The Regulator®

INSURANCE REGULATORY EXAMINERS SOCIETY

The CDS Commissioners' Interview

Stepping Up to the Plate

The Regulator caught up with Kansas Insurance Commissioner and NAIC President **Sandy Praeger** and Oregon's Insurance Division Administrator **Scott Kipper** following the Commissioners' Roundtable at this year's Career Development Seminar (CDS). Editor **Wayne Cotter** conducted the interview. Note: Due to space limitations, some responses have been abbreviated.

Regulator: *Do you think Washington's handling of the subprime mortgage crisis has impacted the effort to adopt an optional federal charter approach to insurance regulation?*

Praeger (left) and Kipper

Praeger: I would argue that the subprime mortgage crisis has emphasized the need to retain a state-based insurance regulatory system because our insurance companies today have reserves at an all-time high and we're getting new companies certified and licensed in all our states. So I think the insurance component of the financial services [sector] is really very healthy and state-based regulation is working.

Kipper: I couldn't agree more. This [crisis] just emphasizes how well state-based regulation works and that there may be some issues surrounding federal regulation. I think Sandy hit it right on the head.

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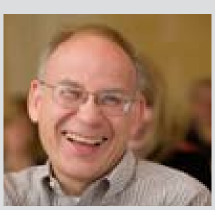
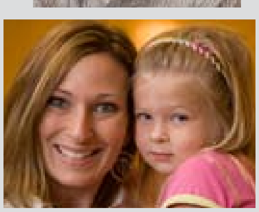
Facing the future with optimism — and a smile

IRES Career Development Seminar St. Louis 2008



See inside for more photos and coverage of the St. Louis CDS.



New IRES President: LeDuc of Wisconsin

ST. LOUIS — **Jo LeDuc** of Wisconsin was elected President of the Insurance Regulatory Examiners Society, culminating many years of working her way upward through the Society's ladder of committees and leadership roles.

Jo LeDuc

Dennis Shoop, unaffiliated regulator from Pennsylvania, was elected President-elect.

Ms. LeDuc is an Advanced Insurance Examiner in the Bureau of Market Regulation in the Wisconsin Office of the Commissioner of Insurance. She is also the lead analyst for Wisconsin in the Market Conduct Annual Statement project and in the development and implementation of a market analysis program in Wisconsin.

In addition, Ms. LeDuc serves on several NAIC committees. She is a member of the Market Analy-

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SEPT 2008

The Regulator

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From the President

Invest in the Future

As we wrap up the loose ends of the CDS and reflect on how well it went, I would like to take a moment to share with IRES members, particularly those who were unable to attend the CDS, my vision for IRES in the upcoming year.

Over the next year, I am asking each and every IRES member's help to:

Invest In The Future

Reach Out To Non-Market Conduct Regulators

Expand Our International Membership Base

Strengthen The State Chapter System

Invest In The Future by becoming an active member of IRES. Volunteering to serve on one of the standing committees of IRES or one of their many subcommittees is all you have to do to start building your professional network and investing in your future. Beginning with the 2008-2009 compliance period, it can also earn you up to three continuing education credits under the NICE program.

To invest in our organization's future, I would like the current membership to **Reach Out To Non-Market Conduct Regulators** and encourage them to join IRES. IRES is for everyone, not just market conduct examiners. We need your help in spreading the word.

Our economy is becoming a global economy. IRES needs to capitalize on this trend and **Expand Our International Membership Base** by reaching out to non-U.S. regulators. One way to do this is through the NAIC's mentoring program. If your department hosts international regulators, talk to them about the many benefits of IRES membership, including a one-year complementary membership for international regulators taking part in the NAIC's mentoring program.

IRES must also continue to **Strengthen The State Chapter System**. As travel budgets tighten, IRES must find ways to meet the continuing education needs of our membership. What better way to do this than at the local level. Many of the benefits offered at the national level can be found at a local level. So become an active participant in your State Chapter and help IRES to grow both nationally and locally.

I am excited about the upcoming year and would like to hear directly from members about their vision of what IRES should be. If you have any suggestions, comments, or questions, please do not hesitate to contact me via e-mail (**jo.leduc@wisconsin.gov**) or at 608-267-9708.

IRES was created by insurance regulators for insurance regulators. It is *your* organization and IRES needs you to step up to the plate, take ownership and **Invest In The Future**.

Jo A. LeDuc, CIE, MCM
IRES President

Welcome, new members!

Brad Beam, WV
Steve Bryant, NC
Cara D. Fisher, LA
Regan Johnson, MI
Michael F. Mayette, ME
Holly J. Plagmann, IA
C. J. Rathbun, NAIC
Kallie E. Ruggiero, LA
Donna F. Schmeling, IA
Tom Whitener, WV

2008 Publications Award

ST. LOUIS — The Schrader-Nelson "Article of the Year" Award was presented to Mark Rukavina for his article "Medical Debt Threatens Millions" in the May 2008 issue of *The Regulator*.

Accepting for Mr. Rukavina were *Regulator* Editor Wayne Cotter and Publications Chair Vi Pinkerton (center). Also pictured is 2007-2008 IRES President Polly Chan.

C.E. News

It's that time of year again when AIEs and CIEs must comply with the annual continuing education program requirements. The current compliance reporting period is 9/1/07 - 9/1/08. Designees have until 30 days after the end of the reporting period to submit a compliance form.

Those with an AIE or CIE who attended the IRES CDS in St. Louis, and who received an on-site attendance certificate, will receive an automatic 15 CE hours; no reporting form is required. Those who did not receive an on-site attendance certificate must contact the IRES office (913-768-4700). We will send you a CDS certificate that must be submitted with a standard reporting form, listing actual seminar hours attended.

NEW THIS YEAR — An automatic 15 continuing ed credits for AIEs or CIEs who attend the new MCM training program. There is no need to submit a compliance form for the MCM hours.

