

# IRES turns 15

*A look back at the birth, and growing pains, of our Society*

by Scott Hooper  
Special to *The Regulator*

Sometimes it seems that every trade or profession has two different, competing associations. In the case of IRES, however, creation of a second association for state insurance regulators was far from our founders' first choice.

As the Insurance Regulatory Examiners Society celebrates its 15th anniversary, it seems an appropriate time to look back at the early days. How did it all come about? What motivated our forebears — the likes of John Reiersen, Brad Connor, Tom Reents, Charles Elgin, Al Greer, Tanya Ask and dozens of others — to create a new professional society? And how well has IRES lived up to their expectations?

In a way it seems silly to do an archeological dig that goes back only 15 years. The good news is that, while a decade and a half is distant enough to get some perspective, it's recent enough that the players are still around to tell their tales.

### Recent history

John Reiersen, for instance, was a charter member of SOFE (its first year of operation was in 1974), as well as one of the founders of IRES. A long-time New York regulator and the Society's first vice president, Reiersen is now president and CEO of Commercial Mutual, a New York-based property-casualty insurer.

"I had been a member of SOFE," he said, "but at that time I was [New York's] assistant chief examiner of a product regulation bureau — market conduct and rate filings, etc. — and none of my



*The first issue of The Regulator, May 1988*

*continued on page 4*



*Market conduct exhaustion*

**Everyone was tired by the end of the day at last month's National Insurance School on Market Regulation in San Diego, sponsored by the IRES Foundation.**

*Stories, photos, pp. 14-15*

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## From the President

### Just a few months more

Only a few more months until the IRES CDS in San Antonio. I have been attending the CDS since 1992. Every year it has gotten better and better and after looking at the advance materials I believe this year's will be the best ever. Steve Martuscello and Doug Freeman and their committees have worked

hard to put together an outstanding program.



IRES's primary goal and vision, after all these years, remains the advancement of education for state insurance department regulatory personnel. The CDS is the

primary tool. Over the last 15 years, the CDS has grown not just in size but also in its depth and quality. It has changed and continues to change to meet the needs of our membership. This year, the CDS team is adding a round robin session. Separate tables will be set up where attendees can discuss topics of interest with experts. Stay at one or go from table to table.

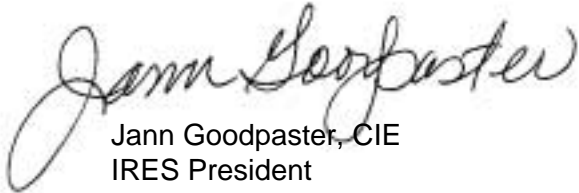
The Commissioners panel promises to be exciting as the committee has lined up several NAIC leaders to address us.

While the CDS remains the crown jewel of IRES's education programs, the other educational efforts also deserve mention. The AIE accreditation program now offers new paths in health and in technology.

There have been more state chapter-sponsored training sessions than ever before, with topics ranging from NAIC updates to mold. The Education Committee is coordinating with SOFE to sponsor a joint session for SOFE/IRES credits at the NAIC.

I would be remiss if I did not also mention our newsletter, *The Regulator*, as one of our educational tools. *The Regulator* keeps getting better and better and each edition is filled with informative and timely articles.

I hope I will see everyone in San Antonio. It is one my favorite cities and has so much to offer. The hotel is in the heart of the city, on the riverwalk, and very near the historic Alamo. Even more important though, will be reuniting once again with IRES friends, sharing our experiences over the past year and learning from the experiences of others. See y'all there.



Jann Goodpaster, CIE  
IRES President

## Letters from readers

*TO THE EDITOR:*

Every time I read about Diminished Value (DV) for First Party Claims, I wonder where some of the minds are coming from ("Georgia Auto Insurers Grapple with new 'Diminished Value' rules," March 2002). In the first place, most or all policies contain wording in the 'Damage to Your Covered Auto' section, to the effect that they will cover 'direct damage' to the automobile.

The only result that will come of this will be higher physical damage premiums and enhanced unjust enrichment to those who commit insurance fraud.

— Bob Stanton  
Director, New Hampshire  
Insurance Fraud Unit

## IRES STATE CHAPTER NEWS

**NEBRASKA** — The Nebraska IRES Chapter held a continuing education meeting on April 17. We had two great speakers: Susan Schneiderwind (Vice President, Administrative Unit; Corporate Secretary; and Chief Privacy and Compliance Officer of Blue Cross and Blue Shield of Nebraska) and Ann Frohman (General Counsel of the Nebraska Insurance Department). Susan discussed the HIPAA privacy regulation and how her company is working towards compliance, while Anne spoke about Gramm-Leach-Bliley privacy issues and the federal USA Patriot Act. The next meeting for the Nebraska IRES Chapter will be June 26. Anyone in the area at that time is welcome to join us. Details will be posted on the IRES Web site.

— submitted by Karen Dyke

**DISTRICT OF COLUMBIA** — The DC Chapter of IRES is on the move. In March, we started a membership campaign. We posted IRES posters at the department and placed an ad in "The DISReporter," our internal newsletter. In addition, we will be placing an ad in an upcoming edition of "The Gateway," an external newsletter, in hopes of soliciting members from the insurance industry as associate members. Our next meeting is set for May.

— submitted by Betty M. Bates

**COLORADO** — Colorado Assistant Commissioner Kirk Yeager and Complaint Supervisor Kim Wells recently spoke to a class of 18 department staff members. Mr. Yeager outlined the benefits of membership in IRES and the educational opportunities provided by the Society. Kim Wells reviewed, along with Paul Spangler (a former DOI staffer), the NAIC White Paper on Consumer Complaint handling. Procedures specific to Colorado were emphasized and contrasted to procedures in other states. Some Colorado cases were reviewed to illustrate procedures described in the White Paper.

— submitted by Vi Pinkerton

**NEW MEXICO** — The New Mexico IRES Chapter has been established. We are making all insurance regulators in the New Mexico Public Regulation Commission, Insurance Division, contract regulators, and retired members aware of the benefits of belonging to the Society. Also, we will make the State Agency on Aging aware of IRES and outline the benefits of joining our organization. Representatives from the State Agency on Aging assist senior citizens with their insurance questions, through their Health Insurance Benefits Assistance Corp.

— submitted by Fred R. Couty

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people could become certified financial examiners because they weren't working on financial examinations.

