in the country that supported the idea of the federal charter. I understand the concern about rate regulation and I think the response to that is pretty basic: let the market operate within the constraints of the regulatory framework. For example, if a company did not want to operate in California because of the rate regulation in California, well that's a very easy problem to solve.

And what the federal charter would do ultimately is co-opt the local interests that are important to the people, for example, living in California. They have elected a legislature that has adopted those regulations and if they didn't like those regulations we can assume that the democratic process would change the regulations. The insurance commissioner is elected every four years in California. I think that the notion of rate regulation as being the crux of this problem . . . is a little misleading.

Regulator: *Is this movement toward a federal charter really anti-market regulation? It seems like you go back two or three decades and we said if an insurer is financially sound we don't care about anything else, but I thought we found that was not the case and that market regulation has a very valuable role.*

Snyder: In fact, under the optional federal charter, the national insurance regulator would have the authority to engage in market conduct and in fact it is directed to do so. But we expect what would really drive that system would be a real focus on solvency as it is on the banking side . . .. But you asked a question a minute ago — how would we feel if Spitzer or Hunter were the [federal] insurance regulator? Well, we would feel a lot better than we do with a state regulator because they would not have the ability to fix prices and determine products in the market the way they can in all too many states today.

Regulator: *At last year's CDS, prior to Katrina, Mississippi's George Dale warned that without disaster coverage "economic growth will stop." If the violent storm patterns from last year continue, what solutions are available? Should insurers be compelled to provide coverages that could threaten solvency? Should Gulf Coast states be expected to spread the burden among upstaters and downstaters? Is it a national problem that demands a national solution?*

Moore: It's a complex question that exceeds the scope of what I really do. I can talk to you as a consumer . . ..

Regulator: *Talk to me as a consumer.*

Moore: As a consumer, the general consensus from central and north Mississippi is that if you want to live on the Coast and have a house on the Coast then you need to pay for it. People in north Mississippi and central Mississippi and areas that are not subject to hurricanes to the extent that the Coast is [can no longer] subsidize [the Coast].

Regulator: *What about in Illinois?*

McRaith: What Jim said is absolutely right. No one in Illinois wants to subsidize the premiums of people who live on the Gulf. We suffer through winter and someone else is on Key West wearing flip-flops and drinking margaritas in February. [That] is not someone we want to make any more comfortable than they are already. But the reality is that we already are subsidizing.

On Katrina, depending on whose numbers you believe, approximately $90-to-$100 billion has been spent already, approximately a third to one-half of that could have [been covered by] conventional insurers. [The difference] is coming from federal taxpayers . . . as the insurance companies know, natural catastrophes are significantly different than terrorism. Terrorism we cannot model for, so we absolutely have to have [the Terrorism Risk Insurance Act]. But it's because we can model for natural catastrophes that we should. The way we do it now is so inefficient . . . there has to be a better way. As a country we need to look at whether we can pre-plan and pre-fund for natural catastrophes.

Snyder: I think one of the major lessons from the disaster is we need to re-focus our attention on preventing losses in the first place. Building codes, better land use controls, more focus on infrastructure, and finally a more coordinated response capability within government and between government and the private sector. These are all things that insurers will be participating in as advocates and we need to do as much in that area as we've done in the highway safety area, for example. So I think a re-focus there on the part of all of us — regulators, industry, government — is absolutely essential. I think that's one of the key lessons.

It seems to me the second thing to take away is that despite an unprecedented hit, the insurance industry really came out of these disasters very strong even after having paid record amounts. So I think we want to look at those things that don't lessen the ability to do that and focus on those things that would increase that ability which is to allow insurers to send stronger messages about where buildings ought [to be built] by the prices that they charge and the coverage that they offer.

Unfortunately, Florida has a very long tradition of rate suppression and of subsidies and I think to some extent they are sort of harvesting the bitter fruit from that. ■

New IRES officers, Board members

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and holds the Certified Insurance Examiner (CIE) designation. His IRES leadership activities have included chairing the Membership and Benefits, Finance and Budget Committees, as well as the Web Site Subcommittee, and chair of the 2002 San Antonio CDS. Recently, he chaired the Accreditation and Ethics Committee and assisted the Market Conduct Certification Program (MC+) Subcommittee. In 2005, Freeman received the IRES President's Award for his contributions to the growth of IRES and increasing professionalism among insurance regulators.

Freeman has worked in regulation more than 11 years with the Missouri Department of Insurance, Financial Institutions & Professional Registration. He has a health law degree from Saint Louis University and graduated from Washington University in St. Louis with a double major in political science and international development. He grew up in Cincinnati, Ohio and now lives in Chesterfield, Mo., a St. Louis suburb, with his wife, Rochelle.

Incoming President Doug Freeman urges members to get involved with IRES

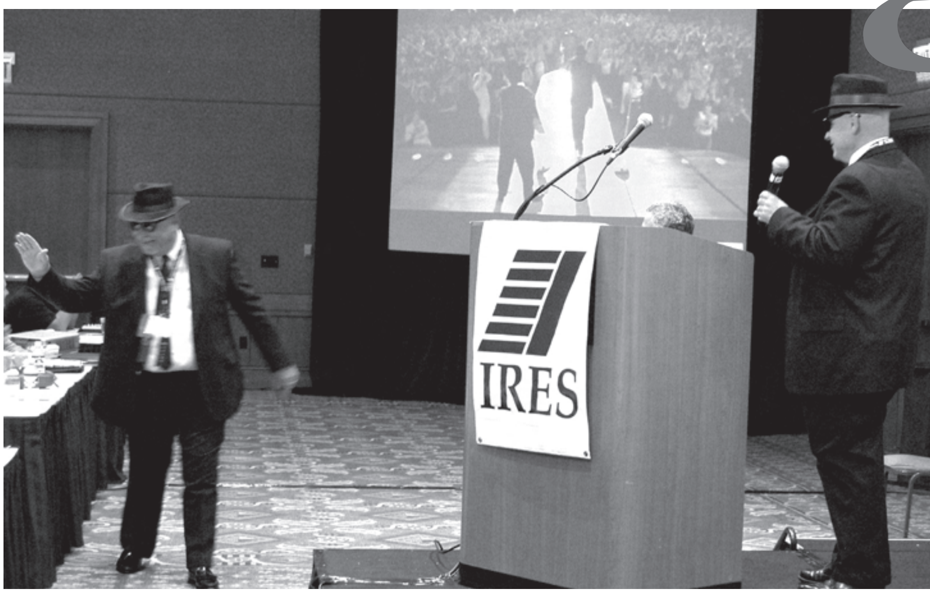
After assuming the president's gavel from outgoing president Stephen E. King, Freeman appointed Executive Committee members to chair the Society's seven Standing Committees:

Accreditation & Ethics — Polly Y. Chan
Membership & Benefits — Jo A. LeDuc
Finance & Budget — Karen L. Dyke
Publications — Stephen E. King
Meetings & Elections — Katie C. Johnson
Education — Michael W. Hessler
Executive— Douglas A. Freeman

In other voting during the Chicago meeting, six regulators were elected to four-year terms on the IRES Board of Directors: Holly L. Blanchard, Nebraska; Kim Cross, Iowa; Karen L. Dyke, CIE, Nebraska; Katie C. Johnson, AIE, Virginia; Violetta R. Pinkerton, AIE, Colorado; Nancy S. Thomas, CIE, Delaware.

Appointed to one-year at-large positions: Dennis C. Shoop, Pennsylvania, and Stephen E. King, CIE, unaffiliated. Thomas L. Ballard, CIE, Georgia, was appointed to fill the unexpired term of retiring Board member Gary Domer.

Sweet Home Chicago!



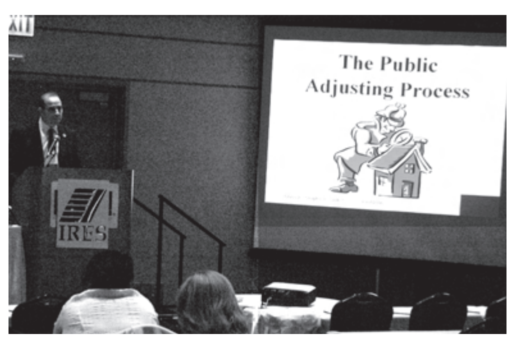
The Society's largest turnout since 2001.

Photo by Max Chartrand

Visitors to Millennium Park get an unusual view of the Chicago skyline — and themselves.

More than 475 insurance regulators and industry experts gathered at the Hyatt McCormick Place in Chicago Aug. 6-8 for the Society's 2006 Career Development Seminar. It was the largest attendance since the 2001 Baltimore CDS. The meeting's official theme was "Winds of Change" but its theme song was "Sweet Home Chicago" as performed by seminar co-chairs Mike Hessler of Illinois and Steve Martuscello of New York (above).

Left to right: Betty Bates, Tom Ballard and Nancy Thomas



Laughing matters

Insurance regulation is a funny business but few things are more comical than the way men and women communicate. Comic Rex Havens (above) opened the Chicago seminar by explaining the unofficial rules of marriage, shopping, buying clothes and furniture.

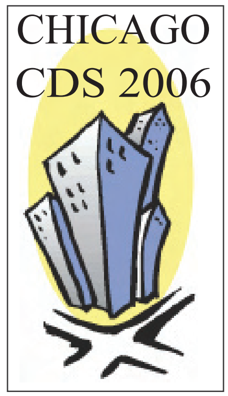
CHICAGO CDS 2006

Make plans for next year:
Aug. 12-14, 2007
Pittsburgh Downtown
Hilton

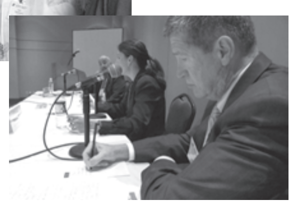
The Freeman family of Missouri

Sportscaster Terry Bowden

IRES Foundation board members Carol Newman, John Mancini and Ron Kotowski



CDS co-chair Steve Martuscello ponders while Richard Nebb (left) and Joe Fritsch chat.



CDS co-chair Mike Hessler

Four who made a difference

Gary Domer (left) with President King

Bailey

CHICAGO — IRES said thanks Aug. 6 to three retiring board members and one longtime CDS fixture for their years of service to the Society.

Gary Domer, Bruce Ramge and Christel Szczesniak were honored with formal resolutions adopted by the Board of Directors. All three are past presidents of IRES.

In addition, the Board adopted a resolution thanking insurance and legal expert Bill Bailey of Boston for his years of service as moderator of the Commissioners Roundtable that traditionally opens the annual Career Development Seminar.

Ramge

Szczesniak

Learning from catastrophe

by Scott Hoober

Monday, August 7 (3:30-5:00 pm)

We all know that those who fail to learn from history are doomed to repeat it.

When it comes to Gulf Coast hurricanes, the truth is that whether or not we learn from Katrina and Rita, and Andrew and Hugo and Camille before them, other big storms are bound to come ashore in years to come. But at least we can learn how state insurance departments can prepare for the inevitable.

That was the point of "What Went Wrong and What Went Right," a P&C panel from the '06 Career Development Seminar.

Flood vs. wind

Moderator **Dudley Ewen**, who hails from Maryland, had a personal interest in the topic: His daughter and her family lost their home to flooding in 2003 following a visit by Hurricane Isabel.

His colleague, **Joy Hatchette**, associate commissioner with the Maryland Insurance Administration, who heads up a newly formed consumer education advocacy unit, discussed some of the lessons her state learned from Isabel. But the meat of the Monday afternoon presentation came from **Joe F. Bieniek** of Wolters, Kluwer Financial Services, and **Ron Musser**, assistant commissioner with the Louisiana Department of Insurance.

When a catastrophe strikes, even the littlest things, things like licensing out-of-state adjusters, can suddenly loom large.

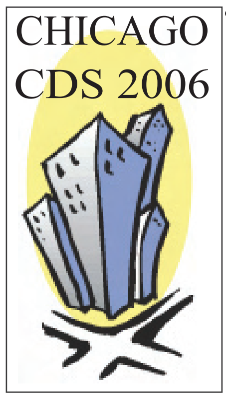
Musser said that Louisiana didn't license adjusters before Katrina. They had to ask both companies and public adjusters to voluntarily give them lists of names in case of consumer calls. (That hole in the regs has been patched, effective June '07.)