N · I · C · E
National IRES Continuing Education
The mandatory continuing education program for AIE and CIE designees

Commissioners: Stepping up to the plate

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Regulator: *Do you see the problems that financial guaranty insurers are encountering as a possible chink in the armor of state-based regulation?*

Praeger: It goes back to the rating agencies that rated some of those bonds that went beyond the [traditional] municipal issues. The municipal bond market [highlights] a success of state-based regulation in that Warren Buffett recognized a need for municipalities to continue to have access to bond insurance to get a good rating, to be able to borrow at a better rate and save taxpayer dollars. He was able to get his new Berkshire Hathaway insurance company licensed in 49 of 51 jurisdictions — all the jurisdictions that he requested — in 30-40 days. So there was a need in the marketplace, state regulators stepped up to the plate and worked collaboratively to get that new company into the market.

> "If we don't find some method for states to encourage people to be responsible, then state Medicaid budgets will continue to outpace all other spending at the state level, and that's not sustainable.
> — Sandy Praeger"

Kipper: At times there's been a knock on . . . state-based regulation that it's not nimble or agile. This simply illustrates the fact that it can be both. I think we're doing a much better job at being responsive to the marketplace.

Regulator: *Many states allow on a voluntary basis a "miles-driven" approach to automobile insurance. Those who volunteer to participate have GPS devices installed in their vehicles. Is this, in your opinion, the wave of the future? Do you have any concerns about this approach?*

Kipper: This is an issue that is getting more and more scrutiny — at least by consumers — in our state. I think as a way to manage risk, carriers are looking more closely at this. It provides an advantage to them, while still offering a viable and affordable product. So, yes I think there'll be more scrutiny of this particular issue.

Praeger: I think it's very appropriate. My daughter moved from Lawrence, Kansas to Chicago after college and was shocked when she had to take over the insurance payments on her car. She said "How come I have to pay so much more?" and I said "Well, honey, you're living in a metropolitan area, so the risk is much greater."

Regulator: *She is driving far fewer miles I'm sure.*

Praeger: Yes, in her case she's driving fewer miles, but the inner city is far more intense. My father moved from a small town to where we live. He used to drive back and forth 50 to 60 miles every month or so to see us. Now he's living in the same community and he applied for and received a reduction in his insurance.

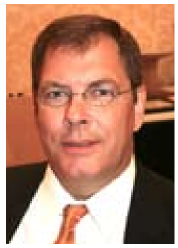
Regulator: *Do both your states allow a miles-driven approach to automobile insurance on a voluntary basis?*

Praeger: Yes

Kipper: Yes

Regulator: *Lauren Willis of the University of Pennsylvania School of Law has done an interesting paper on the impact of financial literacy education. She believes that over the past couple of decades financial securities regulation has shifted the burden of responsibility to the consumer by permitting insurers to introduce all kinds of niche products with confusing disclosures attached, all in the name of consumer choice. The industry and regulators then tout financial literacy education as the means by which consumers can make intelligent financial choices. Her position is that such educational programs simply don't work. They are, she says, no substitute for effective regulation and suitability standards. Does she have a point?*

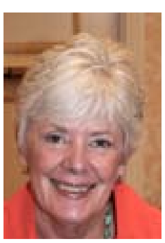
Kipper: I would point to the suitability of annuity products. It's a huge problem in our state. It's fair to say it's a large problem across the country, particularly when there are sales to seniors. The fact that the information is disclosed to seniors hasn't made the problem go away. In fact, it may have exacerbated it because there is so much information that many people simply throw up their hands and buy the product when it's not necessarily a suitable sale.



Praeger: Certainly, there should be no lessening of the consumer protections that we have in place just because we have an educated consumer. We all can make decisions that we don't fully understand. Insurance products can be very complicated and that's why our consumer divisions answer so many calls for information.

> "We need to continue to do a very good job of regulation. Working with the NAIC is a key part of that, educating our staffs, making sure that they're up on the latest techniques.
>
> — Scott Kipper"

Regulator: *One point that Ms. Willis stresses is that because there are so many new products coming into the marketplace, it's very difficult for even "educated" consumers to keep up with the pace of change.*



Praeger: The suitability of annuity sales that Scott mentioned is something all of us have struggled with in our states. Certainly the NAIC has struggled with the adoption of the suitability Model [Act]. That Model initially applied to sales to people over the age of 65. When we adopted suitability standards in Kansas, we adopted them for all ages. I argued that suitability should not have an age [limitation]. If it's a suitable product, you ought to be evaluating the suitability for all ages. Then the Model was subsequently changed — not because of me — but I think everyone recognized that there shouldn't be an age limit.

I think the subprime mortgage crisis came about because of the inappropriate loans that were made to consumers. Heck, everyone wants the American dream — the four-bedroom house, the two-car garage, the big yard. But there were people getting into mortgages that anybody in their right mind could see were [unaffordable].

Regulator: *That leads me to another suitability question, this time regarding long-term care insurance. Long-term care insurance also has many variables and there are so many economic assumptions a consumer must make in order to arrive at an informed decision. Twenty years from now, will we be looking at a long-term care insurance crisis?*

Kipper: That raises a very good question. Long-term care insurance has a longer tail than any other type of product. Being able to predict the costs for home health care or nursing homes 20 years out, well we could just as well, perhaps, buy a lottery ticket. We make companies set those prices based on their best expectations but as we've seen in health care, costs [can] exceed the CPI by a function of two or three. I don't want to paint too dire a picture, but there's a possibility that costs will outstrip the value of the policy in any product given that we can't accurately predict the future.

Praeger: I think one of the ways of looking at long-term care insurance is as a component of a good retirement plan. So you're not trying to buy insurance that is going to cover *all* your long-term care needs, but you're going to protect a portion of your assets and say "I'm going to buy a product that is going to pay up to a certain amount" with an inflation rider. If you're buying a policy under the age of 76, there has to be some kind of inflation protection.

I think it's a valuable product, but it's not suitable for everyone. People with millions probably are going to be able to finance their long-term care needs. They don't need long-term care insurance. The very low-income person doesn't need it. The average spend-

continued on next page

Commissioners: Stepping up to the plate

continued from preceding page

down . . . for Medicaid eligibility is, I believe, 18 months, so a person that would use up their resources that quickly probably shouldn't be thinking about paying a premium for long-term care insurance. But for those middle-income folks, it's not just asset protection for the families, it's asset protection for the states. If we don't find some method for states to encourage people to be responsible, then state Medicaid budgets will continue to outpace all other spending at the state level, and that's not sustainable.