"I had been a financial examiner," Reiersen recalled. "But everybody in New York, no matter what bureau you worked in, had to be an accountant, they all had to take the same promotion exams, and they could all be transferred within the department. One day they could be working on market conduct, and the next day maybe they could be a financial examiner.

"In other words, they had the qualifications, but SOFE wouldn't allow them to become certified."

At the same time, the National Association of Insurance Commissioners, recognizing the growing role that market regulation was beginning to play, was working up standards for accreditation of market conduct examiners.

By June 1987, a subgroup of the NAIC's Market Conduct Surveillance Task Force had approved a curriculum for what were then called AMCE and CMCE, for accredited and certified market conduct examiner.

But how to implement the recommendation? Reiersen recalls attending a meeting of the subgroup that was considering whether to form a new organization for market conduct examiners — not because he was eager to get involved, but because his department had assigned him to cover the meeting. He remembers chair Brad Connor and the other members of the subgroup sitting in a room, but with very few other interested parties in attendance.

"I was sitting in the audience, and they were

obviously very disappointed with the turnout, and they were wondering what they should do next," Reiersen said. "And I got up and I said, 'Why are you restricting this to market conduct examiners?'"

"If you open this up to all examiners . . . I mean, just because SOFE discriminates doesn't mean that you have to discriminate, so you should even open it up to financial examiners if they meet your qualifications. . . ."

"That kind of lit up the room a little bit," he recalls today. "And of course by opening my mouth, I got involved, I got appointed to the group that would help organize IRES."

Connor, who's still with the Missouri department, says NAIC's role was critical: recognizing the role market regulation played and coming up with the standards that would see to it that market regulators were good at what they did.

"The big issue was that there was a demand that we professionalize somehow," he said, "and that market conduct examiners have training — instead of any yahoo doing this out of nowhere."

As much as market regulation was growing, though, it was still closely aligned with what hard-core financial examiners were doing. NAIC didn't express a preference for how its new designations were run, but the logical move would clearly have been either to broaden out SOFE to include other kinds of regulators, or to set up a market conduct subgroup within SOFE. Why strike out on your own if you don't have to?

Several people tried allying with SOFE, but when SOFE nixed that idea, IRES founders decided to go their own way.

## **SOFE vs. IRES**

"There should never have been two organizations," said Reents, the first IRES president. "There should have been one organization with different parts."

"What's the genesis of IRES?" added Reiersen. "It was . . . SOFE not allowing other examiners to be part of their group. Once SOFE said no, we decided that we're going to go full-bore, and the rest is history."

As reluctant as IRES founders may have been to establish a new organization, there was clearly an unmet demand. Between October 1987 and the end of that calendar year, fully 476 charter members joined IRES!

“

***The big issue was that there was a demand that we professionalize somehow, and that market conduct examiners have training — instead of any yahoo doing this out of nowhere.***

— Brad Connor

”

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The new organization's name, which changed a couple of times during that first, formative year, seems to reflect its founders' ambivalence.

The first working name was SOMCE, short for the Society of Market Conduct Examiners. Significantly, the final choice, the current name, doesn't mention a thing about "market conduct." It was and is about insurance regulation, about supporting the people who support the consumers in their states.

SOFE, on the other hand, was a society of financial examiners. Period. If you weren't going out and



**John Reiersen**

looking at a company's books, you weren't eligible for membership. If you went out to a company's location and looked at other, nonfinancial records, you weren't eligible for an AFE or CFE. And if you stayed back at the office and, say, handled consumer complaints — forget about it.

In 1987, for instance, even financial analysts weren't welcome in SOFE, only financial examiners. Yet IRES opened its doors not just to both financial and market conduct examiners, but to all those other categories of regulatory professionals who keep the system running smoothly. To this day, Reiersen doesn't understand why SOFE wasn't willing to go in that direction.

"SOFE had a separate division for credit union examiners, they had a separate division for banks. This was really nothing new."

Jann Goodpaster, current IRES president, said, "NAIC talks about the founding of market conduct, but I think it's real important to note that while that might have been one of the reasons that IRES was started, it's not purely a market conduct organization.

"IRES embraces all the disciplines of regulation," she said. "Indeed many of our members are financial examiners, as well as in producer licensing, rates and forms and other disciplines."

## **Inclusiveness**

During the period when the folks who became IRES's founders still pinned their hopes on SOFE, several of them realized that nonfinancial examiners weren't actually formally forbidden to join.

"We looked at their bylaws," said Reents, "and their bylaws said you had to be involved in the

examination of an insurance company. We all met that definition."

They pointed that out to the SOFE board and pushed one more time to get market regulation professionals included in SOFE.

"What they did was have a board meeting and change the bylaws to put the word 'financial' in there," recalls Reents, the first president of IRES.

Not long after founding IRES, its board faced a similar situation — and the way they handled it is instructive.

"When a couple of NAIC folks wanted to become members and our bylaws didn't allow it, we changed them to *allow* them to become members," said Reents.

Terry Meagher, now with HuffThomas, was on the staff at Oregon back in the late '80s — and a member of the SOFE board. He says he wasn't alone in pushing for an accommodation with market regulators. But he, New York's Janet Glover and others lost out to the old guard.

"There was a bitter battle on the SOFE board," he recalls today, "with some members not wanting anybody else, market conduct examiners included, in SOFE.

"I made a motion, which almost carried, that the decision be deferred for one year to allow some of us to form a committee to come up with a proposed revision in the bylaws that would permit it. It almost carried.

"As soon as the vote was taken," Meagher said, "a number of people who were interested in forming IRES got up and left the meeting and went out and got on the phones. And that's where IRES was born."

All those who opposed Meagher's motion are no doubt off the SOFE board by now, if not retired. Even a year or two later, the decision may have been different, but of course by that time it was too late.

Even if Meagher's motion had passed, it may not



**Jerry Mahoney, a member of the first IRES governing board**

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have made a difference. At some point, perhaps at a later meeting, a committee was indeed formed, but the die had been cast.

Reiersen made that clear in a letter to SOFE president Theodore C. Bausher following SOFE’s July 1987 board meeting. “While it is encouraging,” Reiersen wrote, “that a committee was formed and a proposal will be made at SOFE’s meeting in July 1988, such action will not delay the formation of SOMCE. . . . Apparently the bias against nonfinancial examiners continues to prevent SOFE from becoming an organization that would embrace all insurance examiners.”