Bieniek said that the Mississippi department issued 90-day licenses, but had to increase that when the recovery process got stretched out.

Musser pointed out that the bigger problem was that there weren't enough adjusters in the entire U.S. to handle Katrina — and then Rita hit.

Some of the other issues that arose:

- "Companies need to know how the state is going to handle things," said Bieniek. For instance, in a major catastrophe, laws or regulations mandating customers be contacted in, say, 14 or 30 days simply aren't realistic.
- Simple access can be a problem. In Louisiana, Musser said, some police officers weren't allowing adjusters into affected areas.
- Wind vs. water: Before you get to the question of whether damage was caused by wind or water, or perhaps by wind and then by water, you have to realize that when residents are ordered to evacuate, there's no one there to testify or take photos of damage as it happens.



- Agent omissions: Besides the issue of flood coverage in homeowners insurance, litigation has also been instituted against agents who allegedly failed to offer their customers flood coverage.

New laws and regs

"It's important that departments get the word out that homeowners insurance does not cover floods," said Musser, who himself lives in a 500-year flood area but has bought coverage from the National Flood Insurance Program. His commissioner has spent a lot of his time lately going around the state getting that message across to consumers.

Affected states have pretty much all altered laws and regulations, in some cases permanently, in some cases for the duration. And those changes have run the gamut, from more — and more standardized — data calls, to delays in producer CE requirements.

Similarly, rules regarding nonpayment delays and policy termination had to be suspended. Numerous changes had to be made to health regulations. These permitted consumers to refill prescriptions before they ran out of pills and to obtain medications from nonplan pharmacies, sometimes without prescriptions.

Hatchette said those changes even affected her state. The Maryland department had to help thousands of Katrina refugees who sought to refill prescriptions as if they were still in-network.

None of this is easy — or cheap. "Everybody lost something," Hatchette said. "Everybody had a bite taken out."

And it's not just prescriptions. Many health plans continued to pay claims after premiums ran out, even though they knew that many of those policies would never be paid on again.

Similarly, though there's no additional living expense or business interruption coverage unless there's a claim — e.g., flood vs. wind — many companies handed out checks anyway. That can't go on, and it can't be popular when the checks stop coming, but they did it anyway.

Another popular policy, or policy change, following a major catastrophe involves mediation.

In Florida, a mediation program instituted several years ago, with costs borne by insurers, has a 90% success rate. Musser said Louisiana's program has had an 82% satisfaction rate to date.

Louisiana also now requires that all companies file disaster-recovery plans with the department. The reg calls for the department to review plans every five years.

The long term

Over the long haul, one big question, for regulators and consumers alike, is whether communities will be rebuilt and whether insurance coverage will continue to be available.

"Availability is a problem," Musser said, "But affordability is more of one. I think coverage will be available, but I don't think it will be abundant," as companies either pull out or hike premiums.

The state-run fallback program is only two years old, so its reserves weren't where they should have been. The program ended up borrowing $1 billion to cover claims.

"It's going to cost," Musser said, "and it's going to cost dearly."

And then there are related areas, such as building codes and improved notification of flood zones, not to mention simply keeping up with changes in the flood maps.

All along the Gulf, from Texas to Louisiana, Mississippi and Alabama, many regulators made calls to their counterparts in Florida. And an Insurance Summit, held Labor Day in Atlanta, kept the cooperation and data sharing going forward. ■

Welcome, new members

Maryellen Baker, OH • H. Charles Black, KY • Kim Cross, IA • Thomas J. Goetzinger, CA • Paula Gregg, SD • Jill L. Kruger, SD • Roger A. Lisi, PA • David Morris, NE • Raymond W. Ort, PA • Andrew Pauley, WV • Candace B. Pickens, DE • Leslie A. Pierce, PA • John M. Rielley, DC • Charles Swanson, WV • Petra C. Wallace, NAIC • Randy A. Watkins, MI

Congratulations AIEs and CIEs

CHICAGO — The AIE and CIE classes of 2006 were formally honored during the opening-day luncheon at the Career Development Seminar.

Many regulators obtain designations during the year but not all can attend, or afford, the trip to the annual meeting Thanks to underwriting from the IRES Foundation, the Society was able to offer CDS tuition waivers this year to the new designess.

Pictured below are the new AIEs and CIEs who were on hand for this year's conferment ceremony.

The CIE class of 2006

Left to right: Kristie Radmall, CIE (UT); Helene I. Tomme, CIE (AZ); Mark G. Noller, CIE (MA); Debra A. Boothby, CIE (NH); Charles Piasecki, CIE (VT); and Terrence J. Corlett, CIE (unaffiliated).

The AIE class of 2006

Left to right: Stacy L. Rinehart, AIE (KS); Paul B. Wilkinson, AIE (VA); Carolee B. Nichols, AIE (ME); Scott M. Zager, AIE (NE); Frank W. Kyazze, AIE (PA); Nobu A. Koch, AIE (DE); Joseph P. Koch, AIE (DE); Carly B. Daniel, AIE (VA); Dana W. Rudmose, AIE (MA); Laura A. Sloan-Cohen, AIE (AZ); and Dolores C. Arrington, AIE (CO).

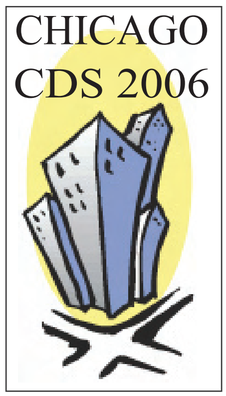
CDS: *Spotlight on Sessions*

Am I a good driver because I pay my bills?

by Kathleen McQueen

Monday, August 7 (10:30-11:45 am)

This early break-out session proved to be a lively and thought-provoking debate on the appropriateness of using credit-based insurance scores to underwrite and rate insurance. Although the use of credit scoring for insurance purposes has been around since the 1990s, it still confuses consumers, befuddles regulators and has advocacy groups and insurers facing off against each other.