Regulator: *How has the economic downturn impacted your job as a regulator? What must insurance departments do to maintain the expertise and professionalism of their staffs during the upcoming year?*

Praeger: We're seeing states limit travel. As we look at our budget at the NAIC, we're looking at finding ways to increase grants to the states so that we can provide more financial assistance. [The NAIC] exists — first and foremost — to assist our state regulators. . . . Our effectiveness is the ability to get together on a regular basis and work on our models in face-to-face discussions. You can't replace all of that with teleconferencing. We're criticized when we do too much [teleconferencing] because it appears we're acting behind closed doors. It's a lot harder for people to gain access to teleconferences. The economic downturn is affecting state budgets and I think we need to step up to the plate and assist the states so that we can continue to be effective through our national association.

Kipper: In Oregon, we are taking a little bit more of a sharp look at our industry's viability. Sandy mentioned surplus is up significantly within the industry, but we've received a number of questions about whether or not some of our carriers' reserves and surplus are invested in mortgage-backed bonds. That's just one small [example], but it does provide us with a little different set of issues to monitor.

But I think Sandy hit it on the head. We need to continue to do a very good job of regulation. Working with the NAIC is a key part of that, educating our staffs, making sure that they're up on the latest techniques.

Regulator: *Thank you.* ■

Musser of Louisiana receives Greer honor

Wanda LaPrath (far left) and Leslie Krier present the Al Greer Achievement Award to Ron Musser of Louisiana.

ST. LOUIS — Ron Musser of Louisiana is this year's recipient of the Al Greer Achievement Award. In announcing Musser's selection, the Membership & Benefits Committee cited his 30 years of regulatory service and professional leadership. "He is honest and impartial, and unfailing in his dedication to the department," said committee member Leslie Krier. "His expertise and knowledge is appreciated by everyone he works with. He is a great role model because what you see is what you get – there is no pretense."

Heard in the Halls

How many CDSs have you attended and why do you keep coming back?

IRES
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St. Louis 2008

"This is my seventh CDS. I love coming to these. It's great going to the break-out sessions and meeting my peers from other states. There's always something new to learn."

— Marcia Zimmer, Wisconsin Office of the Commissioner of Insurance, 10-year IRES member

"This is my first CDS. It provides me — as an industry person — insights into how regulators operate and how they approach examinations. I hope to be back next year."

— Paul Testa, Kemper, a Unitrin Business, Jacksonville, FL
Sustaining Member

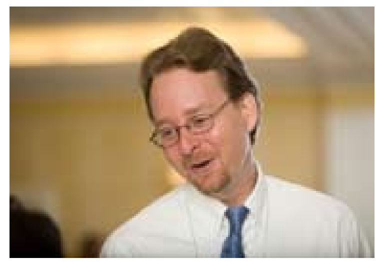
"This is my second. I think they're very educational and I love getting out of the office to network with other regulators."

— Sally Schaeffer, Delaware Department of Insurance
5-year IRES member

"I've been to six CDSs and it's always about the learning. Since I'm a field examiner, I'm interested in new examination approaches that help me do my job better, especially the risk-focused approach."

— Jimmie Newsome, New York State Insurance Department
9-year IRES member

Annual conferment ceremony welcomes first MCM graduates



ABOVE: The first graduates of IRES's new MCM designation program are honored at the St. Louis Career Development Seminar. • TOP RIGHT: Jo LeDuc of Wisconsin, IRES Accreditation Committee Chair, calls the new designees to the stage • Right: A smiling Kenneth Allen, new AIE from California.

Congratulations to the AIE-CIE Class of 2008

New AIE designees, LEFT TO RIGHT: Kenneth Allen, California; Gregory Bronson, Tennessee; Walter Guller, Missouri; Terence Hall, Florida; James Hattaway, Alabama; Bryan Wachter, Virginia.

New CIE designees, LEFT TO RIGHT: Thomas Goetzinger, California; Christopher Hobert, Arizona; Ashley Natysin, Wisconsin; Scott Pendleton, Missouri; Stacy Rinehart, Kansas; Reva Vandevoorde, Nebraska.

Karen Dyke: 2008 President's Award

ST. LOUIS — Karen Dyke of Nebraska received the 2008 IRES President's Award for her service as IRES Treasurer and Finance Chair.

The award is presented annually by the IRES President to someone who makes a significant contribution to the Society and the regulatory profession.

In making the presentation, 2007-08 President Polly Chan noted that Ms. Dyke has served on such IRES committees as Budget & Finance, Membership & Benefits, and Meetings & Elections. She also has served as IRES state chair for Nebraska.

Dyke worked as a market conduct examiner from 1986 until 2003. In 2003, she joined the state's Consumer Affairs Division.

However, Chan said, Dyke is more than a wizard with numbers and spreadsheets. She said the Nebraskan is "known for her thoughtful protection of consumers and diligent efforts in accomplishing any task that she is presented with."

The IRES President added that Dyke is "thoughtful, diplomatic and has a great sense of humor.

"IRES has been privileged to have a dedicated Treasurer who has worked tirelessly to keep track of all accounting transactions, arrange for different kinds of insurance, and promote expense containment."

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Stephen Martuscello (left), New York Insurance Department, and Ray d'Amico, HealthMarkets, Inc.

Jack Chaskey, New York Insurance Department and chair of the CDS Consumer Services Section

IRES

Career Development Seminar

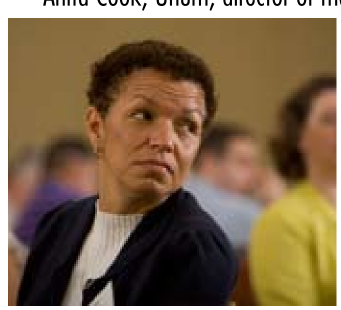
St. Louis 2008

John Garrison, vice president for compliance at Colonial Life & Accident, asks a question while others listen.