“There’s no reason we couldn’t have been one organization,” Meagher said recently. “I felt that way then and I still feel the same way today.”

Although he was an accountant and always preferred doing financial examinations, Meagher joined IRES shortly after it was founded to show his support. Ironically, he went on to help found the market conduct section of the Oregon department, and today does all kinds of exam work on behalf of the HuffThomas client states.

“With HuffThomas, I’m in charge of all our field examiners, and we do both financial and market conduct,” he said. “I’ve attended both the SOFE and the IRES CDS’s, again to show support — and to learn a hell of a lot.”

## Meeting expectations?

That chance to learn from one’s peers was why IRES was founded in the first place.

It wasn’t about sticking a finger in SOFE’s eye, it wasn’t a power game, an attempt to supplant its rival as the nation’s premier society of insurance regulators. The idea was to make training — and networking and all the rest of the benefits of a professional society — available to a group of regulatory professionals to whom such things weren’t available at that time. Did they succeed?

Goodpaster, who left industry and joined the Oregon department five years after IRES was organized, thinks so.

“It’s a requirement for our job in market conduct here that you obtain your AIE, so I was signed up the day that I arrived at the division,” she said. “And then I went to the CDS in Nashville that year.

“I was thrilled, because there was so little training at that time. I went to Angela Ford’s seminar on market conduct, and I felt like this was the first time I knew what I was supposed to be doing.”

Goodpaster feels that the big-tent IRES approach is a large part of the reason for the Society’s success.

“You can’t do a market conduct examination in a

## President’s Award Recipients

Year	Recipient	Accomplishments
1990	Earl Pomeroy, William McCartney, James Long	State insurance commissioners who were early supporters of IRES
1991	Lewis Melahn, Arthur Chartrand, Robin Campaniano	Melahn and Campaniano: state commissioners; Chartrand: former NAIC attorney. All recognized for assisting in the early years of IRES
1992	John Reiersen, Jorge Sandoval	Former regulators who played leading roles in forming the IRES Foundation
1993	Tom Reents	Past IRES president, former treasurer and a founding director
1994	Brad Connor	Past IRES president and a founding director
1995	Stephen King, Gerald Milsky	Board members and regulators, responsible for design of initial IRES continuing ed program
1996	Paula Kitt	NAIC staff member, recognized for instructional and teaching leadership
1997	Frank Seidel	A founding director, honored for his service to many IRES committees and educational programs
1998	Angela Ford	Honored for her years of teaching services in various IRES programs
1999	Paul "Pete" Synnott	Former executive officer for Society of CPCU who supported IRES and helped design early training programs
2000	Christel Szczesniak, Wayne Cotter	Past President Szczesniak for her years of service on IRES board of directors and chair of numerous programs; Cotter for outstanding work as editor of The Regulator
2001	Paul Bicica	Longtime IRES board member, officer and Section Chair, for his service to various IRES committees and his work on annual Career Development Seminar
2002	To be named at San Antonio CDS this summer	

vacuum,” she said “You can’t do market conduct exams without knowing what the complaints are, what rates and forms are, without knowing which agents are licensed.”

Christel Szczesniak, who became the Society’s first woman president, in 1997, joined shortly after the group’s founding, and not long afterwards was elected to the Board.

In the decade and a half since then, she said,

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“Everything has changed. Not just the industry or IRES, but insurance has changed. And IRES has definitely kept up.”

Then as now, the heart of the IRES experience is education, as well as networking and plain old friendship.

“I have made a lot of friends,” Szczesniak said. “I have met a lot of very, very smart people who you can learn from. My expectations have been met.”

Even Meagher, the accountant, learned long ago to enjoy looking at claims records and the like as much as he does balance sheets. If nothing else, he said, he’s come to realize that how a company handles claims, for instance, can be a leading indicator of financial difficulties.

Tanya Ask, with the Montana department in those days, ended up chairing the inaugural board. Not long

afterwards, she left regulation for the company side of things, but she keeps up with IRES activities to this day.

“My expectation was that IRES would raise the level of professionalism and respect for not only market conduct examiners but the end result of market conduct examinations — and ultimately that is consumer protection,” Ask said.

“On the financial side, you’re making sure the money is there in order to pay the claims once what has been promised is needed,” she added. “On the market conduct side, we had very similar goals, and that was to make sure that the consumers who had paid for a promise then received what it was they had paid for.”

She was a strong proponent in those early days of increasing the professionalism of the regulators who look out for the consumers, and she feels the Society has met those original expectations.

“It is an ongoing process, and it’s something that needs to continue,” Ask said. “But I do think that the level of awareness has been increased

Year	City	CDS Attendance
1989	Kansas City	150
1990	Kansas City	200
1991	Denver	200
1992	Nashville	230
1993	Cambridge, Mass (Boston)	300
1994	Orlando	300
1995	Kansas City	310
1996	Milwaukee	400
1997	Charlotte, NC	418
1998	Oak Brook, Ill (Chicago)	430
1999	Las Vegas	476
2000	New Orleans	514
2001	Baltimore	524
2002	San Antonio	?

as a result of IRES, and I think the level of professionalism is still in the process of being increased.”

Connor, who succeeded Reents as IRES president, has also been happy to watch the Society’s growth over the years.

“I was an optimist,” he said. “I thought IRES would grow and become as it is.

“I’m very impressed with the size of the membership now, and the size and quality of the CDS,” he added. “I’m very pleased.” ■



**There from the beginning (left to right): Nancy Thomas, Sarah Malloy, Charles Elgin, Frank Seidel**

## IRES Trivia Quiz

Sure, you've got a CIE, but that was easy. Here's the real IRES examination.

1. How many names has IRES gone by?
2. When and where was the first CDS held?
3. Who was our first president?
4. Who served the longest term as president?
5. Name the Society's first woman president.
6. Who was on the first IRES Board of Directors?
7. When was the first issue of *The Regulator*?
8. So IRES is a teen-ager — does that explain how we behave?