The session's first speaker, **Lamont D. Boyd**, acquainted audience members with his employer, the Fair Isaac Corporation, a predictive analytics technology company. Fair Isaac's credit scores, based on credit histories and other factors, are used by the insurance industry to project the frequency and severity of insurance claims for individual policyholders. Each of the three major credit bureaus – TransUnion, Equifax and Experian – provides credit information to Fair Isaac for their models. The models are then used by personal lines insurers to assess individual risk.

Ken Beumel of TransUnion cited ways his company helped victims of Hurricane Katrina. For example, the organization published guides that helped consumers deal with their losses and reduce the chances of identity theft. By law, each of the major credit bureaus is required to provide a free credit report annually if consumers request them. TransUnion offered an additional copy of the credit report immediately after Katrina. The firm also established a dedicated toll-free telephone number to assist consumers in obtaining credit reports and to help them resolve storm-related problems.


Snyder

Beumel explained that one of TransUnion's "best practices" is to alert companies that use its credit reports of the consumer's right to add a statement to reports providing information about an extraordinary life event that adversely impacted their credit score. Among such events are job loss, divorce, death of a spouse, identity theft, dread disease or a disaster-related loss. Insurers can review this information and consider it in underwriting and pricing.

Snyder v. Birnbaum

Next up was **David Snyder**, Vice President and Assistant General Counsel of the American Insurance Association, a trade organization representing more than 300 insurers. Snyder said credit-based insurance scores are "still a key feature supporting healthy personal lines markets." For example, said Snyder, a record number of vehicles and homes are currently fully insured countrywide. In addition, residual market populations are historically low.

Calling credit scores a "highly predictive tool," Snyder pointed out that in a June 2003 study of more than 2.7 million auto insurance policies, researchers from EPIC Actuaries, LLC, found that individuals in the lowest insurance score category incurred 33% higher losses than average, while those with the highest scores incurred 19 % lower losses on average. The result, according to Snyder, is a movement away from a pass/fail system to a system in which insurers are able to determine the right price for just about everyone. For both underwriting and rating, credit scores provide a more accurate and individualized picture of the policyholder. "One size does not fit all," he said.

Snyder also pointed out that if a consumer is denied coverage or placed in a higher tier based on their credit-based insurance score, the insurer is required to send that consumer an "Adverse Action" notice. Consumers are entitled by law to review their credit reports and credit bureaus must correct or remove inaccurate information brought to their attention.

In his counterargument, consumer advocate **Birny Birnbaum**, Executive Director of the Center for Economic Justice, contended that insurers have provided a vast amount of misinformation about credit scoring and he discussed several of the more prominent "myths," including:

- *Insurance scores promote competition.*

  Contrary to this assertion, Birnbaum noted that loss ratios in the private passenger auto market *fell* from 71.2% in 2000 to 60.0% in 2005 nationally. With the use of credit scoring and tier rating the auto insurance market has become more profitable, a condition that is inconsistent with greater competition.

Birnbaum

- *Insurance scoring can help increase the availability of insurance when credit history is used to underwrite policies.*

  Birnbaum contends that insurance scoring actually decreases availability by raising rates for those consumers for whom price increases make a difference in their ability to purchase insurance, *i.e.,* low-income consumers.

- *The industry claims that most consumers benefit from credit scoring as a result of lower premiums for nearly 70% of policyholders.*

  Birnbaum contends, however, that credit scoring is a zero-sum game, benefiting half the consumers with lower rates, but harming the other half.

- *There is a statistical correlation between credit scores and loss ratios. In addition, according to the industry, a study has shown there is no correlation between credit scoring and income.*

  Birnbaum maintains that there is a strong correlation based on economic status. He emphasizes that two independent studies — conducted by the Missouri and Texas Insurance Departments — have shown the worst credit scores were recorded in high-minority ZIP Codes. Credit scores, he believes, are used as a proxy for measuring wealth, race and income since minority members and the poor frequently have little if any credit history. ■

Kathleen McQueen is Assistant Director of Research for the New York Insurance Dept. and Associate Editor of *The Regulator*.

C.E. News

IRES would like to welcome Polly Y. Chan, CIE of California, as the new 2006-07 Chair of the Accreditation & Ethics Committee.

The IRES Continuing Education year has come to a close. You still have time to turn in credit hours for the compliance year September 1, 2005 through September 1, 2006. IRES gives you 30 days after the end of the compliance year to submit your compliance form and the needed documentation.

If you fall short 1-3 CE hours, remember, you can take advantage of the "Reachback" program. To find out more about this, you can download the Reachback form from the IRES Web site.

IRES members with designations who attended the CDS in Chicago and picked up their attendee certificates were automatically given 15 CE hours. Those who did not pick up their certificate will need to file a compliance form as usual showing the hours attended up to a maximum of 12 CE hours. If you need a copy of your attendee certificate you may contact the IRES office and request one.

If your designation was received after June 1, 2006, no CE hours will be required until the 9/1/06-07 year.

N · I · C · E

National IRES Continuing Education

The mandatory continuing education program for AIE and CIE designees

CDS: Spotlight on Sessions

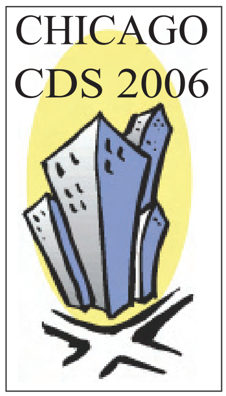
Plan, Plan, Plan for Multi-State Exams

by Wayne Cotter

Monday, August 7 (3:30-5:00 pm)

In his Monday afternoon CDS session, **Barry Armstrong** (INS Regulatory Insurance Services) urged attendees to plan early for multi-state examinations, preferably during the fall preceding the examination's "as of" date. Early planning helps other states ease the scheduling and staffing problems that invariably arise during multi-state exams, counseled Armstrong.

Other actions to ensure a successful multi-state exam include:



Determine your lead state: It may seem obvious which state is the lead state in a multi-state exam, but often it's not. Many assume the insurer's state of domicile should be the lead state, but that's not always the case, particularly when another state dominates in premium writings. Select your lead state as early in the process as possible.