Independent examiner Don Koch (center) with Betty Bates and Luther Ellis of D.C.

Jeffrey Denman, consumer affairs, Louisiana Department of Insurance

BELOW LEFT: Richard Bouhan, National Association of Surplus Lines Offices • Anita Cook, Unum, director of market conduct and compliance



Humorist Doni Tambyln shared with regulators her high-energy theories about dealing with change in the work-place. She also poked playful fun at how insurance jargon impedes communication between consumers, insurers and government regulators.

photos ©jerrynaunheimphotography.com

IRES

Career Development Seminar

St. Louis 2008

CDS: Spotlight on Sessions

Are Viatical Settlements Really Vital, Valuable & Settling?

by Angela Ford

Monday, August 11 (10:30 am–Noon)

TANSTAAFL

The "T" word should become part of our regulatory lexicon. In case you're wondering, TANSTAAFL is an acronym for "There Ain't No Such Thing As A Free Lunch."

The "T" word apparently has its origins in the once-common tradition of U.S. saloons providing a "free" lunch to their customers, provided they buy at least one drink. It is the one-drink requirement that struck home – TANSTAAFL means, according to Wikipedia, "that a person or a society cannot get something for nothing. Even if something appears to be free, there is always a cost to the person or to the society as a whole; even though that cost may be hidden or distributed."

I first heard the "T" word when I attended the captioned session at the 2008 IRES CDS. I have to admit that the "T" word hooked me. **Leslie Kim**, Executive Editor of *The John Cooke Fraud Report*, began her presentation with a history of viaticals. She explained how viaticals involved insured individuals with shorter life expectancies and explained the role of the investor and how the investor's return depended on the insured's life expectancy and when the insured died.

She mentioned the 1980s and the AIDS mortality rate and how viaticals were simply an instrument used to extract value from a life insurance policy such that the quality of life could be improved for the insured consumer with a terminal illness. Kim explained that viaticals started out as a worthwhile product for consumers but had turned out to be, in some cases, a new breeding ground for fraud.

While consumers were mostly satisfied with the sales, certain investors in viaticals may have become a little restless over time and, in some cases, hastened the departure of the insured. I immediately thought of a complaint that my Department received a couple of years ago. You guessed it — one of the "investors" called to complain about his investment, saying "people were not dying" and that he had been swindled because his investment was not performing as promised.

Kim went on to say that over time, negatives began to be associated with viaticals since this was not traditional insurance and regulatory agencies had little experience with the product and few regulations to deal with it. Kim advised that this made viaticals ripe for some unscrupulous individuals concerned only with profit.

Kim then briefly spoke on life settlements but saved her choicest comments for Stranger-Originated Life Insurance ("STOLI"). She noted that many consumers became exposed to STOLI when STOLI representatives offered them a "free meal" with a presentation on the new product. Seniors were especially vulnerable to this offer. She then noted how STOLI policies were being written that went far beyond the needs of the consumer. Consumers who bought the product were often given a lump sum when the policy became effective (or after a two-year period) in exchange for the rights to the proceeds of the policy.

"I have to admit that the 'T' word hooked me."

Regulators should note that in some cases insurance premium finance companies (regulated by departments of insurance) were involved in financing the premiums for the STOLI policy. Kim indicated that regulators need to warn consumers of the risks that STOLI presents, especially with regard to who actually owns the policy. Kim then mentioned cases wherein it was suspected that the consumer was murdered for the policy proceeds and how this trend was expected to continue.

Kim noted that those interested in a course on viatical fraud should access **www.fraudeducation.com**. She also reminded us that one of a regulator's primary weapons in fighting fraud is to educate the consumer, followed by the development of laws to protect consumers. She suggested that regulators strongly warn consumers about "freebies" and suggested that we start with the definition of TANSTAAFL. ■

Angela Ford is an IRES Past President and Senior Deputy Commissioner with the North Carolina Department of Insurance.

Jo LeDuc is new IRES president; Shoop president-elect

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sis Working group and represents Wisconsin on the Market Regulation Handbook Working Group and the Market Analysis Priorities Working Group. She has chaired the Market Analysis Priorities Working Group and the Level 2 Analysis Ad Hoc Technical Group, to name a few.

Ms. LeDuc has an M.B.A. and a B.S. in Business Administration as well as the CIE (Certified Insurance Examiner), MCM (Market Conduct Management), CPCU (Chartered Property & Casualty Underwriter), AIRC (Associate, Insurance Regulatory Compliance), AIC (Associate in Claims) and API (Associate in Personal Insurance) designations.

The 2008-09 IRES Executive officers and their standing committee chairmanships:

- President-Elect: **Dennis Shoop**, unaffiliated, *(Education and Annual CDS)*
- Vice President: Leslie Krier, Washington State *(Membership & Benefits)*
- Treasurer: **Gary Kimball**, Missouri *(Budget & Finance)*
- Secretary: **Anne Marie Narcini**, New Jersey *(Accreditation & Ethics)*
- At Large: **Tom Ballard**, Georgia *(Meetings & Elections)*
- Past President: **Polly Chan**, California *(Publications)*

> "As travel budgets continue to tighten, IRES needs to find ways to provide our membership with the continuing education they need. What better way to do this than at the local level?"
>
> — Jo LeDuc, IRES President

Read more about the 2008-09 Executive committee at: **www.go-ires.org/leadership/execcomm.cfm**

Elected by the membership to new four-year terms on the Board of Directors were:

Thomas Ballard, Georgia; **Dudley Ewen**, Maryland; **Angela Ford**, North Carolina; **Larry Hawkins**, Louisiana; **Gary Kimball**, Missouri; and **Leslie Krier**, Washington.

Elected by the Board to 1-year, at-large terms were:

Marty Hazen, Kansas, and **Hazel Mosby**, Washington, D.C.

See more information about the St. Louis Board of Directors elections at: **www.go-ires.org**

At its annual meeting, the IRES Board voted to amend the Society bylaws to permit regulators holding the MCM to serve on the Executive Committee. Previously, only those with an AIE or CIE could serve.