### ANSWERS

1. Three. Society of Market Conduct Examiners (SOMCE), Society of Insurance Regulatory Examiners (SOIRE), Insurance Regulatory Examiners Society (IRES) Or one, since by the time we were incorporated, we'd settled on IRES.
2. June 25-27, 1989, in Kansas City.
3. Tom Reents, the only president to serve two terms, both 1987 and '88 (unless you count Tanya Ask, who served as nonelected interim president for several months in '87, during the Society's founding).
4. Tom Reents served two terms, but Brad Connor served the longest term, 18 months, because of a change in IRES's official year.
5. Christel Szczesniak, 1997 (unless...see Answer 3).
6. Many folks were among the original founders, but according to the July 22, 1987 minutes of the first organizational meeting, the initial interim Board of Directors consisted of John Reiersen (NY), Tom Reents (NE), Mike Hessler (IL), Charles Elgin (MO), Tanya Ask (MT), Joan Krosch (ID), and Gerald Polenz (NC). The first elected executive committee included Tom Reents, president; John Reiersen, vice president; Mike Hessler, Secretary; Gerald Polenz, assistant secretary-treasurer; plus Tanya Ask, John Feeney, Donald Koch and William Latz.
7. May 1988.
8. No comment.

## Talking with . . . Tom Reents

**EDITOR'S NOTE:** IRES Publications Chairman Kirk Yeager asked first IRES president Tom Reents to reflect on the Society's 15th anniversary and how it all began

*As a founder of IRES, what were your original goals for the organization?*

The primary purposes for founding the organization were to gain more recognition for Market Conduct and Consumer Services staff, and to enhance the professionalism of regulators through opportunities for training and acquiring job-related designations.



**Tom Reents**

*To what extent has the organization met or exceeded your original goals?*

I am continually surprised at how fast the organization has developed and in the quality of the make-up of the organization. We had hoped to have a large membership after several years, but not many of the original members really thought the organization would grow to this size in such a short period of time. I am impressed with the fantastic training opportunities provided by IRES, especially through the CDS. The ongoing commitment and participation from the general membership is a bonus as well.

*Are there areas where you feel IRES has not met the original goals of the founders?*

Some of the reason for founding the organization was that in some states, Market and Consumer Regulation was accorded second-class citizen status in many departments. The professional development that has been brought about by IRES combined with greater national exposure of consumer issues has heightened the role of all regulators. Still, in many states, market and consumer activities are not yet considered as "vital" as financial regulation. I see this concern mirrored in staffing patterns in the various agencies and at the NAIC. The focus often rests on financial issues.

*What are the areas or issues where you would like to see the organization focus its future activities?*

I would like to see more recognition of the IRES designations. Additionally, I would like to see more support of IRES and its members by the Commissioners and senior management of each state. ■

# IRES Past Presidents



**Missouri's Brad Connor**



**Reents  
of Nebraska**



**Christel Szczesniak, Colorado (left)  
and Angela Ford, North Carolina**

When	Who	Then	Now
1987-88	Thomas L. Reents	Nebraska	MRC Group, Omaha
1989	W. Bradford Connor	Missouri	Missouri
1990	Howard T. Spence	Michigan	Administrative law judge, Michigan
1991	Richard D. Rogers	Illinois	Zack Stamp Consulting
1992	Roger Langley	North Carolina	PricewaterhouseCoopers
1993	Donald P. Koch	Alaska	North Star Examinations
1994	Gary L. Domer	Kansas	Broken Arrow D Examinations
1995	Robert D. Flege	Kentucky	Independent examiner
1996	Gerald A. Milsky	Virginia	Virginia
1997	Christel L. Szczesniak	Colorado	Colorado
1998	Gary W. Meyer	Missouri	Missouri
1999	Angela K. Ford	North Carolina	North Carolina
2000	Stephen M. Martuscello	New York	New York
2001	Jann Goodpaster	Oregon	Oregon
2002	Paul J. Bicica (president-elect)	Vermont	Vermont



**Howard Spence  
of Michigan**



**Langley  
of North Carolina**



**Flege  
of Kentucky**



**Dick Rogers  
of Illinois**



**Gerry Milsky, Virginia**



**Gary Domer of Kansas (left)  
and Don Koch of Alaska**

# IRES turns 15

## Talking with . . . Brad Connor

**EDITOR'S NOTE:** Cynthia Amann of Missouri asked former IRES president Brad Connor to reflect on the Society and its accomplishments

*What were the original goals of IRES?*  
To professionalize the Market Conduct examination process. To develop a community of those involved in the same work so that they can share information and network together. To

provide a structure for continuing education and upgrading of the professional level of examiners.

*Have we met or exceeded those goals?*

Yes, but we can still do a lot more.



**Brad Connor**

*Where has the society fallen down?*

We need to send a clear message to all states that IRES is for all professional insurance regulators and not just field staff, and that designations and continuing education do matter and are for everyone.

*Where does the society need to go?*

Increase the number and levels of difficulty for specialized sub-categories in our designation curriculum, and continue to run great CDS programs that attract the brightest of new regulators.

## Talking with . . . John Reiersen

by Wayne Cotter, *EDITOR*

*Was there a moment when you said this IRES idea isn't going to work — when you wanted to abandon the effort?*  
No, I think the enthusiasm that was generated among regulators across the country boosted all of the founders' spirits and helped get IRES off the ground. It was a lot of hard work, but once we got started, I never doubted the effort would succeed.

*Are you pleased with where IRES is at this point? Are there any disappointments?*

Overall, I'm pleased at the progress and growth of IRES. I am disappointed that the designation hasn't been accepted as much as other designations, but I'm hopeful that will change in time. I would also like the organization to develop its own unique curriculum for achieving professional designations.



**Reiersen, circa 1987**

*You were instrumental in creating the IRES Foundation. What can you tell us about that effort?*

In 1990, Jorge Sandoval, myself and others founded the IRES Foundation to provide funding for IRES to better carry out its activities. IRES was pretty broke back then. We were living from week to week. The initial funding was started through a fund-raising campaign among the industry. Currently, we raise funds through the annual "Insurance School on Market Regulation," which brings in about \$20,000-\$25,000 per year. This year, we will be raising additional funds through an endowment campaign.

**EDITOR'S NOTE:** John Reiersen's enthusiasm for IRES in those early years was untiring and infectious. It was John who, in the late 1980s, recruited me and dozens of other New York staffers to join a ragtag band of regulators, promising we'd be on the ground floor of something big. Thank you for your persistence and vision, John. You were right.