Preparing your insurer: Also inform the subject insurer early so that it can make appropriate provisions for resources, desks, etc. It's also helpful to arrange for the insurer to organize an "A.M. Best-type" presentation, with all participating states in attendance. Although these presentations are primarily designed for rating agencies, they can offer valuable insights into management thinking.

Establish a work plan: Determine when to concentrate resources for particular phases of an examination. Use a project management model, if possible, to help design the workflow.

Devise an exit strategy: All parties should know upfront the exam's "drop dead date," *i.e.,* the time you will no longer accept information from the insurer. Of course, a certain degree of flexibility may be required if circumstances beyond the insurer's control lead to delays.

Communication: Establish an e-mail distribution list for regular communications among regulators. Armstrong typically schedules weekly meetings with examiners; bi-weekly meetings with multi-state supervisors and examiners-in-charge; and monthly meetings with chief examiners, deputies, and commissioners. "Everyone," said Armstrong, "should feel they have a voice in the process."

TeamMate: It's a prescription for disaster when different states use different versions of TeamMate software on the same multi-state exam. Establish early that everyone on the team is using identical versions.

Work to each state's strengths: States with specific strengths, *e.g.*, investment analysis or reinsurance expertise, should be allocated that responsibility in a multi-state exam.

Statutory Gurus: Make sure at least one individual from each participating state has a thorough knowledge of that state's statutes and knows the differences between their state statutory requirements and NAIC model law.

Establish work criteria: Do some states have special needs? Does New Jersey, for example, need to look more closely at auto warranty writings? Establish requirements for each state to sign off on staff work.

Maintain a united front: One big advantage of multi-state exams is that insurers cannot use a "divide and conquer" strategy by playing one state off another. Try to get all states on board with respect to the exam's findings and conclusions.

Keep the team together: Even after completing a successful multi-state exam, it's critical to try to gain agreement from all participating states regarding the timing of the next exam. Otherwise, a state with a 3-year statutory exam cycle may not be able to participate in an examination scheduled to meet the needs of states with 4- or 5-year cycles.

Multi-state exams can be far more efficient than state-by-state examinations, conserve valuable state resources, save money for insurers and policyholders, and help ensure that insurers that violate the law are appropriately punished. Unfortunately, multi-state exams also are more difficult to plan and coordinate than single-state exams. Armstrong's suggestions should increase the comfort level for those IRES members planning multi-state exams in 2007. ■

Wayne Cotter is editor of *The Regulator.*

IRES State Chapter News

ALABAMA — The Alabama Chapter held a joint continuing education training seminar with the Alabama SOFE Chapter from August 1-4. Representatives from the NAIC conducted training on I-Site and various applications, including all areas of analysis. There were 36 in attendance.
— Cristi Owen; Cristi.Owen@insurance.alabama.gov

DC — The DC Chapter held its meeting on Monday, July 17. Elections for state officers were held. **Hazel Mosby** was elected as State Chair and **Charlita Brown** was elected as Secretary. **John Reilley**, Insurance Examiner was welcomed as a new member.
— Betty M. Bates; betty.bates@dc.gov

LOUISIANA — During our June 15 Chapter meeting, new officers were announced. They are: **Crystal Campbell**, President; **Suzanne Aucoin**, Vice President; **Carolyn Schwendimann**, Secretary; **Mary Vanlandingham**, Treasurer and **Larry Hawkins**, State Chair. Larry Hawkins, Director of the Market Conduct Division, also delivered a PowerPoint presentation "How Market Conduct Operates". There were 28 in attendance.
— Larry Hawkins; lhawkins@ldi.state.la.us

NEBRASKA — **Thomas M. Olson**, Senior Legal Counsel, and **Thomas Sundvold**, of Great West Casualty Company, spoke at our June meeting. They explained federal and state regulation of the trucking industry, cargo coverages and claims and underwriting issues.
— Karen Dyke; kdyke@doi.state.ne.us

OREGON — **Julia Huddleston**, State Department of Human Services, discussed the future of long-term care insurance at our June meeting. **Shelley Bain** of the Insurance Division also discussed events at the June NAIC meetings. In July, the group heard from **Liz Baxter** of the Archimedes Movement, an organization founded by former Oregon Governor John Kitzhaber. This group is focused on reform of the nation's health-care system.
— Cliff Nolen; Cliff.Nolen@state.or.us

Derk of Pennsylvania is membership drive winner

The IRES Membership & Benefits Committee challenged every IRES member this year to recruit one new general member. During the 2nd annual membership drive, 35 IRES members met the challenge.

Derk is congratulated by Jo LeDuc, Membership Committee chair

The top recruiter was **Chet Derk** of the Pennsylvania Insurance Department, with seven new members recruited.

Derk started his career with the department in 1985. Prior to moving into the Market Conduct Division, he worked in consumer services and policy review. He is currently the Chief of the Property and Casualty Market Conduct Division. An AIE, he has been a member of IRES since July 1989.

Derk is a strong supporter of IRES and a believer in the benefits of continuing education and earning professional designations. He encourages his examiners to take continuing education courses, join IRES and earn designations such as the AIE and CIE.

When asked about the key to his recruiting success, Derk replied, "Overcoming the financial issues."

Derk has been working with the department on the issue of dues payment for some time. His hard work paid off this year when the department agreed to pay membership dues. He was able to demonstrate that the department benefited from its examiners being members because it enhances the credibility of the department and individual examiners.

CDS: Spotlight on Sessions

Federal Regulation: The Good, Bad & Ugly

by Janet Glover

Tuesday, August 8 (1:30-3:00 pm)

In a final joint session, CDS attendees participated in a discussion dear to all our hearts: federal oversight of the insurance industry. **Cheye Calvo**, the NAIC's Washington liaison; **David Snyder** of the American Insurance Association; and the New York Insurance Department's **Kashyap Saraiya**, helped frame the state v. federal debate currently waging in Washington.

Cheye Calvo opened the session by outlining the three approaches currently under review:

- the establishment of federal standards that states must meet;
- an optional federal charter approach that would permit companies to choose either state or federal regulation; and
- current state reforms or modernization efforts that accelerated after enactment of the federal Gramm-Leach-Bliley Act.