Outgoing IRES President Polly Chan

In her inaugural remarks, Ms. LeDuc stressed that IRES offered regulators the opportunity "to invest in your future." Those who become active in the Society she said, will "enhance your knowledge and your career through continuing education ... and the opportunity to build your professional network."

The new president identified three goals for the coming year:

• Reach out to all state regulators — the entire spectrum of the nation's 13,000 insurance regulators. "In case you haven't heard," she said, "IRES is for everyone, not just market conduct examiners."

• Expand the Society's international membership. "Our economy is becoming more global and IRES should try and capitalize on this trend.

"If your department participates in the NAIC's mentoring program and you host an international regulator, let them know that IRES offers a one-year complimentary membership to those involved in the program."

• Strengthen the Society's network of local state chapters.

"As travel budgets continue to tighten," Ms. LeDuc said, " IRES needs to find ways to provide our membership with the continuing education they need. What better way to do this than at the local level?" ■

Face to Face in St. Louis

The IRES CDS brings together insurers, state regulators, and consumer activists for blunt discussion and debate. The Tuesday morning Market Regulation Roundtable featured (clockwise from Top Left): Susan Stead, private attorney • Carol Newman, private attorney, and Ms. Stead • Birny Birnbaum, Center for Economic Justice • Luther Ellis, District of Columbia regulator, listens from the audience • George Dover, New Hampshire regulator • Bennett Katz, AIG Personal Lines

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IRES CHAPTER NEWS

LOUISIANA — The Louisiana Chapter met on June 11 for its Annual Business Meeting. The newly elected officers are: **Linda Gonzales**, President; **Madonna Jones**, Vice President; **David Evans**, Secretary; **Joycelyn Spriggs**, Treasurer; **Crystal Campbell** and **Larry Hawkins**, Co-State Chairs.

After the announcement of the new officers, **Mary Beth Roussel**, Director of Producer Licensing, gave a presentation on "Adjuster Licensing." As part of her informative presentation, she distributed several handouts related to the licensing of adjusters. There were 39 attendees.

On July 30, the Chapter State Committee met to discuss the calendar of events for the coming year.
— *Larry Hawkins; lhawkins@ldi.state.la.us*

NEW YORK — The New York Insurance Department has recently expanded its extensive reference library of professional examination materials to include the full range of text books and course study guides to help professional staff attain Accredited Insurance Examiner and Certified Insurance Examiner designations. Information provided about the library includes a link to the IRES Web site listing all course offerings.

The Insurance Department's Property Bureau hosted a Bureau-wide educational conference with presentations on the use of credit scoring in insurance underwriting; reinsurance collateral; and the NAIC state accreditation program. The seminar was open to all Department staff in both New York City and Albany. IRES members attending the sessions were eligible to earn CE credits toward their annual continuing education requirements.
— *Maurice Morgenstern*; *MMorgens@ins.state.ny.us*

VIRGINIA — Thirty-six attendees participated in the Virginia Chapter meeting on June 2. Several examiners presented the new and revised Virginia insurance laws that took effect July 1, 2008. **George Lyle** and **Katie Johnson** discussed the changes affecting the Property & Casualty divisions. **Althelia Battle**, **Ann Colley**, **Mary Ann Mason**, **Bob Grissom**, **Weldon Hazelwood**, **Sharon Holston**, **Yolanda Tennyson**, and **Ed Whyte** discussed the laws affecting the Life & Health divisions. The meeting was thorough and very informative.
— Andrea Baytop; *andrea.baytop@scc.virginia.gov*

Correction

In the July 2008 issue of *The Regulator,* Robert Hunter authored an article about the Consumer Federation's auto rate study. A table accompanying the article appeared on p. 5. The last two rows of that table (Wyoming and countrywide data) were omitted. At right are the two rows of the table with additional footnotes. The full table can be viewed at: ***www.go-ires.org/newsletter/regulator_index.cfm***

PERSONAL AUTO INSURANCE: RESULTS BY STATE

State	Predominant Rating Law	1989-2005 Change in Expenditure[a]	1997-2005 Return on Net Worth[b]	HHI[c]
Wyoming	Competition	100.8%	10.0%	1,014
Countrywide	**—**	**50.2%**	**8.1%**	**—**

[a] In the Consumer Federation study, changes in expenditure (i.e., rate changes) over the 16-year period ranged from a low of 12.9% (California) to a high of 117.9% (Nebraska).
[b] In the Consumer Federation study, the annual average return on net worth (i.e., profitability) between 1997 and 2005 ranged from a low of 0.8% (Louisiana) to a high of 19.1% (Hawaii).
[c] The Herfindahl-Hirschman Index (HHI) is a widely used method of determining market concentrations. Markets in which the HHI is between 1,000 to 1,800 are considered to be moderately concentrated. In the Consumer Federation study, the HHI index ranged from 603 (Maine) to 1,740 (Washington, D.C.).

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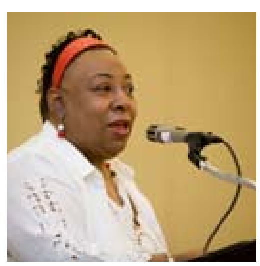
Clockwise from top: Lee Davidson, Hanover Insurance • IRES President-Elect Dennis Shoop, Pennsylvania • Veronica Cid, Wisconsin, and Janet LeGore, District of Columbia • Farmers Insurance trio: Michele Geer, Carrie Devine, and Chris Bulger • Ron Hanby, AFLAC • William McCune, District of Columbia • Tanya Sherman, INS Regulatory Insurance Services (left) chats with Mary Darby of Delaware • Betty Bates, District of Columbia



CDS: Spotlight on Sessions

Is It Hot Enuff? Climate Change and the Insurance Community

by Mary Darby

Tuesday, August 12 (1:30–3:00 pm)

Eric Nordman of the NAIC moderated a panel that examined the risks anticipated from the ongoing changes in global climate.