**CIE·AIE**  
The Signs of Excellence



## Happy Birthday, from....



*"I'd like to personally thank IRES for all that it has done over the last 15 years to support regulatory staff and upgrade state regulation of the insurance marketplace."*

— Joel Ario, Oregon Insurance Administrator

*"I would like to congratulate and recognize IRES and the individuals who make up the organization on your 15th Anniversary. Your dedication and leadership has served as a beacon for such an important function on behalf of consumers. In our ever-changing industry, your continued work and leadership will be needed to develop the next phase of Insurance Regulation. Godspeed!"*

— Former NAIC President George Nichols

*"The Insurance Regulatory Examiners' Society has had a significant impact on strengthening the technical skills and professionalism of insurance regulators on a national basis. IRES provides an effective and productive forum for cross exposure and development of Insurance Department personnel and programs addressing solvency and consumer protection. Congratulations on this significant milestone and many accomplishments. Best wishes for continued success in all future endeavors."*

— Former NAIC President George Reider

*"As a charter member of IRES, as well as a charter CIE, I would like to thank IRES for 15 years of efforts to increase recognition of the importance of market regulation and to further the education and continued growth of market regulators throughout the country. Virginia has been very active and engaged since IRES' beginning, and we intend to continue both our participation and support for IRES in the years to come."*

— Alfred W. Gross, Virginia Insurance Commissioner

*"Congratulations to IRES for its 15 years of enhancing the professionalism and integrity of insurance regulation!"*

— Connie O'Connell, Wisconsin Insurance Commissioner

*"Congratulations on 15 years of promoting professionalism among market regulators. The increasing professionalism among IRES members has gone a long way to better serving the public and quelling some of the criticism of state regulation."*

— Tim Wagner, Nebraska Director of Insurance

*Congratulations on your 15th Anniversary! It was a pleasure to spend some time with a number of you at the Baltimore meeting. As I told you then, IRES has been an active partner working with the NAIC to meet the challenges that the ever-changing insurance industry brings. Thank you for your commitment and expertise the past 15 years. Congratulations on your success — it truly benefits us all.*

— Former NAIC President Kathleen Sebelius

# Unauthorized Health Insurers: One State's Response

by Angela K. Ford  
Deputy Commissioner  
North Carolina Insurance Department

My first experience with unauthorized health insurance activity began in 1997 when consumers began complaining about unpaid claims from an insurer, some of which had been outstanding for more than six months. We soon discovered that the "insurer" was in reality an unlicensed health entity. The entity did, however, have an association with licensed agents. When we contacted the organization's representatives, they claimed the firm was an authorized health insurance provider under provisions of the Employee Retirement Income Security Act (ERISA). ERISA is administered by the U.S. Department of Labor (USDOL).

I have subsequently learned to be leery whenever health insurance administrators begin referring to ERISA. (I react to the term in much the same way as the hyenas responded to the mention of Mustafa in *The Lion King*.) At the time, most of us assumed ERISA plans had undergone the same regulatory scrutiny as our licensed insurance companies. We quickly learned this wasn't the case.

We held a series of administrative hearings trying to understand why there were so many unpaid claims. This is when things really got interesting as we listened to the top-notch attorneys the ERISA firm had hired to tell its side of the story. It was undoubtedly one of the best yarns I had heard to date. It turns out that claims were not being paid because the computer system was not working.

The only problem was, the computer system had not been working for over a year. We were then told that if we persisted in proceeding with these administrative hearings that the firm would stop paying

claims and use all of its energies to deal with the hearing. I have to admit that it took about three seconds to digest this late-breaking news. We reminded the attorneys that the reason the firm was involved in conversations with the department was because of unpaid claims and that it was our understanding that no claims had been paid in North Carolina. The attorneys indicated that they would get back to us on this matter. The hearings continued.

The bottom line, however, was that claims remained unpaid, and we saw no evidence that the situation would change soon. We next decided to call upon our licensed agents (whom we discovered knew less about these plans than we did even though they had sold these plans to consumers).

The informal conferences held with our agents turned into finger-pointing sessions that further confused the issue. Our agents claimed to be innocent dupes, *i.e.*, the firm had taken advantage of them. Our contention was they either entered this relationship fully aware of the dangers these contracts presented to consumers or they failed to recognize the potential dangers.

Either scenario raises serious competency issues on the part of the agents. When the dust had settled, the firm was out of business and consumers in our state were left with over \$2 million in unpaid health claims. As this was unauthorized insurance activity, the guaranty fund provided no relief to North Carolina consumers.

We worked diligently with USDOL trying to understand how the ERISA mechanism worked and what we could do to educate our agents. To this end, the Department issued numerous warnings in departmental newsletters, required verbiage relative to unauthorized insurance in the pre-licensing education booklet, and participated in numerous speaking engagements touting the problems associated with ERISA-type plans.

Notwithstanding the unpaid claims issue (which we are still trying to resolve), we felt pretty good about our educational outreach efforts. All appeared to be tranquil, until the next unauthorized insurer reared its head.



Angela K. Ford is a former IRES President (1999-2000 term) and recipient of the IRES President's Award and the IRES Foundation Paul DeAngelo Memorial Teaching Award.

Wouldn't you know it, another health insurer was claiming an ERISA exemption to North Carolina health insurance laws. As was true with the first case, our first notice was through consumers complaining about unpaid claims. This time, the controversy involved a third-party administrator (TPA). I found out quite a bit about TPAs. For instance, I learned that in North Carolina, a TPA could be either licensed or registered. The licensed ones contract with a licensed insurance company, while the registered ones are normally associated with self-funded mechanisms or ERISA plans. On the surface, one would think that all would be well.

The TPA in this case was licensed, however, but for some reason did not have a business relationship with a licensed insurance company. We again questioned the parties involved. We found that we were apparently dealing with another set of "innocent dupes" as the TPA claimed it had been the victim of fraud. The TPA indicated it had petitioned and received a license from our department as it planned to do business with a licensed insurer. The unauthorized entity approached them and requested assistance in handling claims on behalf of the entity.

The fact that the entity was not licensed in any state did not generate concerns for the TPA. The TPA only experienced concerns when funds to pay claims were no longer forwarded from the entity. The TPA did not call upon the North Carolina Department for assistance; rather, they worked diligently with the unauthorized insurer to get claims paid. Once again, claims were not paid and the consumers were left holding the bag.