Insurance is a dynamic industry, said Calvo, and state regulation must be nimble to keep up. While few question that the state-based system protects consumers and registers high marks for financial oversight, state regulation must modernize. How to achieve this modernization is the challenge for regulators.

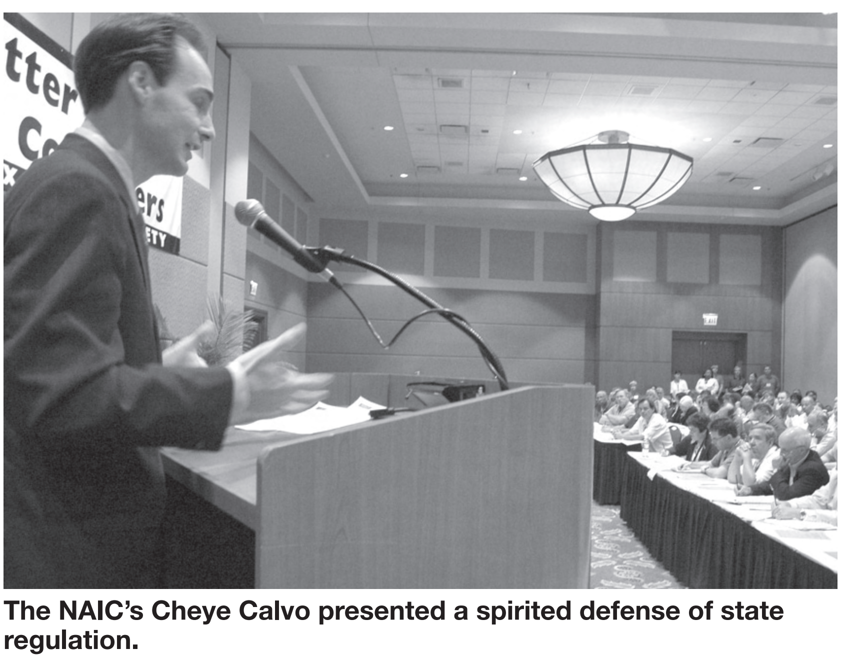
Calvo was critical of bill S2509, the optional federal charter bill proposed by Sen. John Sununu (R-NH) and Sen. Tim Johnson, (D-SD). The bill would, said Calvo, dismantle state regulation and allow insurers to opt out of state oversight and consumer protection. He said the bill, if enacted, would:

- weaken standards of consumer protection. Under the bill, rates need not be filed; there is no oversight of rating classifications; and credit scoring would be totally permissible.
- outsource all regulation except market and financial regulation;
- establish a federal regulator who would act by regulatory fiat overriding state governors and legislatures;
- threaten state revenues;
- threaten state guarantee funds; and
- create overlapping and redundant responsibilities.

Calvo did say, however, that if states choose to do nothing in response to the federal threat, then some form of federal intervention is inevitable.

An opposing view

David Snyder provided an opposing view. Modernization of insurance regulation is imperative if the United States is going to be able to globally compete for insurance capital, said Snyder. He further noted that the U.S. is the only country that regulates insurance via multiple sub-national entities rather than at the national level.



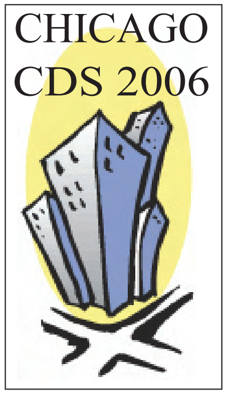
The NAIC's Cheye Calvo presented a spirited defense of state regulation.

Moreover, some states, through rate and form regulation, have the power to "fix" prices and dictate products. Snyder also criticized the present system for its lack of nimbleness and lack of uniformity. According to Snyder, only 50% of state insurance department resources are devoted to solvency and consumer protection.

In response to Calvo's claims that S2509 lacks consumer protection, Snyder noted that under the bill the national regulator has the power to:

- conduct market conduct exams pursuant to NAIC standards initially;
- issue cease and desist orders;
- impose fines as well as civil and criminal penalties; and
- suspend or revoke national licenses.

Snyder concluded that the current system allows too many decisions to be rendered for political reasons and leads to less consumer protection. S2509 would, if enacted, provide increased competition in the marketplace and competition between regulatory systems.



A regulator's perspective

New York's Kashyap Saraiya noted that while the overall goals of the SMART Act and S2509 are commendable and improvements to the state-based system are essential, the current system is the most beneficial to consumers. Pre-emption of state insurance regulation can only harm consumers because a state insurance regulator is directly accountable to consumers in his/her constituency and is in the best position to respond quickly to consumer disputes.

Insurance consumers do not, said Saraiya, have the expertise to negotiate insurance contracts with insurers. Form filing requirements on the state level provide a valuable protection to consumers. He cited terrorism coverage as an example.

In the absence of New York requirements, terrorism coverage would have been nonexistent in the personal and commercial lines markets for New York consumers after September 11, 2001.

By the session's close, audience members never really learned which panel members represented the good, the bad and the ugly, but most had formed educated guesses. ■

Janet Glover, CIE, CFE, is a former Deputy Bureau Chief for the New York State Insurance Department.

In Memoriam

We were saddened to learn recently of the passing of several members of the IRES family.

Beverly Creager of the Nebraska Department of Insurance passed away July 17. She was 51. Bev joined the department in 1974 and became Producer Licensing Administrator in July 1995. Bev worked closely with the NAIC Producer Licensing Group to help bring about licensing uniformity reforms. She is survived by her husband, Robert; her parents; two sisters and brothers-in-law and nephews, nieces and their spouses.


Creager

Donald R. Koelker, 71, died Friday, July 14. Like Bev Creager, he was a longtime IRES member. Don was employed by Florida as an insurance analyst. Previously he had done regulatory work for Oregon, Colorado and Georgia. He is survived by his wife, Edna, as well as three sons, a daughter, a stepson, and a stepdaughter.


Koelker

Kristen E. Narcini, age 20, died July 14. She was the daughter of IRES member **Anne Marie Narcini** of the New Jersey Insurance Department.

What does IRES do for you?