First up was **Birny Birnbaum** from the Center for Economic Justice. He stated that insurers face perils but that state economies are also affected. He spoke about how environmentalists want insurers to get more active in this debate. There are no adequate reserves to pay for insured losses that result from climate change and are therefore not anticipated. Such a mechanism is necessary to maintain a vibrant insurance industry. He remarked that European insurers have been much more active because European governments have been more active. The NAIC's white paper, "The Potential Impact of Climate Change on Insurance Regulation," is a good starting point, including its controversial climate risk disclosure. Indeed there is uncertainty in the science. But investors, among other groups, just want to know if a company is on top of the climate change issues: what the company sees as its exposure and what their response is to this perception.

In St. Louis, the NAIC's Eric Nordman (far left) moderates a discussion about the impact of climate change on the insurance industry.

David Snyder represented the American Insurance Association. He assured the audience that the insurance industry is aware of the debate and is actively engaged. He countered that Europe doesn't have the broad litigation exposure that exists in the United States. He feels the consensus on some aspects of the climate change discussion seems to fragment when it comes to specific coverages and their links to climate change. Members of the industry are active as corporate citizens but it's impossible to foretell the "known uncertainties."

Fireman's Fund (FF), for example, is a member of the U.S. Green Building Council and promotes itself as the first company to offer coverage for certified green buildings. **Stephen Bushnell** stated that FF's parent, Allianz, is committed to reducing its carbon footprint 20% by the year 2012. Architects of green buildings take innovative steps by using new building materials and new plumbing systems. Since buildings are responsible for 40% of the carbon dioxide produced in the United States and use 40% of the country's energy, green buildings are expected to reduce absenteeism and improve productivity.

Wayne Reece of Reece & Associates spoke like a true environmentalist. He believes regulators might need to be more vocal if insurers aren't vocal enough but he warned it might be too little, too late. The effects of extreme weather events, such as earthquakes, are intensified by weak building codes and the lack of disaster recovery plans. We are not prepared to meet, and are not engaged in addressing, these issues. While there are no clear-cut answers, he emphasized the need to educate ourselves and move forward.

Another subject of debate was the Climate Risk Disclosure Proposal introduced by the NAIC's Climate Change and Global Warming Task Force. This proposal presents nine questions designed to assist insurers in assessing their readiness to deal with the impact of climate change on their operations, investment portfolios, and policyholders. The form is intended to be a supplement to the Annual Statement. While insurers might not like these questions, does voluntary disclosure work? Not if market forces don't demand it of insurers, according to Birny Birnbaum. If disclosure becomes mandatory, David Snyder prefers that it be done in the context of confidential examinations. ■

Mary Darby is the Delaware Insurance Department's Director of Consumer Services.

CDS: Spotlight on Sessions

Company Exam Coordinators and EICs

by Douglas A. Freeman, CIE, MCM
Monday, August 11, 2008 (3:30-5:00 PM)

This dynamic and well-attended breakout session focused on industry and regulator views on the "ideal" Examiner-In-Charge ("EIC") and company exam coordinator. The company exam coordinator is the individual selected by the company to expedite the exam, *i.e.*, the liaison between the examination staff and the company.

Moderated by **Anne Marie Narcini**, Manager of Consumer Services for the New Jersey Department of Insurance (DOI), the expert panel consisted of **Jon Brynga**, Second Vice President for Corporate Compliance at Travelers; **Gary A. Hernandez**, Chair of the Insurance Regulatory Practice Group of Sonnenschein, Nath, & Rosenthal LLP and a former Deputy Insurance Commissioner of the California DOI; and **Leslie A. Krier**, Market Conduct Oversight Manager for the Washington State Office of Insurance Commissioner.

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Questions focused on how companies and regulators can address each other's needs — before, during and after an exam — to complete the work on time and within budget. Highlights included the following:

Ideal attributes of EICs:

- **Experience and knowledge:** Krier stressed that company exam coordinators must be very knowledgeable about how the company works and where to obtain the most useful information. Brynga emphasized that the EIC must be knowledgeable on the exam's subject matter.
- **Responsibility**
- **Excellent communication skills**, especially listening
- **Authority to act:** The coordinator needs the authority to obtain materials and answers from the company. The EIC should have sufficient authority granted from the Chief Examiner to conduct the examination on behalf of the department. For continuity purposes, neither the Coordinator nor the EIC should be replaced during the examination, *i.e.*, they both should be involved in the exam until it is completed. Mr. Hernandez emphasized the importance of flexibility for both the company coordinator and EIC. Both should have the authority and willingness to be flexible.

Accurate and useful data: A question arose as to the proper role of programmers and other company personnel in providing accurate data and promoting exam efficiency. Brynga stressed the need for a "team approach" that translates the pre-exam packet to "company speak" via conference calls with the EIC and test runs to ensure the accuracy of data before full samples are provided. Krier agreed that sharing the pre-exam packet with other company personnel is important so that problems can be quickly brought to the attention of the examiners. If a particular request cannot be fulfilled, Krier emphasized the importance of being flexible with alternative approaches that meet the needs of the exam. Hernandez stressed that data requests should be kept "reasonable."

Adding data elements: Brynga said that companies will add data elements when they create new systems, but it is hard to change existing systems, likening it to "trying to push a basketball up an oil funnel."

Exam scheduling: Exams are planned well in advance, said Krier, and DOIs try not to schedule market regulation and financial exams of the same company at the same time. Flexibility entails examiners and companies working together to keep each other informed in advance with no surprises.

Complete files: The importance of a clear definition of what the DOI considers a "complete file" is essential. Companies may compile information from a variety of sources and vendors that are not always

Exam Coordination panelists were (LEFT TO RIGHT): Gary Hernandez, Sonnenschein, Nath, & Rosenthal • Leslie Krier, Washington State Insurance Department • Jon Brynga, Travelers Insurance • STANDING AT RIGHT: Panel moderator Anne Marie Narcini, New Jersey Insurance Department

in the company's direct control. This takes time and careful coordination.

Responding to examiner inquiries: Companies should not delay in providing responses, yet examiners should not inundate companies with repeated requests for identical information. Examiners should share alleged violation patterns with the company. "Companies don't need to vet to the n^{th} degree," according to Hernandez. If a company has the information, they should not wait until the last minute to provide it to the examiners.