We again pulled out our pen and wrote additional warnings to consumers and agents. We also brainstormed to see if we could come up with methodologies for closing some of the loopholes in the laws governing TPAs. For a brief moment, we were able to catch our breath.

Some months later, one of my cohorts asked if I knew anything about Professional Employer Organizations (PEOs). You know, when you've been

around awhile, there should be a law against new "buzz" words. I found out that I did know about PEOs. They are simply employee leasing firms reborn under a new name. For the most part, PEOs contract with client companies to provide payroll processing, maintenance of employee records, tax and other required employee filings and reports, workers' compensation insurance, health benefits, and other human resource services.

We are currently dealing with quite a few PEOs. In one of the PEO cases, the PEO established a TPA that was neither licensed nor registered. It then proceeded to get a few more innocent PEOs involved. (If you're going to make a mess, you sometimes need a few extra ingredients.) Next in line was getting an agency involved, as this package needed access to a legitimate insurer. Once access was established, the unlicensed

TPA took over. The TPA created bogus certificates of insurance for workers' compensation coverage for the PEOs. Because they were really trying to help, they also offered some health insurance. Next in this equation comes the unpaid claims, disconnected telephone numbers, and the filing of bankruptcy papers. Our telephones are still ringing to advise us of outstanding claims.

I have tried to insinuate some levity into this situation. However, the problem with unauthorized insurance activity is a very frustrating one. I really believe that our job as a regulator revolves around protecting the consumer. I was naive enough to think that the average person would stay away from insurance scams if the deal offered was "too good to be true." Some of my cohorts in the Consumer Services Division have advised that the consumer will buy into these scams every time, as the price and availability of the product offered appears too good to pass up.

The unfortunate part is that by the time regulators are advised of the entity, it is already too late. I have some hope since consumers who were previously duped now promptly contact us before purchasing a new insurance plan. Once bitten, twice shy.

There are no easy answers to resolving this

**“ We brainstormed to see if we could come up with methodologies for closing some of the loopholes in the laws governing TPAs. For a brief moment, we were able to catch our breath. ”**

*continued on p. 19*

# State regulators come to San Diego to teach about market conduct

About 280 insurance industry compliance professionals and state regulators from around the country gathered in San Diego the first week of April for the 9th Annual National Insurance School on Market Regulation, sponsored by the IRES Foundation.



CLOCKWISE (FROM TOP LEFT) Oregon commissioner Joel Ario • Attendees listen at a general session • IRES President Jann Goodpaster and IRES Foundation Chairman Dave Abel • The state "round robin" breakfast • Questions from the floor during the "hardball" question-answer session between regulators and industry.





CLOCKWISE (FROM TOP LEFT) Oklahoma Commissioner Carroll Fisher gives a luncheon address by the Sheraton boat marina • Capt. Donald Roy of the U.S. Navy Air Reserve • Corporate humorist Greg Schwem • Washington Commissioner Mike Kreidler • Foundation board member John Mancini presents the 2002 Paul DeAngelo Memorial Teaching Award to North Carolina's Angela Ford • Oklahoma Commissioner Fisher (second from left) listens to a discussion about life insurance "suitability" • Cindy Davison of eMind.com brought a date to the Sunday night opening reception



Washington Commissioner Mike Kreidler • Foundation board member John Mancini presents the 2002 Paul DeAngelo Memorial Teaching Award to North Carolina's Angela Ford • Oklahoma Commissioner Fisher (second from left) listens to a discussion about life insurance "suitability" • Cindy Davison of eMind.com brought a date to the Sunday night opening reception



***Make plans now to attend next year's IRES Foundation Market Conduct School — April 23-25, 2003 at the Hyatt Inner Harbor in Baltimore***

# The San Antonio CDS: A Preview

by Stephen Martuscello, CIE

As I write this article, I find it hard to believe that our IRES Career Development Seminar (CDS) is just around the corner.

By now you should have received your Advance Program and registration form. I encourage you to read it and start making your plans to attend. Don't get shut out.

Doug Freeman, our 2002 CDS chair, and Jo LeDuc, next year's CDS chair, have been working hard to ensure that this one is the best ever as IRES celebrates its 15th anniversary. Special thanks also go to Scott Laird who has recruited members from the Texas Insurance Department to participate in the CDS.

A lot of hard work is needed to put together each CDS. For example, as soon as the 2001 CDS concluded, we critiqued its contents and looked for ways to improve it. We also reviewed the evaluation forms that attendees filled out. This year we even did an electronic membership survey to determine if we need to change the CDS format to keep pace with the regulatory challenges that confront us.

The 2002 CDS still will have the seven breakout sections consisting of Market Conduct, Consumer Services, Life and Health, Property and Casualty, Financial, Enforcement and Compliance, and Producer Licensing. The chair persons for each of the sections

and their committees once again have come up with relevant and timely topics.

We also will hold the Commissioners' Roundtable opening general session and our luncheon address will be given by NAIC President Therese M. Vaughan, Iowa Commissioner of Insurance. If you've never

heard Ms. Vaughan speak, you're in for a treat. A recent change that continues will be our joint sessions (where we combine smaller sessions into a few large sessions) with this year's topics covering "Confidentiality and Access to Insurer Information," "Fraud Detection," and "Credit Scoring."

This year we have made a couple of changes that I feel will enhance the quality of the CDS. On Tuesday morning our General Session will present the "Future Face of Regulatory Technology," something that impacts all of us and will help to shape the future of insurance regulation.

We also are going to try a Round Robin Discussion format which we feel will encourage small group participation and allow you a chance to get up close and personal with experts on topics such as TeamMate 2000 and ACL and others.

These changes reflect our organization's efforts to be responsive to our members as we strive to improve the quality of our CDS. ■



**Regulators at the 2001 CDS in Baltimore last summer listen to the opening Commissioners Roundtable**

Stephen Martuscello is a former IRES President (2000-2001) and currently serves as Chair of the IRES Education Committee.



## Register NOW!!

You must book your hotel room directly with the San Antonio Hyatt. The room rate for IRES attendees is \$149 per night for single-double rooms. Call the hotel at 800-233-1234 or 210-222-1234. The IRES convention rate is available until July 8. Our room block often is sold out by early June, so guests are advised to call early to book rooms.