Heard in the hallways during the Chicago CDS

"It's the pool of knowledge that we as IRES members can share with each other. I frequently contact other members for information that I don't have."

— Bill Scrimager, CIE
Arkansas Insurance Department
15-year member

"The CDS is the major benefit for us. The opportunity to talk with regulators and other industry members is invaluable."

— Joe Koch and Nobu Koch (both AIEs)
INS Regulatory Insurance Services
3-year members

"It's an association that brings us all together and gives us an opportunity to learn from each other."

— Dan Stemcosky, AIE
Pennsylvania Insurance Department
5-year member

"It's really important to hear about how other insurance departments are operating. The CDS sessions are always great, but the interaction is even better."

— Vi Pinkerton, AIE
Colorado Division of Insurance
5-year member

"If you look at all the states collectively, we all make up one team. This is an opportunity for all the team members to get together and share ideas. I also like the variety of interests that are reflected by the CDS."

— Jerry Houston, CPCU
Pennsylvania Insurance Department
1-year member

Volunteer with IRES!

YES, I'd like to volunteer to help IRES meet its top goals and objectives.
(Most require no travel – just a couple hours a month in phone calls or correspondence.)

Your Name ___________________ ***Agency/Organization*** _________________
Daytime Phone _____________ ***Full Mailing Address*** _________________
e-mail address _____________ ___________________________________
(city, state, zip code)

Please indicate your preferences by putting a "1" for your top choice, a "2" for your second choice, etc. IRES will try to include you on at least one of your top choices. PLEASE FAX or MAIL COMPLETED FORM TO IRES, 12710 S. PFLUMM RD, SUITE # 200, OLATHE, KS 66062 Fax: (913) 768-4900 Questions or comments to Doug Freeman, cell: (636) 236-9642 e-mail: dafreeman18@aol.com

IRES TOP 3 GOAL AREAS and RELEVANT COMMITTEES

GOAL ONE: MEMBERSHIP GROWTH -- *Attain and maintain an IRES regulator membership of 1,000 and a sustaining membership of 200 by promoting IRES benefits and marketing to similar organizations such as -- but not limited to -- the Association of Insurance Compliance Professionals (AICP), Society of Financial Examiners (SOFE), federal and state employees, and independent and contract regulators, firms, and insurance industry organizations and personnel, including the National Association of Insurance Commissioners (NAIC), especially NAIC officers' states and "D" Committee members, and the IRES Foundation.*

____ **Membership & Benefits Committee (Jo A. LeDuc, CIE, Wisconsin, Chair)** -- *helping develop IRES chapters in other states; recruiting IRES membership among regulators (state, federal, independent contractors, etc.) and insurance industry, law firms, etc.*

GOAL TWO: MARKET CONDUCT CERTIFICATION (MC+) PROGRAM -- *Complete development of and pilot the Market Conduct Certification (MC+) Program in several states, in consultation with the NAIC.*

_____ **Accreditation & Ethics Committee (Polly Y. Chan, CIE, California, Chair)** -- *managing the AIE-CIE program and the continuing education program and overseeing the work of the MC+ Subcommittee.*

_____ **MC+ Subcommittee (Gary Domer, CIE, Chair)** -- *writing and editing chapters of the MC+ textbook; developing curriculum and faculty for the MC+ Program; drafting RFPs for potential vendors; etc.*

GOAL THREE: CAREER DEVELOPMENT SEMINAR (CDS) -- *Change the IRES Career Development Seminar (CDS) format, structure, content, and future locations to include more areas of insurance regulatory and personal interest; increase CDS attendance and participation; and pursue joint programming with organizations such as -- but not limited to -- AICP, SOFE, SILA, Institute of Internal Auditors, etc.*

_____ **Meetings & Elections Committee (Katie C. Johnson, AIE, Virginia, Chair)** -- *determining CDS meeting sites and recruiting candidates for IRES Board.*

____ **Education Committee (Michael W. Hessler, CIE, Illinois, Chair)** -- *overseeing the planning of the annual CDS and other educational projects.*

____ **CDS Format Subcommittee (Gary W. Kimball, CIE, Missouri, Chair) --** *developing future CDS format ideas for consideration.*

CDS Sections (IRES 2007 Pittsburgh CDS Co-Chairs Stephen M. Martuscello, CIE, New York and Dennis Shoop, Pennsylvania) -- *developing the actual, specific program content and recruiting speakers, panelists, etc.*
___ Producer Licensing & Continuing Education
___ Life & Health **___Market Regulation**
___ Consumer Services & Complaint Handling
___ Property & Casualty **___Enforcement & Compliance** **___Financial**

ADVERTISING AND PROMOTION OF IRES TOP THREE GOALS

_____**Publications Committee (Stephen E. King, CIE, Unaffiliated, Chair)** -- *manage, edit, and write for The Regulator newsletter.*

_____**IRES Web Site Subcommittee (Jo A. LeDuc, CIE, Wisconsin, Chair)** -- *develop ideas for and edit content of IRES web site.*

FUNDING FOR IRES TOP THREE GOALS

____ **Budget & Finance Committee (Karen L. Dyke, CIE, Nebraska, Chair)** -- *reviewing IRES financial matters; developing budget; managing bank accounts and investments; etc.*

Regulatory Roundup

by
Stroock & Stroock & Lavan LLP

New York – Insurance Department issues a Circular Letter prohibiting discretionary clauses in health insurance policies
The New York Insurance Department (the "Department") issued Supplement No. 2 to Circular Letter No. 8 (May 24, 2006) announcing that the use of discretionary clauses in accident and health insurance policies violates certain sections of the New York Insurance Law (the "Insurance Law"), and that all insurers licensed to write accident and health insurance and health maintenance organizations must submit a plan to the Department setting forth the appropriate revisions to any policies containing such clauses. According to the circular, discretionary clauses are contract provisions that grant an insurer the unrestricted authority to determine eligibility for benefits and to interpret terms and provisions of the policy. *To view, visit the Department's website at www.ins.state.ny.us.*