Exit interviews: An exit interview provides a summary of findings, next steps regarding those findings, and resolution on how those findings will be handled. All panelists agreed that the best exam exit interview is one in which there are "no surprises." Hernandez encourages examiners and insurance companies to reach agreements in the beginning of the exam to help reduce the number of surprises. The longer the exit interview, the better, according to Hernandez. It's extremely important for both parties that the exit interview be productive, he added.

The panel also discussed privacy issues, redacting documents, contract examiners and consultants, billing, and dealing with problem coordinators and examiners.

Brynga noted that participating in the new IRES Market Conduct Management ("MCM") program is one means by which regulators, company personnel, and attorneys can all discuss these matters in a productive manner, because MCM classes are composed of a diverse group of examiners, company compliance personnel, and lawyers. The goal of the MCM class and designation is more effective and efficient market regulation.

This session undoubtedly helped educate all participants on methods by which to conduct more effective and efficient examinations. ■

Douglas A. Freeman is an IRES Past President and an Insurance Regulatory Consultant with Sonnenschein, Nath, & Rosenthal LLP in St. Louis.

"Quote of the Month"

"[Warren Buffett] was able to get his new Berkshire Hathaway insurance company licensed in 49 of 51 jurisdictions - all the jurisdictions that he requested - in 30-40 days. So there was a need in the marketplace, state regulators stepped up to the plate and worked collaboratively to get that new company into the market."

— NAIC President and Kansas Commissioner Sandy Praeger commenting on the speed with which states were able to license Berkshire Hathaway Assurance, a new financial guaranty insurer.

CDS: Spotlight on Sessions

Suitability: A conundrum for enforcement/compliance

by Jann Goodpaster, CIE, MCM, CPCU

Tuesday, August 12 (1:30-3:00 pm)

Suitability has always been a conundrum for regulators. What is the federal role with respect to the suitability of certain products? What do the states oversee? And don't forget the famous question: How do insurers work with the 50+ jurisdictions and their different laws, regulations and interpretations?

A panel composed of Jim Mumford, Iowa's First Deputy Commissioner, Brian Atkinson, President of the Insurance Marketplace Standards Association (IMSA), and Richard Silver, Vice President and General Counsel of AXA discussed these issues at one of the IRES CDS closing sessions.

We start with the NAIC Suitability Model adopted by 36 or 39 states (depending on which version you are using). First and foremost, the model — which covers many, but not all, forms of annuities — stresses that insurers and producers must have reasonable grounds for making a sale.

Enter into the conundrum FINRA, the Financial Industry Regulatory Authority (formerly known as the National Association of Securities Dealers), the agency that regulates broker-dealers sales practices with respect to the purchases and exchanges of deferred variable annuities.

In September 2007, the SEC approved Rule 2821. Rule 2821 imposes new regulations on broker-dealers that include the following four components:

- Suitability obligations in addition to the former obligations of existing rule 2310;
- Review and approval by a registered principal prior to submission to the issuing insurer;
- Written supervisory procedures established by the broker-dealer; and
- Training programs for agents.

As new products are introduced, insurers and insurance producers must attempt to draw a line between the suitability regulations of the various states and FINRA.

Through the NAIC, several states have formed a committee to define best practices for companies and for state insurance departments to follow.

Recently, some new pieces were added to the puzzle. The SEC proposed a new rule now known as 151A. If adopted, the rule would make fixed indexed annuities a registered security. Currently, indexed annuities are under the jurisdiction of the state insurance departments and this new rule could spark a turf war between state and federal regulators.

The panel suggested, however, that rather than a turf war, the new rule should be viewed as an opportunity for federal and state regulators to work together. Insurers, producers and consumers are looking to the regulators as the experts who can develop a system of regulation that is efficient, effective and provides good products at fair prices for the consumer.

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Most regulators recognize the opportunity to foster a greater understanding between the various regulators and stakeholders and are working toward this goal. In addition, IMSA is playing a key role as the neutral party helping to foster effective communication among regulators. The organization is in the unique position of representing the interests of both regulators and the industry.

To follow the latest update, keep your eye on the NAIC Life Insurance and Annuities (A) Committee **(www.naic.org/committees_a.htm).** ■

Jann Goodpaster is an IRES Past President and a Director at RSM McGladrey.

Scott Hoober, cancer patient and "Jack of All Trades"

The following are excerpts from comments delivered at the St. Louis CDS by IRES executive secretary David Chartrand.

As we gather here in this hotel ballroom, our colleague Scott Hoober is receiving chemotherapy in Kansas City for recently discovered tumors in his brain, on his lungs, and in other parts of his 60-year-old body.

Actually, I have no idea how old Scott is. For those who know and love Scott, the years he has been given are less important than the years he has yet to give.

Scott is a longtme freelance specialist in public relations, marketing and association management who has worked for IRES for much of the Society's 21 years.


Scott Hoober

Those who can't place Scott's face are probably attending their first CDS. You know Scott only by the familiar byline in *The Regulator*, the Society's newsletter. Over the past two decades he has authored more than 100 major feature articles.

The rest of you know the name, the face, the man, the personality. Scott has been a fixture ot the annual CDS for many years, taking photgraphs, interviewing commissioners, greeting guests, helping speakers with their laptops and PowerPoint presentations. And telling long, long jokes.

Scott created and managed the Society's first Web site — back in the days when few people but Scott understood why a Web site was needed.

Like all good public relations and marketing professionals, Scott Hoober is a Jack of All Trades, a Renaissance man of many talents, none of them more honed than his prowess as a raconteur nonpareil. Scott has a story to tell for every story heard; a joke for every joke; a tall tale for every tall tale. A smile for every smile.

Scott Hoober has given us countless memories and blessings, countless, I suppose, because none of us ever bothered to count them — until we were forced to consider a future without him.

Many organizations give Lifetime Achievement Awards, a recognition that strikes me as something between a nonsequitur and an oxymoron. How do you measure someone's life while they are still living? How do we recognize the achievements of one who is still achieving? Is it possible to catalogue the memories of a man who is still in the business of providing memories, jokes, and tall tales?