## 2002 CDS

# *San Antonio – A Perfect Blend of History, Tradition and Progress*

by Kashyap Saraiya, AIE, CPCU

I visited San Antonio for the first time in September 2000. I returned to the greater New York metropolitan area, where I work and reside, with fond memories of a city that somehow managed to achieve equilibrium in reflecting its history, tradition and progress, a feat difficult, if not impossible, for most large cities to achieve.

San Antonio embraces and celebrates the diaspora and cultures that call the city home, and visitors are treated as a part of the city's extended family. Old-world charm and modern sophistication sum up San Antonio, a festive blend of Spanish architecture, eclectic foods and music. There is much to do in this wonderful city and most is within walking distance of the Hyatt Regency Riverwalk, our conference headquarters.

The first thing that struck me when I arrived in downtown San Antonio was the blending of traditional architecture with more modern construction styles. Centuries-old brick and stone courthouses and churches stand side by side with the angular profiles and shiny facades of contemporary structures for an eye-pleasing effect unique to San Antonio.

This blending of styles is evident as you stroll along the world-famous Riverwalk on the banks of the San Antonio River. Step outside from the lower level of the Hyatt Regency Riverwalk, and you'll see what I mean. Amidst the daily hubbub of downtown San Antonio, sequestered 20 feet below street level, lies one of San Antonio's jewels - the Paseo del Rio, better known as the Riverwalk. Cobblestone and flagstone paths border both sides of the San Antonio River as it winds its way through the middle of the business district. The Riverwalk has multiple personalities -

quiet and park-like in some stretches, bursting with activity in others. You'll pass European-style sidewalk cafes, specialty boutiques, discos, nightclubs and gleaming high-rise hotels during your two-and-half mile stroll along Riverwalk. Plan

on dedicating at least one full evening for this unique experience.

Hang out with some of your friends at one of the many bars that line Riverwalk or dine at one of the sidewalk cafes, preferably one with live music. Then

dance the evening away at a club a few feet down the river. For those who prefer a quieter environment, there is nothing like a serene stroll along the river as you take in the sights and sounds of a summer evening in downtown San Antonio. Yanaguana Cruises, the river's floating transportation system, provides another novel method of sightseeing and people-watching on the Riverwalk.

No visit to San Antonio would be complete without a trip to the many Spanish Missions that dot the San Antonio landscape, including the most famous of them all "The Mission San Antonio de Valero," better known as the "Alamo." Open seven days a week, the Alamo is a short walk from the Riverwalk. There is no admission charge to pay homage to the 189 Texans who held out for 13 days in 1836 against the 4,000 Mexican troops of General Antonio López de Santa Anna.

The death of the Alamo defenders, similar to the sacrifices made by our rescue workers and members of our armed forces post September 11th, symbolizes courage and valor in the cause of Liberty. As you solemnly walk from the Shrine to the Long Barrack Museum, don't miss the flora and fauna cultivated in the well-manicured acres of the Alamo compound.

There is so much more to explore in San Antonio, but I'm afraid my space is limited. In the July issue of *The Regulator*, I'll introduce you to various walking and biking trails along the Mission Trail as well as a hotel that some swear is haunted to this day. Don't worry, it's not the Hyatt Regency. The only spirits found there come in bottles. ■



# REGULATORY ROUNDUP

## **Congress introduces legislation that would provide for the chartering of national insurers**

The U.S. House of Representatives introduced H.R. 3766, the Insurance Industry Modernization and Consumer Protection Act, on February 14, 2002. The declared purpose of H.R. 3766 is to provide for the chartering, licensing, and regulation of national insurers. This purpose would be carried out, in part, through the establishment of the Office of National Insurers, a new office that would be situated in the Department of Treasury. Among other provisions, H.R. 3766 provides for the supervision of national insurers by establishing examination, reporting, recordkeeping and other requirements. Of particular interest, H.R. 3766 would repeal the existing qualified exemption of the business of insurance from certain federal antitrust laws, subject to certain exceptions. As of March 18, H.R. 3766 had been referred to the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises. *To view H.R. 3766 in its entirety, visit <http://thomas.loc.gov>.*

## **WASHINGTON – Legislation enacted restricting the use of credit history**

House Bill 2544, which restricts the use of credit history by insurers in the underwriting and rate making of personal insurance, was signed into law on April 4. The Bill prohibits an insurer from canceling or nonrenewing personal lines insurance based in whole or in part on a consumer's credit history or insurance score. The legislation also prohibits an insurer from using credit history to deny an original application except in combination with other substantive underwriting factors. In any event, House Bill 2544 provides that an insurer that takes any adverse action against a consumer based upon a credit history or insurance score must give written notice of such action to the applicant or insured detailing which factors of the credit history resulted in the adverse action. With respect to the determination of rates, premiums or eligibility for coverage, no insurer may use credit history

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The New York-based Stroock & Stroock & Lavan LLP Insurance Practice Group includes Donald D. Gabay, Martin Minkowitz, William D. Latza, John R. Cashin and Vincent L. Laurenzano, an insurance finance consultant. They gratefully acknowledge the assistance of Todd Zornik, an associate in the group. This column is intended for informational purposes only and does not constitute legal advice.

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## **By Stroock & Stroock & Lavan LLP**

unless insurance scoring models are filed with the Insurance Commissioner. Certain portions of House Bill 2544 apply to personal insurance policies issued or renewed at during 2003. *To view HB 2544, visit <http://www.leg.wa.gov>.*

## **MISSOURI – House Committee on Insurance considers credit history bill**

The House Committee on Insurance is considering House Bill 1502, proposed legislation that would restrict an insurer's use of credit history in the underwriting of certain personal insurance policies. Under this Bill, an insurer that uses a credit report or insurance score in the underwriting process may not take any adverse action based strictly upon such information. If an insurer uses credit reports or insurance scores as an underwriting factor, the insurer must disclose this at the time of the original application or in the application itself. Missouri House Bill 1502 requires such notice only upon request, whereas Washington House Bill 2544 (discussed above) requires such notice in any event. In addition, the Missouri bill permits an applicant or insured to request reevaluation following an adverse action if new circumstances might result in a more favorable credit report or insurance score. Washington House Bill 2544 does not contain any such express provision. *To view House Bill 1502, visit <http://www.house.state.mo.us>.*