New Hampshire – Legislature reduces premium tax
On May 24, the New Hampshire House of Representatives passed HB 678, which reduces the state's current two percent tax on insurance premiums to one percent over the next four years. While an earlier version of the Bill would have reduced the tax to one percent effective immediately, the final version of the Bill phases in the lower tax rate as follows: 1.75 percent effective July 1, 2007, 1.50 percent effective January 1, 2009, 1.25 percent effective January 1, 2010 and 1.00 percent effective January 1, 2011. The Bill also contains an accelerated payment mechanism requiring insurance companies to pay the premium tax on an annual basis rather than quarterly. *To view HB678, visit the New Hampshire House of Representatives' website at www.gencourt.state.nh.us/house/default.html.*

New Jersey – Catastrophe fund proposed
On June 8, the New Jersey General Assembly introduced Assembly Bill 3236, the "New Jersey Consumer Catastrophe Preparedness and Protection Act", establishing the New Jersey Catastrophe Fund (the "Fund") to help pay residential property damage insurance claims in the aftermath of a catastrophe. The Fund, which is to be funded through premiums paid by insurers, bond revenues, and appropriated State funds, would provide a backstop for insurance companies to insure against losses resulting from a "Covered Event". A Covered Event includes losses in the State resulting from (i) hurricanes declared by the National Hurricane Center, (ii) earthquakes declared by the United States Geological Survey, and (iii) ice storms. Under the bill, premiums will be set by the New Jersey State Treasurer, who is to select an independent consultant to develop a formula for determining the premiums. *To view Bill A3236, visit the New Jersey Legislature's website at www.njleg.state.nj.us.*

Ohio – Governor signs speed to market legislation
On May 12, Ohio Governor Bob Taft signed into law Senate Bill 268, which adopts the "Interstate Insurance Product Regulation Compact" (the "Compact"). The Compact creates uniform regulatory standards among the participating states by providing a single point of filing for individual and group annuity, life insurance, disability income, and long-term care insurance products. Stated purposes of the Compact include: to (i) develop uniform standards for insurance products covered under the Compact; (ii) create the "Interstate Insurance Product Regulation Commission" (the "Commission"), a central clearinghouse to receive and review insurance products covered under the Compact; and (iii) give appropriate regulatory approval to those product filings, which would be binding on the participating states. However, the Compact provides that an insurer may continue to file insurance rates and forms directly with the Ohio Insurance Department. In addition, the Compact permits a participating state to opt out of a uniform standard either by legislation or regulation promulgated by its insurance department. The Bill went into effect on August 10, 2006. *To view Senate Bill 268, visit the Ohio General Assembly's website at www.legislature.state.oh.us.*

The New York-based Stroock & Stroock & Lavan LLP Insurance Practice Group includes Donald D. Gabay, Martin Minkowitz, William D. Latza and William Rosenblatt. The Insurance Practice Group also includes insurance finance consultants Vincent Laurenzano and Charles Henricks. They gratefully acknowledge the assistance of Robert Fettman, an associate in the group. This column is intended for informational purposes only and does not constitute legal advice.

Casual Observations

Remembering Chicago

This year's CDS was once again a memorable experience. In fact, inspirational speakers, comedians, and Blues Brothers impersonators made it at times difficult to distinguish between business and pleasure. *The Regulator* has tried, in the previous 22 pages, to capture the *official* activity of this year's CDS. Here's some of our favorite *unofficial* highlights:

- Chicago's Millennium Park is a feast for the eyes and ears. The Park's two 50-ft. video fountains help cool off the young (and young at heart), with lots of giggles providing the soundtrack. A short distance away is the Park's giant stainless steel "Bean" where onlookers are offered a deliciously twisted view of the City and themselves (below right).

- Kudos to New York's Benita Hirsch for introducing us to the Chicago-style hot dog — a tasty variation of the old standard featuring tomatoes, peppers, dill pickle, mustard, relish and celery salt, all wrapped in a poppy seed bun. Oh yes, and make sure you wash it down with a Goose Island brew.

- Illinois Director of Insurance McRaith's ardent defense of state regulation Monday afternoon was indeed inspiring, but he further impressed in an earlier session when he hinted at an affinity for the offbeat sounds of *The Flaming Lips*. The *Lips*, who are huge Midwest boosters, had just rocked Chicago the previous weekend at the City's annual Lollapalooza festival.

- Chicago's public transportation system was noteworthy, but we were disappointed to learn (the hard way) that the word "bus transfer" seemed alien to the Chicago Transit Authority culture. We subsequently found such transfers are available, but for a higher initial fare.

- Through former IRES President Don Koch, we discovered the Chicago area boasts a top-flight soccer stadium. Don caught the Major League Soccer All Stars scoring an upset exhibition victory over Chelsea, England's Premier League defending champs.

- Few things in life are better than bicycling on Chicago's Lake Shore Drive early Sunday morning.

— W.C.

Photo by Max Chartrand

Chicago's skyline, as seen through "The Bean"

BULLETIN BOARD

√ The IRES Executive Committee monthly minutes are now available on the Web site, www.go-ires.org

√ Thanks to all the volunteers who helped out during the recent CDS in Chicago. We couldn't have done it without you!

√ IRES is looking for folks — regulators and industry representatives — who would like to develop panels and discussions and breakout sessions for the 2007 CDS in Pittsburgh. The program topics are finalized by November, so now is the time to speak up if you'd like to be a speaker or facilitator next August. Feel free to contact Education Chair Mike Hessler (mike_hessler@ins.state.il.us), or 2007 CDS Co-chairs Dennis Shoop (dshoop@state.pa.us) and Steve Martuscello (smartusc@ins.state.ny.us)

In the next REGULATOR:

California v. Title Insurers

Transparency in Market Regulation

Bulletin Board items must be no more than 75 words, and must be accompanied by the sender's name, e-mail address and phone contact information. Submit plain, unformatted text without special font stylings, underlined hyperlinks or special margins and headings. A submission will be posted in the next edition of *The Regulator* as well as on the IRES Web site.

√ The 2007 CDS in Pittsburgh will mark the 20th anniversary of IRES. The dates are Sunday, Aug. 12 — Tuesday, Aug. 14, 2007.

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What's so funny? See what everyone was smiling about at the Chicago CDS. ***Stories and photos inside.***