A Lifetime Achievement Award seems like a tribute to someone whose life and times are over.

I assure you that if Scott were here he would reject the notion that his life is over. He may be sitting in that cancer treatment center at this moment contemplating the healing of pain and the pain of healing. But his thoughts are very much on the future. He had his heart set on attending this St. Louis meeting. His plane ticket was bought, his room reservation confirmed. He spoke of working alongside his friend Wayne Cotter, editor of *The Regulator.* And he expressed polite offense when I told him I'd decided to hire a local freelance photographer for this CDS – just in case.

"Just in case what?" Scott asked.

"You know what I mean," I said. "Just in case something happens."

"Nothing's going to happen," he said. "I'm fine. If I die before the next Regulator is published," he added, "make sure you use the right picture next to my name. The one with my hair."

Then he told a joke about the guy who loses his hair to cancer treatment and then walks into a bar and …. It was a long joke and I can't remember the punch line. I can't remember the punch line to any of Scott's jokes. He has a joke for every situation, as if it were his life's mission to disperse long stories and long jokes among the human race, stories and jokes so long that no one has time to argue or fight or be sad. There is only enough time for retelling Scott's jokes, or listening to him tell them.

My pastor, Ron Cornish, once delivered a eulogy for a local teenager, who died in an auto accident. He said that no one dies too young. We die when God wants us to die. Our lives are precisely the length God wants them to be.

However long you live is how long you are supposed to live.

So, the more I think about it the more it seems fitting after all to honor Scott with a Lifetime Achievement Award.

Only God knows how long Scott Hoober's life is supposed to be, and God refuses to spill such information. Begging doesn't work. God knows I've tried.

We honor Scott today for what we know of his life thus far — emphasis on the words "thus far." We do it today because we do not know how many tomorrows he has left. We love him and would rather tell him so while he's around to hear it.

We accept this award on Scott's behalf not because we believe he has run out of achievements to achieve, or the desire to achieve them. Nor do we suspect Scott has exhausted the world's supply of long jokes. It's halfway through the day and, by now, the staff at the cancer treatment center are probably laughing so hard they can barely attach the chemo tubes.

Scott Hoober is still alive many months after the tumors were first discovered. He persists in living, laughing, and achieving.

We know that if Scott were with us today in this ballroom, he would express no regrets about the length of his life or his time. Scott Hoober would say, quite to the contrary, that he has had the time of his life. ■


Accepting Scott Hoober's Lifetime Achievement Award: IRES staff (LEFT TO RIGHT) Joy Moore, Susan Morrison, David Chartrand

Last Laughs

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Casual Observations

St. Louis Blues

Arriving at New York's LaGuardia Airport for our 1 p.m. Sunday flight to the St. Louis CDS, we were pleasantly surprised to find three fellow IRES members waiting for the same flight. Catching up with old friends always makes the time move more quickly, or so we thought.

We boarded at 1:45. Not too bad for New York where on-time departures occur even less frequently than free onboard meals. We then sat for 3½ hours as the pilot toyed mercilessly with our emotions. "Looks like we've been given clearance to fly," he'd say one minute, only to be followed by "You can unfasten your seatbelts, we'll be here awhile."

Catching up with old friends always makes the time move more quickly, or so we thought.

We fidgeted and fussed; then fussed and fidgeted. One IRES member brought a book for the trip. He finished it while still on the ground.

In the end, we were told the flight had been canceled due to bad weather. We left the plane grumbling to a chorus of cheery "bye-byes" from the crew.

Back in the airport, we learned the only flight to St. Louis that had available seating was scheduled for the following afternoon, leaving from Hartford, Connecticut. There was, however, a plane leaving Monday at 7:40 a.m. from Hartford, but that flight was fully booked.

Our Mom lives in Connecticut (but more than an hour from the airport). Perhaps, we thought, we could stay with her, rise early and attempt to fly standby on the 7:40 out of Hartford. We were supposed to interview the commissioners from Kansas and Oregon at 10 a.m. on Monday, following the Commissioners' Roundtable. *Maybe we could still make it!*

Two of the three other IRES members decided they too would roll the dice in Hartford (the third wisely threw in the towel). That night, we stayed with our Mom, while our sister put up the other two at her place.

At 5 a.m., following a Dunkin' Donuts run, the three of us were heading for Hartford. Our two fellow IRES members had already graciously agreed that if just one standby seat opened up, they would not stand in our way. They had booked the 2:30 p.m. Hartford-to-Dallas-to-St. Louis flight.

When we arrived at the airport, we learned the 7:40 plane held only 44 passengers. That was a bad sign. As 7:30 rolled around, it was not looking any better. Then, miraculously, we heard our name called from the standby list. Suddenly we were being whisked to our seat. Was the plane actually taking off? Were we airborne? Were we dreaming?

We arrived in St. Louis at 9:30 and dashed through the airport until we found a cab. We then called CDS coordinator David Chartrand to ask him to let the commissioners know we would be running a little late.

It was just past 10 a.m. when we stumbled into the conference center — out of breath, sneakers untied, with a coffee-stained shirt. Commissioner Praeger and Administrator Kipper surely thought a crazed loon had been unleashed upon them. They were great sports, however, and the interview went well (see p. 1).

The rest of the CDS was a blur of breakout sessions, new faces, old faces, food, drink — we're pretty sure we even went bowling Monday night.

The incident taught us a valuable lesson: Never, ever travel to the CDS on an August afternoon. The weather is just too iffy. Leave in the morning or — better yet — on Saturday.

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You may be wondering what happened to those two IRES members we left behind in Hartford. Well, their 2:30 flight was canceled late that afternoon. They grabbed a bus back to New York City.

Next year, we'll all be driving to Baltimore.

— *W.C.*

In the next REGULATOR:

- ***Does Financial Literacy Education Really Help?***
- ***Working with the Feds on Medicare Issues***

The IRES CDS drew national coverage — on the front page of the NAIC's online newsletter.

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All smiles. 2008 Education Chair Mike Hessler had reason to be pleased with the success of the St. Louis CDS. *Stories and pictures inside.*