## **NEW YORK – Assembly introduces supplemental spousal automobile liability insurance bill**

Assembly Bill 10456 would require insurers to offer supplemental spousal automobile liability insurance to provide coverage against liability of an insured arising out of the negligence of the insured and causing injury or death to his or her spouse, up to the limits provided under the policy. Currently, New York Insurance Law Section 3420(g) provides that no policy shall be deemed to insure against such liability to an insured's spouse, unless the policy contains an express provision. In addition, an insurer is not currently required to offer such coverage. The Bill would require an insurer both to offer supplemental spousal automobile liability insurance and to provide notice of the availability of such coverage. Critics of the bill say the proposal could lead to increased fraud and higher premiums. *To view Assembly Bill 10456, visit <http://assembly.state.ny.us>.* ■

# Unauthorized Health Insurers: One state's approach

*continued from p. 13*

problem. One of the main aspects of unauthorized insurance activity is that these situations quickly evolve and include other “soon-to-be-duped” parties. So, what can we regulators do? Here are a few suggestions:

1. Review unauthorized insurance laws relative to the involvement of agents.
2. Review insurance laws relative to third-party administrators with special emphasis on the various business relationships that might involve the use of a TPA.
3. If laws do not exist, place laws on the books relative to Professional Employer Organizations. (We are working on this now in North Carolina. I guess now would be a good time to thank my cohorts in Texas, Louisiana and Florida. From what I've read, may I say that you've done a fine job in crafting laws for PEOs. Something tells me that NC laws will be similar to these!)
4. Join or become aware of the various NAIC Working Groups that are discussing these issues.
5. Communicate among the divisions in a department that may come into contact with unauthorized activity (Fraud, Agent Services, Consumer Services, Life and Health Divisions, etc.)
6. Communicate to agents, consumers, and businesses advising/warning of the existence of unauthorized insurance and the ramifications.
7. Increase communication among regulators in all states. Trust me, you are going to need their assistance in dealing with unauthorized activity.
8. While most unauthorized activity focuses on health insurance, be open to the fact that it might include other lines of business – workers' compensation, boat insurance, etc.
9. Establish or strengthen the communications between your department and the United States Department of Labor.
10. Place consumer warnings/alerts on the DOI Website and continue to update the Website with specific cases.
11. Post information about these cases in the NAIC's Special Activities Database (SAD) and post resolution of these cases in the Regulatory Information Retrieval System (RIRS).
12. Breathe deeply; you're going to experience quite a few of these cases.

This article would not be complete without a mention of our federal regulators. I have to admit that whenever I heard the word ERISA, my first thought was to refer the matter to USDOL. It soon became obvious that when laws governing ERISA were established, no one thought about fraud or a guaranty fund. As such, we have numerous fraudulent plans that all have one thing in common – ERISA. Initial correspondence and conversations with USDOL did not generate the answers that states were after. However, to USDOL's credit, they have stepped up to the plate and recognized that it will take both state and federal regulators to handle bogus ERISA plans.

State regulators have done a fine job in establishing points of contact within USDOL. I believe that USDOL has realized that some changes are needed and as such USDOL has become more aggressive in working these cases. I still believe that some checks and balances are needed to prevent every Tom, Dick, and Harry from claiming an ERISA exemption.

In a few days, a few of us are on our way to Atlanta to meet with USDOL to discuss problems in unauthorized insurance and hopefully to come up with some ideas to lessen the fraud in this area. When it comes to unauthorized insurance activity, we all are just one happy family. ■

## **IRES Financial Disclosure**

An audit of IRES's Financial Statements was not conducted for the year ended December 31, 2001.

Here are some highlights from our Financial Statements:

Total 2001 Cash Receipts were \$282,400 and the Total 2001 Cash Disbursements were \$264,823.

IRES's Cash as of December 31, 2001 totaled \$90,722.

A complete copy of IRES's 2001 Cash Receipts and Disbursements and Balance Sheet as of Dec. 31, 2001 can be requested by sending a written request to the IRES administrative office in Olathe, Kansas.

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This issue: IRES turns 15!

**REMEMBER THE ALAMO! Application forms for the San Antonio CDS are on the IRES Web site! Register by June 30 to avoid additional fees!**



## BULLETIN BOARD

√ HuffThomas, a regulatory consulting firm, is seeking experienced market conduct and financial examiners. Background should include a Bachelor's degree, an AIE, CIE, AFE or CFE, and 2-5 years experience participating in the examination of insurance companies. Contract and employee positions available. Travel is required. Submit resume to: HuffThomas, Attention: Human Resources Director, 4700 Belleview, Suite 208, Kansas City, MO 64112. Resumes may be faxed to 816-531-6613 or emailed to [huffthomas@huffthomas.com](mailto:huffthomas@huffthomas.com)

√ Longtime IRES Board member Scott Laird has resigned from regulator work for a job in the private sector. Best wishes to Scott and many thanks for all his years of service and devotion to IRES! (Note: Since non-regulators may not serve on the IRES Board of Directors, members who have not yet voted should disregard Mr. Laird's name on their 2002 ballots, which were printed in March.)

√ **Welcome, New IRES Members** — Linwood G. Bennett, Jr., VA; Christina M. Cumpston, DE; Linwood G. Bennett, Jr., IL; Robin L. David, DE; Gerard Edimo, TX; Ron C. Henderson, LA; Tara E. Herron, AL; Nancy A. Hulsebus, FL; Alvin N. Hysler, Jr., IL; David R. Israel, IL; F. Kanter, IL; Kevin J. Kloever, IL; Jerry R. Miller, IL; Robert D. Rutledge, KY; John J. Staples, IL; Tammi Williams, LA; Joseph E. Wolfe, Sr., MD

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### IRES-SOFE team up on Teammate

There will be a joint IRES and SOFE training session for all interested individuals who will be attending the NAIC meeting in Philadelphia. It will be held in Salon A/B at 3:00 pm on Monday June 10, 2002.

The speaker will be Donald Koch of Ins/Ris, who many of you know as a Past IRES President. His presentation will be "Automating the Market Conduct Exam Teammate Demonstration."

This joint program is something the Education Committee of IRES is trying to develop with SOFE in an effort to provide alternative opportunities for members to meet their continuing education requirements. If successful, we intend to have these on a regular basis. Special thanks to Patrick Hyde of SOFE for putting this together.

Check our Web site for any updated information. If you are going to be in Philadelphia we encourage you to attend and support our two organizations.

### In next month's REGULATOR:

**"Preparing for San Antonio"**  
**"Regulation Goes Global"**